

1 FIRST AMENDMENT TO LEASE-BACK NO. 25916

2 **25916**

3 THIS FIRST AMENDMENT TO LEASE-BACK NO. 25916 ("First
4 Amendment") is made and entered, in duplicate, as of July 28, 2009, for reference
5 purposes only, pursuant to a minute order adopted by the City Council of the City of Long
6 Beach at its meeting held on July 14, 2009, by and between the CITY OF LONG BEACH,
7 a municipal corporation ("City"), and the LOS ANGELES SOCIETY FOR PREVENTION
8 OF CRUELTY TO ANIMALS, a California nonprofit corporation ("SPCALA"), whose
9 address is 5026 West Jefferson Boulevard, Los Angeles, California 90016.

10 **RECITALS**

11 This First Amendment is made with reference to the following facts and
12 objectives:

13 WHEREAS, City and SPCALA entered into Lease-Back No. 25916 ("Lease-
14 Back"), pursuant to which SPCALA leased to City certain portions of the Facility shown in
15 red on Exhibit "A", consisting of Lease-Back Premises, together with the right to use the
16 Common Areas shown in blue on Exhibit "A"; and

17 WHEREAS, the full plan for the Facility was approved by the parties in
18 August 1998; and

19 WHEREAS, the parties are not obligated to construct the Facility in whole
20 as shown on the full plan, and the portions of the Facility that have been completed are
21 shown on Exhibit "C" attached to this First Amendment; and

22 WHEREAS, Section 7.(A), and more particularly Section 7.(A)(viii), of the
23 Lease-Back provides that the City shall pay to SPCALA fifty percent (50%) of all
24 Operating Expenses, which includes debt service on funds in excess of Three Million
25 Dollars (\$3,000,000.00) borrowed by SPCALA to pay for the cost of original construction
26 of the Facility as defined in the Lease; and

27 WHEREAS, original construction of the Facility has been deemed fully
28 completed as shown on Exhibit "C"; and

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1 WHEREAS, SPCALA borrowed additional funds to pay for the cost of
2 original construction of the Facility, and such loan was later replaced by a tax-exempt
3 bond and letter of credit in the total amount of Five Million Five Hundred Ninety Thousand
4 Six Hundred Sixty-Six Dollars and Ninety-Eight Cents (\$5,590,666.98); and

5 WHEREAS, the Lease-Back provides that the Lease-Back may be changed
6 or amended by an instrument in writing signed by the City and SPCALA; and

7 WHEREAS, the parties desire to amend the Lease-Back to clarify the rights
8 and obligations of both parties under the Lease-Back; and

9 WHEREAS, capitalized terms not defined herein shall have the meanings
10 ascribed to them in the Lease-Back;

11 NOW, THEREFORE, in consideration of the mutual terms and conditions
12 contained herein, the parties agree as follows:

13 1. Recitals. The above recitals are true and correct and are
14 incorporated by this reference.

15 2. Exhibit "A". Exhibit "A" to the Lease-Back which shows and
16 delineates the Lease-Back Premises and Common Areas, is hereby deleted, superseded
17 and replaced in its entirety by Exhibit "A" attached hereto.

18 3. Exhibit "C". Exhibit "C" which depicts the portions of the Facility that
19 have been completed, is hereby attached hereto and incorporated herein by this
20 reference.

21 4. Debt Service. Section 7.A(viii) of the Lease-Back is hereby
22 amended in its entirety to read as follows:

23 “(viii) Debt service on funds in excess of Three Million Dollars
24 (\$3,000,000.00) borrowed by SPCALA to pay for the cost of original construction
25 of the Facility as defined in the Lease. Debt service on such borrowed funds shall
26 be limited to payments of interest, fees charged for bond administration and fees
27 charged to maintain letters of credit issued to finance original construction. City
28 shall not be obligated to pay any part of the principal of the bond or balance of the

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1 letters of credit.”

2 5. Operating Expenses. Section 7.A(ix) of the Lease-Back is hereby
3 amended in its entirety to read as follows:

4 “(ix) City shall pay its share of Operating Expenses within ten (10)
5 days after receipt from SPCALA of monthly certified invoices for actual expenses
6 together with reasonably detailed supporting documentation.”

7 6. Ratification. Except as expressly amended in this First Amendment,
8 the terms and conditions contained in Lease-Back No. 25916 are ratified and confirmed
9 and shall remain in full force and effect.

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IN WITNESS WHEREOF, the parties have caused this document to be duly executed with all formalities required by law as of the date first stated above.

