

LEASE

This Lease is made and entered into this 25th day of April, 1995, between the City of Fremont, Dodge County, Nebraska, (City) and the Dodge County Humane Society, a Nebraska Non-Profit Corporation, (Society).

PREMISES

1. The City is the owner of the following described property (Premises) and hereby leases said property to the Society on the terms and conditions as are hereinafter set forth:

The south 328 feet, except the west 100 feet of Lot 14, Missouri Valley Land Company's Subdivision of part of the SE 1/4 of Section 24, Township 17 North, Range 8 East of the 6th P.M., Dodge County, Nebraska.

TERM

2. This Lease shall be for a term of ninety-nine (99) years beginning on the date of the execution hereof, unless otherwise terminated as hereinafter provided. This Lease may be modified by mutual written agreement which agreements shall be signed by the parties, attached to and made a part of this agreement.

RENT

3. The Society agrees to pay the City the sum of One Dollar (\$1.00) per year as rent for the use of the premises payable in advance at the office of the City Clerk.

CONSTRUCTION

4. Subject to approval of the Fremont City Council, acceptance and award of bid(s), and specifically reserving the right of the City to reject all bids, rendering this lease null and void. the City will construct on the Premises a

building which shall be constructed according to the plans and specifications which are attached hereto as exhibits "A" through "D", which exhibits are incorporated herein by reference as if fully set forth. The construction of such improvements shall include water and sewer to the building and paved driveway and parking. The City shall contract for the planning, design and construction of said building including design and architectural and engineering services, the design and construction of said building to be for the purposes specified under paragraph 6 hereof. Upon completion of such construction, the City shall turn over and deliver the use and possession of said building to the Society for the purposes defined in paragraph 6 hereof. The Society shall have an interest in said building which shall be subject to the Buyout provisions which are set forth in paragraph 5 hereof.

The Society shall contribute the total sum of \$102,000.00, less architectural fees, design consultant fees, and other expenses previously incurred by Lessee which are incidental to and associated with the planning, construction, and design of said building. The Society shall tender forty percent (40%) of said funds to the City at such time as the construction contract(s) are awarded by the City, an additional twenty percent (20%) of said funds shall be tendered to the City within thirty (30) days after the award of the construction contract(s), and the balance of said funds shall be paid within ten (10) days of the acceptance of the completed project by the City

BUYOUT

5. At the termination or expiration of this lease the City shall buyout the interests of the society in the improvements constructed pursuant to this agreement. The buyout amount shall be based on the fair market value of the improvements, which shall be determined by appraisal, as follows: The City and the Society shall each select an appraiser, which appraisers, shall jointly determine the fair market value of the improvements to the real estate, based on the use of said improvements as a shelter, veterinary clinic, or kennel, using Fremont/Omaha area comparables, or based on the highest and best use of the improvements using only Fremont comparables, whichever is higher said improvements being those improvements constructed pursuant to Paragraph 4 hereof together with any subsequent capital improvements, including kennels

and cages. The appraisers shall file a written valuation of the improvements with the City Clerk. The appraised value of the improvements shall then be proportioned according to the amount of moneys contributed by the City and the Society for the construction of such improvements. For example: If The Society contributed 75% of the actual cost of the improvements to the Premises, the buyout amount to be determined under this subparagraph shall be 75% of said fair market value determined by appraisal. The total actual costs of the planning, design and construction of this project shall be compiled at the completion of the project, reduced to writing, and incorporated herein as Exhibit E". The City is required to pay the buyout amount determined hereunder within 30 days of the filing of the appraisers report.

TERMINATION

6. The Society shall have the option to terminate this Lease at its option after ten years of the term of this Lease have expired, provided that the Society chooses no longer to provide animal care services in Dodge County, Nebraska. Such termination shall require that the Society provide to the City at least six (6) months advance written notice of its intention to terminate this Lease which notice shall be delivered to the City Clerk of the City of Fremont, Nebraska. At the expiration of said six (6) month period, the Lease shall end, and the City shall pay to the Society the amount determined to be due under the buyout provisions which are set forth in paragraph 5 hereof; provided, however, that if the Society has dissolved, then the monies to be paid pursuant to the buyout provision shall be paid to the Clerk of the District Court of Dodge County, Nebraska, and said monies shall be paid out and distributed pursuant to an Order of the District Court of Dodge County, Nebraska relating to distribution of said funds.

