

Agenda Item No: CA-f
Meeting Date: 09-28-2021

Subject: Approval of an Agreement Between the Longmont Humane Society and the City of Dacono for the Temporary Boarding of Impounded Animals

Presented by: Matthew B. Skaggs
Chief of Police

Background: The contract presented will continue our business relationship with the Longmont Humane Society for budget year 2021. The budgeted expenditure of \$13,000.00, once and if approved will be reflected in the proposed operating budget of the police department for budget year 2020.

Recommended Action: Approval of Resolution 20-90 to establish an agreement between the City of Dacono and the Longmont Humane Society for animal impound services for 2021.

**2021 CONTRACT BETWEEN THE CITY OF DAONO
AND THE LONGMONT HUMANE SOCIETY, INC.**

THIS contract is made and entered by and between the City of Dacono, a Colorado municipal corporation (City), and the Longmont Humane Society, Inc., a Colorado non-profit corporation (Society);

WHEREAS the Society provides the services stated in **DUTIES** to the Dacono community; and

WHEREAS for the Society to function properly and provide important services to the Dacono community, it is necessary to provide funds to Society for its services which are deemed to be both desirable and essential for the immediate protection and preservation of the public health, safety, and general welfare of the citizens of Dacono; and

WHEREAS the Society has established and is maintaining a shelter and impoundment facility where animals which have been impounded pursuant to City ordinances are cared for or disposed of pursuant to said ordinances; and

WHEREAS the City believes that the Society is an appropriate designated animal shelter and interested in the humane care and treatment of animals; and

WHEREAS Society is willing to furnish the services identified in **DUTIES** on behalf of the City and the City may, as authorized by ordinance, contract for such services.

NOW, THEREFORE, to provide necessary services for the benefit of the City and its inhabitants, the City and the Society mutually agree as follows:

TERM. The term of this contract is from January 1, 2021 through December 31, 2021.

DUTIES: Society agrees to provide the services described below. The City shall pay said \$12,978 in twelve equal monthly installments of \$1,081.50 each to be made no later than the 10th of each month during the term of this contract. These funds will cover the intake of up to 120 animals. Every animal beyond 120 will be charged an additional \$150 each. It is the understanding of the parties that the payments identified herein shall constitute the total compensation payable by the City for the services identified herein and provided by Society.

The Society shall be entitled to collect from the owner or keeper of an animal all reasonable and necessary costs associated with providing emergency treatment of an impounded animal.

The Society agrees to furnish and provide the following:

- All physical plant facilities and equipment necessary for the efficient, humane, and effective operation of an animal shelter in compliance with all City of Dacono ordinances and laws of the State of Colorado thereto applicable;

- Competent veterinary medical care for all animals impounded at its facility through the availability of the professional services of a doctor of veterinary medicine licensed to so practice in the State of Colorado; and
- All medical supplies, professional instruments, and equipment necessary for the efficient and effective operation of an animal shelter, along with such facilities as may be required for the disposal of dead animals consistent with public health and safety.

In operating and managing the animal shelter, the Society, shall:

- Conduct the operations of said animal shelter within and upon the premises generally described as the Longmont Humane Society, Longmont, Colorado;
- Maintain such facilities of the Society in a clean and sanitary condition;
- Accept from Town officials or private citizens for impoundment, dogs, cats and other domestic small mammal companion animals. No barnyard, reptiles, birds or other animals are provided for within this contract. The Society shall also accept such dead animals from any authorized representative of the City. The City, however, shall be responsible for obtaining veterinary services for any animal injured or in immediate need of veterinary care prior to submittal of such animal by the City for impoundment to the Society as may be required, such initial treatment to be at the sole expense of the City.
- Establish, keep and maintain a daily register of all animals placed by the City into and released from the animal shelter; provide whatever form(s) deemed necessary by the Society for recording information on all impounded animals;
- Not release or otherwise dispose of any living domestic animal placed by the City with the Society, until all fees prescribed and applicable state and local laws have been satisfied;
- Each animal impounded and placed with the Society pursuant to this agreement may be reclaimed by the owner during the impoundment period upon verification of ownership. In the case of dogs, the owner must first show proof of current rabies vaccination as required under Chapter 7, Article 4 of the Dacono Municipal Code. If the dog has not been vaccinated as required by DMC § 7-61, a *Rabies Voucher* must be purchased prior to release of the dog, which voucher may be used to obtain a current vaccination.

