Intro. Res. No. 1987-2011 Laid on Table 11/22/2011
Introduced by Presiding Officer, on request of the County Executive

RESOLUTION NO. 1049 -2011, AUTHORIZING THE LICENSE AGREEMENT FOR USE OF COUNTY PREMISES LOCATED AT BUILDING 16, NORTH COUNTY COMPLEX, HAUPPAUGE NY BY THE SUFFOLK COUNTY SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS

WHEREAS, the Suffolk County Society for the Prevention of Cruelty to Animals ("SCSPCA") operates from 363 Rte. 111, Suite 5, Smithtown NY, and has a need to relocate its operations from the above mentioned location; and

WHEREAS, SCSPCA has maintained a cooperative relationship with Suffolk County District Attorney's Office and wishes the SCSPCA to maintain a presence in Suffolk County to assist in its operations; and

WHEREAS, Suffolk County's Department of Public Works Operations and Maintenance division has identified approximately 635 square feet of office space at Building 16 on the North County Complex that could be used by the SCSPCA that will enable the it to maintain its working relationship with Suffolk County; and

WHEREAS, the SCSPCA has expressed its willingness to enter into a license agreement for a duration of three (3) years, from December 1, 2011 through November 30, 2014, at no cost; and

WHEREAS, the Space Management Steering Committee recommended the approval of the lease extension at its August 25, 2011 meeting; now, therefore be it

1st **RESOLVED**, that this Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.59(c)(20) and (27) of Title 6 of the New York Code of Rules and Regulations (6 NYCRR) and within the meaning of Section 8-109 of the New York Environmental Conservation Law as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. Furthermore, in accordance with Section 1-4(A)(1)(d) of the Suffolk County Charter and Section 279-5(C)(4) of the Suffolk County Code, the Suffolk County Council on Environmental Quality is directed to prepare and circulate all appropriate notices of determination of non-applicability or non-significance in accordance with this law; and be it further

2nd **RESOLVED**, that the County Executive be and hereby is authorized to execute a License Agreement for three (3) years in accordance with the terms and conditions of this resolution and in substantial conformance with the form annexed.

DATED: December 6, 2011

APPROVED BY:

County Executive of Suffolk County

Date: DEC 1 4 2011

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ACKNOWLEDGEMENT

STATE OF NEW YORK}
SS:
COUNTY OF SUFFOLK}

On the ____ day of _____ in the year 20___ before me, the undersigned, personally appeared _____, personally known to me or provided to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individuals(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____
(signature and office of individual taking acknowledgement)

ACKNOWLEDGEMENT

STATE OF NEW YORK}
SS:
COUNTY OF SUFFOLK}

On the ____ day of _____ in the year 20___ before me, the undersigned, personally appeared _____, *Deputy County Executive* personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individuals(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____
(signature and office of individual taking acknowledgement)

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Exhibit A
General Terms and Conditions

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WHEREAS, Licensee works cooperatively with the Suffolk County Police Department and the District Attorney's Office to enforce anti-cruelty laws which involve animal torture, animal fighting, animal sacrifice, etc.; and

WHEREAS, licensee has wildlife agents who assist in the humane capture and care of wild and exotic animals; and

WHEREAS, the COUNTY and Licensee work closely together to coordinate their responses to such acts of cruelty to animals; and

WHEREAS, there are mutual benefits having the Licensee located in County facilities in order to coordinate and respond effectively to incidents that occur in Suffolk County, and to enhance communication between Licensee and the County in furtherance of improving the delivery of such law enforcement services to the residents of Suffolk County; and

Now, Therefore, in consideration of the mutual covenants and conditions herein contained, the parties hereto agree as follows:

Section 1. *Description of Licensed Space:* Approximately 635± square feet of office and storage space located in the building identified as Building # C0016 North County Complex, Veterans Memorial Highway, Hauppauge, New York 11788 (the "**Licensed Space**).

Section 2. *Term:* December 1, 2011 through November 30, 2014, unless sooner terminated as described.

Section 3. *Termination*:

a. Either party may terminate this Agreement without cause at any time prior to the expiration of the Term (including any extensions thereof) (i) by giving thirty (30) days written, advance notice sent by certified mail to the other party, or (ii) upon the mutual consent of the parties.

b. *Termination by County in the Public Interest:* Notwithstanding anything herein to the contrary, in the event that the Commissioner of the Department determines in his/her sole discretion, that termination is in the best interest of the County, the County may terminate this Agreement. Such termination shall occur upon fifteen (15) days written notice to terminate the Agreement. Upon such termination, Licensee shall vacate and surrender Licensed Space to the Commissioner of DPW immediately.

c. As of the termination date, Licensee shall quit and surrender the Licensed Space to the Commissioner of the Department of Public Works. It is further agreed that upon termination, Licensee shall remove all of its equipment and that any property and equipment not so removed by the effective date of termination, shall be considered as having been abandoned by Licensee to the County, and title thereto shall rest in the County.

d. If the term of this Agreement shall expire or be terminated as provided herein, or if Licensee shall abandon the Licensed Space, then and in such event, the Commissioner of the Department may, without further notice, reenter the Licensed Space by force, summary dispossess proceedings, or otherwise, and Licensee waives the service of any notice of the Commissioner's intention to reenter or repossess the Licensed Space or to institute legal proceedings to that end.

