

**ADDENDUM TO THE ANIMAL SHELTER SERVICES
AND LEASE AGREEMENT BETWEEN**

THE CITY OF LONG BEACH

And

POSH PETS RESCUE, INC.

THIS ADDENDUM is adopted on this 1st day of June 2021, and is applied to the Agreement between the City of Long Beach, New York (the "City"), and Posh Pets Rescue, Inc. ("Contractor") (referred to collectively as the "Parties"), entered into on October 20, 2016 (the "Original Agreement") under the authority of City Council Resolution No. 66/16 adopted on June 21, 2016.

WHEREAS, subject to the terms, permissions, responsibilities and obligations of the Original Agreement, the City and Contractor agree as follows:

1. Recitals: The foregoing preamble and "WHEREAS" clause, as well the exhibits referenced therein, if any, are hereby incorporated into and made a part of this Addendum.

2. Controlling Terms/Provisions: To the extent not addressed in this Addendum, all of the terms, provisions, permissions, responsibilities and obligations agreed to between the City and Contractor in the Original Agreement remain in full force and effect throughout the duration of this Addendum.

3. Extension: The Parties agree to extend the term of the Original Agreement for an additional three (3) years, expiring on October 16, 2024 ("Extension Period"), with a two (2) year option to renew, at the City's sole discretion ("Optional Renewal Period"). In the event the option to renew is exercised, the Optional Renewal Period shall expire on October 16, 2026

4. Payment: The Parties agree that the following shall apply in place and stead of "Sections C" of the Original Agreement:

- a. The City shall pay to the Contractor \$123,165.60 annually, in monthly installments of \$10,263.80. The annual sum shall not increase during the Extension Period, expiring on October 16, 2024. Each payment shall be made at the beginning of each calendar month.
- b. Should the Parties decide to exercise the Optional Renewal Period, expiring on October 16, 2026, the sum shall increase each year of the Optional Renewal Period, by percentage equal to the percentage change during the preceding 12 months in the Consumer Price Index (All Urban Consumers, New York-Northern New Jersey-Long Island, NY-NJ-CT-PA, 1982-1984=100) issued by the Bureau of Labor Statistics of the United States Department of Labor. If the Bureau of Labor Statistics ceases publication of this Consumer Price Index, the Parties will select another index similar to the one previously published.

5. City Obligations: The Parties agree that the following shall apply in place and stead of "Sections G" of the Original Agreement:

- a. At a mutually agreeable date and time, the City shall replace the four (4) metal doors referenced in Section G, ¶ 5. Of the Original Agreement.

6. Unlawful Activity: Contractor shall not permit any activities that are prohibited by Federal, State, County, or City laws, rules, regulations, or ordinances, including State and Local Emergency Orders issued in accordance with New York State Executive Law.

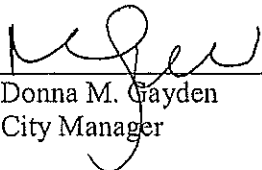
7. No Modification: This Addendum may not be changed, modified, or altered in any manner, unless in writing and upon mutual consent of the Parties.

8. No Sole Drafter: The Parties herein acknowledge that they have read this agreement, have had the opportunity to review it with an attorney of their respective choice, and have agreed to all its terms. In the event an ambiguity or a question of intent or interpretation arises, this agreement shall be construed as if drafted jointly by each of the parties hereto and no presumptions or burdens of proof shall arise favoring any party by virtue of the authorship of any provisions of this agreement.

9. Counterparts: This Agreement may be executed in more than one counterpart, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Fax, PDF and Adobe copies of this Agreement shall be deemed as originals. Execution in counterparts and/or by email or facsimile, shall have the same force and effect as an original signature.

IN WITNESS WHEREOF, the parties have interchangeably set their hands and seals to be hereto affixed the day and year first above written.

CITY OF LONG BEACH, NEW YORK

By: 

Donna M. Gayden
City Manager

POSH PETS RESCUE, INC.

