

ANIMAL SHELTER SERVICE AGREEMENT

THIS AGREEMENT is made and entered into the 1st day of July 2023 by and between TOWN OF PRESCOTT VALLEY, a political subdivision of the State of Arizona (hereinafter "TOPV") and the YAVAPAI HUMANE SOCIETY, an Arizona non-profit corporation (hereinafter "YHS").

RECITALS

WHEREAS, the TOPV is authorized, pursuant to A.R.S. § 11-1013(A), to provide or authorize a TOPV pound or pounds or enter into a cooperative agreement with a TOPV, a veterinarian or an Arizona incorporated humane society for the establishment and operation of a TOPV pound; and

WHEREAS, the TOPV has determined that it is in its best interest to enter into an agreement with an authorized entity for the maintenance and operation of animal shelter facilities to house dogs and cats impounded by the TOPV; and

WHEREAS, YHS, an Arizona incorporated humane society, currently maintains and operates an animal shelter facility, which performs lost and found services (hereinafter the "Facility" or the "Lost and Found Center"); and

WHEREAS, the YHS has sufficient capacity in the Facility to house dogs and cats impounded by employees or agents for the TOPV and proposes that the TOPV enter into this agreement with YHS for housing of dogs and cats so impounded.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. **Operation of the Facility.** YHS shall establish and operate a Facility in accordance with the terms and conditions specified herein including, but not limited to, those set forth in Attachment A to this Agreement.
2. **Staffing.** YHS shall employ or otherwise provide sufficient qualified personnel as it deems, in its discretion are required to fully perform all services pursuant to this Agreement.
3. **Effective Term; Renewal.** The term of this Agreement shall commence on July 1, 2023, and shall terminate on June 30, 2026. Unless otherwise expressly provided herein, or otherwise agreed by the Parties in writing, the rights, and obligations of both Parties pursuant to this Agreement shall terminate as of the expiration of the defined term.
4. **Payment by TOPV.** Amounts payable by the TOPV to YHS for all services specified herein for the term of this Agreement shall be \$78,772 FY 23/24. For FY 24/25, the amount payable by the TOPV to YHS shall be determined through the following methodology: [$\$78,772 \times 1.12 \times (1 + \text{Annual CPI rate published in March 2024})$]; For FY 25/26, the amount payable by the TOPV to YHS shall be determined through the following methodology: [FY 24/25 Payment Amount $\times 1.12$]

x (1 + Annual CPI rate published in March 2025)]. The annual CPI rate for FY 24/25 and FY 25/26 will be obtained from the US Bureau of Labor Statistics (BLS) for the Metro Phoenix, AZ area (https://www.bls.gov/regions/west/news-release/consumerpriceindex_phoenix.htm). If the published BLS CPI rate is less than 10%, then the maximum CPI rate applied will be 5%. If the published BLS CPI rate is equal or greater than 10%, then the applied CPI will be calculated by taking the BLS Phoenix Metro CPI rate and dividing it by 2. The payments from the TOPV to YHS will be payable in equal monthly installments for each fiscal year (FY), defined as July 1 through June 30. Installment payments pursuant to this Agreement shall be made on or before the 20th day of each month without invoicing during the term of this Agreement or renewals thereof.

5. **Financial Accounting and Auditing.** YHS shall keep accurate and complete financial records in accordance with Generally Accepted Accounting Principles (GAAP). During the term of this Agreement, YHS will allow up to two staff members from the TOPV to view the financial data for the YHS Lost & Found and YHS Medical Clinic Departments. The financial data to be viewed will strictly be confined for the time-period covered by this Agreement and will directly be retrieved by a YHS employee and jointly viewed by the YHS employee and staff members from the TOPV. The option for the TOPV to view YHS Lost & Found and YHS Medical Clinic financial data can be exercised by the TOPV twice per year. The TOPV and YHS will set a jointly agreed upon date and time no less than 14 days prior to the viewing date. The viewing duration will last no longer than four (4) continuous hours. The TOPV explicitly warrants that the financial data viewed by TOPV staff members will not be reproduced nor disseminated in any manner to the public or any other TOPV departments, governance boards or committees. The TOPV explicitly warrants that the viewed non-public YHS financial data and results will not be accessible to the public or any other third parties through Arizona Revised Statutes (A.R.S.) Title 39 - Public Records, Printing and Notices. The TOPV staff members tasked to view the financial data and results will be required to sign a non-disclosure agreement provided by YHS specific to this provision.
6. **Termination.** This Agreement may be terminated prior to its date of expiration as specified herein:
 - a. **Termination of Convenience.** This Agreement may be terminated at any time by either Party upon ninety (90) days' written notice to the other Party. Upon such termination, YHS shall be paid for services through the effective date of termination.
 - b. **Termination for Cause.** Unless otherwise specified herein, in the event of a breach of any term or condition of this Agreement, by either Party, the Party claiming that a breach has occurred shall provide written notice to the breaching Party, said notice to set forth the factual basis for the determination that a breach has occurred. If the breach is not wholly or substantially remedied within twenty (20) days of receipt of notice of breach, the Agreement shall terminate without further notice by the Party claiming breach. Upon such termination, YHS shall be paid for services through the effective date of termination subject to any offsets to which the Party claiming breach may be entitled as a result of acts or omissions giving rise to the claims of breach.

