RESOLUTION NO. 3426

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KELLER, TEXAS, APPROVING THE MANAGEMENT SERVICES AGREEMENT WITH THE HUMANE SOCIETY OF NORTH TEXAS INC., FOR THE MANAGEMENT OF THE REGIONAL ANIMAL ADOPTION SERVICES AT THE REGIONAL ANIMAL SERVICES CENTER, LOCATED AT THE KELLER POLICE FACILITY, 330 RUFE SNOW DRIVE, KELLER, TEXAS; AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT ON BEHALF OF THE CITY OF KELLER, TEXAS.

WHEREAS, the City of Keller, in accordance with its strategic objective, to enhance and improve animal services provided to the Cities of Keller, Southlake, Colleyville and the Town of Westlake, under the Regional Animal Services Agreement, is for the betterment of animal welfare; and

WHEREAS, in furtherance of that objective, the City of Keller is in the process of constructing a new animal shelter, (Regional Animal Services Center), with a separate adoption center operation that will enable the City to improve the animal adoption rate among the Cities; and

WHEREAS, the City of Keller and the Humane Society of North Texas, a 501(c) (3) non-profit corporation, wish to pursue a program of cooperation for the purposes of improving the care of stray/lost animals; improving the chances of adoption animals taken at the animal adoption center; improving the living conditions of animals at the animal adoption center; and improving the spay/neuter program; and

WHEREAS, the City of Keller and the Humane Society of North Texas Inc., reached an agreement for the Humane Society to occupy and undertake the management of the animal adoption services portion of the Regional Animal Services Center, located at the Keller Police Facility, 330 Rufe Snow Drive, Keller, Texas.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KELLER, TEXAS:

Section 1: THAT, the above findings are hereby found to be true and correct and are incorporated herein in their entirety.

Section 2: THAT, the City Council of the City of Keller, Texas hereby approves the Management Services Agreement with the Humane Society of North Texas, Inc., attached hereto as Exhibit "A", for the management services of the regional animal adoption services at the Regional Animal Services Center, located at the Keller Police Facility, 330 Rufe Snow Drive, Keller, Texas; and further authorizes the City Manager to execute said Agreement on behalf of the City of Keller, Texas.

Section 3: THAT, the cost related to the aforementioned Management Services Agreement for the management of the regional animal adoption services at the Regional Animal Services Center, located at the Keller Police Facility, 330 Rufe Snow Drive, Keller, Texas, shall be paid from the General Fund, budgeted therefor.

AND IT IS SO RESOLVED.

Passed by a vote of 5 to 0 on this the 1st day of October, 2013.

CITY OF KELLER, TEXAS

By: _____
P.H. McGrail, Mayor

ATTEST:

_____
Sheila Stephens, City Secretary

Approved as to Form and Legality:

_____
L. Stanton Lowry, City Attorney

CITY SECRETARY
CONTRACT NO.
13-98

MANAGEMENT SERVICES AGREEMENT

This Agreement is entered into as of April 1, 2014, between the City of Keller, Texas, a home-rule municipal corporation (hereinafter referred to as "City") and the Humane Society of North Texas Inc., located in Fort Worth Texas, a 501(c)(3) non-profit corporation (hereinafter referred to as "Society") for the City to provide certain premises to Society at the Regional Animal Shelter and Adoption Center located at the Keller Police Facility, 330 Rufe Snow Drive, Keller, Texas and for the Society to provide animal adoption services on behalf of the City at the Regional Animal Services and Adoption Center.

RECITALS

WHEREAS, the City, in accordance with its strategic objective to enhance and improve the animal services it provides to the Cities of Keller, Southlake, Westlake, and Colleyville under the Regional Animal Services Agreement for the betterment of animal welfare; and

WHEREAS, in furtherance of that objective, the City is in the process of constructing a new animal shelter with a separate adoption center operation that will enable the City to improve the adoption rate among the cities; and

WHEREAS, the City and the Society, accordingly wish to pursue a program of cooperation for the purpose of, specifically:

- Improving care of stray/lost animals;
- Reducing the number of animals euthanized in Keller, Texas;
- Improving the chances of adoption animals taken at the animal adoption center;
- Improving the living conditions of animals at the animal adoption center;
- Improving the spay/neuter program;
- Developing and implementing a joint program for public education on animal welfare; and

WHEREAS, the Society desires to undertake management of said adoptions services through their operation, under the terms and conditions stated herein;

WHEREAS, the Society and the City desire that Society occupy the Regional Animal Adoption Center at 330 Rufe Snow Drive, Keller, Texas and manage the adoption services; and

NOW THEREFORE, the City and the Society do hereby contract, covenant, and agree for the consideration stated and the mutual promises made, the receipt and adequacy of such consideration being acknowledged herein as follows:

Section 1. Recitals.