THE LOS ANGELES SOCIETY FOR PREVENTION OF CRUELTY TO ANIMALS, a California nonprofit corporation

8/21, 2009

By [Signature]
President

8/19, 2009

Marilyn Bernstein
Type or Print Name
By [Signature]
Secretary
Mariann N. Etorre
Type or Print Name

"SPCALA"

CITY OF LONG BEACH, a municipal corporation

10.12, 2009

By [Signature] Assistant City Manager
City Manager
"City"

EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.

This First Amendment to Lease-Back No. 25916 is approved as to form on

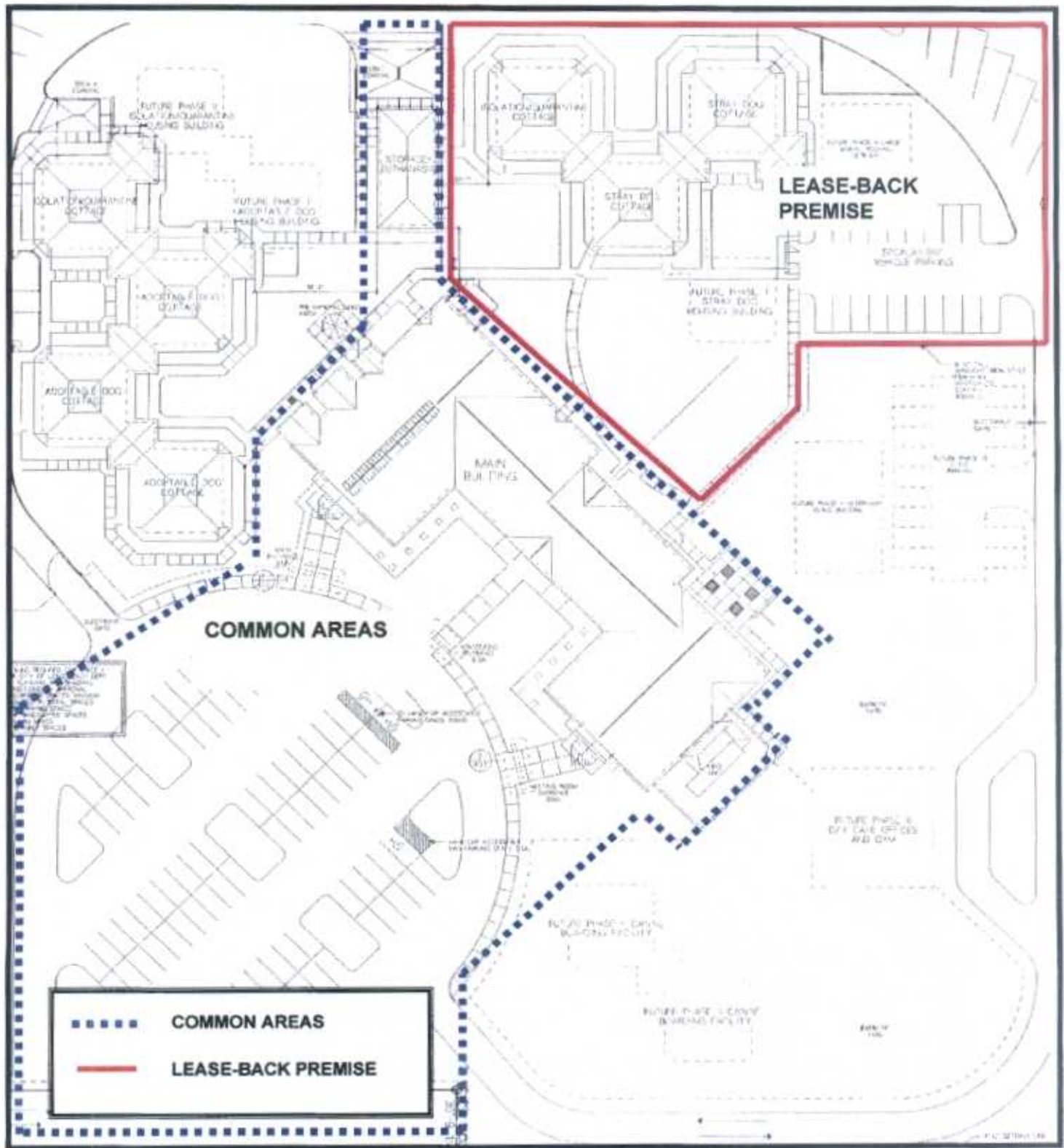
10/7, 2009.

ROBERT E. SHANNON, City Attorney

By [Signature]
Deputy

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EXHIBIT A: LEASE-BACK PREMISE AND COMMON AREAS
P.D. Pitchford Companion Animal Village



Drawings by: Warren Friedenfeld & Associates, 1999

