

Animal Control and Pound Services Agreement

This Agreement made this day of , 2020,

Between

Essex County K9 Services, (the "Provider")-

and-

The Corporation of the Municipality of Leamington ("Leamington") and

The Corporation of the Town of Kingsville ("Kingsville"),

jointly referred to as the "Municipality"

Whereas the Provider and the Municipality agree that the Provider shall provide to the Municipality certain animal control services as set out in Schedule "B" of this Agreement.

In Consideration of the mutual covenants herein and for such good and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

Definitions

1. The terms used in this Agreement are defined in Schedule "A" to this Agreement. Where a term is not defined in Schedule "A", the term shall have its ordinary meaning in the context which it is employed in this Agreement.

Term

2. The term of this Agreement shall be three (3) years commencing on the 1st day of January, 2021 and ending on the 31st day of December, 2023.
3. The Agreement may be terminated in accordance with sections 22 to 24.

Services

4. The Provider agrees to provide to the Municipality animal control and Pound services as described in Schedule "B" to this Agreement (collectively the "Services")
5. The following individuals shall be used by the Provider in the provision of the services:

Dave Walsh;
Fern Walsh;

Marlene Buis;
Connor Walsh; and
Talon Walsh

6. For the purpose of providing the Services, the Provider shall not employ any person not listed in section 5 without the written consent of the Municipality, which consent shall not be unreasonably withheld.
7. In providing the Services, the Provider agrees to meet the following standards of service with the following resources:
 - a) all individuals referred to in section 5 shall be professional in both appearance and conduct, neat and uniformed;
 - b) all vehicles shall be professionally labelled and equipped with emergency lighting
 - c) all vehicles shall carry computers and GPS units to enable reports to be written immediately after all calls and to allow locations of calls to be found easily and in a timely fashion regardless of time of day;
 - d) all individuals referred to in section 5 shall carry cell phones designated specifically for animal control and answer calls on a 24 hours per day, 365 days per year standard;
 - e) all vehicles shall carry all necessary equipment to enable the Services to be provided in a safe, humane fashion, including, but not limited to, catchpoles, slip leads, shovels, garbage bags, gloves and pet carriers;
 - f) a social media page shall be maintained to provide information, including pictures of and general location of dogs picked up, enabling impounded dogs to be reunited with their owners within 24 hours; and
 - g) all individuals referred to in section 5 shall work closely with the OPP, Municipal staff, including Law Enforcement, Fire Services and the Ontario Society for Prevention of Cruelty to Animals and develop a rapport with each agency.

Compensation

8. The Municipality agrees to pay the Provider in consideration for the provision of the Services in accordance with the payment terms as described in Schedule "C" to this Agreement.
9. The Municipality shall not be required and is not liable to make any other payments to the Provider, except those described in Schedule "C" to this Agreement.

Warranties

10. The Provider warrants that:
- a) it has any approval, permit, licence required by any federal, provincial or municipal statute, regulation or by-law, and will comply with same in providing the Services;
 - b) it is not disqualified from providing the Services by virtue of any order, regulation or prohibition;
 - c) it possesses the requisite authority to enter into this Agreement;
 - d) it consents to release of any information that Municipality may be required to release in relation to this Agreement pursuant to the Municipal Freedom of Information and Protection of Personal Privacy Act or any order of a court, tribunal or authority of competent jurisdiction;
 - e) it has ownership of any information and intellectual property necessary for the provision of the Services and is entitled to disclose same to the Municipality;
 - f) it shall maintain the confidentiality of any information provided to it by the Municipality;
 - g) and the warranties herein expressed are true and shall remain true throughout the term of this Agreement.

Records and Information

11. The Provider agrees to maintain such records as determined by the Municipality to be necessary to ensure the recording of information related to and verifying the performance by the Provider of its obligations under this Agreement and to provide copies of such records to the Municipality upon request.
12. The Provider shall provide to the Municipality annual financial statements in a generally accepted accounting format on or before the 31st day of January following each year of this term, and such other records and documents to the permit an audit to be conducted by the Municipality.

Workplace Safety and Insurance

13. The Provider shall provide a certificate of good standing from the Workplace Safety and Insurance Board upon execution of this Agreement.

Accessibility for Ontarians with Disabilities Act

14. The Provider shall ensure that persons in its organization who are required to receive training as required by the Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005, c.11, as amended, and the associated regulations have received such training or will receive such training prior to the commencement of work under this Agreement.

The Municipality may require such persons to successfully complete an assessment of their knowledge of provision of goods and services to persons with disabilities prior to commencement of work for the Municipality.

Occupational Health and Safety

15. The Provider shall comply with the Municipality's policies regarding human rights, harassment in the workplace and Occupational Health and Safety.