USE OF PREMISES

7. The Society shall use and occupy the Premises to house and care for animals in furtherance of the purposes and policies of Society, and all acts incidental thereto. In connection with such uses, the Society shall promptly

comply with all laws, ordinances and regulations promulgated by duly constituted governmental authority affecting the cleanliness, safety, use and occupation of the Premises.

ASSIGNMENT OR SUBLEASE

8. The Society shall not assign this Lease or sublet any part of the Premises without the prior written consent of the City.

REPAIRS, CARE OF PREMISES, AND ALTERATIONS

9. (a) The City's Repairs. The City shall keep the foundations, structural columns and beams, exterior walls, doors, windows, the roof of the building, sidewalks and roadways on the leased Premises, and all other improvements constructed on said leased Premises in good repair and make modifications or replacements thereof which shall include the replacement of equipment, fixtures, and all broken glass, at the expense of The City.

(b) The Society's Care of Premises. The Society shall, at its own expense, keep the building improvements to the Premises in a clean and orderly condition. The Society will permit agents and employees of The City to inspect the Premises at any reasonable time to determine compliance with city ordinances and health regulations.

(c) The City's Care of Premises. The City shall maintain the grounds, sidewalks, and roadways, upon the leased Premises that shall include mowing, and snow removal. The City agrees to keep the weeds and grass mowed and in a clean and neat condition, and agrees to keep the sidewalks and roadways clean and free from ice, snow, and dirt and shall keep the leased Premises free from trash and rubbish at all times.

(d) Alterations. The Society shall not make any alterations, additions, improvements or changes affecting the building or the Premises without in each instance obtaining the prior written consent therefor from The City. All alterations, additions and improvements (other than trade fixtures)

which may be made or installed upon the Premises shall remain upon and be surrendered with the Premises as part thereof at the termination of this Lease.

UTILITIES

10. The City agrees to pay all charges for utilities serving the Premises including water, gas, electricity, and sewer use fees and garbage pickup. All telephone expenses shall be paid by the Society.

TAXES

11. The City shall pay all real estate taxes and assessments of every kind, nature, and description levied and assessed against the Premises and improvements thereon before the same shall become delinquent during the term hereof. With regard to personal property placed by the Society in or about the Premises, The Society shall pay or cause to be paid promptly any personal property taxes which The Society is obligated to pay.

INSURANCE

12. The City agrees to procure, maintain, and pay for the premiums on a policy of fire and casualty insurance upon the Premises and improvements constructed and located thereon which insurance shall be replacement coverage insurance in an amount sufficient to replace the building and improvements to said Premises. The Society shall not utilize the Premises in any manner which would cause said policy of insurance upon the property to be canceled or the premium rates increased due to the operation of the facility.

The City shall also maintain liability insurance coverage, at The City's cost, insuring The City and The Society from and against all claims, demands, or actions for injuries to, or death of, any person or persons, or damage to property, in such amounts as shall be agreed from time to time by The Society and The City, which claims may be made by or on behalf of any person or persons, firm or corporation arising from, related to or connected with the condition of the Premises and for damages caused by water, steam, sewerage, gas or odors or by any negligence or act of other tenants, occupants or any other person in

connection with the condition of the Premises or The City's obligations under the terms and conditions of this Lease.

The Society shall procure and maintain during the term of this Lease public liability insurance, at The Society's cost, which insures the City and the Society from all claims, demands or actions for injuries to, death of, or property damage arising from, related to or connected with the conduct or operation of the Society's business on the Premises.