- C. **Termination for Health or Safety of Impounded Animals.** If, at any time during the initial term of this Agreement or renewals thereof, the TOPV determines, upon good cause shown, that the health or safety of animals for which the TOPV is financially responsible pursuant to this Agreement are in imminent jeopardy, the TOPV may remove the subject animals without prior notice. Upon any such removal, the TOPV may, at its sole option, terminate this Agreement without further notice. Upon such termination, YHS shall be paid for services through the effective date of termination subject to any offsets for those acts or omissions by YHS upon which termination pursuant to this section are based or other acts or omissions which may constitute breach.
7. **Independent Contractor.** In performance of the duties set forth herein, it is mutually understood and agreed that YHS and its employees, contractors, subcontractors, or agents are at all times acting as independent providers of services provided pursuant to this Agreement. It is further understood and agreed that the TOPV shall not exercise control or direction over the methods by which YHS provides said services excepting that YHS does, by this Agreement, agree to perform said duties in strict accordance with legal, professional, and ethical standards governing the provisions of said services.
8. **Assignments Prohibited.** YHS shall not assign this Agreement or any portion thereof, to any other Party without the express written consent of the TOPV. The execution of any agreement which purports to assign this Agreement or any portion thereof shall immediately void this Agreement. Notwithstanding this provision, YHS may enter into agreements with qualified providers of services for which YHS is responsible pursuant to this Agreement as long as such agreements do not purport to excuse YHS from its obligations to the TOPV as set forth herein.
9. **Insurance.** YHS shall not commence work under this Agreement until YHS has obtained all insurance required under this paragraph and such insurance has been approved by the TOPV. YHS shall supply the TOPV with a certificate of insurance for each insurance policy. For each insurance policy that names the TOPV as an "additional insured," YHS shall supply the TOPV with the corresponding policy endorsements. If any insurance policies are on a "claims made" basis, YHS shall maintain those policies for at least three years after the completion of this Agreement or procure at least three years of tail coverage to protect against claims made after the expiration of the insurance policies related to the performance of this Agreement. All insurance policies under this paragraph shall be primary, and not excess to any insurance carried by the TOPV. YHS shall notify the TOPV within five business days of any cancellation, non-renewal or material change that affects required insurance coverage.
- a. YHS shall secure and maintain, during the life of the Agreement, Workers' Compensation Insurance for all YHS employees required to perform services pursuant to this Agreement; and, in case any work specific to the Agreement is sublet, YHS shall require each subcontractor similarly to provide Workers' Compensation Insurance for subcontractors' employees unless such employees are covered by YHS's Workers'

Compensation Insurance. In the event any class of employees engaged in hazardous work under the Agreement is not protected by the Workers' Compensation statute, YHS shall provide, and similarly shall cause each subcontractor to provide, special insurance for the protection of such employees not otherwise protected.

- b. YHS shall secure and maintain, during the life of the Agreement, Public Liability insurance for injuries, including accidental death. The policy shall be subject to limits of not less than \$1,000,000 per person and \$1,000,000 per accident. TOPV shall be named as an "additional insured."
 - c. YHS shall secure and maintain, during the life of the Agreement, Motor Vehicle Public Liability and Property Damage insurance to cover each automobile, truck, and other vehicle used in the performance of the Agreement in an amount of not less than \$1,000,000 for one person, and \$1,000,000 for more than one person, and property damage in the sum of \$1,000,000 resulting from any single accident which may arise from the operations of YHS in performing the work provided herein. TOPV shall be named as an "additional insured."
10. **Indemnification.** Notwithstanding the insurance provisions as set forth in Section 8 of this Agreement, YHS further agrees to defend, indemnify and hold harmless the TOPV, its agents, officers, officials and employees from and against any and all claims, damages, losses and expenses (including but not limited to, attorney fees, court costs and the cost of appellate proceeding), related to, arising out of, or alleged to have resulted from, the management or operation of the Facility pursuant to this Agreement. The TOPV similarly indemnifies and holds harmless YHS, its agents, officers, officials, Board Members and employees for any claims brought against their Animal Control Officers or others working on their behalf regarding the manner in which any animals are identified, secured or transported to YHS for purposes of providing services under this Agreement.
11. **Conflicts of Interest.** This Agreement is subject to the provisions of A.R.S. § 38-511 pertaining to conflicts of interest, the provision of which are incorporated herein.
12. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter thereof. No modifications to the terms and conditions of the Agreement shall be binding upon the parties unless evidenced by a supplemental or substitute agreement in writing signed by the parties.
13. **Compliance with Law.** Both parties hereby warrant that they will at all times during the term of this Agreement comply with all federal immigration laws applicable to their employment of their employees, and with the requirements of A.R.S. §§ 23-214 and 414401 (together the "State and Federal Immigration Laws"). A breach of the foregoing warranty shall be deemed a material breach of the Agreement, and the parties shall have the right to terminate this Agreement for

