

ANIMAL SHELTER SERVICES AGREEMENT

This ANIMAL SHELTER SERVICES AGREEMENT (the “Agreement”), dated December 16, 2025 (the “Effective Date”), is made and entered into by and between the **City of Brookings**, with an address of 520 3rd Street, Suite 230, Brookings, South Dakota 57006 (the “City”), and **The Brookings Regional Humane Society, Inc.**, a South Dakota nonprofit corporation, with an address of 120 West 2nd St. South, Brookings, SD 57006 (“BRHS”, the “Contractor”). The City and Contractor will also be individually referred to herein as a “Party” and collectively as “Parties.” The Parties enter into this Agreement for the purpose of establishing an independent contractor relationship and not an employment relationship.

RECITALS

- A. Contractor is in the business of providing animal shelter services.
- B. The City wishes to engage Contractor for the purpose of providing municipal animal shelter services for animals received from the City.
- C. Contractor wishes to provide these services in accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the above recitals and the mutual promises and benefits contained herein, the Parties agree as follows:

AGREEMENT

1. **Services.** As of the Effective Date, Contractor agrees to provide the Services subject to the terms and conditions of this Agreement.
2. **Scope of Duties.** The City engages Contractor, as an independent contractor and not as an employee, as those terms are commonly understood and as defined by applicable federal and state law, to provide the services set forth as follows:
 - 2.1 **Services.** Contractor will provide animal shelter services for the City as outlined in the attached **Exhibit A** (the “Services”).
 - 2.2 **Supplies.** Contractor will provide the necessary facilities, equipment, supplies, and personnel to perform the Services. Contractor will not be reimbursed for any costs or expenses associated with the Services. If Contractor has obtained employees, Contractor will be solely responsible for all costs and expenses associated with Contractor’s employees or other personnel.
3. **Term.** The initial term of this Agreement will be from January 1, 2026, to December 31, 2026. Upon written agreement by both Parties, the term of this Agreement may be extended. In order for the Agreement to be extended or renewed, Contractor must make an annual financial request by June 1, not as an outside agency, but as a public service provider, with budgeting to

be within the Community Service budget.

4. **Compensation.** In exchange for Contractor's Services under this Agreement, City will pay Contractor an annual fee of \$46,000.00, payable in twelve equal monthly installments on or before the 15th day of each month.

5. **Taxes.** Contractor will be responsible for payment of all taxes including federal, state, and local taxes arising out of Contractor's Services in accordance with this Agreement. By way of illustration, these taxes may include, but will not be specifically limited to, federal and state income, social security, sales, use, excise, FICA, unemployment insurance taxes, and any other business taxes or license fees arising out of Contractor's Services.

6. **Disposition Records.** Contractor agrees to keep accurate and complete records of all animals received by it pursuant to this Agreement, showing the date, place, reason, and manner in which the animals were delivered to the Shelter, together with the disposition of the animals (including animals returned to owners). A summary of the above information must be provided to the City upon request.

7. **Liaison Officer.** The BRHS Board President or designee will act as Contractor's liaison officer with the City. The City Manager of the City or its designee will act as liaison officer of the City with Contractor, and will be responsible for the administration and enforcement of this Agreement. All reports, recommendations, and all other correspondence will be directed to the appropriate person(s) responsible under this Agreement, whose duty it is to ensure compliance with this Agreement.

8. **Mutual Cooperation.** City agrees to provide all reasonable cooperation and assistance to Contractor, its directors, officers, agents, and employees to facilitate and accomplish the mutual objectives of this Agreement. All Animal Control shelter forms will be issued in the name of the City and supplied by the City to Contractor at the City's expense. The City must use such items only in strict confidence with the instructions and limitations set by Contractor. The City agrees to comply with all of Contractor's reasonable and necessary official written procedures, such as the provision of the cage number, the identification of a rabies tag number, the breed, description, and sex of the impounded animals. The City and Contractor acknowledge that these procedures may, from time to time, be amended. The City must provide the proper training of its employees performing these duties.

9. **Communication.** Contractor, the City's Community Service Officers, the Chief of Police, and any other applicable personnel will meet biannually to discuss any issues that arise concerning the performance of services by Contractor and/or procedures employed by the Community Service Officers and/or City Law Enforcement Officers while fulfilling the obligations of this Agreement. Additional ad hoc meetings will be held at the request of either party.

