

THIS **AGREEMENT** dated as of the 1st day of December 2019.

**BETWEEN:**

**THE CORPORATION OF THE TOWN OF OAKVILLE**  
(the “Town”)

- and –

**THE OAKVILLE & MILTON HUMANE SOCIETY**  
(the “Society”)

**WHEREAS:**

BETWEEN:

THE CORPORATION OF THE TOWN OF OAKVILLE  
(the “Town”)

- and –

THE OAKVILLE & MILTON HUMANE SOCIETY  
(the “Society”)

**WHEREAS** the Society is a registered non-profit charitable organization who is dedicated to protecting and making life better for animals and connecting the communities that care about them in Oakville.

**AND WHEREAS**, the Municipal Act, 2001 and other provincial legislation contain provisions relating to animals, including provisions authorizing municipalities to pass by-laws relating to animals;

**AND WHEREAS** the Town has passed and will hereafter pass by-laws relating to animals;

**AND WHEREAS** under agreement, the Society has acted as the Town's poundkeeper and in addition has carried out services and duties related to animal control on behalf of the Town;

**AND WHEREAS** the Society owns land described as Lot 115 according to a plan registered in the Registry Office for the Registry Division of Halton as Plan 1009 designated as Part 1 on Plan 20R-6949 in the Town of Oakville, Regional Municipality

of Halton (PIN 24806-055(LT)), herein referred to as the "Land", and owns the animal shelter building and its fixtures and equipment (herein collectively referred to as the "Shelter") located on the Land and uses the Land and the Shelter for its operations as a Humane Society in addition to the provision of Animal Control Services under agreement with the Town;

**AND WHEREAS** the Society and the Town (individually a "Party" and collectively the "Parties") deem it desirable that the Society continue to provide the Animal Control Services to the Town for a fee pursuant to the terms and conditions as set out herein;

**NOW THEREFORE** in consideration of the mutual covenants set forth below, the Parties agree as follows:

### **1.0 THE INTENTION OF THE PARTIES**

- 1.1 The truth and accuracy of the foregoing recitals is acknowledged and confirmed by both Parties and the recitals form part of the Agreement.
- 1.2 Both Parties are committed to working together productively in a professional, diligent and co-operative manner to carry out the obligations identified in this Agreement.
- 1.3 Both Parties agree the Society provides enforcement under Town of Oakville By-law 2018-006 and 2015-075 as amended. The by-laws may be enforced by an inspector authorized under the provisions of the *Ontario Society for the Prevention of Cruelty to Animals Act*, as amended.
- 1.4 Compliance investigations may include both Town and Society staff.

### **2.0 DEFINITIONS**

- 2.1 "Animal" means any member of the domestic animal kingdom, other than a human.
- 2.2 "Animal Control Officer" means a person or class of person employed by the Society and designated by by-law of the Town to enforce Town by-laws and legislation respecting animals, as listed in Schedule "A" of this Agreement.
- 2.3 "Animal Control Services" means the services provided by the Society for the Town as set out in Part 3.0 of this Agreement.
- 2.4 "Domestic" in relation to an animal means an animal kept by a person for pleasure or companionship.

- 2.5 “Emergency” is defined as situation where a stray animal requires immediate assistance as a result of injury or disease or where the animal itself is in immediate distress or at risk of endangering human life. This may include police or emergency services requests.
- 2.6 “Nuisance wildlife” means wildlife residing in the environs of a property that is not sick or injured, but is perceived to be causing damage to the property or that is not welcome at the property.
- 2.7 “Stray period” means as defined in the *Pounds Act*, R.S.O. 1990, c. P.17.
- 2.8 “Veterinarian” means a person registered under the *Veterinarians Act*, R.S.O. 1990, c. V.3.

### 3.0 **ANIMAL CONTROL SERVICES OVERVIEW**

The Society shall, on a fee for service basis, provide Animal Control Services for the Town as identified in this Agreement.

