

LICENSE AGREEMENT  
BETWEEN  
MONTGOMERY COUNTY, MARYLAND  
AND  
MONTGOMERY COUNTY PARTNERS FOR ANIMAL WELL-BEING Inc

DATE:

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## LICENSE AGREEMENT

THIS LICENSE AGREEMENT (hereinafter referred to as "License"), made this 15<sup>th</sup> day of May, 2014, by and between MONTGOMERY COUNTY, MARYLAND, a body corporate and politic (the "County") and MONTGOMERY COUNTY PARTNERS FOR ANIMAL WELL-BEING, Inc. ("MCPAW"). (County and MCPAW together the "PARTIES").

### WITNESSETH:

In consideration of the covenants contained in this license, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the Parties, the Parties mutually agree as follows:

1. PREMISES: County does hereby grant THE MONTGOMERY COUNTY PARTNERS FOR ANIMAL WELL-BEING, Inc. (MCPAW), the privilege, license and right to use a portion (the "Licensed Premises") of the Montgomery County Animal Services and Adoption Center (the "Center") located at 7315 Muncaster Mill Road, Derwood Maryland, 20855. The Licensed Premises is 116 square feet as outlined in red on **EXHIBIT "A"**. MCPAW shall also have the use in common with the other tenants of the common areas of the improvements and contiguous grounds, walkways and parking area for the sole purpose of accessing the building.

2. TERM: The term of this License shall commence on \_\_\_\_\_, 2014 and shall run concurrently with the MEMORANDUM OF UNDERSTANDING (MOU),

Exhibit "B", unless sooner terminated and will expire automatically upon termination of the MOU. Notice of early termination of the MOU shall be given to MCPAW by the County as detailed in Paragraph 3, below.

3. EARLY TERMINATION: It is agreed between the Parties that this License may be terminated at any time during the License Term or any extension of the License Term by the County giving thirty (30) days written notice of the termination. The County is under no obligation to provide alternate space for MCPAW and is not responsible for any moving costs or any expenses incurred by MCPAW to relocate or move whether such move or relocation is the result of termination or any other reason.

4. RENT: In consideration of the services provided by MCPAW as set forth in Exhibit "B", Memorandum of Understanding, and for the rights and obligations provided for in this License, MCPAW must provide the County with the net proceeds from the operation of the store as provided under the Memorandum of Understanding.

5. USE OF PREMISES: MCPAW covenants and agrees that the Licensed Premises shall be used only for activities outlined in EXHIBIT "B". MCPAW shall be responsible for obtaining a Use and Occupancy Permit in MCPAW's name from the proper County authorities, and all other licenses and certifications required by State, Federal, and County law. Failure to obtain and maintain any certifications and licenses required under State, Federal, or Local law will constitute a breach of this License. MCPAW will use and occupy the Licensed Premises continuously during the period hereof for no purpose other than the use specified. The Licensed Premises are to be used

only for MCPAW's program and activities and for related activities as appropriate.

Licensor will make the multipurpose room available for use by the MCPAW on a scheduled basis under all normal Community Use of Public Facilities (CUPF) rules and costs provided MCPAW gives the Licensor proper advance notice by contacting CUPF. MCPAW is not authorized nor has the right to use the grounds for events, programs, fundraising, advertising or any other purpose without the express written permission of the Animal Services Division or CUPF.

6. PARKING: MCPAW is authorized to use the parking spaces in the Licensor's parking area at no additional rent or cost. Such parking spaces are to be used by MCPAW on a first come basis in common with other users in the building. Licensor reserves the right to institute parking regulations and restrictions.

7. ASSIGNMENT: This License must not be assigned by MCPAW and this document confers no real estate rights on MCPAW. MCPAW shall not broker, offer, facilitate or otherwise arrange rental or use of any space in the building or on the grounds of the facility at any time.

8. CONDITION OF PREMISES: MCPAW accepts the Licensed Premises in "as is" condition. MCPAW agrees to maintain the Licensed Premises in good condition and state of repair and free of clutter throughout the term of this Agreement. MCPAW is responsible for any damage to the structure, grounds or contents of the building belonging to County due to the willful or negligent acts of MCPAW, MCPAW's employees, patrons or agents. In the event of such damage, MCPAW shall make the

necessary repairs or replacement to the satisfaction of the County. MCPAW acknowledges and agrees that at the end of the License, the Licensed Premises shall be returned to the County in the same condition as they were when MCPAW accepted the Licensed Premises, with reasonable wear and tear excepted.

9. ALTERATIONS AND IMPROVEMENTS:

A. MCPAW shall not undertake any alterations, changes or improvements to the Licensed Premises without the prior written consent of the County. Once the County's consent has been obtained, MCPAW shall be responsible for the acquisition of any and all necessary permits and for the observance of all building and zoning ordinances and regulations then in effect. Failure to adhere to any previously approved plans, applicable ordinances or regulations shall be deemed to be a breach of this License.