By: Linda Vetrano

Linda Vetrano
President/Founder

ANIMAL SHELTER SERVICES AND LEASE AGREEMENT

THIS AGREEMENT, made this 20 day of October, 2016, between the City of Long Beach, a municipal corporation of the State of New York with a business address at 1 West Chester Street, Long Beach, New York 11561 (hereinafter the "City") party of the first part, and Posh Pets Rescue, Inc., a domestic corporation with a business address at 340 East 93rd Street, New York, New York 10128 (hereinafter the "Contractor") party of the second part, covenant,

WHEREAS, as part of and for the duration of this Agreement the City is giving Contractor access to the building located at 770 Park Place, Long Beach, New York (the "Shelter"), for the purpose of providing animal shelter services. In the event that this Agreement should no longer be in effect, no separate right exists for Contractor to occupy the premises; and

WHEREAS, Contractor's goal is to make the Shelter a superior community establishment. Contractor intends to promote community engagement and outreach through spay-neuter education, promoting kindness to animals, and raising awareness about the importance of animal adoptions.

NOW, THEREFORE, in consideration of the mutual promises made herein, the parties hereto agree as follows:

A. TIME OF COMMENCEMENT:

This Agreement shall commence on October 17, 2016, and continue for a period of five (5) years.

B. AUTHORITY:

This Agreement is entered into by authority of City Council Resolution No. 66/16 adopted on 9/21/2016.

C. PAYMENT:

Contractor shall receive from the City the annual sum of \$115,000 paid in monthly installments for the operation of the Shelter. The annual sum shall increase each year by a percentage equal to the percentage change during the preceding 12 months in the Consumer Price Index (All Urban Consumers, New York-Northern New Jersey-Long Island, NY-NJ-CT-PA, 1982-84=100) issued by the Bureau of Labor Statistics of the United States Department of Labor. If the Bureau of Labor Statistics ceases publication of this Consumer Price Index, the parties will select another index similar to the one previously published. Each payment shall be made at the beginning of each calendar month.

D. SCOPE OF SERVICES:

1. Contractor agrees to provide animal shelter services for the City of Long Beach and its residents. It shall perform all the general duties of a shelter in a satisfactory manner and

in full compliance with accepted standards and methods applicable to the practice of an animal shelter in the State of New York. Contractor shall utilize their experience, knowledge, and education to maintain the best care for animals placed at the Shelter.

2. Contractor shall comply with all provisions of Chapter 5 of the Code of Ordinances of the City of Long Beach. Contractor further agrees to abide by all applicable federal and state guidelines, regulations, ordinances and laws, including but not limited to those of the State of New York, the County of Nassau, the New York State Department of Agriculture and Markets, and the County of Nassau Department of Health.

3. All animals seized and brought to the Shelter by the City's Animal Control Officers or Police Officers (the "Officers") will be accepted into the Shelter. Documentation regarding the animal's condition upon seizures will be provided by the Officers or Long Beach Police Department.

4. All animals that are surrendered by residents of Long Beach shall be accepted into the Shelter. The owners shall be required to complete a detailed surrender report detailing the animal's behavior, health, and history.

5. The parties acknowledge that Contractor performs animal rescue services in New York City and that Contractor shall provide services under this Agreement in conjunction with its current operations in New York City and elsewhere. Contractor may take animals under its care from New York City and elsewhere and place them in the Shelter, to the extent there is available space in the Shelter. Contractor may also send animals from the Shelter for fostering or adoption to New York City or elsewhere in accordance with Contractor's current operations. Notwithstanding the foregoing, the Contractor represents that no animal that is seized or surrendered in Long Beach will be rejected from the Shelter.

E. VETERINARY SERVICES:

1. Contractor shall use veterinary services of their choosing. Veterinarian shall be duly licensed to practice veterinary medicine in the State of New York. Contractor shall be responsible for any major medical care. Fees for veterinary services shall be paid directly to the veterinarian by the Contractor.

2. All animals shall be seen by a veterinarian and shall be provided required vaccinations, SNAP tests for cats/kittens and heartworm testing for dogs. Notwithstanding the foregoing, the Contractor shall determine whether an animal needs to go to a veterinarian for any other purpose. The City shall, at its expense, have the current veterinarian for the Shelter confirm the FIV/FeLV status of all animals at the Shelter as of the date of this Agreement and provide an update regarding the vaccinations for all such animals.

