

FORSYTH COUNTY

BOARD OF COMMISSIONERS

MEETING DATE: AUGUST 17, 2017 AGENDA ITEM NUMBER: 5

SUBJECT: A. RESOLUTION AUTHORIZING PUBLICATION OF A PROPOSED LEASE AND AGREEMENT BETWEEN FORSYTH COUNTY AND FORSYTH COUNTY HUMANE SOCIETY & S.P.C.A., INC. FOR THE HUMANE SOCIETY TO PROVIDE CUSTODY AND CARE OF DOGS AND CATS AT THE FORSYTH COUNTY ANIMAL CONTROL SHELTER

B. RESOLUTION AUTHORIZING FORSYTH COUNTY HUMANE SOCIETY & S.P.C.A., INC. TO IMPOSE FEES FOR THE CARE, CUSTODY, ADOPTION, TRANSFER AND REDEMPTION OF ANIMALS IN ITS CARE AND CUSTODY CONSISTENT WITH ITS FEE SCHEDULE

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS: Recommend Approval

SUMMARY OF INFORMATION: See Attached

ATTACHMENTS: YES NO

SIGNATURE: J. Kendrick Cletts Jr. **COUNTY MANAGER** **DATE:** August 16, 2017

**RESOLUTION AUTHORIZING PUBLICATION OF A PROPOSED
LEASE AND AGREEMENT BETWEEN FORSYTH COUNTY AND FORSYTH
COUNTY HUMANE SOCIETY & S.P.C.A., INC. FOR THE HUMANE SOCIETY TO
PROVIDE CUSTODY AND CARE OF DOGS AND CATS AT THE FORSYTH COUNTY
ANIMAL CONTROL SHELTER**

WHEREAS, Forsyth County staff and Forsyth County Humane Society & S.P.C.A., Inc. (hereinafter "Humane Society") staff have negotiated the terms of a proposed lease and agreement for the Humane Society to provide custody and care of dogs and cats at the Forsyth County Animal Shelter; and

WHEREAS, the terms of the proposed lease and agreement include the following: 1) an initial two-year lease and agreement with automatic renewal for two additional five year terms; 2) exclusive use by Humane Society of 11,579 square feet of the Forsyth County Animal Shelter; exclusive use by the County of 7,951 square feet, and shared use of 2,768 square feet; 3) Humane Society to maintain the space exclusively used by it and the County to maintain the remaining square footage; 4) Humane Society will provide for the care, custody, adoption, transfer and redemption of all canines and felines brought to the Animal Control Shelter at its price point, excluding animals which are part of Court proceedings or held under "dangerous dog" provisions or rabies quarantine; 5) Forsyth County will compensate the Humane Society in an annual not-to-exceed amount of \$510,714 for its services with a 2% annual inflationary adjustment; 6) Forsyth County or other certified euthanization technicians will be responsible for euthanizations; and 7) Forsyth County will be responsible for utilities and existing telephone lines and provide capital repairs for damage due to normal wear and tear; Humane Society will be responsible for damage to the leased area not due to normal wear and tear; and

WHEREAS, the Humane Society and Forsyth County staff request authorization to publish a proposed lease and agreement between Forsyth County and Humane Society pursuant to the provisions of N.C.G.S. 160A-272;

NOW, THEREFORE, BE IT RESOLVED that the Forsyth County Board of Commissioners hereby authorizes the publication pursuant to the provisions of N.C.G.S. 160A-272 of a proposed lease and agreement between Forsyth County and Humane Society for the Humane Society to provide custody and care of dogs and cats at the Forsyth County Animal Control Shelter.

Adopted this 17th day of August 2017.

LEASE AND AGREEMENT

THIS LEASE AND AGREEMENT ("Agreement"), made and entered into on September 1, 2017, by and between Forsyth County ("Landlord" or "County"), a political subdivision of the State of North Carolina, and Forsyth County Humane Society & S.P.C.A., Inc. ("Tenant"), a North Carolina nonprofit corporation;

For the purpose and subject to the terms and conditions hereinafter set forth, the parties agree that Landlord shall lease to Tenant the property hereinafter identified, and Tenant agrees to provide services to Landlord in accordance with the terms of this Agreement.