ACCEPTANCE OF STRAY ANIMALS. The City acknowledges that the Society accepts stray or abandoned animals brought to the Society by the citizens of Dacono, including animals received from Dacono Police Department personnel in the performance of their duties. Funding for this responsibility is included in this agreement under **DUTIES**. The Society shall be entitled to collect from the owner or keeper of an animal, all reasonable and necessary costs associated with providing emergency treatment of an impounded animal. The Society does NOT work with reptiles and amphibians.

INTEGRATED AGREEMENT AND AMENDMENTS. This contract is an integration of the entire understanding of the parties with respect to the matters set forth herein. This contract cannot be altered or amended except in writing and signed by duly authorized representatives of the respective parties.

STATUS OF SOCIETY. The Society shall perform all services under this contract as an independent contractor and not as an agent or employee of the City. It is mutually agreed and understood that nothing contained in this contract is intended or shall be construed as in any way establishing the relationship of co-partners or joint ventures between the parties hereto, or as construing the Society, including its agents and employees, as an agent of the City. The Society shall remain an independent and separate entity. The Society shall not be supervised by any employee or official of the City, nor will the Society exercise supervision over any employee or official of the City. The Society shall not represent that Society is an employee or agent of the City in any capacity. **The Society is not entitled to City workers' compensation benefits and is obligated to pay federal and state income tax on money earned pursuant to this contract, if applicable.**

PERSONNEL. Society agrees to provide competent personnel with expertise in the delivery of the scheduled services to achieve and maintain a highly professional and competent level of services.

INDEMNITY. The Society shall fully indemnify and hold the City harmless from all claims, actions, suits, liability, losses, costs, expenses and/or damages of any kind whatsoever which may occur to or be suffered by any person (including, but not limited to the Society, its agents, employees, Society's tenants, invitees, licensees, successors or assigns) arising out of or in connection with its use and occupation of any City facilities and/or any activities undertaken pursuant this contract, except only for those losses resulting solely from the negligence of the City. Upon commencement of any such suit or action against the City, the Society shall provide prompt notice to the City, and shall defend the same at its own cost and expense. If a judgment shall be rendered against the City in such an action or suit, the Society shall fully satisfy the judgment within ninety (90) days after the same has been conclusively determined.

TERMINATION. This contract may be terminated at the sole discretion of the City for any violation by the Society of any of the terms and conditions of this contract, including the reduction or discontinuance of the services listed in **DUTIES**. This contract shall be subject to termination by either party in the event of the failure of the other party to perform any of the terms herein set forth. In such event, written notice shall be given to the other, and if the conditions of noncompliance specified in such notice are not corrected within 60 days of the date of such notice, this contract shall be terminated and of no further effect at the option of the party

not in default of the terms herein contained. Notice shall be mailed to the respective parties at the following addresses unless written notice of change of address is given:

City

Chief of Police
Dacono Police Department
512 Cherry St.
PO Box 186
Dacono, Colorado 80514

Society

Chief Executive Officer
Longmont Humane Society, Inc.
9595 Nelson Road
Longmont, Colorado 80501

PROVISIONS CONSTRUED AS TO FAIR MEANING. The provisions of this contract shall be construed as to their fair meaning, and not for or against any party based upon any attribution to such party as the source of the language in question.

HEADINGS FOR CONVENIENCE. All headings, captions and titles are for convenience and reference only, and of no meaning in the interpretation or effect of this contract.

COMPLIANCE WITH ORDINANCES AND REGULATIONS. The Society shall perform all obligations under this contract in strict compliance with all federal, state, and City laws, rules, statutes, charter provisions, ordinances, and regulations applicable to the performance of the Society's services under this contract, and specifically, shall not discriminate against any person on the basis of age, ancestry, color, creed, sex, race, religion, national origin, disability, or as otherwise prohibited by law.

NO IMPLIED REPRESENTATIONS. No representations, agreements, covenants, warranties, or certifications, express or implied, shall exist as between the parties, except as specifically set forth in this contract.