- 3.1 The Society shall enforce the Acts and Town by-laws as listed in Schedule “A” (which forms part of this Agreement) respecting animals.
- 3.2 The Society shall ensure that veterinarian services are available at all times to provide necessary treatment to any impounded animal.
- 3.3 The Society shall provide wards for stray animals equipped with suitable ventilation, heating and cooling facilities to provide for the comfort of the animals in accordance with applicable legislation.
- 3.4 The Society shall provide the ability to segregate animals from the general population, as may be ordered by the Medical Officer of Health, or any other person or persons having the authority to order the quarantine of animals, for the period of time so required.
- 3.5 The Society shall provide for the adoption or final disposition of all unclaimed animals after the stray periods have expired.
- 3.6 The Society shall provide for the licensing and registering of dogs in the Town pursuant to applicable Town by-laws, collect licence fees, provide tags and maintain a licensing database that is searchable by all town municipal enforcement staff.

- 3.7 Without limiting the foregoing and in accordance with timelines outlined in Section 6, the Society shall ensure that an Animal Control Officer shall respond and take appropriate action with respect to all requests for services in the Town which relate to:
- 3.7.1 All dead animals on Town lands, to be collected and disposed of in accordance with provincial legislation and regulations and any applicable Town by-laws.
  - 3.7.2 Dead animals on private property in the Town, including Regional roads, to be collected and disposed of in accordance with provincial legislation and regulations and any applicable Town by-laws and subject to a disposal fee at the Society's discretion and as set by the Society.
- 3.8 The Society shall dispose of deceased animals and may sub-contract the disposal such animals to a third party that provides services in accordance with applicable law.

#### **4.0 ANIMAL CONTROL OFFICER – ENFORCEMENT**

- 4.1 The Society shall ensure that Animal Control Officers:
- 4.1.1 Adhere to service standards described in section 6 of this agreement.
  - 4.1.2 Follow Town enforcement policies (including the progressive enforcement procedure) when interacting with the public.
  - 4.1.3 Be dressed in an approved uniform and carry Town supplied identification and badge.
  - 4.1.4 Patrol the Town on a daily basis, or as a result of a complaint, in a radio-equipped vehicle, appropriately maintained and identified as a vehicle providing Animal Control Services, and equipped with cages in compliance with applicable provincial and municipal laws and regulations.
  - 4.1.5 Ensure that an Animal Control Officer investigates all incidents involving dog aggression in accordance with timelines set out in section 6 of this agreement and where appropriate, initiate proceedings under the *Dog Owner's Liability Act*, R.S.O. 1990, c. D.16, including the pit bull provisions of the Act and any regulations

thereunder as amended from time to time, or any successor thereto.

- 4.1.6 Pursue the licensing of all dogs in the Town that come to the attention of the Society as being unlicensed.
- 4.1.7 Promote the licensing of dogs using a comprehensive community awareness and engagement strategy.
- 4.1.8 Respond to and investigate complaints, provide information, issue warnings where appropriate, obtain evidence and issue penalties (administrative penalties and *Provincial Offences Act*) based on the progressive enforcement procedure, as required.
- 4.1.9 Prepare and submit disclosure information or other required documents, notes, photos, statements or other things, in a format prescribed by the Town, within reasonable timeframes set by the Town.
- 4.1.10 Appear and give evidence in enforcement proceedings as required on behalf of the Town.

## **5.0 ANIMALS AT LARGE**

- 5.1 The Society shall ensure that where a dog, cat or other domestic animal is found at large and apprehended, the Animal Control Officer takes appropriate action which may include:
  - 5.1.1 Making reasonable attempts to return the dog to its owner including:
    - (a) Checking for a microchip; and
    - (b) Making at least three attempts to contact the owner if the last known address/contact information is known.
    - (c) Post a notice on the door or mail a letter to the homeowner if the last known address/contact information is known
  - 5.1.2 Making reasonable attempts to return a cat to its owner including:
    - (a) Checking for microchip; and
    - (b) Making at least three attempts to contact the owner if the last known address/contact information is known.
    - (c) Post a notice on the door or mail a letter to the homeowner if the last known address/contact information is known

- 5.1.3 Issuing a penalty notice or *Provincial Offences Act* (POA) charge as required to ensure that a licence is purchased if the dog at large is unlicensed.
- 5.1.4 Impounding the dog, cat or other animal at the Shelter.
- 5.1.5 Providing for the adoption or final disposition of all unclaimed animals after the stray periods have expired.
- 5.2 The Society shall ensure that an Animal Control Officer assesses all stray, injured domestic animals to determine whether veterinarian care is required and provide same to alleviate pain/suffering.