All matters stated in the recitals are found to be true and correct and are incorporated into the body of this Agreement as if stated herein in their entirety.

Section 2. Term and Termination.

The Term (herein so called) of this Agreement shall be for a period of three years (3) years, commencing on April 1, 2014 and ending on March 31, 2017. Upon the expiration of the Term, this agreement may be renewed for two additional five (5) year periods by mutual agreement of the parties.

The management obligations set forth under this Agreement may be terminated by either party for the reasons set forth in Section 11. In addition, City may terminate the management obligations for this Agreement for the reasons stated in Sections 15 and 26 of this Agreement. The Society may terminate its management obligations under this Agreement for the reasons stated in Section 14. In any case, termination shall be effective One Hundred-Twenty (120) days after written notice has been provided from the terminating party to the other party in accordance with Section 23 stated herein.

Absent an event of default by Society, City may not terminate Society's right to occupy the Premises prior to the expiration of the Term. The Society may terminate its obligations under this Agreement, after One Hundred-Twenty (120) days' written notice to the City, if the Society deems the space availability for Non-Partner City animals is inadequate to meet the needs of the Society's operations.

Section 3. Premises.

The Premises referred to in this Agreement shall consist of approximately Nine Thousand (9,000) square feet of building space identified as the Regional Animal Services and Adoption Center located at 330 Rufe Snow Drive, Keller, Texas 76248, more fully described in the attached floor plan set forth in Exhibit "A" ("Premises"). The exact square footage of the Premises, however, shall be subject to the final design documentation provided by City's architect in consultation with Society.

Section 4. Common Areas.

4.1 City shall make available to Society, during its normal hours of operation, such areas and facilities of common benefit which the City shall deem appropriate. The "common areas" as herein referred to, shall consist of the use of designated animal receiving area(s), hallways, restroom facilities, all parking areas, streets, sidewalks, driveways, service drives and all other facilities available for common use in the Regional Animal Shelter and Adoption Center.

4.2 Society acknowledges that prior to occupying the Premises, it will have

fully inspected and accepted the Premises as suitable for the purposes for which the same are provided in their present condition.

4.3 Society acknowledges that the Premises and the common areas shall be used and occupied only for the purpose of providing animal adoption services.

4.4 Society shall have the right to use the common areas as designated herein, subject to such reasonable written scheduling and maintenance regulations as the City may from time to time impose.

Section 5. Utilities.

The City acknowledges that it shall be responsible for utility payments for the entire Animal Services and Adoption Center.

Section 6. Duties And Responsibilities.

6.1 Society in providing its adoption services will:

6.1.1 Locate its adoption operations in the Premises as soon as practicable following completion of the Animal Services and Adoption Center, but in no event later than thirty (30) days after the completion of the facility (as evidenced by Society's receipt of a copy of the applicable certificate of occupancy), and shall operate the services in a professional manner that will exemplify the highest standard of quality, customer service and decorum under the terms and conditions of this Agreement, and use its best and reasonable efforts to promote the adoption services for the duration of the term of this Agreement.

6.1.2 Dedicate adoption and kenneling capacity for animals selected from the Partner Cities for adoption by Society. The Partner Cities currently include Keller, Colleyville, Southlake, and Westlake, Texas, and will have the first available space in the Adoption Center kennels. Any remaining space may be used by Society for adoption of animals from non-partner city locations.

6.1.3 Operate the adoption services, which shall include intake, selection, kenneling, and adopting out of animals for which it has responsibility, at a minimum, forty (40) hours per week including a portion of the weekend during reasonable business hours at which time the Animal Adoption Center shall be open to the public, subject to scheduling adjustments due to holidays, special events or observances. Society personnel are responsible for feeding the cats and dogs in the Adoption Center display kennels after hours and on holidays as required.

6.1.4 Select adoptable animals from the Partner Cities impound at its reasonable discretion on the basis of adoptability criteria mutually agreed upon with City.

6.1.5 Operate the adoption services toward the ultimate goal of ending the euthanasia of healthy and treatable animals standard.

6.1.6 Provide a minimum staffing level of two trained personnel one designated as the Adoption Center Manager and the other as a Kennel Technician during its hours of operation, or at a staffing level adequate to sustain its operations with properly trained personnel, whichever staffing level is greater. These two trained personnel will be employees of the Society and not the City and shall adhere to agreed upon dress and grooming standards acceptable by the City. The Society will be allowed to supplement these two employees with a sufficient number of volunteers that are vetted and managed by the Society.