B. The County's Approval and Inspection: In order to secure the County's approval of any structural alterations or improvements, MCPAW shall submit to the County plans and specifications clearly setting forth the work to be performed. The County shall respond in writing within 45 days from receipt of plans and specifications. The County shall inspect the premises upon completion of the work to determine adherence to submitted specifications and compliance with applicable codes and regulations. In the event that the completed work is not satisfactory to the County, in the County's sole discretion MCPAW must undertake any necessary corrections, at MCPAW's risk and expense.

10. LIENS: MCPAW shall not do or suffer anything to be done whereby the Licensed Premises shall be encumbered by any lien, including mechanic's liens. MCPAW expressly covenants and agrees that it will, during the term hereof, within 60 days after the filing of any lien, promptly remove or release, by the posting of a bond or otherwise, as required or permitted by law, any lien attached to or upon the Licensed Premises or any portion thereof by reason of or any act or omission on the part of MCPAW, and hereby expressly agrees to save and hold harmless the Licensor from and against any such lien or claim of lien. In the event any such lien does attach, or any claim of lien is made against said Licensed Premises, and shall not be thus released within said sixty (60) day period, the County, in its sole discretion (but nothing herein contained shall be construed as requiring it so to do), may pay and discharge the said lien and relieve the said Licensed Premises from any such lien, and MCPAW agrees to pay and reimburse the County upon demand for or on account of any expense which may be incurred by the County in discharging such lien or claim.

11. SERVICES AND OPERATING EXPENSES:

A. By Licensor: Subject to annual appropriation by the County Council and except for work necessitated by reason of MCPAW's negligent or wrongful act, the County agrees to provide within the Licensed Premises, at the County's sole cost and expense the following:

1. All custodial services and pest control services for the common hallways/corridors and restrooms of

the building which are not part of the Licensed Premises;

2. Heating and air conditioning (existing systems and equipment only); electricity; fuel oil; and water /sewer;
3. All maintenance and repair of ceiling, walls, floors and doors which are not part of the Licensed Premises; and
4. All maintenance and repair of heating system and air conditioning systems; electrical systems and fixtures; plumbing systems and fixtures; roof; windows; structural systems; and grounds and related site improvements.
5. Fire extinguishing services as necessary.

B. By MCPAW: MCPAW agrees to provide within the Licensed Premises, at MCPAW'S sole cost and expense, the following:

1. All custodial, trash removal, and security services. Such services shall include the furnishing and installing of burned out light tubes and bulbs, all retail space moving, delivery, stocking and cashiering activities.

2. All maintenance and repair of the ceiling, walls, floors, showcase room decorations, all signage whether painted, lettered, engraved or embedded. All doors including locks and hardware shall be maintained. Such maintenance and repair also includes painting as may be required.
3. All telephone and internet service.

A summary of such repairs shall be transmitted quarterly to the Department of General services, Office of Real Estate, 101 Monroe Street, Rockville Md. 20850.

12. FIXTURES AND EQUIPMENT: All items which are attached to the building, or are a part of the building's systems at the time the Licensed Premises are delivered to MCPAW, shall remain with the Licensed Premises and shall be delivered to MCPAW along with the Licensed Premises. Plumbing, electrical and heating fixtures and all other fixtures, except trade fixtures, installed by the MCPAW shall remain in the Licensed Premises at end of term. All items installed within the Licensed Premises at MCPAW's expense shall remain the property of MCPAW and shall be removed by MCPAW at the expiration or other termination of this License. MCPAW shall, however, repair any damage caused by reason of said removal. Any personal property remaining within the Licensed Premises after termination of the License shall become property of

the County. The County shall dispose of any such property in the manner it deems appropriate.

13. LIABILITY, PROPERTY DAMAGE AND FIRE INSURANCE:

A. MCPAW agrees to obtain and maintain, during the full term of this License, a policy of liability insurance with minimum combined bodily injury and property damage in the amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) for each occurrence, and ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) in the aggregate, issued by an insurance company licensed in the State of Maryland and acceptable to the County.

B. MCPAW agrees to obtain and maintain, during the term of this License, a policy of Workers' Compensation and Employers' Liability coverage. The Workers' Compensation policy must be in amounts as required by statute and the Employers' Liability Policy must be in amounts of ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000) for each accident for bodily injury by accident, FIVE HUNDRED THOUSAND (\$500,000) DOLLARS for policy limits for bodily injury by disease and ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000) each employee for bodily injury by disease.

C. MCPAW must maintain adequate fire, theft and vandalism insurance for the contents of the Licensed Premises.

D. The County must maintain the County's normal fire and liability insurance on the Licensed Premises. The County reserves the right to self-insure.