## **6.0 SERVICE STANDARDS**

The Society shall employ, at a minimum, the equivalent of 8.75 full-time Animal Control Officers (exclusive of administrative staff) and provide Animal Control Services pursuant to this Agreement in accordance with the following minimum performance standards:

- 6.1.1 Provide Animal Control Services and be responsive to calls within the Town between the hours of 7:00 a.m. and 9:00 p.m., Monday to Sunday inclusive, for each and every week this Agreement is in effect.
- 6.1.2 Be responsive to telephone calls on an Emergency call basis between the hours of 9:00 p.m. and 7:00 a.m., Monday to Sunday inclusive, for every week this Agreement is in effect. An answering service shall be used during hours that the Shelter is not open and such service shall relay pertinent information to the caller in the event of an Emergency.
- 6.1.3 Respond to any Emergency call within the Town within two (2) hours of receiving the complaint.
- 6.1.4 Respond to any call of a dog running at large in the Town within four (4) hours of receiving the complaint.
- 6.1.5 Respond to any call regarding the *Dog Owner's Liability Act* within forty-eight (48) hours of receiving the complaint, except in Emergency situations when 6.1.3 shall apply.
- 6.1.6 Respond to any call regarding a deceased animal in the Town within forty-eight (48) hours of receiving the complaint.

6.1.7 Respond to all other calls regarding animals in the Town within seventy-two (72) hours of receiving the complaint.

6.1.8 Respond to diseased or injured wildlife calls within the Town within three (3) hours.

## **7.0 STANDARDS OF CARE FOR IMPOUNDED ANIMALS**

The Society shall provide the animal care pursuant to this Agreement in accordance with the following minimum performance standards:

7.1 All impounded animals will be given general daily care, including feeding, watering and twice-daily exercising of dogs. Quarantined animals will receive the above but will not receive twice-daily exercise outside of their kennel or attached outdoor enclosure.

7.2 All kennels and cages and surrounding areas will be cleaned and disinfected daily.

7.3 All impounded animals will be provided with enclosed space that has light and is properly ventilated.

## **8.0 WILDLIFE**

The Society will support coyote concerns in the community through joint education sessions, public meetings and one-on-one conversations on an as needed or issues specific basis and:

8.1 The Society will respond to calls regarding wildlife, including coyotes that require immediate assistance as a result of injury, disease or are in immediate distress.

8.2 The Society will not respond to wildlife nuisance calls but will refer inquirers to private wildlife control businesses.

## **9.0 RECORDS**

9.1 On or before the fifteenth (15<sup>th</sup>) day following each quarter of the year, the Society shall provide the Town with a record of transactions conducted on behalf of the Town in the previous quarter (3 months). The records shall include:

9.1.1 A breakdown of complaints/requests for service in the Town.

- 9.1.2 The number of stray dogs received/picked up/impounded, returned to owners and stray cats received/picked up/impounded, returned to owners.
- 9.1.3 The number of dog attacks and bites reported to the Society.
- 9.1.4 The number of proceedings commenced under the *Dog Owner's Liability Act*.
- 9.1.5 The number of other small domestic stray animals received/picked up/impounded, returned to owners.
- 9.1.6 The number of injured and dead animals picked up.
- 9.1.7 The number of animals placed in protective care.
- 9.1.8 The number of animals quarantined at the Shelter that are currently under Animal Control jurisdiction.
- 9.1.9 The number of requests for service after 9:00 p.m. and before 7:00 a.m.
- 9.1.10 The number of licences/tags sold.
- 9.1.11 Other pertinent information regarding Animal Control Services as may be requested in writing by the Town, acting reasonably.
- 9.2 The Society shall retain digitized records regarding licences and Animal Control Services, including Animal Control Officer reports, pursuant to the provisions of the Town's Records Retention By-law 2008-169, as amended from time to time, or any successor thereto. The cost of digitizing records will be charged to the Animal Control Services operating budget.

