

**Action Requested/Required:**

- ☒ Vote/Action Requested
☐ Discussion or Presentation Only
☐ Public Hearing
Report Date: _____
Hearing Date: _____
Voting Date: 12/5/24

Department: City Manager

Presenter(s) & Title: Billy Peppers

City Manager

Agenda Item Title:

Approval of Update Municipal Services Agreement with Cherokee County for the Administration of Animal Control Services

Summary:

Service Delivery Strategy requires the City of Canton and Cherokee County to enter into agreements when services are provided by one party on behalf of the other. Cherokee County provides Animal Control on behalf of the City of Canton through the County Marshal's Office. Beginning January 1, 2025, a new Cherokee County Magistrate Judge will be seated following the retirement of the current judge and an election for the office. This agreement was last approved in April, but will need to be re-approved and executed by the new Magistrate Judge in January to be effective moving forward. The agreement is through June 30, 2028 to coincide with the existing Service Delivery Agreement.

Budget Implications:

Budgeted? ☐ Yes ☐ No ☒ N/A

Total Cost of Project: Check if Estimated ☐

Fund Source: General Fund ☐ Water & Sewer ☐ Sales Tax ☐ Other:

Staff Recommendations:

Staff recommends a motion to approve the Municipal Services Agreement with Cherokee County for the Administration of Animal Control Services

Reviews:

Has this been reviewed by Management and Legal Counsel, if required? ☐ Yes ☐ No

Attachments:

Updated Municipal Services Agreement on Animal Control with Cherokee County

**MUNICIPAL SERVICES AGREEMENT BETWEEN
CHEROKEE COUNTY, GEORGIA AND CITY OF CANTON, GEORGIA**

WHEREAS, the City of Canton, Georgia (hereafter referred to as “the City”) is desirous of procuring certain animal control ordinance and impoundment services from Cherokee County, Georgia (hereafter referred to as “the County”); and

WHEREAS, the County is willing to perform such services on the terms and conditions hereinafter set forth; and

WHEREAS, both parties hereto are authorized to enter into this Municipal Services Agreement (“the Agreement”) by the authority prescribed by the Georgia Constitution, Article IX, Section III, Paragraph I and by O.C.G.A. § 15-10-150, *et seq.*

NOW, THEREFORE, it is agreed as follows:

Section 1: SCOPE OF SERVICES

- (a) The County agrees, through the County Marshal’s Office, to provide services, as described below, regarding 1) municipal animal control ordinance enforcement, and 2) impoundment of domesticated animals (i.e., dogs, pot belly pigs, horses, cats) and feral canines and felines (“Animals” or “Animal” in the singular). The County may, in its sole discretion, provide the impoundment services described herein regarding animals other than domesticated animals and feral canines and felines upon request by the City, and any such specific animal shall be deemed an Animal as defined in this subsection (a).
- (b) All communications (email, letter, or text) by the City to the County contemplated by this Section 1 shall be performed by the City Chief of Police or his/her designee (collectively, the “Chief”) as identified in writing to the County Chief Marshal, or his/her designee (collectively, the “Marshal”) as identified in writing.
- (c) The County Marshal’s Office shall investigate alleged municipal animal control ordinance violations in accordance with paragraph 2(e) of this agreement. Should the Marshal determine that municipal animal control ordinance violations have occurred, citations for all such violations may be issued by the Marshal pursuant to the policies of the agency.
- (d) The County Marshal’s Office, upon forming an independent and final conclusion that an Animal should, and may lawfully, be impounded, shall proceed with impoundment of such animal.
- (e) The Cherokee County Emergency Communications Call Center (E911) shall dispatch Marshal’s Office staff, along with local police, to the identified location to secure the identified Animal and transport the Animal to the County Animal Shelter located at 1015 Univeter Road, Canton, GA 30115 (the “Shelter”). The County shall not be required to transport any Animal to any location other than the Shelter under this Agreement, provided that the County may, in its sole discretion, transport an Animal to an alternate location.

