

AGREEMENT BETWEEN OSCEOLA COUNTY AND

RELATING TO RESCUE OF ANIMALS

THIS AGREEMENT is entered into by and between Osceola County, Florida, a charter County and political subdivision of the State of Florida (hereafter, “THE COUNTY”), 1 Courthouse Square, Kissimmee, Florida 34741, and _____, (hereafter “THE RESCUE”), _____.

WHEREAS, the COUNTY desires to provide for Osceola County residents’ health, welfare and wellbeing by reducing the number of stray dogs and cats from the roadways and communities of Osceola County; and

WHEREAS, the COUNTY aims to promote the adoption of stray, abandoned and owner relinquished dogs and cats by the COUNTY residents; and

WHEREAS, RESCUE provides food, shelter, adoptions and other services for various cats and dogs; and

WHEREAS, RESCUE desires to assist the COUNTY in its effort to care for the wellbeing of stray, abandoned and owner relinquished dogs and cats.

NOW THEREFORE, in consideration of the mutual promises, covenants and conditions hereinafter set forth, the parties agree as follows:

SECTION 1. RESCUE RESPONSIBILITIES.

- (a) Provide shelter, medical treatment, transportation, care and other services, as outlined in this Agreement, to Rescued dogs and cats at any time during which the RESCUE is open or deems proper for the provision of effective and efficient services.
- (b) Comply and operate in a manner in accordance with all applicable federal, state, County and local laws, ordinances, codes and regulations. The veterinary and other technical services provided to animals in custody of the RESCUE shall comply with all professional standards of the Florida Board of Veterinary Medicine and shall be dispensed in compliance with all applicable federal, state and local laws, ordinances and regulations.
- (c) Comply with rules and regulations set forth by the COUNTY in connection with this agreement
- (d) Accept animals from the COUNTY. These animals are either lost, stray, abandoned, or animals that are received from owners who can no longer be kept for various reasons. The RESCUE will ensure that all dogs and cats that are adopted are sterilized. The RESCUE shall not sell or donate any animals

received from the COUNTY for the purposes of experimentation or animal testing.

- (e) Not solicit citizens to adopt or purchase any animal from RESCUE while on County property, including parking lots and buildings, without the involvement and approval of the County's Animal Control Director or designee. Attempts to facilitate adoptions or purchases on County property without the approval and involvement of designated County staff may result in the RESCUE being banned from County property for a period of one year, and the Agreement may be terminated.
- (f) Not solicit animals for Rescue from citizens while on County property, including parking lots and buildings, without the involvement and approval of the County's Animal Control Director or designee. Attempts to solicit animal Rescue from citizens on County property without the approval and involvement of designated County staff may result in the RESCUE being banned from County property for a period of one year, and the Agreement may be terminated.
- (g) Coordinate media and press communications with the County Public Information Office and the County's Animal Control Director.
- (h) Not erect, install, operate, print, cause nor permit to be erected, installed, operated, or printed on its premises or upon any brochures or other materials, any signs or similar advertising device that describes or refers to the County or to this Agreement, in any manner, without the prior written consent of the County. This includes posting signs or advertising material online.
- (i) RESCUE agrees to follow the established chain of command if/when questions or problems arise. The first point of contact shall be with the person at the shelter who facilitated the Rescue. If issues cannot be resolved at that level, RESCUE shall next consult with that person's supervisor, then the Animal Control Director for resolution.

SECTION 2. COUNTY RESPONSIBILITIES. The County shall provide for the following at no cost to the RESCUE:

- (a) Dogs: Initial DA2PPv and Rabies vaccination assuming the animal is of appropriate age and health to receive such vaccinations; initial broad spectrum deworming; and heartworm test assuming the animal is of appropriate age for testing.
- (b) Cats: Initial FVRCP and Rabies vaccinations assuming the animal is of appropriate age and health to receive such vaccinations; initial broad spectrum deworming; and Feline Leukemia and Aids testing as deemed appropriate by the County.
- (c) cursory examination by veterinarian or support staff to aide in the identification of existing medical conditions. The County makes no assertion that all medical issues will be discovered but agrees to disclose any abnormalities detected.
- (d) The County shall operate in good faith with RESCUE by disclosing all known information regarding health and behavior of animals so that appropriate decisions regarding care and rehabilitation can be made.
- (e) Interactions by County staff with RESCUE shall be courteous and professional.