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e. Upon the termination or expiration of this Agreement, Licensee shall remain liable to the Commissioner of the Department and the County:

(i) For the reasonable costs expended by the Commissioner of the Department and the County to place the Licensed Space in the physical condition in which Licensee is obligated to leave it upon the expiration of the term; and

(ii) For the costs incurred by the Commissioner of the Department and the County to remove Licensee, and with or without legal process, the cost to expel, oust and remove all parties who may be present upon or occupy any part of the Licensed Spaced, and all personal property that may be thereon and therein contained, without being liable to prosecution, damage, or damages therefore, or for any damage or damages to, or loss of any personal property belonging to any party upon or occupying said Licensed Space or any part thereof from any causes whatsoever by reason of such removal. Licensee expressly waives any and all claims for damages and loss against the County and its officials, officers, employees, servants and agents for or on account of any act done or caused to be done in exercising this right; and the County shall have the right to sell any personal property so seized or remove and recover by such sale or legal process any and all sums due to the County under the terms of this Agreement, and if there is a deficiency may resort to any remedy available.

Section 4. *Fee:* Licensee agrees to provide in-kind consideration in the form of coordinating responses to and_alleviating acts of cruelty towards animals.

Section 5. *Utilities:*

a. County shall furnish all utilities, excluding telephone and data, to the Licensed Space. In the event Licensee requires utility services not currently available at the Licensed space, or if additional phone, electric or data lines are required, then in such case, the costs, fees, and charges for such additional utilities shall be payable by the Licensee. Any utility connections required to be made for Licensee's purposes shall be a Licensee charge.

b. County shall have no liability to Licensee for any loss, damage or expense sustained or incurred by reason of any change, failure, inadequacy, unsuitability or defect in the supply or character of the utilities furnished to the Licensed Space or if the quantity or character of the utilities are no longer available or suitable for Licensee's requirements. The provisions of this Section shall survive the expiration of this Lease.

Section 6. *Purpose:* It is expressly understood and agreed that this Agreement is a limited license to use the Licensed Space as a local base of operations in connection with Licensee's delivery of services to the County of Suffolk. It is NOT a lease; NO interest in real estate or personalty is granted herewith to the Licensee(s). It is expressly understood that the Licensed Space is and shall be the sole property of the County at all times during the period of this Agreement. Licensee's right to occupy the Licensed Space shall continue only so long as the Licensee shall comply strictly and promptly with each and all of the undertakings, provisions, covenants, agreements, stipulations, and conditions contained herein.

Section 7. *Authorization:* The parties hereto acknowledge that County is a municipal corporation and is entering into and executing this Agreement by virtue of the authority of Resolution No. _____-20___ of the Suffolk County Legislature, for the purpose and intent expressed in that resolution, that the same is incorporated herein by reference, and further that the Licensee has examined the same is fully aware of the intended purpose thereof, and that the Licensee's occupancy shall be for the sole purpose set forth therein and for no other purpose.

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Section 8. *Hours of Operation:* In exchange for its use of the Licensed Space, Licensee agrees that the Licensed Space shall be available for use by Licensee and approved personnel twenty-four (24) hours per day, seven (7) days per week, subject to applicable building rules and regulations.

Section 9. *Licensee's Duties and Obligations:*

a. Licensee shall not permit any unauthorized person(s) to enter, remain within, or upon the Licensed Space. Licensee shall provide to the County, in writing, a list of no more than seven (7) names identifying the person or persons authorized by Licensee to utilize the Licensed Space on behalf of the Licensee, in accordance with the terms and conditions of this Agreement. Such list must be submitted, in writing, to the County, prior to the execution of this Agreement. Licensee may from time to time, amend the list of authorized persons by submitting a notice of any such change, in writing, to the Commissioner of the Department at least ten (10) days prior to the effective date of the proposed change.

b. Licensee shall further be responsible for any damage or theft of County property caused, either directly or indirectly, by Licensee, its officers, employees, volunteers, agents, guests, and invitees.

c. Licensee agrees to accept the Licensed Space in "as is" condition, and acknowledges that this Agreement is for use of the Licensed Space in its present physical condition, without any representation or warranty by the County as to the condition thereof.

d. Licensee shall strictly comply with all applicable Federal, State, County and local laws, rules, regulations, codes, requirements, including but not limited to health laws and health department regulations, and Suffolk County policies in effect on the date of execution of this Agreement and as may be adopted or amended from time to time thereafter, but nothing herein shall require Licensee to perform any alterations or repairs to the Licensed Space (unless Licensee is responsible for the damage, in which case the Licensee shall perform the repair at its sole cost).

e. Licensee is prohibited from using any appliances, electric business equipment, or the like in the Licensed Space unless the Commissioner of the Department first approves such use, in writing.

f. Licensee shall not use or permit the storage of any illumination oils, candles, oil lamps, turpentine, benzene, naphtha or other similar substances or explosives of any kind, or any substance or thing prohibited in the standard policies of fire insurance companies licensed to do business in the State of New York, in the Licensed Space covered by this Agreement.

g. Licensee hereby waives any and all claims for compensation for any and all loss or damage sustained by reason of interference by any public agency or official in the operation of this Agreement; any such interference shall not relieve the Licensee from any obligations hereunder.

h. Licensee hereby expressly waives any and all claims for compensation (including, but not limited to, lost profits and revenues) for any and all loss due to impairment of the gas and electrical apparatus, water supply equipment, heating and cooling equipment or wires furnished for the area hereby granted, or by reason of any loss or impairment of light, current, water supply, heating or cooling which may occur from time to time for any cause, of for any loss or damage sustained by Licensee resulting from fire, water, storm, tornado, civil commotion or riots. Licensee expressly waives all rights, claims and demands and forever releases and discharges the County of Suffolk, ant its officers,

employees, servants and agents from any and all demands, claims, actions and causes of action from any of the causes aforesaid.

