

AGREEMENT NO. _____

**AMENDMENT NO. [1] TO
AGREEMENT NO. 2022-185**

This **AMENDMENT NO. 1 TO AGREEMENT NO. 2022-185** is made and entered into on _____, by and between the **CITY OF BAKERSFIELD**, a municipal corporation ("CITY" herein), and **THE BAKERSFIELD SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS**, a non-profit corporation authorized to do business in California ("SPCA" or "CONTRACTOR" herein).

RECITALS

WHEREAS, CITY is the owner of the City of Bakersfield Animal Care Center ("CBACC") located at 201 South Mount Vernon Avenue, Bakersfield, California; and

WHEREAS, SPCA is an independent non-profit organization founded in 1949, which advocates for and is an expert regarding the general welfare and humane treatment of animals and prevention of pet overpopulation; and

WHEREAS, since 2013 the CITY has contracted with SPCA to manage and operate the CBACC, most recently pursuant to Agreement No. 2022-185 approved by the City Council and executed on September 21, 2022; and

WHEREAS, the Parties recognize that the SPCA is in the best position to identify needs, evaluate options, purchase goods, and contract for various facility and maintenance needs of CBACC due to SPCA's day-to-day role in managing and operating the facility, and is likewise better equipped to retain necessary staff for successful operations; and

WHEREAS, Agreement No. 2022-185 currently provides compensation on a flat-rate monthly basis subject to itemized invoicing, which unduly restrains SPCA's ability to address unanticipated needs and ensure minimal disruption to CBACC operations; and

WHEREAS, the Parties therefore desire to amend Agreement No. 2022-185 to modify existing payment procedures to ensure the SPCA can efficiently and effectively perform its obligations, increase compensation for the remainder of the available Term (i.e., automatic Renewal Periods until June 2025), retain necessary staff, and meet fluctuating cash-flow demands of daily operations and facility needs; and

WHEREAS, the CITY further desires to memorialize the Parties' understanding that grants and donations received by CITY on behalf of SPCA shall be appropriated to SPCA in full as soon as practicable, without need for any amendment of this Agreement; and

WHEREAS, except as expressly amended herein, all other provisions of Agreement No. 2022-185 shall remain in full force and effect.

AGREEMENT

NOW, THEREFORE, incorporating the foregoing recitals herein, CITY and SPCA agree as follows:

1. Section 2 of Agreement No. 2022-185 entitled "COMPENSATION" is hereby amended to read in full as follows:

2. COMPENSATION. CITY and SPCA recognize that the payment for services under this Agreement is based on the estimated salaries and cost for management and personnel, veterinarian services, facility needs, and supplies related to animal care and other support services, and that total payment for services may be subject to adjustment as set forth herein.

2.1. Payment for Services. CITY will compensate SPCA for performing the services called for in this Agreement as follows:

- a) An annual Management Fee in the amount of \$125,000 for SPCA's services in managing and operating CBACC, running on the fiscal year and paid in monthly installments (\$10,416.67/month) through the Initial Term of this Agreement. Beginning July 1, 2023, and for all subsequent Renewal Periods, the Management Fee shall be paid in quarterly installments (\$31,250.00/quarter); and
- b) An annual Operations & Maintenance Payment ("O&M Payment") in the amount of \$1,228,872 as compensation for all other actual and necessary expenditures reasonably incurred in the performance of SPCA's obligations set forth in Section 3 of this Agreement, which shall be exclusive of the Management Fee set forth above. The O&M Payment shall be calculated and run on the fiscal year and shall be paid in monthly installments (\$102,406/month) through the Initial Term of this Agreement.

Beginning July 1, 2023, and for all subsequent Renewal Periods,

the O&M Payment shall be increased to a total annual payment of \$1,613,872, paid in quarterly installments (\$403,468/quarter). The Parties acknowledge and agree that the increase in the O&M Payment is intended to allow SPCA sufficient funds to directly hire all staff SPCA deems necessary and appropriate for efficient and effective operations at CBACC.

c) Beginning July 1, 2023, an annual Facility Improvements Fund in the amount of \$500,000 for purposes of needed repairs, equipment, and improvements to the CBACC premises which are infrequent, non-routine, and/or due to wear and tear over time, including but not limited to structural components or appurtenances and mechanical and non-mechanical facility needs such as HVAC, plumbing, irrigation, roofing, lighting, fencing, cameras, locks, appliances, and building repairs. The Facility Improvements Fund shall be subject to the following requirements and procedures:

1. CITY shall advance \$250,000 of the Facility Improvements Fund to SPCA on July 1, 2023. Thereafter, SPCA may request additional funds be advanced by written request, subject to an accounting of all monies spent to date, not to exceed a total of \$500,000 in the fiscal year. The Facility Improvements Fund shall remain subject to City Council legislative appropriations and availability of funds for future Renewal Periods.

