



AGENDA OF THE FINANCE COMMITTEE

TUESDAY, SEPTEMBER 14, 2021, 4:30 PM

Virtual Meeting. Public may join via Zoom.

AMENDED

A. Zoom Meeting Information.

1. This item contains documents which provide call in information and instructions for the Zoom meeting.

B. Roll Call.

1. Members: Ald. Barbara Dorff, Ald. Veronica Corpus-Dax, Ald. Bill Galvin & Ald. Brian Johnson.

C. Approval of the Agenda.

D. Approval of Minutes.

1. Approval of the Finance Committee minutes from the August 24, 2021 meeting.

E. Regular Business.

1. A request by Ald. Lefebvre to the Finance Committee which states: "Consideration with possible action on a review of the latest decision on the "Dark Store" law, recently considered in the case Lowes Home Center v City of Wauwatosa. The judge ruled against Lowes Homes Center. This review would include an understanding of current litigation, in light of this decision."
2. For consideration and possible action to approve the Amendment No. 1 to Second Amended and Restated Pledge and Security Agreement in reference to the KI Expansion bonds.
3. Discussion and possible action on the award of the Animal Shelter Services Agreement with the Wisconsin Humane Society, Inc. Total three year cost is \$309,090. Contract is a 1-year agreement with two 1-year renewal options. Contract attached.

F. Informational.

1. 2021 Contingency Account: \$104,650.00.
2. The next Finance Committee meeting will be held on Tuesday September 28, 2021 at 4:30 PM.

G. Adjournment.

- 1) THIS MEETING IS RECORDED: THE VIDEO OF THIS MEETING AND MINUTES ARE AVAILABLE ONLINE AT www.greenbaywi.gov
- 2) ACCESSIBILITY: Any person wishing to attend who requires special accommodation because of a disability, should contact the City Safety Manager at 920-448-3125 at least 48 hours before the scheduled meeting time so that arrangements can be made.
- 3) QUORUM: Please take notice that a majority or quorum of the Common Council will attend this Finance Committee meeting and will constitute a meeting of the Common Council for purposes of discussion and information gathering relative to this agenda.
- 4) REPRESENTATION: The party requesting the communication, or their representative, should be present at this meeting.

Virtual Meeting Instructions



Finance Committee

Zoom Meeting Information

Join Zoom Meeting

<https://us02web.zoom.us/j/88142524379?pwd=ekliUHNVYTJ1RFpOUHVubTdXOHZYZz09>

Meeting ID: 881 4252 4379

Passcode: 846368

One tap mobile

+13126266799,,88142524379#,,,,*846368# US (Chicago)

+19292056099,,88142524379#,,,,*846368# US (New York)

Dial by your location

+1 312 626 6799 US (Chicago)

+1 929 205 6099 US (New York)

+1 301 715 8592 US (Washington D.C)

+1 346 248 7799 US (Houston)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

Meeting ID: 881 4252 4379

Passcode: 846368

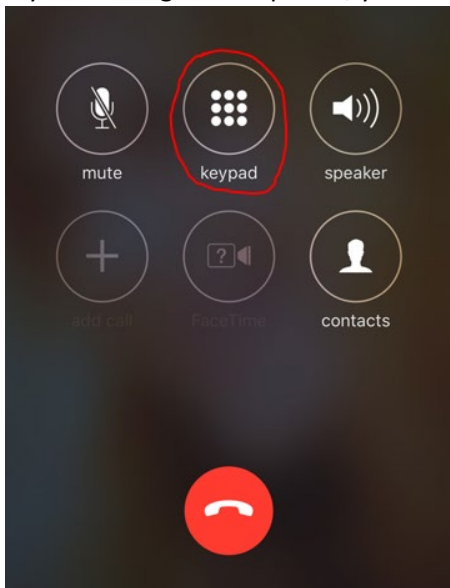
Find your local number: <https://us02web.zoom.us/j/kc5lh2mAwj>