Section 10. *No Warranties by County:*

a. Licensee acknowledges that Licensee is accepting the Licensed Space "**AS IS**" and County shall not be required to perform any work or furnish any materials in connection with the Premises.

b. Except as otherwise set forth in this Agreement, (i) County makes no warranty of any kind or nature, express, implied or otherwise, or any representations or covenants of any kind or nature in connection with the conditions of the Premises or any part thereof, and (ii) County shall not be liable for any latent or patent defects therein or be obliged in any way whatsoever to correct or repair any such latent or patent defects.

c. Except as may be otherwise expressly provided in the Agreement, County shall not be obligated to provide any services to Licensee or perform any work on behalf of Licensee.

Section 11. *Intentionally Omitted:*

Section 12. *Licensee's Care of the Premises:*

a. It shall be Licensee's sole obligation to take good care of the Premises and make and be responsible for any and all repairs, replacements, or renovations required. Licensee shall perform all work required to accommodate the needs of Licensee. All work is to be conducted in a good and workmanlike manner, at Licensee's sole cost and expense, and shall be subject to prior approval by, and inspection by the Department of Public Works. All repairs and replacements shall be of good workmanship and of quality and class at least equal to the original work or equal to the subsequently renovated and improved work.

b. On default of Licensee in making such repairs or replacements or renovations in accordance with the approved plans, upon ten (10) days written Notice to Licensee, County may, but shall not be required, to make such repairs and replacements or renovations for Licensee's account. The expenses thereof shall be a cost to Licensee.

c. Licensee agrees to perform maintenance and make repairs and replacements in any case where County, in its reasonable judgment, determines that it is necessary to do so in order to preserve the safety of the Licensed Space, or to correct any condition which reasonably could cause injuries or damages to persons or property.

Section 13. *Alterations:* Licensee shall not make any "**Alterations**," meaning any alterations, installations, improvements, additions, renovations or physical changes to the Licensed Space or any part or portion thereof, without the prior written consent of the Department.

Section 14. *No Assignment:* The Agreement hereby granted may not be transferred, assigned or otherwise given to any other person, entity or thing without the prior written consent of the County, and any attempt to do any of the foregoing without such consent shall be deemed a material default of this Agreement by Licensee. An assignment shall be deemed to include any change in the corporate structure of Licensee including, but not limited to, consolidation, merger, or transfer of controlling interest of Licensee's corporate entity.

Section 15. *Indemnification:*

a. Licensee shall protect, indemnify, and hold harmless the County, its officers, officials, and employees (collectively "Indemnified Parties") from and against all liabilities, fines,

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penalties, actions, damages, claims, demands, judgments, losses, suits or actions (including appeals), costs, and expenses caused by the negligence or any acts or omissions of the Licensee, including reimbursement of the cost of reasonable attorneys' fees incurred by an Indemnified Parties in defending any action or proceeding asserted against the Indemnified Parties and arising out of or in connection with Licensee's use of the Licensed Space.

b. Licensee agrees that it shall protect, indemnify, and hold harmless the Indemnified Parties from and against all liabilities, fines, penalties, actions, damages, claims, demands, judgments, losses, suits or actions, costs, and expenses actually incurred by an Indemnified Parties and arising out of any claim asserted against such Indemnified Parties for infringement of copyright, including reimbursement of the cost of reasonable attorneys' fees incurred by the Indemnified party in defending any such action or proceeding arising out of or in connection with any claim asserted for infringement of copyright due to Licensee's actions in carrying out its duties under this Agreement.

c. At the County's option, the County may defend any such proceeding or action and require Licensee to pay reasonable attorneys' fees for the defense of any such suit.

d. Licensee agrees not to use, suffer or permit any person to use in any manner whatsoever the Licensed Space or any part thereof for any illegal purpose, or for any purpose in violation of any Federal, State, County Law, ordinance, rule, order or regulation or of any rule or regulation of the County now in effect or hereinafter enacted, amended or adopted, and will protect, defend, indemnify and forever save and keep harmless the County, its agents, servants, officials, and employees from and against any damage, penalty, fine, judgment, expense or charge suffered, imposed, assessed or incurred for any violation or breach of any law, ordinance, rule, order or regulation occasioned by any act, neglect or omission of the Licensee, its employees, servants, agents or volunteers in connection with the Licensed Space.

1. In the event of any such violation or in case the County or its representatives shall deem any conduct on the part of Licensee, it employees, servants, agents, or volunteers to be objectionable or improper, the County shall have the right and power, and is hereby authorized by the Licensee to at once declare this Agreement terminated without notice to Licensee.

