




City of  
**NORFOLK**

To the Honorable Council  
City of Norfolk, Virginia

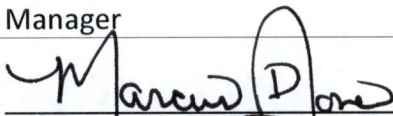
October 14, 2014

From: Charles E. Rigney, Sr., Assistant Director of  
Development

**Subject:** Ordinance to approve a  
Sublease agreement to Norfolk  
Society for the Prevention of Cruelty  
to Animals, Inc., a Virginia  
corporation (herein "NSPCA"), for  
property located at 5585 Sabre Road,  
Norfolk, Virginia, 23502

Reviewed:   
Ronald H. Williams, Jr., Deputy City  
Manager

**Ward/Superward:** 4/7

Approved:   
Marcus D. Jones, City Manager

**Item Number:** PH-4

- I. **Recommendation:** Adopt Ordinance
- II. **Applicant:** Norfolk Society for the Prevention of Cruelty to Animals, Inc., a Virginia corporation (herein "NSPCA")  
916 Ballentine Blvd  
Norfolk, VA 23504
- III. **Description**  
This agenda item is to adopt an ordinance to approve a new sublease agreement between between the City of Norfolk, and NSPCA, and Angeljo, Inc., Landlord, for property located at 5585 Sabre Road, Norfolk, Virginia, 23502. This sublease is being renewed at revised terms so that the Subleased Premises can be used for a spay, neuter and vaccination clinic operated by the Norfolk SPCA and all related and ancillary uses.
- IV. **Analysis**  
The sublease agreement allows NSPCA to continue to maintain and operate a spay, neuter, and vaccination clinic located at 5585 Sabre Road, Norfolk, Virginia, 23502. The term of the lease agreement is for five years commencing December 1, 2014 through November 30, 2019.

**V. Financial Impact**

The sublessee will pay the City an annual rent in the amount of \$14,365.32, to be paid on a monthly basis in the amount of \$1,197.11. Rent will increase 3% annually.

**VI. Environmental**

There are no known environmental issues associated with this lease.

**VII. Community Outreach/Notification**

Public notification for this agenda item was conducted through the City of Norfolk's agenda notification process.

**VIII. Board/Commission Action**

N/A

**IX. Coordination/Outreach**

This letter has been coordinated with Department of Economic Development-Division of Real Estate and the City Attorney's Office.

Supporting Material from the City Attorney's Office:

- Ordinance
- Lease Agreement

Form and Correctness Approved:

Contents Approved:

By

Office of the City Attorney

By

DEPT.

NORFOLK, VIRGINIA

## ORDINANCE No.

AN ORDINANCE APPROVING THE SUBLEASE TO NORFOLK SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, INC. ("NSPCA"), UPON CERTAIN CONDITIONS, OF A PORTION OF CERTAIN PROPERTY LOCATED AT 5585 SABRE ROAD, LEASED BY THE CITY OF NORFOLK FOR ITS ANIMAL CARE CENTER, AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A SUBLEASE AGREEMENT ON BEHALF OF THE CITY.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That a sublease agreement between the City of Norfolk as lessee and NSPCA as sublessee for a portion of the Animal Care Center located at 5585 Sabre Road, is hereby approved.

Section 2:- That the City Manager is authorized to negotiate and execute a Sublease Agreement with NSPCA, substantially in the same form and terms as shown in Exhibit A, satisfactory to the City Attorney, and consistent with this ordinance.

Section 3:- That this ordinance shall be in effect from and after thirty (30) days from the date of its adoption.

SUBLEASE AGREEMENT

This Sublease Agreement ("Sublease"), made and entered into this day of \_\_\_\_\_, 2014, by and between the CITY OF NORFOLK, Virginia, a municipal corporation of the Commonwealth of Virginia (herein "City") and NORFOLK SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, INC., a Virginia corporation (herein "NSPCA"), and ANGELIO, INC., a Virginia corporation, (herein "Landlord"),

WITNESSETH:

WHEREAS, the City leases property from Landlord at 5585 Sabre Road for the Norfolk Animal Care Center ("NACC") by Lease Agreement which has an initial term of July 1, 2009 through June 30, 2014 (the "Lease Agreement"), a copy of which is attached hereto as **Exhibit A** and incorporated by reference; and

WHEREAS, the City has exercised its option to renew the Lease Agreement until June 30, 2019; and

WHEREAS, the City wishes to sublease a portion of the property to the Norfolk SPCA (NSPCA); and

WHEREAS, the Landlord is consenting to the Sublease by being a party to the Sublease; now, therefore, the parties agree as follows:

1. PREMISES. The City hereby Subleases and demises to NSPCA and NSPCA takes and Subleases from the City a portion of the property (hereinafter "Demised Premises") owned by Landlord which is known, numbered and designated as 5585 Sabre Road, Norfolk, Virginia, 23502, and which said portion measures 1,350 square feet (hereinafter "Subleased Premises"), as shown on **Exhibit A** hereto attached and incorporated by reference. NSPCA shall have access to the Subleased Premises during operating hours of the NACC and shall also have use of the NACC parking lot. NSPCA employees will not park in reserved customer parking spaces,

This Sublease is subject to and subordinate to all the terms and conditions of the Lease Agreement to the extent not inconsistent with the provisions of this Sublease. As pertains to the Subleased Premises, the provisions of the Lease Agreement are incorporated herein by reference with the same force and effect as if they were fully set forth herein, but specifically excluding Paragraphs or Sections pertaining to rents, options to extend the Lease Agreement and maintenance obligations of the Tenant. Notwithstanding the foregoing, any inconsistencies between the terms of this Sublease and the Lease Agreement which shall result from the foregoing incorporation shall be resolved in favor of this Sublease.

