

## **LETTER OF AGREEMENT**

This Interlocal Agreement ("the Agreement") is entered into by the City of Boerne, Texas and Fair Oaks Ranch, Texas for the use of the City of Boerne Animal Control Facility.

### **I. RECITALS**

WHEREAS, CHAPTER 791 of the TEXAS GOVERNMENT CODE, also known as the INTERLOCAL COOPERATION ACT, authorizes all local governments to contract with each other to provide a governmental function or service that each party to the contract is authorized to perform individually and in which the contracting parties are mutually interested, such as police protection and public health and welfare; and

WHEREAS, the City of Boerne ("Boerne") is a Home-Rule Municipal Corporation organized under the laws of Texas and is authorized to enter into this Agreement; and

WHEREAS, the City of Fair Oaks Ranch ("FOR") is a general law city organized under the laws of the State of Texas and is authorized to enter into this Agreement; and

WHEREAS, Boerne and FOR represent that each is independently authorized to perform the functions contemplated by this Agreement; and

WHEREAS, Boerne operates an Animal Control Facility located at 330 South Esser Road, Boerne, Texas 78006 (the "Facility") for the purpose of providing a safe humane shelter for unwanted, stray, abused, and impounded animals in accordance with state and city regulations in a cost-efficient and effective manner and, thereby, protecting its citizens from the dangers and problems associated with free roaming animals; and

WHEREAS, FOR currently has a need for a Facility and is not equipped to render such shelter services; and

WHEREAS, each party has sufficient funds available from current revenues to perform the functions contemplated by this Agreement; and

WHEREAS, both Boerne and FOR find it mutually desirable to enter into this Agreement.

NOW, THEREFORE in consideration of the mutual benefits and promises each to the other made herein, the parties named above do hereby agree as follows:

### **II. BOERNE OBLIGATIONS**

The services to be provided by Boerne to FOR are as follows:

1. Maintain, repair, control, regulate, administer and operate the Facility as a complete animal shelter for the use and benefit of the Parties to this Agreement.

2. Retain in custody, on a temporary basis, animals taken into possession by the Parties to this Agreement. As used herein, the term “animals” shall mean dogs and cats. Should FOR need to impound an animal other than a dog or cat, FOR will contact Boerne to see if the Facility is able to house the type of animal being brought in and verify that the Facility has the type of food needed for the animal. If Boerne does not have food for the animal, FOR will be responsible for either bringing the correct food, or will be invoiced by Boerne for the purchase of specialized food. An invoice will be provided with the Monthly Report.
3. Contract for and purchase all reasonably necessary supplies, equipment, materials and services deemed reasonably necessary to operate the Facility.
4. Emergency animal pickup by Boerne Animal Control personnel when all authorized FOR Animal Control and Law Enforcement personnel is unavailable upon authorization from the Boerne Assistant City Manager or City Manager. The Facility is not required to accept impoundment of any animal from a FOR resident.
5. On the first day of each month, the Boerne Animal Control Department will compile a report of all FOR animals impounded at the facility during the preceding month, and shall provide the report to FOR no later than the 10<sup>th</sup> day of each month.

### III. FOR Obligations

1. FOR agrees and understands that the only person(s) authorized to bring an animal impounded from FOR to the Facility shall be a FOR Law Enforcement Officer or a FOR Animal Control Officer. In no event will the Facility accept any animal for impoundment from a FOR resident.
2. FOR agrees and understands that no animal impounded from FOR shall be released from the Facility to the owner of the animal without direction from FOR.
3. If a FOR animal is in need of reasonable medical attention, FOR agrees and understands that such FOR animal must be taken to a veterinary hospital by a FOR agent prior to bringing the FOR animal to the Facility. Boerne is under no obligation to impound an animal that it deems in need of medical attention, such determination is in the sole discretion of the Boerne Animal Control Officer[s].
4. Should any FOR animal need medical attention while impounded at the Facility, such cost for veterinary treatment shall be borne solely by FOR.
5. If a FOR animal is declared a ward of the Court due abuse or neglect, the FOR animal must first be taken to a veterinary hospital for a complete medical examination prior to impoundment at the Facility.

6. FOR will create standards for the procedures desired to be implemented by Boerne concerning the length of time any FOR animal is impounded at the Facility. Such FOR created standards will include the length of time the FOR animal will be impounded before being available for adoption or humanely euthanized. After the holding period prescribed by the FOR standards, FOR shall surrender the animal to Boerne for a surrender fee of \$10.00. FOR is responsible to forward an Animal Surrender Notice to the COB at the end of the prescribed holding period. If FOR has not furnished COB an Animal Surrender Notice by Noon on the day following the end of the prescribed holding period, COB will assess a boarding fee of \$10.00 for each day FOR is delinquent in forwarding the Animal Surrender Notice to COB. Should the end of the holding period fall on a Saturday or Sunday, the Animal Surrender Notice will be due by Noon on Monday.
7. Owner-Surrendered Animals. Should FOR accept an Owner-Surrendered Animal for re-adoption, FOR will pay \$10.00 to COB per animal surrendered. COB reserves the right to reject any Owner-Surrendered Animal that displays aggression or is sick, injured, or elderly to the point that adoption is not an option. COB will not accept any Owner-Surrendered Animal for euthanasia. Owner-Surrendered Animals should be taken by the owner to the veterinarian for euthanasia purposes. Should FOR choose to accept an Owner-Surrendered Animals for euthanasia purposes, FOR should contract with a veterinarian to perform this service.
8. In the event that any FOR animal impounded at the Facility is involved in a biting or scratching incident requiring the quarantine of the FOR animal, the FOR animal must be removed from the Facility by FOR within twenty-four hours for the duration of the quarantine period.

