

Contract for Care and Disposition of Impounded Animals (2024)

This Contract is entered into by and between the City of Brookings, a South Dakota municipal corporation, Brookings, South Dakota 57006 (the "City"), and the Brookings Regional Humane Society ("BRHS", the "Contractor").

In consideration of the mutual covenants and promises of the parties hereto, the City and the Contractor covenant and agree as follows:

Section 1 Contractor Services

- A. Shelter Services. The Contractor agrees to provide the following animal shelter 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 the Contractor by the City Animal Control Officer (also referred to herein as Community Service Officer) and/or by City Law Enforcement Officers.
 2. Provide sufficient kennel space to meet Animal Control needs. It is understood that feral cats will not be transferred to the Contractor unless they show signs of domestication and safe handling at the Animal Control Shelter. Additionally, any animal that requires extended holds for legal or other reasons will be held at the Animal Control Shelter and not at the Contractor's shelter facilities unless a mutual agreement between Animal Control and the Contractor is made.
 3. Provide the Community Service Officer and/or City Law Enforcement Officer with 24-hour access to the Contractor's shelter facilities.
 4. Provide proper food, water, housing, and humane care for all animals under the Contractor's control pursuant to this Contract.
 5. The Contractor will work with City Law Enforcement and the Community Service Officer on a case-by-case basis to determine if the Contractor will shelter animals with extended holds for court holds. Other animals, such as aggressive or non-domesticated animals, shall be placed in the City's Animal Control Shelter.
 6. Provide sufficient, competent, and trained personnel to perform the obligations set forth in this Contract during regular business hours.
 7. Answer phone calls from the public concerning impounded animals and give instructions pertaining to the animal's release.
 8. Be available for consultation concerning animal health or endangerment issues.
 9. Verify payment of impound fees and fines to the City annually to receive contractual payment.
 10. 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.
 11. Comply with all applicable federal, state and local laws, rules and regulations pertaining to animal shelters and animals.

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

1. Stray and Licensed Cats. If the owner of the animal is known or can be reasonably ascertained by an expired or current city license or rabies tag, the Contractor shall notify the owner, if possible, preferably by telephone, informing the owner that the animal will be held at BRHS 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, and at the discretion of the Community Service Officer in consultation with the Contractor's shelter manager. Should an animal not be received by the Contractor, it shall be the City's responsibility to dispose of (euthanize) the animal in accordance with Section 1.B.7 of this Contract.
2. Stray and Unlicensed Cats. If the owner cannot be reasonably identified, the animal shall 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 Officer in consultation with the Contractor's shelter manager. Should an animal not be received by the Contractor it shall be the City's responsibility to dispose of (euthanize) the animal in accordance with Section 1.B.7 of this Contract.
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 maximum of five (5) full business days or disposed of at any time at the discretion of the Contractor and/or Community Service Officer except as provided by applicable federal, state and local laws and regulations. Wild animals will not be sheltered by the Contractor.
5. Animal Redemption. Impounded animals shall 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, the Contractor will place a call to have the officer come to the BRHS shelter.
6. Court Holds. The Contractor will work with City Law Enforcement and the Community Service Officer on a case-by-case basis to determine if the Contractor will shelter animals for court holds and if so, define the maximum length of time the Contractor will hold the animals. The 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 BRHS 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 shall be

performed in a manner approved by the American Veterinary Medical Association Guidelines which will not subject the animal to any unnecessary pain and/or suffering.

C. Shelter Hours of Operation.

1. The Contractor agrees to keep the BRHS shelter facilities 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. Tuesday through Friday
 - 11:00 a.m. – 4:00 p.m. Saturday
 - Closed Sunday and MondayMajor holidays include New Year's Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Thursday and Friday, Christmas Eve and Christmas Day.
2. The Contractor reserves the right to close the BRHS shelter due to weather, special circumstances and major fund-raising events (e.g., Paws for Wine Event). The Contractor shall provide public notification of closure as appropriate.
3. The Contractor will provide City Animal Control personnel with a key to the BRHS shelter. This will allow Animal Control to deliver animals to the BRHS shelter during hours it is closed.
4. Should the City's Animal Control Officer wish to allow retrieval of impounded animals outside normal hours, they will have access to the BRHS shelter to provide this service. Contractor's staff may be asked to come to the BRHS shelter and release an impounded animal during the hours the shelter is closed.
5. The Contractor agrees to be available by telephone appointment to arrange pick up of Animal Control impounded animals during the following hours (except major holidays as listed in Section 1.C.1):
 - 7:00 a.m. - 12:00 p.m. Monday - Friday (telephone appointment only)
 - 7:00 a.m. - 11:00 a.m. Saturday (telephone appointment only)The City's Animal Control Officer will be available to assist when necessary.
6. The Contractor agrees to make available, at all times and on all days of the year, a specific area in the BRHS shelter for the purpose of immediately depositing animals brought in by the City Animal Control Officer or City Law Enforcement Officers. Bowls and water will be available for the animal being deposited.

D. Shelter Facilities. The Contractor agrees to maintain the BRHS shelter facilities on a daily basis 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 shall have the right (through properly authorized representatives) to enter and inspect the BRHS shelter facilities at any time during regular working hours without prior notice.

E. Disposition Records. The Contractor agrees to keep accurate and complete records of all animals received by it pursuant to this Contract showing the date, place, reason and manner in which the animals were delivered to the BRHS, shelter together with the disposition of the animals (including animals returned to owners). A summary of the above information shall be provided to the City as requested.

- F. Insurance. The Contractor shall indemnify and hold the City harmless in all respects from any and all claims arising out of the performance of this Contract. Likewise, the City shall indemnify and hold the Contractor harmless in all respects from any and all claims arising out of the performance of this Contract.