2. TERM. The initial term of this Sublease shall commence on December 1, 2014, or the effective date of the ordinance approving this Sublease Agreement, whichever occurs last, and end on November 30, 2019, unless the City's Lease Agreement is earlier terminated, in which case this Sublease will also be terminated. If the Lease Agreement expires or is terminated, this Sublease Agreement shall also expire/terminate on the Lease Agreement expiration/termination date. The City shall provide NSPCA with a copy of any

notice given by the City to the Landlord extending the term of the Lease Agreement at least thirty (30) days prior to the end of any term under the Lease Agreement and shall provide NSPCA with notice terminating the Lease Agreement upon receipt of such notice. Except where the context clearly requires otherwise, the word "term" whenever used in this Sublease with reference to the duration hereof, shall be construed to include any renewal term as well as the original term.

3. PURPOSE; NUISANCE. The Subleased Premises shall be used for a spay, neuter and vaccination clinic operated by the NSPCA and all related and ancillary uses. NSPCA covenants not to allow the Subleased Premises to be used for an illegal or immoral purpose and agrees not to do (or suffer to be done) in or about the Subleased Premises any act or thing which may be a nuisance, annoyance inconvenience or damage to Landlord, the Demised Premises, the City, the occupants of adjoining property or the neighborhood.

4. RENT. NSPCA agrees to pay the City rent on a monthly basis as follows:

December 1, 2014	November 30, 2015	\$1,197.11
December 1, 2015	November 30, 2016	\$1,233.02
December 1, 2016	November 30, 2017	\$1,270.01
December 1, 2017	November 30, 2018	\$1,308.11
December 1, 2018	November 30, 2019	\$1,347.36

The monthly rent is set to increase by three percent (3%) each year as provided above.

Rent shall be paid by NSPCA by check made payable to the "Treasurer, City of Norfolk" and delivered to **Animal Care Center, 5585 Sabre Road, Norfolk, VA 23502**, or to such other payee or at such other address as may be designated by notice in writing from City to NSPCA. Rent shall be paid, without prior demand therefore in advance on the first day of each month of the Term, beginning December 1, 2014. Rent shall be pro-rated for partial months at the beginning and end of the Term.

5. ASSIGNMENT. NSPCA covenants not to assign this Sublease nor sublet the Subleased Premises or any part thereof, nor permit any other person to occupy same. If any person or legal entity other than NSPCA is in possession of the Subleased Premises, during the term hereof without the consent of Landlord or City, Landlord and/or the City shall have the option to terminate this Sublease.

6. REMEDIES UPON DEFAULT. NSPCA covenants that if the Subleased Premises are deserted, abandoned or closed, for a period of thirty (30) days other than during reasonable periods of time not to exceed ninety (90) days, provided voluntary renovations or repairs due to casualty losses and other periods during which the Subleased

Premised are otherwise untenable through no fault of NSPCA, are begun during the thirty (30) day notice period and diligently pursued to completion period, or if NSPCA defaults for a period of ten (10) days in paying any installments of rent or other sum when due hereunder or defaults for a period of ten (10) days following written notice thereof; in performing any covenant, provision or condition herein contained and binding upon NSPCA, City shall have the right to enter and take possession of the Subleased Premises without notice to NSPCA, peaceably or by force, to exercise self-help and to terminate NSPCA's right to occupancy, in addition to all other rights and remedies provided by law; but unless City so elects in writing, such re-entry shall not terminate this Sublease.

7. NSPCA'S FURNITURE AND FIXTURES. The City and NSPCA agree that all furniture, fixtures and equipment which may be placed in the Subleased Premises by NSPCA are owned by NSPCA and shall be removed by NSPCA upon the expiration or termination of this Sublease. The parties further agree that any damages caused by removal of any furniture or fixtures by NSPCA shall be repaired by NSPCA to the satisfaction of the City Manager or his designee within thirty (30) days of the expiration or termination of this Sublease or NSPCA agrees to be liable for the costs incurred by the City in making such repairs.

8. UTILITIES. The City will furnish usual and reasonable electricity for lighting and for the operation of NSPCA's equipment, water and sewerage, gas and other utilities, and during normal business hours (which shall be from 6:00 a.m. to 6:00 p.m., Monday through Sunday) heating and air-conditioning, all as may be necessary for the reasonable use of the Subleased Premises by NSPCA for the permitted uses. The City covenants to pay promptly for all gas, water, electricity, sewage disposal, storm water management services and/or fees and other utilities used or consumed at the Demised Premises during the term of this Sublease.

9. MAINTENANCE AND REPAIRS.

(a) During the term of this Sublease, at NSPCA's sole cost and expense, NSPCA covenants with respect to the Subleased Premises; (i) to maintain, service and keep in good order and repair the pipes, conduits, wires and other appurtenances of the Subleased Premises, including all water, electrical, gas and waste pipes and fixtures appurtenant thereto; (ii) to unstop promptly all choked waste pipes and toilets; (iii) to keep all flues clean; and (iv) to replace all broken glass, doors, locks and hardware (both interior and exterior) promptly. NSPCA further agrees not to place (or suffer to be placed) any debris on the roof of the building in which the Subleased Premises are located and not to cut into or drive nails into or otherwise mutilate said roof; NSPCA understands and agrees that Landlord is not responsible for painting any portion (inside or outside) of the Subleased Premises.

(b) The City covenants that during the term of this Sublease it will faithfully observe and perform all of the maintenance and repair obligations of the Tenant under the Lease Agreement except for those specific obligations of the NSPCA in Section 9(a) above and except as any maintenance and repair may be needed if required by the actions of the NSPCA.

10. INSECTS AND RODENTS. NSPCA covenants to do the things reasonably necessary, or required by law, to keep the Subleased Premises free of roaches, rodents, insects and other pests and NSPCA agree that Landlord shall not be liable for any damage caused thereby.

11. SIGNS. With the exception of signage permitted pursuant to the terms of paragraph 26 below, NSPCA covenants not to paint or place (nor permit to be painted or placed) any sign or other advertising device, banner or billboard upon or about the Subleased Premises (or the exterior of any building in which the Subleased Premises are located) or any part hereof, without prior written permission of Landlord, which permission shall be subject to withdrawal by Landlord at any time for any reason whatsoever.