3. Veterinary services shall include vaccinations, spaying, neutering, and general healthcare monitoring. Dispensing of medications will be coordinated, recorded, and maintained. All animals will be spayed or neutered prior to leaving the Shelter with their adoptive family unless Contractor, in its discretion, determines that spaying and neutering should

occur after the adoption. If age or medical reasons prevent spaying or neutering, documentation shall be provided by the veterinarian justifying same. If the animal is too young, a date for neutering or spaying shall be set prior to the animal leaving the Shelter. All adoptions shall be followed up. If the adopter does not spay or neuter the animal as agreed upon, the animal shall be returned to the Shelter. An owner redeeming a seized dog shall have the option of having it spayed or neutered.

4. Any animals taken into the custody of the Officers or the Shelter that require emergency veterinary care shall be taken to Long Island Veterinary Specialists, 163 South Service Road, Plainview, New York unless Contractor directs that the animal be taken elsewhere.

5. A veterinarian shall medically evaluate all animals brought to the Shelter.

6. Contractor shall send those dogs requiring training to one of their various training facilities or bring in outside trainers to work with them.

7. Contractor shall maintain all recordkeeping, including fostering, adoptions, medical, day to day care, etc., by a database and checklist. Contractor shall use Shelter Pro, which is a database for animal shelters, or a comparable database of its choice.

8. Contractor shall provide an emergency preparedness plan and emergency evacuation plan which will be periodically reviewed, updated, and kept in the Shelter Operations Manual. The emergency evacuation plan shall be made available for staff, visitors, and volunteers at all times.

F. ADOPTION:

1. Contractor shall require all potential adopters to complete an adoption application and Contractor shall, to the extent Contractor deems necessary, check all required references, interview, meet and greet with other pets that potential adopters have, and do home checks that the home is a safe environment; all family members are involved in the adoption process and Contractor may discuss any concerns that are seen during the home check. An adoption contract shall be completed and signed by the parties. All adopted animals must be returned if adopters are unable to properly care for the animal. Contractor may deny any application for adoption in its sole discretion.

2. Contractor shall meet with school and community groups to promote adoptions, proper care of pets, importance of community involvement in rescue and to promote community engagement through education, adoption events, fundraisers, and discussions.

3. Contractor shall work with and involve the community and local organizations to promote awareness and solicit donations for the Shelter by providing adoption events at the Shelter.

4. Contractor, through social media and otherwise, shall maintain a social media presence and keep the public informed of its dedication to its mission, adoptable animals, programs and events.

5. All adoption and reclamation fees shall be set and collected by the Contractor to help fund its operations at the Shelter. A schedule of such fees is set forth on **Exhibit A**. Contractor shall not increase the fees listed in **Exhibit A** without the prior written consent of the City.

G. OBLIGATIONS OF CONTRACTOR AND CITY:

1. Contractor shall, at its own cost and expense, provide any and all manner of labor, materials, equipment and whatever else may be required to the operation and upkeep of the Shelter.

2. The City shall be responsible for all structural elements and for major repairs to the plumbing, electric, and sewer system of the Shelter. Contractor shall be responsible for the general upkeep and daily maintenance of the facility including routine maintenance of the Shelter and its plumbing, electric, and sewer systems.

3. Contractor shall be responsible for the removal of snow and ice from the sidewalk and driveway of the Shelter.

4. Contractor shall maintain the area around the Shelter in a clean and proper way. Garbage and trash shall be properly stowed and disposed of in accordance with the City's Code of Ordinances and as directed by the City's Department of Sanitation.

5. The City shall make all Outstanding Shelter Repairs as set forth on **Exhibit B** within sixty (60) days of the execution of this Agreement.

H. UTILITIES:

The City shall provide electric, gas, water, heat, air conditioning, and sanitation pick up. The City shall ensure that the Shelter has a fully operational heating and air conditioning system within thirty (30) days of the execution of this Agreement.

I. DEFENSE OF ACTION OR SUITS; INDEMNIFICATION:

1. Contractor agrees to indemnify and hold the City, its officers, employees, and agents, harmless for injuries to persons and property against all suits, claims, or actions for any injury sustained or alleged to be sustained by any party or parties in connection with its operation of the Shelter, except for any claims due, in whole or in part, to the acts or omissions of the City and/or the Officers.