The County is under no obligation to provide any of the aforementioned services if in the opinion of the medical staff or Animal Control Director it places County staff or the animal at unnecessary risk. The County shall not pay for any services performed by RESCUE under this Agreement. Further, RESCUE understands that the County shall not provide any drugs or other medical supplies to the RESCUE relating to the performance of services pursuant to this Agreement.

SECTION 3. RESCUE'S EMPLOYEES AND VOLUNTEERS. RESCUE employees and volunteers shall be clean, courteous, efficient and neat in appearance. RESCUE employees shall have appropriate certifications, licenses, and approvals for performance of their services, if applicable. RESCUE employees shall provide efficient and courteous service. RESCUE agrees to designate a maximum of two (2) people, in addition to RESCUE's Primary Representative, that will participate in the Rescue of animals from the County Animal Control shelter. RESCUE agrees to notify the County of any changes to these designated people in writing, within ten (10) days of change. It is the responsibility of RESCUE to ensure that all contact information is kept current.

SECTION 4. RECORD KEEPING. With respect to any animal adopted by RESCUE from the County, RESCUE shall keep true and accurate accounts, records, books and data, which shall, among other things, show all services performed for cash, by credit card, or otherwise. The County shall have the right at a reasonable time during normal business hours, with or without advance notification, to inspect and examine records, cash receipts and books along with other data relating to the RESCUE operation. RESCUE records shall include the following items:

- (a) The total number of animals being accepted from the County.
- (b) The funds spent on each animal from the County.
- (c) The funds received for adoption, transfer or other placement of animals coming from the County.
- (d) The type of medical or other treatment provided and the name of the veterinarian or other providing such treatment.
- (e) The disposition of all animals received from the County.
- (f) Proof of sterilization by a veterinary facility of all animals adopted (if not performed by the County).

Failure to provide access to records as requested may be cause for immediate termination of this Agreement. The COUNTY may require the RESCUE to be answerable for any alleged violation of Florida's Public records law.

SECTION 5. SANITATION AND INSPECTION OF PREMISES. The RESCUE shall maintain its premises, including those of any foster homes used by the RESCUE, in a sanitary, organized, lawful and humane manner. The County shall have the right at all reasonable times and during ordinary business hours, to inspect and examine such premises, equipment and tools relating to the operation of the RESCUE with or without advance notification. Failure to provide access to the RESCUE's premises for inspection and examination may be cause for termination of this Agreement. The County shall have the right to inspect and examine such premises, equipment and tools relating to the operation of the

RESCUE prior to execution of this Agreement and reserves the right to deny the RESCUE animal Rescue privileges based on said inspection.

SECTION 6. RESCUE OF ANIMALS. The RESCUE requests for adoption will be processed through the County's Animal Control Director or designee. RESCUE agrees to provide and maintain an email address that will be used as the official and primary means of communication between the County and the RESCUE. All notifications and inquiries will be directed through email to the County's Animal Control Director or designee.

- (a) RESCUE requests will be processed on those animals that have been approved for release by designated Animal Services representatives.
- (b) Animal Services will contact approved rescues with which an agreement exists regarding animals available for release.

Once the County notifies RESCUE that its request for a particular animal is approved and the animal is available for pick up, the RESCUE shall retrieve that animal within twenty-four (24) hours. An extension of an additional twenty-four (24) hours may be granted by the Animal Control Director or designee, but only upon request by the RESCUE. In the event RESCUE is unable to retrieve the animal within the approved twenty-four (24) hour timeframe, the County may lawfully dispose of the animal at its sole discretion. The County reserves the right to deny or refuse the release of any animal(s) to RESCUE without the necessity of showing cause for such denial or refusal. The County's Animal Control Director shall be the final authority for the release of any animal.

SECTION 7. SCHEDULE OF ANIMAL PICK-UPS. Animals may be picked up during normal operating hours: Monday, noon to 5:00pm, Tuesday through Friday, 10:00am to 5:00pm. These times are subject to change.

SECTION 8. STERILIZATION OF ANIMALS. The County shall provide for spay/neuter of animals prior to the RESCUE taking possession assuming the animal is of appropriate age, size, and health as determined by the County shelter veterinarian. The cost to the RESCUE for this service will be half of the normal adoption fee charged to the public, \$25.00 and \$30.00, cats and dogs respectively.

