

Request for City Manager's Signature

Please complete this form and attach it to any contracts, agreements, etc. which need the city manager's signature.

Brief description of document (must include Project and/or Grant number if applicable):

Funding Agreement with Lawrence Humane Society for 2024-2028

PLEASE ROUTE IN THE ORDER LISTED:

Document sent by: Melody Henning

Department: CMO

Please return to: Melody Henning & Casey Toomay

Return by (date): _____

Does this document require City Commission approval? yes

Date of City Commission approval: 3/5/24

Does this have an Accounts Receivable Item? no

Does this need to be recorded with the Register of Deeds? no

CITY ATTORNEY'S OFFICE REVIEW: JmJ 3/25/24

FINANCE DEPARTMENT REVIEW: EP 3/26/24

Finance notes: _____

CITY CLERK'S OFFICE REVIEW: SHF 3/27/24

CMO OFFICE REVIEW: _____

PO/Contract and Change Order number (if needed) _____

ORG.FUND OBJECT CODE PROJECT STRING
(more than one, please attach another sheet with all codes needed)

101.1507 301702 _____

Encumber \$ 440,000

Retainage: **Yes** ☒ **No** ☐

CONTRACT FOR SERVICES

This contract for services ("Agreement") is made and entered into on this 28th day of March, 2024 by and between the City of Lawrence, Kansas, a municipal corporation ("City"), and the Lawrence Humane Society, Inc. a not-for-profit corporation under the laws of the State of Kansas ("Lawrence Humane").

MUTUAL RECITALS

WHEREAS, Lawrence Humane operates and maintains an animal care facility in the City that nurtures the human-animal bond by providing shelter, care, and advocacy for homeless and abused animals, as well as resources for the pets and people in the city;

WHEREAS, the City has a continuing need for a facility to shelter, board, and keep animals collected by City Animal Control Officers or members of the public;

WHEREAS, the City wishes to engage Lawrence Humane, as an independent contractor, to perform the needed services, which are described in this Agreement;

WHEREAS, Lawrence Humane is willing and able to provide the services for which the City wishes to engage it and agrees to perform those services in accordance with the terms and conditions of this Agreement;

WHEREAS, the parties seek to work in cooperation to maintain and improve communication and a harmonious working relationship; and

WHEREAS, the City Manager is authorized to enter into this Agreement for services with Lawrence Humane.

AGREEMENT

NOW THEREFORE, in consideration of the promises and mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties agree as follows:

1. **Lawrence Humane Responsibilities.** Lawrence Humane agrees to perform the following duties in a professional and timely manner:
 - A. Receive animals from Animal Control Officers employed by the City.
 - B. Receive from members of the public animals found within Lawrence city limits.
 - C. Provide all animals with adequate food, water, shelter and health care.

- D. Work with City staff to ensure timely disposition of animals impounded through enforcement of Chapter 3 of the City of Lawrence, Kan. Code.
- E. Take permanent ownership of any animal not reclaimed by its owner in accordance with applicable law, in order that it may be transferred, adopted, or humanely euthanized.
- F. Work to reunite pets found within the city limits with their owners.
- G. Provide board for any animals found within the city limits that are required to be confined under State law or Chapter 3 of the City of Lawrence, Kan. Code.
- H. Assist the City's Animal Control Officers and Police Officers, outside Lawrence Humane's business hours, with the pickup, impoundment, boarding, and necessary medical treatment for ill or injured domestic animals whose owner cannot be immediately ascertained.
 - i. Lawrence Humane will have an employee on-call to provide ill or injured animal pickup and care outside Lawrence Humane's business hours.
 - ii. Lawrence Humane shall be responsible for any veterinary expenses incurred in the treatment of an animal that is unowned or whose owner cannot be ascertained.
 - iii. In the event that Lawrence Humane personnel are unable to respond to an ill or injured animal call, a City Animal Control Officer or Police Officer shall make reasonable efforts to arrange for the care of the animal and may take the animal to an emergency veterinary clinic. The Animal Control Officer or Police Officer shall promptly contact Lawrence Humane, whose staff shall be responsible for picking up the animal and transporting it to Lawrence Humane's facility in a timely manner for further evaluation and to ascertain an owner.
- I. Lawrence Humane agrees that it shall perform its work and services under this Agreement in accordance with recognized professional standards prevalent in the field of animal care. Further, Lawrence Humane agrees that it shall perform its work and service under this Agreement with professional expertise, skills, and knowledge of proficient industry procedures and techniques in all relevant subject matters.