Section 16. *Risk of Loss:* The risk of loss or destruction from any peril to furniture, fixtures, equipment or other personal property of the Licensee(s) while on the Licensed Space shall be borne entirely by the Licensee(s). It is further understood that the Licensee waives any right to subrogation against the County for loss or destruction to the furniture, fixtures, equipment or other personal property of the Licensee while on the Licensed Space.

Section 17. *Insurance:*

a. Prior to the commencement of the term of this Agreement, shall procure, and pay the entire premium for and maintain throughout the term of this Agreement insurance in amounts and types specified by the County. This Agreement shall be void and of no effect unless Licensee provides and maintains insurance coverage during the term of this Agreement. Unless otherwise specified by the County and agreed to by Licensee in writing, such insurance will be as follows:

(i) COMMERCIAL GENERAL LIABILITY INSURANCE, including contractual coverage, in an amount not less than Two Million Dollars ($2,000,000.00) combined single limit for bodily injury and property damage per occurrence in an amount not less than Two Million Dollars ($2,000,000.00) per occurrence for

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bodily injury and Two Million Dollars ($2,000,000.00) per occurrence for property damage, and shall furnish the County with proof of same.

(ii) WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE in compliance with all applicable New York State laws and regulations and DISABILITY BENEFITS INSURANCE if required by law and shall have furnished to the Airport Manager prior to execution of this Agreement the documentation required by the State of New York Worker's Compensation Board of coverage or exemption from coverage pursuant to §§57 and 220 of the Worker's Compensation Law. In accordance with General Municipal Law §108, this Agreement shall be void and of no effect unless Licensee shall provide and maintain coverage during the term of this Agreement for the benefit of such employees required to be covered by the provisions of the Workers' Compensation Law.

(iii) AUTOMOBILE LIABILITY INSURANCE, if any vehicles are used in connection with the use of the Licensed Space hereunder, in an amount not less than Five Hundred Thousand Dollars ($500,000.00) combined single limit for bodily injury and property damage per occurrence. Such insurance shall cover all owned, scheduled, hired and non-owned vehicles.

b. All policies required under this *Section 16* shall be issued by insurance companies duly licensed by the State of New York and acceptable to the County, with an A.M. Best rating of A- or better. Licensee shall furnish to the County certificates of insurance or, on request, original policies, evidencing compliance with the aforesaid insurance requirements.

c. Licensee shall furnish to the County, prior to the execution of the Lease, declaration pages for each policy of insurance, other than a policy for commercial general liability insurance, and upon demand, a true and certified original copy of each such policy evidencing compliance with the aforesaid insurance requirements. In the case of commercial general liability insurance, Licensee shall furnish to the County, prior to the execution of the Agreement, a declaration page or insuring agreement and endorsement page evidencing the County's status as an additional insured on said policy, and upon demand, a true and certified original copy of such policy evidencing compliance with the aforesaid insurance requirements.

d. All evidence of insurance shall provide for the County to be notified in writing thirty (30) days prior to any cancellation, nonrenewal, or material change in the policy to which such evidence relates. It shall be the duty of Licensee to notify the County immediately of any cancellation, nonrenewal, or material change in any insurance policy.

Section 18. *Negative Covenants:*

a. Licensee shall not use, occupy, maintain or operate the Licensed Space, nor suffer or permit the Licensed Space or any part thereof to be used, occupied, maintained or operated, nor bring into or keep at the Licensed Space, nor suffer or permit anything to be brought into or kept therein, which would in any way (i) violate any term, covenant or condition of this Agreement, (ii) knowingly violate any restrictive covenant, operating covenant, encumbrance or easement affecting the Licensed Space, (iii) violate any Legal Requirements, (iv) make void or voidable any insurance policy then in force with respect to the Licensed Space or make any such insurance unobtainable or increase the rate of any insurance with respect to the Licensed Space, (v) cause physical damage to the Licensed Space or any part thereof, (vi) permit the excess accumulation of waste or refuse matter above that accumulated in the permitted use of the Licensed Space

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(vii) constitute a public or private nuisance; permit the creation or imposition of any liens or encumbrances upon the Licensed Space. County represents that the use of the Licensed Space as described in this Agreement does not violate (ii) and (iii) above.

b. Licensee shall commit no act of waste and shall take good care of the Licensed Space and the fixtures and appurtenances therein.

Section 19. *County's Right To Inspect And Repair:* County may, but shall not be obligated to, enter the Licensed Space at any reasonable time for the purposes of inspection or the making of such repairs, replacements, and additions in, to, or about the Licensed Space, as necessary or desirable, or to perform any covenant, obligation or service contemplated in this Agreement; provided however, that County shall use reasonable efforts to provide advance notice of its access of the Licensed Space and to cause a minimal amount of interference with Licensee's use thereof.

Section 20. *Security:* Licensee shall cooperate with the Department in connection with ensuring the security and safeguarding of the Licensed Space during the term of this Agreement.