12. ALTERATIONS/IMPROVEMENTS. NSPCA covenants not to paint the Subleased Premises or any part thereof, nor to make (or suffer to be made) any waste thereof or alterations or improvements therein or thereto, without prior written permission of Landlord, which permission shall not be unreasonably withheld. The parties agree that any and all work by NSPCA shall comply with all applicable codes and regulations and shall be submitted by NSPCA to the City for submission by the City to the Landlord, as deemed necessary by the City, to obtain prior written approval by Landlord of any alterations or improvements by NSPCA, Should Landlord grant consent to any of the foregoing, Landlord may impose conditions to ensure such work is performed in a first-class workmanlike and lien free manner, including approval of any contractors and imposing requirements for the release of mechanic's liens, NSPCA agrees that all additions, improvements and attached equipment installed in or on the Subleased Premises by NSPCA, including but not limited to electric wiring, awnings, awning frames, floor covering (except carpet and rugs), furnaces and air conditioning machinery and equipment, shall immediately become the property of Landlord and shall not be removed by NSPCA at the termination of this Sublease, unless requested so to do by Landlord, in which event NSPCA agrees to do so and to repair promptly any damage caused by such removal. NSPCA expressly should be able to remove all of its trade fixtures.

Furthermore, if City and NSPCA elect to make any of the following improvements to the Demised Premises, it shall be at the cost and expense of parties as delineated below:

- a. At NSPCA's cost and expense:
  - i. alter the front façade to add windows and a doorway; NSPCA agrees to provide "as built" drawings of the front facade alteration to Landlord after completion of work;
  - ii. add a promotional business sign to the exterior of the building;
  - iii. paint murals on the outside walls of the building;
  - iv. install periodic signage for fundraisers and recognition of donors; and
  - v. install new planters in front of Demised Premises.
- b. At City's cost and expense:
  - i. extend water to the preparation area for Norfolk SPCA;
  - ii. extend drain lines to the Subleased Premises; and

- ii. replace an interior metal door with a similar door.

13. COMPLIANCE WITH GOVERNMENTAL REQUIREMENTS; INDEMNIFICATION. NSPCA will, at NSPCA's sole expense, promptly comply with and observe all laws, ordinances, rules, regulations and requirements (including zoning) of the federal, state and municipal governments, relating to the Subleased Premises (including any special equipment) and/or the business conducted therein. NSPCA covenants to save Landlord and the City harmless from and against any and all liability for injury or damage to person and property caused by the breach of any covenant or agreement of NSPCA contained in this Sublease. NSPCA recognizes that the City does not make any representation, express or implied, that the Demised Premises are zoned for the use(s) contemplated by NSPCA and expressed in paragraph 3 of this Sublease.

14. SPECIAL EQUIPMENT. Unless otherwise provided in an Addendum to this Sublease, to the extent the Subleased Premises include a fire sprinkler or protection system, air compressor, security system, crane, elevator, heating and air-conditioning, electrical charging equipment or other special equipment, City shall be solely responsible for the safe and proper operation thereof and periodic maintenance and repair and servicing of all such equipment, including all necessary testing and monitoring and to maintain or keep appropriate records related thereto as required by applicable law or the insures of the Demised Premises.

15. CONDITION. Upon the termination of this Sublease, NSPCA covenants to deliver to the City the Subleased Premises and all appurtenances thereto, peaceably and quietly, in as good operating condition as the same now are or may hereafter be put by Landlord, City or NSPCA, ordinary wear and tear and damage from fire or other casualty not occasioned by the fault, negligence or willful misconduct or NSPCA, NSPCA's agents, employees and independent contractors excepted.

16. DAMAGE BY FIRE. It is agreed that if the Demised Premises or the building or buildings of which the Demised Premises are a part, or any part thereof, or any improvement now or hereafter constructed thereon or added thereto shall be damaged by fire or other casualty so as to render the Subleased Premises or any material portion thereof untenable in the opinion of Landlord and the City, Landlord and the City shall each have the right, at any time within thirty (30) days after said fire, to cancel and terminate this Sublease by giving written notice of its intention to do so to the other party, within said thirty (30) day period, If the NSPCA's use of the Subleased Premises is terminated or substantially impaired because of damage by fire or other casualty to the Demised Premises or any material portion thereof and such termination or substantial impairment of use continues for a period of thirty (30) days, NSPCA shall have the right to cancel and terminate this sublease by giving written notice of its intention to do so to the City. If the Sublease is not so terminated, the Demised Premises shall be restored with reasonable dispatch at the expense of Landlord but only to the extent of available insurance proceeds (or proceeds from NSPCA) and the rent due hereunder shall be proportionately abated, according to the loss of use, until the Demised Premises are substantially restored.

17. CONDEMNATION. If all, or any portion of the Demised Premises shall be taken under the exercise of the power of eminent domain or sold to the holder of such power pursuant to a threatened taking and such taking renders the Subleased Premises unusable for the purpose for which they were previously occupied by NSPCA, then this



Sublease shall terminate upon such taking or when such sale is completed, otherwise the Sublease shall remain in effect for the remaining term as to the portion not so taken. NSPCA shall not be entitled to any part of the condemnation award or purchase price and NSPCA expressly waives any and all rights thereto. Notwithstanding the foregoing, the NSPCA shall have the right to seek and recover an award for relocation and moving expenses and for any fixtures of NSPCA taken by such condemnation.

18. INDEMNITY; INSURANCE BY NSPCA. NSPCA agrees to hold Landlord and the City harmless from and against any and all injury or death to persons or damage to property in, on or about the Demised Premises, including, without limitation, all costs, expenses, medical costs, attorneys' fees, claims or suits arising in connection therewith except to the extent that any such injury or damage shall be caused by Landlord, City or their agents.