6.1.7 Have the right to erect or install personal property in the Adoption Center to facilitate the adoption services, including but not limited to machinery, equipment, cages or pens, provided that, in doing so, Society complies with all applicable governmental laws, ordinances, and regulations. At the expiration or termination of this Agreement, Society shall have the right to remove such items so installed, provided Society is not in default at the time of such removal and provided further that Society shall, at the time of removal of such items, repair in a good and workmanlike manner any damage caused by installation or removal thereof. Society shall pay for all costs incurred or arising out of installations or removal of said property in or to the Adoption Center and shall not permit a mechanic's or material man's lien to be asserted against the Adoption Center.

6.1.8 Agree that furniture, fixtures, and equipment provided in the Animal Adoption Center and common areas shall remain the property of the party providing the same.

6.1.9 Properly secure the Adoption Center at the end of each day in which the service is being provided and notify the City of any unsecured access points to interior Common Areas, if observed.

6.1.10 Sanitize and exterminate the Adoption Center in accordance with sound hygienic standard operating procedures, said procedures as they may be amended from time to time by Society, to promote the well-being of animals and personnel.

6.1.11 Comply with Chapter 823, Health and Safety Code, as amended, and its Chapter 169, Texas Administrative Code as amended, both incorporated herein by reference. In the event of any conflict between Society's aforementioned standard operating procedures and these chapters, the chapters shall prevail.

6.1.12 Submit to and pass annual compliance inspections by the Texas Department of State Health Services.

6.1.13 Provide regular janitorial maintenance for the Animal Adoption Center portion of the facility (including timely removal of refuse).

6.1.14 Provide Society volunteer recruitment plan and training sessions.

6.1.15 Conduct off-site adoption services from time to time to assist in increasing the adoption rate the location of which being at Society's discretion.

6.1.16 Submit its employees and volunteers to criminal background checks which will be performed by the Keller Police Department.

6.1.17 Report annually to the City on the effectiveness of Society's adoption efforts, including providing activity data, event or activity detail, patronage, and quality of service. City has the right to modify, with 30 days written notice, any required reporting of performance data.

6.1.18 Engage in funding mechanisms or fundraising activities as is reasonably necessary to ensure Society's financial sustainability. Society has rights to install sponsor plaques on or within the Premises with City review and approval, which shall not be unreasonably withheld, conditioned or delayed.

6.1.19 Society shall set and collect reasonable and customary adoption fees from patrons adopting a cat or dog from the Regional Adoption Center. Such fees shall include the costs for spay or neutering, required vaccinations needed after initial intake, and micro-chipping. The Society shall set the costs at reasonable market rates that encourage adoption. The Society shall be entitled to all of the adoption fees collected at the Regional Adoption Center to offset the costs associated with preparing an animal for adoption. The Society shall implement generally recognized cash and auditing procedures.

6.1.20 Not discriminate against clients with regard to race, color, religion, political affiliation, physical disability, age, sex or national origin.

6.1.21 Society shall maintain 501(c) (3) non-profit corporation status continuously during this agreement.

6.2 City will:

6.2.1 Construct the Regional Animal Services and Adoption Center at 330 Rufe Snow Drive, Keller, Texas that will include the area that will be occupied by the Society to operate and manage the Adoption Center. As part of the construction costs the city will provide appropriate signage to identify the partnership between the Society and the City.

6.2.2 Make animals available for adoption services through Society on the basis of Society's selection criteria and provide complete documentation to Society essential to the adoption process.

6.2.3 Provide Society with approximately 6,500 square feet of space, which includes a public storefront/lobby, reception area, conference room, offices, work

areas, kenneling space to display thirty (30) cats and forty-four (44) dogs, two (2) visitation rooms, and an outdoor animal exercise area in accordance with Exhibit "B", New Facility Area Summary, of this Agreement and incorporated herein. The parties hereto agree that Exhibit "B" may change slightly as the construction process progresses.

6.2.4 Provide mechanical/structural maintenance for the entire Animal Services and Adoption Center facility, including HVAC; plumbing; electrical; and lighting maintenance, as is necessary and appropriate for the Society's operations.

6.2.5 Provide staff employed by the City to provide Animal Control Services, cleaning, and care of the dogs and cats in the Animal Services portion of the facility. The City shall designate a liaison from the Police Department management staff to collaborate with Society employees on issues regarding the operation of the Animal Services and Adoption Center.

6.2.6 Retain all fees and charges related to the registration of cats and dogs, impound, stray, quarantine, and release from the Animal Services portion of the facility.

6.2.7 Provide cleaning supplies, as is necessary and appropriate for Society's fulfillment of its duty to sanitize the facility as set out in Section 6.1.10.