1. PREMISES

Landlord, for and in consideration of the rents, conditions, and consideration hereinafter mentioned, provided for and covenanted to be paid, kept and performed by Tenant, leases to Tenant eleven thousand five hundred seventy-nine (11,579) square feet of area within the building located at 5570 Sturmer Park Circle, Winston-Salem, North Carolina, as shown in Exhibit 1, attached hereto and incorporated herein by reference (hereinafter called the "Premises").

Tenant will have shared use of meeting space, common areas, communications room storage areas, filing area, lunch area (with vending machines), restrooms, washing machines, dishwashers, and other facility maintenance equipment.

2. TERM

The Tenant shall have and hold the Premises for an initial term of two years beginning on September 1, 2017, and ending on August 31, 2019, and renewable for two five-year terms beginning September 1, 2019 and ending August 31, 2029, unless sooner terminated as hereinafter provided. Notwithstanding anything to the contrary herein, Landlord may terminate the Agreement, for any reason or for no reason, by providing written notice to Tenant of at least 90 days. Tenant may terminate the Agreement for any reason or for no reason by providing written notice to Landlord of at least 90 days.

3. COMPENSATION

Landlord agrees to pay Tenant without demand, deduction or set off, except for pro-rating as appropriate, an annual amount not to exceed \$510,714 for providing custody, care, intake, and redemption of dogs and cats and maintenance of assigned space at the Forsyth County Animal Shelter with a 2% annual inflationary adjustment.

The annual compensation will be paid by Landlord at the rate of 20% upon full execution of the Lease and Agreement and the remaining 80% will be payable during the following eleven months of the year. This payment schedule shall continue during the remainder of the lease term.

4. UTILITIES

Landlord shall be responsible for providing electric, water, stormwater, sewer, phone lines, and gas service to the Premises. Tenant shall be responsible for providing its own telephone, computer and internet service, except that one telephone line will be adjusted to the Humane Society for adoptions.

5. USE OF PREMISES

A. The Premises shall be used by Tenant solely for the purpose of providing custody and care of canines and felines brought to the shelter including owner surrendered animals during their evaluation period before adoption, and excluding custody of animals that are part of court proceedings, custody of animals that are held under dangerous dog provisions and custody of animals held under rabies quarantine. The Premises shall not be used for any illegal purposes, housing of staff or clientele, or in any manner to create any nuisance or trespass, nor in any manner to vitiate the insurance or increase the rate of insurance on the Premises. In the event Tenant's use of the Premises results in an increase in the rate of insurance on the Premises, Tenant shall pay to Landlord, upon demand, the amount of any such increase. This Lease shall be terminated immediately if the Premises are no longer used for the purpose set forth herein.

B. Landlord will have custody and provide care for all non-canines and non-felines such as livestock, reptiles, bats, foxes, etc. Tenant will cooperate with the Landlord's adoption process for their animals. Landlord can store and display these animals on the premises.

C. Tenant will be responsible for the provision of all canine or feline adoptions of animals accepted and transferred into the custody of the Humane Society and redemptions of canines and felines at the Forsyth County Animal Shelter after approval or authorization by Landlord.

Tenant will also manage and serve as sole coordinator of breed rescue, transfer, adoption, and animal welfare agencies.

D. Tenant Management will seek input from the Landlord Shelter Management in making decisions on which animals are accepted into the Tenant's adoption program.

E. All euthanizations will be carried out by Landlord or other certified euthanization technicians.

F. Tenant agrees to comply with Chapter 6 of the Forsyth County Code and all other applicable local, State and federal laws.

G. Tenant will adopt or transfer animals in their custody at their price points as opposed to Section 6-10 which will still apply to animals in Landlord custody.

H. Landlord will retain the authority granted in Section 6-47, Destruction or Adoption of Unredeemed Animal Generally, 6-51, Immediate Placement for Adoption or Destruction of Animal Surrendered by Owner, 6-54, Possession of

Inherently Dangerous Exotic Animals and Wild Animals Prohibited, 6-57, Appeal Procedures, of the Forsyth County Code.

- I. Landlord will collect any outstanding animal license fee during the redemption or adoption process.