E. MCPAW shall, within the earlier of thirty (30) days from execution of this License or MCPAW's entry onto the Licensed Premises, deliver to the County the required policies or certificates of insurance, evidencing the coverage hereinabove stated and naming the County as an additional insured and/or loss payee. The policies shall provide notice of cancellation per terms of policy to the County. MCPAW has the obligation, without notice, to assure that the County always has a valid unexpired Certificate of Insurance.

G. The certificate holder shall be Montgomery County Government, Department of General Services, Office of Real Estate, 101 Monroe Street, Rockville Md., 20850

14. HOLD HARMLESS: MCPAW agrees to hold harmless and defend the County from and against any and all claims of liability, actions, damages and expenses arising out of or related to MCPAW's breach of this license or use or possession of the Licensed Premises occasioned wholly or in part by any act or omission of MCPAW, its agents, contractors, guests or employees, except such claims arising solely from the negligent acts or omissions of the County, the County's employees, agents and contractors. MCPAW further specifically agrees to hold the County harmless and defend the County from and against any claim of public liability made in connection with any construction or installation of equipment performed by MCPAW, its agents, volunteers, employees or contractors, within the Licensed Premises, notwithstanding that any such construction or equipment may or may not be deemed to be a part of the

Licensed Premises hereinabove described, or such construction or installation of equipment shall have been approved by the County.

15. RESPONSIBILITIES OF MCPAW: MCPAW covenants and agrees as follows:

A. MCPAW shall not keep gasoline or other flammable material or any explosive within the Licensed Premises which will increase the rate of fire insurance on the Licensed Premises beyond the ordinary risk established for the type of operations described in Paragraph 5, above. Any such increase in the insurance rate due to the above, or due to MCPAW's operations within the Licensed Premises, shall be borne by MCPAW. MCPAW shall not willfully do any act or thing in or about the Licensed Premises which may make void or voidable any insurance on the Licensed Premises, and MCPAW agrees to conform to all rules and regulations established from time to time by the Licensor, the Maryland Insurance Rating Bureau, or any other authority having jurisdiction over such matters.

B. MCPAW shall not use or allow the Licensed Premises or any part thereof to be used for any illegal, unlawful or improper purpose or for any act or thing that may be a nuisance, annoyance, inconvenience, or cause damage to the Licensed Premises, adjacent properties or the adjacent neighborhood.

C. MCPAW shall not place upon the Licensed Premises any placard, sign, lettering or awning except such, and in such place and manner, as shall have been first approved in writing by Licensor.

D. MCPAW acknowledges that all responsibilities of MCPAW relating to the use or misuse of the Licensed Premises and anything therein shall be construed to include use or misuse thereof by MCPAW's agents, employees, patrons, volunteers and invitees.

E. MCPAW shall not have pets in or about the Licensed Premises without the prior written consent of the County. This provision does not limit MCPAW's clients from entering the Licensed Premises with animals in connection with MCPAW's activities on the Licensed Premises (e.g., subsequent to the client's adoption of an animal from the Center). MCPAW must clean and disinfect the area in the facility in which pets have entered the facility in connection with a MCPAW activity.

F. MCPAW shall comply with all reasonable rules and regulations with regard to the use of the Licensed Premises that may be from time to time promulgated by the County, and any violation of said rules and regulations shall be deemed to constitute a violation of this License. It is understood that such rules and regulations shall not unreasonably interfere with or prevent the intended uses of the Licensed Premises as set forth in this License.

G. MCPAW must maintain in good condition, and promptly and diligently repair any damage to (or replace if reasonably necessary in the circumstances), any trade fixtures in the Licensed Premises.

H. MCPAW must require all roll down gates in the Licensed Premises to be closed and locked when said Licensed Premises are not in use. Further, MCPAW before closing and leaving the Licensed Premises at any time must close all windows and doors and secure the Licensed Premises. No additional locks or bolts of any kind shall be placed upon any of the entrance or interior doors or windows by MCPAW nor shall any changes be made in existing locks or the mechanisms thereof without prior written approval of the County and, in the event of an approved change, MCPAW shall provide the County with keys to the Licensed Premises. MCPAW shall, upon the termination of its license, restore to the County all keys of the building, offices, and bathrooms, either furnished to, or otherwise procured by, the MCPAW, and in the event of the loss of any keys so furnished the MCPAW shall pay to the County the cost thereof.

I. MCPAW must establish and post in the Licensed Premises an appropriate fire evacuation plan and hold fire drills as required by the County. All occupants of the Licensed Premises shall be trained regarding the safe and proper operation of all appliances and equipment in the Licensed Premises.

J. MCPAW must be responsible for on site management of the Licensed Premises and must keep posted the MCPAW's responsibilities and obligations as specified in Sections 11 and 15 of this License Agreement. MCPAW must keep a copy of this License Agreement at the Licensed Premises and ensure the MCPAW's on site representative is adhering to the terms and conditions herein.

