

**SECOND AMENDMENT TO LEASE BETWEEN
THE COUNTY OF SAN LUIS OBISPO AND
WOODS HUMANE SOCIETY, INC.**

This **SECOND AMENDMENT** is to that Lease dated December 11, 2001 (“Original Lease”), amended by a First Amendment to Lease on June 4, 2013 (“First Amendment to Lease”), by and between the County of San Luis Obispo, a political subdivision in the State of California (“County”) and Woods Humane Society, Inc., a California non-profit public benefit, 501(c)3 corporation (“Lessee”).

WHEREAS, County owns approximately 33.47 acres of real property located on or near 875 Oklahoma Avenue, south of Highway 1 in the County of San Luis Obispo, also known as APN 073-331-033 (“County Real Property”); and

WHEREAS, under the Original Lease, Lessee leased, pursuant to the terms and conditions set forth therein, a portion of the County Real Property commonly known as APN 073-331-033 consisting of approximately 4.31 acres of land at 875 Oklahoma Avenue, San Luis Obispo, California, (“Original Leased Premises”); and

WHEREAS, under the terms and conditions set forth in the Original Lease, as amended, County consented and Lessee agreed to finance, construct, maintain, and operate a 23,729 square foot non-profit animal service and humane shelter facility (“Shelter Facility”) within the boundaries of the Original Leased Premises; and

WHEREAS, County and Lessee entered into a Memorandum of Understanding dated December 11, 2001 (“MOU”) to memorialize their understanding for the coordination of the adoption and licensing of homeless domestic dogs and cats in San Luis Obispo County at the Shelter Facility; and

WHEREAS, County and Lessee entered into the First Amendment to Lease, wherein certain provisions of the Original Lease were amended and the MOU was terminated in its entirety; and

WHEREAS, the First Amendment to Lease provides that cash rent be waived in lieu of Lessee’s obligations to perform certain functions and responsibilities under the Original Lease, as amended; and

WHEREAS, County and Lessee now wish to enter into a Second Amendment to Lease to memorialize the new terms and conditions set forth herein and below; and

WHEREAS, Lessee intends on constructing an addition and remodel to the existing Shelter Facility; and

WHEREAS, County desires to construct a new County Animal Services Facility; and

WHEREAS, County hired an outside consultant to prepare a Site Suitability Analysis to determine and recommend site selection for construction of the new County Animal Services Facility; and

WHEREAS, in accordance with the Site Suitability Analysis dated December 10, 2015, County requires approximately 1.81 acres of the Original Lease Premises (4.31 acres) leased to Lessee to construct the new County Animal Services Facility; and

WHEREAS, County granted permission for Lessee to finance, construct, and maintain a five (5) foot wide decomposed granite dog walking path (“DG Path”) used exclusively by Lessee on a portion of the Original Leased Premises of which a portion of the DG Path meanders over the required 1.81 acres. To the extent the County Board of Supervisors approves funding and constructs the new County Animal Services Facility project, County agrees to construct a new non-exclusive like-kind dog walking path as part of that project; and

WHEREAS, Lessee herein represents that the existing parking facilities at the Original Leased Premises are inadequate for Lessee’s employees, volunteers and visitors to the Shelter Facility. County agrees to evaluate a shared parking lot/facility at such time as construction of the new County Animal Services Facility is completed, if any, and the parties may enter into a lease amendment which provides for a shared parking lot/facility, the size and terms of which are not determined at this time.

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, the County and Lessee agree as follows:

The Original Lease, as amended, is hereby further amended as follows:

1. Section 1 (PREMISES) of the Lease is hereby deleted in its entirety and replaced with the following:

Grant and Description of Premises: County, for and in consideration of the promises contained herein, grants to Lessee, and Lessee hereby hires and takes from County, for the term and upon the conditions herein set forth, those certain premises described as a portion of APN 073-331-033 consisting of approximately 2.5 acres of County Real Property with improvements at 875 Oklahoma Avenue, San Luis Obispo, California, as identified on Exhibit “A” attached hereto and made a part hereof (“Leased Premises”).

2. Section 3 (TERM), subsection 3 of the Original Lease, as amended by the First Amendment to Lease, is hereby deleted in its entirety and replaced as follows:

Term: The Term of this Lease commenced on December 11, 2001 (“Commencement Date”) and shall continue for a term of fifty (50) years expiring on December 10, 2051. Lessee shall have the option to extend this Lease for two (2) additional consecutive terms of five (5) years each. Any extension option must be in writing and be signed by Lessee not later than ninety (90) days prior to the expiration of the Lease Term or the effective extension term.

