

**RESOLUTION NO. R23-08**

**A RESOLUTION OF THE CITY COUNCIL AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT BETWEEN THE CITY OF LAUREL AND THE YELLOWSTONE VALLEY ANIMAL SHELTER, FOR THE PROVISION OF ANIMAL SHELTER SERVICES.**

BE IT RESOLVED by the City Council of the City of Laurel, Montana,

Section 1: Approval. The Agreement by and between the City of Laurel and the Yellowstone Valley Animal Shelter, a copy attached hereto and incorporated herein, is hereby approved.


Section 2: Execution. The Mayor is hereby given authority to execute the Agreement with the Yellowstone Valley Animal Shelter on behalf of the City of Laurel.

Introduced at a regular meeting of the City Council on the 14<sup>th</sup> day of February 2023, by Council Member Mize.

PASSED and APPROVED by the City Council of the City of Laurel the 14<sup>th</sup> day of February 2023.

APPROVED by the Mayor the 14<sup>th</sup> day of February 2023.

CITY OF LAUREL




Dave Waggoner, Mayor

ATTEST:

  
Kelly Strecker, Clerk-Treasurer

APPROVED AS TO FORM:

  
Michele L. Braukmann, Civil City Attorney

## CONTRACT FOR SERVICES

This Agreement is made this 24th day of January, 2023, between the City of Laurel, Montana (“City”), and Yellowstone Valley Animal Shelter, Billings, Montana (“Contractor”).

City and Contractor, in consideration of the material covenants set forth in this Agreement, agree as follows:

1. **TERM:** This Agreement is effective as of the date of its execution and will begin on July 1, 2023 and terminate on June 30, 2024. The parties may extend this Agreement, by mutual concurrence, for four (4) additional one-year periods, in writing, prior to termination of each term.
  
2. **SCOPE OF WORK:** Contractor shall provide the following services:
  - a. **Dog Impounds:** Contractor agrees to admit and accept responsibility for the care and custody of all dogs impounded at the Contractor facility by personnel of the City and within the City boundaries, subject to the limitations set forth in this Agreement. The Contractor agrees to take reasonable care of such dogs in a manner consistent with good standard practices of animal shelters to include, but not be limited to, providing proper food, water and shelter.
    - i. It is understood that City has a facility to keep dogs for a 72-hour hold period. Under the terms of this Agreement, City may bring dogs to Contractor for veterinary treatment for illness or injury during this 72-hour hold period. If Contractor determines that such dogs require any vaccinations or other treatment in order to protect the greater population of animals, the Contractor may administer such treatment.
    - ii. All dogs not reclaimed by an owner within City’s 72-hour hold period shall become the property of the Contractor. Additionally, all dogs brought to Contractor’s facility by the City beyond the City’s 72-hour period shall become the property of the Contractor.
    - iii. Payment of all boarding fees and surgery costs shall initially be the responsibility of the animal owner. If the dog is not reclaimed within 72 hours, Contractor will notify the City and the dog will be placed for adoption and the unpaid boarding fees and surgery costs shall then be borne by the City.
    - iv. Any dog impounded for rabies quarantine will be held 10 days from the time of the bite or whatever time is required by the Yellowstone County Health Department, whichever is longer. The City may authorize an earlier release to the owner. No dog will be released from quarantine without a signed Rabies Quarantine Release Form that is provided by the City.