6.3 Jointly, the parties will:

6.3.1 Agree that each is responsible for the welfare of the animals that it controls. In addition, Society understands and agrees that its responsibility for animals that it accepts under this Agreement shall commence upon completion of intake documentation for animals brought to the Animal Adoption Center voluntarily by the public or upon completion of transfer documentation for animals, in both cases completion being evidenced by Society's signature on applicable documentation.

6.3.2 Designate personnel from their respective organizations as emergency contacts available 24 hours a day, 7 days a week to respond emergencies as appropriate arising at the facility for the duration of this Agreement.

6.3.3 Have the flexibility to partner with other animal welfare agencies or organizations during the term of this Agreement, so long as within the reasonable discretion of the City, services provided under such partnership(s) do(es) not duplicate any services rendered under this Agreement. Any partnership(s) for services entered by Society shall be at no cost to City.

6.3.4 Work on public education programs to be presented to the citizens of the Partner Cities.

Section 7. Compliance with Law.

Society shall comply with all governmental laws, ordinances and regulations applicable to the provision of the animal adoption services and use of the Animal Adoption Center, and shall promptly comply with all governmental orders and directives for the correction, prevention and abatement of nuisances in or upon, or connected with the services or the Premises, all at Society's sole expense.

Section 8. Right of Entry and Audit.

City and its authorized agents shall have the right, during normal business hours, to enter the Premises (a) to inspect the general condition and state of repair thereof, (b) to make repairs required or permitted under this Agreement, or (c) for any other reasonable purpose which includes daily working interactions between the City and Society staff members. City shall have the right to audit Society's books and records pertaining to the collection of adoption fees to confirm compliance with this Agreement. Before entering the premises to inspect the books and records that would verify the service agreement of Society, City shall give Society at least twenty-four (24) hours advance notice in writing. City shall issue and control all keys.

Section 9. Waiver of Subrogation.

Each party hereto waives any and every claim which arises or may arise in its favor against the other party hereto during the term of this Agreement or any renewal or extension thereof for any and all loss of, or damage to, any of its property located within or upon, or constituting a part of, the Premises, which loss or damage is covered by valid, and collectible fire and extended coverage insurance policies, to the extent that such loss or damage is recoverable under such insurance policies. Such mutual waivers shall be in addition to, and not in limitation or derogation of, any other waiver or Agreement contained in this Agreement with respect to any loss of, or damage to, property of the parties hereto. Inasmuch as such mutual waivers will preclude the assignment of any aforesaid claim by way of subrogation or otherwise to an insurance company for any other person, each party hereby agrees immediately to give to each insurance company which has issued to it policies of fire and extended coverage insurance, written notice of the terms of such mutual waivers, and to cause such insurance policies to be properly endorsed, if necessary, to prevent the invalidation of such insurance coverage by reason of such waivers.

Section 10. Assignment and Subletting.

Society shall not, without the prior written consent of City, assign this Agreement or sublet the Premises or any portion thereof.

Section 11. Fire and Casualty Damage.

11.1 If the building or other Premises should be damaged or destroyed by fire, tornado or other casualty, Society shall give immediate written notice thereof to City.

11.2 If the Premises should be substantially or totally destroyed by fire, tornado or other casualty, or so damaged that rebuilding or repairs cannot reasonably be completed within 120 days from the date of written notification by Society to City of the happening of the damage, this Agreement shall terminate at the option of City. If this Agreement is not terminated, the building and other improvements shall be rebuilt or repaired.

11.3 If the Premises should be damaged by fire, tornado or other casualty but not to such an extent that rebuilding or repairs cannot reasonably be completed within 120 days from the date of written notification by Society to City of the happening of the damage, this Agreement shall not terminate, but City shall, at its sole cost and risk, proceed forthwith and use reasonable diligence to rebuild or repair such Premises (other than improvements made by Society).

Section 12. Indemnity and Public Liability Insurance.

12.1 City shall not be liable to Society or to Society's employees, agents or visitors, or to any other person whomsoever, for any injury to persons or damage to property on or about the premises or any adjacent area owned by City caused by the negligence or misconduct of Society, its employees, volunteers, licensees or concessionaires or any other person entering the premises under express or implied invitation of Society, or arising out of the use of the premises by Society and the conduct of its business therein, or arising out of any breach or default by Society in the performance of its obligations hereunder; and Society hereby agrees to indemnify City and hold it harmless from any loss, expense or claims arising out of Society's use of the premises. Society shall not be liable for any injury or damage caused by the negligence or misconduct of City, or its employees or agents. Society shall maintain a $2,000,000 general liability insurance policy covering its operations on the premises, which indemnifies and insures City and adds City thereto as an additional named insured. Such insurance coverage shall be primary and non-contributory to any insurance coverage that City may maintain, including self-insurance. Said policy shall provide thirty (30) days written notice to City before said policy may be canceled.