- (f) Any Animal transported to the Shelter pursuant to this agreement shall remain at the Shelter in accordance with County policy, until the County, in its sole discretion, makes a determination to either: 1) euthanize the Animal; 2) release the Animal to an authorized reputable foster or rescue group; or 3) release the Animal to an individual identified by name, age, gender, and personal description in the written, signed instruction.
- (g) The County agrees, as authorized by O.C.G.A. §§ 15-10-150 and 15-10-151, to provide municipal court services to the City for adjudication of municipal animal control ordinance violations through the officers, employees, and facilities of the Magistrate Court of the County for the duration of the term of office of the sitting Chief Magistrate Judge of Cherokee County. Specifically, the County agrees that the Magistrate Court shall provide such services to the City for the following:
 - (1) Violations of Chapter 14, Article II (“Animal Control Generally”) of the Code of Ordinances of Canton, Georgia, as adopted on September 21, 2017 and subsequently amended; and
 - (2) Hearings necessary for the implementation of Chapter 14, Article III (“Dangerous Dog Control”) of the Code of Ordinances of Canton, Georgia, as adopted on September 21, 2017 and subsequently amended.
- (h) Pursuant to O.C.G.A. § 15-10-152, the judges of the County Magistrate Court shall have full authority under this agreement to act as judges of the Municipal Court of the City; and the other officers and personnel of the Magistrate Court shall have full authority to act as officers and personnel of the Municipal Court.
- (i) Pursuant to O.C.G.A. § 15-10-153, when acting as officers of the Municipal Court under this agreement, all judges and other officers of the Magistrate Court shall be styled as judges and officers of the Municipal Court; and all pleadings, process, and papers of the Municipal Court shall be styled as such and not as pleadings, process, and papers of the Magistrate Court. The dockets and other records of the Municipal Court shall be kept separately from those of the Magistrate Court.
- (j) In accordance with Section 2, paragraph (c) of this agreement, the County Commission Chairman and Board of Commissioners hereby appoint the Solicitor-General of Cherokee County to prosecute municipal animal control violations in the Magistrate Court as authorized herein. This appointment is irrevocable and absolute, and shall terminate only:
 - (1) Upon the expiration of this agreement in accordance with Section 1, paragraph (g) of this agreement;
 - (2) Upon the expiration of this agreement in accordance with Section 5 of this agreement; or
 - (3) Upon termination of this agreement by either the City or the County in accordance with Section 6 of this agreement.
- (k) Should the County update or amend any existing County ordinances regarding animal welfare that affect or materially alter this agreement, including but not limited to those contained in Chapter 10 of the Code of Ordinances, Cherokee County, Georgia, the County shall notify the City in accordance with Section 8, paragraph (f) of this agreement.
- (l) The County shall have no responsibilities or obligations under this Agreement except as set forth herein. Specifically, but not exhaustively, the County shall have no

responsibility or obligation regarding: 1) pursuing an animal outside of the corporate limits of the City; 2) pursuing undomesticated animals (i.e., bears, coyote, wolves, bobcats or other undomesticated felines); or 3) enforcing any municipal laws, ordinances, or regulations unless mutually agreed to in writing by the Chairman and Board of Commissioners and the Mayor and City Council.

Section 2: OBLIGATIONS OF THE CITY

The City agrees to provide the following to the County:

- (a) Allow the County to use County Marshal's Office staff, equipment, facilities and processes in the course of fulfilling its obligations under this Agreement.
- (b) Upon the signing of this Agreement, the City agrees and confirms that its municipal animal control ordinances have been amended and correspond uniformly with the current County ordinances regarding animal welfare (See Chapter 10, Code of Ordinances, Cherokee County, Georgia). The City agrees to continue to ensure that its animal control ordinances remain in such uniformity and conformity with said County animal welfare ordinances by amending them as necessary on an ongoing basis. It shall be the City's duty and responsibility to ensure that its animal control ordinances are not amended or updated without notifying and/or consulting with the County.
- (c) The City hereby delegates full, exclusive, and unfettered authority to the County Commission Chairman and Board of Commissioners to appoint a prosecuting attorney to prosecute municipal animal control violations in the County Magistrate Court as authorized herein.
- (d) Allow the county to collect all fines, fees, donations, restitution, or any revenue resulting from services provided under this agreement.
- (e) The City Police Department agrees to respond to all incidents within the corporate limits of the City involving an Animal, and to support any investigation undertaken by the County Marshal's Office as may be necessary.
- (f) The City agrees to provide City Police Officer testimony in Court.
- (g) Allow municipal animal control ordinance violations to be prosecuted and adjudicated in the County Magistrate Court or the County State Court, as outlined in Section 1 of this agreement.

Section 3: INDEPENDENT STATUS

Under no circumstances shall the County, its appointed and elected officials, representatives, employees, associates, subcontractors, successors or assigns (collectively referred to as the "County Parties") be deemed employees, agents, partners, successors, assigns, or legal representatives of the City, except as specifically required herein.

Section 4: RENEGOTIATIONS

If any action is taken or request made by the City that materially increases the cost to the County of providing the services required under this Agreement, the City and the County agree to negotiate

in good faith the amount of additional compensation that will be paid by the City as a result of said increase in cost.

Section 5: EFFECTIVE DATE

This Agreement shall become effective on _____ and shall continue in full force and effect until **June 30, 2028**. Unless terminated as provided in Section 1, paragraph (g) or Section 6 herein, this Agreement shall be automatically renewed from year to year for successive one-year periods thereafter for up to four (4) additional one-year periods.