10. **Confidentiality.** Contractor agrees, to the extent permitted by law, to keep all information it receives concerning the names, addresses, and telephone numbers of complainants, defendants, witnesses, and license holders confidential. Contractor must, to the

greatest extent possible, protect an individual's right to privacy and must neither circulate nor permit to be circulated this information for any purpose(s) unrelated to the scope of this Agreement. Contractor will have the right, however, to release that information which may be necessary for the location of the animal's owner or for the acquisition of consent for veterinary and related medical treatment.

11. Public Service. The City expressly recognizes that the control, housing, and sheltering of animals within the City are necessary for the immediate and long-term preservation of the public health, safety, and welfare of the City. The City and Contractor recognize, therefore, that the services which Contractor provides under the terms of this Agreement constitute and fulfill a public service.

12. Insurance and Liability.

12.1 Contractor's Insurance.

a. Contractor's Liability Insurance. Contractor will procure and maintain through the term of this Agreement a policy or policies of commercial general liability insurance with contractual liability coverage, at its own cost and expense, insuring Contractor and insuring the City as an additional insured with respect to liability to third parties arising out of Contractor's use and occupancy of the BRHS Shelter, from all claims, demands, or actions for bodily injury or death sustained by one or more persons and damage to property as a result of any one occurrence in the amount of not less than \$1,000,000. Contractor will obtain a per location aggregate limit endorsement.

b. Contractor's Worker's Compensation and Employer's Liability Insurance. Contractor will procure and maintain throughout the term of this Agreement, at its own cost and expense, a policy of worker's compensation insurance at statutory limits, and employer's liability insurance with policy limits not less than \$1,000,000 each accident, \$1,000,000 each employee, and \$1,000,000 policy limit.

c. Contractor's Business Auto Liability Insurance. Contractor will procure and maintain throughout the term of this Agreement a policy of business automobile liability insurance coverage for all of Contractor's owned, leased, or hired vehicles with policy limits of not less than \$1,000,000.

d. Umbrella/Excess Liability Insurance. Contractor may provide for a portion of the coverages for commercial general liability insurance and employer's liability insurance by way of an excess liability policy or an umbrella liability policy with at least as broad of coverage as provided by the liability policies identified herein. The policies must be written on an occurrence basis and have the same inception date. Contractor will obtain a per location aggregate limit endorsement with respect to the commercial general liability coverage.

e. Contractor's Proof of Insurance. Proof of insurance for all policies will be deposited with the City at commencement of the term by providing to the City certificates

of insurance, copies of declaration pages, the schedule of forms and values, and all endorsements issued by Contractor's insurance carriers. At least 45 days prior to the expiration of any policy, Contractor will provide the City with proof or renewal of each insurance policy, a copy of the declarations page, and copies of all endorsements providing additional coverages. At the City's request, Contractor will provide to the City certified copies of all insurance policies.

f. Notification of Cancellation. All of Contractor's insurance policies must not be subject to cancellation or non-renewal, except after at least 30 days' prior written notice to the City by the insurance carriers; and if the insurance carriers are unable or unwilling to provide such notice to the City, then Contractor must provide such notices prior to the cancellation or non-renewal of any Contractor policies of insurance required by this Agreement. If the insurance carriers are willing to provide written notice of cancellation or non-renewal, proof of compliance with this requirement must be provided by endorsements issued by Contractor's insurance carriers. In addition, Contractor will provide to the City within 10 days of the effective date of any modification to the terms of a policy, a notice of modification of any of the policies required of Contractor herein.

g. The City's Additional Insured Status. The City, the City's managers, officials, employees, agents, and representatives must be added as additional insureds with respect to Contractor's commercial general liability insurance. Proof of compliance of this requirement must be provided by a written endorsement issued by each of Contractor's insurance carriers.

h. Contractor's Cross Liability Coverage. If Contractor's liability policies do not contain the standard ISO separation of insureds provision, or a substantially similar clause, they must be endorsed to provide cross-liability coverage.

i. The City's Right to Purchase Insurance at Contractor's Expense. If Contractor fails to comply with the requirements of this Section upon 10 days' prior written notice, the City may obtain the insurance and keep the same in effect, and Contractor will, upon demand, pay the City the premium cost thereof.

13. Exclusivity. The Parties expressly acknowledge and agree this Agreement does not create an exclusive relationship or arrangement between the Parties. The City is entitled to engage others to perform services of the same or similar nature to those provided by Contractor, and Contractor is entitled to offer and provide its services to others without permission from the City.

