

**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS
REGULAR AGENDA REQUEST**

TO: Board of County Commissioners
FROM: Mark McCauley, County Administrator
DATE: April 22, 2024
SUBJECT: Request for approval: Operating Agreement for the Jefferson County Animal Shelter and Related Services

STATEMENT OF ISSUE: The Jefferson County Humane Society performs an essential public purpose in helping control the population of feral animals, ensuring that abandoned or lost animals are well treated until homes can be found for them and providing low cost spaying and neutering services to low income pet owners.

The Society is funded through the combination of fees for service and charitable contributions. Operating on a shoestring budget has at times required the Society to dip into its reserves which the Society has hoped to use to construct additional facilities as it outgrows the facility they currently occupy.

As it is in the County's interest to ensure this essential public service continues staff is proposing that the Board of Commissioners enter into a five-year operating agreement with the Society to provide an annual support payment of \$50,000 in 2024 which would increase by 3% in each succeeding year. In addition, the County would reimburse the Society for the cost of utilities each year for the prior year's cost.

By doing this the continued success of the Society and Animal Shelter is assured and their ability to meet the demands of future population growth is enhanced.

Pam Kolacy, Society Board President and/or Jen Dupree, Society Executive Director will be present to discuss this item and answer questions should the Board wish.

FISCAL IMPACT: This agreement will cost \$50,000 in 2024 to be paid out of the General Fund – Non-departmental. The cost in succeeding years will be higher -estimated to be approximately \$63,000 in 2025 increasing by about 3% each year thereafter. Budget to fund this request will be requested during the 2nd Quarter Supplemental Budget process.

RECOMMENDATION: That the Board of County Commissioners approve the attached Operating Agreement with The Jefferson County Humane Society.

REVIEWED BY:


Mark McCauley, County Administrator

4/17/24
Date

CONTRACT REVIEW FORM
(INSTRUCTIONS ARE ON THE NEXT PAGE)

Clear Form

CONTRACT WITH: Humane Society of Jefferson County Contract No: HSJC 2024-2028

Contract For: Animal Shelter Operations and Related Services Term: Through December 31, 2028

COUNTY DEPARTMENT: County Administrator

Contact Person: Mark McCauley

Contact Phone: 360-385-9130

Contact email: mmccauley@co.jefferson.wa.us

AMOUNT: \$50,000 in year 1, approx. \$63,000 in year 2, 3%

Revenue: N/A

Expenditure: \$50,000 yr 1/\$63,000 yr 2, 3%

Matching Funds Required: N/A

Sources(s) of Matching Funds N/A

Fund # 001-270

Munis Org/Obj 001-270

PROCESS:



Exempt from Bid Process



Cooperative Purchase



Competitive Sealed Bid



Small Works Roster



Vendor List Bid



RFP or RFQ



Other: _____

APPROVAL STEPS:

STEP 1: DEPARTMENT CERTIFIES COMPLIANCE WITH JCC [3.55.080](#) AND CHAPTER [42.23](#) RCW.

CERTIFIED: ☒ N/A: ☐

Signature

Date

STEP 2: DEPARTMENT CERTIFIES THE PERSON PROPOSED FOR CONTRACTING WITH THE COUNTY (CONTRACTOR) HAS NOT BEEN DEBARRED BY ANY FEDERAL, STATE, OR LOCAL AGENCY.

CERTIFIED: ☒ N/A: ☐

Signature

Date

STEP 3: RISK MANAGEMENT REVIEW (will be added electronically through Laserfiche):

Electronically approved by Risk Management on 4/16/2024.

Agreement crafted by our PAO.

STEP 4: PROSECUTING ATTORNEY REVIEW (will be added electronically through Laserfiche):

Electronically approved as to form by PAO on 4/17/2024.

PAO involved in drafting this document.

STEP 5: DEPARTMENT MAKES REVISIONS & RESUBMITS TO RISK MANAGEMENT AND PROSECUTING ATTORNEY(IF REQUIRED).

STEP 6: CONTRACTOR SIGNS

STEP 7: SUBMIT TO BOCC FOR APPROVAL



OPERATING AGREEMENT FOR THE JEFFERSON COUNTY ANIMAL SHELTER AND RELATED SERVICES

THIS OPERATING AGREEMENT FOR THE JEFFERSON COUNTY ANIMAL SHELTER AND RELATED SERVICES ("this Agreement") is made by and between Jefferson County, a political subdivision of the State of Washington and a municipal corporation ("the County"), and the Humane Society of Jefferson County WA, a 501(c)(3) non-profit organization incorporated in the State of Washington (UBI No. 602 872 668, "the Humane Society").

WHEREAS, the County owns and maintains an Animal Shelter facility at 112 Critter Lane, Port Townsend, Washington ("the Animal Shelter"); and,

WHEREAS, Chapter [6.07](#) of the Jefferson County Code ("JCC") provides for dog and cat licensing, kennel licensing, and animal shelter services in Jefferson County; and,

WHEREAS, the Humane Society is a 501(c)(3) non-profit organization incorporated in Washington State and registered as a charitable organization with the Washington Secretary of State, whose business is an "Animal shelter that promotes the well being and adoption of abandoned and surrendered dogs and cats in Jefferson County, WA;" and,

WHEREAS, the Humane Society wishes to operate the Animal Shelter to shelter and care for companion animals temporarily, to find suitable homes for companion animals (as defined below), to provide for the disposal of deceased companion animals at the Animal Shelter, and to act as a licensing agent for the County during the term of this Agreement; and,

WHEREAS, to enhance the functionality and efficiency of the Animal Shelter and its operation, the Humane Society may wish to provide for improvements to the existing facility, and may wish to provide for expansion of the Animal Shelter; and,

WHEREAS, the Humane Society and the County mutually recognize that assumption by the Humane Society from the County of financial responsibility for some or all the costs of regular maintenance and capital maintenance of the Animal Shelter may better ensure the long term upkeep and operability of the Animal Shelter; and,

WHEREAS, the County desires to support the transition of the cost of regular and capital maintenance of the Animal Shelter to assure continued quality shelter services for the community, while reducing its burden on County finances for other essential public services; and,

WHEREAS, the parties wish to annually review the respective capital and financial capacities of the Humane Society and the County for operation and possible improvements or expansion of the Animal Shelter; and,

WHEREAS, the Humane Society and the County also wish to allow for Humane Society operations of shelter and related services for companion animals from within the boundaries of the City of Port Townsend, consistent with an Agreement for Animal Services executed between the

Humane Society and the City of Port Townsend (“the Humane Society-City of Port Townsend Animal Services Agreement”); and,

WHEREAS, the Humane Society and the County first entered into an Agreement for Shelter and Related Services on November 14, 2011, and has entered into new license agreements continuously since then; and,

WHEREAS, providing for continued Humane Society operations in the existing Animal Shelter and animal and kennel licensing ensures uninterrupted Animal Shelter operations, and promotes the efficiency of these important services to the public and to the County; and,

WHEREAS, the benefits to the County include but are not limited to the Humane Society providing the County with: operation of the Animal Shelter including staffing, supplies, and utilities; provision of veterinary services to shelter companion animals; impounding of companion animals seized by the County and providing 24- hour access to the Shelter; training of County staff to impound companion animals; disposal of dead companion animals delivered by the County as required by JCC [6.07.210](#); providing shelter services to the citizens of Jefferson County for stray companion animals from unincorporated areas; providing adoption and spay and neuter services for unwanted companion animals; and, administration of animal licensing and renewals for dogs and cats in unincorporated county areas; and,

WHEREAS, the Humane Society and the County desire to provide for continued Humane Society operations at the Animal Shelter, and for continued service as a licensing agent for the County; and,

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performances contained herein and mutually bargained for and exchanged, IT IS MUTUALLY AGREED AS FOLLOWS:

1. APPOINTMENT OF THE HUMANE SOCIETY AS SHELTER OPERATOR:

The County appoints, and the Humane Society accepts, appointment as the Animal Shelter operator of the Animal Shelter pursuant to JCC [6.07.020\(34\)](#) and JCC [6.07.210](#).