- v. All dogs impounded pursuant to this section will be held by the Contractor until they are released to Contractor by a signed release from the owner, the owner's legal representative, or by a court of law. The dog may be released to the owner with a release signed by the City. If the owner does not respond within 72 hours, the Contractor assumes ownership of the animal.
  - b. **Limitation:** This Agreement applies only to dogs and no other animals. Contractor will not accept any more than ten (10) dogs from one incident from the City, or any other entity, without prior notification. The City (or other entity) shall reasonably communicate with Contractor when it receives a report of an incident which could result in bringing more than 10 dogs to Contractor. Further, the City shall communicate and coordinate with Contractor regarding non-emergency incidents involving more than 10 dogs. Upon a minimum of six (6) hours' notification, Contractor will make every effort to accept the dogs but may choose not to accept all. The City will be responsible for seeking care for those animals elsewhere.
  - c. **Euthanasia During Impound Period:** The Contractor shall only euthanize a dog during the impound period within 72 hours upon written request by the City, order of a court of law, or if such dog is seriously injured, hopelessly sick or injured beyond any reasonable chance of recovery.
  - d. **Veterinary Care:** In the event a dog is brought to Contractor by an officer or citizen from within the City and logged in as a City impound, appropriate veterinary care will be provided if the situation arises. The Contractor will notify the officer of the veterinary care and the City will reimburse the Contractor for the cost of the veterinary services if not paid by the owner.
3. **PAYMENT:** For the services provided in this Agreement, City shall pay contractor an annual fee of Five-Thousand and no/100 Dollars (\$5,000.00) for the first year of the term of this Agreement. Subsequent annual fees shall be adjusted based on U.S. Bureau of Labor Statistics Consumer Price Index, West Region figures. Payment shall be made in equal monthly installments after invoicing by Contractor.
4. **OTHER FEES:**
- a. For impounded dogs, Contractor may collect daily boarding/reclaim fees from the owner at the time the dog is reclaimed. The boarding and reclaim fees will be set by Contractor.
  - b. In addition to all other fees allowed by this Agreement, if City brings ten (10) or more dogs into the shelter from any one given situation, City will pay an additional fee of Three Hundred and no/100 Dollars (\$300.00) to Contractor as emergency funding for each group of ten (10) dogs.
  - c. In addition to the foregoing, City will pay Contractor the cost of additional veterinary services requested by the City for any impounded dog authorized by the

City and not paid by the owner. Such services include but are not limited to workups for animal cruelty cases or other veterinary care.

- d. Contractor will bill the City monthly for all fees due under this Agreement, and such fees are due and payable within 30 days of receipt of the bill. Contractor may add finance charges for any bill not paid within 30 days, and City agrees to pay such charges.

5. **CITY DUTIES:** City will make every reasonable effort to locate the dog's owner before transporting the dog to Contractor. City will give six (6) hours' notice to Contractor of the surrender or capture of more than 10 dogs. City will not accept owner surrenders in the field. Persons surrendering a dog must make arrangements with Contractor.

6. **RECORDS:**

- a. The City, upon impounding a dog, will provide a written record to the Contractor to include:
  - i. The date and time the dog was impounded;
  - ii. A description of the dog by breed, gender, physical characteristics, collar and/or tags and assigned identification number;
  - iii. Location where the dog was found and reason for impoundment;
  - iv. Name, address, telephone number and location of the dog's owner, if known; and
  - v. Name and badge number of the officer impounding the dog.
- b. Contractor will provide upon request a written record of the disposition of all dogs impounded by the City, to include:
  - i. Disposition, date and time of same;
  - ii. Name, address and phone number of owners reclaiming their dog;
  - iii. Name, current address and telephone number of any citizen turning a dog into the shelter and logged in under the City account;
  - iv. Name of the Contractor representative releasing or euthanizing the dog; and
  - v. A monthly itemized account of all dogs impounded within the City and any additional charges for related services.
- c. Contractor agrees to attempt to verify the identity of the citizen by confirming identification with a photo identification card and making appropriate notations regarding such verification. And, with the individuals' consent, may photocopy that identification for use by the City.

7. **INDEPENDENT CONTRACTOR STATUS/LABOR RELATIONS:** The parties agree that Contractor is an independent contractor for purposes of this Agreement and is not to be considered an employee of the City for any purpose. Contractor is not subject to the terms and provisions of the City's personnel policies handbook and may not be considered a City employee for workers' compensation or any other purpose. Contractor is not authorized to represent the City or otherwise bind the City in any dealings between Contractor and any third parties. Contractor shall comply with the applicable requirements

of the Workers' Compensation Act, Title 39, Chapter 71, MCA, and the Occupational Disease Act of Montana, Title 39, Chapter 71, MCA. Contractor shall maintain workers' compensation coverage for all employees of Contractor's organization, except for those who are exempted by law. Contractor must give preference to the employment of bona fide residents of Montana in the performance of this work.