## **10.0 FEE FOR SERVICE**

- 10.1 The Town shall pay the Society an annual fee based on full cost recovery for the services specified in this Agreement for each year of the term of this Agreement ("Fee for Service"). The Society shall submit to the Town by July annually, its request for Fee for Service based on full cost recovery for the next fiscal year, together with supporting documentation as determined necessary by the Society's Executive Director. Payment of the Fee for Service approved by the Town shall be made in twelve equal payments per year, no later than the fifteenth of each month, provided that



the information for the previous quarter required under section 8.0 has been provided to the Town by the Society.

- 10.2 The Society shall be entitled to keep all revenue generated from impoundment fees and 75% of revenue generated from dog licensing in order to offset operating costs of the Society. The remaining 25% from the sale of licences will be issued to the Town within 30 days following the previous quarter.
- 10.3 The Society shall keep and maintain all proper books, records, accounts, documents and vouchers necessary to record all financial transactions and as required by law in connection with its operations. The Society shall always comply with all reporting and other requirements by law as a registered charity.
- 10.4 If requested, the Society shall provide to the Town a copy of its annual audited financial statements for each fiscal year during the term of the Agreement, no later than fifteen (15) days after the Society's annual general meeting.
- 10.5 As an independent and arm's length corporation, the Society shall be entirely and solely responsible for any cost overruns or budget deficits it may incur regarding Society operations, other than any cost overruns or budget deficits incurred for Animal Control Services provided to the Town pursuant to this Agreement, which shall be covered by the Town through a grant to the Society.
- 10.6 The Society shall be responsible to pay any taxes which may be levied against the Land and the Shelter pursuant to applicable legislation. Any additional taxes that are a result of the Animal Control Services provided to the Town pursuant to this Agreement will be passed on to and be the responsibility of the Town.
- 10.7 The Town agrees that the Society will be entitled to full cost recovery for the Animal Control Services provided to the Town pursuant to this Agreement, including but not limited to, all costs associated with salaries, officer training, building and occupancy costs, and value for goods in kind used in the provision of Animal Control Services.
- 10.8 Attached as Schedule "B" and forming part of this Agreement is a schedule of expenses projected by the Society to be incurred for the provision of Animal Control Services for the Town in 2020. The Society

agrees to provide such information to the Town by July annually for each and every year during the term of this Agreement.

## **11.0 INSURANCE AND INDEMNIFICATION**

- 11.1 The Society shall maintain throughout the term of this Agreement comprehensive liability and property insurance in a form and amount satisfactory to the Town, in which the Town shall be named as an additional insured with respect to the Society's operations and all obligations assumed under this Agreement, including insurance against loss or damage resulting from bodily injury, including death, to one or more persons and loss of or damage to property arising from the performance of this Agreement by the Society, its employees and agents. The Society shall also maintain throughout the term of this Agreement its own Directors and Officers insurance policy satisfactory to the Town. The costs to the Society of maintaining its own insurance are considered operating expenses of the Society.
- 11.2 The Society shall provide to the Town a certified copy of such policy or a certificate thereof within two (2) weeks after the Society executes this Agreement and thereafter each July on an annual basis with the submission of the Society's Fee for Service budget request to the Town.
- 11.3 The Society hereby fully indemnifies, holds harmless, and shall defend the Town, its employees, officers, agents and elected representatives, from and against any and all actions, proceedings, claims and demands of every nature and kind whatsoever, and from all costs, charges and expenses, including legal expenses and loss, including but not limited to bodily injury, including death, to any person or persons and property loss or damage, which may be brought against or made upon the Town by any party whatsoever, or which may be incurred, sustained or paid by the Town, in consequence of the performance or non-performance by the Society of its obligations pursuant to this Agreement, unless such loss or damages are as a result of or by reason of any negligence, including gross negligence, or as a result of an action or omission, misrepresentation, misstatement, imprudence, lack of skill or error of judgment, of or by the Town or its officers, directors, agents, employees and servants. This indemnification in respect of any breach, violation, non-performance, damage to property, or injury or death occurring during the term of this Agreement, shall survive any termination of this Agreement.