such a breach, in addition to any other applicable remedies. The parties retain the legal right to inspect the papers of each contractor, subcontractor or employee of either who performs work pursuant to this Agreement to verify performance of the foregoing warranty of compliance with the State and Federal Immigration Laws. Both parties shall further ensure that each contractor who performs any work for either party under this Agreement likewise complies with the State and Federal Immigration Laws.

14. **Prohibition of Boycott of Israel.** Both parties certify that they are not currently engaged in and will not for the duration of this Agreement engage in, a boycott of Israel as defined by A.R.S. § 35-393 et seq. Violation of this certification may result in action by the other party up to and including termination of this Agreement.
15. **Severability.** If any provision(s) of this Agreement is/are invalid, illegal, or unenforceable for any reason, all other Agreement provisions shall nevertheless remain in full force and effect. If any provision(s) is/are inapplicable to any person or circumstance, the same provision(s) shall nevertheless remain applicable to all other persons and circumstances.
16. **Notices.** Notices to be sent pursuant to this Agreement shall be sent by certified mail, postage prepaid to the following addresses:

Yavapai Humane Society
Executive Director
1625 Sundog Ranch Road
Prescott, AZ 86301

Prescott Valley Police Department
Attn: Chief of Police
7601 East Skoog Boulevard
Prescott Valley, AZ 86314

IN WITNESS WHEREOF, the parties have caused this instrument to be executed and effective as of the date first above written.

TOPV: THE TOWN OF PRESCOTT VALLEY

By _____
Mayor, Town of Prescott Valley Date

ATTEST:

Clerk or Deputy Clerk, Town of Prescott Valley Date

YHS: Yavapai Humane Society

By _____
Executive Director Date

STATE OF ARIZONA)

)ss.

TOPV)

The foregoing instrument was acknowledged before me this _____ day of _____ 2023, by the Executive Director, Yavapai Humane Society, personally known to me or proven to me on the basis of satisfactory evidence to be the person whose name is subscribed to within the instrument and acknowledged that he/she executed it for the purposes therein contained and, that he/she has the authority to so execute.

Notary
Public _____

(seal)

ATTACHMENT A

Duties of the Parties Pursuant to the Animal Shelter Service Agreement

Duties of YHS:

1. To maintain and operate a Facility with sufficient capacity and resources to meet the TOPV requirements.
2. To receive and care for unwanted dogs and cats and stray dogs brought to the Facility by the TOPV's Animal Control Officers or stray dogs brought to the Facility by TOPV residents. To receive and care for impounded dogs and cats involved in bite cases and when necessary to humanely euthanize animals not claimed or adopted or pursuant to Section 5, below.
3. To provide appropriate care and housing (as defined by A.R.S. § 11-1021) for all stray dogs for a period of seventy-two (72) hours or one hundred twenty (120) hours for a dog wearing a license (as defined by A.R.S. § 11-1013) unless claimed or surrendered by its owners. YHS may provide care and housing beyond the statutory time periods but shall not count the costs of such additional care and housing as attributable to the TOPV when calculating the proportion of animal days which are attributable to the activities under this Agreement.
4. To provide isolated confinement and quarantine (per A.R.S. § 11-1014) for dogs and cats that have bitten a human being. Quarantined dogs and cats shall remain in their original impound kennel and not be moved during the quarantine period. Quarantined dogs shall not share a kennel and will be housed in a full-sized kennel.
5. To determine the most humane disposition for any animal not reclaimed by its owner and for the final disposition of all animals. EXCEPTION: Animals determined by the TOPV to be an extreme danger or threat to the public will be euthanized by YHS at the end of the statutorily specified hold period, provided said animals have been surrendered to the TOPV by their owners for euthanasia, or there has been a finding that the animal is vicious by the TOPV. This determination will be based on documented aggressive behavior towards humans. The original impound card will be signed and documented with the date and time of euthanasia as well as the administering employee's signature. Subject to the indemnity obligations of YHS as set forth in Section 9 of this Agreement, the TOPV agrees to indemnify and hold YHS harmless from claims against YHS alleging wrongful destruction of an animal euthanized pursuant to TOPV direction made by the owner of that animal or by such other person with legal standing to bring suit based upon a claim of wrongful destruction of that animal to include costs and attorney's fees incurred by YHS in the defense of any such claim.