14. Relationship of Parties. The relationship between the Parties is that of an independent contractor relationship only. Contractor is not an agent, legal representative, joint venturer, partner, or employee of the City for any purpose. In performing the services required by this Agreement, Contractor must, to Contractor's ability, capacity, and in good faith act in a manner that serves the best interests of the City.

15. Contractor's Responsibilities. Contractor will be required to perform under this

Agreement as may be necessary to provide the required Services in a timely and productive manner. Contractor will exercise independent judgment and control over the provision of the Services and will provide the Services pursuant to the highest professional and ethical standards and in accordance with accepted industry standards and the City's expressed preferences and requests. Contractor will be free to contract for services to other parties without the consent of the City, provided such services do not interfere with Contractor's Services or violate any other provision of this Agreement.

16. Representations, Warranties, and Covenants of Contractor. Contractor represents and warrants it has the authority to execute and deliver this Agreement. This Agreement is properly signed and is binding on Contractor. There are no legal actions or threats that could impact Contractor, the City, or the validity of this Agreement. Contractor's provision of Services under this Agreement will not violate any existing agreements or laws. Contractor will perform Services in compliance with all applicable laws and regulations.

17. Compliance with Governing Laws. Contractor will be solely responsible to ensure compliance with safe work practices applicable to its business and all other controlling federal, state, and local government law. As explained above, Contractor is responsible for obtaining and maintaining the costs of any licenses or permits required for its business and will hold the Parties harmless if any party is found to be in non-compliance by local, state, or federal requirements in connection with the same.

18. Conflict of Interest. No elected or appointed municipal officer may be interested, either by himself or agent, in this Agreement. Otherwise, this Agreement will be null and void from the beginning.

19. Indemnification. Under no circumstances will the City be liable for any act, omission, debt, or other obligation of Contractor or Contractor's directors, officers, employees, agents, invitees, licensees, or other persons involved, directly or indirectly, in Contractor's performance of its Services ("Contractor Parties"). Contractor will defend, indemnify, and hold harmless the City, its owners, officers, directors, employees, agents, and representatives ("City Indemnitees") from and against any and all claims, liabilities, losses, causes of action, costs, and expenses (including attorneys' fees and expenses and applicable sales taxes) asserted against, imposed upon, or incurred by any of the City Indemnitees arising out of or related to Contractor Parties' negligence, acts, errors, omissions, or misconduct in the performance of or failure to perform the obligations under this Agreement.

20. Default. If either Party fails to perform its obligations under this Agreement, the aggrieved party shall provide (to declare default) a written notice to the other party specifying the default. The party in default shall have fifteen (15) days from the date of receipt of the notice to remedy the default. If the default has not been cured within this period, the aggrieved party shall have the right to terminate this Agreement by providing a written Notice of Termination to the other party. Termination of this Agreement will be accomplished by and effective upon the receipt of a Notice of Termination.

20.1 Waive or Extension. The aggrieved party, however, will have the right to either waive the default or to extend the time within which to cure the default. The waiver or

extension must be in writing and signed by an authorized representative of the aggrieved party to be binding upon the aggrieved party. A waiver or extension for one default shall not act as a waiver or extension for subsequent defaults.

21. Termination. This Agreement may be terminated due to the default of one of the Parties or may be terminated by the mutual consent of the Parties. Consent must be in writing and signed by an authorized representative of each Party to be valid. This Agreement may also be terminated without cause by either Party upon sixty (60) days' written notice to the other Party.

21.1 Remedies. In the event of termination due to the default of one of the Parties, the aggrieved Party shall also have the right, in addition to the right of termination, to assert and maintain any and all claims and/or actions for damages or other appropriate remedies. The aggrieved party may also elect not to terminate this Agreement or may elect to maintain an action for damages or other appropriate remedies for default. Either Party may, at any time, maintain an action either to construe or enforce this Agreement.

22. Miscellaneous Provisions.

22.1 Governing Law/Venue/Jurisdiction. This Agreement will be governed by the laws of the State of South Dakota. Venue of any litigation will lie in Brookings County, South Dakota.

22.2 Entire Agreement. This Agreement, including any amendments to it, contains the entire agreement of the Parties regarding the subject of this Agreement. This Agreement supersedes and replaces the terms of any prior agreement, oral or written, between the Parties.

22.3 Headings. The headings contained in this Agreement are for convenience only and will not be used to interpret or construe its provisions.

