

**THE CORPORATION**  
**OF THE**  
**TOWN OF NIAGARA-ON-THE-LAKE**  
**BY-LAW NO. 5384-22**

A BY-LAW TO AUTHORIZE AN AGREEMENT BETWEEN THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE AND LINCOLN COUNTY HUMANE SOCIETY AND RESCIND BY-LAW NO. 4912-16

BE IT ENACTED AS A BY-LAW OF THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE as follows:

1. THAT the agreement, attached as Schedule A, dated the 24th day of January, 2022 between the Corporation of the Town of Niagara-on-the-Lake and Lincoln County Humane Society, be and the same is hereby approved;
2. THAT the Lord Mayor and Clerk be authorized to affix their hands and the Corporate Seal;
3. THAT By-law No. 4912-16 be rescinded in it's entirety;
4. THAT this By-law shall come into force and take effect immediately upon the passing thereof.

**READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS 24TH DAY OF JANUARY 2022**

\_\_\_\_\_  
LORD MAYOR BETTY DISERO

\_\_\_\_\_  
ACTING TOWN CLERK COLLEEN HUTT

## Schedule A



### INDEPENDENT CONTRACTOR SERVICES AGREEMENT

This agreement (the "Agreement") for the services known as RFP 2021-01 ADMIN Animal Control Services for Animal Control in the Town of Niagara-on-the-Lake entered into at **Niagara-on-the-Lake** in the Province of Ontario on this 17<sup>th</sup> day of December, 2021, between the **TOWN OF NIAGARA-ON-THE-LAKE**, a corporation duly incorporated under the laws of Ontario (hereinafter "Town"), and the Lincoln County Humane Society, a corporation incorporated under the laws of Canada - Ontario with an Ontario Corporation Number (OCN) 40582 and having its registered head office at 160 4TH Avenue, St. Catharines ON, L2S 0B6 (the "Contractor").

Whereas the municipality and the Contractor have entered into this Agreement, in which the Contractor shall provide services to the municipality; now therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the municipality and the Contractor agree as follows:

1. **SERVICES** – The municipality agrees to retain the Contractor to provide the services (the "Services") as set out in the RFP 2021-01 ADMIN Animal Control Services document, all addenda, and all clarifying submission communications. The Contractor agrees to render the Services to the municipality in accordance with the terms and conditions of this Agreement. The parties may create and attach to this Agreement an indefinite number of Schedule for Services. The Schedule for Services shall be individually numbered and may be numbered sequentially. The Contractor agrees to exercise the highest degree of professionalism in providing the Services and to use its expertise and talents in completing the Services. A Schedule for Services is not effective until it is signed by both parties and at the time of signing no party is in breach of this Agreement.
2. **COMPENSATION** –
  - 2.1 **Fees.** In consideration of the terms of this Agreement and the provision of the specific Services specified in the Schedule for Services. The municipality shall pay to the Contractor the fees specified in Appendix C in accordance with the terms set out therein (the "Fees"). It is acknowledged and agreed that the municipality has no obligation under this Agreement to pay the Contractor any amount in excess of the Fees and the Contractor shall solely be liable for providing all the equipment it requires and paying all the expenses it incurs in providing the Services and fulfilling its obligations under this Agreement.

2.2 **Determination of Fees.** The Fees in respect of any Service shall be agreed upon by the parties when the relevant Service is signed and attached to this Agreement.

3. **INDEPENDENT CONTRACTOR RELATIONSHIP –**

3.1 **Relationship Between Municipality and Contractor.** The Contractor's relationship with municipality shall be that of an independent contractor and nothing in this Agreement should be construed to create a partnership, joint venture or employer-employee relationship. Contractor is not the agent of municipality and is not authorized to make any representation, contract or commitment on behalf of the municipality. Contractor shall not be entitled to any of the benefits which a municipality may make available to its employees such as group insurance, benefits under the *Workplace Safety and Insurance Act*, 1997, S.O. 1997, c.16, or retirement benefits. Contractor shall be solely responsible for all tax returns and payments required to be filed with or made to any federal, provincial, state or local tax authority with respect to Contractor's performance of the Services and receipt of Fees under this Agreement. Contractor agrees to accept exclusive liability for complying with all applicable provincial and federal laws governing its business, including but not limited to obligations to pay taxes and to make contributions for Canada pension plan, *Workplace Safety and Insurance Act*, and disability. The municipality shall regularly report amounts paid to Contractor by filing the appropriate forms and returns with the Canada Revenue as required by law.

3.2 **Subcontracting.** The Contractor shall not subcontract out any of the Services to any party without the prior written consent of the participating municipalities, which consent may not be unreasonably withheld in its sole and absolute discretion.

