

## **INTERLOCAL COOPERATION AGREEMENT FOR ANIMAL ADOPTION SERVICES**

This Interlocal Agreement (the “Agreement”), effective August \_\_\_\_, 2019, is entered into between the **City of Mesquite** (“Mesquite”) and the **City of Ferris** (“Ferris”) each a “Party” and collectively the “Parties,” acting by and through their authorized representatives.

### **RECITALS**

**WHEREAS**, Chapter 791, the Interlocal Cooperation Act (the “Act”), of the Texas Government Code provides authorization for local governments to contract with one another to provide governmental functions under the terms of the Act; and

**WHEREAS**, the provision of Animal control services, including animal adoption services, is a governmental function and service under the Act; and each Party to this Agreement has the legal authority to provide animal adoption services; and

**WHEREAS**, the governing bodies of the Parties desire to promote the health, safety and welfare of its citizens by facilitating the adoption of animals through cooperative efforts whereby Mesquite will transfer to Ferris the ownership of those animals Mesquite determines to be eligible for adoption and transfer; and

**WHEREAS**, any payment that a Party is required to make hereunder shall be made from current, available revenue.

**NOW, THEREFORE**, upon and for the mutual consideration stated herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

### **Article I Definitions**

Unless the context clearly indicates otherwise, the following words and phrases used in this Agreement shall have the following meaning:

“Animal” shall mean any small domesticated creature, including, but not limited to, dogs, cats, birds, fish, mammals, reptiles, insects and fowl.

“Animal Control Services” shall mean the services provided by a Party to effectively carry out an animal control program, which shall include but not be limited to the humane capture and sheltering of stray, unrestrained, homeless, abandoned or unwanted Animals, and maintenance of an adoption program with the purpose of finding a permanent placement for eligible Animals.

“Animal Shelter” shall mean each Party’s Animal shelter facilities that keep or legally impound stray, homeless, abandoned or unwanted Animals on behalf of their respective cities.

“Tag” shall mean to identify an Animal for transfer of ownership when the Animal becomes eligible for transfer.

## **Article II Term**

2.1 The Initial Term of this Agreement shall commence on August \_\_\_\_, 2019 (the “Effective Date”), and continue for a period of one (1) year, unless sooner terminated as provided herein. This Agreement shall automatically renew for successive one (1) year terms commencing on July \_\_ of each year following the Effective Date (each a “Renewal Term”), unless sooner terminated as provided herein.

2.2 Either Party may immediately terminate its participation in this Agreement unilaterally for any reason at any time by providing written notice to the other Party.

## **Article III Responsibilities of the Parties**

**3.1 *Designated Representative.*** Each Party shall select an individual to serve as the designated representative for direct contact in the performance of this Agreement, and shall provide the individual’s name, title, address, email address, telephone number, and fax number. The Parties shall have a continuing obligation to provide updated designated representative information as needed.

**3.2 *Custody and Care of Animals.*** Ferris shall take possession of the Animals transferred to it by Mesquite, provide reliable transportation for the Animal from the Mesquite facility and process the Animals following the same procedures as would be used by Ferris in processing the Animals in its jurisdiction. Ferris shall provide proper care for all transferred animals, including nutritionally adequate food, water, shelter, safe containment, veterinary care, adequate exercise, environmental enrichment, socialization and humane treatment, and all necessary staffing and personnel needs for the Animals transferred. Ferris shall report immediately any communicable disease that an Animal released by Mesquite may have been diagnosed with within 72 hours of being transferred from Mesquite. Transferred animals will not be euthanized for space, and shall only be humanely euthanized if found to be a danger to the public or in a state of extreme physical suffering.

**3.3 *Adoption Program.*** Ferris shall maintain an adoption program that includes marketing the Animal with the intent of finding permanent placement for that Animal. Transferred Animals will not be placed with persons or organizations that intend to use the Animal for commercial purposes, including but not limited to breeding or fighting purposes.

**3.4 *Handling Complaints.*** If either Party, including its public officials, employees, volunteers or supporters, have a concern regarding the other’s staff, volunteers or policies, these concerns should be first brought in writing to the attention of the Designated Representative and secondly in writing to the Department Director.

