

**AGREEMENT REGARDING ANIMAL SHELTER USE BETWEEN THE
CITIES OF EVERETT AND LYNNWOOD**

This Agreement is made by and between the City of Everett, a municipal corporation of the State of Washington (hereinafter "Everett"), and the City of Lynnwood, a municipal corporation of the State of Washington (hereinafter "Lynnwood").

WHEREAS, Lynnwood regulates animals pursuant to its municipal code; and

WHEREAS, Lynnwood does not have facilities to shelter, care for, and dispose of animals as specified in its municipal code; and

WHEREAS, RCW 39.34.010 and 39.34.080 authorize the parties to contract for the performance of government services such as animal shelter services; and

WHEREAS, Everett is agreeable to rendering such services on the terms and conditions set forth below;

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

I. SCOPE OF SERVICES

A. Everett shall provide the services described herein for animals, found or living in Lynnwood, delivered to Everett's Animal Shelter. In consideration of Everett providing such services, Lynnwood agrees to comply with the provisions of this Agreement.

B. For purposes of this Agreement, the term "animals" shall refer to any member of the classes' reptile, bird, or mammal, except man.

C. Animal shelter services shall include:

1. Sheltering and holding animals at facilities operated by Everett, provided that capacity is available at the time of delivery.

2. Releasing animals to owners.

3. Disposing of animals, including adoption or destruction of animals not claimed by an owner, in accordance with Lynnwood Municipal Code and the terms of this Agreement.

4. Disposing of dead animals.

D. Everett reserves the right to refuse acceptance of any animal, where, in the opinion of the shelter staff, it does not have facilities, capacity or expertise appropriate or available to accommodate the needs of such animal. Prior to an officer or designee dropping off an animal to

the Everett Animal Shelter, any apparent veterinary care shall have been provided by Lynnwood. In the event an animal is deposited at the Everett Animal Shelter by an officer or designee and it is determined that urgent veterinary care should have been provided, Lynnwood agrees to pay and will be billed for the cost of veterinary care incurred by Everett, plus an additional fee of \$200 for each incident.

E. Everett agrees to provide animal shelter services for animals delivered for the following periods:

1. Seventy-two (72) hours from the hour of delivery if the animal is not licensed and has no known owner.

2. Ten (10) days from the date of delivery if the animal is licensed or has a known owner. An additional Fifteen Dollars (\$15.00) per day per animal charge will be assessed to Lynnwood for animals held at Lynnwood's request longer than the above time periods.

F. The shelter staff will, during the period provided in paragraph I.E, deliver the animal to any person who claims to be and has evidence of the ownership of said animal.

G. An animal may not be released until all administrative, impound, and board fees, as established jointly by Lynnwood and Everett, have been paid by the person seeking release of the animal. Said fees, pursuant to the terms of this Agreement, shall become the property of Everett.

H. Animals that have bitten people will be quarantined for a period of ten (10) days and then destroyed or returned to their owner at the discretion of Lynnwood. Quarantined animals shall not be released until all quarantine fees related to the animal are paid by Lynnwood, Lynnwood and Everett shall jointly establish quarantine fees.

I. Lynnwood agrees to furnish Everett copies of all provisions of its Municipal Code and regulations affecting Everett's performance under this Agreement and shall notify Everett at least thirty (30) days prior to the effective date of any amendment or revision.

J. Everett will pay all costs incurred in providing animal shelter services under this Agreement except as otherwise provided by this Agreement.

K. Everett shall have the authority to sell or dispose of animals after the period provided in paragraph I.E if not claimed as provided in paragraph I.F. The proceeds of such sale shall belong to Everett. Any such sale or disposition by Everett shall be in accordance with all applicable state statutes and administrative codes.

L. Everett shall not sell or donate any animal for the purpose of scientific research or testing.

II. TERM

The initial term of this Agreement is one year, beginning January 1, 2014 and ending December 31, 2014. This Agreement will continue for the initial term and will be automatically renewed

for additional one-year terms, subject to the right of either party to terminate this agreement on sixty (60) days notice in accordance with Section IV below.

III. FINANCIAL

A. Lynnwood agrees to pay Everett, within thirty (30) days of receipt of an invoice or statement from Everett, all fees incurred pursuant to this Agreement including an administrative fee in the sum One Hundred and Fifty-Five (\$155.00) per animal impounded for maintenance and operation costs.

B. Everett may adjust the fee charged per animal on an annual basis to be effective on January 1 of each calendar year. If Everett intends to adjust said fee, it will give Lynnwood at least ninety (90) days written notice of its intent to do so.