Additional Information

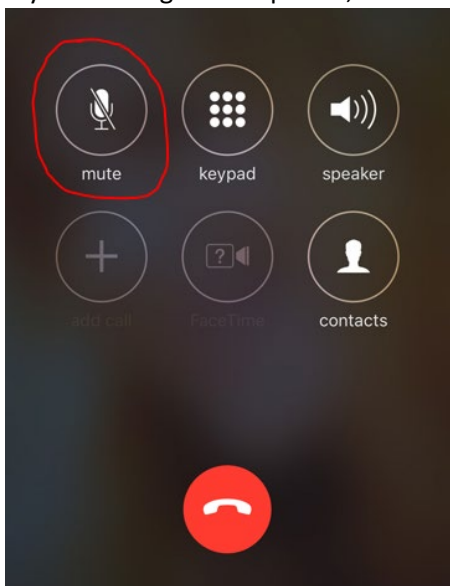
1. Wisconsin Open Meetings Law still applies
 - a. Persons interested in speaking to an item must give their name and address
 - b. Committee/Commission/Board members will still follow *Roberts Rules of Order*
2. All zoom meetings will have a password in the instructions. Please enter when prompted.
3. Please log into the Zoom meeting 10 minutes before the meeting starts to ensure proper technology is working.
 - a. If you are a Board Member, please log into [CivicClerk](#) with a computer, laptop, or tablet device.
4. Once you are in the meeting please mute yourselves.
 - a. You may unmute yourself when you are called upon to speak.
5. Waiting room
 - a. When you call in, all callers/participants will be placed in a “waiting room.”
 - b. Persons on the agenda will be admitted to the meeting, and then once the item is concluded, the host will permanently mute you from the meeting (you can still hear the meeting).
6. Using Zoom with a tablet or computer
 - a. Tablet—you will be asked to sign in. Download the app either with the Apple Store or the Play Store
 - b. Computer—you will be asked to sign in. You may download the app or click on the link to open Zoom in your browser.
7. Registering
 - a. The host may ask you to register for the meeting. A registration link will be sent to you along with the invite. You’ll receive another email confirming that you’re registered for the meeting.
 - b. If you’re using a phone, your registration will still be tied to an email.
8. Raising your hand
 - a. Committee members—you can either use CivicClerk and request to speak or you can “raise your hand” in the zoom meeting (you’d need to use a computer or tablet) to let the host know you’d like to speak. You can also un-mute yourselves and start speaking.
 - b. Persons on the agenda—you can “raise your hand” but you’d need to use a computer. You will be allowed to speak, per Wisconsin Open Meetings Rules, once the committee has “opened the floor for interested parties to speak.” Once the committee is finished with your agenda item, the host will mute you permanently, unless the committee opens the floor again.
9. What devices should I use?
 - a. Smart phone (please see more detailed instructions on page 3)
 - b. Land line
 - c. Tablet—well in advance of the meeting, please download the Zoom Meeting app before you join a meeting by using either the Apple Store or the Play Store. You will be asked to input your name, thus identifying you for the meeting. You’ll also be asked to verify your email.
 - d. Computer—well in advance of the meeting, please download the Zoom Meeting app, but you can also click on a link to open the Zoom Meeting in your browser. You will be asked to input your name, thus identifying you for the meeting.
 - e. For tablet and computer users—if you download the app you will be asked to verify your email.
10. Zoom etiquette
 - a. Muting yourselves when you’re not talking will prevent your background noise from interfering with others’ ability to listen to and participate in the meeting.
 - b. If you’re using a telephone, please identify yourself with your phone number and name before you speak. Zoom meeting hosts can see only your telephone number and will ask you to identify yourselves.
11. Closed session
 - a. Persons in the Zoom meeting will be put into a waiting room while the committee meets in Closed Session. Participants will be admitted back into the Zoom meeting once the committee reconvenes in Open Session.
 - b. Persons watching live on YouTube will see a gray screen with the City logo during closed session.
12. Persons interested in attending anonymously or listening to the meeting may call in by dialing *67 followed by the phone number above.

Calling into the Zoom meeting using a smartphone

1. Dial the phone number listed at the beginning of this document.
2. When prompted, enter the Meeting ID number followed by #
 - a. If you're using a smartphone, you can access the keypad by clicking "Keypad" on your screen



3. Once you are in the meeting, notify the meeting host that you are in and state your name.
4. If you do not need to talk, please make sure your phone is on **Mute**
 - a. If you're using a smartphone, look at your screen and click the Mute button



- b. If you're using a computer, you should see a Mute button in the Zoom application





Report to the
Finance Committee
of the City of Green Bay

MEETING DATE

September 14, 2021

PREPARED BY

AGENDA ITEM # E.1

A request by Ald. Lefebvre to the Finance Committee which states: "Consideration with possible action on a review of the latest decision on the "Dark Store" law, recently considered in the case Lowes Home Center v City of Wauwatosa. The judge ruled against Lowes Homes Center. This review would include an understanding of current litigation, in light of this decision."

BACKGROUND

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

- I. 2021-08-20 Dist 6 to Finance



Alders' Petitions and Communications

Name:

Committee Name:

Today's Date:

Text of Communication:

Upon completing this form, please email it to the City Clerk.



Report to the
Finance Committee
of the City of Green Bay

MEETING DATE

September 14, 2021

PREPARED BY

AGENDA ITEM # E.2

For consideration and possible action to approve the Amendment No. 1 to Second Amended and Restated Pledge and Security Agreement in reference to the KI Expansion bonds.

BACKGROUND

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

- I. Amendment No. 1 to Second AR Pledge and Security Agreement

**AMENDMENT NO. 1 TO
SECOND AMENDED AND RESTATED
PLEDGE AND SECURITY AGREEMENT**

THIS AMENDMENT NO. 1 TO SECOND AMENDED AND RESTATED PLEDGE AND SECURITY AGREEMENT, dated as of _____, 2021 (this "Amendment"), is made and entered into by and among the CITY OF GREEN BAY, WISCONSIN, a Wisconsin municipal corporation and political subdivision ("Green Bay"), the CITY OF DE PERE, WISCONSIN, a Wisconsin municipal corporation and political subdivision ("De Pere"), the VILLAGE OF ALLOUEZ, WISCONSIN, a Wisconsin municipal corporation and political subdivision ("Allouez"), the VILLAGE OF ASHWAUBENON, WISCONSIN, a Wisconsin municipal corporation and political subdivision ("Ashwaubenon"), the VILLAGE OF HOWARD, WISCONSIN, a Wisconsin municipal corporation and political subdivision ("Howard"), the VILLAGE OF BELLEVUE, WISCONSIN, a municipal corporation and political subdivision ("Bellevue"), the VILLAGE OF SUAMICO, WISCONSIN, a municipal corporation and political subdivision ("Suamico") (collectively with Green Bay, De Pere, Allouez, Ashwaubenon, Howard, and Bellevue, the "Municipalities"), BROWN COUNTY, WISCONSIN, a Wisconsin municipal corporation and political subdivision (the "County"), the GREEN BAY AREA ROOM TAX COMMISSION, a Wisconsin quasi-municipal corporation (the "Room Tax Commission"), and ASSOCIATED TRUST COMPANY, NATIONAL ASSOCIATION, a national bank organized under the laws of United States of America, as trustee (the "Trustee"), and amends the Second Amended and Restated Pledge and Security Agreement dated as of July 11, 2017 among the Municipalities, the County, the Room Tax Commission and the Trustee (the "Pledge and Security Agreement").