2. APPOINTMENT OF THE HUMANE SOCIETY AS LICENSING AGENT:

- A. The County appoints, and the Humane Society accepts, appointment as the exclusive licensing agent for the County as defined in JCC [6.07.020\(21\)](#) to receive license applications, issue licenses, and receive fees authorized under Chapter [6.07](#) JCC for companion animals. Accordingly, the Humane Society shall administer license applications, issue licenses, and collect fees as prescribed in Chapter [6.07](#) JCC for companion animals.
- B. As used in this Agreement, “companion animals” means cats and dogs only, as those terms are defined in JCC [6.07.020](#). Specifically, “cat” means “a domesticated *Felis catus*” and “dog” means “a domesticated *Canis lupus familiaris*. This term includes but is not limited to livestock guard dogs and adult dogs.” For the avoidance of doubt “companion animals” do not include “livestock,” as that term is defined in JCC [6.07.020](#) or venomous or dangerous reptiles or wild or exotic animals.

- C. The Humane Society shall maintain an accurate database for all licenses issued and fees collected and shall provide the County a summary report by July 31 and January 31 of each year for the preceding six month period including the number and types of County licenses sold, and fees collected.
- D. The Humane Society shall retain all fees collected by it pursuant to Chapter 6.07 JCC. All such fees collected shall be used exclusively for the cost of operations and services provided pursuant to this Agreement. No such fees collected shall be used to support or subsidize services provided to persons not a party to this Agreement.

3. EFFECTIVE DATE:

The effective date of this Agreement is the date the last party signs this Agreement. Performance by the parties prior to the Effective Date is hereby ratified.

4. TERM:

The term of this Agreement shall be January 1, 2024 through December 31, 2028. This Agreement may be extended upon written agreement mutually executed by the parties regarding terms and conditions.

5. TERMINATION:

This Agreement may be terminated upon 90-days written notice by either party delivered to the other party identified in Section 36 (Notice).

6. PAYMENTS BY THE COUNTY:

The County shall provide the following financial support to the Humane Society in consideration for the services it provides pursuant to this Agreement:

- A. The County shall provide \$50,000 per year in 2024 increasing 3% in every subsequent year covered by this Agreement. For clarity, these amounts are: 2025 - \$51,500, 2026 - \$53,045, 2027 - \$54,636, 2028 - \$56,275. The County shall remit the full amount once invoiced by the Humane Society.
- B. The County shall reimburse the Humane Society for the cost of utilities (water, electrical, propane, trash pickup, telephone and internet) and maintenance at the Animal Shelter for the duration of this Agreement. The County shall remit the full amount once invoiced by the Humane Society.
- C. The Humane Society shall submit an annual invoice to the County by January 31 of each year for the prior calendar year's utilities expenses and annual financial support payment as outlined in this Section 6. The County shall remit payment to the Humane Society for the annual invoice within forty-five (45) days of receipt.

7. PAYMENT FOR ON-GOING UTILITIES:

Subject to the reimbursement requirement in Section 6.C., the Humane Society shall assume and directly pay all utilities at the Animal Shelter, including but not limited to:

- A. City Water (presently with City of Port Townsend);
- B. Electrical (presently with Jefferson County Public Utility District #1);
- C. Propane (presently with Sunshine Propane);
- D. Garbage;
- E. Telephone; and,
- F. Internet.

8. REQUIREMENTS FOR OPERATION OF THE ANIMAL SHELTER BY THE HUMANE SOCIETY:

- A. The Humane Society shall use the Animal Shelter Premises (as defined below) solely for the purposes of performing the duties of Shelter Operator and Licensing Agent on behalf of the County consistent with Chapter [6.07](#) JCC and for no other purposes, without prior written consent of the County.
- B. As the County's designated shelter operator, the Humane Society shall furnish and maintain sheltering, handling or adoption of stray, impounded, and unwanted companion animals turned over to the Humane Society by employees of the County or residents of unincorporated Jefferson County, and provide adequate staff and volunteers for these purposes.
- C. The Humane Society shall give the best possible care and treatment to all creatures in its custody by providing them adequate housing and food, shall not permit the Animal Shelter to become overcrowded, and shall receive and care for all companion animals brought to shelter from or impounded within unincorporated Jefferson County. The Humane Society shall operate the Animal Shelter in compliance with JCC [6.07.390](#) and applicable industry standards, including the Guidelines for Standards of Care in Animal Shelters, Association of Shelter Veterinarians (2010).¹ The Animal Shelter shall include cat kennels and dog kennels, as well as provide for the humane disposal of sick and injured companion animals.
- D. The Humane Society shall operate the Animal Shelter and keep it staffed and open for the purposes of receiving companion animals and allowing such companion animals to be redeemed during regular business hours Tuesday through Saturday, or such other schedule that the Humane Society and the County Administrator may agree to in writing.
- E. The Humane Society shall furnish expendable equipment and supplies used in the performance of the Humane Society's obligations arising from its day to day operation of the Animal Shelter, except any equipment and supplies, which the County expressly promises (elsewhere in this Agreement) to furnish.
- F. The Humane Society shall provide for the disposition of each County companion animal in the custody of the Animal Shelter as prescribed by County Code and by the County,

¹ See <https://oacu.oir.nih.gov/system/files/media/file/2021-02/shelterguide.pdf>.

including but not limited to impounding and boarding, identification and notice to owners if known, quarantining, redemption, veterinary care that the Humane Society deems appropriate, vaccinating, spay and neuter, adoption, transfer to another shelter, humane euthanasia, and disposal.

