

ORDINANCE 83 - 24

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, APPROVING THE FIRST AMENDMENT TO THE ANIMAL SHELTER GROUND LEASE AND PURCHASE AGREEMENT BETWEEN THE CITY OF CAPE CORAL, A FLORIDA MUNICIPAL CORPORATION, AND THE CAPE CORAL ANIMAL SHELTER CORPORATION, A FLORIDA NOT-FOR-PROFIT CORPORATION, FOR THE LEASE OF PROPERTY OWNED BY THE CITY AT 325 SW 2ND AVENUE, KNOWN AS CAPE CORAL ANIMAL SHELTER; AUTHORIZING THE CITY MANAGER OR THEIR DESIGNEE TO EXECUTE THE FIRST AMENDMENT; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Mayor and City Council adopted Ordinance 8-17 on February 6, 2017, which authorized the City to enter into a Ground Lease and Purchase Agreement with the Cape Coral Animal Shelter; and

WHEREAS, the Cape Coral Animal Shelter operates an animal shelter and adoption facility, along with providing ancillary services associated with the animal shelter, such as veterinarian clinic services, animal grooming services, educational activities, or other animal related services and activities permitted within the zoning district; and

WHEREAS, the Cape Coral Animal Shelter has requested additional land along the easterly boundary of the current Lease Premises to expand its facilities; and

WHEREAS, the City Manager recommends that the Mayor and City Council approve the First Amendment to the Animal Shelter Ground Lease and Purchase Agreement between the City and Cape Coral Animal Shelter Corporation, as both parties wish to amend the Lease to include additional land along the easterly boundary of the current Lease Premises.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The Mayor and City Council hereby approve the First Amendment to the Animal Shelter Ground Lease and Purchase Agreement between the City of Cape Coral, Florida, a Florida municipal corporation, and Cape Coral Animal Shelter Corporation, a Florida not-for-profit corporation, to add additional land along the easterly boundary of the current Lease Premises to expand its facilities. A copy of the First Amendment to the Lease Agreement is attached hereto as Exhibit 1.

SECTION 2. The Mayor and City Council hereby authorize the City Manager or their designee to execute the First Amendment to the Animal Shelter Ground Lease and Purchase Agreement.

SECTION 3. Severability. In the event that any portion or section of this Ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance which shall remain in full force and effect.

SECTION 4. Effective Date. This Ordinance shall take effect immediately upon its adoption by the Cape Coral City Council.

ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AT THEIR REGULAR SESSION THIS _____ DAY OF _____, 2024.

JOHN GUNTER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

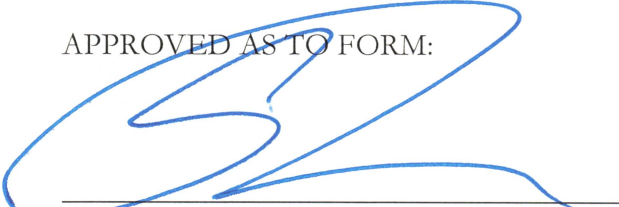
GUNTER _____
STEINKE _____
LEHMANN _____
DONNELL _____

NELSON _____
KILRAINE _____
LONG _____
KADUK _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____,
2024.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



ALEKSANDR BOKSNER
CITY ATTORNEY
ord\Amendment #1 Animal Shelter

**FIRST AMENDMENT TO
ANIMAL SHELTER GROUND LEASE AND PURCHASE AGREEMENT**

This **FIRST AMENDMENT TO ANIMAL SHELTER GROUND LEASE AND PURCHASE AGREEMENT** (this "Amendment") is made this _____ day of _____, 2024 (the "Effective Date"), between the **CITY OF CAPE CORAL**, a Florida municipal corporation ("Lessor") and **CAPE CORAL ANIMAL SHELTER CORPORATION**, a Florida not-for-profit corporation ("Lessee").

W I T N E S S E T H:

WHEREAS, the City of Cape Coral owns the property located at 325 SW 2nd Avenue; and

WHEREAS, on February 6, 2017, the Cape Coral City Council adopted Ordinance 8-17 authorizing the City Manager to enter into a ninety-nine (99) year Animal Shelter and Ground Lease and Purchase Agreement with the Cape Coral Animal Shelter Corporation ("Lease Agreement"); and

WHEREAS, the Lessee has constructed an animal shelter and adoption facility, along with providing ancillary services associated with said animal shelter; and

WHEREAS, the Lessee has requested additional land along the easterly boundary of the current Lease Premises to expand its facilities, as such additional land is described herein; and

WHEREAS, the Lessor agrees to lease said additional land to Lessee and to modify certain terms and conditions of the Lease Agreement as provided herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the Lessor hereby demises and amends said Animal Shelter Ground Lease and Purchase Agreement and Lessee hereby agrees as follows:

1. **Recitals**. The above recitals are true and correct and incorporated into this Amendment.