2. Contractor shall obtain insurance in the amounts of not less than \$1,000,000 per person and \$1,000,000 per occurrence and property damage liability insurance in an amount not

less than \$300,000/\$1,000,000 per occurrence for the protection of the Contractor and the City, and shall furnish duplicates of the policies to the City and Workers' Compensation Insurance in accordance with the laws of the State of New York. Such policies shall be written by an insurance company or companies approved by the City and shall name the "the City of Long Beach" as an additional insured on the certificate of insurance.

J. COMPLIANCE WITH LAWS:

Contractor agrees that it will abide by, comply with and obey all federal and state rules, laws, regulations and all requirements of the City and local laws, ordinances and resolutions passed pursuant thereto, which may be applicable to this Agreement.

K. LABOR LAW:

Contractor shall not discriminate in the employment of persons for work under this Agreement because of race, creed, religion, sex or color. Neither shall the Contractor discriminate in any manner against or intimidate any employee hired for the performance of work under the Agreement on account of race, creed, religion, sex or color.

L. SHELTER STAFFING:

1. Contractor shall adequately staff the Shelter at all times to provide proper service. No person under the age of 16 shall be employed by Contractor to perform any work under the Agreement.

2. Contractor shall solicit, interview, hire, train and manage volunteers who assist with cleaning, organizing and maintaining the general wellbeing of the animals.

3. Contractor shall reach out to local veterinary schools at BOCES, Nassau and Suffolk Community College for students who may be eligible to do internships at the Shelter.

4. Contractor may, in its sole discretion, terminate any employee or volunteer at any time.

M. TERMINATION OF AGREEMENT:

The City reserves the right to terminate this Agreement at any time due to inadequate or poor performance by the Contractor. Contractor reserves the right to terminate this Agreement if the City does not honor its obligations herein.

N. NON-ASSIGNABILITY:

Contractor shall have no right or power to assign this Agreement, in whole or in part, or sublet any part without the consent of the City.

O. CHANGES TO AGREEMENT:

This instrument may not be changed, modified, or discharged orally.

P. ANIMAL CONTROL OFFICERS:

The Officers shall have access to the Shelter 24 hours a day, seven days a week. The Officers shall not interfere with the Contractor's services at the Shelter.

Q. GENERAL:

1. Subject to the provisions of this Agreement, this Agreement shall bind and inure only to the benefit of the City and Contractor and their respective legal representatives, successors and assigns. No person is intended to be a third party beneficiary of this lease.

2. This lease may not be changed or terminated, in whole or in part, except in a writing signed by City and Contractor.

3. The captions in this Agreement are for reference only and do not define the scope of this Agreement or the intent of any term.

4. If any provision of this Agreement, or the application thereof to any person or circumstance, is invalid or unenforceable, then in each such event the remainder of this Agreement or the application of such provision to any other person or any other circumstance (other than those as to which it is invalid or unenforceable) shall not be affected, and each provision hereof shall remain valid and enforceable to the fullest extent permitted by all applicable Laws.

5. There shall be no presumption against the City because the City drafted this lease or for any other reason.


6. The failure of any party at any time to require performance of any provision or to resort to any remedy provided under this Agreement shall in no way affect the right of such party to require performance or to resort to a remedy at any time thereafter, nor shall the waiver by any party of a breach be deemed to be a waiver of any subsequent breach.

7. This lease shall be governed by, and construed in accordance with, the Laws of the State of New York.

[SIGNATURE PAGE TO FOLLOW]

In Witness Whereof, City and Contractor have executed this lease on the date of this lease.

City of Long Beach

By: 
Name: JACK SCHNIRMAN
Title: City Manager

Contractor


By: 
Name: LINDA VEIRANO
Title: PRESIDENT
PEST PETS RESCUE INC.

EXHIBIT "A"

ADOPTION AND RECLAMATION FEES

Adoption: From \$100 for an adult cat (\$125 for a kitten) up to \$350 for dogs under one or purebred dogs.

Reclamation: Up to \$50 per day.