Section 2

Public Service/Length of Contract

- A. Public Service. The City expressly recognizes 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 the Contractor recognize, therefore, that the services which the Contractor provides under the terms of this Contract constitute and fulfill a public service.
- B. Length of Contract. This Contract shall be for a period of twelve (12) months, commencing on January 1, 2024 and shall be in effect through December 31, 2024. It shall automatically renew each year unless amended or terminated earlier by either party pursuant to Section 5, Paragraph B. The Contractor will 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 Animal Control budget.

Section 3

Compensation

- A. Flat Fee Payment. In consideration for the performance of services by the Contractor as stipulated in this Contract, the City will pay the Contractor a fee of \$45,000 per year in equal monthly installments on or before the 15th day of each month.
- B. Veterinary and Related Medical Care. The Contractor agrees to provide low maintenance level veterinary and related medical care to those sick or injured animals brought to BRHS and to those which become sick during impoundment. Low maintenance level care includes a clean space, appropriate food and fresh water. If an animal is suffering, pain medication, fluids or other treatments may be administered by the Contractor as deemed necessary by the Contractor's director. Emergency situations will be evaluated by the Contractor's director and Animal Control personnel, and will be acted on accordingly. If an animal is redeemed by its owner, such owner shall be responsible for all veterinary and related medical costs.

Section 4

Additional Obligations

- A. Liaison Officer. The Brookings Regional Humane Society Board President or designee shall act as the Contractor's liaison officer with the City. The City Manager of the City of Brookings or their designee shall act as liaison officer of the City with the Contractor, and

shall be responsible for the administration and enforcement of this Contract. All reports, recommendations and all other correspondence shall be directed to the appropriate person(s) responsible under this Contract whose duty it is to assure compliance with this Contract.

- B. Confidentiality. The Contractor agrees, to the extent permitted by law, to keep all information it receives concerning the names, addresses and telephone numbers of complainants, witnesses and license holders confidential. The Contractor shall, to the greatest extent possible, protect an individual's right to privacy and shall neither circulate nor permit to be circulated this information for any purpose(s) unrelated to the scope of this Contract. The Contractor shall 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.
- C. Mutual Cooperation. The City agrees to provide all reasonable cooperation and assistance to the Contractor, its officers, agents and employees in order to facilitate and accomplish the mutual objectives of this Contract. All Animal Control shelter forms shall be issued in the name of the City and supplied by the City to the Contractor at the City's expense. The City shall use such items only in strict confidence with the instructions and limitations set by the Contractor. The City agrees to comply with all of the 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 the Contractor acknowledge that these procedures may, from time to time, be amended. The City shall provide the proper training of their employees performing these duties.
- D. Communication. The Contractor, the City's Community Service Officers, the Chief of Police, and any other applicable personnel shall meet biannually to discuss any issues that arise concerning the performance of services by the Contractor and/or procedures employed by the Community Service Officers and/or City Law Enforcement Officers while fulfilling the obligations of this Contract. Additional ad hoc meetings shall be held at the request of either party,
- E. Conflict of Interest. No officer or employee of the City having the power, authority or duty to perform an official act or action related to this Contract shall acquire any interest in this Contract, and no officer or employee of the City shall solicit, accept or grant a present or future gift, favor, service or other thing of value from or to any person involved in this Contract.

Section 5

Default, Termination, and Remedies

A. Default.

1. Procedure for Default. In the event that either party fails to perform its obligations under this Contract, the aggrieved party shall provide (in order to declare default) a written notice to the other party specifying the default. Notice shall be given in the manner provided in Section 6, Paragraph D. This paragraph shall not, however, apply to default resulting from nonpayment on the part of the City, the procedures, and remedies for which are outlined in Section 5, Paragraph B2. 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 Contract by providing a written Notice of Termination to the other party. Termination of this Contract shall be accomplished by and effective upon the receipt of a Notice of Termination. This Notice shall be provided in the manner specified in Section 6, Paragraph D.
2. Waiver or Extension. The aggrieved party, however, shall 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 in order 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.

B. Termination.

1. General. This Contract 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 in order to be valid. This Contract may also be terminated without cause by either party upon sixty (60) days written notice to the other party. Notice shall be provided in the manner specified in Section 6, Paragraph D.
2. Termination-Default-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 Contract 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 Contract.

Section 6

Miscellaneous Provisions

- A. Entire Contract/Modification. This Contract constitutes the entire agreement of the parties concerning the subject matter described herein. All prior contemporaneous negotiations and understandings between the parties are embodied in this Contract, and it supersedes all prior Contracts and understandings between the parties hereto relating

to the subject of this Contract. No alteration or other modification of this Contract shall be effective unless such modification shall be in writing and signed by both parties.

- B. Severability. In the event any portion of this Contract should become invalid, the remainder of this Contract shall remain in full force and effect.
- C. Binding Effect. This Contract shall be governed by and construed in accordance with the laws of the State of South Dakota. This Contract shall be binding upon the successors in interest of the respective parties. This Contract may be assigned only with the express written consent of the non-assigning party.
- D. Notice. Any notice required under the terms of this Contract shall be deemed delivered and received when delivered in person or when mailed by certified mail to the parties at the addresses set forth in this Contract.

IN WITNESS WHEREOF, the City and the Contractor herein acknowledge that they have read, understand, and do freely and voluntarily execute this Contract on the dates and year written below.


Dated this ____ day of December, 2023.

Paul Briseno
City Manager

ATTEST:

Bonnie Foster
City Clerk
520 3rd Street, Suite 230
Brookings, SD 57006

Dated this ____ day of December, 2023.



Brianna Johnson BRHS Board
President 120 W. Second Street South
Brookings, SD 57006

Version Date: 12/11/2023