3. Section 5 (CONSTRUCTION ON PREMISES) of the Original Lease, as amended by the First Amendment to Lease, shall be amended to add the following paragraphs at the end of Section 5:

Lessee shall have the right to finance and construct an approximately 1,775 square foot addition and a 3,007 square foot remodel to Lessee's existing 23,729 Shelter Facility located on 2.5 acres of County Real Property as fully described in Section 15 of this Second Amendment to Lease. However, no additional improvements of any type shall be constructed or located on the Leased Premises unless and until design, location, and type of any and all proposed construction materials have been approved in writing by the Director, or Director's designee. Lessee shall not unreasonably inhibit or impact, in any manner, the public use of any other County facilities or property appurtenant or for any reason cause closure of access to said facilities during construction of the Leased Premises. All areas surrounding the Leased Premises shall be preserved as currently utilized and any damage caused as a result of Lessee or Lessee's agents or contractors shall promptly be repaired and restored to County satisfaction.

At no time shall the construction related to this project disrupt the delivery of utilities to the other County facilities affected by the services. Lessee shall be responsible for the monitoring of all activities during Lessee's use of the Leased Premises and remodel and construction of additional improvements, and shall comply with all such rules and regulations necessary to protect the health, safety, and welfare of the public therein. Lessee acknowledges that the Leased Premises shall remain clean and public shall be restricted at all times from accessing those areas of the Leased Premises that are under construction.

In the remodel and construction of the additional improvements, the following shall apply:

- 1) Lessee's use of the Leased Premises is subject to all statutes, ordinances and regulations, including, without limitation, those relating to land use and zoning now or hereafter applicable to the Leased Premises, and to all covenants, easements, reservations and restrictions of record applicable to the Leased Premises. Lessee shall be solely responsible for procuring any and all permits, adherence to regulations and requirements of the County, or other appropriate agencies for this project.
- 2) Lessee shall be responsible for developing and maintaining landscaping on the Leased Premises. All utilities to the Leased Premises shall be separately metered and extended at Lessee's sole cost and expense. Said separately metered utilities shall include water, sewer, electricity, and natural gas. Lessee shall be responsible for telephone service to the facilities. Any utilities that are currently in place on the Leased Premises shall remain or be replaced to the County, without disruption, by Lessee at Lessee's sole cost and expense.

- 3) Lessee shall be responsible for obtaining an environmental determination. If an EIR or other environmental review is needed Lessee shall comply at Lessee's sole cost and expense. Lessee shall be responsible for any and all environmental mitigation at Lessee's sole cost and expense.

Title to improvements constructed by Lessee hereunder shall vest with Lessee during the term hereof and any extensions hereto.

Lessee shall finance and construct the proposed remodel and additional improvements at Lessee's sole cost and expense, and Lessee shall in no way encumber the Leased Premises for the purpose of securing financing.

Lessee shall seek and obtain its own legal advice with regard to the applicability of State or Federal wage regulations and other labor laws, or other laws, including application of ordinances and regulations of the County of San Luis Obispo, in which the Leased Premises is located.

4. Section 7 (USE OF LEASED PREMISES) of the Original Lease, as amended by the First Amendment to Lease, shall be amended to add the following at the end of Section 7:

Lessee may continue to use the DG Path located on a portion of the 1.81 Acres for Lessee's dog walking purposes, until such time as County commences construction activities on the 1.81 Acres. At such time as Lessee is no longer permitted to continue using the DG Path, County and Lessee shall mutually agree on an alternative location not on the 1.81 Acres, for Lessee's dog walking purposes. Lessee shall obtain a temporary no cost use permit from County's Real Property Manager prior to its continued use of the 1.81 Acres, and shall abide by the terms and conditions of said use permit.

5. Section 12 (MAINTENANCE AND PREMISES) of the Original Lease shall be amended by adding the following at the end of the Section:

Lessee shall have in place at all times a reasonable weed abatement program which shall comply with all requirements of all local, municipal, County, State and Federal statutes, rules, and regulations now in force or which may hereafter be established.

6. Section 15 (REMODELING, ALTERATIONS, AND ADDITIONS) of the Original Lease, as amended by the First Amendment to Lease, shall be amended to add the following paragraphs at the end of the Section:

Lessee intends to construct and County has given consent for Lessee to remodel and construct additional improvements to the existing 23,729 square foot Shelter Facility for feline housing ("Cattery Expansion") described below. The proposed Cattery Expansion will include:

1) An additional 889 square foot feline housing unit consisting of two community cat rooms with attached outdoor patios, six adoption pods, three small community kitten rooms and two open air patios; and

2) An additional 886 square foot administrative office space consisting of a volunteer check in station, volunteer coordinator office, four additional offices and a conference room; and

3) A 3,007 square foot remodel of an existing unfinished kennel consisting of the removal of one wall and door, adding of a new partition wall with stucco finish at exterior, an exterior fiberglass double door, fiberglass interior door, windows, two sliding doors, forced air unit, and electrical outlets using existing electrical circuits.

