

**ANIMAL SHELTER/ADOPTION CENTER AGREEMENT
HILL COUNTRY HUMANE SOCIETY**

This agreement made this day by and between COUNTY OF BURNET (herein called "County") and the HILL COUNTRY HUMANE SOCIETY (herein called "Contractor") as follows:

WHEREAS, the County is authorized pursuant to §826.016, Texas Health and Safety Code, to enter a contract for services; and,

WHEREAS, Contractor is a non-profit charitable organization dedicated to the prevention of cruelty to animals and is subject to the Texas Charitable Immunity and Liability Act;

1. Animal Shelter/Adoption Center. Contractor shall furnish an animal shelter/adoption center sufficient to meet the State requirements, and enable Contractor to provide the services stated herein. Animal shelter and adoption services shall be provided to citizens of the County.

2. Operation. Contractor shall own, operate, and maintain the animal shelter/adoption center in a businesslike manner, in compliance with State regulations and in a manner comparable with other similar shelters. Without limiting the generality of the foregoing, operation shall include:

A The shelter shall be open for the delivery of animals by Animal Control Officers (ACO'S) or other County designated agents seven (7) days per week during normal shelter working hours **7:00 am – 4:00 pm** (animals need to be delivered to the shelter no later than 4:00 pm to permit processing and evaluation of the animal and kennel set-up) with the exception of Thanksgiving Day, Christmas Day, New Years Day and Easter when the shelter will be open for delivery between 7:00 am - 10:00 am and 2:00 pm - 4:00 pm.

B The County will be charged an after-hours service charge of \$150.00 per service trip for after-hours service.

C The shelter shall be open to the public to surrender owned or stray animals when space is available and to reclaim or adopt animals from 11:00 a m to 4:00 p m Thursday through Monday.

D The Contractor shall provide routine daily care of animals at the shelter, including weekends and holidays.

E The Contractor will render euthanasia services and animal disposal services (cremation) in accordance with State law, and such that the shelter will be operated on a businesslike and uncrowded basis.

F Fees have been established for group and individual (private) cremations since June 25, 1999. Fees are payable to the Contractor at the time of service.

G The Contractor will require those persons adopting an animal to sign an agreement to spay/neuter the adopted animal.

H The Contractor agrees to provide the County with a yearly record to include the following:

1. The number of dogs, cats and miscellaneous animals received by the shelter.
2. The number of animals euthanized .
3. The number of animals in rabies observation, to be broken down as to the number redeemed by owners and number of days in custody (quarantine).
4. The number of impoundments.
5. The number of adoptions.
6. The number of reclaims.

I It is mutually agreed that any and all donations, contributions, or any other thing of value given to the shelter or its agents, as a result of any service performed in carrying out the provisions of this contract (agreement), and which is in excess of the amounts properly chargeable for such service shall be credited to the shelter.

J It is mutually agreed that the Contractor shall provide facilities for rabies observation (quarantine) for eight dogs and four cats. Animals delivered to the shelter by the County for rabies observation (quarantine) shall be quarantined for a period of not less than ten days (240 hours), as mandated by state law.

K Wild animals (non-domestic animals) and/or cats/dogs (domestic animals) brought in for decapitation and/or submission to Texas Department of Health will be charged per animal at a rate of **\$150** per animal. Shelter staff will not decapitate and submit animals that have been dead, unrefrigerated and/or began decomposition or frozen.

L It is mutually agreed that the Contractor shall have the sole and exclusive right to determine the responsibility of persons offering to become owners of unclaimed animals and the suitability of homes offered. The Contractor shall have the sole and exclusive right to accept or reject such applicants for unclaimed animals.

3. Shelter Fees. The initial fees charged those persons adopting an animal shall be determined by the Contractor. Persons seeking to reclaim an animal brought to the shelter by the County shall at a minimum pay the impound fees and additional fees set by the shelter. The Contractor is authorized to charge, collect, and retain all fees collected. Further, the Contractor shall require the owner of every impounded animal to pay all applicable fees including vaccination fees of an impounded animal which has not been inoculated as appropriate and to have such animal inoculated against rabies before redeeming such animal.