19. NO SUBROGATION. All fire, extended coverage, and liability insurance policies and any other policies relating to other casualties or losses, carried by and party to this Sublease covering the Subleased Premises and/or the contents thereof and/or the building containing the Subleased Premises shall expressly waive any right on the part of the insurer against any other party to this Sublease, which right to the extent not prohibited or violate of any such policy, is hereby expressly waived. The parties to this Sublease agree that their policies will include such waiver clause or endorsement so therefore, so long as the party or parties in whose favor such waiver clause or endorsement runs pays such extra cost. If extra cost shall be chargeable therefore, each party shall advise the other of the amount of the extra cost and the other party, as its election, may pay the same but shall not be obligated to do so.

20. NO WAIVERS. NSPCA and the City agree that any failure of either party to insist upon strict observance of any covenant, provision or condition of this Sublease in any one or more instances shall not constitute or be deemed a waiver, at that time therefore, of such or any other covenant, provision or condition of this Sublease.

21. ENTRY BY LANDLORD. NSPCA agrees that Landlord and the City may, from time to time during normal business hours, enter the Demised Premises to view or show the same to maintenance personnel, prospective buyers or tenant, lenders or appraisers.

22. ENVIRONMENTAL.

a. NSPCA covenants, represents and warrants to Landlord and City the following covenants, which covenants, representations and warranties shall be effective as for the first day of this Sublease, shall survive the termination of this Sublease and are material and are being relied upon in making the Sublease:

i) That NSPCA will comply with all applicable federal, state, and local environmental laws, regulations, ordinances, rules and orders concerning or relating to the use, generation, storage, handling, release, threatened release or disposal of any regulated material or substance NSPCA uses, treats, stores or handles during NSPCA's Sublease term.

ii) That NSPCA shall immediately notify Landlord of NSPCA's receipt of any report, citation, notice or other writing (and deliver a copy thereof to Landlord on the written request of the Landlord) by, to, or from any governmental or quasi-governmental authority empowered to regulate or oversee any of the foregoing activities,

iii) That NSPCA acknowledges that in the event any Hazardous Material used or stored by NSPCA is required to be removed from tile Subleased Premises, the EPA identifying number or the other governmental number assigned to the Hazardous Material so removed and disposed of shall not be identified in the name of Landlord.

- b. NSPCA shall at NSPCA's sole cost and expense, protect, defend, save and hold harmless Landlord and City from and against any and all claims, demands, losses, expenses, damages, liabilities, fines, penalties, charges, administrative and judicial proceedings and orders, judgments, remedial action requirements, enforcement actions of any kind, and all costs and expenses incurred in connection therewith (including, without limitation, attorneys' fees, remediation and clean-up costs, transportation, storage and disposal or landfill costs, diminution in the residual value of the Demised Premises, damages arising from any adverse impact on marketing of space, costs incurred in connection with any investigation of work, required by any federal, state or local governmental agency or political subdivision) because of Hazardous Materials used or stored by NSPCA at the Subleased Premises.

23. FOR RENT AND FOR SALE SIGNS. It is agreed that Landlord shall have The right to put and maintain "FOR RENT" and "FOR SALE" signs in the display windows and on other portions of the Demised Premises, in conspicuous places, during the last three (3) months of the term.

24. NOTICE. Any notice to be given to City as herein provided shall be deemed to be given when duly posted in U.S. Registered or certified mail (return receipt requested), or when delivered to a nationally recognized courier service, addressed to Director, Department of General Services, 232 East Main Street, Suite 250, Norfolk, Virginia 23510; and any notice to be given, to NSPCA as herein provided shall be deemed to be given delivered to a nationally recognized courier service, addressed to NSPCA at 916 Ballentine Boulevard, Norfolk, VA 23504. Either City or NSPCA may change the place designated for the giving of such notice by written notice duly and timely given to the other.

25. LIMITATION OF LANDLORD'S AND CITY'S LIABILITY. It is agreed that neither Landlord nor City shall be liable or responsible in any way for any injury or death to persons or damage to property sustained in or about the Subleased Premises during the term of this Sublease, unless due to Landlord's or City's own willful or negligent acts.

26. HOLDOVER. If NSPCA shall be in possession of the Subleased Premises after the term or any renewal term, and in the absence of any right to remain in possession under this Sublease and any written agreement extending the term hereof, the tenancy of this Sublease shall become one from month to month at the highest rental rate then in effect



Approved as to contents:

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Deputy City Manager

Approved as to form and correctness:

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Deputy City Attorney

## LEASE AGREEMENT

THIS LEASE, made this 29<sup>th</sup> day of June, 2009, by and between ANGELJO, INC., a Virginia Corporation whose address is P. O. Box 12848, Norfolk, Virginia 23502 (herein "Landlord"), and THE CITY OF NORFOLK, Virginia, a municipal corporation of the Commonwealth of Virginia (herein "Tenant").

## WITNESSETH:

1. **PREMISES.** Landlord leases and demises to Tenant and Tenant takes and leases from Landlord the property (hereinafter "Demised Premises") known, numbered and designated as 5585 Sabre Road, Norfolk, Virginia, 23502.

2. **TERM.** The original term of this Lease shall be for a period of five (5) years and shall commence on July 1, 2009 and end on June 30, 2014. Tenant shall have the option to renew the Lease for three additional five-year terms upon written notice given to Landlord sixty days prior to the expiration of the then current Lease. Unless Landlord gives Tenant, or Tenant gives Landlord, written notice of an intention to terminate this Lease at least one hundred eighty (180) days before the end of the original or any renewal term of this Lease, then until terminated by such notice, this Lease shall renew itself from month-to-month at the highest rental rate then in effect hereunder and subject to all covenants, provisions and conditions herein contained. Except where the context clearly requires otherwise, the word "term" whenever used in this Lease with reference to the duration hereof, shall be construed to include any renewal term as well as the original term.

3. **PURPOSE; NUISANCE.** The Demised Premises shall be used to house the animal care facility of the City of Norfolk, Virginia, and Norfolk Society for the Prevention of Cruelty to Animals, Inc. (herein SPCA). Tenant covenants not to allow the Demised Premises to be used for any illegal or immoral purpose and agrees not to do (or suffer to be done) in or about the Demised Premises any act or thing which may be a nuisance, annoyance, inconvenience or damage to Landlord, the Demised Premises, Landlord's other tenants, the occupants of adjoining property, or the neighborhood.