4. **CONFIDENTIAL INFORMATION -**

4.1 **Confidential Information.** Contractor agrees that information disclosed by a participating municipality to the Contract in respect of this Agreement will be considered and referred to collectively in this agreement as "Confidential Information" and shall be treated as confidential by the Contractor and shall be used solely to enable the Contractor to perform its obligations under this Agreement. "Confidential Information" does not include information that: (i) is now or subsequently becomes generally available to the public through no fault or breach on the part of Contract; (ii) Contractor can demonstrate to have had rightfully in its possession prior to disclosure to Contractor by a municipality (iii) is independently developed by the Contractor without the use of any Confidential

Information, or (iv) Contractor rightfully obtains from a third party who has the right to transfer or disclose it.

- 4.2 **Non-disclosure and Non-use of Confidential Information.** Contractor will not disclose, publish, or disseminate Confidential Information to anyone other than those of its employees with a need to know.
- 4.3 **Ownership of Confidential Information.** All Confidential Information remains the property of the municipalities and no license or other rights to Confidential Information is granted or implied hereby. The municipality will have the right, upon reasonable notice, to full access to the accounts and records of the successful proponent in respect of the work done by it. Such records will be kept during the term of the retainer and for at least five (5) years following its termination or expiry.
- 4.4 **Use of Information.** The Contractor shall only make such copies of the Confidential Information as may be necessary in furtherance of this Agreement.

5. **CHANGE OF SERVICES** – Any municipality may from time to time make changes in the scope of the Services to be performed and these changes, to be effective, must be in writing and agreed to by the Contractor. Upon agreement, the municipality and the Contractor shall amend and sign the original Schedule for Services to document the change in the Services.
6. **TERMINATION OF AGREEMENT** – If either party to this Agreement is in breach of any of its obligations under this Agreement, the other party may give a notice in writing of the breach to the defaulting party and request the latter to remedy it. If the party in breach fails to remedy the breach within five (5) days after the date of written notice, then this Agreement may be terminated immediately by written notice of termination given by the complaining party.

Any participating municipality reserves the right to terminate the Contract, without cause, upon sixty (60) calendar day's prior notice to the Successful Proponent.

7. **EFFECT OF TEREINATION** –

- 7.1 **General Consequences.** Upon the termination of this Agreement at any time: (i) the Contractor shall, within fifteen (15) days after the date of termination turn over to subject municipality all property of the municipality and the clients of the municipality, including without limitation all computers and hard drives, and all completed programs, report, data, specifications, diagrams, the Work Product, and all other material generated during the performance of the Services; (ii) the parties shall return to each other all confidential information, including, but not limited to, the Confidential Information, and intellectual property furnished by the

other party to it under this Agreement; in the alternative, if the other party so requests, any party shall destroy all such materials and provide written certification of such destruction to the other party; and (iii) in the case the Agreement was terminated by, because of or as a result of the Contractor, the Contractor shall indemnify the municipality on an immediate basis for any damages, penalties, costs, liabilities, expenses, liquidated damages, and/or losses incurred whenever by the municipality as a result of such termination.

8. **MUTUAL INDEMNIFICATION** – The Contractor hereby agrees to indemnify and hold harmless the municipality, its employees, and authorized agents (collectively, the “Indemnified Parties”) from and against any and all liability, loss, costs, damages and expenses (including legal, expert and consultant fees), causes of actions, claims, demands, lawsuits or other proceedings, (collectively, “Claims”), by whomever made, sustained, incurred, brought or prosecuted, including Claims for third party bodily injury (including death), personal injury and property damage, in any way based upon or occasioned by the negligence or willful misconduct, whether by act or omission, of the Contractor, its subcontractors or their respective directors, officers, agents, employees, partners, affiliates, volunteers or independent contractors in the course of performance of the Contractor’s obligations under, or otherwise in connection with, the Contract. The Contractor further agrees to indemnify and hold harmless the Indemnified Parties for any incidental, indirect, special or consequential damages, or any loss of use, revenue or profit, by any person, entity or organization, including without limitation, the participating municipality, claimed or resulting from such Claims. The obligations contained in this paragraph shall survive the termination or expiry of the contract.

9. **INSURANCE** –

9.1 **Automobile Insurance.** If the Contractor is using a vehicle, which has been licensed for use in Ontario by the relevant government authority and bears validly issued Ontario license plates for such vehicle, to complete any work under this Agreement, then the Contractor shall obtain and keep in force the duration of this Agreement, automobile insurance under a standard automobile policy with limits of not less than **Two Million Dollars (\$2,000,000.00)** in respect of each such vehicle.