6. To permit authorized representatives of the TOPV to appear with or without notice to inspect Facility premises for the purpose of confirming YHS's compliance with the terms and conditions of the Animal Shelter Service Agreement.
7. To collect all fees imposed by this Agreement as set forth below (7a thru 7f) or as state statute requires. YHS will also remit fees collected to the TOPV on a monthly basis, except those specified below to be retained by YHS. YHS will not modify any of the following fees without the written consent of the TOPV.

FEE SCHEDULE:

Service	Fee	Disbursement Instructions
a. Impound	\$50	To be retained by YHS
b. Daily Board	\$25	To be retained by YHS
c. Recovery Fee	\$75	**A.R.S. § 11-1014, A.R.S. § 11-1022, to be retained by YHS
d. Altered Dog License	\$10	\$6 to be remitted to TOPV and \$2 to be retained by YHS
e. Unaltered Dog License	\$36	\$33 to be remitted to TOPV and \$2 to be retained by YHS
f. Owner Surrender	\$50	To be retained by YHS

Recovery fee cannot be charged for dogs that are licensed or altered at the time of impound. When a recovery fee is collected the animal owner will be given a voucher equal to the \$75.00 for the purpose of spaying or neutering that animal.

8. To separately handle feral cats. A.R.S. § 11-1013(C) provides:

Each stray dog or any cat impounded and not eligible for sterilization program shall be kept and maintained at the TOPV pound for a minimum of seventy-two hours or one hundred twenty hours for an animal that is impounded with a microchip or wearing a license or any other discernible form of owner identification, unless claimed or surrendered by its owner. Any person may purchase a dog or cat on expiration of the impoundment period, if the person pays all pound fees established by the TOPV City Council and complies with the licensing and vaccinating provisions of this article. If the dog or cat is to be used for medical research, a license or vaccination is not required. Any impounded cat that is eligible for a sterilization program and that will be returned to the vicinity where the cat was originally captured may be exempted from the mandatory holding period required by this subsection. For the purposes of this subsection, "eligible" means a cat that is living outdoors, lacks discernible identification, is of sound health and possesses its claws.

The law leaves it to the discretion of the Animal Control Officer (ACO) to hold or not. Feral cats that are impounded will be spayed or neutered by YHS and returned to the impound location by

the ACO. YHS will bill the TOPV per cat using the schedule below. The following costs are separate from and in lieu of the primary costs calculated in Section 4 of this Agreement.

Service	Fee
a. Neuter	\$125
b. Spay	\$150
c. Rabies Vaccination	\$22
d. FRCP	\$10
e. FEL/FIV Test	\$50
f. Overnight Board if Applicable	\$25/Night
g. Actual Medical Costs as They Occur	TBD

9. To keep and maintain records of all animals housed at the shelter pursuant to the Animal Shelter Agreement and to provide activity reports to the TOPV on a monthly basis that include the following information regarding said animals:
 - a. YHS Animal ID Number
 - b. Responsible Jurisdiction
 - c. Intake Date
 - d. Intake Type and Sub-Type
 - e. Emancipation Date
 - f. Outcome Date
 - g. Outcome Type and Sub-Type
 - h. Found Address
 - i. Last Name of Animal Control Officer (ACO) who Impounded Animal
 - j. ACO Animal Record Number
 - k. Species of Animal
 - l. Date Animal Impounded by ACO
 - m. Number of Emancipation Days
 - n. Any fees imposed by this Agreement that are waived along with an explanation for the waiver.

Duties of the TOPV:

1. To patrol the TOPV and to enforce all applicable state and TOPV statutes and ordinances.
2. To deliver all stray dogs impounded by TOPV Animal Control Officers to the Facility.
3. To provide emergency care for animals impounded by TOPV Animal Control Officers outside the Facility's normal hours of operation (8:00 a.m. to 5:00 p.m., Monday through Friday) and Federal holidays.
4. To release to YHS for final disposition any stray dog or cat not reclaimed by its owner within the established stray hold time.