- G. The Humane Society shall charge all fees and costs as provided in Chapter [6.07](#) JCC, including but not limited to, a surrender fee, impound fee, redemption fee, and board fee. Such Shelter fees may be reduced, waived or refunded as provided in Chapter [6.07](#) JCC.
- H. The Humane Society shall provide for the disposal (rendering or cremation) for deceased companion animals turned over to the Humane Society by the County as required by JCC [6.07.210](#), and cats and dogs from unincorporated Jefferson County, which may die during the time of sheltering.
- I. The Humane Society may provide additional services at the owner of an animal's request, such as euthanasia, cremation, and micro chipping. The Humane Society may charge applicable fees and costs as determined by the Humane Society for adoption, spay/neuter, euthanasia, cremation and micro chipping.
- J. The Humane Society shall maintain complete records and a computer data base of all companion animals received at the Animal Shelter and their disposition (i.e., returned to owner, adopted, transferred to another shelter, deceased, euthanized, etc., including an accounting of companion animals disposed of on behalf of the County). The Humane Society shall summarize the foregoing Shelter Report and provide it to the County by July 31 and January 31 of each year for the preceding six month period.
- K. The Humane Society shall establish and maintain 7-day per week, 24-hour per day access for the County animal control officers to drop off live companion animals or carcasses outside of normal shelter hours. It is understood that this does not include Humane Society responsibility for care of sick or injured companion animals prior to admission to the Animal Shelter.
- L. The Humane Society shall provide orientation and training to employees of the County regarding the Animal Shelter and its admissions policies, practices and other Humane Society operations as appropriate.
- M. The Humane Society shall provide forms for Jefferson County Animal Control Officers to complete providing data relating to companion animals picked up by those Animal Control Officers for entry by the Humane Society into the database.
- N. Companion animals impounded by the County and awaiting disposition by the courts or an administrative hearing shall be held for up to five (5) days with board charged to the County at the rate of \$20.00 per day for dogs and cats. For companion animals impounded by employees of the County, after 5 days, board shall be charged to the County at the board rate established in Chapter [6.07](#) JCC. Animal owners redeeming their companion animals may be subject to certain fees at the time of redemption per JCC [6.07.220](#), JCC [6.07.230](#), or JCC [6.07.460](#), based on circumstances.

- O. The Humane Society shall provide weight measurements at time of admission for companion animals involved in cruelty investigation, per request of the County. This service shall be offered for cases of 1 to 2 companion animals and may be repeated weekly as deemed necessary by the Veterinarian. Cruelty cases involving 3 to 6 companion animals seized by employees of Jefferson County would require advance notification in order to perform this service. Cases involving either 6 or more companion animals or companion animals needing detailed history or physical exams shall require the involvement of a licensed veterinarian of the County's choice at County expense if initiated by employees of the County.
- P. As authorized by an Agreement for Animal Services executed between the Humane Society and the City of Port Townsend, the Humane Society may furnish and maintain sheltering, handling and/or adoption of stray, impounded, and unwanted companion animals turned over to the Humane Society by employees of the City of Port Townsend or residents of Port Townsend, and shall provide adequate staff and volunteers for these purposes; provided such services shall be consistent with the terms of this Agreement. If there is a conflict between the Humane Society-City Animal Services Agreement and this Agreement, then the terms of this Agreement shall prevail.

9. PRE-ADMISSION RESPONSIBILITY:

- A. Until the Humane Society takes custody of an animal, the County is responsible for all emergency care of any animal that the County impounds. The County shall be responsible for payment of care for impounded companion animals taken by the County to veterinary clinics prior to admittance to the Shelter.
- B. For companion animals brought to the Shelter by County officers, County officers shall completely and accurately perform the data input required for shelter admission as well as scan each animal for microchips.
- C. The Humane Society shall create a shelter admissions policy and provide it to the County.

10. RECORDS AND DELIVERABLES:

- A. The Humane Society shall provide the County with:
 - i. Certificates of Insurance as required in this Agreement;
 - ii. Copy of Humane Society's IRS Form 990 or 990EZ and schedules, each year when filed with the US Internal Revenue Service;
 - iii. Balance Sheet of Assets and Liabilities by July 31 of each year for the preceding six month period, and January 31 after each year for the preceding twelve month period;
 - iv. Profit and Loss Statement outlining income and expenses by July 31 of each year for the preceding six month period, and January 31 after each year for the preceding twelve month period;

- v. Shelter reports as required in this Agreement;
 - vi. Licensing reports as required in this Agreement; and,
 - vii. All other notices and deliverables as required in this Agreement.
- B. The Humane Society further agrees to make available at reasonable times during normal business hours all work-related records, data bases and documents for inspection by the County.

11. CONTRACTS WITH OTHER GOVERNMENTAL JURISDICTIONS:

- A. Except for the City of Port Townsend pursuant to Sections 11.B. and 11.C., the County does not authorize, permit or agree to any outside use of equipment, facilities or vehicles, or contracting with other jurisdictions wherein the Animal Shelter would be utilized, without express written permission of the County.
- B. Pursuant to the Humane Society-City of Port Townsend Animal Services Agreement, the Humane Society may:
- i. Provide for disposal (rendering or cremation) services for companion animals turned over to the Humane Society by employees of the City of Port Townsend or cats and dogs from within the City of Port Townsend which may die during the time of sheltering.
 - ii. Charge board to the City of Port Townsend at the rate(s) established in an agreement between the Humane Society and the City of Port Townsend.
 - iii. Establish and maintain 7-day per week, 24-hour per day access for City officers to drop off companion animals or carcasses outside of normal shelter hours. It is understood that this does not include Humane Society responsibility for care of sick or injured companion animals prior to admission to the Animal Shelter.
 - iv. Act as an agent in the sale of animal licenses and kennel licenses for the City of Port Townsend and collect fees as established by the City of Port Townsend. In such circumstances, the Humane Society shall maintain an accurate City of Port Townsend license database and provide to both the City and the County a summary report by July 31 and January 31 of each year for the preceding six month period of the number and types of City of Port Townsend licenses sold and fees and other City revenues collected.
- C. The Humane Society agrees to maintain complete records of all City of Port Townsend companion animals received and their disposition (i.e., returned to owner, adopted, transferred to another shelter, deceased, euthanized, etc., and including an accounting of companion animals disposed of on behalf of the City of Port Townsend); and the Humane Society shall report the foregoing on City of Port Townsend companion animals to both the City and the County by July 31 and January 31 of each year for the preceding six month period.

- D. The Humane Society may not use the Animal Shelter to provide shelter services to any jurisdiction in addition to the City of Port Townsend without prior written Amendment to this Agreement executed by both parties.
- E. The County shall have no financial responsibility for costs associated with services related to companion animals from within the boundaries of the City of Port Townsend or any other jurisdiction, including but not limited to veterinary costs.

12. CONFLICTS WITH CHAPTER 6.07 JCC

In the event of any conflict between the terms and conditions of this Agreement and any provision of Chapter 6.07 JCC, then Chapter 6.07 JCC shall control.

13. LICENSE OF THE ANIMAL SHELTER PREMISES:

The County does hereby license the Animal Shelter Premises to the Humane Society for the sole purpose of operating the Animal Shelter Premises as the County's Animal Shelter. The Animal Shelter Premises means the premises shown on the attached EXHIBIT A including:

- A. The Building in its entirety that comprises the Animal Shelter; and,
- B. The grounds and appurtenances of the Animal Shelter, including but not limited to the driveway south of entrance gate, parking area, septic system and all storage sheds, as shown in EXHIBIT A.