RECITAL

The parties desire to enter into this Amendment to correct a defined term in the Pledge and Security Agreement.

1. Amendment.

The parenthetical "(the "KI Expansion Bonds")" at the end of Recital C in the Pledge and Security Agreement is deleted and replaced with the parenthetical "(together with any refunding bonds, the "KI Expansion Bonds)".

2. General Provisions.

(a) This Amendment shall become effective on the date of its execution and delivery by all the parties hereto.

(b) The Pledge and Security Agreement remains in full force and effect. Once this Amendment becomes effective, all references to the Pledge and Security Agreement shall mean the Pledge and Security Agreement as amended by this Amendment.

(c) This Amendment may be executed, acknowledged, and delivered in any number of counterparts, each of which shall constitute an original, but, all together, only one instrument.

(d) The laws of the State of Wisconsin shall govern this Amendment.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Amendment No 1 to Second Amended and Restated Pledge and Security Agreement as of the date first above written.

CITY OF GREEN BAY

By: _____
Its: Mayor

Countersigned:

Its: City Clerk

CITY OF DE PERE, WISCONSIN

By: _____

Its: Mayor

Countersigned:

Its: Clerk-Treasurer

VILLAGE OF ALLOUEZ, WISCONSIN

By: _____

Its: President

Countersigned:

Its: Administrator & Clerk-Treasurer

**VILLAGE OF ASHWAUBENON,
WISCONSIN**

By: _____
Its: President

Countersigned:

Its: Clerk

VILLAGE OF HOWARD, WISCONSIN

By: _____

Its: President

Countersigned:

Its: Clerk

VILLAGE OF BELLEVUE, WISCONSIN

By: _____

Its: President

Countersigned:

Its: Clerk-Treasurer

VILLAGE OF SUAMICO

By: _____

Its: President

Countersigned:

Its: Clerk

BROWN COUNTY, WISCONSIN

By: _____

Its: County Executive

Countersigned:

Its: Clerk

**GREEN BAY AREA ROOM TAX
COMMISSION**

By: _____
Its: Chairman

Countersigned:

Its: Secretary

**ASSOCIATED TRUST COMPANY,
NATIONAL ASSOCIATION, as Trustee**

By: _____
Its: _____

[SEAL]

Countersigned:

Its: _____



Report to the
Finance Committee
of the City of Green Bay

MEETING DATE

September 14, 2021

PREPARED BY

Calvin Winters

AGENDA ITEM # E.3

Discussion and possible action on the award of the Animal Shelter Services Agreement with the Wisconsin Humane Society, Inc. Total three year cost is \$309,090. Contract is a 1-year agreement with two 1-year renewal options. Contract attached.

BACKGROUND**RECOMMENDATION****FISCAL IMPACT****ATTACHMENTS**

1. 9-14-21 Finance Agenda Report
2. 2022-2024 WHS Animal Control Contract



CITY OF GREEN BAY - PURCHASING DIVISION

TO: Finance Committee
FR: Calvin Winters, Procurement Manager
DT: September 14, 2021
RE: Purchasing Report
Cc: Diana Ellenbecker, Pam Manley

Report of the Procurement Manager:

1. Discussion and possible action on the award of the Animal Shelter Services Agreement with the Wisconsin Humane Society, Inc. Total three year cost is \$309,090. Contract is a 1-year agreement with two 1-year renewal options. Contract attached.

CITY OF GREEN BAY

Animal Shelter Services Agreement

THIS SERVICES AGREEMENT ("Agreement") is made and entered into by and between the City of Green Bay, a Wisconsin municipal corporation (the "CITY") and the Wisconsin Humane Society, Inc., a Wisconsin corporation ("WHS", collectively referred to as the Parties).

RECITALS

WHEREAS, the CITY, from time to time, takes custody of abandoned, stray, unwanted, unlicensed, mistreated, aggressive, quarantined or otherwise impounded animals and is desirous of a proper place to keep such animals where they will receive humane and proper care; and

WHEREAS, WHS is an organization devoted, among other things, to the care of animals, and has facilities to provide for the proper and humane care of such animals; and

WHEREAS, the CITY desires to purchase services from WHS for the sheltering, care, treatment and humane disposal of abandoned, stray, unwanted, unlicensed, mistreated, aggressive, quarantined or otherwise impounded animals located within the geographic limits of the CITY; and

WHEREAS, WHS has acquired certain assets of the Bay Area Humane Society, which previously provided similar services to the CITY, and WHS is presently situated to provide such services; and

WHEREAS, at all times this Agreement shall be construed in a manner so as to maximize the safety and welfare of the animals who are the subject hereof and who are cared for by WHS pursuant to the terms of this Agreement; and

WHEREAS, the CITY's fiscal year runs from January 1 through December 31 of each calendar year; and

WHEREAS, WHS maintains a place of business located at 1830 Radisson Street, Green Bay, WI 54302 (the "Main Facility"), but also uses other facilities and third-party facilities to pursue its mission; and

WHEREAS, WHS is a person entering into a contract with a political subdivision as defined in Wis. Stat §173.15(1) and acknowledges its obligations under Wis. Stat. §173.15(2) in relation to said contract; and

WHEREAS, the CITY has the authority and/or obligation to enforce: (i) Chapter 951 of the Wisconsin Statutes ("Crimes Against Animals"); (ii) Chapter 174 of the Wisconsin Statutes ("Dogs"); (iii) Chapter 173 of the Wisconsin Statutes ("Animals; Humane Officers"); and (iv) CITY ordinances (collectively, the "Animal Care Laws").

