

## FACILITY USE AGREEMENT

In consideration of the mutual promises and covenants set out herein by and between **City of Breckenridge, Texas**, its successors and assigns (the "City"), and **Stephens County Humane Society**, its successors and assigns, (the "Society") hereby enter into this Facility Use Agreement (the "Agreement"), to be effective September 9, 2021.

WHEREAS, the Society is a non-profit animal welfare organization; and

WHEREAS, the City and the Society seek to enter into an agreement so that the Society may use City property to raise additional funds to support the Society.

NOW, THEREFORE, the City and the Society hereby agree as follows:

### 1. SERVICES

City grants Society the exclusive right and privilege to use City's facility at **210 N. Liveoak Street, Breckenridge, TX 76424** (the "Premises") for use as a re-sale shop, the proceeds from which will support the Society.

### 2. MAINTENANCE AND SANITATION

Society shall maintain all areas in a clean, sanitary condition in accordance with recognized standards and in accordance with all laws, ordinances, regulations and rules of Federal, State and local authorities. Minor maintenance will be the responsibility of the Society with major maintenance to be the responsibility of the City.

### 3. INDEMNIFICATION

Society shall and hereby does indemnify, hold harmless and defend City, its officers, directors, employees and agents from and against all claims, losses, liabilities, damages, and expenses (including reasonable attorney's fees) for personal injury, death, property damage, violations of federal, state, or local laws and regulations relating to use of the Premises, or other losses which are proximately caused by the Society, its employees or agents under this Agreement.

### 4. RENT; UTILITIES

The care and support provided by the Society for the animals in Breckenridge and Stephens County will be considered as rent payment on the Premises. The Society will obtain and pay for electric services for the Premises; the City will provide water, sewer, and solid waste services to the Premises at no cost to the Society.

### 5. TERM

This agreement shall be effective **September 9, 2021** for a period of one (1) year. This Agreement may be renewed for one additional year if the Society provides notice of its desire to renew the

Agreement to the City on or before September 8, 2021. Thereafter this Agreement will be reviewed and considered for reauthorization annually.

6. PUBLIC PURPOSE; AD VALOREM TAXES

The City declares that the Society's use of the Premises is a public purpose, because the funds raised by the Society will be used, in part, to help the animals in the community. However, if ad valorem taxes are assessed against the Premises, the Society will be responsible for the prompt payment of same.

7. BREACH; TERMINATION

In the event any provision of this Agreement is violated by either party, the other party shall serve written notice upon the breaching party setting forth the violations and demanding compliance with the agreement. Unless within 30 calendar days after serving such notice, such violations shall cease or arrangements (reasonably satisfactory to the suffering party) are made for corrections, the suffering party may terminate this Agreement by serving 30 days written notice of its intention to cancel the Agreement on the offending party by registered or certified mail.

8. VACATING PREMISES

Upon the termination or expiration of this Agreement, Society shall vacate all parts of the Premises occupied by Society and shall return same to City in the same condition as when originally made available to Society, reasonable wear and tear excepted. If Society fails to remove its property and effects upon termination or expiration of this Agreement, within a reasonable time, City shall have the right to remove and store all of said property and effects at the expense of Society.

8. NO PARTNERSHIP

Nothing in this Agreement is intended or will be construed to create any partnership, joint venture, joint enterprise or other similar joint relationship between the parties relating to the use of the Premises under this Agreement, nor shall either party be deemed to be an employee, agent or legal representative of the other for any purpose whatsoever. Neither party will have any authority, whether express, implied or apparent to assume or create any obligations for, on behalf of, in the name of, or for the benefit of the other.

9. NOTICES

All notices as required herein or otherwise to City shall be addressed to it at **105 North Rose Avenue, Breckenridge, TX 76424**. All notices to Society as required herein or otherwise shall be addressed to it at **606 W. Elm Street, Breckenridge, TX 76424**.

10. LAWS APPLICABLE

The provisions of this Agreement shall be construed under the laws of the State of Texas.

11. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement of the parties hereto relating to the use of the Premises and all previous communications between the parties whether written or oral with reference to the subject matter of this Agreement are canceled and superseded.

WITNESS our hands this and seals \_\_\_\_ day of September 2021.

\_\_\_\_\_  
Kathy O'Shields  
President, Stephens County Humane Society

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Erika McComis  
City Manager, City of Breckenridge

SWORN TO AND SUBSCRIBED BEFORE ME, this the \_\_\_\_\_ day of September,  
2021.

\_\_\_\_\_  
Notary Public, State of Texas

[NOTARY SEAL]