8. **INDEMNITY:** The Contractor shall defend, indemnify and hold harmless City from and against any and all claims demands, obligations causes of action, lawsuits and all damages and liabilities fines, judgments, costs, (including settlement costs), and expenses associated therewith (including reasonable attorney's fees and disbursements), arising from incidents that occur the result of Contractor's negligence and for which City's sole basis of liability is vicarious liability for the acts or omissions of Contractor. The defense and indemnification obligations under this paragraph shall not be limited by any assertions or finding that City is liable for any damages by reason of a non-delegable duty.

The City shall defend, indemnify and hold harmless Contractor from and against any and all claims demands, obligations causes of action, lawsuits and all damages and liabilities fines, judgments, costs, (including settlement costs), and expenses associated therewith (including reasonable attorney's fees and disbursements), arising from incidents that occur the result of City's negligence and for which Contractor's sole basis of liability is vicarious liability for the acts or omissions of City. The defense and indemnification obligations under this paragraph shall not be limited by any assertions or finding that Contractor, is liable for any damages by reason of a non-delegable duty.

9. **INSURANCE:** Contractor shall maintain at its sole cost and expense, commercial general liability insurance naming City as additional insured against liability for damages for bodily injury, including death and completed operations and property damages in a minimum amount of Seven Hundred Fifty Thousand Dollars (\$750,000.00) for each claim and One Million Five Hundred Thousand Dollars, (\$1,500,000.00), in the aggregate arising from incidents which occur as the result of Contractor's negligence while performing any work or service and for which the City's sole basis of liability is vicarious liability for the acts or omissions of the Contractor or/and subcontractors. Contractor shall maintain at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability which may arise from or in connection with work or service by Contractor, agents, employees, representatives, assigns and sub-contractors. This insurance shall cover claims as may be caused by any negligent act or omission. The policy of insurance shall be an occurrence policy with a Best Rating of A- or better and must be in force throughout the period.

Contractor shall name on the Certificate of liability insurance the City of Laurel as additional insured. In addition, Contractor will furnish to City a copy of the policy endorsement, CG 32 87 05 10, indicating that the City of Laurel is named as an additional insured under the Contractor's insurance policy. Contractor agrees to furnish both the Certificate of insurance and policy endorsement at least ten (10) days prior to beginning work.

Contractor is required to maintain workers compensation insurance, or an independent contractor's exemption issued by the Montana Department of Labor covering Contractor and Contractor's employees. Contractor is not, nor are Contractor's workers, employees of City. Workers Compensation insurance or the exemption from the workers compensation obligation must be valid for the entire period.

10. **COMPLIANCE WITH LAWS:** Contractor agrees to operate the shelter in accordance with local, state and federal laws, ordinances, rules, and regulations, and national standards, including the Montana Human Rights Act, Civil Rights Act of 1964, The Age Discrimination Act of 1975 and the American with Disabilities Act of 1990. Any subletting or subcontracting by the Contractor subjects contractors to the same provisions. In accordance with section Mont. Code Ann. § 49-3-207, Contractor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualification and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the person performing under the contract. City agrees to comply with all local, state and federal laws, ordinances, rules and regulations.
11. **LIAISON:** City's designated liaison with Contractor is Stan Langve, and Contractor's designated liaison with City is Triniti Halverson, Yellowstone Valley Animal Shelter Executive Director.
12. **DEFAULT AND TERMINATION:** If either party fails to comply with any condition of this Agreement at the time or in the manner provided for, other party may, at its option, terminate this Agreement and be released from all obligations if the default is not cured with thirty (30) days after written notice is provided to the defaulting party. Said notice shall set forth the items to be cured. Subject to Section 14 of this Agreement, the non-defaulting party may bring suit for damages, specific performance, and any other remedy provided by law. These remedies are cumulative and not exclusive. Use of one remedy does not preclude use of the others. Notices shall be provided in writing and hand-delivered or mailed to the parties at the addresses set forth in the first paragraph of this Agreement.