AGREEMENT

NOW, THEREFORE, in consideration of the above Recitals (which are acknowledged to be true and correct and are incorporated into this Agreement) and the promises and agreements hereinafter contained and for other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged by each party to this Agreement), it is agreed by the CITY and WHS as follows:

1.0 SERVICES.

WHS agrees to provide the services detailed in this Agreement. The parties agree that the responsibilities of WHS set forth in this Agreement apply only to the services detailed in this Agreement, and not to WHS's work relating to animals taken into custody for other municipalities, for private surrender, as a service to other animal welfare organizations, by operation of Wis. Stats. sec. 173.19, or for any other reason.

2.0 COST.

The CITY shall pay for services detailed in this Agreement on a fee for service basis as described in Schedule A, which is attached hereto and incorporated herein by reference.

3.0 TERM OF AGREEMENT.

The initial Term of this Agreement shall commence on January 1, 2022, and shall expire on December 31, 2022, unless sooner agreed to in writing by the Parties or renewed as set forth in Paragraph 3.1 herein. The Agreement may also be terminated before the expiration in accordance with Section 6.0.

3.1 Renewal Procedures. Upon expiration of the initial Term, this Agreement shall renew automatically for up to two (2) additional one (1) year renewal terms. The Agreement may be terminated earlier in accordance with Section 6.0.

4.0 DEFINITIONS.

As used in this Agreement, the following words shall have the meanings provided below:

4.1 Abandoned. A companion, exotic or livestock animal left for any length of time without apparent provision for its food, water, or other care as is reasonably necessary for the animal's health. An abandoned animal includes, but is not limited to, an animal owned by a known individual who, because of the owner's death, disability, incarceration, eviction or other like circumstance, is unable or unwilling to provide appropriate care for the animal.

4.2 Approved Facility. A facility other than the Main Facility which has been mutually agreed upon and approved by the Parties in writing.

4.3 Companion Animals. Dogs, cats, rabbits, guinea pigs, hamsters, mice, ferrets, birds, fish, reptiles, amphibians, invertebrates, or any other species of wild or domestic or hybrid animal sold, transferred, or retained for the purpose of being kept as a household pet, except livestock, as defined in subsection 4.6, *infra*.

4.4 Exotic Animal. An animal that is not normally domesticated in the United States or that is wild by nature and not native to Wisconsin.

4.5 Impound. The withholding of an animal from the owner under Wis. Stat. §173.21.

4.6 Livestock. Horse, bovine, sheep, goat, pig, llama, alpaca, farm-raised deer, rabbit raised for food, or domestic fowl, including farm-raised game bird.

4.7 Quarantined. A companion, exotic or livestock animal that is subject to a rabies control program and quarantine period following the occurrence of a suspected bite of a human in accordance with state law and city ordinance..

4.8 Redemption. The identification and verification of ownership of a stray or abandoned animal and the return of the animal to its owner.

4.9 Seizure. The taking of an animal, whose owner is known, into custody by a humane or law enforcement officer pursuant to Wis. Stat. §173.13.

4.10 Stray. A companion, exotic or livestock animal found wandering at large whose owner or custodian is unknown or cannot be ascertained immediately with reasonable effort.

4.11 Unclaimed. A companion, exotic or livestock animal that is found abandoned or stray whose owner has failed to redeem the animal.

4.12 Unlicensed. A companion, exotic or livestock animal that does not have the necessary licensing and or permitting as required pursuant to CITY ordinances.

4.13 Unwanted. A companion, exotic or livestock animal that is no longer wanted by its owner or custodian.

4.14 Wild Animal. Any mammal, bird, fish, or other creature of a wild nature endowed with sensation and the power of voluntary motion.

5.0 DESCRIPTION OF SERVICES.

5.1 WHS Personnel. WHS agrees to secure, at its own expense, all personnel necessary to carry out its obligations under this Agreement. Such personnel shall not be deemed to be employees of the CITY. WHS shall ensure that its personnel are instructed that they do not have any direct individual contractual relationship with the CITY. Except as otherwise provided in this Agreement, the CITY shall have no authority over any aspect of WHS's personnel practices and policies and shall not be liable for actions arising from such policies and practices.

5.2 No Agency. Nothing in this Agreement is intended nor may be construed to create between the CITY and WHS either an employer/employee, joint venture, landlord/tenant, or any other similar relationship. No agent, employee or representative of either Party shall be deemed to be an agent, employee or representative of the other Party. Neither Party shall have the authority to act for or on behalf of the other Party to bind the other Party without the express written approval of the other Party.

5.3 24-hour Drop Off Availability. WHS will provide, at the Main Location or another approved facility, access so that authorized personnel operating within the geographical boundaries of the CITY can drop off animals eligible for sheltering services under this Agreement during times when the facility is closed to the public.

5.4 Services for Abandoned, Stray and Unwanted Animals. WHS agrees provide animal care services (as described below in this paragraph), as well as humane euthanasia and cremation services, for companion, livestock and exotic animals that are taken into custody as stray, abandoned, or unwanted within the geographical limits of the CITY, and or that are dropped off at WHS (or any other approved facility). Animal care services shall include: (i) admitting services as deemed appropriate by WHS; (ii) daily custodial care; (iii) necessary and appropriate veterinary treatment; and (iv) redemption services. Animal care services purchased under the terms of this Agreement include those provided on the day the animal is admitted to WHS (or other approved facility) and during the required stray holding period under Wis. Stats. sec. 173.19 or the period the animal is in WHS'S custody, whichever is shorter.

5.4.1 WHS shall have the sole and exclusive right under this Agreement to provide those admitting services that it deems in its professional judgment are in the best interest and welfare of the animal and the shelter environment in which the animal is maintained.

5.4.2 Custodial care shall include, for each animal cared for under the terms of this Agreement, the provision of: (i) adequate food and water to maintain the animal's health; (ii) daily status check; and (iii) adequate shelter as required by Wis. Stat. §951.44.