2. **Additional Land Area**. The Lessor hereby leases to the Lessee, and Lessee hereby leases from the Lessor, certain additional real property, as more particularly described as follows:

A Parcel of land lying in the Southwest Quarter (SW ¼) of the Northeast Quarter (NE ¼) of the Southeast Quarter (SE ¼) of Section 14, Township 44 South, Range 23 East, City of Cape Coral, Lee County, Florida; being more particularly described as follows:

Commencing at the Southwest corner of the Northeast Quarter (NE ¼) of the Southeast Quarter (SE ¼) of Section 14, Township 44 South, Range 23 East, Lee County, Florida; thence N00°07'35"E along the West line of said fractional section for a distance of 506.23 feet; thence N89°52'46"E, 495.65 feet to the Point of Beginning.

Thence N00°07'45"W for a distance of 162.17 feet; thence N00°19'42"E for a distance of 201.00 feet; thence S89°17'45"E for a distance of 40.00 feet; thence S00°19'38"W for a distance of 200.41 feet; thence

S00°07'40"E for a distance of 162.19 feet; thence S89°52'46"W for a distance of 40.00 feet to the Point of Beginning.

Parel containing 14,516 square feet or 0.333 acres, more or less ("Additional Land").

3. **Amended Premises.** Exhibit "A" to the Lease Agreement is hereby amended by adding the Additional Land to the Lease Premises. The amended Exhibit "A" to the Lease Agreement is attached hereto and made a part hereof by reference and consists of approximately 4.533 acres, more or less. Lessee hereby acknowledges and agrees that pursuant to section 4.17 of the City of Cape Coral Charter, the conveyance or lease of any lands of the City shall be by ordinance adopted by the Cape Coral City Council.

4. **Zoning.** Lessee acknowledges that the Additional Land is currently zoned R-1 (Single family), with a Future Land Use designation of Parks & Recreation, designations that do not allow the Premises to be used for the purposes identified in the Lease Agreement. Lessee shall submit an application to the Lessor to rezone the Additional Land to the Institutional zoning designation and amend the Future Land Use to the Public Facilities designation. Lessee shall comply with all regulations within the zoning district, or other Federal, State, County, or City regulations, including, but not limited to, any requirements to proceed through the Planned Development Project ("PDP") process, obtaining approval for special exception uses, deviations, etc. Lessee shall bear all costs associated with rezoning, PDP amendment, land use amendment, or other such processes. Should the Lessee's request to rezone or amend the future land use for the Additional Land be denied by the City, this Amendment shall be null and void.

5. **No Other Amendments.** Except as expressly modified by this Amendment, the Lease Agreement remains unchanged and in full force and effect.

6. **Effective Date.** This Amendment shall be effective immediately upon the adoption of an ordinance by Cape Coral City Council.

7. **Counterparts: Electronic Delivery.** This Amendment may be executed in counterparts, each of which, when executed, shall be deemed an original, all of which shall be deemed one and the same instrument. Electronic transmission or signatures of the parties shall be deemed legally binding and enforceable against the parties.

SIGNATURE PAGE FOLLOWS

EXHIBIT "A"

Parcel "A"

A Parcel of land lying in the Northwest Quarter (NW ¼) of the Northeast Quarter (NE ¼) of the Southeast Quarter (SE ¼) of Section 14, Township 44 South, Range 23 East, City of Cape Coral, Lee County, Florida; being more particularly described as follows:

The Northwest Quarter (NW ¼) of the Northeast Quarter (NE ¼) of the Southeast Quarter (SE ¼) of Section 14, Township 44 South, Range 23 East, City of Cape Coral, Lee County, Florida; LESS the North 460 feet thereof and LESS the East 177 feet thereof.

AND

Parcel "B"

A Parcel of land lying in the Southwest Quarter (SW ¼) of the Northeast Quarter (NE ¼) of the Southeast Quarter (SE ¼) of Section 14, Township 44 South, Range 23 East, City of Cape Coral, Lee County, Florida; being more particularly described as follows:

The North 162 feet of the Southwest Quarter (SW ¼) of the Northeast Quarter (NE ¼) of the Southeast Quarter (SE ¼) of Section 14, Township 44 South, Range 23 East, City of Cape Coral, Lee County, Florida; LESS the East 177 feet thereof.

Parcels "A" & "B" combined contain 4.2 Acres more or less.

AND

Parcel "C" (Additional Land Area)

A Parcel of land lying in the Southwest Quarter (SW ¼) of the Northeast Quarter (NE ¼) of the Southeast Quarter (SE ¼) of Section 14, Township 44 South, Range 23 East, City of Cape Coral, Lee County, Florida; being more particularly described as follows:

Commencing at the Southwest corner of the Northeast Quarter (NE ¼) of the Southeast Quarter (SE ¼) of Section 14, Township 44 South, Range 23 East, Lee County, Florida; thence N00°07'35"E along the West line of said fractional section for a distance of 506.23 feet; thence N89°52'46"E, 495.65 feet to the Point of Beginning.

Thence N00°07'45"W for a distance of 162.17 feet; thence N00°19'42"E for a distance of 201.00 feet; thence S89°17'45"E for a distance of 40.00 feet; thence S00°19'38"W for a distance of 200.41 feet; thence S00°07'40"E for a distance of 162.19 feet; thence S89°52'46"W for a distance of 40.00 feet to the Point of Beginning.

Parcel C contains 14,516 Square Feet or 0.333 Acres, more or less.