Section 21. *Surrender:* On the expiration of the Agreement, or upon the sooner termination of this Agreement, Licensee shall at its sole expense, quit, surrender, vacate, and deliver the Licensed Space to the County in good order, condition and repair, ordinary wear and tear, and casualty excepted, together with all improvements and fixtures therein. Licensee shall, at its expense, remove from the Licensed Space all of Licensee's personal property and any personal property of persons claiming by, through or under Licensee, and any Alterations not approved by the County, and shall repair or pay the cost of repairing all damage to the Licensed Space occasioned by such removal. Any of Licensee's personal property or alterations remaining on the Licensed Space after the termination of this Agreement shall be deemed to have been abandoned and either may be retained by the County as its property or may be stored or disposed of as County may see fit, without insurance or liability for any damage which may occur. If any such property so removed is sold, the County may receive and retain the proceeds of such sale.

Section 22. *Signage:* Any signage to be erected by Licensee shall be subject to the prior written approval of the Department.

Section 23. *Non-discrimination in Services:* During the term of this Agreement:

a. Licensee shall not, on the grounds of race, creed, color, national origin, sex, age, disability, sexual orientation, military status or marital status:

(i) deny any individual any services or other benefits provided pursuant to this Agreement; or

(ii) provide any services or other benefits to an individual that are different, or are provided in a different manner, from those provided to others pursuant to this Agreement; or

(iii) subject an individual to segregation or separate treatment in any matter related to the individual's receipt of any service(s) or other benefits provided pursuant to this Agreement; or

(iv) restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any services or other benefits provided pursuant to this Agreement; or

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(v) treat an individual differently from others in determining whether or not the individual satisfies any eligibility or other requirements or condition which individuals must meet in order to receive any aid, care, service(s) or other benefits provided pursuant to this Agreement.

b. Licensee shall not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, creed, color, national origin, sex, age, disability, sexual orientation, military status or marital status, or have the effect of defeating or substantially impairing accomplishment of the objectives of this Agreement in respect to individuals of a particular race, creed, color, national origin, sex, age, disability, sexual orientation, military status or marital status, in determining:

(i) the types of service(s) or other benefits to be provided, or

(ii) the class of individuals to whom, or the situations in which, such service(s) or other benefits will be provided; or

(iii) the class of individuals to be afforded an opportunity to receive services.

Section 24. *No County Liability for Licensee's Failure*: Failure of Licensee to perform any or all of its obligations hereunder shall not give rise to any liability on the part of the County nor any of the County's Departments, Bureaus, Agencies, Employees, Agents or Representatives.

Section 25. *Capacity to Contract and IRS Status:* Licensee represents that they are a duly formed not-for-profit corporation under Section 501(c)(3) of the Code of the United States Internal Revenue Service and that they will provide appropriate documentation certifying such status for the duration of this Agreement. Licensee further warrants that its entry into this Agreement was duly considered and authorized by its organizational body and pursuant to its by-laws and/or internal procedures.

Section 26. *Arrears to County:* Licensee warrants that, except as may otherwise be authorized by agreement, it is not in arrears to the County upon debt or contract and, to the best of its knowledge, is not in default as surety, contractor or otherwise on any obligation to, or contract with the County.

Section 27. *Liens:* Licensee shall not allow any public improvement liens to be claimed, assessed and/or filed against the County with reference to any maintenance or improvements which the Licensee may make upon the Licensed Space, or by reason of Licensee's acts or omissions or because of any claim against Licensee. Should any of the same be filed, Licensee shall cause them to be cancelled or discharged of record by bond or otherwise within sixty (60) days of said filing. If Licensee shall fail to cancel or discharge said lien or liens within the 60-days period, the County may cancel or discharge same and upon the County's demand, Licensee shall reimburse the County for all costs incurred in canceling or discharging such liens together with an administrative fee equal to 5% of such costs.

Section 28. *Status of Employees:*

a. It is expressly agreed that the status of American Red Cross – Long Island Chapter hereunder is that of a licensee. Neither the Licensee nor any person hired by Licensee shall be considered employees of the County for any purpose whatsoever. Notwithstanding anything herein, this Agreement shall not be construed as creating a principal-agent relationship between the County and Licensee or Licensee and the County, as the case may be.

b. Any private citizens participating in activities directed by the Licensee or performing work on behalf of Licensee are aware of the nature of work which is to be performed and shall follow prescribed safety guidelines and procedures. Any of said private citizens shall

hold the County harmless from any liability whatsoever for any injuries that they may suffer or damages that they may cause or suffer as a result of their participation in the work performed at the Licensed Space.

Section 29. *No Representations:* Neither party has made any representations or promises, except as contained herein, or in some further writing signed by the parties, making such representation or promise.

Section 30. *Future Acts of Legislature:* During the term of this Agreement, Licensee agrees to be bound by any and all future recommendations, policies, local laws, resolutions and requirements as demanded, passed and promulgated by the Suffolk County Legislature, provided any such acts do not require the Licensee to do any restoration or repair work to the Licensed Space other than restoration or repair work required as a result of Licensee's use of the Licensed Space under this Agreement.

Section 31. *Governing Law:* This Agreement shall be construed and interpreted in accordance with the laws of the State of New York, and without regard to its conflict of laws provisions. Venues shall be designated as Suffolk County, New York or the United States District Court for the Eastern District of New York.