16. DESTRUCTION OF PREMISES:

A. In the event of damage to or destruction of the Licensed Premises or any part thereof by fire, storm, flood or other casualty which does not require MCPAW to suspend entirely its business, the County shall, as soon as practicable after said damage or destruction, repair and restore the Licensed Premises to the condition they were in immediately prior to said damage or destruction. Should such damage or destruction of said premises or any substantial part thereof render the Licensed Premises wholly unavailable for use by MCPAW for the Permitted Uses, the County shall promptly begin and diligently pursue the repairing, restoration and rebuilding of the Licensed Premises as nearly as possible to the condition they were in immediately prior to such damage or destruction or with such changes or alterations as County may determine appropriate. In the alternative, the County may terminate this License within thirty (30) days following the date of the destruction of the Licensed Premises as described above by sending the termination notice to MCPAW.

B. In the event of damage to or destruction of fifty percent (50%) or more of the building of which the Licensed Premises are a part, County may elect not to restore the said building and this License shall automatically terminate and the Parties shall be discharged from all responsibilities thereafter arising under this License.

17. DEFAULT: MCPAW shall be considered in default of this License and the County may terminate this License upon the occurrence of any of the following:

- i. Failure to perform under any term, covenant or condition of this License.
- ii. The commencement of any action or proceeding for the dissolution or liquidation of MCPAW, or for the appointment of a receiver or trustee of MCPAW's property.
- iii. The making of any assignment for the benefit of MCPAW's creditors.
- iv. The abandonment of the Licensed Premises by MCPAW.
- v. Any other default or breach of the terms and conditions of this License.

18. EMINENT DOMAIN: MCPAW is not entitled to any condemnation award to the County as owner of the Licensed Premises. In the event that the Licensed Premises shall be taken by any governmental or quasi-governmental authority pursuant to its power of eminent domain or sold under threat thereof, MCPAW shall not be entitled to recover from Montgomery County any capital expenditures for improvements and betterments made by MCPAW to the Licensed Premises at MCPAW's expense.

19. ACCESS: MCPAW shall allow the County and the County's employees or agents to have access to the Licensed Premises at all reasonable times for the purpose of inspection, or in the event of fire or other property damage, or for the

purpose of performing any work required to be performed by the County, or which the County considers necessary or desirable, or for any other purpose pursuant to the reasonable protection of the Licensed Premises.

20. SURRENDER OF POSSESSION: MCPAW covenants and agrees that, at the expiration or other termination of this License, MCPAW must remove all goods and effects from the Licensed Premises not the property of the County, and must yield up to the County the Licensed Premises and all keys, locks and other fixtures connected to the Licensed Premises, in good repair, order and condition in all respects, reasonable wear and use thereof and damage by fire or other casualty and damage from any risk with respect to which MCPAW is not herein expressly made liable excepted. MCPAW shall pay for all damages to the Licensed Premises, its fixtures, and appurtenances, as well as all damages sustained by MCPAW or occupants of the Licensed Premises due to any waste, misuse, or neglect of said Premises, its fixtures, and appurtenances, by said MCPAW, its employees, or any other person or persons upon the premises by MCPAW's permission.

21. NOTICE OF ACCIDENTS, DEFECTS OR DAMAGES: MCPAW shall give to Licensor prompt verbal notice of accidents in or damages to the Licensed Premises, and, within twenty-four (24) hours, MCPAW shall follow-up with a detailed written report of such accidents or damages.

22. COMPLIANCE WITH LAWS: It is understood, agreed and covenanted by and between the Parties that MCPAW, at MCPAW's expense, shall promptly comply with, observe and perform all of the requirements of all of the codes,

statutes, ordinances, rules, orders and regulations now in effect or hereinafter promulgated whether required by the Federal Government, State of Maryland, Montgomery County Government and the municipality in which Licensed Premises are located.

23. BENEFIT AND BURDEN: The provisions of this License are personal to the Parties.

24. WAIVER: No waiver of any breach of any covenant, condition or agreement herein contained shall operate as a waiver of the covenant, condition or agreement itself or of any subsequent breach thereof.

25. NON-DISCRIMINATION: MCPAW agrees to comply with the non-discrimination in employment policies in County contracts as required by Section 11B-33 and Section 27-19 of the Montgomery County Code 2004, as amended, as well as all other applicable state and federal laws and regulations regarding employment discrimination. MCPAW assures the County that in accordance with applicable law; it does not, and agrees that it will not discriminate in any manner on the basis of race, color, religious creed, ancestry, national origin, age, sex, marital status, disability, sexual orientation, or genetic status.

26. PUBLIC EMPLOYMENT: MCPAW understands that unless authorized under Sections 11B-52 and Chapter 19A of the Montgomery County Code 2004, as amended, it is unlawful for any person transacting business with Montgomery County, Maryland, to employ a public employee for employment contemporaneous with his or her public employment.