4. Animal Control. The County shall maintain the animal control program and the Contractor shall have no responsibility therefore. The Contractor's responsibility for any animal shall not commence until such animal has been delivered to the shelter.

5. Impoundment. Animals seized within the County's jurisdiction by its duly appointed agents may be delivered to the shelter, to be impounded under the exclusive control and custody of the Contractor for periods of time as required by State Law. Every

animal, not claimed and redeemed by the owner before the expiration of five (5) days from the date of impoundment shall become the sole and exclusive property of the Contractor. Animals not claimed after the five-day holding period, and deemed adoptable, will be sheltered as long as space is available.

Neither the County nor any agency nor agent of the County, nor of the State of Texas, nor any institution, corporation nor individual shall have any claim or right to any animal not claimed or redeemed.

The County agrees that the Contractor shall have the undisputed right, consistent with state law requirements, to humanely dispose of every animal given into its custody in accordance with the Contractor's principals as follows:

- a To place animals in the care, custody and control of new responsible owners; and
- b To humanely destroy animals which are not claimed by owners and which are not suitable for placement in the care, custody and control of new responsible owners.

Save and except, the Contractor shall hold an animal the County officials believe is dangerous until disposition of the animal is determined according to state law. The Contractor shall not destroy the animal without a release from the owner or an order of the court of competent jurisdiction upon final appeal.

6. County Fees. The shelter budget for fiscal year 2018-2019 is based upon income and expenses January 2018 – December 2018. The County agrees to pay \$102,196.52 for fiscal year Oct. 1, 2018 through Sept. 30, 2019 in quarterly payments of \$25,549.13. The payments shall begin Oct. 1, 2018 and continue through Sept. 30, 2019. The quarterly payment will be paid to the contractor by the 1st day of the month of each quarter. If the number of animals the County delivers to the shelter exceeds 464 during the County's fiscal year, the County will be charged an additional charge of \$225.00 per animal, billed on a monthly basis.

7. Annual Records. The Contractor shall, each year, establish a budget which shall cover the time period from January 1 – December 31. Such budget shall be submitted to the County on or before July 1st of each year.

8 Annual Compilation An annual compilation report will be provided to the County on a review level or higher level no later than January 31st of each year. The County shall have the right, at its own option and expense, to require the performance of a complete audit in accordance with the usual, customary and recognized accounting procedures.

9. Records. The animal shelter/adoption center, its operation, books, and records shall be available for inspection and copying by the County at reasonable times and upon reasonable request. The shelter shall further be accessible for inspection, without notice, by the Texas Department of Health.

10. Default. In the event the shelter fails to pass a State inspection conducted by State Officials, with written notice thereof to the Contractor, the Contractor shall have

thirty (30) days within which to cure the same. If at the end of such thirty (30) days the default has not been cured then this agreement may be terminated by the County.

11. Insurance. The Contractor shall obtain a policy of fire and extended coverage insurance on the shelter improvements. The coverage of such policy shall be in the amount of the replacement cost of the improvements. The Contractor shall also obtain a policy of liability insurance, insuring the Society against liabilities arising out of the shelter operations. A copy of the current policies shall be available to the County upon request as well as proof that all current premiums have been paid.

12. Maintenance. The Contractor shall maintain the shelter and tangible personal property incident thereto in a first-class condition substantially odor free, and in a well kept appearance, reasonable wear and tear excepted.

13. Independent Contractor. The Contractor, in the performance of its obligation hereunder, is an independent contractor. No employee or representative of the Contractor shall ever be deemed to be an employee or an agent of the County for any purpose whatsoever.