12.2 City and City's agents and employees shall not be liable to Society for any injury to persons or damage to property resulting from the Premises or other premises owned by City becoming out of repair or by defect in or failure of equipment, pipes, or wiring, or broken glass, or by the backing up of drains, or by gas, water, steam, electricity or oil leaking, escaping or flowing into the Premises, regardless of the source, or by dampness (except where due to City's willful failure to make repairs required to be made hereunder, after the expiration of a reasonable time after written notice to City of the need for such repairs) or by fire, explosion, falling plaster or ceiling.

Section 13. Holding Over.

Should Society, or any of its successors in interest fail to surrender the Premises, or any part thereof, on the expiration of the term of this Agreement, such holding over shall constitute a tenancy from month to month.

Section 14. Default.

14.1 The following events shall be deemed to be events of default under this Agreement:

14.1.1 Failure of Society or City to comply with any term, condition or covenant of this Agreement failure shall not be cured within 30 days after written notice thereof to Society.

14.1.2 Insolvency, the making of a transfer in fraud of creditors, or the making of an assignment for the benefit of creditors by Society or any guarantor of Society's obligation, and the failure of Society to resolve or release the same within 30 days of such event.

14.1.3 Filing of a petition under any section or chapter of the National Bankruptcy Act, as amended, or under any similar law or statute of the United States or any State thereof by Society or any guarantor of Society's obligations, or adjudication as a bankrupt or insolvent in proceedings filed against Societyor such guarantor, and the failure of Society to resolve or release the same within 30 days of such event.

14.1.4 Appointment of a receiver or trustee for all or substantially all of the assets of Society or any guarantor of Society's obligations hereunder, and the failure of Society to resolve or release the same within 30 days of such event.

14.1.5 Abandonment by Society of any substantial portion of the Premises or cessation of use of the Premises for the purpose Agreement.

14.1.6 Failure of City to operate its portion of animal impound services and other animal-related services in accordance with State law and industry best practices (i.e. Association for Shelter Veterinarians).

Section 15. Remedies of City and Society.

15.1 Upon the occurrence of any of the events of default listed in Section 14, City shall have the option to pursue any one or more of the following remedies, shall upon sixty (60) days written notice or demand:

15.1.1 Terminate this Agreement (including Society's right to occupy the Premises), in which event Society shall surrender the Premises to City. If Society fails to so surrender such Premises, City may, without prejudice to any

other remedy which it may have for possession of the Premises enter upon and take possession of the Premises and expel or remove Society and any other person who may be occupying such Premises or any part thereof, by force if necessary, without being liable for prosecution or any claim for damages therefor.

15.1.2 Enter upon the Premises, by force, if necessary, without terminating this Agreement and without being liable for prosecution or for any claim for damages therefore, and do whatever Society is obligated to do under the terms of this Agreement. City shall not be liable for any damages resulting to the Society from such action, whether caused by negligence of City or otherwise.

15.1.3 In addition to availing itself of any of the foregoing remedies, City may, in its sole discretion, assume Society management obligations under this Agreement for a period necessary to maintain the health and well-being of animals under Society's care in the Premises.

15.1.4 Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies herein provided or any other remedies provided by law, nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any fee due to City hereunder or of any damages accruing to City by reason of the violation of any of the terms, conditions and covenants herein contained.

15.2 Upon the occurrence of any of the events of default listed in Section 14, Society shall have the option to terminate this Agreement upon Sixty (60) days written notice or demand.

15.2.1 Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies herein provided or any other remedies provided by law, nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any fee due to Society hereunder or of any damages accruing to Society by reason of the violation of any of the terms, conditions and covenants herein contained.

Section 16. Waiver of Default.

No waiver by the parties hereto of any default or breach of any term, condition or covenant of this Agreement shall be deemed to be waiver or any subsequent default or breach of the same or any other term, condition or covenant contained herein.

Section 17. Force Majeure.

In the event performance by either party of any term, condition or covenant in this Agreement is delayed or prevented by any Act of God, act of terrorism, strike, lockout, shortage of material or labor, restriction by any governmental authority, civil riot, flood, and any other cause not within the control of the parties, the period for performance of such term, condition or covenant shall be extended for a period equal to the period the applicable party is so delayed or hindered.

Section 18. Exhibits.

All exhibits, attachments, annexed instruments and addenda referred to herein shall be considered a part hereof for all purposes with the same force and effect as it copied at full length herein.