4. **BASE RENT; LATE PAYMENTS, SECURITY DEPOSIT AND TAX STOP.**

a. The Annual rent for the first year of the term will be in the amount of one hundred forty-four thousand two hundred eighty-one dollars and eighty-eight cents (\$144,281.88) to be paid in monthly installments of twelve thousand twenty-three dollars and forty-nine cents (\$12,023.49); the annual rent will be increased by 3% each year following. Annual rent and monthly payments for the following year of the first term shall be as follows:

<u>Period of Term</u>	<u>Annual Rent</u>	<u>Monthly Installment</u>
July 2010 – June 2011	\$148,610.28	\$12,384.19
July 2011 – June 2012	\$153,068.64	\$12,755.72
July 2012 – June 2013	\$157,660.68	\$13,138.39
July 2013 – June 2014	\$162,390.48	\$13,532.54

Should the Tenant exercise its options to renew the Lease, the rent shall continue to be

increased at the 3% annual rate and the monthly installments calculated accordingly.

b. Tenant covenants and agrees to pay to Landlord, at the above address, by good and sufficient check or money order, in advance, on the first day of each month during the term, without demand therefor being made and without offset, the monthly rent amount as shown in the table above. This amount shall include improvement costs amortized over the term of this Lease. Landlord shall be responsible for the payment of all real estate taxes and insurance.

c. Tenant agrees to pay a late charge of \$50.00 for each installment of rent or other sums due hereunder which is received more than ten (10) days after the due date.

5. ASSIGNMENT. Tenant covenants not to assign this Lease nor sublet the Demised Premises or any part thereof, nor permit any other person or legal entity to occupy same, without the prior written consent of Landlord. If any person or legal entity other than Tenant is in possession of the Demised Premises, during the term hereof, without the written consent of Landlord, Landlord shall have the option to terminate this Lease, or of considering such person or entity in possession as the assignee of Tenant and, therefore, obligated to observe and perform all the covenants, provisions and conditions herein contained binding upon Tenant. No such consent to assignment or sublease shall release the Tenant from any liability or financial responsibility hereunder. Consent to a particular assignment or sublease shall not constitute a consent to any subsequent assignment or sublease. No permitted assignment shall be binding on Landlord until its receipt of the assignment and assumption document signed by the assignee.

6. REMEDIES UPON DEFAULT. Tenant covenants that if the Demised Premises are deserted, abandoned or closed, at any time, or if Tenant defaults for a period of ten (10) days in paying any installment of rent or other sum when due hereunder, or defaults for a period of ten (10) days following written notice thereof, in performing any covenant, provision or condition herein contained and binding upon Tenant, Landlord shall have the right to enter and take possession of the Demised Premises without notice to Tenant, peaceably or by force, to exercise self help, and to terminate Tenant's right to occupancy, in addition to all other rights and remedies provided by law; but unless Landlord so elects in writing, such re-entry shall not terminate this Lease. In such event, Landlord may re-let the Demised Premises, in whole or in part, in one or more leases, for the unexpired portion of the term, or any part thereof, and receive the rent thereof and apply it to the rent and other charges due hereunder, the rate and terms of such re-letting to be established as Landlord deems expedient; Landlord's action shall be final and binding upon Tenant. Tenant agrees to pay promptly to Landlord, on demand, at one time or from time to time, the direct costs associated with such re-letting and any difference between the rent and other charges payable hereunder and any smaller amounts collected by Landlord from the tenant or tenants to whom the Demised Premises may be re-let as aforesaid.

7. TENANT'S FURNITURE AND FIXTURES. Tenant represents and covenants that all furniture, fixtures and equipment which are now or may be hereafter placed in the Demised Premises are or will be owned by Tenant, unless disclosed in writing to and approved by Landlord, at the time same are placed in the Demised Premises, that same are or will be fully paid for and free of all liens and security interests at the time same are placed in the Demised Premises; and that merchandise, and said furniture, fixtures and equipment shall not be removed from the Demised Premises during the term of this Lease, without the prior written consent of Landlord, except in the ordinary course of Tenant's trade or business.

8. INSURANCE BY LANDLORD. Landlord shall obtain and keep in force during the term of this Lease a policy or policies of insurance covering loss or damage to the Demised Premises and providing protection against all perils included within the classification of fire, with extended coverage, vandalism, malicious mischief and/or special extended perils (all risk) and rental loss insurance.

9. UTILITY BILLS. Tenant covenants to pay promptly for all gas, water electricity, sewage disposal, storm water management services and/or fees and other utilities used or consumed at the Demised Premises during the term of this Lease.

10. LANDLORD'S REPAIRS AND RIGHT OF ENTRY. Landlord shall only be responsible to repair the roof and exterior structural portions of the Demised Premises, which shall not include gutters, downspouts, glass, doors or hardware. Landlord covenants that it will make such repairs to the roof and exterior structural portions as may be necessary to keep the same in good condition of repair, at its own cost and expense and with reasonable dispatch, after being notified in writing by Tenant of the need therefore. Any and all other repairs and/or replacement of all equipment, systems, fixtures and appurtenances shall be the responsibility of the Tenant as set forth in paragraph 11 below. Notwithstanding the foregoing, if the need for such repair is occasioned by a casualty resulting from the negligence or willful act of Tenant, or any of his agents, employees or contractors, and if such casualty shall not be within the coverage of the policy of insurance carried by Landlord pursuant to paragraph 8, then such repairs shall likewise be made by Landlord and reimbursed by Tenant. Landlord, its agents, employees and contractors, shall have the unobstructed right to enter the Demised Premises, from time to time, for the purpose of making any of the aforesaid repairs. Tenant shall not be entitled to any reduction in rent or to any claim for damages by reason of any inconvenience, annoyance, and/or injury to business arising out of any repairs made by Landlord pursuant to this paragraph, provided that any such repairs are completed within thirty (30) days of notification.