## **12.0 TERM AND TERMINATION**

- 12.1 The term of this Agreement shall be three (3) years, commencing December 1, 2019 to and including November 30, 2022. Upon the entering into of this Agreement, the agreement between the Parties dated December 1, 2009 as amended by an agreement dated November 3, 2014 shall terminate and be of no further force and effect.
- 12.2 The Town or the Society shall have the right to terminate this Agreement, without cause, at any time upon one year written notice (hereinafter “Early Termination”).
- 12.3 Should the Town decide to terminate the Animal Control Services Agreement with the Society, the Society will have first right of refusal to enter into a new agreement with the Town to provide service as the municipal animal shelter for the impoundment of stray animals, the confinement of observation animals as determined by Public Health, protective care animals, and holding of dogs as determined by DOLA
- 12.4 The Town shall not be liable for any costs, damages or loses sustained by the Society to its business of whatsoever sort due directly, indirectly or consequently in whole or in part, to Early Termination. The Town and the Society support a reasonable wind down service period of two months prior to termination date.
- 12.5 Where either party commits a material breach of this Agreement, the non-offending party shall, by written notice, grant the offending party ninety (90) days to rectify the breach or to otherwise take corrective action to the satisfaction of the non-offending party.
- 12.6 Where a party to this Agreement has committed a material breach, the non-offending party may, subject to section 12.5 herein, terminate the Agreement on one hundred and eighty (180) days’ written notice. Where the Town committed the material breach leading to the termination of the Agreement, the Town shall provide payment to the Society in the amount equal to all costs borne by the Society for contractual obligations into which the Society entered (including, but not limited to, employment and equipment contracts) to meet the defined levels of service set out in this Agreement.
- 12.7 If during the term of this Agreement, the Society ceases to function or wishes to cease functioning as a Humane Society, or the Society wishes to sell the Land, the Society shall provide the Town with one hundred and eighty (180) days’ notice by notifying the Town Clerk in writing of the Society’s intention. The Town shall have the option to elect to make an

offer to purchase the Land and the Shelter at fair market value, by delivering an Offer to Purchase to the Society within one hundred and eighty (180) days thereafter. Where the parties are unable to reach an agreement for the purchase by the Town of the Land and the Shelter, the Society may, at its discretion, at any time after delivery of an Offer to Purchase by the Town as aforesaid, if any, proceed to sell the Land and the Shelter to a third party. This Agreement shall terminate in the event of a sale of the Land and the Shelter to either the Town or to a third party in accordance with this section.

- 12.8 For greater clarity, s. 12.7 of this Agreement is intended solely to provide the Town an opportunity to make a first Offer to Purchase the Land in the circumstances contemplated by that section. The option granted in s. 12.7 is intended to provide the parties an opportunity to enter into a purchase and sale agreement of the Land between willing buyer and willing seller. Any such Offer to Purchase which the Town may choose to make to the Society, pursuant to s. 12.7, shall not be deemed or construed to be an act of expropriation of the Land by the Town. The Town shall not be deemed by this Agreement to be required to purchase the Land, nor shall the Society be deemed to be required to sell the Land to the Town.
- 12.9 In the event that the Town acquires the Land, and the Society is operating an animal shelter in the Town and/or is providing Animal Control Services to the Town, the Town undertakes not to use the Land for a similar or competing facility or for the provision of such services.

