

FIFTH AMENDMENT TO AGREEMENT

THIS FIFTH AMENDMENT TO AGREEMENT (Fifth Amendment) made and entered into as of this _____ day of _____, 2022, ratifies and amends the Agreement entered into between the City of Fresno, a municipal corporation (City) and the Central California Society for the Prevention of Cruelty to Animals, a duly organized and qualified California nonprofit public benefit corporation (Society).

RECITALS

WHEREAS, City and Society entered into an Agreement, effective March 1, 2014, wherein Society provides City with all animal control, pound master, veterinary and animal sheltering services, facilities and related activities authorized and required by applicable law (Agreement); and

WHEREAS, the Agreement provided for an initial term through June 30, 2015, and three one-year renewal terms ending on June 30, 2018; and

WHEREAS, City and Society amended the Agreement to provide for a one-year extension ending on June 30, 2019, and to allow the parties additional time to negotiate terms for a future agreement (Amendment); and

WHEREAS, City and Society amended the Agreement in order to increase Society's funding by \$184,920.58 to cover salary increases and additional costs to address the minimum wage increases effective January 2018 and January 2019, and allow the Society to maintain its current service levels for the one-year extension ending June 30, 2019 (Second Amendment); and

WHEREAS, City and Society amended the Agreement to provide for a one-year extension ending June 30, 2020 (Third Amendment); and

WHEREAS, City and Society amended the Agreement to provide for a one-year extension ending June 30, 2021, to allow the City time to build its new animal shelter and award an animal control services contract to a new service provider (Fourth Amendment); and

WHEREAS, pursuant to the Fourth Amendment, City timely requested two Extensions which added 180 days to the term of the Agreement and revised the termination date to December 31, 2021; and

WHEREAS, City and Society desire to ratify and amend the Agreement to authorize a six-month extension ending June 30, 2022, (Fifth Amendment) to allow the City additional time to complete construction of the animal shelter and to transition operations.

AMENDMENT

NOW, THEREFORE, in consideration of the above recitals, which recitals are contractual in nature, the mutual promises herein conditioned, and for other good and valuable consideration hereby acknowledge, the parties agree that the aforesaid Agreement be amended as follows:

1. Section I of the Agreement entitled "Term" is deleted in its entirety and replaced as follows:

"1. This Agreement shall be effective from the date first set forth above and will continue so long as any amount remains unpaid hereunder, for an Initial Term beginning on the date first set forth above and expiring at midnight June 30, 2015, (Initial Term) subject to such termination rights as are provided in Section V below.

Beginning at the expiration of the Initial Term, the term of this Agreement may be extended upon the successive appropriation by City Council (Renewal Term) of amounts sufficient to make payments due hereunder during the successive Renewal Term, for up to seven Renewal Terms. The Seventh Renewal Term shall be effective from January 1, 2022, through June 30, 2022. The amount of fees due, other than prepaid fees, shall be fixed by the parties' written agreement added as a renewal addendum hereto, unless either party shall give written notice of non-renewal at least ninety days prior to expiration of the then current Initial or Renewal term, subject to such termination rights as are provided in Section V below.

The parties' Seventh Renewal Term may be extended by up to 30 days (Extension) at a cost of \$450,000 (Extension Fee). City must provide Society with 30 days' notice prior to the beginning of the first day of the Extension (Extension Notice). City may request up to three Extensions of the Seventh Renewal Term, for a total of 90 days. City must provide its first Extension Notice on or before June 1, 2022, its second Extension Notice on or before July 1, 2022, and its third Extension Notice on or before August 1, 2022.

2. Unless otherwise noted herein, the City's Renewal Term and Fiscal Period shall run from July 1 through June 30."

2. Exhibit "B" shall be deleted in its entirety and replaced with the revised Exhibit "B" attached hereto.

3. Except as otherwise provided herein, the Agreement entered by City and Society, effective March 1, 2014, remains in full force and effect.

4. In the event of any conflict between the body of this Fifth Amendment and any Exhibit or Attachment hereto, the terms and conditions of the body of this Fifth Amendment shall control and take precedence over the terms and conditions expressed within the Exhibit or Attachment. Furthermore, any terms or conditions contained within any Exhibit or Attachment hereto which purport to modify the allocation of risk between the parties provided for within the body of this Fifth Amendment shall be null and void.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Amendment at Fresno, California, the day, and year first above written.

CITY OF FRESNO,
A California municipal corporation

CENTRAL CALIFORNIA SOCIETY
FOR THE PREVENTION OF
CRUELTY TO ANIMALS,
a nonprofit corporation

By: _____
Georgeanne A. White
City Manager

By: _____

Name: _____

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

Title: _____
(If corporation or LLC, Board
Chair, Pres. or Vice Pres.)

By: _____
Tracy N. Parvanian Date
Senior Deputy City Attorney

By: _____

Name: _____

ATTEST:
TODD STERMER, CMC
City Clerk

Title: _____
(If corporation or LLC, CFO,
Treasurer, Secretary, or Assistant
Secretary)

By: _____
Deputy

Attachment:
1. Revised Exhibit B – Updated Fee
Schedule effective January 1, 2022

REVISED EXHIBIT B – UPDATED FEE SCHEDULE
Effective January 1, 2022

1. As compensation for the Augmented Services, the Society shall be paid the following sums, as approved, and appropriated by the City Council.

During the 2021-2022 fiscal year, a current year fee not to exceed \$5,571,000, of which the total cost of additional services and fees for the 6-month extension from January 1, 2022, through June 30, 2022, shall not exceed \$2,898,498, as set forth below, which shall be payable in monthly installments.

Payroll:	\$4,064,000*
Supplies/Service Fees:	\$1,461,000**
Estimated Cost of Care Fee:	\$46,000

*Payroll fees include the mandated minimum wage increase to \$15 per hour.

**Supplies/Shelter Service fees include an additional \$30,000 for the annual cost of services due to increased costs ranging from 2 percent and 10 percent.

2. Each payment hereunder by City shall be contingent upon timely submission to and review and approval by, the City of the Society's monthly service, fiscal, and complaint reports as stipulated in Section IV and Exhibits "C" and "D" to the Third Amendment.