The license granted to the Humane Society pursuant to this Agreement may not be used by the Humane Society as security or collateral for any borrowing or any purchase or lease of personal property.

14. LICENSE FEE:

The County waives any license fee as part of the consideration for this Agreement.

15. FACILITY MAINTENANCE FEE:

The County waives any facility maintenance fee as part of the consideration for this Agreement.

16. LEASEHOLD EXCISE TAX:

The Washington State Department of Revenue has determined that licensing the Animal Shelter to the Humane Society for its operation on behalf of the County is not subject to a Leasehold Excise Tax.

17. SEPTIC SYSTEM MAINTAINANCE:

The County shall continue to maintain the septic system at the Animal Shelter, unless otherwise agreed and executed in writing as an amendment to this Agreement.

18. REPAIRS AND MAINTENANCE:

- A. The Animal Shelter Premises have been inspected and are accepted by the Humane Society in their present condition. The use of the Animal Shelter Premises by the Humane Society shall be conclusive evidence that the Humane Society has inspected and knows the condition of the Animal Shelter Premises and accepts the Animal Shelter Premises "AS IS," "IN ITS PRESENT CONDITION," and "WITHOUT ANY WARRANTIES WHATSOEVER."
- B. The Humane Society shall keep and use the Animal Shelter Premises in accordance with applicable laws, ordinances, rules, regulations and requirements of governmental authorities.
- C. The Humane Society shall permit no waste, damage or injury to the Animal Shelter Premises other than ordinary wear and tear.
- D. The Humane Society shall be solely responsible for daily and regular custodial functions for all areas of the Animal Shelter Premises, such as cleaning offices, receiving areas, kennels and outdoor runs; removing animal wastes; disinfecting contamination; and maintaining landscaping and grounds.
- E. The County shall maintain the Animal Shelter Premises in good repair and tenantable condition during the continuance of this Agreement. The County's maintenance obligations shall include, but are not limited to the mechanical, electrical, plumbing, heating, ventilating and air-conditioning systems (including replacement of filters as recommended in equipment service manual); exterior walls; all structural portions of the building (including the roof and the watertight integrity of same); porches, exterior lighting; and continuous satisfaction of all governmental requirements generally applicable to similar office buildings. For the purposes of so maintaining the Animal Shelter Premises, the County reserves the right to enter and inspect the Animal Shelter Premises and to make any necessary repairs to the building. The County reserves the right to close, or restrict access to any portion of the Animal Shelter in an emergency or in the event that unsafe conditions arise.
- F. The Humane Society shall be solely responsible for security of and the safekeeping of any personal property belonging to the Humane Society (or any employee, representative or agent of the Humane Society) at or within the Animal Shelter Premises.

19. IMPROVEMENTS, ALTERATIONS, FIXTURES AND SIGNS:

- A. During the term of this Agreement, upon the prior written authorization of the County, the Humane Society may make improvements and alterations, attach fixtures, and erect signs, in or upon the Animal Shelter Premises hereby licensed in accordance with such standards or conditions the County may require. Such improvements, alterations, attachments of fixtures and erections of signs not included in the County's scheduled maintenance shall be at the Humane Society's sole cost and expense. Such authorization, standards or conditions shall be at the sole discretion of the County and shall not unreasonably be withheld.
- B. If the Humane Society desires to make improvements or perform maintenance by their own staff, this may only be done by prior written approval of the County Administrator for

minor improvements, or as may be directed by the County, through a separate written agreement executed by both parties.

- C. Performance of any of the rights authorized above shall be conducted in compliance with all applicable governmental regulations, building codes, including obtaining any necessary permits prior to performing the work. Any fixtures or signs so placed in or upon or attached to the Animal Shelter Premises shall be and remain the property of the Humane Society and shall be removed by the Humane Society upon the termination of this Agreement, unless otherwise agreed by the County. Any damage caused by the removal of any of the above items shall be repaired at the Humane Society's sole cost and expense. Authorized improvements and alterations to the Animal Shelter Premises shall become the property of the County.
- D. Any alterations, fixtures or signs not authorized by the County shall be removed and the Animal Shelter Premises returned to original condition at the sole expense of the Humane Society, unless otherwise agreed to by the County.
- E. Improvements to the Animal Shelter Premises made at the request of the Humane Society that are beyond necessary repairs and maintenance of the Animal Shelter Premises shall be paid for by the Humane Society.

20. NO LIENS:

The Humane Society shall keep the Animal Shelter Premises free from any liens arising out of any work performed for, materials furnished to, or obligations incurred by the Humane Society, and shall indemnify and hold the County harmless against the same.

21. SUBLETTING OR ASSIGNMENT:

The Humane Society shall not sublet the whole or any part of the Animal Shelter Premises, nor assign this Agreement, without the prior written consent of the County. This Agreement shall not be assignable by operation of law. Any assignment shall not release the Humane Society from liability under this Agreement unless the assignment states such.

22. DISASTER:

In the event the licensed Animal Shelter Premises are destroyed or injured by fire, earthquake or other casualty so as to render the Animal Shelter Premises unfit for occupancy, and the County neglects and/or refuses to restore the Animal Shelter Premises to their former condition, then the Humane Society may terminate this Agreement. In the event the Animal Shelter Premises are partially destroyed by any of the aforesaid means, any License Fee to be paid shall be abated from the time of occurrence of such destruction or injury until the Animal Shelter Premises are again restored to their former condition, and any license fee paid by the Humane Society during the period of abatement shall be credited upon the next installment(s) of license fee to be paid. It is understood that the terms "abated" and "abatement" mean a pro rata reduction in the license fee equal to the ratio of area unsuitable for occupancy due to casualty loss to the total area of the Animal Shelter Premises.

23. REIMBURSEMENT FOR DAMAGE TO THE ANIMAL SHELTER PREMISES:

The Humane Society agrees to reimburse the County for damages caused to the Animal Shelter Premises by the negligence of its employees, clients and agents, but in no event shall this Section be construed as diminishing the County's duty to make repairs as set forth in preceding Sections of this Agreement, nor shall it be construed as making the Humane Society responsible for the repair of normal wear and tear. On demand, the Humane Society shall immediately pay to County the sum necessary to repair said damage.

24. NO WAIVER OF COVENANTS:

No conduct of a party shall constitute accord and satisfaction, unless contained in writing to such effect and signed by the parties. Any waiver by either party of any breach thereof by the other shall not be considered a waiver of any future similar breach. This Agreement contains all the agreements between the parties; and there shall be no modification of the agreements contained herein except by written instrument.

25. SURRENDER OF ANIMAL SHELTER PREMISES:

The Humane Society agrees, upon termination of this Agreement, to peacefully quit and surrender the Animal Shelter Premises, leave the Animal Shelter Premises neat and clean and to deliver all keys to the Animal Shelter Premises to the County. If the County elects to require the Humane Society to remove alterations, additions or improvements made by the Humane Society, then the Humane Society shall at its sole cost restore the Animal Shelter Premises to their previous condition, less reasonable wear and tear.