11. TENANT'S MAINTENANCE AND REPAIRS. During the term of this Lease, at Tenant's sole cost and expense, Tenant covenants: (i) to maintain, service and keep in good order and repair the heating plant and air conditioning equipment, air compressor, sprinkler system (including periodic inspections, tests and/or record keeping as required by the governmental authorities), pipes, conduits, wires and other appurtenances of the Demised Premises, including all water, electrical, gas and waste pipes and fixtures appurtenant thereto, (ii) to unstop promptly all choked waste pipes and toilets, (iii) to keep all flues clean, (iv) to replace all broken glass, doors, locks and hardware (both interior and exterior) promptly, and (v) to keep all other parts of the Demised Premises and parking lots and landscaping (excepting those, if any, which Landlord has agreed herein to repair) in good order and condition or repair, ordinary wear and tear excepted. Tenant shall be responsible and liable for any freezing of pipes and/or plumbing fixtures and shall pay for such damages incurred as a result thereof. Tenant shall keep the Demised Premises at a sufficient temperature to prevent such freezing or make such arrangements with the local utility companies to prevent freeze-ups. Tenant covenants: (i) not to place (or suffer to be placed) any debris on the roof of the building in which the Demised Premises are located, (ii) not to cut into or drive nails into or otherwise mutilate said roof, (iii) to keep the gutters and downspouts free of trash, leaves and gravel and to make no use of the roof without Landlord's written consent. Tenant agrees that Tenant has received and will keep, at

Tenant's expense, the Demised Premises and all appurtenances thereto, including all yards, alleys and sidewalks, in good, safe, tenantable and sanitary condition; that Tenant will promptly remove all snow and/or debris, whether same is left on the property by Tenant or others (Landlord excepted), at Tenant's expense. In the event replacement of any of the above referenced equipment or systems becomes necessary, it shall be the responsibility of the Tenant at its sole cost and expense. Tenant understands and agrees that the Landlord is not responsible for painting any portion (inside or outside) of the Demised Premises.

12. INSECTS AND RODENTS. Tenant covenants to do those things reasonably necessary, or required by law, to keep the Demised Premises free of roaches, rodents, insects and other pests, and Tenant agrees that Landlord shall not be liable for any damage caused thereby.

13. SIGNS. Tenant covenants not to paint or place (nor permit to be painted or placed) any sign or other advertising device, banner or billboard upon or about the Demised Premises (or the exterior of any building in which the Demised Premises are located or which constitute part of the Demised Premises), or any part hereof, without the prior written permission of Landlord, which permission shall be subject to withdrawal by Landlord at any time for any reason whatsoever.

14. NO ALTERATIONS. With the exception of signage permitted pursuant to the terms of paragraph 30 below, Tenant covenants not to paint the Demised Premises or any part thereof, nor to make (or suffer to be made) any waste thereof or alterations or improvements therein or thereto (including but not limited to alterations or improvements to the travel lift crane), nor to place any covering over any wooden floor, without prior written permission of Landlord. Should Landlord grant consent to any of the foregoing, Landlord may impose conditions to ensure such work is performed in a first-class workmanlike and lien free manner, including approval of any contractors and imposing requirements for the release of mechanic's liens. Tenant agrees that all additions, improvements and attached equipment installed in or on the Demised Premises by Tenant, including but not limited to electric wiring, electric fixtures, show window reflectors, screens, screen doors, awnings, awning frames, floor coverings (except carpets and rugs) furnaces, and air conditioning machinery and equipment, shall immediately become the property of Landlord and shall not be removed by Tenant at the termination of this Lease, unless requested so to do by Landlord, in which event Tenant agrees to do so and to repair promptly any damage caused by such removal.

15. COMPLIANCE WITH GOVERNMENTAL REQUIREMENTS:  
INDEMNIFICATION. Tenant will, at Tenant's sole expense, promptly comply with and observe all laws, ordinances, rules, regulations and requirements (including zoning) of the federal, state, and municipal governments, relating to the Demised Premises (including any special equipment) and/or the business conducted therein. Tenant covenants to save Landlord harmless from and against any and all liability for injury or damage to person and property caused by the breach of any covenant or agreement of Tenant contained in this Lease. Tenant recognizes that Landlord does not make any representation, express or implied, that the Demised Premises are zoned for the use(s) contemplated by Tenant and expressed in paragraph 3 of this Lease. Tenant having satisfied itself before executing and delivering this Lease that the Demised Premises can be used for such purpose(s), in the event Tenant cannot use the Demised Premises, in whole or in part, for the purpose(s) for which Tenant intends to use same, Tenant shall not



have the right to terminate this Lease, nor shall Tenant be entitled to any abatement of rent payable under the provisions of this Lease or any claim for damages.

16. CONDITION. Upon the termination of this Lease, Tenant covenants to deliver to Landlord the Demised Premises and all appurtenances thereto, peaceably and quietly, in as good an operating condition as the same now are or may hereafter be put by Landlord or Tenant, ordinary wear and tear and damage from fire or other casualty not occasioned by the fault, negligence or willful misconduct of Tenant, Tenant's agents, employees, and independent contractors excepted.

17. DAMAGE BY FIRE. It is agreed that if the Demised Premises, or the building or buildings of which the Demised Premises are a part, or any portion thereof, or any improvements now or hereafter constructed thereon or added thereto shall be damaged by fire or other casualty so as to render the Demised Premises or any material portion thereof untenable in the opinion of Landlord, Landlord and Tenant shall each have the right, at any time within thirty (30) days after said fire, to cancel and terminate this Lease by giving written notice of its intention so to do to the other party, within said thirty (30) day period. If this Lease is so terminated, rent shall abate from the time of such casualty. If the Lease is not so terminated, the Demised Premises shall be restored with reasonable dispatch by and at the expense of Landlord (subject to the provisions of paragraph 10), but only to the extent of available insurance proceeds (or proceeds from Tenant as required by paragraph 10) and the rent due hereunder shall be proportionately abated, according to the loss of use, until the Demised Premises are substantially restored.

