

LAW ENFORCEMENT AGREEMENT

WHEREAS, the City of Brookings (“City”) through its Police Department and the Brookings Chief of Police (“Chief”) has responsibility for law enforcement in the City of Brookings, and South Dakota State University, a public institution of higher education under the control and management of the South Dakota Board of Regents (“SDSU”) has a responsibility to its students, faculty and the community of Brookings to provide a safe learning environment and for the protection of its physical grounds and property; and

WHEREAS, the City of Brookings and SDSU agree that it is to their mutual benefit for University Police Department (“UPD”) personnel at SDSU to have the status as Brookings Police Department police officer to provide law enforcement efficiency and consistency for the benefit of the City and the students, faculty, staff of SDSU and the State of South Dakota.

NOW, THEREFORE, the parties agree as follows:

1. Designation as Officer: SDSU may designate qualified persons to be appointed as police officers for the City. Appointments shall be made with the approval of the Chief and Brookings City Manager, and after such approval and upon swearing to the required oath, a SDSU Police Officer (“UPD Officer”) shall also have the status of Deputy City Police Officer. SDSU will designate a Chief of the UPD in accordance with the provisions of this Agreement.
2. Recruitment and Authorization of UPD Officer(s): The SDSU UPD will follow established SDSU and State of South Dakota policies and procedures for recruiting, screening, and hiring UPD Officers. SDSU will include one member selected by the City and one member mutually selected by the City and SDSU in its search committees. SDSU shall propose candidates for police officers to the City Manager and the Chief of Police for review prior to final appointment. SDSU shall provide information concerning background, work history, or other pertinent information for the evaluation of the SDSU candidate’s fitness for employment as a police officer. All officer candidates selected to fulfill the duties of a UPD Officer must be appointed by the City Manager prior to commencement of their employment. The City shall be diligent in its review of the police officer candidates and shall inform UPD of acceptance or rejection of the officer candidate as soon as possible. If a candidate is rejected, the City will provide written documentation outlining the justification for the rejection. Upon appointment by the City Manager, a completed South Dakota Law Enforcement Officers Standards and Training Commission application shall be submitted to the Chief for signature, authorizing the officer candidate to attend Law Enforcement Training as prescribed by South Dakota Law.

3. Authorization as Law Enforcement Officers and Other Duties: All UPD Officers who have been duly sworn as police officers are hereby authorized as law enforcement officers of the City pursuant to South Dakota Codified Law 9-29-19 and amendments thereto, and in accordance with their appointment and this Agreement. Persons appointed as police officers pursuant to this Agreement may perform tasks which are unrelated to law enforcement at SDSU while also holding appointment as police officers. Assignment of other tasks by SDSU will be made in a manner which will not result in a conflict with their performance as a police officer.
4. Scope of Authorization: Persons appointed as police officers pursuant to this Agreement shall limit their law enforcement duties to the City of Brookings main campus of SDSU, other property owned by SDSU in the City of Brookings, and areas contiguous thereto, or if they are off campus for a valid official reason and observe an apparent violation of state law or city ordinance. Persons appointed pursuant to this Agreement shall perform law enforcement duties in a manner which complies with the standards approved by the Chief, and the currently adopted policies and the procedures of the UPD, and the City of Brookings Police Department. When SDSU police officers are performing duties on behalf of the Brookings Police Department, they shall be performing their duties as duly-appointed Brookings City Police Officers. If there are any conflicts between City of Brookings and UPD policies and procedures, the Chief and UPD Chief shall identify the conflict and develop a mutually acceptable policy or provide a procedure to resolve the conflicting provision.

The City agrees that officers of the Brookings Police Department will only perform law enforcement duties on the campus of SDSU and on other properties owned by SDSU at the request of the University Police Department, or if they are on campus for a valid official reason and observe an incident or activity which places the well being of any person in jeopardy, or as part of an investigation.

The City of Brookings Police Department Officers shall provide the SDSU UPD with notice in accordance with best practices if their activities require them to be on-campus or on SDSU property. Similarly, UPD Officers shall provide notice to City of Brookings Police Department Officers in accordance with best practices if their activities require them to be off-campus.

5. Training: All persons appointed police officers pursuant to this Agreement shall meet the required minimum standards of training for a law enforcement officer as provided by South Dakota State law and by the South Dakota Commission of Law Enforcement Officers Standards and Training, and such further standards as the City may from time to time reasonably require. The training procedures shall be substantially identical except for differences related to equipment/weapons

unique to each department. In the interest of promoting consistency in cross-training, the City and SDSU will collaborate by sharing training resources. In recognition of unique characteristics of the campus and community law enforcement environments, the Chiefs shall mutually develop a cross-training program to develop skills of City Police Officers for campus and SDSU property law enforcement and UPD Officers for community law enforcement. It is agreed that each new officer for each department shall be provided one training and familiarization shift with a Field Training Officer (“FTO”) from the other unit. If it is determined by the FTO that an additional training and familiarization shift(s) are necessary, the training agency agrees to provide such additional training. Newly appointed officers shall receive this training program within the first six (6) months of appointment. Both parties shall seek to develop and implement opportunities for mutual training, utilizing resources of each department where practical.

6. Access to Reports: The Parties to this Agreement agree to provide mutual access to law enforcement reports that could lead to investigations and incidents of criminal nature impacting their respective jurisdictions and any related legally required reporting requirements.