C. Everett must maintain adequate records to support billings for a period of five (5) years after completion of this Agreement by Everett. Lynnwood or any of its duly authorized representatives shall have access to any books, documents, papers and records of Everett which are directly related to this Agreement for the purposes of audit examinations.

IV. TERMINATION

Either party may terminate this Agreement by sixty (60) days' written notice to the other party.

V. INDEMNIFICATION

A. Each party agrees to defend and indemnify the other party from any and all claims arising out of, in connection with, or incident to its conduct relating to this Agreement. A party shall not indemnify the other party for the other party's sole negligence. If a claim is caused by or results from the conduct of both parties, each party shall be responsible to the extent of its fault.

B. As used in this paragraph, "claims" include, but are not limited to, any and all losses, claims, demands, expenses (including, but not limited to, attorney's fees and litigation expenses), suits, judgments, or damages, irrespective of the type of relief sought or demanded, such as money or injunctive relief, and irrespective of whether the damage alleged is bodily injury, damage to property, economic loss, general damages, special damages, or punitive damages. "Party" includes Everett, Lynnwood, and their employees, officers, representatives, and elected officials.

VI. MISCELLANEOUS

A. Notice Addresses. Any statement, notice, request or other communication hereunder shall be deemed to be sufficiently given to the addressee and any delivery hereunder deemed made when sent by certified mail addressed to the following addresses:

Notices to Everett shall be sent to the following address:

City of Everett
Attn: Deborah Wright
2930 Wetmore Avenue
Everett, WA 98201

Notices to Lynnwood shall be sent to the following address:

City of Lynnwood
Purchasing and Contracts Division
P.O. Box 5008
Lynnwood, WA 98046

AND

City of Lynnwood
Attn: Deputy Chief of Police, Support Services
P.O. Box 5008
Lynnwood, WA 98046

- B. Construction. Each party acknowledges that it has read this Agreement, understands it and agrees to be bound by its terms. Each party acknowledges that the Agreement should not be strictly construed against one party or the other, but interpreted reasonably and fairly so as to give effect to the manifest intentions of the parties.
- C. Modification. This Agreement may not be modified except by a written instrument duly executed by the parties hereto.
- D. Severability. In the event that any provision of this Agreement is held invalid, void, illegal or unenforceable, the remainder of this Agreement shall not be impaired or affected thereby, and each term, provision, and part shall continue in full force and effect and shall be interpreted in a manner consistent with the intent of the parties.
- E. Headings for Convenience. The section and subsection headings used herein are for convenience only, and shall not be used to interpret the Agreement.
- F. Assignment Barred. Neither party may assign its rights or duties under this Agreement without the prior written consent of the other party
- G. Complete Agreement. This Agreement contains the complete and integrated understanding and agreement between the parties and supersedes any understanding, Agreement or negotiation whether oral or written not set forth herein.
- H. Governing Law and Venue. The laws of the State of Washington shall govern this Agreement. Any lawsuit regarding this Agreement must be brought in the Superior Court of Snohomish County, Washington.
- I. Relationship of Parties. Everett and Lynnwood shall not be construed as joint ventures or general partners, and neither shall have the power to bind or obligate the other party.

J. No Third Party Rights. The provisions of this Agreement are intended solely for the benefit of, and may only be enforced by, the parties hereto. None of the rights or obligations of the parties herein set forth is intended to confer any claim, cause of action, remedy, defense, legal justification, indemnity, contribution claim, set-off, or other right whatsoever upon or for the benefit of any third party. This Agreement does not create any legal duty by any of the parties, except such contractual duties between them as explicitly stated in the Agreement.

VII. EFFECTIVE DATE

When duly executed by both parties, this Agreement shall be effective as of January 1, 2014.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized officers and representatives as of the day indicated below.

**CITY OF EVERETT,
WASHINGTON**

By: Ray Stephanson
Ray Stephanson, Mayor
Date: 12/19/2013

**CITY OF LYNNWOOD,
WASHINGTON**

By: Don Gough
Don Gough, Mayor
Date: 11-4-13

Approved as to form:

James D. Iles
James D. Iles
City Attorney

Approved as to form:

Rosemary Larson
Rosemary Larson
Lynnwood City Attorney

ATTEST:

Sharon Marks
Sharon Marks, City Clerk
Fuller

ATTEST:

Lorenzo Hines
Lorenzo Hines, Finance Director