**3.5 *Positive Interactions.*** Mesquite and Ferris agree to maintain a positive relationship with each other, especially in public and social media arenas. While at Mesquite, Ferris employees and agents must remain in public areas unless escorted by a Mesquite staff member.

Any individual representing a Party shall refrain from disruptive, argumentative or negative behaviors displayed to the staff or patrons of the other Party. A Party, its public officials, employees and volunteers or supporters who post social media content that portrays the other Party, its staff or volunteers in a negative manner may lose the ability to continue its partnership under this Agreement.

#### **Article IV**

##### **Procedures for Transfer of an Animal from Mesquite to Ferris**

**4.1 Eligibility for Transfer.** Animals will not be released for transfer from Mesquite to Ferris prior to the expiration of the stray hold (minimum 72 hours) and adoption period hold (24 hours), except under extreme medical circumstances to prevent Animal suffering or during periods of high capacity when a pre-euthanasia list has been released requesting Rescue assistance. Animals too young for adoption, in the sole discretion of Mesquite, shall not be transferred. If a litter of Animals is transferred, the transfer of the full litter and the Mother is required.

**4.2 Tagging Process.** To Tag an Animal not yet available for transfer, Ferris must provide the following information for each Animal Ferris wishes to Tag:

- Name of and contact number for the Ferris employee coming to retrieve the Animal;
- The date the Ferris employee intends to pick up the Animal; and
- ID# of the Animal.

Ferris may submit this information in person, by phone to 972-216-6283 or email to [rescues@cityofmesquite.com](mailto:rescues@cityofmesquite.com). Only this email address shall be used to Tag Animals, as it is the only one that distributes to all Mesquite staff involved in rescue cases.

**4.3 Multiple Tags.** If Ferris and Rescue Organizations are interested in the same Animal, multiple Tags may be placed in the order the Tags are received. If Ferris is the first to Tag an Animal and it fails to pick up the Animal by the date and time listed in the Tag, the Animal may be released to the second (or subsequent) organization.

**4.4 Priority of Mesquite Adoptions.** Adoptions by Mesquite Animal Services shall have priority over all transfers, including Animals that are tagged by Ferris or another organization. If adopted prior to pick-up, Mesquite will attempt to contact Ferris through its Designated Representative of the adoption. However, it is recommended that Ferris contact Mesquite by phone to check each tagged Animal's status before coming to pick up an Animal.

**4.5 Pick-up.** Ferris is encouraged to pick up Animals during public hours, however exceptions can be made by advance arrangement with permission from Mesquite's Designated Representative.

#### **Article V**

##### **Costs, Recordkeeping and Right of Refusal**

**5.1 Costs.** At no cost to Ferris, Mesquite shall release Animals approved for adoption to Ferris and shall provide sterilization surgery, microchipping and rabies vaccinations. In consideration thereof, at no cost to Mesquite, Ferris shall transport and provide care for Animals as provided in Article III, Subsection 3.2, as well as adoption services.

**5.2 Records.** Ferris shall maintain records for each Animal it receives from Mesquite for a period of two years. These records shall include:

- The Animal's Mesquite ID number;
- The Animal's rabies vaccination status and supporting documentation;
- All medical records and treatment provided;
- The Animal's sterilization status and supporting documentation;
- Adoption or disposition documentation; and
- The Animal's last known location.

These records shall be made available to Mesquite staff no more than three business days after receipt of a request to view the records.

## **Article VI Liability and Immunity**

**6.1 Responsibility for Claims.** The Parties agree, to the extent authorized under the constitution and laws of the State of Texas and without waiving any immunity, right, protection, or defense to which a Party may be entitled, that each Party shall only be responsible for any claims for damages, costs, and expenses to a person or persons and/or property arising from or caused by the act or omission of its respective officials, agents, representatives, and employees in the performance of this Agreement, including but not limited to their acts of negligence or omission in the provision of Animal Control Services, including adoption services, but only to the extent the Party would otherwise be liable under Texas or federal law.