27. MAILING NOTICES: All notices required or desired to be given hereunder by either party to the other shall be given by certified or registered mail and shall be deemed to be effective when received or refused by the addressee. Notices to the respective Parties shall be addressed as follows:

MCPAW:  
MCPAW  
9613 Eldwick Road  
Potomac Md. 20854

Licensor:  
MONTGOMERY COUNTY,  
MARYLAND  
Department of General Services  
Office of Real Estate  
101 Monroe Street, 9<sup>th</sup> floor  
Rockville, Md. 20850

With a copy to:  
Montgomery County Government  
Office of the County Attorney  
101 Monroe Street, 2<sup>nd</sup> Floor  
  
Rockville, Maryland 20850

28. RESIDENT AGENT: The Resident Agent for MCPAW is Allan Cohen and the address for receipt of notices and service of process is 9613 Eldwick Road Potomac, Maryland 20854. MCPAW must immediately notify Licensor of any change in resident agent or address as provided herein.

29 PROHIBITION OF HAZARDOUS SUBSTANCES: MCPAW agrees not to store or bring hazardous substances onto the Licensed Premises. The MCPAW indemnifies the County against any and all claims of any personal injuries or

personal and real property damage as a result of any hazardous substance being brought on the Licensed Premises by MCPAW, its agents, contractors, employees or guests.

30. NON-APPROPRIATION: This License shall terminate automatically on July 1 of any year for which the County, for whatever reason does not appropriate funds to pay the County's obligations provided in this License or in the MOU. MCPAW shall not make or be entitled to any claim for reimbursement of any kind, whether for improvements or prepaid items.

31. AMERICAN WITH DISABILITIES ACT REQUIREMENTS: The County and MCPAW agree that any future modifications made to the Licensed Premises shall be made in conformance with the requirements of the Americans with Disabilities Act, the Federal Fair Housing Act, and all safety and accessibility required in Federal, State and County Laws and regulations. MCPAW must obtain all required permits prior to making any modifications to the Licensed Premises and must comply with all applicable building and safety codes.

32. INDEMNIFICATION: The County agrees to indemnify and hold MCPAW harmless from any liability, damage, expense, cause of action, suits, claims, or judgments arising from injury to persons or property or otherwise which arises out of the act, failure to act, or negligence of the County in connection with or arising out of the activity which is the subject of this Agreement. Any obligation or liability of the County arising in any way from this Agreement is subject to , limited by and contingent upon the appropriation and availability of funds, as well as the types of liabilities, damage caps and

notice requirements stated in the Maryland Local Government Tort Claims Act, currently found at Maryland Code Annotated, Courts & Judicial Proceedings, Section 5-301, et seq., ("LGTCA"). Any indemnification given by the County in this Agreement is not intended to create any rights in any third parties.

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be properly executed.

WITNESS:

LICENSOR:  
MONTGOMERY COUNTY,  
MARYLAND

By: Julie L White

By: Ramona Bell-Pearson

Ramona Bell-Pearson  
Assistant Chief Administrative  
Officer

Date: May 12, 2014

WITNESS:

MCPAW:  
MONTGOMERY COUNTY  
PARTNERS FOR ANIMAL WELL -  
BEING, INC.

By: [Signature]