2. Prior to SPCA expending any funds from the Facility Improvements Fund, SPCA shall meet with City Public Works Department each year to review facility needs and work requests. This meeting will identify and prioritize facility needs within the funding allocation for that year and may also identify the responsible parties for purchase or completing facility improvements. Purchases and improvements shall abide by the following requirements and procedures:

- A. For amounts of \$10,000 or less, SPCA may contract for goods and services without prior approval. SPCA shall ensure written documentation is retained to evidence the expenditure.

- B. For amounts between \$10,000 and \$40,000, SPCA is authorized to contract for goods and services without

prior approval so long as SPCA documents good faith efforts to obtain no less than three written quotes for the proposed goods and/or services desired. For the avoidance of doubt, SPCA may request prior approval by the City Manager or designee, or alternatively may request that CITY perform the work. CITY shall notify SPCA within 10 days whether the expenditure is approved. SPCA shall ensure written documentation is retained to evidence the expenditure.

C. For amounts greater than \$40,000, SPCA shall obtain no less than three written quotes for the proposed goods and/or services desired. SPCA shall submit a written request with appropriate supporting documentation for prior approval to the City Manager or designee, with a copy to the City Attorney, explaining the work to be performed, cost estimate, and need for the expenditure. CITY shall notify SPCA within 10 days whether the expenditure is approved. CITY retains the right to determine whether a proposed contract shall be funded as a capital improvement project, and/or best facilitated as a CITY-contracted or CITY-provided service/purchase.

3. All improvements and fixtures to the CBACC facility and/or premises, including but not limited to structural components or appurtenances, mechanical and non-mechanical such as lighting, fencing, cameras, locks, and appliances, shall become and remain property of the CITY, whether funded through the Facility Improvements Fund or not, and shall be inventoried. SPCA understands and agrees that all improvements shall be subject to all applicable local, state, and federal requirements.

d) The annual Management Fee and O&M Payment will be adjusted annually by the Consumer Price Index per the U.S. Department of Labor, Bureau of Labor Statistics (1982-1984=100) for west B/C (less than 1.5 million population) urban wage earners and Clerical Workers (CPW-W).

2.2. Accounting. SPCA shall maintain and retain an accounting of actual and necessary expenditures reasonably incurred in the

performance of this Agreement. If requested by CITY, SPCA shall provide an accounting of such expenditures within 10 days. In addition, SPCA will provide CITY with an accurate accounting of the number and type of animals taken into the CBACC as well as the disposition of those animals.

- 2.3. Evaluation of Costs.** At any time mutually agreed to by CITY and SPCA, CITY and SPCA will review animal intake statistics and costs to determine if adjustments (increase or decrease) in payment for services are necessary. Adjustments will be for changes in supplies or staffing. CITY may proportionately increase or decrease payments and reimbursement if the annual intake necessitates an increase or decrease in staff, food, medical supplies, cleaning expenses or surgical supplies.
2. Section 3.3 of Agreement No. 2022-185 entitled "Repair and Maintenance the Facility" is hereby amended to read in full as follows:

- 3.3 Repair and Maintenance of the Facility.** Notwithstanding SPCA's authority to repair and maintain the CBACC utilizing the Facility Improvements Fund set forth in Section 2.1, CITY will be responsible for all landscaping, utility costs, and repair or replacement of all structural components or appurtenances, mechanical or non-mechanical, at the CBACC. Requests by the SPCA shall be addressed within a reasonable period of time.
3. Except as amended herein, all provisions of Agreement No. 2022-185 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the Effective Date.

"CITY"
CITY OF BAKERSFIELD

By: _____
KAREN GOH
Mayor

"CONTRACTOR"
**THE BAKERSFIELD SOCIETY FOR THE
PREVENTION OF CRUELTY TO ANIMALS**

DocuSigned by:
By: Chuck Nordstrom
CHUCK NORDSTROM
Executive Director

[Additional Signatures on Following Page]

APPROVED AS TO CONTENT:
OFFICE OF THE CITY MANAGER

By: 
36FA1E2458AA4BF
CHRISTIAN CLEGG
City Manager

APPROVED AS TO FORM:
VIRGINIA GENNARO
City Attorney

By: _____
ASHLEY ZAMBRANO
Deputy City Attorney 
Insurance: _____

COUNTERSIGNED:

By: _____
RANDY MCKEEGAN
Finance Director