5.4.3 Necessary and appropriate veterinary care and treatment, beyond that provided every animal upon admission and the daily custodial care, shall be provided as determined necessary and appropriate in the sole discretion of WHS.

5.4.4 Redemption services shall include reasonable attempts to identify, locate, make contact with, and provide written notice to an animal's owner in order to arrange for either the surrender of the animal or the return of the animal to its owner. Said efforts will be made within the statutory holding period. Notwithstanding the foregoing, the Parties acknowledge that the owners of some stray and/or abandoned animals are never known or even identified such that WHS'S ability to find the owner is a legal impossibility and/or not possible with reasonable effort. WHS may charge and retain reasonable fees to owners redeeming animals.

5.4.5 Euthanasia. The Parties recognize that Wisconsin law (currently section 173.23(4), Wis. Stats) permits the euthanasia of animals while in a municipality's custody (that is, animals sheltered pursuant to this Agreement) under narrow and specifically defined circumstances. WHS will abide strictly by the limitations of this statute and in further only perform euthanasia of animals under this statute under the direction and approval of a licensed veterinarian. To the extent subjective judgment is required in determining whether the statute applies, WHS has sole discretion to exercise that judgment. When WHS euthanizes an animal pursuant to this section, WHS will provide to the CITY upon request, records regarding the euthanasia performed.

5.4.6 Wildlife. The Parties acknowledge that WHS provides custodial care, rehabilitation, and euthanasia services for sick, injured or trapped wildlife at its Milwaukee location. The Parties agree that the City is not purchasing any services for such wildlife by this Agreement.

5.5. Services for Impounded Animals. WHS agrees to provide animal care services (as described in this paragraph) as well as euthanasia and cremation services for companion, livestock and exotic animals that are seized within the geographical limits of the CITY, and that are impounded by humane officers or law enforcement personnel at WHS location (or other approved facility). Animal care services shall include (i) admitting services as deemed appropriate by WHS; (ii) daily custodial care; and (iii) necessary and appropriate veterinary treatment. Custodial care shall include the provision of adequate food and water to maintain the animal's health; daily health checks; and adequate shelter as required by Wis. Stat. § 951.14. Animal care services will be provided on the day the animal is admitted to the Main Facility (or other approved facility) and until the animal is removed from the facility, the animal is deemed unclaimed, the animal is returned to the owner, or ownership of the animal is transferred to WHS by order of any court of competent jurisdiction. The humane officer or law enforcement officer dropping any such animal off shall identify the name of the animal's owner, if known, and advise WHS of its impound status. The Parties agree that WHS'S actual cost to provide these services is \$30 per animal per day and that this sum is reasonable and represents the established standard daily fee contemplated by Sec 173.15, Wis. Stats.

5.6 Notice and Penalties for Impounded Animals. The Parties recognize that for various reasons, delays can occur in the process of achieving outcomes for impounded animals. The Parties further recognize that avoidable delay is harmful not only to individual impounded animals, but also, because it creates unnecessary shelter crowding, to the overall processes by which WHS strives to support the welfare of all animals in its care and who may come into its care. For these reasons, the Parties have chosen a notice-and-penalty mechanism to increase their alignment and urgency in these situations. These situations are likely to be unusual, but the Parties have nevertheless chosen intentionally broad language to ensure that this mechanism will be available when it is needed. For these reasons, the parties agree to the following procedures with respect to impounded animals.

5.6.1 Notice by WHS. With respect to any impounded animal being provided animal care services by WHS, WHS shall have the unilateral right to require MUNICIPALITY to take custody of the animal upon ten (10) days written notice to MUNICIPALITY requesting that any such animal be picked up from WHS location (or any other WHS-MUNICIPALITY approved drop off facility). Said notice shall be delivered pursuant to the provisions set forth in Section 15.0 Notice.

5.6.2 Penalty. If MUNICIPALITY fails to pick up the animal by the 10th day after MUNICIPALITY has received the written notice described above, MUNICIPALITY shall be charged \$100.00 (one hundred dollars and no cents) per day (per animal) for each day thereafter that the animal remains in the care of WHS, in addition to any other charges permitted by this Agreement.

5.6.3 Livestock and Exotic Animal Impounds. WHS will provide animal care services as well as optional humane euthanasia and cremation services for livestock and exotic animals on a limited basis. The CITY shall provide reasonable notice to WHS before impounding livestock and exotic animals and will work in good faith with WHS to recognize and deal with logistical challenges in housing these animals. The Parties recognize that there may be circumstances where it is practically impossible for WHS to house these animals; in those cases, the Parties will work cooperatively in good faith to seek the best solution under the circumstances.

5.7 Rabies Control Services.

5.7.1 Quarantine Services. WHS agrees to provide animal care, isolation and observation and rabies testing services for animals as required by Wis. Stat. §95.21 and or in accordance with Green Bay Municipal Code Section 6.12. WHS agrees to provide such services upon request of the CITY. The Parties agree that this service applies to both impounded animals and stray and abandoned animals.

5.7.2 Owner Reimbursement for Rabies Observation Services. If the owner of an animal is known, WHS may seek reimbursement from the animal's owner of any expenses incurred in connection with keeping the animal in isolation, the supervision and examination of the animal by a veterinarian, and, if applicable, the preparation of the carcass for laboratory examination.

5.7.3 Rabies Vaccination Program. WHS agrees to comply with all statutory mandates regarding the vaccination of animals against rabies.

6.0 TERMINATION OF AGREEMENT.

6.1 Termination; No Cause. Either Party may terminate this Agreement, for any reason, at any time upon ninety (90) days' written notice to the other Party.