ANTI-SUBROGATION

13. Notwithstanding any other or inconsistent provisions contained in this Lease, the City shall not be liable to the Society or to the Society's insurance carriers, or anyone claiming through or under the Society, for any loss covered by insurance carried by the Society, and the Society shall not be liable to the City, or any of the City's insurance carriers or anyone claiming under or through the City for any loss covered by insurance carried by the City. Each party shall cause proper endorsements to be placed upon their respective insurance policies to give effect to these provisions.

DEFAULT AND REMEDIES

14. If The Society shall fail to pay when due any installment of rent, or fail to perform or observe any of its covenants, agreements or obligations hereunder, this Lease may be forfeited and thereby become null and void at the option of the City, and The City may immediately, or at any time thereafter, re-enter the Premises, repossess the same, remove therefrom all goods and chattels of The Society, and dispossess the Society and anyone claiming by or under it. Provided, however, that the monthly installment of rent shall not be deemed to be in default until (10) days after written notice of default has been given to The Society, and that no default shall be declared for the failure to perform or observe any of the other covenants, agreements or obligations of The Society until The Society is given written notice of such breach and shall fail to perform the agreement called for or remove the default within one hundred eighty (180) days after such notice by The City. Such notice shall be deemed given upon personal delivery or upon mailing to The Society. It is specifically understood

and agreed between the parties hereto that The Society shall have the right to exercise its option to require The City to purchase the interest of The Society in and to said leased premises, under the provisions of paragraph 5 hereof, even if The Society is in default under the terms of this paragraph and this Lease forfeited and declared null and void at the option of The City. . Provided, however, if the City has declared this Lease null and void under the terms and conditions of this paragraph, and said Lease has been forfeited, the buyout provisions of paragraph 6 hereof may be exercised by the society at any time thereafter, notwithstanding the time limitations set forth in paragraph 6 hereof relating to Termination, and provided further, that the Society shall exercise said buyout option rights within one year from the date of the termination of this lease by the city under this paragraph.

SURRENDER

15. The Society, upon termination of this Lease, either by lapse of time or otherwise, agrees peaceably to surrender to The City the Premises, broom-clean and in good condition, ordinary wear and tear excepted and The Society agrees to remove The Society's trade fixtures upon such termination and to repair all damage to the Premises caused by such removal.

SECURITY SYSTEM

16. The City agrees to install an adequate security and/or alarm system to the leased Premises and the building improvements thereon if a reasonable need therefor arises, at the expense of The City.

TERMINATION OF FORMER LEASE

17. This Lease shall supersede all previous Leases between the parties hereto effective upon the building to be constructed hereunder being ready for occupancy.

acknowledged the execution of said instrument to be her voluntary act and deed and the voluntary act and deed of the corporation.

WITNESS my hand and official seal the date last above set forth.



Deanne M. Wieneke
Notary Public

STATE OF NEBRASKA)
) ss.
County of Dodge)

On this ____ day of _____, 19__, before me a Notary public in and for said county, personally appeared Donald B. Edwards, Mayor of the City of Fremont, Nebraska, a Municipal Corporation, to me personally known to be the identical person and officer executing the foregoing instrument on behalf of said City and he acknowledged the execution of said instrument to be his voluntary act and deed and the voluntary act and deed of the City.

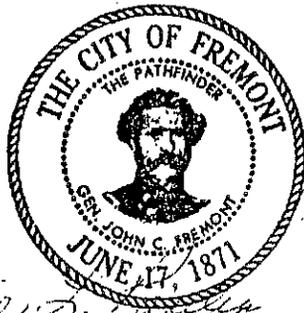
WITNESS my hand and official seal the date last above set forth.

NOTARY PUBLIC

EXHIBIT 5

The undersigned The City and The Society hereby agree that the purchase price as is set forth in paragraph 5 of the Lease between the undersigned shall be the sum of \$ 195,900

Dated this 25th day of APRIL, 1995.



CITY OF FREMONT, NEBRASKA

Donald B. Edwards
Donald B. Edwards, Mayor

ATTEST:

Danniel S. [Signature]
City Clerk

DODGE COUNTY HUMANE SOCIETY

Barbara M. Kruger
President