Section 19. Use of Language.

Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular shall be held to include the plural, unless the context otherwise requires.

Section 20. Captions.

The captions or headings of paragraphs in this Agreement are inserted for convenience only, and shall not be considered in construing the provisions hereof if any question of intent should arise.

Section 21. Successors.

The terms, conditions and covenants contained in this Agreement shall apply to, inure to the benefit of, and be binding upon the parties hereto and their respective successors in interest and legal representatives except as otherwise herein expressly provided. All rights, powers, privileges, immunities and duties of City under this Agreement, including, but not limited to, any notices required or permitted to be delivered by City to Society hereunder may, at City's option, be exercised or performed by City's agent or attorney.

Section 22. Severability.

If any provision in this Agreement should be held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby.

Section 23. Notices.

Any notice or document required or permitted to be delivered hereunder may be delivered in person or shall be deemed to be delivered, whether actually received or not, when deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed to the parties at the addresses as follows:

If to the City

Address: City of Keller, Texas
Post Office Box 770
Keller, Texas 76244

Contact: Steve Polasek, City Manager
(817) 743-4000

If to Society
Address: Humane Society of North Texas
1840 E. Lancaster Ave.
Fort Worth, Texas 76103

Contact: Martha York, President
(817) 332-4768 x.101

or at such other addresses as may have theretofore been specified by written notice delivered in accordance herewith.

Section 24. Environmental Compliance.

24.1 Society may not use, or permit using, the premises in any manner that results in waste of premises or constitutes a nuisance or for any illegal purpose. Society, at its own expense, will comply, and will cause its officers, employees, agents, and invitees to comply, with all applicable laws, ordinances, and governmental rules and regulations concerning the use of the premises, including Hazardous Materials Laws.

24.2 Society, at its sole cost, must comply with all Hazardous Materials Laws in connection with Society's use of the premises. Society represents and warrants to City that Society will not store Hazardous Materials on or under the premises in connection with Society's normal operation of its business, and if so brought on by Society, its officers, employees, agents, or invitees, the same shall be immediately removed, with proper disposal, and all required cleanup procedures shall be diligently undertaken pursuant to all Hazardous Materials Laws.

24.3 "Hazardous Materials" means any substance, material, or waste that is or becomes regulated by any local governmental agency, the State of Texas, or the federal government, including, but not limited to, any material or substance that is (1) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. § 1251 et seq., or listed pursuant to Section 307 of the Clean Water Act, 33 U.S.C. § 1317, (2) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 et seq., (3) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., (4) petroleum, (5) asbestos, and (6) polychlorinated biphenyls.

24.4 Hazardous Materials Laws" means any federal, state, or local statute, ordinance, order, rule, or regulation of any type relating to the storage, handling, use, or disposal of any Hazardous Materials, the contamination of the environment, or any removal of such contamination, including, without limitation, those statutes referred to in subsection 24.3.

Section 25. Governing Law and Venue.

This Agreement shall be governed by the laws of the State of Texas. The venue for any litigation arising out this Agreement shall be Tarrant County, Texas.

Section 26. Availability of Funds.

The parties agree that the City's performance of its payment obligations under this Agreement shall at all times be subject to the availability of currently appropriated funds for that purpose. In the event funds are not appropriated in accordance with this Section 26, such event shall not impact Society's right to occupy the Premises. The parties agree that Society's performance of its management obligations under this Agreement shall at all times be subject to the availability of appropriated funds for that purpose. In the event adequate funds are unavailable for Society to uphold its management obligations, Society shall provide One Hundred Twenty days' written notice to City of termination of the Agreement.

Section 27. Dispute Resolution.

Should any dispute arise between the parties regarding the terms and conditions of this Agreement they shall first meet internally to resolve the dispute amicably prior to initiating administrative or formal proceedings. The parties hereby agree to the appointment of a court-certified (certified in Tarrant County) Mediator to assist in resolving said dispute as a prerequisite to the filing of any lawsuit over such issues.

Section 28. Prior Agreements Superseded.

This Agreement, its exhibits, and attachments constitute the sole and only agreement of the parties to this Agreement and supersede any prior understandings or written or oral agreements between the parties respecting the subject matter of this Agreement. In the event of any conflicting language between exhibits, or attachments to this Agreement and the Agreement itself, the Agreement shall take precedence in interpreting the understanding of the parties.

Section 29. Amendment.

No amendment, modification, or alteration of the terms hereof shall be binding unless in writing, dated subsequent to the date hereof, and duly executed by the parties.

EXECUTED the 1st day of Oct., 2013.