Indemnity

16. The Provider agrees to indemnify and save the Municipality harmless in respect of all charges, costs, expenses and claims whatsoever arising in connection with the provision of Animal Control Services and the activities of the employees and contractors and the operation of vehicles and equipment on behalf of the Provider.

Insurance

17. The Provider shall forthwith furnish to the Municipality a satisfactory Certificate of Insurance containing the information below, for the duration of this Agreement:
 - a) \$5M (per occurrence) general liability insurance, which includes third party bodily injury and property damage; and
 - b) \$2M automobile liability policy.
18. The policies of insurance shall be endorsed to provide that the policies will not be altered, cancelled or allowed to lapse without thirty (30) days prior written notice to the Municipality.
19. The Certificate of Insurance shall name Leamington and Kingsville as the additional insured.

Assignment

20. This Agreement or the performance of any obligations hereunder may not be assigned by the Provider without the consent of the Municipality.

Early Termination for Cause

21. If either party fails to discharge any of its obligations under this Agreement, in addition to any other right or remedy, the non-breaching party may terminate this Agreement.
22. In the event of default or breach of this Agreement, as outlined at section 21, the non-breaching party shall give notice of the default to the breaching party.
23. In the event that the default is not corrected within thirty (30) days of receiving notice from the non-breaching party, the non-breaching party may terminate this Agreement at the end of that thirty (30) day period.
24. In the event of a recurring default, in which notice of the default was issued, and the breaching party does not satisfy the non-breaching party that such defaults will cease to occur, the non-breaching party shall be entitled to terminate this Agreement upon the occurrence of such default and the breaching party shall not be permitted to cure such default.

Notice

25. Any notice required to be given under this Agreement shall be in writing and provided by way of:
 - a) hand delivery, in which case notice shall be effective on the date of delivery;
or
 - b) regular letter mail, in which case notice shall be effective on the fifth day following the date of mailing,

To: Essex County K9 Services
78 Division Road North,
RR #3
Cottam, ON NOR 180
Attention: Dave Walsh

To: The Corporation of the Municipality of Leamington
111 Erie Street North
Leamington, ON N8H 2Zg
Attention: Clerk

To: The Corporation of the Town of Kingsville
2001 Division Road North
Kingsville, ON N9Y 2Y9
Attention: Clerk

General Provisions

26. The Provider shall declare any relationship that would result in the disqualification of a member of the Council of the Municipality in accordance with the Municipal Conflict of Interest Actor policy of the Municipality.
27. This Agreement contains the entire understanding of the parties with regard to the subject matter contained herein. This Agreement will not be amended, restated, modified or supplemented except in writing executed by an authorized representative of each of the parties hereto.
28. Any term or provision of this Agreement may be waived, or the time of performance may be extended by the party entitled to benefit thereof. Any such waiver will be validly and sufficiently authorized for the purposes of this Agreement if authorized in writing by an authorized representative of such party. The failure of a party to enforce at any time any provision of this Agreement shall not be construed as a waiver of such provision nor effect the validity of this Agreement or the right of any party thereafter to enforce each and every provision.
29. This Agreement will be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.
30. Time is of the essence hereof.
31. This Agreement does not and shall not be construed to create or to establish a partnership, agency, joint venture or any other relationship between the parties hereto, nor constitute any party as an agent of the other.
32. Where the Provider is obliged to comply with any requirement in law, the Municipality may require the Provider to deliver proof of such compliance to the Municipality in a form satisfactory to the Municipality.

In Witness Whereof, the parties, by their authorized signing officers and without the requirement of witness or seal, have caused this Agreement to be executed the day and year first written above.

Date: **The Corporation of the Municipality of Leamington**

Per: _____
Mayor, Hilda MacDonald

Per: _____
Clerk, Brenda M. Percy

Date:

The Corporation of the Town of Kingsville

Per:_____

Mayor, Nelson Santos

Per:_____

Clerk, Jennifer Astrologo

Date:

Essex County K9 Services

Per:_____

Name:

Position:

I/We have the authority to bind the Corporation

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Schedule "A"