9.2 **Commercial General Liability Insurance** on an occurrence basis for third-party bodily injury, personal injury, and property damage, to an inclusive limit of not less than **five million (\$5,000,000)** per occurrence and including products and completed operations liability. The policy is to include the following:

- the Town as an additional named insured with respect to liability arising in the course of performance of the Supplier's obligations under, or otherwise in connection with, the Contract
- contractual liability coverage
- cross-liability and severability of interests clause
- employers liability coverage
- 30 day written notice of cancellation, termination, or material change
- tenants legal liability coverage (if applicable and with suitable sub-limits)
- non-owned automobile coverage with blanket contractual coverage for hired automobiles

10. **ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES ACT (AODA)** – Prior to the commencement of any work under this Agreement the contractor(s) performing work for any of the municipalities must comply with the Accessibility for Ontarians with Disabilities Act, 2005, (AODA) and the Integrated Accessibility Standards Regulations (O'Reg. 191/11).

Pursuant to section 7 and section 80.49 of O'Reg. 191/11, Integrated Accessibility Standards Regulation, made under the AODA, Contractors who provide goods, services or facilities on behalf of the municipality shall ensure that all of their employees, agents, volunteers, or others from whom they are responsible, receive training on the requirements of the accessibility standards referred to in the Integrated Regulation and on the Human Rights Code as it pertains to persons with disabilities. The Contractor shall submit to the municipality, if requested, documentation describing its accessibility training policies, practices and procedures, and a summary of the contents of training, together with a record of the dates on which training is provided and the number of attendees.

Prior to commencement of any work under the Contractor shall submit a completed and signed **AODA Contractor Compliance Statement Form FO-119** as evidence of compliance with O. Reg. 191/11, Integrated Accessibility Standards Regulation, under the AODA.

**Accessible Documents/Communication.** Studies, Reports and/or Plans that result from this project must be created and provided to the municipality in accessible format compatible to Adobe Acrobat XI or higher.

Documents created, adapted or otherwise presented on behalf of a participating municipality to employees will be made available in accessible formats as required in the AODA and O. Reg. 191/11, for the lifespan of the document.

Unless determined by a municipality to not be practicable, contractors shall ensure that any information, products, deliverables, and/or communication (as defined in the Integrated Regulation) produced pursuant to a Contract shall be in conformity with World Wide Web Consortium Web Content Accessibility Guidelines (WCAG) 2.0 Level AA and shall be provided in accessible Word, Excel, PowerPoint, PDF, etc.

**Websites and Web Content.** As per the Integrated Accessibility Standards Regulation under the AODA, internet websites and web content must conform to the World Wide Web Consortium (W3C), Web Content Accessibility Guidelines (WCAG) 2.0 Level AA. With the exception of (live) captions and (pre-recorded) audio descriptions.

The participating municipality requires content created for the municipality to be provided in accessible PDF to comply with World Wide Consortium (W3C), Web Content Accessibility Guidelines (WCAG) 2.0 Level AA requirements.

**Videos.** Videos must include but are not limited to: open captioning, transcripts, audio description and ASL/LSQ interpretation (standard 30 frame/second for sign language interpretation insert).

Language in the videos will be consistent with the Ministry of Economic Development, Trade and Employment document *“Talk about Disabilities, Choose the Right Word.”*

**Facilitators.** Contractors who facilitate a public open house or otherwise seek/receive feedback on behalf of a participating municipality shall ensure that all communication, equipment and materials take into account people’s disabilities so that all in attendance may participate equally as outlined in the AODA legislation. This includes but is not limited to:

11. **MISCELLANEOUS** –

- 11.1 **Assignment by Contractor.** This Agreement may not be assigned or ceded in any manner by the Contractor without the prior written consent of the participating municipality’s.
- 11.2 **Applicable Law.** This Agreement and all schedules shall be exclusively governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.
- 11.3 **Severability.** The invalidity or unenforceability of any provision or part of any provisions of this Agreement shall not affect the validity or enforceability of any other provision or part thereof, and any such invalid or unenforceable provision or part thereof shall deemed to be separate, severable and distinct.

- 11.4 **Independent Legal Advice.** For the purposes of this Agreement the parties hereto acknowledge and agree the each party has had the opportunity and has been encouraged to obtain legal advice regarding the terms and particulars contained in this Agreement, understand the nature and consequences of this Agreement, and are signing this Agreement voluntarily.
- 11.5 **Survival.** The termination or expiration of this Agreement shall not affect the rights of the parties that accrued prior to the termination or expiration. Notwithstanding anything to the contrary contained in this Agreement, all provisions of this Agreement that by their terms survive or are capable of surviving this Agreement, shall survive any termination or expiration of this Agreement. The provisions of this section shall not be in limitation of, and the parties shall retain, any other right or remedy under this Agreement or at law or in equity.