7. Disciplinary Actions:

- a. Notice of Disciplinary Action: Once an applicant is appointed, the City shall be notified of any disciplinary action and substantiated complaints leading to disciplinary action involving UPD Officers in the deployment of their law enforcement duties. This information will be provided within the confidentiality parameters set by South Dakota State law and South Dakota Bureau of Personnel guidelines.
- b. Disciplinary Action Process: SDSU shall issue all discipline and discharge actions consistent with all rules, regulations, and policies of the State of South Dakota, Board of Regents, South Dakota State University, and the SDSU Police Department.
 - i. The City may suspend or revoke the appointment of a UPD Officer for just cause based upon the City’s policies. In the event of such action, the City shall notify the SDSU UPD Chief of this action and the basis for this action. SDSU shall suspend the authority of the police officer to act in that capacity until final resolution of appropriate discipline, discharge, or re-instatement. A UPD Officer whose appointment has been revoked by the City Police Chief or City Manager may be retained by SDSU for functions other than law enforcement and campus security.
 - ii. AUPD Officer whose appointment by the City has been revoked shall have the right to appeal that action and request a hearing. Such appeal and request for a hearing must be initiated in writing

to the City Police Chief (with a copy to the SDSU Police Chief) within five (5) working days of the date the appointment was revoked. Failure to appeal and request a hearing within that time frame shall result in the permanent revocation of the appointment.

- iii. In the case of an appeal, a review board shall be established consisting of two members appointed by the City, two members appointed by SDSU and one member mutually appointed by the City and SDSU. The review board shall conduct a hearing within thirty calendar days from the date the appeal is received. The review board will deliver a written recommendation to the SDSU Vice President for Technology and Security, or successor, and the City Manager for a final decision within ten (10) calendar days after the hearing. Should the SDSU Vice President for Technology and Security and City Manager determine the appointment was unjustly revoked, the officer's appointment shall be fully restored by the City Police Chief. However, the City retains final authority over UPD Officer appointment status pursuant to Sections 1 and 2 of this Agreement.

- c. South Dakota Commission of Law Enforcement: The City, SDSU, or the employee may pursue other procedures before the State of South Dakota Commission of Law Enforcement Officer's Standards and Training, which has the ultimate authority concerning a police officer's commission.

- 8. Employment Related Costs: SDSU will be responsible for all costs incurred for wages, benefits, training, equipment, and uniforms for its employees. Costs associated with joint training shall be mutually agreed upon by the Parties to this Agreement prior to implementation of the training.
- 9. Notice of Employment Discontinuation: SDSU agrees to notify City when UPD Officers cease employment so the City can maintain accurate rosters of current personnel.
- 10. Indemnification: Nothing in this Agreement shall be construed as an indemnification by one party of the other for liabilities of a party or third persons for property loss or damage or death or personal injury arising out of the performance of this Agreement. Any liabilities or claims for property loss or death or personal injury by a Party to this Agreement or its agents, employees, contractors, or assigns or by third persons, arising out of and during this agreement shall be determined according to applicable law.
- 11. Insurance: SDSU and the City shall each maintain occurrence based general liability insurance or equivalent form, with a limit of not less than \$1,000,000.00 each occurrence. If such insurance contains a general aggregate limit, it shall

apply separately to this Agreement and shall be no less than two times the occurrence limit. The City of Brookings understands and agrees that SDSU is subject to the limitations of liability set forth in SDCL Chs. 3-21 and 3-22; that SDSU participates in the Public Entity Pool for Liability Agreement; and the coverage provided thereunder constitutes SDSU's sufficient coverage for this section.

12. Workers Compensation: All officers in the course of their duties shall remain employees of their employing agency, the parties are not joint employers, and, therefore, shall continue to be covered by their employing agency for the purpose of Workers Compensation. The Parties to this Agreement shall comply with the Workers Compensation requirements of South Dakota law.
13. Joint Powers: The appointments and authorizations contained herein do not constitute a joint exercise of powers pursuant to SDCL Ch. 1-24.
14. Mutual Communication: The Parties to this Agreement agree to have their representatives conduct joint meetings as often as deemed necessary, but no less than annually, and as requested by either party during the term of this Agreement to discuss issues of mutual interest and concern in regard to the performance of this Agreement. It is anticipated that items brought forward during the meetings may result in amendments to this Agreement. All such amendments shall be in writing by the duly authorized representatives of the Parties to this Agreement.
15. Choice of Law: The Parties to this Agreement will comply with all laws applicable to this Agreement and the performance thereof. This Agreement is governed by and shall be construed in accordance with the laws of the State of South Dakota and any lawsuit pertaining or related thereto shall be venued in the courts of South Dakota.
16. Failure of Appropriation: This Agreement depends upon the continued availability of appropriate funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate or grant expenditure authority or funds become unavailable by operation of law or federal funds reductions, this Agreement will be terminated by the State and SDSU. Termination for any of these reasons is not default by the State and SDSU nor does it give rise to a claim against the State of South Dakota or SDSU.
17. Agreement Term: The term of this Agreement shall be three (3) years, beginning September 30, 2018 and terminating September 29, 2021 unless extended by mutual written agreement. Either Party may, by giving sixty (60) days written notice to the other, revoke or rescind this Agreement for any reason.

Dated as of this ____ day of _____, 2018 and executed by the duly authorized representatives of the parties.

City of Brookings

By: _____
Paul Briseno, City Manager

South Dakota State University

By: _____
Michael Adelaine, Ph.D.
Executive Vice President for
Technology and Security

By: _____
Barry H. Dunn, Ph.D.
President