**6.2 Joint Liability.** In the event of joint or concurrent negligence of the Parties, responsibility, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas without, however, waiving any governmental immunity, right, protection, or defense available to any Party individually under Texas law. Each Party shall be responsible for its sole negligence. The provisions of this section are solely for the benefit of the Parties hereto and are not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

**6.3 Assumption of Risk.** The Parties understand and agree that Mesquite cannot guarantee what temperament the Animal(s) transferred to Ferris may have, and, because most Animals have unknown history and have been in a shelter environment, Mesquite cannot determine whether the Animals have been exposed to pathogens, parasites, viruses, etc. Upon transfer of an Animal to Ferris, Mesquite is not liable for any injury or damage caused by the Animal, including but not limited to the risks of being bitten, scratched, jumped upon, knocked over, chased, tripped or otherwise injured or frightened, as well as the risks of damage to personal property and spread of disease to other rescue/owned Animals.

**6.4 Waiver and Third-Party Rights.** **It is expressly understood and agreed that in execution of this Agreement, no Party waives, nor shall be deemed to have waived, immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. By entering into this Agreement, the Parties do not create any obligations, express or implied, other than those set forth herein, and this Agreement shall not create any rights for any third parties not signatories hereto.**

## **Article VII Miscellaneous**

**7.1 Assignment.** This Agreement may not be assigned by any Party without the prior written consent of the other Party. No assignment, delegation of duties or subcontract under this Agreement shall be effective without the prior written unanimous consent of the Parties hereto.

**7.2 Governing Law.** The validity of this Agreement and any of its terms and provisions, as well as the rights and duties of the Parties, shall be governed by the laws of the State of Texas; and venue for any action arising as a result of this Agreement shall be in the state court of Dallas County, Texas.

**7.3 Legal Construction.** In the event that any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity,

illegality or unenforceability shall not affect the other provisions, and the Agreement shall be construed as if such invalid, illegal or unenforceable provisions had never been contained in this Agreement.

**7.4 Amendment.** This Agreement may not be amended except in writing executed by the Parties at the time of amendment.

**7.5 Entire Agreement.** This Agreement represents the entire Agreement between the Parties with respect to the subject matter covered by this Agreement.

**7.6 No Relationship Created.** The Parties agree and acknowledge that no Party is an agent of the other Party under this Agreement and that each Party is responsible for its own acts, forbearance, negligence and deeds, and for those of its agents or employees.

**7.7 Rights of Third Parties.** Nothing contained in this Agreement shall be construed to create, and the Parties do not intend to create, any rights in or for the benefit of third parties.

**7.8 Force Majeure.** In the event that any Party shall be prevented from performing any of its obligations under this Agreement by any act of God, war, riot, civil commotion, strikes, fires, flood or by the occurrence of any other event beyond the control of such Party, then such Party shall be excused from the performance of the obligations in this Agreement but only during such periods of Force Majeure.

**7.9 Recitals.** The recitals of this Agreement are incorporated herein.

**7.10 Notice.** All notices pertaining to this Agreement shall be in writing and shall be deemed delivered (i) when received at a Party's address if hand delivered or sent via overnight delivery service by way of USPS, UPS, FedEx or similar carrier; or (ii) on the third (3rd) business day after being deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to the Party at the respective notice address set forth below or at another address as may have been previously specified by written notice delivered in accordance with this Agreement.

**7.11 Counterparts.** This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

[Signature Pages to Follow]

**EXECUTED** this \_\_\_\_ day of August 2019.

**CITY OF MESQUITE, TEXAS**

By: \_\_\_\_\_  
Cliff Keheley, City Manager

**Attest:**

By: \_\_\_\_\_  
Sonja Land, City Secretary

**Approved as to form:**

By: \_\_\_\_\_  
David Paschall, City Attorney

**Designated Representative for the City of Mesquite, Texas:**  
Animal Control Manager  
Jeanne Saadi  
(972) 216-6910

**CITY OF FERRIS, TEXAS**

By: \_\_\_\_\_  
Clovia English, City Manager

**Attest:**

By: \_\_\_\_\_  
Callie Green, City Secretary

**Approved as to form:**

By: \_\_\_\_\_  
Michael Halla, City Attorney

**Designated Representative for the City of Ferris, Texas:**  
Animal Control Manager  
Loralei Melend  
(972) 877-4180