26. PERSONAL PROPERTY AND FIXTURES:

- A. All of the Humane Society's personal property and trade fixtures, if any, located in, on or about the Animal Shelter Premises shall remain the Humane Society's property and the Humane Society may remove such personal property at any time during the Term provided the Humane Society is not in default under the terms of this Agreement.
- B. Upon the expiration or sooner termination of this Agreement, the Humane Society shall remove from the Animal Shelter Premises its personal property and the personal property of any party other than the County. If the Humane Society shall fail to remove its personal property as provided in this Agreement, the Humane Society shall, upon demand, reimburse County for the documented cost of any such removal.
- C. Any personal property left on the Animal Shelter Premises after the expiration or sooner termination of the Term, or after the Humane Society's vacation or abandonment of the Animal Shelter Premises (hereinafter "Abandoned Property"), shall be deemed to have been abandoned and to have become the property of County to dispose of in County's sole and absolute judgment and discretion. The Humane Society shall reimburse County for any of County's documented court costs, attorney fees, and storage charges related to Abandoned Property. County may, at its option, sell Abandoned Property at private sale without notice or legal process, for such price as County may obtain, and apply the proceeds of such sale to any amounts due under this Agreement from the Humane Society to County, including expenses incident to the removal and sale of Abandoned Property, or County may otherwise dispose of Abandoned Property.

- D. The Humane Society may continue to use County personal property at the County's sole discretion, but shall immediately return said personal property upon the County's request. In addition, the Humane Society shall promptly return any County personal property no longer in use, and shall return all County personal property on or before the last day of this Agreement.

27. COMPLIANCE WITH LAW & RESTRICTIONS ON USE:

- A. The Humane Society shall comply with all applicable laws, regulations, policies or orders of any lawful government authority.
- B. The Humane Society agrees to take all necessary steps to comply with all federal, state and County laws and policies regarding nondiscrimination and equal employment opportunities. The Humane Society shall not discriminate in any employment action, use of volunteers or in providing public access to services subject to this Agreement because of race, creed, color, national origin or ancestry, religion, sex, gender identity, sexual orientation, age, marital status, status as honorably discharged veteran or military status, or the presence of any sensory, mental or physical handicap except for bona fide occupational requirements.
- C. The Humane Society (and it invitees, licensees, contractors, agents, employees or representatives) shall not use or occupy the Animal Shelter Premises in violation of any statute, rule, ordinance, order, regulation or certificate of occupancy in effect and applicable to any part of thereof(hereinafter" Applicable Laws").
- D. Nor shall the Humane Society do or permit to be done in or about the Animal Shelter Premises, or any part thereof, or bring into, keep, or permit to be brought into or kept in or about the Animal Shelter Premises, or any part thereof, anything that might constitute a waste, nuisance or unreasonable annoyance to County, other tenants of the Animal Shelter Premises or members of the general public.
- E. The Humane Society shall not cause or permit any unusual or objectionable odors to be produced or permeated in or about the Animal Shelter Premises. Neither the Humane Society, nor any of the Humane Society's employees, servants, agents, contractors, licensees or invitees shall at any time bring or keep in or about the Animal Shelter Premises any toxic, hazardous, flammable, combustible or explosive fluid, chemical or substance other than as reasonably necessary for the Humane Society's permitted uses of the Animal Shelter Premises in accordance with this Section.
- F. The Animal Shelter Premises are smoke free, and are drug and alcohol-free, except for the veterinary treatment of companion animals at the Animal Shelter.

28. ACCESS AND COUNTY'S RIGHT OF ENTRY:

- A. The County reserves and shall at any and all reasonable times have the right to enter the Animal Shelter Premises, inspect the same, show the Animal Shelter Premises to prospective purchasers or assignees, inventory the County's personal property, or effect any maintenance or repair of the Animal Shelter Premises required; provided, however, that the business of the Humane Society shall not be unreasonably interfered with. For each

of the aforesaid purposes, The County shall at all times have and retain access (physical and/or electronic) with which to unlock all the doors, in, upon and about the Animal Shelter Premises, excluding the Humane Society's safes, drug storage cabinet, and files.

- B. The County shall also have the right to use any and all means which the County may deem proper to open said doors in an emergency, in order to obtain entry to the Animal Shelter Premises, without liability to the Humane Society except for any failure to exercise due care for the Humane Society's property.
- C. In addition, the County shall have the right at any and all reasonable times to enter the Animal Shelter Premises to perform any act with regard thereto that the County, in its sole and absolute judgment and discretion, deems necessary to assure compliance with applicable laws.
- D. Any entry of the Animal Shelter Premises by the County by any of said means or otherwise shall not, under any circumstances, be construed or deemed to be forcible or unlawful entry into, or a detainer of, the Animal Shelter Premises, or an eviction of the Humane Society from the Animal Shelter Premises or any portion thereof provided said entry relates to emergency purposes as aforesaid.
- E. The County shall be responsible for issuing keys (physical or electronic) to the Humane Society Director, and said keys or all copies thereof shall remain the property of the County. Upon the expiration of this Agreement or the Humane Society's vacation of Animal Shelter Premises, the Humane Society shall turn in to the County all such copies or keys to the Animal Shelter Premises. When a Humane Society employee or officer leaves the Humane Society, the Humane Society shall first collect all keys to the Animal Shelter Premises in said employee's or officer's possession. The Humane Society shall promptly report to the County any lost or stolen keys.

29. VACATION OF ANIMAL SHELTER PREMISES; HOLDING OVER:

- A. Upon expiration of the License, the Humane Society shall promptly vacate the Animal Shelter Premises on or before the day the License expires.
- B. If the Humane Society holds over (continues to occupy the Animal Shelter Premises) past the expiration or earlier termination of the License without the express written consent of the County, which consent may be granted or withheld by the County in its sole and absolute judgment and discretion, then the Humane Society shall be a Licensee at sufferance only and otherwise subject to the terms, covenants and conditions herein specified insofar as applicable.
- C. The foregoing provisions of this Section are in addition to and do not affect the County's right of re-entry or any other rights of the County hereunder or as otherwise provided by law. The Humane Society hereby indemnifies and agrees to hold harmless the County from all loss, injury or liability arising from the Humane Society's failure to surrender the Animal Shelter Premises upon the expiration or termination of this Agreement.

30. RECORDING:

Except as may be otherwise required by law, neither party may record this Agreement, nor any memorandum hereof, without the prior written consent of the other party.

31. DEFAULT AND REMEDIES:

- A. The Humane Society shall be in default of this Agreement on the occurrence of any of the following:
 - i. Failure to comply with any law, regulation, policy, or order of any lawful governmental authority;
 - ii. Failure to comply with any other provision of this Agreement; and,
 - iii. Its vacation or surrender of the Animal Shelter Premises prematurely, i.e., before the License expires or in any manner not consistent with this Agreement.
- B. A default shall become an event of default (“Event of Default”) if the Humane Society fails to cure the default within the applicable cure period after the County provides the Humane Society with written notice of default, which specifies the nature of the default. For failure to pay the License Fee or other monetary defaults, the cure period shall be ten (10) working days. For other defaults, the cure period shall be fifteen (15) days.
- C. Upon an Event of Default, the County may terminate this Agreement and remove the Humane Society by summary proceedings or otherwise.
- D. Upon an Event of Default, the County may also, without terminating this Agreement, reassign the Animal Shelter Premises to a County department or license it to a different entity, firm or person on any terms and conditions as the County in its sole discretion may decide are appropriate and obtain from the Humane Society any difference between the compensation obtained from that other entity, firm or person and the applicable License Fee that the Humane Society would otherwise owe. The County may at any time after reassigning elect to terminate this Agreement for the previous Event of Default.