NO THIRD PARTY BENEFICIARIES. None of the terms or conditions in this contract shall give or allow any claim, benefit, or right of action by any third person not a party hereto. Any person other than the City or the Society receiving services or benefits under this contract shall be only an incidental beneficiary.

FINANCIAL OBLIGATIONS OF CITY. All financial obligations of the City under this contract are contingent upon appropriation, budgeting, and availability of specific funds to discharge such obligations. Nothing in this contract shall be deemed a pledge of the City's credit or a payment guarantee by the City to the Society. If appropriated funds are not available, both parties shall be relieved of their obligations hereunder.

WAIVER. No waiver of any breach or default under this contract shall be a waiver of any other or subsequent breach or default.

SEVERABILITY. Invalidation of any specific provisions of this contract shall not affect the validity of any other provision of this contract.

GOVERNING LAW. This contract shall be governed and construed in accordance with the laws of the State of Colorado.

AUTHORITY. The parties warrant that they have taken all actions necessary or required by their own procedures, bylaws, or applicable law, to authorize their respective signatories to sign this contract for them and to bind them to its terms.

UNLAWFUL EMPLOYEES, CONTRACTORS AND SUBCONTRACTORS. Society shall not knowingly employ or contract with an illegal alien to perform work under this contract. Society shall not knowingly contract with a sub-contractor that (a) knowingly employs or contracts with an illegal alien to perform work under this contract or (b) fails to certify to the Society that the sub-contractor will not knowingly employ or contract with an illegal alien to perform work under this contract.

VERIFICATION REGARDING ILLEGAL ALIENS. Society has confirmed the employment eligibility of all employees newly hired for employment to perform work under this contract through participation in either the E-verify program administered jointly by the United States Department of Homeland Security and the Social Security Administration or the employment verification program of the Colorado Department of Labor & Employment.

LIMITATION REGARDING E-VERIFY PROGRAM. Society shall not use E-verify program procedures to undertake pre-employment screening of job applicants while performing this Contract.

DUTY TO TERMINATE A SUBCONTRACT; EXCEPTIONS. If the Society obtains actual knowledge that a sub-contractor performing work under this contract knowingly employs or contracts with an illegal alien, the Society shall, unless the sub-contractor provides information to establish that the sub-contractor has not knowingly employed or contracted with an illegal alien:

1. Notify the sub-contractor and the City within three days that the Society has actual knowledge that the sub-contractor is employing or contracting with an illegal alien; and
2. Terminate the subcontract with the sub-contractor if, within three days of receiving notice, that the Society has actual knowledge that the sub-contractor is employing or contracting with an illegal alien, the sub-contractor does not stop employing or contracting with the illegal alien.

DUTY TO COMPLY WITH STATE INVESTIGATION. The Society shall comply with any reasonable request of the Colorado Department of Labor and Employment made in the course of an investigation pursuant to C.R.S. 8-17.5-102 (5).

DAMAGES FOR BREACH OF CONTRACT. In addition to any other legal or equitable remedy, the City may be entitled to for a breach of this contract, if the City terminates this contract, in whole or in part, due to Society's breach of any provision of this contract, Society shall be liable for actual and consequential damages to the City.

CITY OF DACONO:

LONGMONT HUMANE SOCIETY:

Joe Baker, Mayor

Liz Smokowski, Chief Executive Officer

Attest:

Valerie Taylor, Municipal Clerk

RESOLUTION NO. 20-90

**A RESOLUTION 20-90 APPROVING THE 2021 CONTRACT BETWEEN THE CITY OF
DACONO AND THE LONGMONT HUMANE SOCIETY**

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
OF DACONO, COLORADO:**

Section 1. The 2021 Contract between the City of Dacono and the Longmont Humane Society, Inc., a copy of which accompanies this resolution (the “Contract”), is hereby approved. The Mayor and City Clerk are hereby authorized to execute the Contract, and the Mayor is further authorized to negotiate and approve on behalf of the City such revisions to the Contract as the Mayor determines are necessary or desirable for the protection of the City, so long as the essential terms and conditions of the Contract are not altered.

INTRODUCED, READ, and ADOPTED this 28th day of September, 2020.

CITY OF DACONO, COLORADO

Joe Baker, Mayor

ATTEST:

Valerie Taylor, City Clerk