6.2 Termination for Cause. The following shall constitute grounds for termination by the non-breaching party 30 days from written notice of termination:

6.2.1 WHS's failure to cure, within 30 days of written notice of breach, a substantial violation of any State, Federal or local law governing the services provided under this Agreement, as expressed by applicable statutes, ordinances, rules and regulations.

6.2.2 WHS's failure to obtain, within 30 days of written notice of breach, any license or certifications required by law for the provision of the services required by this Agreement.

6.2.3 The CITY's failure to cure, within 30 days of written notice of breach, a failure to timely pay for services rendered under this Agreement.

7.0 INDEMNIFICATION/INSURANCE.

7.1 Indemnification of CITY. WHS hereby agrees to indemnify, defend and hold harmless the CITY, its elected and appointed officials, officers, employees, agents, representatives and volunteers, and each of them, from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, interest, attorneys' fees, costs and expenses of whatever kind or nature in any manner directly or indirectly caused, occasioned, or contributed to in whole or in part or claimed to be caused, occasioned, or contributed to in whole or in part, by reason of any act, omission, fault, or negligence, whether active or passive, of WHS or of anyone acting under its direction or control or on its behalf, even if liability is also sought to be imposed on the CITY, its elected and appointed officials, officers, employees, agents, representatives and volunteers. The obligation to indemnify, defend and hold harmless the CITY, its elected and appointed officials, officers, employees, agents, representatives and volunteers, and each of them, shall be applicable unless liability results from the sole negligence of the CITY, its elected and appointed officials, officers, employees, agents, representatives and volunteers. WHS shall reimburse the CITY, its elected and appointed officials, officers, employees, agents or authorized representatives or volunteers for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. In the event that WHS employs other persons, firms, corporations or entities (sub-contractors) as part of the work covered by this Agreement, it shall be WHS's responsibility to require and confirm that each sub-contractor enters into an Indemnity Agreement in favor of the CITY, its elected and appointed officials, officers, employees, agents, representatives and volunteers, which is identical to this Indemnity Agreement. This indemnity provision shall survive the termination or expiration of this Agreement.

7.2 Indemnification of WHS. The CITY shall indemnify, hold harmless and defend WHS, its boards, commissions, agencies, officers, employees and representatives against any and all liability, loss (including, but not limited to, property damage, bodily injury and loss of life), damages, reasonable costs or expenses which WHS, its officers, employees, agencies, boards, commissions and representatives may sustain, incur or be required to pay by reason of any breach of this Agreement by the CITY, but only to the extent caused in whole or in part by negligent acts or omission of the CITY. The provisions of this paragraph shall not apply to liabilities, losses, charges, costs, or expenses caused by or resulting from (1) the acts or omissions of WHS, its agencies, boards, commissions, officers, employees or representatives, or (2) the acts or omissions of third parties. The obligations of the CITY under this paragraph shall survive the expiration or termination of this Agreement.

7.3 Insurance. WHS shall procure and maintain throughout the term of this Agreement, without any additional expense to the CITY, the following insurance coverage with limits not less than those set forth below with insurers and under forms of policies set forth below.

7.3.1. Worker's Compensation and Employers Liability Insurance. WHS shall cover or insure under the applicable Wisconsin labor laws relating to worker's compensation insurance, all of their employees in accordance with the law in the State of Wisconsin. WHS shall provide statutory coverage for work related injuries and employer's liability insurance with limits of \$1,000,000 each accident, \$1,000,000 disease policy limit, and \$1,000,000 disease each employee.

7.3.2 Commercial General Liability and Automobile Liability Insurance. WHS shall provide and maintain the following commercial general liability and automobile liability insurance:

7.3.2.1 Coverage - Coverage for commercial general liability and automobile liability insurance shall be at least as broad as the following:

1. Insurance Services Office (ISO) Commercial General Liability Coverage (Occurrence Form CG 0001)
2. Insurance Services Office (ISO) Business Auto Coverage (Form CA 0001), covering Symbol 1 (any vehicle)

7.3.2.2. Limits – WHS shall maintain limits no less than the following:

1. General Liability - One million dollars (\$1,000,000) per occurrence (\$2,000,000 general aggregate if applicable) for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the project/location (with the ISO CG 2503, or ISO CG 2504, or insurer's equivalent endorsement provided to the City or the general aggregate including products-completed operations aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability- One million dollars (\$1,000,000) for bodily injury and property damage per occurrence limit covering all vehicles to be used in relationship to the Agreement.
3. Umbrella Liability- Five Million dollars (\$5,000,000) for bodily injury, personal injury and property damage per occurrence in excess of coverage carried for Employers' Liability, Commercial General Liability and Automobile Liability as described above.
4. Professional Liability – WHS will ensure that each veterinary performing services covered under this Agreement will have current professional liability insurance.

7.3.2.3. Required Provisions - The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The CITY, its elected and appointed officials, officers, employees or authorized representatives or volunteers are to be named as additional insureds (via ISO endorsement CG 2010, CG 2033, or insurer's equivalent for general liability coverage) as respects: liability arising out of activities performed by or on behalf of the contractors; products and completed operations of WHS; premises occupied or used by WHS; and vehicles owned, leased, hired or borrowed by WHS. The coverage shall contain no special limitations on the scope of protection afforded to the CITY, its elected and appointed officials, officers, employees or authorized representatives or volunteers.
2. The worker's compensation policy is to be endorsed with a waiver of subrogation. The insurance company, in its endorsement, agrees to waive all rights of subrogation against the CITY, its officers, officials, employees and volunteers for losses paid under the terms of the policy that arises from the work performed by the name insured for or on behalf of the CITY.
3. WHS'S insurance as required by this paragraph 7.3 shall be primary insurance as respects the CITY, its elected and appointed officials, officers, employees or authorized representatives or volunteers. Any insurance, self-insurance, or other coverage maintained by the CITY, its elected and appointed officials, officers, employees, or authorized representatives or volunteers shall not contribute to coverage for such claims.