32. HOLD HARMLESS AND INDEMNIFICATION:

- A. The Humane Society shall defend, indemnify and hold the County, its officers, officials, employees, agents and volunteers (and their marital communities) harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Humane Society in performance of this Agreement, except for injuries and damages caused by the sole negligence of the County. Should a court of competent jurisdiction determine that this Agreement is subject to RCW [4.24.115](#), then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Humane Society and the County, its officers, officials, employees, agents and volunteers (and their marital communities), the Humane Society’s liability, including the duty and cost to defend, hereunder shall be only to the extent of the Humane Society’s negligence. The Humane Society shall not be liable for with respect to the handling or treatment of companion animals *prior to* the admission of such companion animals to the Animal

Shelter and the assumption by the Humane Society of the care and custody of such companion animals. Because the insurance to be obtained pursuant to this Agreement shall be “occurrence” based the obligation of the Humane Society under this Section shall survive the termination of this Agreement if the claim, liability, lawsuit or legal judgment necessitating the indemnification and hold harmless of the County arises out of an occurrence that occurred during the term of this Agreement.

- B. The Humane Society specifically assumes potential liability for actions brought against the County by the Humane Society’s employees, including all other persons engaged in the performance of any work or service required of the Humane Society under this Agreement and, solely for the purpose of this indemnification and defense, the Humane Society specifically waives any immunity under the state industrial insurance law, Title 51 RCW. The Humane Society recognizes that this waiver was specifically entered into pursuant to provisions of RCW 4.24.115 and was subject of mutual negotiation. If the County incurs any costs to enforce this subsection, all cost and fees shall be recoverable from the Humane Society.
- C. The County shall hold the Humane Society harmless from any damages or attorneys’ fees or costs incurred by the Humane Society, as a result of litigation which: (i) names the Humane Society; and, (ii) involves a Jefferson County ordinance that is declared illegal or unenforceable and upon which the Humane Society relied in the performance of its obligations under this Agreement.
- D. This section shall survive the expiration or termination of this Agreement.

33. DISPUTES:

- A. The parties agree to use their best efforts to prevent and resolve disputes before they escalate into claims or legal actions. Any disputed issue not resolved pursuant to the terms of this Agreement shall be submitted in writing within 10 days to County Risk Manager, whose decision in the matter shall be final, but shall be subject to judicial review.
- B. If either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this Agreement, each party in such action shall bear the cost of its own attorney’s fees and court costs.
- C. Any legal action shall be initiated in the Superior Court of the State of Washington for Jefferson County.
- D. The parties agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington.
- E. The Humane Society hereby consents to the personal jurisdiction of the Superior Court of the State of Washington for Jefferson County.
- F. This section shall survive the expiration or termination of this Agreement.

34. INSURANCE:

A. General Liability Coverage for the Humane Society.

- i. The Humane Society shall maintain with respect to the Animal Shelter Premises commercial general liability insurance in the minimum limit of \$1,000,000 single occurrence, \$2,000,000 aggregate for property damage (for damage or injury to the personal property and improvements owned by the Humane Society and located at the Animal Shelter Premises) and bodily injuries and death, and shall name the County as an additional insured.
- ii. The Humane Society shall furnish the County a certificate indicating that: (A) the insurance policy is in full force and effect; (B) the County has been named as an additional insured; and, (C) the policy may not be canceled unless thirty (30) days prior written notice of the proposed cancellation has been given to the County. Such insurance shall be considered primary by all parties.
- iii. Any coverage for third party liability claims provided to the County by a "Risk Pool" created pursuant to Chapter 48.62 RCW shall be non-contributory with respect to any policy of insurance the Contractor must provide to comply with this Agreement.
- iv. If the proof of insurance or certificate indicating the County is an "additional insured" to a policy obtained by the Contractor refers to an endorsement (by number or name) but does not provide the full text of that endorsement, then it shall be the obligation of the Contractor to obtain the full text of that endorsement and forward that full text to the County.
- v. If the Humane Society fails to obtain or maintain any policy of insurance required under this Agreement, or if any such policy is canceled or modified during the term of this Agreement without the County's consent, the County may obtain such insurance, in which case the Humane Society shall reimburse the County for the cost of such insurance within fifteen (15) days after receipt of a statement that indicates the cost of such insurance.
- vi. The Humane Society's failure to provide and keep in force the aforementioned insurance shall be regarded as a default hereunder, entitling County to exercise any or all of the remedies provided in this Agreement for default.
- vii. In the event of a nonrenewal, cancellation, or material change in the coverage provided, 30 days' written notice shall be furnished to the County prior to the date of nonrenewal, cancellation, or change. Such notice shall be sent to the Clerk of the Board of the Jefferson County Commissioners, P.O. Box 1220, Port Townsend WA 98368. The County has no obligation to report occurrences unless a claim is filed with the County, and the County has no obligations to pay premiums on such insurance. Said insurance shall be "occurrence" based rather than "claim" based.
- viii. This subsection shall survive the expiration or termination of this Agreement.

- B. Fire Coverage on the Building. The County shall maintain on the Building in which the Animal Shelter Premises are located a coverage for fire insurance with extended coverage in the amount of its replacement value with the Washington Counties Risk Pool. Proceeds of any such coverage shall be applied to the restoration of the Building and the Animal Shelter Premises, if the Building or the Animal Shelter Premises are to be restored pursuant to the provisions hereof. Any proceeds remaining after such restoration shall belong to the County.

35. BINDING ON HEIRS, SUCCESSORS AND ASSIGNS:

The covenants and agreements of this Agreement shall be binding upon the heirs, executors, administrators, and successors and assigns of both parties hereto, except as herein above provided.

36. NOTICE:

- A. Wherever in this Agreement written notices are to be given or made, they shall be sent by United States mail to the address listed below unless a different address shall be designated in writing and delivered to the other party.
- B. All notices, requests, demands and other communications required by this Agreement shall be in writing and, except as expressly provided elsewhere in this Agreement, shall be deemed to have been given at the time of delivery if personally delivered or at the time of mailing if mailed by first class, postage pre-paid and addressed to the party at its address as stated in this Agreement or at such address as any party may designate at any time in writing.
- C. Notice shall be sent as follows:

For County facility, loss, licensing or payment issues:

Jefferson County Risk Management
P.O. Box 1220
Port Townsend, WA 98368

For animal control issues:

Jefferson County Sheriff's Office
79 Elkins Road
Port Hadlock, WA 98339

For the Humane Society:

Humane Society of Jefferson County WA
Attn: Pamela Kolacy, President
P O Box 845
Port Hadlock, WA 98339

37. AUTHORIZED SIGNATURES:

This Agreement requires the signature of all parties and shall become effective as of the date of the last signature below. The person or persons who execute this Agreement on behalf of their respective party warrant that they have the authority to bind their respective party to the terms and obligations of this Agreement.