22.4 Recitals Substantive. The Recitals set forth above are substantive to this Agreement and are incorporated into this Agreement as if fully set forth in this Section.

22.5 Amendment. This Agreement may not be amended or modified orally. Any amendment or modification will be valid only if agreed upon, in writing, by the Parties.

22.6 Waiver. Any term or condition of this Agreement may be fully or partially waived only by a writing signed by the Party which is entitled to benefit of the term or condition.

22.7 Severability. If any term, restriction, or covenant of this Agreement is deemed illegal or unenforceable, all remaining terms, restrictions, and covenants hereof will remain unaffected and in full force and effect.

- 22.8** Assignment. Neither Party may assign rights or delegate duties under this Agreement to any party. This Agreement will be binding upon the heirs, executors, administrators, successors, and assigns of the Parties hereto.
- 22.9** Binding Effect. This Agreement is subject to final approval by resolution by the City Council of the City. Thereafter, the provisions of this Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns as set forth in this Agreement.
- 22.10** Notices. All notices, requests, demands, or other communications required or permitted under this Agreement must be in writing and delivered either: (a) personally; (b) by certified or registered mail, return receipt requested, postage prepaid; or (c) by a recognized overnight courier service (such as Fed Ex) to the Parties at the addresses set forth in the first paragraph above. Either Party may change notice information by written notice to the other Party, given in compliance with the requirements of this Section.
- 22.11** Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original but all of which, when taken together, will be one and the same document. Counterparts may be signed and delivered via electronic mail (including by .pdf, .tif, .gif, .jpeg, or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.docusign.com) and any counterpart so delivered will be deemed to have been duly and validly delivered and be valid and effective for all purposes.

[Signatures on Following Page]

IN WITNESS WHEREOF, the Parties have executed this Independent Contractor Agreement as of the date first set forth above.

CITY OF BROOKINGS:

CONTRACTOR:

THE BROOKINGS REGIONAL HUMANE
SOCIETY, INC.

By: Paul Briseno, City Manager

By: Brianna Johnson, its Board President

ATTEST:

Bonnie Foster, City Clerk

Exhibit A
Scope of Services

A. **Shelter Services.** Contractor agrees to provide the following services:

1. Act as the municipal animal shelter by furnishing and maintaining shelter facilities for the handling of cats and other small domestic animals (excluding dogs), received from the City, whether stray, impounded, or otherwise, which are turned over to Contractor by the City Community Service Officers and/or by City Law Enforcement Officers.
2. Provide sufficient kennel space to meet Community Service needs. It is understood that feral cats will not be transferred to Contractor unless they show signs of domestication and safe handling at the City Animal Control Shelter. Additionally, any animal that requires extended holds for legal or other reasons will be held at the City Animal Control Shelter and not at Contractor's Shelter, unless a mutual agreement between Community Service and Contractor is made.
3. Provide proper food, water, housing, and humane care for all animals under Contractor's control pursuant to this Agreement.
4. Coordinate with City Law Enforcement and the Community Service Officers on a case-by-case basis to determine if Contractor will shelter animals with extended holds for court holds. Other animals, such as aggressive or non-domesticated animals, will be placed in the City Animal Control Shelter.
5. Provide sufficient, competent, and trained personnel to perform the obligations outlined in this Agreement during the hours agreed upon therein.
6. Answer phone calls from the public concerning impounded animals and give instructions about the animal's release.
7. Be available for and provide consultation concerning animal health or endangerment issues, as needed.
8. Verify payment of impound fees and fines to the City annually.
9. Provide financial reports to the City regarding animals received from the City's Animal Control Shelter and provide reports of the specific disposition of animals impounded at BRHS as requested by the City.
10. Provide low-maintenance level veterinary and related medical care to those sick or injured animals brought to the Shelter and to those that become sick during impoundment. Low-maintenance level care includes, but is not limited to, a clean space, appropriate food, and fresh water. If an animal is suffering, pain medication, fluids, or other treatments may be administered by Contractor as deemed necessary by Contractor's director. Emergencies will be evaluated by Contractor's director and

Community Service Officers, and will be acted on accordingly. If an animal is redeemed by its owner, such owner will be responsible for all veterinary and related medical costs.