18. CONDEMNATION. If all, or any portion of the Demised Premises shall be taken under the exercise of the power of eminent domain or sold to the holder of such power pursuant to a threatened taking, and such taking renders the remaining Demised Premises unusable for the purpose for which it was previously occupied by Tenant, then this Lease shall terminate upon such taking or when such sale is completed, otherwise the Lease shall remain in effect for the remaining term as to the portion not so taken and the rent shall be equitably abated. Tenant shall not be entitled to any part of the condemnation award or purchase price and Tenant expressly waives any and all rights thereto.

19. INDEMNITY; INSURANCE BY TENANT. Tenant agrees to hold Landlord harmless from and against any and all injury, or death to persons or damage to property in, on, or about the Demised Premises and the walks, driveways, parking areas and delivery areas adjoining the Demised Premises, including, without limitation, all costs, expenses, medical costs, attorneys' fees, claims or suits arising in connection therewith except to the extent that any such injury or damage shall be caused by Landlord or its agents.

20. NO SUBROGATION. All fire, extended coverage, and liability insurance policies, and any other policies relating to other casualties or losses, carried by any party to this Lease covering the Demised Premises and/or the contents thereof, and/or the building containing the Demised Premises shall expressly waive any right on the part of the insurer against any other party to this Lease, which right, to the extent not prohibited or violative of any such policy, is hereby expressly waived. The parties to this Lease agree that their policies will include such waiver clause or endorsement so long as the same shall be obtainable without extra cost, or if

extra cost shall be charged therefor, so long as the party or parties in whose favor such waiver clause or endorsement runs pays such extra cost. If extra cost shall be chargeable therefor, each party shall advise the other of the amount of the extra cost, and the other party, at its election, may pay the same, but shall not be obligated to do so.

21. NO WAIVERS. Tenant and Landlord agree that any failure of either party to insist upon strict observance of any covenant, provision or condition of this Lease in any one or more instances shall not constitute or be deemed a waiver, at that time or thereafter, of such or any other covenant, provision or condition of this Lease.

22. ENTRY BY LANDLORD. Tenant agrees that Landlord may, from time to time during normal business hours, enter the Demised Premises to view or show the same to prospective buyers or tenants, lenders or appraisers.

23. ENVIRONMENTAL.

a. Tenant covenants, represents and warrants to Landlord, which covenants, representations and warranties shall be effective as of the first day of this Lease, shall survive the termination of this Lease and are material and are being relied upon in making this Lease that:

i) Tenant will comply with all applicable federal, state, and local environmental laws, regulations, ordinances, rules and orders concerning or relating to the use, generation, storage, handling, release, threatened release or disposal of any regulated material or substance Tenant uses, treats, stores or handles during Tenant's Lease term.

ii) Tenant shall immediately notify Landlord of Tenant's receipt of any report, citation, notice or other writing (and deliver a copy thereof to Landlord on the written request of the Landlord) by, to, or from any governmental or quasigovernmental authority empowered to regulate or oversee any of the foregoing activities.

iii) Tenant acknowledges that in the event any Hazardous Material used or stored by Tenant is required to be removed from the Demised Premises, the EPA identifying number or other governmental number assigned to the Hazardous Material so removed and disposed of shall not be identified in the name of Landlord.

b. Tenant shall at Tenant's sole cost and expense, protect, defend, save and hold harmless Landlord from and against any and all claims, demands, losses, expenses, damages, liabilities, fines, penalties, charges, administrative and judicial proceedings and orders, judgments, remedial action requirements, enforcement actions of any kind, and all costs and expenses incurred in connection therewith (including, without limitation, attorneys' fees, remediation and cleanup-costs, transportation, storage and disposal or landfill costs, diminution in the residual value of the Demised Premises, damages arising from any adverse impact on marketing of space, costs incurred in connection with any investigation of work, required by any federal, state or local governmental agency or political subdivision) because of Hazardous Materials used or stored by Tenant at the Demised Premises.

24. FOR RENT AND FOR SALE SIGNS. It is agreed that Landlord shall have the

right to put and maintain "FOR RENT" and "FOR SALE" signs in the display windows and on other portions of the Demised Premises, in conspicuous places, during the last three (3) months of the term.

25. NOTICE. Any notice to be given to Landlord as herein provided shall be deemed to be given when duly posted in U.S. Registered or certified mail (return receipt requested), or when delivered to a nationally recognized courier service, addressed to Landlord, at business address shown above, and any notice to be given to Tenant as herein provided shall be deemed to be given when duly posted in U.S. registered or certified mail (return receipt requested), or when delivered to a nationally recognized courier service, addressed to Tenant at the Demised Premises. Either Landlord or Tenant may change the place designated for the giving of such notice by written notice duly and timely given to the other.

26. ESTOPPEL CERTIFICATE. Within thirty (30) days after written request of Landlord, Tenant and/or any Guarantor of this Lease shall certify by a duly executed and acknowledged written instrument to any mortgagee or purchaser, or proposed mortgagee or proposed purchaser, or any other person, firm or corporation specified by Landlord, as to the validity and force and effect of this Lease or the attached Guaranty, as to the existence of any default on the part of any party thereunder, as to the existence of party offsets, counterclaims, or defenses thereto on the part of Tenant, and as to any other matters as may be reasonably requested by Landlord, all without charge and as frequently as Landlord deems necessary. Tenant's failure or refusal to deliver such statement within such time shall be conclusive upon Tenant (i) that this Lease is in full force and effect, without modification except as may be represented by Landlord, (ii) that there are no uncured defaults in Landlord's performance or obligations hereunder, and (iii) that not more than one month's installment of minimum rent has been paid in advance of the due date.

27. LIMITATION OF LANDLORD'S LIABILITY. It is agreed that Landlord shall not be liable or responsible in any way for any injury or death to persons or damage to property sustained in or about the Demised Premises during the term of this Lease, unless due to Landlord's own willful or negligent acts, or unless Landlord fails to make a repair which he has agreed to make within a reasonable time after being notified in writing by Tenant of the need therefor.