6. INDEMNITY; INSURANCE

Tenant agrees to and hereby does indemnify and hold Landlord harmless against all claims for damages to persons or property by reason of Tenant's use or occupancy of the Premises, and all expenses incurred by Landlord, including attorney's fees and court costs. Supplementing the foregoing and in addition thereto, Tenant shall during the term of this Lease and any extension or renewal thereof, and at Tenant's expense, maintain in full force the following insurance coverage:

A. Commercial General Liability Insurance. The Tenant shall maintain occurrence version commercial general liability insurance or equivalent form with a limit of not less than \$1,000,000 each occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than three times the occurrence limit. Such insurance shall:

1. **Include the County, its officials, officers, and employees as additional insureds** with respect to performance of the Services. The coverage shall contain no special limitations on the scope of protection afforded to the above listed insureds.
2. Be primary with respect to any insurance or self-insured retention programs covering the County, its officials, officers, and employees.

The requirements of this section may be satisfied by a combination of self-insurance and Excess Liability insurance.

B. Commercial Property Insurance. The Landlord is responsible for maintaining property insurance for the building located at 5570 Sturmer Park Circle, Winston-Salem, NC. The Tenant is solely responsible for maintaining insurance coverage for any improvements made to the building by the Tenant and any business personal property of the Tenant. In no event will the Landlord be required to repair or replace any improvements or personal property owned by the Tenant, its employees, or contractors.

C. Other Insurance Requirements. The Tenant shall:

1. Furnish the County with properly executed certificates of insurance which shall clearly evidence all insurance required in this section.
2. Provide certified copies of endorsements and policies, if requested by the County, in lieu of or in addition to certificates of insurance.
3. Replace certificates, policies, and endorsements for any such insurance expiring prior to completion of the services.

4. Maintain such insurance from the time the lease commences until the lease is terminated.

5. Place such insurance with insurers authorized to do business in North Carolina and having A. M. Best Company ratings of not less than A:VII. Any alternatives to this requirement shall require written approval of the County's Risk Manager.

D. The Tenant understands and acknowledges that these insurance coverage requirements are minimums and that they do not restrict or limit the hold harmless provisions of this agreement.

7. SERVICES BY LANDLORD

Landlord agrees to keep in good repair the Premises, except repairs rendered necessary by the negligence or intentional wrongful acts of Tenant, its agents, employees or invitees. Landlord shall provide reasonable building maintenance services, provided that Landlord shall not maintain any property belonging to Tenant or provided or altered by Tenant. Landlord shall maintain the grounds surrounding the building, including paving, the mowing of the grass, care of shrubs, general landscaping and snow removal as scheduled by Landlord. Landlord shall provide routine housekeeping services for the common areas and the Premises occupied by Landlord. Tenant shall provide routine housekeeping services for the Premises occupied by the Tenant. Landlord is not responsible for any damage to the Premises by Tenant. Tenant shall be responsible for employee safety. Tenant shall promptly report in writing to Landlord any defective condition known to it which Landlord is required to repair.

8. REPAIRS BY TENANT

Tenant accepts the Premises in their present condition and as suited for the uses intended by Tenant. Tenant agrees to maintain its assigned square footage in clean and sanitary condition and to return the Premises to the Landlord at the expiration or prior termination of this Lease, in as good condition and repair as when first received, natural wear and tear, damage by storm, fire, lightning, earthquake or other casualty alone excepted. Tenant, Tenant's employees, agents, contractors or subcontractors shall take no action which may void any manufacturers or installers warranty with relation to the Premises. Tenant shall indemnify and hold Landlord harmless from any liability, claim, demand or cause of action arising on account of Tenant's breach of the provisions of this paragraph.

9. ALTERATIONS

Tenant shall not make any alterations, additions, or improvements to the Premises without Landlord's prior written consent. Tenant shall promptly remove any alterations, additions, or improvements constructed in violation of this Paragraph upon Landlord's written request. All approved alterations, additions, and improvements will be accomplished in a good and workmanlike manner, in

conformity with all applicable laws and regulations, and by a contractor approved by Landlord, free of any liens or encumbrances. Landlord may require Tenant to remove any alterations, additions or improvements (whether or not made with Landlord's consent) at the termination of the Lease and to restore the Premises to its prior condition, all at Tenant's expense. All alterations, additions and improvements which Landlord has not required Tenant to remove shall become Landlord's property and shall be surrendered to Landlord upon the termination of this Lease, except that Tenant may remove any of Tenant's machinery or equipment which can be removed without material damage to the Premises. Tenant shall repair, at Tenant's expense, any damage to the Premises caused by the removal of any such machinery or equipment.