CITY:

City of Keller, Texas

Steve Polasek, City Manager

SOCIETY:

Humane Society of North Texas

Martha York, President

EXHIBIT "A"

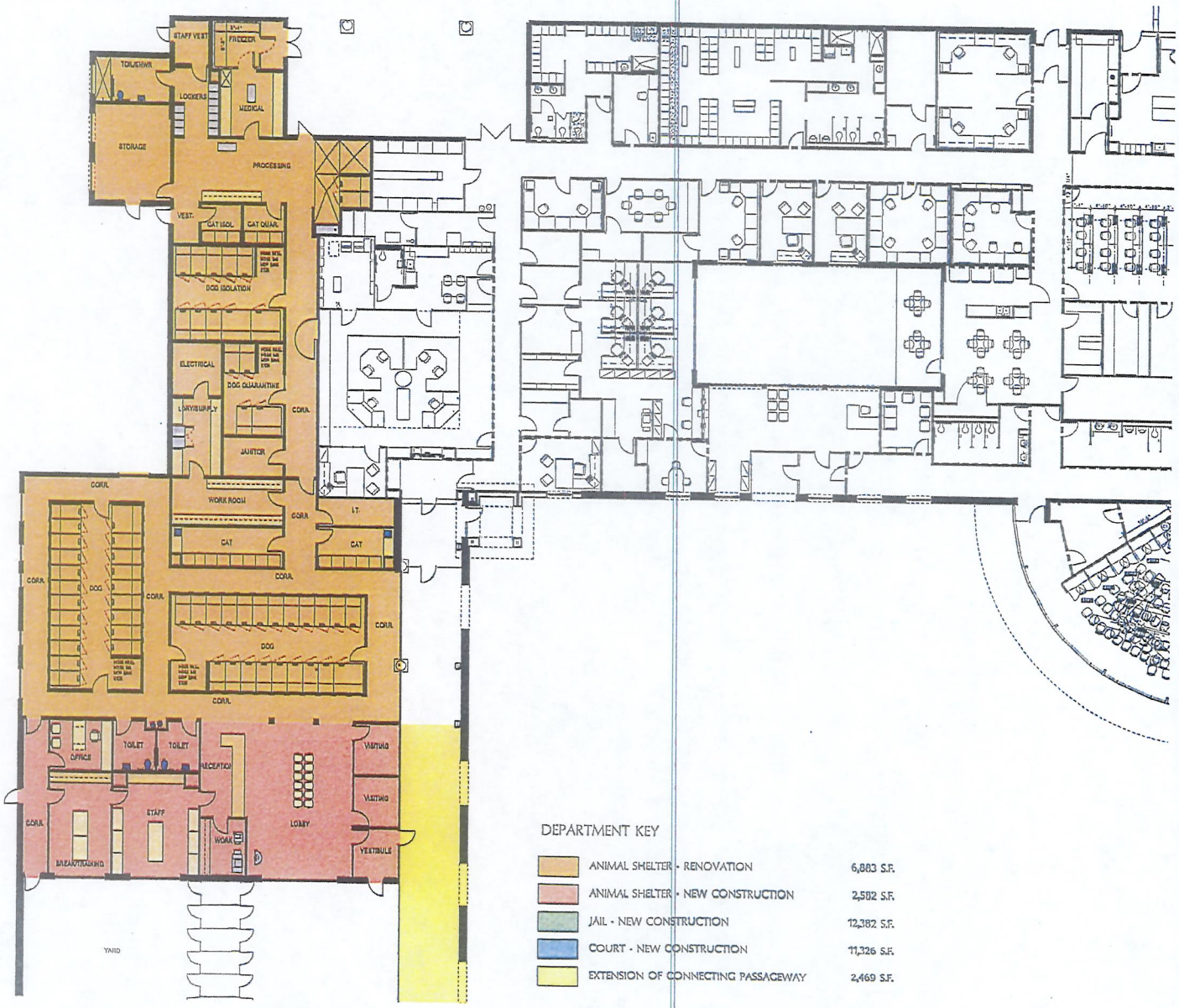
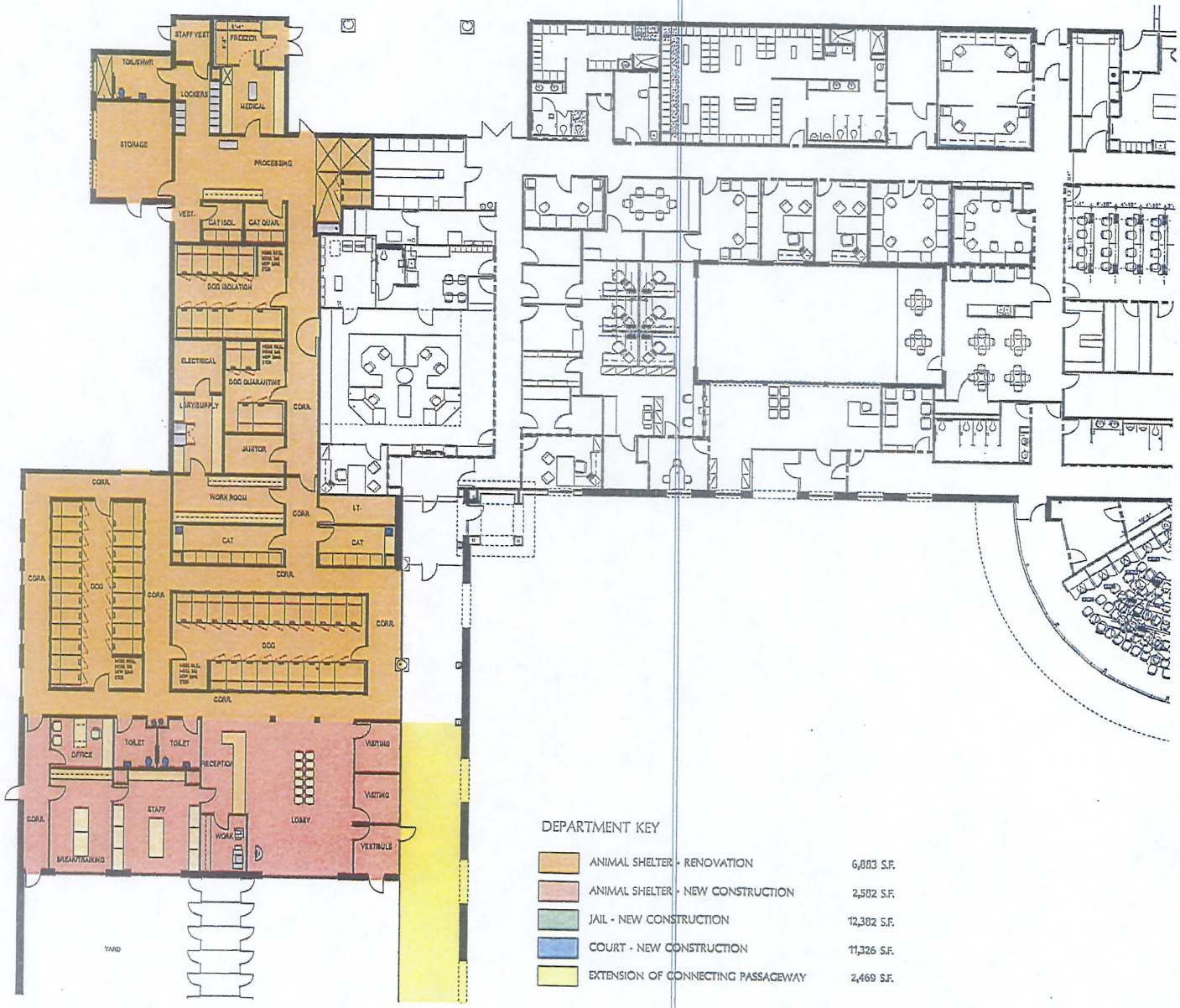