4. WHS'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5. Each insurance policy required by this agreement shall state, or be endorsed to state, that coverage shall not be canceled by the insurance carrier or WHS, except after 60 days' prior written notice by U.S. mail has been given to CITY. In the event of non-payment of premium, the insurance carrier need only provide 10 days' prior written notice.

7.3.3. Deductibles and Self-Insured Retentions - Any deductible or self-insured retention must be declared to the CITY.

7.3.4. Evidences of Insurance - Prior to execution of the Agreement, WHS shall file with the CITY a certificate of insurance (Acord Form 25-S or equivalent) signed by the insurer's representative evidencing the coverage required by this Agreement. Such evidence shall include an additional insured endorsement signed by the insurer's representative. Such evidence shall also include confirmation that coverage satisfies or has been modified to satisfy all requirements identified in this Agreement.

7.4 Reservation of Rights. Notwithstanding any other portions of this Agreement, nothing contained herein is intended to waive or estop the CITY or its insurer to rely upon the limitations, defenses, and immunities contained within 345.05 and 893.80 of the Wisconsin Statutes. To the extent that indemnification is available and enforceable, the CITY or its insurer shall not be liable in indemnity, contribution, or otherwise for an amount greater than the limits of liability of municipal claims established under Wisconsin law.

8.0 ASSIGNMENT/TRANSFER. WHS shall neither assign nor transfer any interest or obligation in this Agreement, without the prior written consent of the CITY, unless otherwise provided herein, provided that claims for money due or to become due WHS from the CITY under this Agreement may be assigned to a bank, trust company or other financial institution without such approval if and only if the instrument of assignment contains a provision substantially to the effect that it is agreed that the right of the assignee in and to any moneys due or to become due to WHS shall be subject to prior claims of all persons, firms and corporations for services rendered or materials supplied for the performance of the work called for in this Agreement. WHS shall promptly provide notice of any such assignment or transfer to the CITY.

9.0 CRIMINAL INVESTIGATIONS. The Parties recognize that matters involving criminal investigations by the Green Bay Police Department require strong mutual collaboration and cooperation. The Parties will use utmost good faith and care in communicating with the public about animals in investigation situations. WHS will try to seek CITY approval before any statements are made, and in no case will make statements regarding any pending investigation or prosecution, or the actions or inactions of the owners of animals, instead directing media inquiries on these topics to the CITY. The CITY may in a specific case direct WHS to further restrict its communication.

10.0 FACILITY INSPECTION. Any animal sheltered by WHS pursuant to the terms of this Agreement may be viewed by the humane officer or law enforcement officer and or other designated representative of the CITY during the holding period to ascertain the animal's health and care, while accompanied by a WHS representative or staff member, during regular business hours or by mutual arrangement.

11.0 NO WAIVER BY PAYMENT OR ACCEPTANCE. In no event shall the making of any payment or acceptance of any service or product required by this Agreement constitute or be

construed as a waiver by the CITY of any breach of the covenants of this Agreement or a waiver of any default of WHS, and the making of any such payment or acceptance of any such service or product by the CITY while any such default or breach shall exist shall in no way impair or prejudice the rights of the CITY with respect to recovery of damages or other remedy as a result of such breach or default.

12.0 PAYMENT. The CITY agrees to make such payments for services rendered under this Agreement as and in the manner specified herein and in the attached Schedule A, which is fully incorporated herein by reference.

13.0 REPORTS. WHS agrees to make such monthly and annual reports as are required in the attached Schedule B, which is fully incorporated herein by reference. In further, upon request, WHS shall provide copies of any document constituting a "record" under Chapter 19 of the Wisconsin statutes which shall include those records required to be maintained as set forth in Wis. Stat. 173.17.

14.0 COMPLIANCE WITH STATE OF WISCONSIN OBLIGATIONS. WHS warrants that it has complied with all necessary requirements to do business in the State of Wisconsin. WHS shall notify the CITY immediately, in writing, of any change in its registered agent, its registered agent's address, and WHS's legal status.

15.0 NOTICE.

15.1 Notice to the CITY. Except as more specifically provided by the terms of this Agreement, notice to the CITY shall be delivered via first class mail, return receipt requested, as follows:

City of Green Bay
Clerk's Office
100 N. Jefferson St.
Green Bay, WI 54911

15.2 Notice to WHS. Except as more specifically provided by the terms of this Agreement, notice to WHS shall be delivered via first class mail, return receipt requested, as follows:

Anne Reed, President & CEO
Wisconsin Humane Society
4500 W. Wisconsin Avenue
Milwaukee, WI 53208

16.0 MISCELLANEOUS.

16.1 Integrated Agreement. This document, together with any and all instruments, exhibits, schedules or addenda attached hereto or referenced herein, sets forth the complete understanding of the parties relating to the matters which are the subject hereof, and supersedes any and all prior or contemporaneous written or oral agreements, understandings and representations relating thereto.

16.2 Modifications. This Agreement may only be modified in writing signed by the Parties or any officers of such Parties with authority to bind the Party. No oral statements, representations, or course of conduct inconsistent with the provisions of this Agreement shall be effective or binding on any Party regardless of any reliance thereon by the other.

16.3 No discrimination. During the term of this Agreement, the Parties, and the employees, representatives, agents and or volunteers thereof, shall not discriminate against any person based on race, color, creed, religion, sex, national origin, age, ancestry, disability, sexual orientation, gender identity, gender non-conformity, gender expression, transgender status, pregnancy, or marital or parental status.

16.3 Choice of Law. This Agreement shall be construed and enforced in accordance with the internal laws of the State of Wisconsin.