Section 32. *No Implied Waiver:* No waiver shall be inferred from any failure or forbearance of the County to enforce any provision of this Agreement in any particular instance or instances, but the same shall otherwise remain in full force and effect notwithstanding any such failure or forbearance.

Section 33. *Conflicts of Interest:*

a. Licensee agrees that it will not during the term of this Agreement knowingly engage in any activity that is contrary to and/or in conflict with the goals and purposes of the County.

b. Licensee is charged with the duty to disclose to the County the existence of any such adverse interests, whether existing or potential. This duty shall continue throughout the term of this Agreement. The determination as to whether or when a conflict exists or may potentially exist shall ultimately be made by the County Attorney after full disclosure is obtained.

Section 34. *Cooperation on Claims:* Each of the parties hereto agrees to render diligently to the other party, without additional compensation, any and all cooperation, that may be required to defend the other party, its employees and designated representatives against any claim, demand or action that may be brought against the other party, its employees or designated representatives in connection with this Agreement.

Section 35. *Suffolk County Legislative Requirements:* The Parties agree to be bound by the terms of the Suffolk County Legislative Requirements, annexed hereto as **Article II**, and made a part hereof.

Section 36. *Severability:* It is expressly agreed that if any term or provision of this Agreement and or any amendment hereto, or the application thereof to any person or circumstance, shall be held invalid or unenforceable to any extent, the remainder of this Agreement and any amendment hereto, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and every other term and provision of this Agreement and any amendment hereto shall be valid and shall be enforced to the fullest extent permitted by law.

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Section 37. *Certification as to Relationships:* The parties to this Agreement hereby certify that, other than the consideration provided in this Agreement, there is no known personal, business, commercial, professional, economic, or financial relationship between the parties, the signatories to this Agreement, and any partners, members, directors, or shareholders of more than five per cent (5%) of any party to this Agreement.

Section 38. *Notices:* Unless otherwise expressly provided herein, all notices shall be in writing and shall be deemed sufficiently given if sent by regular first class mail and certified mail, or personally delivered during business hours as follows: 1.) to Licensee at the address on page 1 of the Agreement and 2.) to the County at the Department, or as to either of the foregoing, to such other address as the addressee shall have indicated by prior written notice to the addressor. All notices received by Licensee relating to a legal claim shall be immediately sent to the Department and also to the County Attorney at 100 Veterans Memorial Highway, P.O. Box 6100, (Sixth Floor), Hauppauge, New York, 11788. The County shall report to the Contractor in writing within ten (10) days of the initiation by or against it of any legal action or proceeding in connection with or relating to this Agreement.

Section 39. *Merger; No Oral Changes:* It is expressly agreed that this Agreement represents the entire agreement of the parties, that all previous understandings are merged in this Agreement. No modification of this Agreement shall be valid unless written in the form of an Amendment and executed by both parties.

End of Text for Article I

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Article II
Suffolk County Legislative Requirements

1. Contractor's/Vendor's Public Disclosure Statement

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of section A5-7 of Article V of the Suffolk County Code.

Unless certified by an officer of the Contractor as being exempt from the requirements of section A5-7 of Article V of the Suffolk County Code, the Contractor represents and warrants that it has filed with the Comptroller the verified public disclosure statement required by Suffolk County Administrative Code Article V, Section A5-7 and shall file an update of such statement with the Comptroller on or before the 31st day of January in each year of the Contract's duration. The Contractor acknowledges that such filing is a material, contractual and statutory duty and that the failure to file such statement shall constitute a material breach of the Contract, for which the County shall be entitled, upon a determination that such breach has occurred, to damages, in addition to all other legal remedies, of fifteen percent (15%) of the amount of the Contract.

Required Form:
Suffolk County Form SCEX 22; entitled "Contractor's/Vendor's Public Disclosure Statement"

2. Living Wage Law

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of Chapter 347, of the Suffolk County Code.

This Contract is subject to the Living Wage Law of the County of Suffolk. The law requires that, unless specific exemptions apply, all employers (as defined) under service contracts and recipients of County financial assistance, (as defined) shall provide payment of a minimum wage to employees as set forth in the Living Wage Law. Such rate shall be adjusted annually pursuant to the terms of the Suffolk County Living Wage Law of the County of Suffolk. Under the provisions of the Living Wage Law, the County shall have the authority, under appropriate circumstances, to terminate the Contract and to seek other remedies as set forth therein, for violations of this Law.

Required Forms:

Suffolk County Living Wage Form LW-1; entitled "Suffolk County Department of Labor – Living Wage Unit Notice of Application for County Compensation (Contract)"

Suffolk County Living Wage Form LW-38; entitled "Suffolk County Department of Labor – Living Wage Unit Living Wage Certification/Declaration – Subject To Audit"

3. Use of County Resources to Interfere with Collective Bargaining Activities

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of Chapter 466 of the Suffolk County Code.

County Contractors (as defined by section 466-2) shall comply with all requirements of Chapter 466 of the Suffolk County Code, including the following prohibitions:

a. The Contractor shall not use County funds to assist, promote, or deter union organizing.

b. No County funds shall be used to reimburse the Contractor for any costs incurred to assist, promote, or deter union organizing.

c. The Contractor shall not use County funds to assist, promote, or deter union organizing.

d. No employer shall use County property to hold a meeting with employees or supervisors if the purpose of such meeting is to assist, promote, or deter union organizing.