By: Alles Cole

Title: Chairman

Date: 4/29/14

APPROVED AS TO FORM & LEGALITY  
OFFICE OF THE COUNTY ATTORNEY

RECOMMENDED

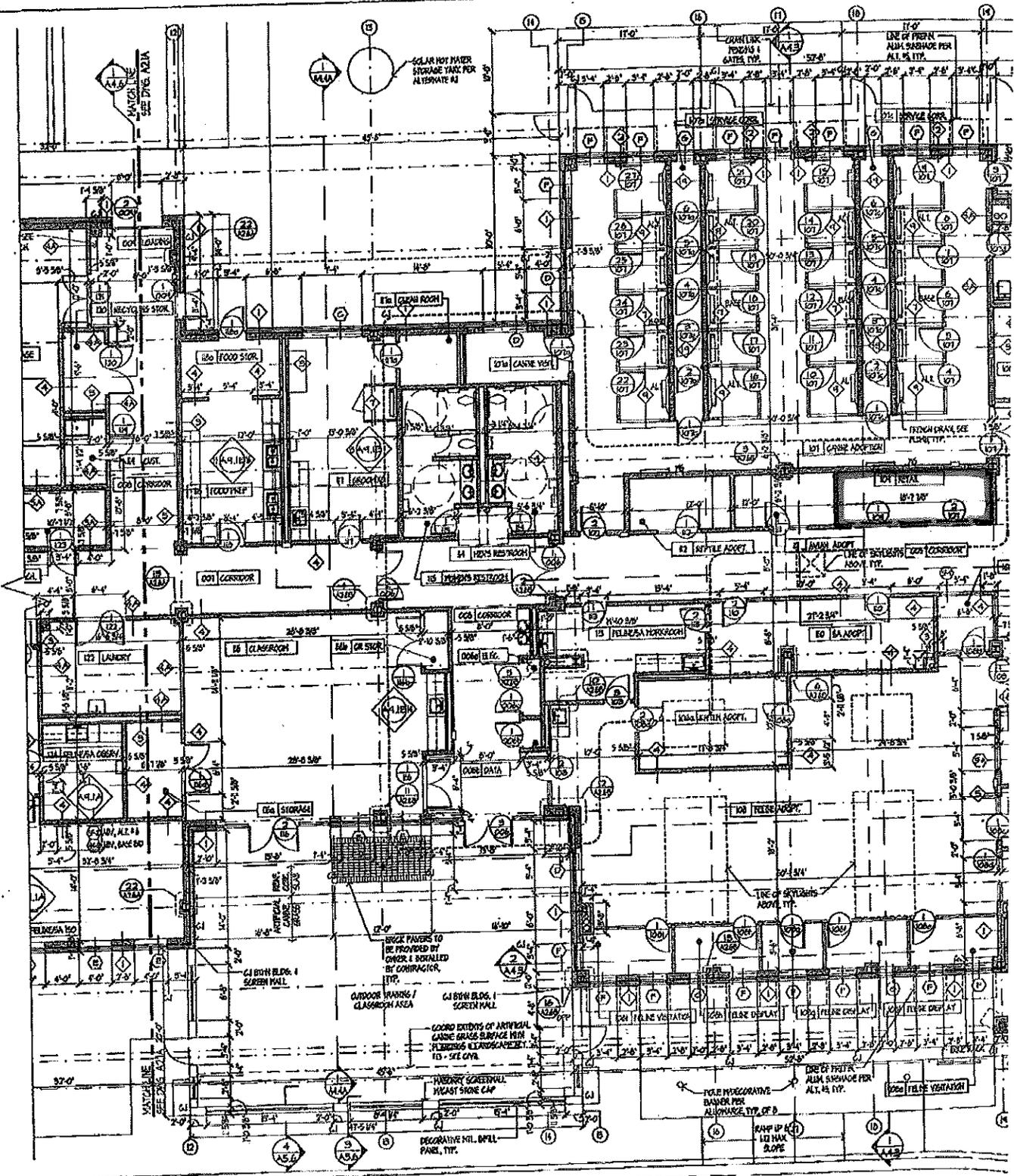
By: Marc Hansen

By: Cynthia Brenneman

Cynthia Brenneman, Director  
Office of Real Estate

Date: 4/25/14

Date: 5/1/14



**PARTIAL FIRST FLOOR PLAN - AREA "B"**

SCALE 1/8" = 1'-0"

NOTE: REFER TO AS SLAB PLAN DRAWINGS FOR LOCATIONS OF FLOOR DRAINS AND FLOOR SLOPES.



**EXHIBIT "A"**

## MEMORANDUM OF UNDERSTANDING

Between

MONTGOMERY COUNTY, MARYLAND

And

MONTGOMERY COUNTY PARTNERS FOR ANIMAL WELL-BEING, INC.

This Memorandum of Understanding (MOU) is between Montgomery County, Maryland, (County) and Montgomery County Partners For Animal Well-Being, Inc. (MCPAW), whose principal address is 9613 Eldwick Road Potomac, Maryland 20854. Where referred to collectively, the County and MCPAW are referred to as the "Parties." The Parties agree as follows:

### I. Background

- A. The Animal Services Division (ASD) is a division of the Montgomery County Police Department within the executive branch of the County government. The County is opening a new Animal Shelter (Shelter) at 7315 Muncaster Mill Road, Derwood, Maryland, 20855, which is owned, maintained, and operated by the County.
- B. MCPAW is a registered 501(c)(3) charitable non-profit organization that supports the care of animals and encourages animal adoption services within Montgomery County.
- C. The Parties share a joint interest in providing high quality services for domestic animals located in Montgomery County.
- D. The Parties find it desirable for MCPAW to coordinate its work with ASD in an effort to support the Shelter and the programs and services of ASD. In order to accomplish this coordination, MCPAW must obtain the consent of ASD before undertaking: 1) fundraising activity for the benefit of the Shelter or ASD programs; or 2) a program activity at the Shelter or that is to be co-sponsored with ASD.
- E. Each Party agrees to appoint an individual to serve a point of contact for each entity.

### II. Terms

- A. Pursuant to an Executive Order, certain County employees may solicit certain persons under Montgomery County Code § 19A-16 (b) (2) to make a donation to MCPAW to

benefit the programs and services administered by ASD or the Shelter. When the County solicits a donation under the Executive Order, MCPAW must use the donation exclusively to benefit programs and services administered by ASD.