28. RIGHT OF FIRST REFUSAL AND SALE OF DEMISED PREMISES. The sale of the Demised Premises to a third party shall be subject to this Lease Agreement. Landlord shall grant tenant a right of first refusal for the Demised Premises. Landlord may not offer or transfer Demised Premises except in accordance with the following:

a. If Landlord receives a bona fide offer which Landlord is willing to accept, then Landlord shall promptly send a copy to Tenant ("Notice"), who shall have thirty (45) days ("option period") from the date of such Notice to elect to purchase the property at the price and substantially the same terms stated in the offer. During the option period, Tenant shall have the right to perform tests and studies on the Demised Premises.

b. If Landlord decides to make an offer to sell the Demised Premises, which sale offer shall include the price and terms upon which Landlord is willing to sell the Demised

Premises, then Landlord shall promptly send a copy of the sales offer to tenant, who shall have ninety (90) days ("option period") from the date of receipt of the sales offer in which to elect to purchase the Demised Premises at the price and on the terms stated in the sales offer. During the option period, tenant shall have the right to perform tests and studies on the Demised Premises.

c. If Landlord does not receive an election to purchase the Demised Premises from Tenant during the option period, then Landlord may offer the Demised Premises for sale to a third party, but only at a price equal to the offer price and otherwise substantially in accordance with the terms of the sales offer. If Landlord receives a bona-fide counter-offer which he is willing to accept, then Landlord shall promptly send a copy to Tenant, who shall have 30 days to elect to purchase the Demised Premises at the counter-offer price and in substantially the same terms as those set in the counter-offer.

d. If the sale to a third party is not completed within one hundred and twenty (120) days after Tenant advises Landlord in writing of Tenant's election not to purchase the Demised Premises, then Landlord must give Tenant a new sale offer before selling to a third party.

29. MISCELLANEOUS.

a. Heirs and Executors Bound. All provisions, conditions and agreements of this Lease shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of Landlord and Tenant.

b. Headings. The headings appearing in this Lease are intended only for convenience of reference, and area not to be considered in construing this instrument.

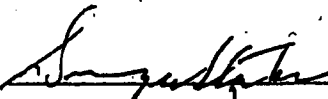
c. Execution. This Lease is not binding on the parties hereto until it is signed and delivered by or on behalf of each party.

30. SUBJECT TO APPROPRIATION

That notwithstanding anything in this Lease to the contrary, Tenant's obligation shall be subject to and dependent upon appropriations being made from time to time by the Council of the City of Norfolk for such purpose.

**IN WITNESS WHEREOF**, each party hereto has executed this Lease in his or her name or has caused this Lease to be executed in its name and behalf by its proper officer, partner, manager or fiduciary, and in a manner authorized by the applicable governing documents of said corporation, partnership, limited liability company, trust or other legal entity.

ANGELJO, INC.

By:  [SEAL]  
Title: owner. inc.

CITY OF NORFOLK

By: Regina V.K. Williams [SEAL]  
City Manager

Attest:

Shelia W. Wilder  
City Clerk 7-31-09

STATE OF VIRGINIA  
CITY OF NORFOLK, to-wit:

I, Marietta B Cowart, a Notary Public in and for the City of Norfolk, in the State of Virginia, whose term of office expires on the 31<sup>ST</sup> day of August, 2012, do hereby certify that Regina V.K. Williams, City Manager and Shelia W. Wilder, Dep. ~~R. Breckenridge Daughtrey~~, City Clerk, respectively, of the City of Norfolk, whose names as such are signed to the foregoing instrument dated June 29, 2009 have acknowledged the same before me in my City and State aforesaid.

Given under my hand this 31<sup>ST</sup> day of July, 2009.

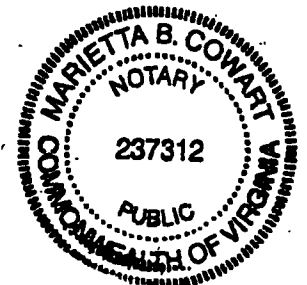
Marietta B Cowart [SEAL]  
Notary Public

Approved as to contents:

June L. O'Neil  
Assistant City Manager

Approved as to form and correctness:

[Signature]  
Deputy City Attorney



**CERTIFICATION OF FUNDING**

I hereby certify that the money for this Lease is in the City Treasury to be credit of the fund from which it is to be drawn and not appropriated for any other purpose.

Account: 1000 76 500 5380 - 513

Amount: \$136,208

Vendor Code: Angely 0100

Contract Number: CT 11991

Business License No.: \_\_\_\_\_

Alice M. Kelly  
Acting Director of Finance  
Director, Finance 10B      7/23/09 Date



**City of  
Norfolk**  
Real Estate Management Office

December 1, 2010

Mr. George Stenke  
Angeljo, Inc.  
1132 Harmony Road  
Norfolk, VA.23502

Re: Renewal of Sublease Agreement  
Norfolk Society for the Prevention of Cruelty to Animals, Inc.  
5585 Sabre Road  
Norfolk, Va. 23502

Dear Mr. Stenke:

As we have recently discussed, and as required by the Lease Agreement between the City of Norfolk and Angeljo, Inc., I am attaching the proposed Sublease renewal agreement with the Norfolk Society for the Prevention of Cruelty to Animals, Inc. (NSPCA) for your review and concurrence. The terms of this agreement will continue the NSPCA's use of a portion of the building occupied by the City of Norfolk's Animal Care Center for the purpose of providing a spay, neuter and vaccination clinic and all related and ancillary services. The new term is for two years with the option to renew for two additional, one-year terms.

Please review the attached Sublease Agreement and indicate by your signature, below, your consent for the continuing use of a portion of the building by the NSPCA.

If you have any questions pertaining to the proposed agreement or this letter, please feel free to call me at 664-4311 which is my direct line.

Sincerely,

Randi Brown Ferraro, MAI  
Manager of Real Estate

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George Stenke, Owner