- J. Lawrence Humane agrees to collect the Animal at Large impoundment fees pursuant to Section 3-103(C)(1) of the City of Lawrence, Kan. Code, for all animals brought to Lawrence Humane by an Animal Control Officer or Police Officer, prior to the release of the animal. Lawrence Humane shall make a quarterly payment to the City of Lawrence for the total amount of impoundment fees collected during the quarter.
- K. The City will have primary responsibility for investigating animal cruelty cases pursuant to Chapter 3 of the City of Lawrence, Kan. Code. When an animal has been impounded at Lawrence Humane with probable cause for a violation of city code or state animal cruelty law, and Lawrence Humane has been notified of such by the City, Lawrence Humane staff will provide a medical assessment of the animal and a professional medical opinion to assist in the investigation and/or prosecution of the matter, and may provide further assistance for that investigation upon City's request.

2. Compensation.

The City shall compensate Lawrence Humane in the amount of \$440,000 for the initial year of this Agreement, and for an additional amount reflecting an escalation of 7.5% for each year thereafter through the termination of this Agreement, as follows:

i.	Initial Year (2024)	\$440,000.00
ii.	Year 2 (2025)	\$473,000.00
iii.	Year 3 (2026)	\$508,475.00
iv.	Year 4 (2027)	\$546,611.00
v.	Year 5 (2028)	\$587,606.00

- A. The City's compensation to Lawrence Humane shall be subject to annual appropriations by the City and in accordance with all provisions of the Kansas Cash Basis Law, K.S.A. 10-1101, *et seq.*, as may be amended from time to time. The City retains the right to unilaterally adjust the compensation amounts paid to Lawrence Humane as necessary to comply with the Kansas Cash Basis Law. If it becomes necessary for the City to adjust the compensation, the parties acknowledge and agree that they shall be relieved from all further obligations under this Agreement, without penalty.

- B. Lawrence Humane shall submit payment requests to the City Manager's Office, in writing, in accordance with the compensation schedule above, by no later than June 1 of the year prior to the year for which compensation is requested.
 - C. The City shall make quarterly payments to Lawrence Humane proportional to the compensation schedule above, no later than the last day of the first month of each quarter of the City's fiscal year.
 - D. The City's compensation payments to Lawrence Humane shall be dependent upon Lawrence Humane's successful completion of the terms and conditions of this Agreement, including but not limited to the timely preparation and distribution of an annual financial audit as required by this Agreement.
3. **City of Lawrence Duties.** The City agrees to perform the following duties in a professional and timely manner:
- A. The City's Animal Control Officers will perform their work and services with professional expertise, skills, and knowledge of proficient industry procedures and techniques.
 - B. The City will make a reasonable effort, as resources allow, to find the owner of any animal found in city limits and return it to the owner before impounding it at Lawrence Humane.
 - C. For each animal impounded at Lawrence Humane, the Animal Control Officer shall complete an intake form including, but not limited to, the following:
 - i. A description of the animal;
 - ii. The date, time, and location where the animal was picked up by the Animal Control Officer;
 - iii. The legal reason for the impoundment, including the City Code citation;
 - iv. The name of the approving supervisor of the Animal Control Officer;
 - v. For animals impounded for bite cases, dangerous animal cases, and vicious animal cases, facts of the incident to inform Lawrence Humane for staff safety shall be also provided.
 - D. The City Municipal Court will provide Lawrence Humane with a journal entry report after hearings or trials involving animals. The City

Prosecutor's Office will provide Lawrence Humane with copies of surrender forms and plea agreements involving animals.