16.4 Construction.

16.4.1 Construction Against the Drafter. Provisions for which ambiguity is found shall not be strictly construed against any party by virtue of that party having drafted or prepared the same.

16.4.2 Captions. Captions of any section or paragraph of this Agreement are for the convenience of reference only and shall not define or limit the scope of any provisions contained therein.

16.4.3 Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner so as to be effective and valid under applicable law. However, if any provision is prohibited by or found to be invalid or unenforceable under applicable law or for any other reason or under particular circumstances, the same shall not affect the validity or enforceability of such provision under any other circumstances or of the remaining provisions of the Agreement. Such provision shall be deemed automatically amended with the least changes necessary so as to be valid and enforceable and consistent with the intent of such provision as originally stated.

16.4.4 Tense. Use of the singular number shall include the plural and one gender shall include all others.

17.0 ASSIGNMENT. Neither Party shall assign nor transfer any interest or obligation under this Agreement without the prior written consent of the Parties except as otherwise provided in Section 8.0 of this Agreement.

18.0 THIRD-PARTY BENEFICIARIES. This Agreement is intended to be an agreement solely between the Parties hereto and for their benefit only. No part of this Agreement shall be construed to add to, supplement, amend, abridge or appeal existing duties, rights, benefits or privileges of any third-party or parties, including, without limitation, employees of either party.

19.0 EXECUTION IN COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement.

20.0 REPRESENTATION OF COMPREHENSION OF DOCUMENT. In entering into this Agreement, the Parties represent that they have relied upon the advice of their attorneys, who are the attorneys of their choice, concerning the legal consequences of this Agreement. They further agree that the terms of this Agreement have been completely read and explained to them and they are fully understood and voluntarily accepted.

21.0 WARRANTY OF CAPACITY TO EXECUTE.

21.1 Eric Genrich – Mayor, and Celestine Jeffreys- Clerk warrant that they have the legal authority to execute this Agreement on behalf of the CITY and to receive the consideration specified

in it, and that neither they nor the CITY have sold, assigned, transferred, conveyed or otherwise disposed of any rights subject to this Agreement,

21.2 Anne Reed, President/CEO of WHS, warrants that he/she has the legal authority to execute this Agreement on behalf of WHS and to receive the consideration specified in it, and that neither he/she nor WHS has sold, assigned, transferred, conveyed or otherwise disposed of any rights subject to this Agreement.

FOR PROVIDER:

Date Signed: _____

WHS President/CEO

FOR CITY:

CITY OF GREEN BAY

Eric Genrich – Mayor

ATTEST:

Celestine Jeffreys - Clerk

APPROVED AS TO FORM:

Provisions have been made to pay the liability that will accrue hereunder.

SCHEDULE A

PAYMENT

1.0 Costs.

The CITY agrees to pay for services covered by this Agreement for the sum of \$100,000 for 2022. The Parties agree to a 3% increase in cost for each subsequent year. Cost for 2023 shall be \$103,000. Cost for 2024 shall be \$106,090. Payments shall be made in equal monthly installments per the schedule below.

Any services requested by the CITY, but not covered under this contract, may be provided by WHS in its discretion, and any such services will be billed to the CITY on an as incurred basis.

	<u>2022</u>	<u>2023</u>	<u>2024</u>
January	\$ 8,333.33	\$ 8,583.33	\$ 8,840.83
February	\$ 8,333.33	\$ 8,583.33	\$ 8,840.83
March	\$ 8,333.33	\$ 8,583.33	\$ 8,840.83
April	\$ 8,333.33	\$ 8,583.33	\$ 8,840.83
May	\$ 8,333.33	\$ 8,583.33	\$ 8,840.83
June	\$ 8,333.33	\$ 8,583.33	\$ 8,840.83
July	\$ 8,333.33	\$ 8,583.33	\$ 8,840.83
August	\$ 8,333.33	\$ 8,583.33	\$ 8,840.83
September	\$ 8,333.33	\$ 8,583.33	\$ 8,840.83
October	\$ 8,333.33	\$ 8,583.33	\$ 8,840.83
November	\$ 8,333.33	\$ 8,583.33	\$ 8,840.83
December	\$ 8,333.33	\$ 8,583.33	\$ 8,840.83

2.0 Method of Payment.

2.1 WHS shall submit an invoice to the CITY by the 10th day of each month for the services provided in the preceding month. The City shall pay the statement within thirty (30) days of receipt thereof. Invoiced amounts not paid within 30 days shall bear interest thereafter at the rate of 3% annually.

SCHEDULE B

REPORTS

Costs billed by WHS to the CITY will be paid with public funds. The Parties acknowledge that as a custodian of public funds, the CITY has an interest in understanding the expenses incurred by WHS in providing services under this Agreement. With that understanding, WHS agrees to provide the CITY with the reports described below.

1.0 By the 10th day after every month of service covered by this Agreement, WHS shall submit to the City of Green Bay Animal Control Officer or his/her designee a written report that shall contain the information described in 2.0 below regarding the services purchased by the CITY during the previous month of service. The Parties have agreed to the form of report to be used and an exemplar of the report is attached as Exhibit 1 to Schedule A of the Agreement. Annually WHS shall provide the information described in 2.0 below regarding all services purchased by the CITY as served by WHS.

2.0 For each of the following categories of animals, WHS shall report the information described in 2.1 to 2.3, below: "Dogs", "cats", "livestock" and "others".

2.1 Total number of animals in each category that were admitted under this contract.

2.2 Total number of animals in each category for which WHS provided custodial care and the total number of days for which custodial care service was provided.

2.3 Total number of animals in each category that were euthanized.

2.4 The Parties agree to work collaboratively to deliver more detailed information to provide the CITY the ability to easily audit the aggregate numbers referenced in 2.1, 2.2, and 2.3.