EXHIBIT "B"

OUTSTANDING SHELTER REPAIRS

HEATING & AIR CONDITIONING

There is no heat & A/C in the front half of the building. We asked PAM to come in and assess the situation. Apparently the Air Handler in the ceiling of the office was dismantled and removed. We received a quote from PAM of \$5500 to replace the equipment. The ventilation system is in place in the ceiling, and a new circulator is sitting next to the one destroyed during Superstorm Sandy but was never connected. The City wanted to put three portable air conditioners in the walls but this would not address the heating. The cat rooms were extremely cold all winter. It's prohibitive and dangerous to put portable heating units in the cat rooms due to the activity of the cats and the extreme amount of fur.

In addition, we had PAM look at the air handler in the back half of the building, which constantly drips condensation in the warm weather. The technician said it should not do this and needs to be opened and checked. We did not get a price for doing this. The dripping is a problem since this our animal isolation room.

DOOR REPLACEMENT

All the metal doors (14) were supposed to be replaced after Sandy. They were all measured and documented several months ago. A few months ago we were told only the four doors to the dog runs would be replaced but this has not yet happened.

CEILING REPAIRS

There are still three holes in the ceiling. One is in the office closet, one is in the back storage room and one is above the door going to the outside runs. One of the holes is damp and two of them have black debris falling out.

PARKING LOT GATE

Shortly after the new gate was installed a garbage truck backed into it. It does not align properly and it is possible for dogs to get through the opening.

ROOF GUTTERS

The roof was replaced and rain gutters were not installed. During heavy rain the water comes down in sheets literally blocking the doorways.

LEAKS

One of the windows in the office leaks when it rains, causing puddles on the floor. As mentioned, one of the holes in the ceiling is always wet.

SEWER LINE

The toilet still backs up at least every two weeks.

SIDEWALK REPAIR

There is a sidewalk square missing at the west front corner of the front sidewalk. This is a potential insurance risk.

MICE & ANTS

The shelter has been inundated with mice and ants. The mice are coming in through the ceiling holes. They are eating through bags of dog & cat food and leaving feces everywhere.

June 21, 2016

Item No. 5
Resolution No. 66/16

The following Resolution was moved by Ms. Goggin
and seconded by Ms. Moore :

Resolution Authorizing the City Manager to Extend the
Current Agreement for Animal Shelter Services.

WHEREAS, pursuant to Resolution No. 59/14, dated April 16, 2014, the City of Long Beach entered into an agreement with Posh Pets Rescue, 340 East 93rd Street, New York, New York 10128 for the providing of Animal Shelter Services for all animals that are surrendered by residents of Long Beach as well as all animals seized and brought to the Shelter by the City's Animal Control Officers, for veterinary services, kennel help, food and litter; and

WHEREAS, the City desires to continue said services and to extend the agreement for an additional three years, at an annual fee of \$115,000;

NOW, THEREFORE, be it

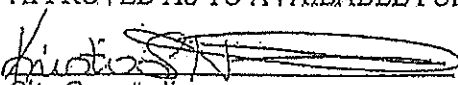
RESOLVED, by the City Council of the City of Long Beach, New York that the City Manager be and he hereby is authorized to extend the agreement with Posh Pets Rescue, 340 East 93rd Street, New York, New York 10128, for a period of three years, to provide shelter services for all animals that are surrendered by residents of Long Beach as well as all animals seized and brought to the Shelter by the City's Animal Control Officers, to include veterinary services, kennel help, food and litter and administration fees, at a cost of \$115,000.00. Funds are available in Account No. A3120.54450 (Contracted Services).

APPROVED:



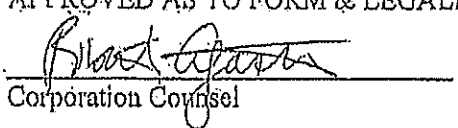
City Manager

APPROVED AS TO AVAILABLE FUNDS:



City Comptroller

APPROVED AS TO FORM & LEGALITY:



Corporation Counsel

VOTING:

Council Member Goggin - AYE

Council Member Mandel - AYE

Council Member Moore - AYE

Vice President Eramo - AYE

President Torres - AYE