4. Ongoing Reporting Requirements.

A. Audits

- i. Lawrence Humane agrees to hire, at its expense, a Certified Public Accountant certified by the State of Kansas, to prepare a written annual audit of the expenses and revenues of Lawrence Humane, including but not limited to a detailing of the expenditures of the revenues received by Lawrence Humane from the City of Lawrence.
- ii. The audit shall detail Lawrence Humane's financial control mechanisms including its accounting, invoicing, revenue collection methods, payment methods, payroll record management and other financial control requirements.
- iii. A copy of the annual audit shall be presented to the City, pursuant to the notice provisions of this agreement, no later than August 31 following the end of the most recent fiscal year. Failure to conduct an audit pursuant to the provisions of this Agreement shall be considered a material breach. Lawrence Humane shall conduct its financial affairs pursuant to generally recognized accounting standards, including timely responses to the recommendations of the annual audit.
- iv. City shall have the right, upon reasonable notice to Lawrence Humane, to audit, at any time, up to one year after payment of funds, Lawrence Humane's records relating to the fees and expenses incurred in connection with this Agreement. In the event of a discrepancy between the audit conducted by Lawrence Humane and any audit conducted by the City, Lawrence Humane shall pay the costs of the City's audit. In the event the audit reveals no discrepancy, the City and Lawrence Humane shall equally share the cost of the City's audit.
- v. Lawrence Humane agrees to comply with K.S.A. 45-240, which requires not-for-profit entities receiving public funds to document and make available the receipt and expenditures of such funds.

B. Other Reporting Requirements

- i. Lawrence Humane shall provide to the City its IRS Form 990 with

proof of filing no later than November 15 following the end of each fiscal year.

- ii. Lawrence Humane shall provide to the City its annual report outlining their annual animal statistics as well as organizational highlights and accomplishments for the most recent fiscal year no later than March 31.

5. **Insurance and Licensing.** Lawrence Humane agrees to maintain comprehensive liability insurance coverage in effect through the duration of this Agreement. Lawrence Humane shall provide the City with a Certificate of Insurance demonstrating coverage. Lawrence Humane also shall maintain all necessary licensures through the State of Kansas for the operation of the shelter.
6. **State and Federal Law Compliance.** Lawrence Humane, its employees, agents or servants shall comply with all applicable laws and regulations governing the provisions of services pursuant to this Agreement.
7. **Termination.** Either party may terminate this Agreement at any time, for convenience or for cause, upon 30 days' written Notice to the other party. In the event that the City terminates the Agreement for convenience, then it shall pay Lawrence Humane for services satisfactorily performed by Lawrence Humane pursuant to this Agreement, prior to the termination. Under no circumstance, in the event of termination of this Agreement, will Lawrence Humane be entitled to recover anticipated or consequential damages. The provisions regarding indemnity and insurance shall survive the termination of this Agreement.
8. **Modification.** The parties may examine this Agreement from time to time to ensure compatibility and effectiveness, particularly in light of any changes in laws, policies, or circumstances. This Agreement may be modified or amended in a writing signed by both parties.
9. **Approval and Authorization.** Each party warrants and represents by the execution of this Agreement that it has been authorized by its governing body or board of directors to enter this Agreement.
10. **Duration.** This Agreement shall commence at 12:00 a.m. on January 1, 2024, and terminate at 11:59 p.m. on December 31, 2028, unless terminated earlier pursuant to paragraph 7. The parties may agree in writing to extend the term of his Agreement.

11. **Gap Coverage.** Notwithstanding the expiration of this Agreement, including any extensions agreed to pursuant to paragraph 10, Lawrence Humane and the City shall continue performing according to the terms of this Agreement until City has a new agreement in effect with either Lawrence Humane or another provider, for up to ninety (90) calendar days.
12. **Survival of Representations and Warranties.** All representations, warranties, covenants and agreements contained herein shall survive the termination of this Agreement.
13. **No Promises Outside of Agreement.** The parties acknowledge and warrant that, except as stated herein, no promises or inducements have been made or offered to them by any other party or their counsel, and that they execute this Agreement without reliance upon any other statements or representations made by any other party or their counsel.
14. **Merger Clause.** This Agreement supersedes all prior agreements and understandings between the parties and is intended by the parties as the complete and exclusive statement of the terms of agreement between them. No other promises or modifications of this Agreement shall be valid or binding between the parties, unless set forth in writing and signed by all parties to the Agreement.
15. **Entire Agreement.** This is the entire Agreement between the parties with respect to the subject matter of this Agreement, and no representations or inducements have been made by either party except as set forth herein. This Agreement cannot be amended, modified, or supplemented in any respect except by written agreement entered into by the City and Lawrence Humane.
16. **Severability Clause.** All provisions of this Agreement have been entered into and agreed to by the parties in good faith and sincerity as to their legality. If the contents of any paragraph, provision, or subpart shall at any time be declared illegal or unenforceable between the parties by a final decree of a court of competent jurisdiction or by statute (federal or state), then said part declared illegal or unenforceable, and that part only, shall be deemed invalid and inoperative between the parties, it being understood and agreed that all remaining parts shall remain in full force and effect.
17. **Counterparts.** This Agreement may be signed in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Each party also agrees that the executed counterparts may be delivered to the other party by facsimile or electronic mail transmission, and the facsimile or copy provided by

electronic mail shall be deemed an original copy.