### **13.0 GENERAL**

- 13.1 The Society shall not assign or transfer in any manner this Agreement without the prior written consent of the Town, acting reasonably.
- 13.2 The Society shall throughout the term of this Agreement, maintain its status as an independent registered charity.
- 13.3 Notice for the purpose of this Agreement shall be deemed effectively given to the Society, if delivered or mailed by registered mail, addressed to the Executive Director of the Oakville & Milton Humane Society at 445 Cornwall Road, Oakville, Ontario, L6J 7S8, or such other address as the Society shall have advised the Town in writing, and to the Town, if delivered or mailed by registered mail, addressed to the Town Clerk at The Corporation of the Town of Oakville, P.O. Box 310, 1225 Trafalgar Road, Oakville, Ontario, L6J 5A6, or such other address as the Town shall have advised the Society in writing.

- 13.4 Any notice or communication given by personal delivery or courier shall be deemed to have been given and received on the day of actual delivery thereof. Any notice or communication given by facsimile transmission shall be deemed to have been given and received on the next business day following the day on which it was successfully sent. Any notice or communication given by registered mail shall be deemed to have been given and received on the fifth (5<sup>th</sup>) business day following the date of mailing.
- 13.5 No condoning or overlooking by the Town or the Society of any default, breach or non-observance by the other shall operate as a waiver of such party's rights hereunder in respect of any continuing or subsequent default or breach. All rights and remedies herein are cumulative and alternative.
- 13.6 Time shall be the essence of this Agreement.
- 13.7 This Agreement constitutes the entire agreement between the parties hereto and supersedes all prior agreements and understandings whatsoever with respect to its subject matter, and may not be amended except by an instrument, in writing, duly approved and executed by the Town and the Society. Specifically, the parties agree that by execution of this Agreement, any former agreement between the parties is hereby terminated.
- 13.8 There are no conditions, warranties, representations or other agreements in connection with this Agreement except as specifically set out herein.
- 13.9 If any part of this Agreement shall be declared illegal or unenforceable by a court of competent jurisdiction, it shall be severed from and deemed never to have formed a part of this Agreement, and the remainder of this Agreement shall remain in full force and effect and enforceable in accordance with its terms.
- 13.10 This Agreement shall be construed and governed by the laws of the Province of Ontario.
- 13.11 All references shall be read with such changes in number and gender as may be appropriate according to whether the reference is to a male or female person or a corporation or partnership.
- 13.12 The insertion of headings is for convenience of reference only and shall not be construed so as to affect the interpretation or construction of this Agreement.

- 13.13 The preparation of this Agreement shall not be deemed to be an offer to the Society, and no agreement or contract between the parties hereto shall arise or exist except through the execution of the Agreement by the Society and by the Town after same has been authorized by Town Council.
- 13.14 This Agreement shall extend to, ensure to the benefit of, and be binding upon, the parties hereto and their respective successors and permitted assigns.
- 13.15 The parties consent to the registration of this Agreement against title to the Land.
- 13.16 Reference to any by-law or provincial legislation means as may be amended or replaced from time to time.

**IN WITNESS WHEREOF** the parties have cause this Agreement to be executed by their respective officers who are duly authorized to do so.

**DATED AND SIGNED** at the Town of Oakville this        day of        .

**THE OAKVILLE & MILTON HUMANE SOCIETY**

\_\_\_\_\_  
\_\_\_\_\_

We have authority to bind the corporation.

**THE CORPORATION OF THE TOWN OF OAKVILLE**

\_\_\_\_\_  
Mayor  
\_\_\_\_\_  
Clerk

We have authority to bind the corporation.

Schedule “A”

By-law 2015-075, as amended (The Licensing By-law – Schedule 26: Pet Shop/Kennel)

By-law 2018-006, as amended (Animal Control By-law)

*Dog Owner’s Liability Act*, R.S.O. 1990, c. D.16

*Livestock and Honeybee Protection Act*, R.S.O. 1990, c. L.24

Schedule "B"

Animal Control Expenses

Town of Oakville

2019

Animal Care	\$ 28,800.00
Medical	\$ 35,092.00
Vehicles	\$ 75,689.00
Communications	\$ 26,000.00
Insurance	\$ 13,000.00
Office and General Shelter	\$ 110,454.00
Building Repair and Maintenance	\$ 28,000.00
Salaries and Benefits	\$518,965.00
TOTAL	\$836,000.00