- B. The County may recognize a donation made to or by MCPAW for the benefit of, and which the County benefits from, the programs and services administered by ASD. The County may affix the name of the person making the donation to MCPAW or the County on items (*e.g.* bricks and benches and spaces) or space in the Shelter (*e.g.* walls, rooms, common areas, and wings of the Shelter).
1. Before accepting a donation from MCPAW that is conditioned on affixing a name to an item or space in the Shelter, the County must determine that the amount of the gift meets the minimum amounts shown on Attachment A. If the donation is conditioned on affixing a name to an item or the Shelter that is not shown on Attachment A, the County must determine that the amount of the gift is sufficient to justify the request before accepting the donation.
  2. Only the following names may be affixed to a space or item in the Shelter: the name of an individual (or relative, friend or pet of the individual) who made the donation to MCPAW for the benefit of the County; or the name of an entity that provides commercial goods or services and that has made a donation in cash or in kind to MCPAW for that purpose.
  3. MCPAW must not accept a donation that requires that a name be affixed to a space or item in the Shelter unless the donor agrees to the following: the name may temporarily be removed for the purpose of maintaining the Shelter or an item in the Shelter; if the item (*e.g.*, a brick or bench) to which a name is affixed becomes damaged or unusable, the County is not required to replace the item with the name of the donor affixed to the item; and if the name is affixed to a space (*e.g.* wall, room, common area, or wing), the County may permanently remove the name after 10 years.
  4. Net proceeds realized by MCPAW in connection with the naming rights donations must support the programs and services administered by ASD.
- C. After ASD determines that the proposed date and time will not interfere with the operation of the Shelter, MCPAW may hold annually no more than 4 private (*i.e.* invitation only) fund raising events in a space at the Shelter that is deemed appropriate for the event by ASD. MCPAW must obtain a Facility Use License and permit from the County's Office of Community Use of Public Facilities (CUPF) for making County space available for a private event. MCPAW must reimburse the County for security personnel assignments required by the Office of Community Use of Public Facilities for any MCPAW event. MCPAW must obtain all necessary licenses associated with the event (*e.g.* liquor license, food preparation license, music license, *etc.*) Net proceeds realized by MCPAW in connection with the use of space at the Shelter for a private event must be donated to the County for use in supporting the programs and services administered by ASD.

At the request of MCPAW, ASD must reserve through CUPF a reasonable number of bookings of the Community room in the Shelter for meetings of the MCPAW board

of directors, MCPAW committees, the MCPAW Explorers, and other MCPAW activities that support the mission of ASD and that have been approved by ASD.

- D. If MCPAW offers and before the County accepts an in-kind donation that involves a physical alteration to the Shelter (*e.g.* the decoration of a room, the placement of benches, landscaping, installation of a garden, placement of brick pavers, *etc.*), MCPAW and the County must approve in advance plans that, at a minimum, identify who will install the donation; the method of installation of the donation; provides liability protection for the County, and determines who will have responsibility for the maintenance of the donation. If the in-kind donation includes matter that is protected by a copyright, the County reserves the right to require a royalty-free license from the donor to use the copyrighted material before the donation is accepted. If the name of the donor is to be affixed to the in-kind donation, the provisions of ¶ B apply.
- E. MCPAW must provide a quarterly accounting of: net proceeds received in connection with private events at the Shelter (¶ C); arranging for an in-kind donation (¶ D); operating a store at the Shelter (¶ G); and solicitations in which MCPAW displays the County's seal or indicates in its solicitation that the donations will be passed onto the County (¶ H). MCPAW must provide an annual financial report and a copy of the MCPAW IRS Form 990, as filed, to the Director of ASD.
- F. Net Proceeds from arranging an in kind donation, operating a store at the shelter, and solicitations in which MCPAW displays the County seal are due quarterly.
- G. MCPAW may operate a store within space located at the Shelter that is identified by the Director of ASD, subject to the following conditions:
1. The store must not be open to the public except during the hours the Shelter is open to the public.
  2. MCPAW staff or volunteers may have access to the Shelter no more than 60 minutes before the store opens and no more than 30 minutes after the store closes. Exceptions or changes to this schedule must be approved in advance by the Director of ASD.
  3. Space allocated for the store must not exceed 116 square feet.
  4. Items available for purchase in the store may only include: (a) commercial goods and services that relate to the care of domestic animals (*e.g.* leashes, pet collars, pet food, feeding and water bowls, *etc.*) and (b) goods related to fundraising for the benefit of MCPAW or the Shelter (*e.g.* clothing, bumper stickers, key chains, posters, calendars, *etc.*). All items sold must be pre-approved by ASD. All net proceeds from operation of the store must inure to the benefit of programs and services administered by ASD.
  5. MCPAW must execute a license agreement with the County for use of the store space in the Shelter in accordance with Montgomery County Code § 11B-45, which may require the approval of the County Council.
  6. All mail and deliveries for MCPAW must be scheduled for a time when the store is open and MCPAW staff is available to receive them. ASD staff will not be

responsible for receipt of MCPAW deliveries, but ASD staff will coordinate with MCPAW for the receipt of MCPAW deliveries.