Pursuant to Section 823.15, Florida Statutes, in the event an animal is not sterilized at the time of Rescue, RESCUE must agree to have the sterilization performed within thirty (30) days of Rescue or prior to sexual maturity. The aforementioned fee shall be collected and held by the County as a deposit, which deposit shall be refundable upon presentation to the County of written evidence by the veterinarian performing the sterilization that the animal was sterilized. Upon the request of a licensed veterinarian, the County may extend the time limit for animal sterilization. RESCUE must ensure the animal remains in the State of Florida until the requested proof of sterilization is received and approved by the County. Failure to comply with this provision will result in immediate termination of this Agreement.

SECTION 9. HEARTWORMS. RESCUE shall ensure that any animal testing positive for heartworms shall have medically approved heartworm treatment within thirty (30) days of Rescue. The timeframe for treatment may be extended by the County at the request of a

licensed veterinarian. All veterinary paperwork verifying such treatment shall be submitted to the County.

SECTION 10. INDEPENDENT CONTRACTOR. It is understood and agreed upon by all parties involved that nothing contained herein is intended or should be construed in any way as creating or establishing a relationship between the County and the RESCUE as co-partners, or as constituting the RESCUE as an agent, representative, or employee of the County for any purpose or in any manner whatsoever. RESCUE is said to be and shall remain an Independent Contractor with respect to all services performed in this Agreement.

SECTION 11. INDEMNIFICATION. To the fullest extent permitted by law, the RESCUE shall be solely responsible and liable for all claims, including but not limited to, suits actions, legal or administrative proceedings, claims, demands, damages, liabilities, interest, attorney's fees costs and expenses of whatsoever kind or nature, arising out of its acts, errors and omissions in connection with the Agreement, or the acts, errors and omissions of anyone acting under its direction, control or on its behalf. The RESCUE shall defend, indemnify, and hold harmless the County, its agents, employees and officers, at all times from and against any and all liability, loss or expense arising from said claims to the extent allowed by law, including but not limited to court costs, expert witnesses, consultation services, and attorney's fees. Nothing contained herein shall constitute a waiver by the County of its sovereign immunity or the provisions of Section 768.28, Florida Statutes.

RESCUE shall be fully responsible for the negligent or tortious acts or omissions of its agents, employees, members or volunteers which result in claims or suits under this Agreement, provided, however, RESCUE shall not indemnify the County for that portion of any loss or damages proximately caused by the negligent act or omission of the County, its agents, employees, or officers.

SECTION 12. TERMINATION OF RESCUE PRIVILEGES. This Agreement may be terminated for the convenience of the County upon thirty (30) days prior written notice to the RESCUE. Further, the County may, by written notice to the RESCUE, terminate this Agreement for default, either in whole or in part, upon the occurrence of any of the following:

- (a) In the event that the RESCUE fails to operate as required in this Agreement or in the event that the RESCUE is declared to be bankrupt or insolvent according to the law, or if any assignment of its property shall be made for the benefit of the creditor. At the discretion of the County, termination under these conditions may be immediate.
- (b) In the event that the RESCUE fails or neglects to perform or observe any of the covenants contained herein on its part and such failure or neglect shall continue for a period of not less than ten (10) calendar days after the County has informed RESCUE in writing of the RESCUE's default(s) hereunder, and the RESCUE has failed to correct such default(s) within said ten (10) calendar days.

SECTION 13. RIGHT OF REFUSAL. The County reserves the right to deny Rescue status to any individual or organization with a history of prior violations or citations

regarding the care and treatment of animal(s). Violation of any of the provisions in the Agreement will automatically disqualify RESCUE from rescuing animal(s).

SECTION 14. TERM. The term of the Agreement shall be for a period of one (1) year beginning as of the date that the agreement is executed by the County, and shall automatically renew for successive one year periods unless either party notifies the other of election not to renew at least thirty (30) days prior to the beginning of the next one year term. This Agreement shall remain in effect until either party elects not to renew or is terminated by either party upon thirty (30) days prior written notice to the other party.

SECTION 15. ASSIGNMENT OR SUBLETTING. RESCUE agrees not to assign, transfer, subcontract, pledge, surrender or otherwise dispose of its obligations to be performed in connection with this agreement without prior written consent of the County.