Lessee's interest shall at all times be in compliance with all laws including, but not limited to, federal and state Constitutions, federal and state statutes, implementing regulations, local ordinances and agency rulings whether or not these laws are enacted or promulgated as urgency measures under police powers or for health and safety reasons whether currently existing, amended or new enactments. Lessee expressly agrees at all times during the term of this Lease, at its own cost and expense, to maintain and operate the Leased Premises and areas adjacent, in a clean, safe, wholesome and sanitary condition, free of trash, garbage or obstruction of any kind, and in compliance with any and all present and future laws, rules or regulations of any governmental authority, now or at any time during the term of this Lease in force, relating to sanitation or public health, safety or welfare.

Lessee shall be solely responsible for providing all services, equipment, supplies, and personnel for the administration, staffing, operation and maintenance of the Lessee's business at the Leased Premises. Lessee shall comply with all labor laws and tax laws.

7. Section 29 (DRUG FREE WORKPLACE) of the Original Lease, as amended by the First Amendment to Lease, shall be amended to amend and add the following:

Amend Section 29 heading to read as follows: "**Drug Free Workplace and Smoking Policies:**"

The first sentence in the First Amendment to Lease is deleted in its entirety and replaced with: "Lessee and Lessee's employees, volunteers, and agents shall comply with County's policy of a drug free workplace."

Added second paragraph: "Lessee shall comply with and observe any and all applicable statutes, ordinances, rules and regulations, including, those of the federal, state, municipal, County or other public authority regulating smoking on County properties, including those statutes, ordinances, rules and regulations applying to buildings or structures owned, leased or otherwise operated by the County of San Luis Obispo to conduct County business. Notwithstanding any smoking prohibition set forth by County ordinance, any Lessee may request

written approval of a designated smoking area by the County Public Health Officer, if permitted by law or statute.”

8. Adding **Section 39: Storm Water Control Plan and Storm Water Management**: At the time of application for construction permits, Lessee shall submit a Storm Water Control Plan (SWCP) prepared by an appropriately licensed professional to the Director, or Director’s designee, for review and approval. The SWCP shall incorporate Best Management Practices (BMPs), shall demonstrate compliance with Storm Water Quality Standards and shall include a preliminary drainage plan, and a preliminary erosion and sedimentation plan. Lessee shall submit complete drainage calculations for review and approval.

At the time of application for construction permits, Lessee shall submit a draft “Private Storm Water Conveyance Management and Maintenance System” exhibit for review and approval by the Director, or Director’s designee.

Prior to issuance of construction permits, the applicant shall record with the County Clerk the “Private Storm Water Conveyance Management and Maintenance System” to document on-going and permanent storm drainage control, management, treatment, disposal and reporting.

For the life of the Shelter Facility, the Shelter Facility shall comply with the requirements of the National Pollutant Discharge Elimination System Phase I and/or Phase II storm water program and the County’s Storm Water Pollution Control and Discharge Ordinance, Title 8, Section 8.68 et seq.

9. Adding **Section 40: County Construction of Proposed New Animal Services Facility**: County to exercise due care to ensure that construction related to the proposed new County Animal Services Facility, does not unreasonably disrupt the delivery of utilities to Lessee’s Leased Premises.

10. Whenever reference is made to “Department of General Services” or “General Services Agency” in the Lease or the First Amendment to Lease, “Department of General Services” or “General Services Agency” shall mean “Central Services Department.”

11. Whenever reference is made to “General Services Agency Director” or “General Services Director” in the Lease or the First Amendment to Lease, “General Services Agency Director” or “General Services Director” shall mean “Director of Central Services, or Director’s designee.”

Except as set forth herein all other terms and conditions in the Lease and First Amendment to Lease shall remain in full force and effect. In the event any term or condition herein conflicts with any other provision in the Lease, the term and condition herein shall control.

////////////////////////////////// **NOTHING FURTHER PAST THIS POINT**//////////////////////////////////

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to Lease this _____ day of _____, 2016.

COUNTY OF SAN LUIS OBISPO

LESSEE:

Woods Humane Society, Inc., a California non-profit public benefit, 501(c)(3) corporation

By: _____
Chairperson of the Board of Supervisors

By: Jill Tucker
Jill Tucker
Executive Director

APPROVED BY THE BOARD OF SUPERVISORS

Date: 8/30/16

This _____ day of _____, 2016

ATTEST:

Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL
County Counsel

By: Samuel Hahn
Deputy County Counsel

Date: 8/29/16

EXHIBIT "A"

COUNTY REAL PROPERTY (2.5 Acres)