Throughout this Agreement, the following definitions apply

- a) "Act" means the Animals for Research Act, R.S.O. 1990, c. A. 22, as amended and any Regulations made thereunder;
- b) "College" means St. Clair College of Applied Arts and Technology;
- c) "College Agreement" means the Agreement between the College and the Municipality as may be amended from time to time;
- d) "Committee" means the Joint Animal Control Committee between Leamington and Kingsville;
- e) "Delivery" includes submitting in person, or sending by mail, facsimile or electronic means;
- f) "Fee" means the reclaiming or pound fee as established by the Committee from time to time;
- g) "Highway" means any highway as defined by the Highway Traffic Act within the municipal boundaries of Kingsville or Leamington that is under the jurisdiction of Kingsville or Leamington, and does not include those Highways that are within the jurisdiction of the County of Essex;
- h) "Kingsville" means The Corporation of the Town of Kingsville;
- i) "Leamington" means The Corporation of the Municipality of Leamington;
- j) "Municipality" means Kingsville and Leamington, jointly or severally, as the context may determine and "Council" means the Council of each Municipality;
- k) "OPP" means the Ontario Provincial Police;
- l) "Pound" shall have the same meaning as in the Act and more particularly means the facility located at 1931 Road 4 East, Kingsville, Ontario, or any successor facility;
- m) "Redemption Period" shall have the same meaning as in the Act and shall be such time as set out in the Act;
- n) "Resources" means such facilities, vehicles, equipment and any other thing that the Provider intends to and is required to use in the provision of the Services; and;
- o) "Wildlife" means raccoons, skunks and possums.

Schedule "B"

The Services to be provided are as follows:

- a) operate the Pound in accordance with the Act and to the satisfaction of the Municipality; for clarity, the following costs in connection with the operation of the Pound are to be borne by the Municipality:
 - i) utilities;
 - ii) land-line telephone, if any;
 - iii) capital and other repairs;
 - iv) property insurance;
 - v) maintenance and replacement of Pound equipment;
 - vi) vi) heating and air conditioning; and
 - vii) snow removal.
- b) respond to calls from the Municipality relating to animal control being
 - i) dog running at large;
 - ii) failure to register dog, however, such calls shall not relate to proactive enforcement which is generally undertaken through a separate contract for service;
 - iii) keeping more dogs than permitted;
 - iv) failure to dispose of dog excrement; and
 - v) keeping an unregistered kennel,within the municipal boundaries of the Municipality;
- c) respond to emergency calls from the OPP and/or the Municipality relating to animal control on a twenty-four (24) hour basis and seven (7) days a week within the municipal boundaries of the Municipality;
- d) seize and impound every dog found to be running at large within the Municipality and deliver such dog to the Pound;
- e) issue certificates of offence under the Provincial Offences Act, R.S.O. 1990, c.P.33 to persons found to be in contravention of the Animal Control By-law of the Municipality;
- f) provide each dog impounded with good and sufficient food, water and shelter in accordance with the provisions of the Act;
- g) confine within a building separated from other dogs any female dog impounded while in estrus;
- h) restore possession of such dog to the owner in the event that the owner; provided that the owner pays the Fee, provides proof of licensing for the dog, and claims and takes possession of the dog within the Redemption Period;

- i) if possession of a dog is not restored to an owner within the Redemption Period offer the dog to the College in accordance with the College Agreement;
- j) euthanize a dog in accordance with section 20(7) of the Act;
- k) comply with the provisions of the College Agreement and be designated as the person at the Pound to deal with representatives of the College in all day-to-day matters arising out of the College Agreement;
- l) live trap Wildlife and, at his or her discretion, release in a suitable location or humanely destroy;
- m) remove and dispose of animals found dead on any Highway;
- n) on a monthly basis, file with the Clerk of The Corporation of the Municipality of Leamington or his or her designate a report setting out the following:
 - i) the number of calls for animal control, the nature of the call, and the location of the call;
 - ii) the number of dogs impounded, the location of each seizure, and the respective period of time of such impound;
 - iii) the number of dogs provided to the College;
 - iv) the number of dogs euthanized and the reason for such euthanasia;
 - v) the number of Wildlife trapped by type, the location of the trap and whether such Wildlife was released or destroyed; and
 - vi) the number of dead animals removed from Highways and the location of the removal;

and remit all Fees collected

Schedule "C"

The Proponent agrees to provide the Services for the following payment(s) during the term of the Contract:

Animal Control and Pound Services:

	Price for Animal Control	HST	Price for Pound Services	HST
Year One	\$55,000	\$7,150	\$25,000	\$3,250
Year Two	\$55,000	\$7,150	\$25,000	\$3,250
Year Three	\$56,100	\$7,293	\$25,000	\$3,250
Total	\$166,100	\$21,593	\$75,000	\$9,750

Wildlife Removal:

	Wildlife Removal Price per Call	HST	Total
Year One	\$70	\$9.10	\$79.10
Year Two	\$70	\$9.10	\$79.10
Year Three	\$70	\$9.10	\$79.10

Dead Animal Removal:

	Dead Animal Removal Price per Call	HST	Total
Year One	\$0 (included)	\$0	\$0
Year Two	\$0 (included)	\$0	\$0
Year Three	\$0 (included)	\$0	\$0