Section 6: TERMINATION

This Agreement may be terminated by either party for convenience by giving at least ninety (90) days' prior written notification of such intention to terminate to the other party. Should either the City or the County be in default hereunder, the non-defaulting party shall give written notice of such default; and should such default not be corrected within thirty (30) days after the mailing of notice thereof, this Agreement may be terminated by the non-defaulting party by giving written notice thereof.

Section 7: LIABILITY

The City and County agree that the City does not intend, and shall not be construed to have, assumed liability for negligent actions taken or omissions made by personnel employed by the County pursuant to this Agreement and the City Ordinance within the corporate limits of the City. Any loss or damage sustained as a result of the act of negligence or omission of an employee of the County shall be borne solely by such employee or the County. Under no circumstances shall any County employee acting pursuant to this agreement as 1) an Animal Control Officer, 2) an officer and/or personnel of the Municipal Court; or 3) a municipal prosecutor be considered to be the employee of the City.

Section 8: GENERAL PROVISIONS

- (a) This Agreement and the rights and obligations of the parties hereto shall be governed, construed and interpreted according to the laws of this state.
- (b) This Agreement expresses the entire understanding of the parties and all agreements between the parties hereto with respect to the matters set forth herein.
- (c) All agreements, covenants, certifications, representations, and warranties of the parties hereunder in connection with this transaction contemplated hereby shall survive the execution and delivery hereof regardless of any investigation and other action taken by the other person relying thereon.
- (d) This Agreement may be executed in several counterparts each of which shall be an original and all of which shall constitute but one and the same instrument.
- (e) This Agreement may be amended, supplemented or otherwise modified solely by a document in writing, duly executed and delivered by the City and the County. No waiver, release or similar modification of this Agreement shall be established by

conduct, custom or course of dealings, but solely by a document in writing duly executed and delivered by a duly authorized official of the City and/or the County.

- (f) Except as otherwise specifically provided herein, any notices, demands, approvals, consents, requests, or other communication hereunder shall be in writing and shall be deemed given when the writing is delivered in person, or one (1) business day after being sent by a reputable overnight registered delivery service, charges prepaid, or three (3) business days after being mailed if mailed by certified mail/return receipt requested and postage prepaid to the City and/or the County at the addresses shown below and at such other addresses as may be furnished by the City and the County in writing from time to time.

For City:

Mayor, City of Canton
110 Academy Street
Canton, Georgia 30114

and

City Manager, City of Canton
110 Academy Street
Canton, Georgia 30114

For County:

Chairman, Cherokee County
1130 Bluffs Parkway
Canton, Georgia 30114

and

County Manager, Cherokee County
1130 Bluffs Parkway
Canton, Georgia 30114

- (g) The rights, privileges and obligations under this Agreement shall not be assigned or transferred by either Party.
- (h) Each of the individuals who executes this Agreement agrees and represents that he or she is authorized to execute this Agreement on behalf of the respective party. Accordingly, each party both waives and releases any right to contest the enforceability of this Agreement based upon the execution and/or approval thereof.
- (i) This Agreement shall be exclusively for the benefit of the parties and shall not provide any third parties with any remedy, claim, liability, reimbursement, cause of action, or other right.
- (j) The brief capitalized and/or underlined headings or titles preceding each paragraph are for purposes of identification, convenience and ease of reference, and shall be disregarded in the construction of this Agreement.
- (k) No failure of either party hereto to exercise any right or power granted under this Agreement, or to insist upon strict compliance by the other party with this Agreement, and no custom or practice of either party at variance with the terms and conditions of this Agreement, shall constitute a waiver of a party's right to demand exact and strict compliance by the other parties hereto with the terms and conditions of this Agreement.
- (l) Should any provision of this Agreement require judicial interpretation, it is agreed and stipulated by and between the parties that the court interpreting or construing the same shall not apply a presumption that the terms, conditions and provisions hereof shall be more strictly construed against one party by reason of the rule of construction that an instrument is to be construed more strictly against the party who prepared the same.

IN WITNESS HEREOF, the parties hereto have set their hands and seals.

ON BEHALF OF CHEROKEE COUNTY:

ATTEST:

HARRY B. JOHNSTON

Chairman

Date: _____

CHRISTY BLACK

County Clerk

Date: _____

HONORABLE JACK “TREY” GOODWIN III

Chief Magistrate

Magistrate Court of Cherokee County

PATTY BAKER

Clerk of the Magistrate Court of Cherokee County

Appointment as Municipal Prosecutor Acknowledged and Accepted:

TODD HAYES

Solicitor-General

Cherokee County Solicitor General’s Office

ON BEHALF OF CITY OF CANTON:

ATTEST:

BILL GRANT

Mayor

Date: _____

ANNIE FORTNER

City Clerk

Date: _____