B. Shelter Facilities.

1. Contractor agrees to maintain the BRHS shelter facilities (the “Shelter”) daily in a neat, clean, and sanitary condition and in compliance with the standards set by the nationally recognized humane organizations and with all applicable laws, rules, and regulations. The City will have the right (through properly authorized representatives) to enter and inspect the Shelter at any time during regular working hours without prior notice.
2. Contractor agrees to keep the Shelter open to the public during the following regular working hours (except major holidays) and publish/advertise such times as follows:
12:00 p.m. – 6:00 p.m. Monday, Tuesday, Thursday, and Friday
11:00 a.m. – 4:00 p.m. Saturday
Closed Sunday and Wednesday
Major holidays include: New Year’s Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Thursday and Friday, Christmas Eve and Christmas Day.
3. In addition, Contractor agrees to be available by telephone appointment to arrange retrieval of animals impounded by Community Service, during the following hours (except major holidays):
7:00 a.m. – 12:00 p.m. Monday – Friday
7:00 a.m. – 11:00 a.m. Saturday
City’s Community Service Officers will be available to assist when necessary.
4. Contractor reserves the right to close the Shelter due to weather, special circumstances, and major fundraising events (e.g., Paws for Wine Event). Contractor must provide public notification of closure as appropriate.
5. Contractor will provide City Community Service Officers with a key to the Shelter. This will allow Community Service Officers to deliver animals to or retrieve animals from the Shelter during hours it is otherwise closed to the public. Should the City’s Community Service Officers wish to allow retrieval of impounded animals during such hours, the City may ask Contractor personnel to come to the Shelter and assist in the release of an impounded animal upon request.
6. Contractor agrees to make available, at all times and on all days of the year, a specific area in the Shelter for the purpose of immediately depositing animals brought in by the City Community Service Officers or other Law Enforcement Officers. Bowls and water will be available for animal being deposited.

C. Shelter Procedures. Contractor agrees to adhere to the following shelter procedures:

1. Stray and Licensed Cats and Dogs. If the owner of the animal is known or can be reasonably ascertained by an expired or current city license or rabies tag, Contractor

must notify the owner, if possible, preferably by telephone, informing the owner that the animal will be held at the Shelter for a minimum of five (5) full business days following impoundment. After the expiration of this period, the disposition of these animals is as per Section 14-185 of the City of Brookings Code of Ordinances, as amended, and at the discretion of the Community Service Officers in consultation with Contractor's shelter manager. Should an animal not be received by Contractor, it will be the City's responsibility to dispose of (euthanize) the animal in accordance with this Agreement.

2. Stray and Unlicensed Cats and Dogs. If the owner cannot be reasonably identified, the animal must be held a minimum of five (5) full business days following impoundment. After the expiration of this period, the disposition of an animal is at the discretion of the Community Service Officers in consultation with Contractor's shelter manager. Should an animal not be received by Contractor, it will be the City's responsibility to dispose of (euthanize) the animal in accordance with this Agreement.
3. Injured and/or Diseased Animals. Injured and/or diseased animals will be addressed per Section 14-46 of the City of Brookings Code of Ordinances.
4. Other Domesticated Animals. These animals do not have a specific holding period but may be impounded for a maximum of five (5) full business days or disposed of at any time at the discretion of Contractor and/or Community Service Officers except as provided by applicable federal, state, and local laws and regulations. Wild animals will not be sheltered by Contractor.
5. Animal Redemption. Impounded animals will be released to owners or custodians only upon satisfactory proof of ownership and payment of all applicable fees. Proof of ownership includes, but is not limited to, any government-issued license/tag or evidence of rabies vaccination. Current licenses and vaccinations will be required for impounded animals to be released.
 - a. The City will make available a Community Service or other Officer during the redemption process if it is perceived that a potential or actual confrontation may occur with the owner who is or will be redeeming the animal. In this case, Contractor will place a call to have the officer come to the BRHS shelter.
6. Court Holds. Contractor will work with City Law Enforcement and the Community Service Officers on a case-by-case basis to determine if Contractor will shelter animals for court holds and if so, define the maximum length of time Contractor will hold the animals. Contractor reserves the right to refuse to accept transfer into BRHS care. Extended holds for court holds will be placed with the understanding that the Shelter may be used for a temporary or short-term hold as defined by both Parties on a case-by-case basis.
7. Animal Destruction and Disposal. The destruction and disposal of animals (euthanasia) must be performed in a manner approved by the American Veterinary

Animal Shelter Services Agreement

City of Brookings / The Brookings Regional Humane Society, Inc.
Exhibit A

Medical Association Guidelines, which will not subject the animal to any unnecessary pain and/or suffering.