SECTION 16. LIABILITY AND SOVEREIGN IMMUNITY. The County and its respective officers and employees shall not be deemed to assume any liability for the acts, omissions, and negligence of the RESCUE, its employees, agents and volunteers. The COUNTY expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes. Notwithstanding anything set forth in any section, article or paragraph of this Agreement to the contrary, nothing in this Agreement shall be deemed as a waiver of sovereign immunity or limits of liability which may have been adopted by the Florida Legislature or may be adopted by the Florida Legislature, and the cap on the amount and liability of COUNTY for damages, attorney fees and costs, regardless of the number or nature of claims in tort, equity or contract, shall not exceed the dollar amount set by the Florida Legislature for tort. Nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim against the COUNTY which would otherwise be barred under the Doctrine of Sovereign Immunity or operation of law.

SECTION 17. MODIFICATIONS OR AMENDMENTS. Any modifications, additions or amendments hereto must be in writing and signed by all parties. In the event of a conflict between the covenants, terms and/or provision of this Agreement and any written amendment(s) hereto, the provisions of the latest executed instrument shall take precedence.

SECTION 18. SEVERABILITY. All clauses herein shall act independently of each other. In the event that any section, paragraph, sentence, clause, or provision hereof be found invalid by a court of competent jurisdiction, such finding shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term or provision held to be invalid.

SECTION 19. WAIVER. Failure of the parties to insist upon strict performance of any of the covenants, terms, provisions or conditions of this Agreement or to exercise any right or option herein contained, shall not be deemed a waiver of any right to terminate this Agreement for any subsequent default, and no waiver of such default shall be construed or act as a waiver of any subsequent default.

SECTION 20. CIVIL RIGHTS. The RESCUE will not discriminate against any person on account of race, color, sex, age, religion, ancestry, national origin, handicap, or marital status in the performance of this Agreement.

SECTION 21. GOVERNING LAWS. This agreement shall be governed by, construed under, and enforced in accordance with, the laws of Osceola County and the State of Florida.

SECTION 22. LITIGATION AND VENUE. In the event a party deems it necessary to take legal action to enforce any provision of this Agreement, venue shall lie in Osceola County, Florida. The parties hereby waive their rights to trial by jury in any action, proceeding or claim arising out of this Agreement.

SECTION 23. REMEDIES. No remedy herein conferred upon any part is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any rights, power, or remedy hereunder shall preclude any other or further exercise thereof.

SECTION 24. HEADINGS. The headings or captions of articles, sections or subsections used in this Agreement are for convenience of reference only and are not intended to define or limit their contents, nor are they to affect the construction of or to be taken into consideration in interpreting this Agreement.

SECTION 25. SIGNATORY. Each signatory below represents and warrants that he or she has full power and is duly authorized by their respective party to enter into and perform this Agreement. Such signatory also represents that he or she has fully reviewed and understands the above conditions and intends to fully abide by the conditions and terms of this Agreement as stated.

SECTION 26. PUBLIC RECORDS. The RESCUE understands that by virtue of this Agreement all of the documents, records and materials of any kind, relating to the relationship created hereby, shall be open to the public for inspection in accordance with Florida law. If the RESCUE will act on behalf of the COUNTY, as provided under section 119.011(2), Florida Statutes, the RESCUE, subject to the terms of section 287.058(1)(c), Florida Statutes, and any other applicable legal and equitable remedies, shall:

1. Keep and maintain public records required by the COUNTY to perform the service.
2. Upon request from the COUNTY'S custodian of public records, provide the COUNTY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Florida law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
4. Upon completion of the contract, transfer, at no cost, to the COUNTY all public records in possession of the RESCUE or keep and maintain public records

required by the COUNTY to perform the service. If the RESCUE transfers all public records to the COUNTY upon completion of the contract, the RESCUE shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the RESCUE keeps and maintains public records upon completion of the contract, the RESCUE shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the COUNTY, upon request from the COUNTY'S custodian of public records, in a format that is compatible with the information technology systems of the COUNTY.

5. If the RESCUE does not comply with a public records request, the COUNTY shall enforce the contract provisions in accordance with the Agreement and the public records law of the state of Florida.

SECTION 27. JOINT AUTHORSHIP. This Agreement shall be construed as resulting from joint negotiation and authorship. No part of this Agreement shall be construed as the product of any one of the parties hereto.

SECTION 28. EQUAL OPPORTUNITY EMPLOYER. RESCUE is an Equal Opportunity Employer and will comply with all equal opportunity employment laws. RESCUE will further ensure that all sub-contractors it utilizes in providing the services required hereunder will comply with all equal opportunity employment laws.

SECTION 29. APPLICABLE LICENSING. RESCUE, at its sole expense, shall obtain all required federal, state, and local licenses, occupational and otherwise, required to successfully provide the services set forth herein.