38. INDEPENDENT CONTRACTOR:

The Humane Society's relation to the County shall be at all times as an independent contractor, and nothing herein contained shall be construed to create a relationship of employer-employee or master-servant, and any and all employees of the Humane Society or other persons engaged in the performance of any work or service required of the Humane Society under this Agreement shall be considered employees of the Humane Society only and any claims that may arise on behalf of or against said employees shall be the sole obligation and responsibility of the Humane Society.

39. SUBCONTRACTING REQUIREMENTS:

The County Administrator or their designee must approve any proposed subcontractors in writing. The Humane Society is responsible for meeting all terms and conditions of this Agreement including standards of service, quality of materials and workmanship, costs, and schedules. Failure of a subcontractor to perform is no defense to a breach of this Agreement. The Humane Society assumes responsibility for and all liability for the actions and quality of services performed by any subcontractor. Every subcontractor must agree in writing to follow every term of this Agreement. The Humane Society must provide every subcontractor's written agreement to follow every term of this Agreement before the subcontractor can perform any services under this Agreement. Any dispute arising between The Humane Society and any subcontractors or between subcontractors must be resolved without involvement of any kind on the part of County and without detrimental impact on The Humane Society's performance required by this Agreement.

40. SEVERABILITY:

Provided it does not result in a material change in the terms of this Agreement, if any provision of this Agreement or the application of this Agreement to any person or circumstance shall be invalid, illegal, or unenforceable to any extent, the remainder of this Agreement and the application this Agreement shall not be affected and shall be enforceable to the fullest extent permitted by law.

41. SURVIVAL:

Those provisions of this Agreement that by their sense and purpose should survive the term of this Agreement shall survive the term of this Agreement. Without limiting the generality of the preceding sentence, and for the avoidance of doubt, the provisions that survive the term of this agreement include: (a) controlling law; (b) disputes; (d) insurance; and, (d) indemnification.

42. BINDING ON SUCCESSORS, HEIRS AND ASSIGNS:

This Agreement shall be binding upon and inure to the benefit of the parties' successors in interest, heirs and assigns.

43. NO ASSIGNMENT:

The Humane Society shall not sell, assign, or transfer any of rights obtained by this Agreement without the express written consent of the County.

44. NO THIRD-PARTY BENEFICIARIES:

The parties do not intend, and nothing in this Agreement shall be construed to mean, that any provision in this Agreement is to benefit any person or entity who is not a party.

45. NO ORAL WAIVER:

No term or provision of this Agreement will be considered waived by either party, and no breach excused by either party, unless such waiver or consent is in writing signed on behalf of the party against whom the waiver is asserted. Failure of a party to declare any breach or default immediately upon the occurrence thereof, or delay in taking any action in connection with, shall not waive such breach or default.

46. MODIFICATION OF THIS AGREEMENT:

This Agreement may be amended or supplemented only by a writing signed by duly authorized representatives of all the parties.

47. SIGNATURE IN COUNTERPARTS:

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Agreement at different times and places by the parties shall not affect the validity of this Agreement, so long as all the parties execute a counterpart of this Agreement.

48. FACSIMILE AND ELECTRONIC SIGNATURES:

The parties agree that facsimile and electronic signatures shall have the same force and effect as original signatures.

49. ARMS-LENGTH NEGOTIATIONS.

The parties agree this Agreement has been negotiated at arms-length, with the assistance and advice of competent, independent legal counsel.

50. MAINTENANCE OF RECORDS:

- A. Each party shall maintain books, records, documents and other evidence that sufficiently and properly reflect all direct and indirect costs expended by either to perform this Agreement. These records shall be subject to inspection, review or audit by personnel of both parties, other personnel duly authorized by either party, the Office of the State Auditor, and federal officials so authorized by law.
- B. All books, records, documents, and other material relevant to this Agreement will be retained for six years after expiration of agreement.

- C. The Office of the State Auditor, federal auditors, the Jefferson County Auditor, and any persons duly authorized by the parties shall have full access and the right to examine these materials during this period.
- D. If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.
- E. Records and other documents, in any medium, furnished by one party to this Agreement to the other party, will remain the property of the furnishing party, unless otherwise agreed.

51. ATTACHMENTS:

Any document in this Agreement identified as an attachment or exhibit is part of this Agreement and is incorporated by reference into this Agreement.

52. REFERENCE TO SECTIONS IN THIS AGREEMENT:

Any reference to a Section in this Agreement is a reference to a Section of this Agreement, unless clearly stated to the contrary.

53. PUBLIC RECORDS ACT:

Notwithstanding the provisions of this Agreement to the contrary, to the extent any record, including any electronic, audio, paper or other media, is required to be kept or indexed as a public record in accordance with the Washington Public Records Act, Chapter 42.56 RCW, as may hereafter be amended, The Humane Society agrees to maintain all records constituting public records and to produce or assist the County in producing such records, within the time frames and parameters set forth in state law. The Humane Society further agrees that upon receipt of any written public record request, the Humane Society shall, within two business days, notify the County by providing a copy of the request per the notice provisions of this Agreement.

(SIGNATURES FOLLOW ON THE NEXT PAGE)

IN WITNESS WHEREOF Jefferson County and the Humane Society have signed this Agreement on dates indicated below.

JEFFERSON COUNTY WASHINGTON

Board of County Commissioners
Jefferson County, Washington

**HUMANE SOCIETY OF
JEFFERSON COUNTY WA**

By: _____
Kate Dean, Chair Date

By: _____
Pam Kolacy, President Date

By: _____
Greg Brotherton, Commissioner Date

By: _____
Heidi Eisenhour, Commissioner Date

SEAL:

ATTEST:

Carolyn Gallaway, CMC Date
Clerk of the Board

Approved as to form only:



Philip C. Hunsucker, Date
Chief Civil Deputy Prosecuting Attorney

EXHIBIT A
ANIMAL SHELTER PREMISES

That portion of Jefferson County Parcel Number 001083012 in Section 8, Quarter Section SW1/4, Township 30N, Range 1W; in Jefferson County Fire Protection Short Plat Lot 1; located at 112 Critter Lane, Port Townsend, Washington, and as shown in Figures 1-4 below, including the building in its entirety that comprises the Animal Shelter; and the grounds and appurtenances of the Animal Shelter, including but not limited to the driveway south of the entrance gate, parking area, septic system and all storage sheds.