#### IV. CONSIDERATION

1. The operational costs of the Boerne Facility shall be shared by Boerne and FOR on a percentage basis, with FOR minimum percentage at 10%. This actual percentage shall be determined at the end of April each year, based on the number of animals impounded at the Facility from each Party during the previous twelve (12) month period. The operational costs are the total of 1.5 Boerne Facility employees' salary and benefits for the next fiscal year plus utilities, food, cleaning supplies, and building maintenance. Pursuant to this calculation, the amount due from FOR to Boerne is 10% of the operational costs of \$122554.13 equaling \$12255.54, or a monthly sum of \$1021.28 over the period of this Agreement. Payment of FOR's proportionate share is due on the 15<sup>th</sup> day of each month if FOR elects to pay monthly. Should FOR elect to make one payment, such payment is due on the 15<sup>th</sup> day of the month following execution of this Agreement.
2. In the event that an emergency animal pickup is made between 8:00 AM and 5:00 PM by COB personnel for a FOR animal per Section II.4. above, FOR shall pay a fee to the COB of \$35.00 per hour and an additional \$15.00 for each additional half hour, or any portion thereof. After 5:00 PM, Boerne holidays and weekend, FOR shall pay

\$50.00 per hour and an additional \$25.00 for each additional half hour, or any portion thereof. Boerne will provide FOR with an invoice listing all animals picked-up by Boerne personnel and impounded pursuant to this Section plus any associated fees therewith (including, but not limited to, any necessary medical treatment prior to and during impoundment per Section III.3). Payment of this additional invoice is due on or before the 15<sup>th</sup> day of month following receipt of the invoice.

3. Boerne will provide FOR with an invoice listing all animals in need of medical attention while impounded at the Facility per Section III.4. Such invoice will list the necessary treatment received and the fees associated therewith. Payment of this additional invoice is due on or before the 15<sup>th</sup> day of the month following receipt of the invoice.
4. Boerne will provide FOR with an invoice listing all animals exceeding their length of time at the Facility per FOR established standards per Section III.6. Upon receipt of such invoice, FOR will immediately forward an Animal Surrender Notice to Boerne via facsimile or electronic mail. The original Animal Surrender Notice will be provided to Boerne with the accompanying fee on or before the 15<sup>th</sup> day of the month following receipt of the invoice.

#### V. TERM AND TERMINATION

1. This Agreement shall be effective as of October 1, 2017, and shall continue in force and effect for a period of twelve months, and shall terminate September 30, 2018. The Agreement shall be reviewed by the Boerne City Council prior to each fiscal year.
2. Any party may terminate the Agreement by giving written notice; said termination to take effect within sixty (60) days after the notice is given.

#### Vi. GENERAL PROVISIONS

1. **Indemnification.** Subject to the limitations as to liability and damages in the Texas Tort Claims Act and without waiving its governmental immunity, each Party agrees to hold harmless each other, its governing board, officers, agents and employees for any liability, loss, damages, claims or causes of action caused or asserted to have been caused directly or indirectly by any other Party to this Agreement, or any of its officers, agents or employees, or as the result of its performance, or any of its officers, agents or employees, under this Agreement.
2. **Independent Contractor.** Boerne shall be solely responsible for the Facility. Boerne shall supply all materials, equipment, tools, transportation, and labor required for or reasonably incidental to the maintenance and care of the Facility. The City shall have

the sole obligation to employ, direct, control, supervise, manage, discharge and compensate all of the Boerne Animal Control Service employees.

3. Severability Clause. The Parties intend for the various provisions of this Agreement to be severable so that the invalidity, if any, of any one section (or more) shall not affect the validity of the remaining provisions or sections.
4. Public Information Act. Each Party agrees that it is a governmental body for purposes of the Public Information Act codified as Chapter 552 of the Texas Government Code and as such is required to release information in accordance with the Public Information Act.
5. This document may be executed in any number of original signature counterparts, each of which shall for all purposes be deemed an original, and all such counterparts shall constitute one and the same document. It is understood and agreed that this Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.
6. Each Party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement. The persons executing this Agreement hereby represent that they have authorization to sign on behalf of their respective entity.
7. This Agreement shall be interpreted in accordance with the laws of the State of Texas and in Kendall County, Texas.
8. This Agreement represents the entire agreement of the Parties and supersedes any verbal or written representations of, to or by the parties to each other.
9. Headings. The headings at the beginning of the various provisions of this Agreement have been included only in order to make it easier to locate the subject covered by each provision and are not to be used in construing this Agreement.
10. Notices to either Party shall be sufficient if sent in writing, postage pre-paid, registered or certified mail to the following:

Boerne  
Linda S. Zartler  
Assistant City Manager  
P.O. Box 1677  
Boerne, TX 78006-1677  
[lzartler@ci.boerne.tx.us](mailto:lzartler@ci.boerne.tx.us)  
Fax:

FOR

Agreed to this the \_\_\_\_ day of \_\_\_\_\_, 2017.

Approved:  
City of Boerne, Texas

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Attest:

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City Secretary

Approved:  
City of Fair Oaks Ranch, Texas

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Attest:

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City Secretary