- H. MCPAW may use the County seal and the name of the Shelter to: i) raise funds for the benefit of the Shelter or the programs and services of ASD; or ii) in connection with an activity that is co-sponsored by ASD. Execution of this Memorandum of Understanding constitutes express approval to use the County seal and the name of the Shelter under § 19A-14(b) of the County Ethics Law only for the purpose of carrying out the fundraising or co-sponsored activities for the benefit of the Shelter or the programs and services of ASD.
- I. MCPAW may not authorize other entities to sell items at the shelter.
- J. The County is not prohibited from entering into agreements with other entities for the benefit of other ASD programs.
- K. All MCPAW volunteers who intend to work at ASD programs or at the store must become volunteers of ASD and attend ASD volunteer orientation and training including a background check.
- L. At the request of ASD, MCPAW and the County must meet at least 4 times each year to discuss the implementation of the MOU.
- M. Nothing in this MOU shall be read to prohibit MCPAW from conducting its own activities in furtherance of its charitable purposes, and to make its own determinations as to whether and when it shall make donations to the County, when it conducts activities that are not located at the Shelter and it does not use the County seal and name of the Shelter in its activities and solicitations except when in partnership with the County.
- N. The Parties agree to indemnify and hold each other harmless from any liability, damage, expense, cause of action, suits, claims, or judgments arising from injury to persons or property or otherwise which arises out of the act, failure to act, or negligence of the indemnifying party in connection with or arising out of the activity which is the subject of this Agreement. Any obligation or liability of the County arising in any way from this Agreement is subject to, limited by and contingent upon the appropriation and availability of funds, as well as the types of liabilities, damage caps and notice requirements stated in the Maryland Local Government Tort Claims Act, currently found at Maryland Code Annotated, Courts & Judicial Proceedings, Section 5-301, et seq. Any indemnification given by the County in this Agreement is not intended to create any rights in any third parties.

**III. Modifications**

Changes or modifications to this Memorandum of Understanding may be made only by a written amendment, which must be signed by all of the Parties. All notices and contacts should be made as follows:

For MCPAW: Allan Cohen  
Chairman of the Board  
9613 Eldwick Road  
Potomac, Maryland 20854

For the County: Mary Healey, Director  
Animal Services Division, MCPD  
7315 Muncaster Mill Road  
Derwood, Maryland 20855

**IV. Term**

The term of this MOU is one year. It is renewable at the discretion of the County for two additional one year terms. This Memorandum of Understanding is effective on the date of execution by the Chief Administrative Officer. This Memorandum of Understanding may be terminated without cause or cost by either party upon 30 days written notice.

**MONTGOMERY COUNTY  
PARTNERS FOR ANIMAL  
WELL-BEING, INC.**

**MONTGOMERY COUNTY,  
MARYLAND**

Allan Cohen  
Name: Allan Cohen

Title: Chairman  
~~President~~

Date: 4/29/14

Timothy L. Firestone  
Timothy L. Firestone  
Chief Administrative Officer

Date: 5/14/14

Recommended by:

Mary Healey 5/1/2014  
Mary Healey Date  
Animal Services Division

Approved as to Form and Legality by the  
Office of the County Attorney

Maria Hansen 4/25/14  
Date

Attachment A

<u>Naming Opportunities</u>	<u>Sponsorship Value</u>
Adoption Lobby.....	\$150,000
Canine Kennel Wings (3).....	\$100,000 (ea)
Feline Adoption Wing.....	\$100,000
Intake Lobby.....	\$75,000
Kitten Adoption Room.....	\$50,000
Livestock Barn.....	\$50,000
Puppy Adoption Den.....	\$75,000
Small Animal Adoption Room.....	\$35,000
Vet Clinic.....	\$75,000
Walking Trail.....	\$75,000

Patron Wall

Platinum.....	\$25,000
Gold.....	\$15,000
Silver.....	\$5,000
Bronze.....	\$2,500
Marble.....	\$1,000

Components

Outdoor Benches.....	\$3,000
Brick - Text only - up to 3 lines or 2 lines w/ graphic/logo (4x8).....	\$250
Brick - Text only - up to 6 lines or 4 lines w/ graphic/logo (8x8).....	\$400
Add Company Logo.....	\$50
Additional Text Line(s).....	\$25

» Sponsorship opportunities can be paid over multiple years «