

AGREEMENT FOR FERAL CAT STERILIZATION AND RABIES VACCINATION SERVICES

This Agreement for Feral Cat Sterilization and Rabies Vaccination Services ("**Agreement**") is made this ___ day of _____, 2023 ("**Effective Date**") by and between the City of Independence, Iowa, (hereinafter, the "**City**") having its principal office located at 331 1st Street E., Independence, IA, 50644, and Premier Animal Wellness and Surgery (PAWS), a business currently located at 1116 5th Ave NE, with a permanent future location to be 405 Enterprise DR SW, Independence, IA 50644.

RECITALS

- A. Premier Animal Wellness and Surgery operates a veterinary clinic at its Independence, Iowa location ("**Facility**") capable of providing Feral Cat sterilization and rabies vaccination services to stray and feral cats ("**Feral Cats**");
- B. The City requires a facility to provide sterilization and rabies vaccination services for stray and Feral Cats located within the City's jurisdiction pursuant to a trap and release program; and
- C. The City desires to retain Premier Animal Wellness and Surgery to provide sterilization and rabies vaccination services at its Facility to sterilize and vaccinate stray and Feral Cats found within the City's jurisdiction.

NOW THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

AGREEMENT

1. **Recitals.** The recitals above are deemed true and correct and incorporated by reference as if fully restated in this Section.
2. **Term and Termination.**
 - (a) The term of this Agreement shall be a one (1) year period commencing on the Effective Date (the "**Initial Term**"). The Agreement shall automatically renew for subsequent one (1) year terms at the expiration of the Initial Term ("**Renewal Terms**") subject to termination as herein provided. The Initial Term and any Renewal Terms shall be collectively referred to as the "**Term**".
 - (b) Either Party may terminate this Agreement at any time and for any reason upon providing sixty (60) days' written notice to the other Party.
3. **Services.**
 - (a) Sterilization and Rabies Vaccination of Feral Cats. Subject to veterinarian availability, the City will bring no more than three (3) Feral Cats to PAWS on Tuesdays and Wednesdays to be sterilized and administered a rabies vaccination. The Feral Cats will then be temporarily held by PAWS until PAWS, at its sole discretion, determines that the Feral Cats can be safely discharged. Upon discharge, the City will return the Feral Cats to the location where they were originally trapped. PAWS will house Feral Cats brought to its Facility by the City pending discharge.

(b) Feral Cat Disposition.

- (i) PAWS shall have the right to humanely destroy any Feral Cat brought to it by the City for sterilization and rabies vaccinations that are determined by PAWS to be physically suffering, injured, or is found to have a communicable disease.
- (ii) A Feral Cat shall not be humanely destroyed until PAWS receives authorization from the Director of the City's Building and Code Enforcement Department or the City Manager. PAWS shall allow until the end of the business day for a response from the City before humanely destroying a Feral Cat in the absence of an affirmative statement of consent from the City. One business day shall mean the 8:00 a.m. to 5:00 p.m. period for one consecutive day beginning at 8:00 a.m. on the first business day after PAWS contacts the City.
- (iii) Euthanasia: Euthanasia (humane destruction) shall be by euthanasia by AVMA-accepted methods.
- (iv) Compensation. The City shall be liable for fees associated with services performed by PAWS under this Agreement and shall remit payment promptly upon invoice by PAWS. As full compensation for the services, the City shall pay PAWS in accordance with the fees and billing practices set forth in Appendix A, which is attached hereto and made part of this Agreement by reference.

4. Relationship of the Parties. Nothing in this Agreement shall in any way be construed to characterize or identify PAWS or any of its employees as an employee of the City, but instead, PAWS shall perform its duties and obligations hereunder as an independent non-exclusive contractor.