If the Services are performed on County property, the Contractor must adopt a reasonable access agreement, a neutrality agreement, fair communication agreement, non-intimidation agreement, and a majority authorization card agreement.

If the Services are for the provision of human services and are not to be performed on County property, the Contractor must adopt, at the least, a neutrality agreement.

Under the provisions of Chapter 466, the County shall have the authority, under appropriate circumstances, to terminate the Contract and to seek other remedies as set forth therein, for violations of this Law.

Required Form:

Suffolk County Labor Law Form DOL-LO1; entitled "Suffolk County Department of Labor – Labor Mediation Unit Union Organizing Certification/Declaration – Subject to Audit."

4. Lawful Hiring of Employees Law

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of Chapter 234 of the Suffolk County Code.

This Contract is subject to the Lawful Hiring of Employees Law of the County of Suffolk. It provides that all covered employers, (as defined), and the owners thereof, as the case may be, that are recipients of compensation from the County through any grant, loan, subsidy, funding, appropriation, payment, tax incentive, contract, subcontract, license agreement, lease or other financial compensation agreement issued by the County or an awarding agency, where such compensation is one hundred

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percent (100%) funded by the County, shall submit a completed sworn affidavit (under penalty of perjury), the form of which is attached, certifying that they have complied, in good faith, with the requirements of Title 8 of the United States Code Section 1324a with respect to the hiring of covered employees (as defined) and with respect to the alien and nationality status of the owners thereof. The affidavit shall be executed by an authorized representative of the covered employer or owner, as the case may be; shall be part of any executed contract, subcontract, license agreement, lease or other financial compensation agreement with the County; and shall be made available to the public upon request.

All contractors and subcontractors (as defined) of covered employers, and the owners thereof, as the case may be, that are assigned to perform work in connection with a County contract, subcontract, license agreement, lease or other financial compensation agreement issued by the County or awarding agency, where such compensation is one hundred percent (100%) funded by the County, shall submit to the covered employer a completed sworn affidavit (under penalty of perjury), the form of which is attached, certifying that they have complied, in good faith, with the requirements of Title 8 of the United States Code Section 1324a with respect to the hiring of covered employees and with respect to the alien and nationality status of the owners thereof, as the case may be. The affidavit shall be executed by an authorized representative of the contractor, subcontractor, or owner, as the case may be; shall be part of any executed contract, subcontract, license agreement, lease or other financial compensation agreement between the covered employer and the County; and shall be made available to the public upon request.

An updated affidavit shall be submitted by each such employer, owner, contractor and subcontractor no later than January 1 of each year for the duration of any contract and upon the renewal or amendment of the contract, and whenever a new contractor or subcontractor is hired under the terms of the contract.

The Contractor acknowledges that such filings are a material, contractual and statutory duty and that the failure to file any such statement shall constitute a material breach of the Contract.

Under the provisions of the Lawful Hiring of Employees Law, the County shall have the authority to terminate the Contract for violations of this Law and to seek other remedies available under the law.

The documentation mandated to be kept by this law shall at all times be kept on site. Employee sign-in sheets and register/log books shall be kept on site at all times during working hours and all covered employees, as defined in the law, shall be required to sign such sign-in sheets/register/log books to indicate their presence on the site during such working hours.

Required Forms:
Suffolk County Lawful Hiring of Employees Law Form LHE-1; entitled "Suffolk County Department of Labor – Notice Of Application To Certify Compliance With Federal Law (8 U.S.C. SECTION 1324a) With Respect To Lawful Hiring of Employees."

"Affidavit Of Compliance With The Requirements Of 8 U.S.C. Section 1324a With Respect To Lawful Hiring Of Employees" Form LHE-2.

5. Gratuities

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of Chapter 386 of the Suffolk County Code.

The Contractor represents and warrants that it has not offered or given any gratuity to any official, employee or agent of the County or the State or of any political party, with the purpose or intent of securing an agreement or securing favorable treatment with respect to the awarding or amending of an agreement or the making of any determinations with respect to the performance of an agreement.

6. Prohibition Against Contracting with Corporations that Reincorporate Overseas

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of sections A4-13 and A4-14 of Article IV of the Suffolk County Code.

The Contractor represents that it is in compliance with sections A4-13 and A4-14 of Article IV of the Suffolk County Code. Such law provides that no contract for consulting services or goods and services shall be awarded by the County to a business previously incorporated within the U.S.A. that has reincorporated outside the U.S.A.

7. Child Sexual Abuse Reporting Policy

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of Article IV of Chapter 577 of the Suffolk County Code.

The Contractor shall comply with Article IV of Chapter 577, of the Suffolk County Code, entitled "Child Sexual Abuse Reporting Policy," as now in effect or amended hereafter or of any other Suffolk County local law that may become applicable during the term of the Contract with regard to child sexual abuse reporting policy.

8. Non Responsible Bidder

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of Article II of Chapter 143 of the Suffolk County Code.

Upon signing the Contract, the Contractor certifies that it has not been convicted of a criminal offense within the last ten (10) years. The term "conviction" shall mean a finding of guilty after a trial or a plea of guilty to an offense

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covered under the provision of section 143-5 of the Suffolk County Code under "Nonresponsible Bidder."