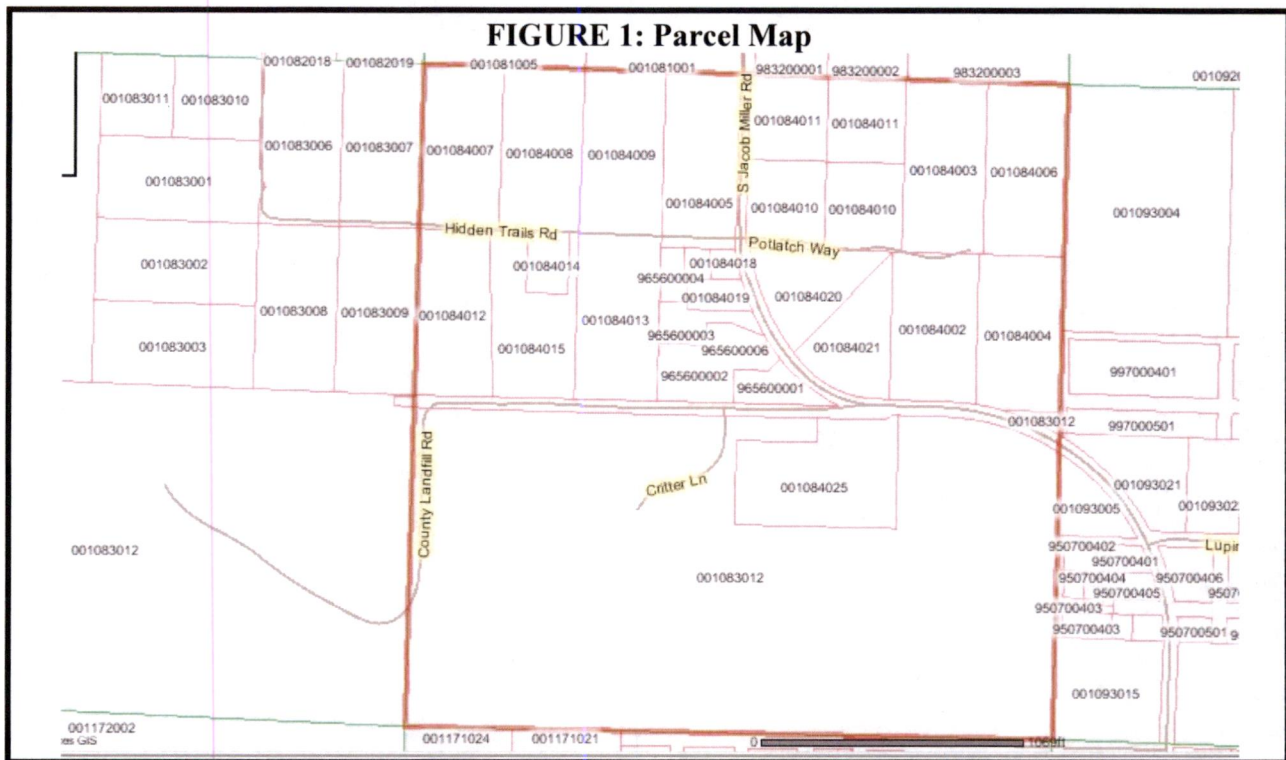


FIGURE 2: Animal Shelter Premises Diagram

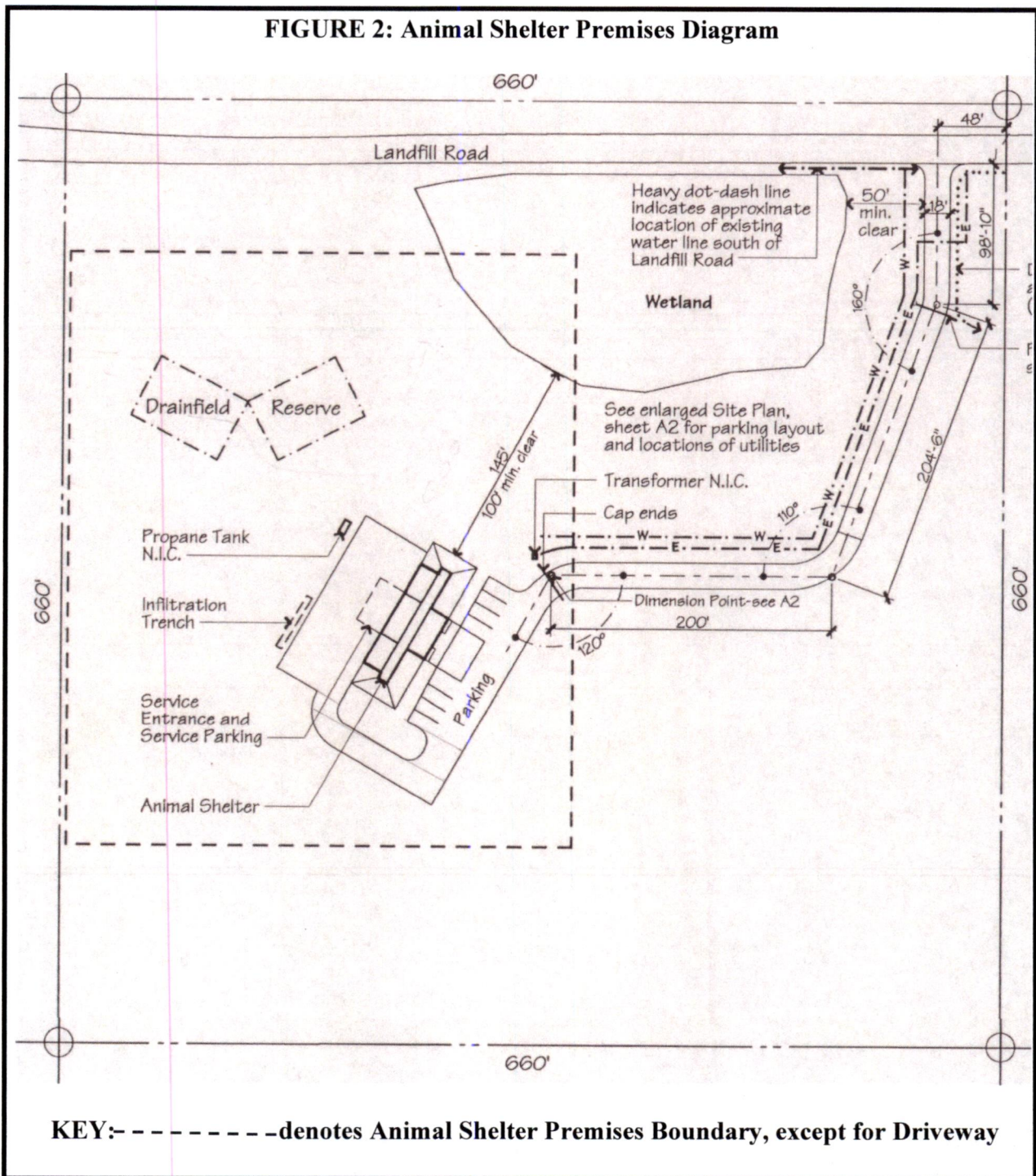


FIGURE 3
Approximate Location of Animal Shelter Driveway



FIGURE 4
ANIMAL SHELTER BUILDING AERIAL PHOTO
112 CRITTER LANE, PORT TOWNSEND, WA