6. Indemnification. The City will indemnify PAWS and hold PAWS harmless against all costs, expenses, and liabilities, including the costs of defense, upon any claim by any third party that arises from the City's performance or non-performance of its duties and obligations under this Agreement provided PAWS notifies the City promptly of any notice of any such claim and PAWS cooperates with the City in all reasonable respects in connection with the investigation and defense of any such claim. The City shall direct such defense at its sole discretion. Notwithstanding the foregoing, the City shall not be obligated to defend PAWS for any claims arising out of PAWS's breach of this Agreement, recklessness, gross negligence, or any intentional tort committed in conjunction with PAWS's exercise or performance of its rights or obligations under this Agreement.

PAWS shall indemnify, defend, and hold harmless the City from any and all claims for personal injury to any person, property damage, or any other claim arising out of PAWS's performance or non-performance of its duties and obligations under this Agreement. The City shall notify PAWS promptly of any notice of such claim and the City shall cooperate with PAWS in all reasonable respects in connection with the investigation and defense of any such claim. PAWS shall direct such defense at its sole discretion. PAWS shall not be obligated to defend the City for any claims arising out of the City's breach of this Agreement, recklessness, gross negligence, or any intentional tort committed in conjunction with the City's exercise or performance of its rights or obligations under this Agreement.

7. Assignment. Neither party shall have the right to assign this Agreement or any of its rights or obligations created herein without the written consent of the other.

8. Force Majeure. If either party is unable to perform any of its obligations under this agreement, other than an obligation for the payment of money, by reason of any cause beyond its control, including, but not limited to Act of God, Governmental action, war, fire, road or air disasters, disease, strikes,

or other labor disputes, then neither Party shall be liable under this Agreement provided the party gives written notice of such cause to the other party promptly after it has knowledge of the occurrence thereof.

9. **Notice.** All written notices to be given to the City shall be addressed and mailed, by registered or certified mail, to the City Manager at 331 1st Street E., Independence, IA, 50644, and all written notices to be given to PAWS shall be addressed and mailed, by registered or certified mail, to its designated representatives at 405 Enterprise DR SW, Independence, IA 50644.
10. **Entire Agreement; Amendment.** This Agreement constitutes the entire Agreement between the parties in relation to the matters discussed herein and supersedes all agreements previously made between the parties relating to this subject matter. This Agreement may be amended, modified, or supplemented only upon written agreement signed by all the parties hereto.
11. **Non-Waiver.** No delay or failure by either party to exercise any right of this Agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right unless otherwise expressly provided herein.
12. **Headings.** Headings in this Agreement are for convenience and shall not be used to interpret or construe its provisions.
13. **Governing Law.** This Agreement shall be construed in accordance with and governed by the laws of the State of Iowa.
14. **Counterparts.** This Agreement may be executed in several counterparts, each of which, when so executed and delivered, shall be deemed an original, and all of which, when taken together, shall constitute the same instrument, even though all parties are not signatories to the original or the same counterpart. Furthermore, the parties may execute and deliver this Agreement by electronic means such as PDF or a similar format. The parties agree delivery of the Agreement by electronic means shall have the same force and effect as delivery of original signatures and each party may use such electronic signatures as evidence of the execution and delivery of the Agreement by all parties to the same extent as an original signature.
15. **Binding Effect.** The provisions of this Agreement shall be binding upon and inure to the benefit of the respective parties, their successors and assigns where permitted.

IN WITNESS WHEREOF, the parties have signed this Agreement the day and year above first written.

CITY:

Premier Animal Wellness and Surgery:

By: _____

By: _____

Matthew R. Schmitz, City Manager

Its: _____

Attest: _____
Susie Lampe, City Clerk

Approved by the Independence City Council on the _____ day of _____, 2023.

APPENDIX A
Service Fees & Billing Practices

Sterilization and Rabies Vaccination. The City shall be responsible for the following fees associated with Feral Cats brought in by the City:

- Feline Sterilization: \$35.00
- Rabies Vaccination: \$8.00
- Humane Destruction: \$43.00

Billing Practices.

- Premier Animal Wellness and Surgery shall provide itemized and detailed invoices to the City for services provided under this Agreement on a monthly basis. Each invoice shall be broken down by the specific services provided to each individual Feral Cat held or treated pursuant to this Agreement. Each invoice shall provide for a payment due date no earlier than thirty (30) days after said invoice is issued.