SECTION 30. EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY). In accordance with State of Florida, Office of the Governor, Executive Order 11-116 (superseding Executive Order 11-02; Verification of Employment Status), in the event performance of this Agreement is or will be funded using state or federal funds, the RESCUE must comply with the Employment Eligibility Verification Program ("E-Verify Program") developed by the federal government to verify the eligibility of individuals to work in the United States and 48 CFR 52.222-54 (as amended) is incorporated herein by reference. If applicable, in accordance with Subpart 22.18 of the Federal Acquisition Register, the RESCUE must (1) enroll in the E-Verify Program, (2) use E-Verify to verify the employment eligibility of all new hires working in the United States, except if the RESCUE is a state or local government, the RESCUE may choose to verify only new hires assigned to the Agreement; (3) use E-Verify to verify the employment eligibility of all employees assigned to the Agreement; and (4) include these requirement in certain subcontracts, such as construction. Information on registration for and use of the E-Verify Program can be obtained via the internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.

SECTION 31. 501(c)(3) REQUIREMENT. The RESCUE, in order to be eligible to execute this agreement, must be an exempt entity as under 26 U.S.C. § 501(c)(3) of the Internal revenue Code, as amended and enforced. The COUNTY may, in its own discretion,

waive the requirements of this clause. However, compliance with the requirements of this clause shall not be optional or discretionary for the RESCUE.

SECTION 32. NOTICE. The parties hereto agree and understand that written notice, mailed or delivered to the last known mailing address, shall constitute sufficient notice to the COUNTY and the RESCUE. All notices required and/or made pursuant to this Agreement to be given to the COUNTY and the RESCUE shall be in writing and given by way of the United States Postal Service, first class mail, postage prepaid, addressed to the following addresses of record:

COUNTY: Osceola County
Attention: County Manager
1 Courthouse Square
Kissimmee, Florida 34744

Copy: Osceola County Animal Control
3910 Old Canoe Creek Rd.
St. Cloud, FL 34769

RESCUE: _____

SECTION 33. PUBLIC EMERGENCIES. It is hereby made a part of this Agreement that before, during, and after a public emergency, disaster, hurricane, tornado, flood, or other acts of God, Osceola County shall require a “First Priority” for goods and services. It is vital and imperative that the health, safety, and welfare of the citizens of Osceola County are protected from any emergency situation that threatens public health and safety as determined by the COUNTY. The RESCUE agrees to rent/sell/lease all goods and services to the COUNTY or governmental entities on a “first priority” basis. The COUNTY expects to pay contractual prices for all products and/or services under this Agreement in the event of a disaster, emergency, hurricane, tornado, flood, or other acts of God. Should the RESCUE provide the COUNTY with products and/or services not under this Agreement, the COUNTY expects to pay a fair and reasonable price for all products and/or services rendered or contracted in the event of a disaster, emergency, hurricane, tornado, flood, or other acts of God.

SECTION 34. AUDITING, RECORDS, AND INSPECTION. In the performance of this Agreement, the RESCUE shall keep books, records, and accounts of all activities, related to the Agreement, in compliance with generally accepted accounting procedures. Throughout the term of this Agreement, books, records, and accounts related to the performance of this Agreement shall be open to inspection during regular business hours by an authorized representative of the COUNTY and shall be retained by the RESCUE, for a period of three years after termination or completion of the Agreement or until the full COUNTY audit is complete, whichever comes first. The COUNTY shall retain the right to audit the books during the three-year retention period. All books, records, and accounts related to the performance of this Agreement shall be subject to the applicable provisions of the Florida Public Records Act, chapter 119, Florida Statutes. The COUNTY also has the right to conduct an audit within sixty

(60) days from the effective date of this Agreement to determine whether the RESCUE has the ability to fulfill its contractual obligations to the satisfaction of the COUNTY. The COUNTY has the right to terminate this Agreement based upon the findings in this audit without regard to any notice requirement for termination.

SECTION 35. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the parties and shall supersede, replace and nullify any and all prior agreements or understandings, written or oral, relating to the matters set forth herein, and any such prior agreements or understandings shall have no force or effect whatsoever on this Agreement.

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have signed and executed this Agreement on the dates indicated below.

OSCEOLA COUNTY, FLORIDA

By: _____
County Manager/Designee

Date: _____

RESCUE

RESCUE Group Name:

By: _____

Print: _____

Title: _____

Date: _____