18. **Descriptive Headings.** The descriptive headings of the various sections in this Agreement are included for convenience only and shall not be deemed to affect the meaning or constructions of any of the provisions.
19. **Signatures.** Each party represents that the person signing this Agreement on its behalf has full authority to bind such party to this agreement.
20. **Compliance with Equal Opportunity Laws, Regulations, and Rules.**
 - A. Lawrence Humane agrees that it shall comply with all provisions of the Kansas Acts Against Discrimination of 1953 ("KAAD"), codified as amended at K.S.A. 44-1001 *et seq.*, and the Kansas Age Discrimination in Employment Act of 1983 ("KADEA"), codified as amended at K.S.A. 44-1111 *et seq.* and shall not discriminate against any person, in the course of performing under this Agreement, because of that person's race, religion, sex, disability, national origin, ancestry, sexual orientation, familial status, or age.
 - B. Lawrence Humane also agrees to comply with the American with Disabilities Act of 1990 ("ADA"), codified as amended at 42 U.S.C. § 12101 *et seq.*, as well as all other federal, state, and local laws, ordinances, rules, and regulations applicable to this project, and to furnish any and all certifications that may be required by federal, state, or local governmental agencies in connection therewith.
21. **Indemnification.** Each party agrees to defend, indemnify, and otherwise hold harmless the other party, its commissioners, officers, employees, directors, and agents from claims, actions, damages, costs, liabilities, settlements, judgments, expenses, or lawsuits, including reasonable attorneys' fees, but only to the extent that such are caused by the other party's negligent or intentional non-performance under this Agreement or by negligence in performing any action necessary for performance under this Agreement. Neither party shall be liable to the other party for incidental, indirect, special, or consequential damages.
22. **Assignment.** This Agreement is non-assignable by the Lawrence Humane or by any subcontractor of Lawrence Humane.

- 23. Notices.** All notices, demands, or other communications, which may be or are required to be given by any party to any other party under this Agreement, shall be in writing and shall be hand-delivered, mailed by first class mail, registered or certified mail, return receipt requested, postage prepaid, or sent by overnight express mail, postage prepaid, return receipt requested, to the following addresses:

(a) If to Lawrence Humane:

Lawrence Humane Society, Inc.
1805 East 19th Street Lawrence, KS 66044
Attn: Executive Director

(b) If to the City:

City of Lawrence, Kansas 6 East 6th Street
P. O. Box 708
Lawrence, Kansas 66044
Attn: City Manager

- 24. Independent Contractor.** In no event, while performing under this Agreement, shall Lawrence Humane or any of its staff be deemed an employee of the City; rather, Lawrence Humane is and shall remain an independent contractor. Nothing expressed or implied in this Agreement shall be construed as creating between Lawrence Humane and the City the relationships of employer and employee, principal and agent, a partnership, or a joint venture.
- 25. Conflict of Interest.** Lawrence Humane is currently unaware of any conflict of interest with any party affected by this Agreement and agrees that, if any conflict or potential conflict of interest should arise in the future, it will give notice to the City immediately.
- 26. Legal Action.** The parties agree that the appropriate venue for any legal actions arising out of this Agreement is the District Court of Douglas County, Kansas.
- 27. Force Majeure.** Neither party shall be deemed to be at default under this Agreement to the extent that any delay in performance results from any cause beyond its reasonable control and without its intentional act or negligence.
- 28. Governing Law.** This Agreement, the rights and obligations of the parties, and any claim or dispute arising hereunder shall be construed in accordance with the laws of the State of Kansas.

IN WITNESS WHEREOF, THE PARTIES HAVE CAUSED THIS AGREEMENT TO BE EXECUTED ON THE DATE(S) WRITTEN BELOW BY THEIR DULY AUTHORIZED REPRESENTATIVES.

CITY OF LAWRENCE, KANSAS


a municipal corporation



CRAIG S. OWENS
City Manager

Date: 3/28/24

THE LAWRENCE HUMANE SOCIETY, INC.



SHANNON WELLS
Executive Director

Date: 3 / 21 / 24