10. REMOVAL OF FIXTURES

Tenant may (if not in default hereunder) prior to the expiration of this Lease, or any extension or renewal thereof, remove all fixtures and equipment which it has placed in the Premises, provided Tenant repairs all damage to the Premises caused by such removal.

11. DESTRUCTION OF OR DAMAGE TO PREMISES

If the Premises are totally destroyed by storm, fire, lightning, earthquake or other casualty, this Lease shall terminate as of the date of such destruction and compensation under this Lease and Agreement shall be accounted for as between Landlord and Tenant as of that date. If the Premises are damaged but not wholly destroyed by any such casualties, compensation shall abate in such proportion as effective use of the Premises has been affected and Landlord shall restore Premises to substantially the same condition as before damage as speedily as is practicable, whereupon full compensation shall recommence. Tenant is responsible for insuring its personal property stored on the Premises, and Landlord shall not be responsible for any damage or loss to Tenant's property.

12. GOVERNMENTAL ORDERS

Tenant agrees, at its own expense, to comply promptly with all requirements of any legally constituted public authority made necessary by reason of Tenant's occupancy of the Premises. Landlord agrees to comply promptly with any such requirements if not made necessary by reason of Tenant's occupancy.

13. CONDEMNATION

If the whole of the Premises, or such portion thereof as will make the Premises unusable for the purposes herein leased, is condemned by any legally constituted authority for any public use or purpose, then in either of said events the term hereby granted shall cease from the date when possession thereof is taken by public authorities, and rental shall be accounted for as between Landlord and Tenant as of said date. Such termination, however, shall be without prejudice to the rights of either Landlord or Tenant to recover compensation and damage caused by condemnation from the condemner. It is further understood and agreed

that Tenant shall not have any rights in any award made to Landlord by any condemnation authority.

14. ASSIGNMENT AND SUBLETTING

Tenant shall not, without the prior written consent of Landlord, assign this Lease or any interest hereunder, or sublet the Premises or any part thereof, or permit the use of the Premises by any party other than the Tenant. Consent to any assignment or sublease shall not impair this provision and all later assignments or subleases shall be made likewise only on the prior written consent of Landlord. The Assignee of Tenant, at the sole option of Landlord which option may be exercised only by written notice of Landlord to Tenant, may become directly liable to Landlord for all obligations of Tenant hereunder, but no sublease or assignment by Tenant shall relieve Tenant of any liability hereunder. Any assignee or sublessee of the Premises must comply with the use provisions set forth in Section 6 herein.

15. EVENTS OF DEFAULT

To the extent allowed by law, the happening of any one or more of the following events (hereinafter any one of which may be referred to as an "Event of Default") during the term of this Lease or any renewal or extension thereof, shall constitute a breach of this Lease on the part of the Tenant: (a) Tenant abandons or vacates the Premises; (b) Tenant fails to comply with or abide by and perform any other obligation imposed upon Tenant under this Lease; (c) Tenant's effects are levied upon or attached under process against Tenant, which is not satisfied or dissolved within thirty (30) days after written notice from Landlord to Tenant to obtain satisfaction thereof.

16. REMEDIES UPON DEFAULT

Upon the occurrence of Event of Default, Landlord may pursue any one or more of the following remedies separately or concurrently, without prejudice to any other remedy herein provided or provided by law; (a) if the Event of Default involves a default in performing any of the terms or provisions of this Lease and Tenant fails to cure such default within five (5) days after receipt of written notice of default from Landlord, Landlord may terminate this Lease. (if Tenant has failed to cure such default after receiving 30 days written notice) by giving written notice to Tenant and upon such termination shall be entitled to recover from Tenant damages as may be permitted under applicable law; or (b) if the Event of Default involves any matter other than those set forth in item (a) of this paragraph, Landlord may terminate this Lease by giving written notice to Tenant and, upon such termination, shall be entitled to recover from the Tenant damages; or (c) upon any Event of Default (if Tenant has failed to cure such default after 5 days written notice), Landlord may, without terminating this Lease, re-let the Premises, in whole or in part, for any term Landlord deems proper, with Tenant being liable to Landlords for the deficiency, if any, provided however, that Landlord shall not be considered to be under any duty by reason of this provision

to take any action to mitigate damages by reason of Tenant's default. In the event Landlord hires an attorney to enforce its rights upon default, Tenant shall in addition be liable for reasonable attorney's fees.