IN WITNESS WHEREOF, the parties that have executed this Agreement on the day and year first above written.

On behalf of the Town

**Witness:**

Per:

Per:

Name: Kyle Freeborn

Name: \_\_\_\_\_

Title: Director of Corporate Services/Treasurer

**I have the authority to bind the Corporation.**

**LINCOLN COUNTY HUMANE SOCIETY**

**Witness:**

Per:

Per:

Name: Kevin Strooband

Name: *Sheryl Kreamer*

Title: Executive Director

**I have the authority to bind the Corporation.**

**CONTACT INFORMATION:**

**Town:**

**Town of Niagara-on-the-Lake  
1593 Four Mile Creek Road  
PO Box 100  
Virgil, ON L0S 1T0**

**Attention: \_\_\_\_\_**

**Contractor:**

**Schedule "A"**

## **SCHEDULE FOR SERVICES**

This Schedule for Services for the project known as or described as **RFP 2021-01 ADMIN Animal Control Services** is subject to the independent contractor agreement (the "Agreement") executed by and between the parties and the Contractor dated the 17<sup>th</sup> day of December, 2021. By signing this Schedule for Services or as outlined and attached in the informal/formal bid request. If there is any conflict between the Independent Contractor Services Agreement and the attached Schedules, the Independent Contractor Services Agreement will be binder. Any capitalized term not defined in the Schedule for Services shall have the meaning ascribed to it in the Agreement. This Schedule for Services shall be interpreted in accordance with the provisions of this Agreement.

### **1. TERM**

The term of this Schedule for Services will commence on the 1<sup>st</sup> day of January, 2022, or until all the Services have been performed and all the Work Products delivered in accordance with the Agreement, unless terminated earlier pursuant to the Agreement.

### **2. SERVICES TO BE PERFORMED AND WORK PRODUCT DELIVERED**

**The following documents shall be deemed to form and be read and construed as part of this Schedule for Services including:**

- (a) the Agreement;
- (b) the Schedule of Deliverables, Rates, and Specific Provisions, attached hereto;
- (c) the **RFP 2021-01 ADMIN Animal Control** including any addenda, (the "Solicitation Document"); and
- (d) all the documentation and clarifications submitted by the Supplier in response to the Solicitation Document (the "Supplier's Submission").

### **3. FEES**

The fees are outlined below or within the attached documents forming part of this Schedule for Services. Fees do not include any applicable taxes.

The Price Bid must be in Canadian Funds. I/We, the undersigned, hereby offer the following financial proposal for evaluation with the terms and conditions as outlined within this Request for Proposal.

**Pricing to include all expenses and disbursements.**

\*Payments will be provided monthly.

<b>New Column</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>
Animal Control (Animal Care & Control By-law Services)	\$15,810.4400	\$16,047.9600	\$16,288.8600	\$16,533.0000
Humane Services	\$4,206.8400	\$4,269.9600	\$4,334.0400	\$4,399.0800
Pound Services	\$12,620.5200	\$12,809.8800	\$13,002.0000	\$13,197.0000
Wildlife Services	\$5,048.1600	\$5,123.8800	\$5,200.6800	\$5,278.6800
Other (Licensing Services)	\$0.0000	\$0.0000	\$0.0000	\$0.0000

**4. DELIVERABLE DATE(S)**

The deliverable date(s) are outlined below or within the attached documents forming part of this Schedule of Services and are active beginning January 1, 2022 and ending December 31, 2025.

**5. AVAILABILITY**

Contractor shall be available between 9:00 a.m. to 8:00 p.m., seven (7) days a week. Contractor shall respond to all communications within twenty four (24) hours of receipt.

**6. CONTRACTOR RESPONSIBILITY**

Contractor shall carry out the Services and provide the Work Products accounting to the timeline of the project.

IN WITNESS WHEREOF, the parties that have executed this Agreement on the day and year first above written.

On behalf of the Town  
**TOWN OF NIAGARA-ON-THE-LAKE**

**Witness:**

Per:

Per:

Name: Kyle Freeborn

Name: \_\_\_\_\_

Title: Director of Corporate Services/Treasurer

**I have the authority to bind the Corporation.**

**Lincoln County Humane Society**

**Witness:**

Per:

Per:

Name: Kevin Strooband

Name: Sheryl Kremer

Title: Executive Director

**I have the authority to bind the Corporation.**