Either party may terminate this Agreement by providing the other with a written notice of intent to terminate at least ninety (90) days in advance of the termination date. Said notice shall be in writing and delivered to the other party.

13. **NON-WAIVER:** A waiver by either party, any default or breach by the other party of any terms or conditions of this Agreement does not limit the other party's right to enforce such term or conditions or to pursue any available legal or equitable rights in the event of any subsequent default or breach.
14. **DISPUTE RESOLUTION:** Any claim, controversy, or dispute between the parties, their agents, employees, or representatives shall be resolved first by negotiation between senior-level personnel from each party duly authorized to execute settlement agreements. Upon mutual agreement of the parties, the parties may invite an independent, disinterested mediator to assist in the negotiated settlement discussions. If the parties are unable to

resolve the dispute within thirty (30) days from the date the dispute was first raised, then such dispute may only be resolved in a court of competent jurisdiction in compliance with this Agreement.

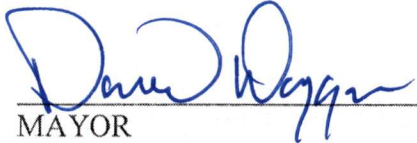
15. **GOVERNING LAW AND VENUE:** This Agreement shall be construed and enforced in accordance with the laws of the State of Montana. Venue for any suit between the parties arising out of this Agreement shall be the Montana Thirteenth Judicial District Court, Yellowstone County.
16. **ATTORNEY'S FEES AND COSTS:** In the event it becomes necessary for either party of this Agreement to retain an attorney to enforce any of the terms or conditions of this Agreement or to give any notice required herein, then the prevailing party or the party giving notice shall be entitled to reasonable attorney's fees and costs, including fees, salary, and costs of in-house counsel to include City Attorney.
17. **BINDING EFFECT:** This Agreement is binding upon and inures to the benefit of the heirs, legal representatives, successors, and assigns of the parties.
18. **NO ASSIGNMENT:** Neither the City nor the Contractor shall assign, transfer or encumber any rights, duties or interests accruing from this Agreement without written consent of the other.
19. **NO THIRD-PARTY BENEFICIARY:** This Agreement is for the exclusive benefit of the parties, does not constitute a third-party beneficiary agreement, and may not be relied upon or enforced by a third party.
20. **HEADINGS:** The headings used in this Agreement are for convenience only and are not be construed as a part of the Agreement or as a limitation on the scope of the particular paragraphs to which they refer.
21. **SEVERABILITY:** If any portion of this Agreement is held to be void or unenforceable, the balance thereof shall continue in effect.
22. **REPORTS/ACCOUNTABILITY/PUBLIC INFORMATION:** Both parties agree to develop and/or provide documentation as reasonably requested by the City or Contractor demonstrating both parties' compliance with the requirements of this Agreement.
23. **COUNTERPARTS:** This Agreement may be executed in counterparts, which together constitute one instrument.
24. **INTEGRATION:** The Contract Documents, which comprise the entire agreement between City and Contractor, consist of the following:
  - This Agreement;
  - Contractor's proposal; and
  - Contractor's current Certificate of Insurance and Workers Compensation coverage.

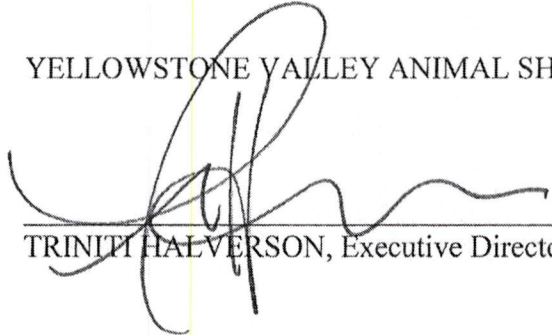
All communications, either verbal or written, made prior to the date of this Agreement are withdrawn unless specifically made a part of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

CITY OF LAUREL, MONTANA

YELLOWSTONE VALLEY ANIMAL SHELTER

  
MAYOR

  
TRINITI HALVERSON, Executive Director