17. EXTERIOR SIGNS

Tenant shall place no signs upon the outside walls or roof of the Premises, except with the express written consent of the Landlord. Any and all signs placed on the Premises by Tenant shall be maintained in compliance with governmental rules and regulations governing such signs and Tenant shall be responsible to Landlord for any damage caused by installation, use or maintenance of said signs, and all damage incident to removal thereof.

18. PARKING

Tenant shall be entitled to use parking spaces as available and as assigned by Landlord in the lots serving the Premises.

19. LANDLORD'S ENTRY OF PREMISES

Landlord may enter the Premises at any time necessary to access the Animal Shelter at 5570 Sturmer Park Circle and at reasonable hours to inspect the Premises and to make repairs required of Landlord or to provide services under the terms hereof or to make repairs to Landlord's adjoining property, if any.

20. EFFECT OF TERMINATION OF LEASE

No termination of this Agreement prior to the normal ending thereof, by lapse of time or otherwise, shall affect Tenant's responsibility to perform under the Agreement prior to termination thereof.

21. MORTGAGEE'S RIGHTS

Tenant's rights shall be subject to any bona fide mortgage, deed of trust or other security interest which is now or may hereafter be placed upon the Premises by Landlord. Tenant shall, if requested by Landlord, execute a separate agreement reflecting such subordination, and shall be obligated to execute such documentation as may facilitate Landlord's sale or refinancing of the Premises, including, but not limited to estoppel certificates, subordination or attornment agreements.

22. QUIET ENJOYMENT

So long as Tenant observes and performs the covenants and agreements contained herein, it shall at all times during the Lease term peacefully and quietly have and enjoy possession of the Premises, but always subject to the terms hereof. Notwithstanding anything to the contrary herein, in the event Landlord shall sell or otherwise transfer its interest in the Premises, Tenant agrees to attorn to any new owner or interest holder and shall, if requested by Landlord, execute a separate agreement reflecting such attornment, provided that said agreement

requires the new owner or interest holder to recognize its obligations and Tenant's rights hereunder.

23. HOLDING OVER

If Tenant remains in possession of the Premises after expiration of the term hereof, with Landlord's acquiescence and without any express agreement of the parties, Tenant shall be a tenant at will at the same compensation rate which is in effect at end of this Agreement and there shall be no renewal of this Lease by operation of law. If Tenant remains in possession of the Premises after expiration of the term hereof without Landlord's acquiescence, Tenant shall be a tenant at sufferance.

24. RIGHTS CUMULATIVE

All rights, powers and privileges conferred hereunder upon parties hereto shall be cumulative and not restrictive of those given by law.

25. WAIVER OF RIGHTS

No failure of Landlord or Tenant to exercise any power given hereunder or to insist upon strict compliance of its obligations hereunder and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of Landlord's or Tenant's right to demand exact compliance with the terms hereof.

26. ENVIRONMENTAL LAWS

Tenant shall be liable for all environmental damage, liability or cost, including reasonable attorney's fees, arising out of Tenant's use of the Premises and shall defend and hold Landlord harmless from any claims or actions relating to environmental damage, spills, exposure or other effects caused by Tenant within the Premises. Tenant shall comply with all federal, state, and local laws, ordinances, and regulations. Tenant shall not bring onto the Premises any Hazardous Materials without the prior written approval by Landlord. Any approval must be preceded by submission to Landlord of appropriate Material Safety Data Sheets (MSDS Sheets). In the event of approval by Landlord, Tenant covenants that it comply with all requirements of any constituted public authority and all federal, state, and local codes, statutes, rules and regulations, and laws, whether now in force or hereafter adopted relating to Tenant's use of the Premises, or relating to the storage, use, disposal, processing, distribution, shipping or sales of any hazardous, flammable, toxic or dangerous materials, waste or substance, the presence of which is regulated by a federal, state, or local law, ruling, rule or regulation (hereafter collectively referred to as "Hazardous Materials"); (2) comply with any reasonable recommendations by the insurance carrier of either Landlord or Tenant relating to the use by Tenant on the Premises of such Hazardous Materials; (3) refrain from unlawfully disposing of or allowing the disposal of any Hazardous Materials upon, within, about or under the Premises; and (4) remove all Hazardous Materials from the Premises, either after

their use by Tenant or upon the expiration or earlier termination of this Lease, in compliance with all applicable laws.