14. Term. This agreement shall begin on Oct 1, 2018 and end on Sept 30, 2019.

15. Notice. All notices sent hereunder to the Contractor shall be sent in the United States Mail , postage prepaid to:

Contractor: Hill Country Humane Society
9150 RR 1431 W
Buchanan Dam, TX 78609

County: Burnet County
Att: County Judge
220 S. Pierce Street
Burnet, TX 78611

16. Indemnification.

A. Contractor Indemnification. The County shall have no liability whatsoever for the actions of, or failure to act by, any employees, subcontractors, agents or assigns of the Contractor and the Contractor covenants and agrees that:

(i) The Contractor shall be solely responsible, as between the Contractor and the County and the agents, officers and employees of the County, for and with respect to any claim or cause of action arising out of or with respect to any act, omission or failure to act by the Contractor or its agents, officers, employees and subcontractors, while performing any function or providing or delivering any service undertaken by the Contractor pursuant to this Agreement; and

(ii) To the fullest extent permitted by law, the Contractor hereby agrees to indemnify and hold the County and its agents, officers and employees harmless from all costs, claims, expenses, and liabilities (including attorney's fees) whatsoever that may be incurred by the County, its agents, officers, employees, arising from any and all acts done or omitted to be done by Contractor, or the

employees, agents, subcontractors or assigns of Contractor, in connection with the operation of the Contractor or the provision of service by the Contractor pursuant to this Agreement.

B. County Indemnification. The contractor shall have no liability whatsoever for the actions of, or failure to act by, any employees, subcontractors, agents or assigns of the County and the County covenants and agrees that:

- (i) The County shall be solely responsible, as between the Contractor and the County and the agents, officers and employees of the contractor, for and with respect to any claim or cause of action arising out of or with respect to any act, omission or failure to act by the County or its agents, officers, employees and subcontractors, while performing any function or providing or delivering any service undertaken by the County pursuant to this Agreement; and
- (ii) To the fullest extent permitted by law, the County hereby agrees to indemnify and hold the Contractor and its agents, officers and employees harmless from all costs, claims, expenses, and liabilities (including attorney's fees) whatsoever that may be incurred by the Contractor, its agents, officers, employees, arising from any and all acts done or omitted to be done by County, or the employees, agents, subcontractors or assigns of County, in connection with animal control of the County.

17. Immunity: No Third Party Beneficiaries. Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or in equity to either the County or the Contractor nor to create any legal rights or claims, contractual or otherwise, on behalf of any third party. Neither the Contractor, nor the County waives, modifies, or alters to any extent whatsoever the availability of the defense of governmental immunity or charitable immunity under the laws of the State of Texas or other legal defense to either contracting party as to any third party, under the laws of this State and/or the County.

18. No Joint Venture, Agency, Joint Enterprise. This Agreement shall not be construed to establish a partnership, joint venture, agency, or joint enterprise, express or implied, nor any employer-employee or borrowed servant relationship by and among the parties hereto. Nor shall this Agreement be construed to create or grant rights, contractual or otherwise to any other person or entity not a party to this contract. Each party shall remain solely responsible for the proper direction of its employees and an employee of one shall not be deemed an employee or borrowed servant of the other for any reason.

19. Amendments and Modifications. This Agreement may not be amended or modified except by written amendment executed by the County and the Contractor and authorized by their respective governing bodies.

20. Entire Agreement. This agreement sets forth all of the agreements between the parties, and there are no other agreements, conditions, and understandings or representations, oral or written, other than those set forth herein. This agreement may

only be amended by a written instrument signed by both parties. This agreement supersedes and cancels any prior agreements.

21. Non-funding Clause. In the event no funds or insufficient funds are appropriated and budgeted, regardless of any other term in this agreement, in any fiscal year for payment(s) due under this agreement, the County will immediately notify the Contractor of such occurrence and this agreement shall terminate within 60 days of notice without penalty or expense to the County.

22. Non Waiver. Failure of any party hereto to terminate this agreement or take any other action regarding a default, shall never have the effect of waiving any act of default, nor shall either party ever be estopped to claim an act of default.

23. Texas Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and shall be performable in Llano County, Texas. Venue shall lie exclusively in Burnet or Llano County, Texas.

James Oakley
Print Name

J. Oakley
Signature

County Judge
Title

SIGNED AND EFFECTIVE this 9th day of July 2018.

ATTEST:

Janet Parker by Jackie Haynes

HILL COUNTRY HUMANE SOCIETY

President, HCHS (Dr. Dan McBride)