STAFF VEST.
FREEZER
TOILET/SHWR.
LOCKERS
MEDICAL
STORAGE
PROCESSING
VEST.
CAT ISOL.
CAT QUAR.
DOG ISOLATION
ELECTRICAL
DOG QUARANTINE
LAUNDRY/UTILITY
CORR.
JANITOR
WORK ROOM
CAT
LT.
DOG
OFFICE
TOILET
TOILET
RECEPTION
VISITING
VISITING
STAFF
LOBBY
WORK
VESTIBULE
BREAKROOM
YARD
DEPARTMENT KEY
ANIMAL SHELTER - RENOVATION 6,883 S.F.
ANIMAL SHELTER - NEW CONSTRUCTION 2,592 S.F.
JAIL - NEW CONSTRUCTION 12,382 S.F.
COURT - NEW CONSTRUCTION 11,326 S.F.
EXTENSION OF CONNECTING PASSAGEWAY 2,469 S.F.

EXHIBIT "B"

HUMANE SOCIETY AREA



DEPARTMENT KEY

ANIMAL SHELTER - RENOVATION	6,883 S.F.
ANIMAL SHELTER - NEW CONSTRUCTION	2,502 S.F.
JAIL - NEW CONSTRUCTION	12,382 S.F.
COURT - NEW CONSTRUCTION	11,326 S.F.
EXTENSION OF CONNECTING PASSAGEWAY	2,469 S.F.