27. TIME OF ESSENCE

Time is of the essence in this Agreement.

28. ABANDONMENT

Tenant shall not abandon the Premises at any time during the Lease term. If Tenant shall abandon the Premises or be dispossessed by process of law, any personal property belonging to Tenant and left on the Premises shall, at the option of Landlord, be deemed abandoned, and available to Landlord to use or sell to offset any expenses incurred by removing same and restoring the Premises.

29. DEFINITIONS

“Landlord” as used in this Lease shall include the undersigned, its representatives, assigns, and successors in title to the Premises. “Tenant” shall include the undersigned and its representatives, assigns and successors, and if this Agreement shall be validly assigned or sublet, shall include also Tenant’s assignees or sublease as to the Premises covered by such assignment or sublease. “Landlord” and “Tenant”, include male and female, singular and plural, corporation, partnership or individual, as may fit the particular parties.

30. NOTICES

All notices required or permitted under this Agreement shall be in writing and shall be personally delivered or sent by U.S. certified mail, return receipt requested, postage prepaid. Notices to Tenant shall be delivered or sent to the following address:

Sarah E. Williamson
Executive Director
Forsyth County Humane Society & S.P.C.A., Inc.
4881 Country Club Road
Winston-Salem, NC 27104

Notice to Landlord shall be delivered or sent to the following address:

J. Dudley Watts, Jr.
County Manager
Forsyth County Government Center
201 N. Chestnut Street
Winston-Salem, NC 27101

All notices shall be effective upon delivery. Any party may change its notice address upon written notice to the other parties, given as provided herein.

31. ENTIRE AGREEMENT

This Agreement contains the entire agreement of the parties hereto, and no representations, inducements, promises or agreements, oral or otherwise, between the parties, not embodied herein shall be of any force or effect. This Agreement may not be modified except by a writing signed by all the parties hereto.

32. AUTHORIZED EXECUTION

Each individual executing this Agreement as director, officer, partner, member or agent of a corporation, limited liability company, or partnership represents and warrants that he/she is duly authorized to execute and deliver this Agreement on behalf of such corporation, limited liability company, or partnership.

33. TRANSFER OF LANDLORD'S INTEREST

In the event of the sale, assignment or transfer by Landlord of its interest in the Premises or in this Agreement (other than a collateral assignment to secure a debt of Landlord) to a successor in interest who expressly assumes the obligations of Landlord under this Agreement, Landlord shall thereupon be released and discharged from all its covenants and obligations under this Agreement, except those obligations that have accrued prior to such sale, assignment or transfer. Landlord's assignment of this Agreement, or of any or all of its rights in this Agreement, shall not affect Tenant's obligations hereunder, and Tenant shall attend and look to the assignee as Landlord, provided Tenant has first received written notice of the assignment of Landlord's interest.

34. MEMORANDUM OF LEASE AND AGREEMENT

Upon request by either Landlord or Tenant, the parties hereto shall execute a short form agreement (Memorandum of Lease and Agreement) in recordable form, setting forth such provisions hereof (other than the amounts due) as either party may wish to incorporate. The cost of recording such Memorandum of Lease and Agreement shall be borne by the party requesting execution of same.

35. GOVERNING LAW

This Agreement is governed by the laws of North Carolina, except that provisions relating to conflict of laws shall not apply.