9. Use of Funds in Prosecution of Civil Actions Prohibited

It shall be the duty of the Contractor to read, become familiar with, and comply with the requirements of section 590-3 of Article III of Chapter 590 of the Suffolk County Code.

The Contractor shall not use any of the moneys, in part or in whole, and either directly or indirectly, received under the Contract in connection with the prosecution of any civil action against the County in any jurisdiction or any judicial or administrative forum.

10. Youth Sports

In accordance with Local Law No. 44-2009, (Suffolk County Code Chapter), all contract agencies that conduct youth sports programs are required to develop and maintain a written plan or policy addressing incidents of possible or actual concussion or other head injuries among sports program participants. Such plan or policy must be submitted prior to the award of the County contract, grant or funding. Receipt of such plan or policy by the County does not represent approval or endorsement of any such plan or policy, nor shall the County be subject to any liability in connection with any such plan or policy.

11. Suffolk County Local Laws Website Address

Suffolk County Local Laws, Rules and Regulations can be found on the Suffolk County website at http://www.co.suffolk.ny.us.

End of Text for Article II

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License Agreement

This Agreement (Agreement) is between the County of Suffolk (**"County"**), a municipal corporation of the State of New York, having its principal office at the County Center, Riverhead, New York 11901, acting through its duly constituted **Department of Public Works ("Department")** located at 335 Yaphank Avenue, Yaphank, New York 11980; and

Suffolk County Society for the Prevention of Cruelty to Animals ("**Licensee**"), a not-for-profit corporation having an office at 383 Rte. 111, Suite 5, Smithtown, New York, 11787.

The parties hereto desire to establish a License Agreement between the County and the Licensee for the use of space in connection with Licensee's services and to facilitate coordination of such services with the County.

Term of Agreement: December 1, 2011 through November 30, 2014, unless sooner terminated as described in Article I.

Total Cost of Agreement: In kind services as set forth in Section 4 of Article I.

Terms and Conditions: Shall be as set forth in Articles I and II, attached.

In Witness Whereof, the parties hereto have executed this Agreement as of the latest date written below.

Suffolk County Society for the Prevention of Cruelty to Animals

By:_____
Name: _____
Title: _____
Date:_____

County of Suffolk

By: _____
Name:
Deputy County Executive
Date:_____

Approved As To Legality

Christine Malafi, Suffolk County Attorney
By:_____
Basia Deren Braddish
Assistant County Attorney
Date: _____

Approved:
Department of Public Works

By: _____
Gilbert Anderson
Commissioner
Date:_____

Recommended:
Space Management Steering Committee

By: _____
Name:
Chairperson
Date: _____

Recommended:
Division of Real Estate

By: _____
Name:
Title:
Date: _____

SUFFOLK COUNTY
County Legislature
RIVERHEAD, NY

This is to Certify That I, TIM LAUBE, Clerk of the County Legislature of the County of Suffolk, have compared the foregoing copy of resolution with the original resolution now on file in this office, and which was duly adopted by the County Legislature of said County on December 6,2011 and that the same is a true and correct transcript of said resolution and of the whole thereof.

In Witness Whereof, I have hereunto set my hand and the official seal of the County Legislature of the County of Suffolk.

Tim Laube

Clerk of the Legislature

Intro. Res. 1987 Res. No. 1049 December 6, 2011

Motion:
Romaine, Schneiderman, Browning, Muratore, Anker
Eddington, Montano, Cilmi, Lindsay, Viloria-Fisher, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

Co-Sponsors:
Romaine, Schneiderman, Browning, Muratore, Anker
Eddington, Montano, Cilmi, Lindsay, Viloria-Fisher, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

Second:
Romaine, Schneiderman, Browning, Muratore, Anker
Eddington, Montano, Cilmi, Lindsay, Viloria-Fisher, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

LD	Legislator	Yes	No	Abs	NP	R
1	Edward P. ROMAINE	✓				
2	Jay H. SCHNEIDERMAN	✓				
3	Kate M. BROWNING	✓				
4	Thomas MURATORE	✓				
6	Sarah S. ANKER	✓				
7	Jack EDDINGTON	✓				
9	Ricardo MONTANO				✓	
10	Thomas CILMI	✓				
11	Thomas F. BARRAGA	✓				
12	John M. KENNEDY, JR.	✓				
13	Lynne C. NOWICK	✓				
14	Wayne R. HORSLEY	✓				
15	DuWayne GREGORY	✓				
16	Steven H. STERN	✓				
17	Lou D'AMARO	✓				
18	Jon COOPER	✓				
5	Vivian VILORIA-FISHER, D.P.O.	✓				
8	William J. LINDSAY, P.O.	✓				
	Totals	17	—	—	1	—

MOTION
X Approve
___ Table: _____
___ Send To Committee
___ Table Subject To Call
___ Lay On The Table
___ Discharge
___ Take Out of Order
___ Reconsider
___ Waive Rule ___
___ Override Veto
___ Close
___ Recess
APPROVED X FAILED ___
No Motion ___ No Second ___

RESOLUTION DECLARED
X ADOPTED
___ NOT ADOPTED

Roll Call ___ Voice Vote X

Tim Laube

Tim Laube, Clerk of the Legislature