36. EXHIBITS

Exhibit 1, a drawing that shows the Premises described in Section 1 hereinabove, is incorporated herein by reference. **This drawing is not a formal survey and is only a general representation of boundaries. If there is any discrepancy between Exhibit 1 and any other provision of this Agreement, such other provision of this Agreement shall govern.**

37. GENERAL PROVISIONS

- a. Tenant and its subcontractors shall comply with Article 2 of Chapter 64 of the North Carolina General Statutes relating to the required use of the federal E-Verify program to verify the work authorization of newly hired employees. Failure of the Tenant to comply with this provision or failure of its subcontractors to comply could render this contract void under North Carolina law.
- b. In accordance with N.C.G.S. §147-86.59 and other applicable sections of N.C.G.S. §147-86.55 et seq., the Iran Divestment Act of 2015, each Party hereby certifies that it is not identified on the State Treasurer's list of persons which the Treasurer has determined engage in investment activities in Iran, including any subcontractors hereunder of either Party.
- c. Tenant shall bill Landlord for services rendered during the preceding thirty (30) days. Landlord shall pay all such bills within the following ten (10) days provided all elements of this Agreement are satisfactorily met.
- d. Tenant shall operate as an independent contractor, and Landlord shall not be responsible for any of the Tenant's acts or omissions. Tenant agrees to hold Landlord harmless from and against any and all claims, expenses (including attorney fees), costs or liability for negligent or intentional acts or omissions, including willful or criminal conduct, of Tenant, its employees, agents or other representatives.
- e. Tenant shall not be treated as an employee of Landlord with respect to the services performed hereunder for federal or state tax, unemployment or worker's compensation purposes. Tenant understands that neither federal, nor State, nor payroll tax of any kind shall be withheld or paid by Landlord on behalf of Tenant or the employees of Tenant. Tenant further understands and agrees that Tenant is fully responsible for the payment of any and all taxes arising from the payment of moneys under this Agreement.
- f. Tenant shall not be treated as an employee of Landlord with respect to the services performed hereunder for purposes of eligibility for, or participation in, any employee pension, health, or other fringe benefit plan of Landlord.
- g. Landlord shall not be liable to Tenant for any expenses paid or incurred by Tenant unless otherwise agreed in writing.
- h. No late payment or other amounts designated penalties or charges shall apply to this contract.
- i. Involuntary or binding mediation, arbitration, negotiation, or other settlement procedure of disputes, if any, shall not apply to this contract.

- j. Tenant shall supply, at its sole expense, all equipment, tools, materials, and/or supplies required to provide contracted services unless otherwise agreed in writing.
- k. Tenant shall maintain, at its sole expense, such insurance coverage as required by the Forsyth County Risk Manager.
- l. Tenant has no authority to enter into contracts or agreements on behalf of Landlord.
- m. Tenant declares that it has complied with all federal, state and local laws regarding business permits, certificates and licenses that may be required to carry out the services to be performed under this Agreement.
- n. Tenant agrees to comply with all applicable federal immigration laws in its hiring and contracting practices relating to the services covered by this contract.

IN WITNESS WHEREOF, Landlord and Tenant have set their hands and seals as of the day and year first above written.

FORSYTH COUNTY, NORTH CAROLINA

By: _____
County Manager

ATTEST:

Clerk to the Board

(SEAL)

FORSYTH COUNTY HUMANE SOCIETY
& S.P.C.A., INC.

By: _____

**RESOLUTION AUTHORIZING FORSYTH COUNTY HUMANE SOCIETY & S.P.C.A.,
INC. TO IMPOSE FEES FOR THE CARE, CUSTODY, ADOPTION, TRANSFER
AND REDEMPTION OF ANIMALS IN ITS CARE AND CUSTODY
CONSISTENT WITH ITS FEE SCHEDULE**

WHEREAS, upon implementation of the proposed lease and agreement between Forsyth County and the Forsyth County Humane Society & S.P.C.A., Inc. (“Humane Society”) for the Humane Society to provide custody and care of dogs and cats at the Forsyth County Animal Control Shelter, the Humane Society requests authority to impose fees for services rendered relating to the care, custody, adoption, transfer and redemption of animals in its care and custody consistent with its fee schedule.

NOW, THEREFORE, BE IT RESOLVED that upon implementation of the proposed lease and agreement, the Forsyth County Board of Commissioners hereby authorizes the Humane Society to impose fees for services rendered by it relating to the care, custody, adoption, transfer and redemption of animals in its care and custody consistent with its fee schedule.

Adopted this 17th day of August 2017.