

Larimer Humane Society

New Facility

Program and Schematic Design

Executive Summary

Updated 9/4/14



I. Project Background

In late 2007, Larimer Humane Society purchased 27 acres of land at 3437 and 3501 East County Road in Loveland, Colorado as the site for a new facility. As part of the purchase, the land was annexed into the City of Loveland. Following the purchase, leadership transition at Larimer Humane Society and the economic downturn required a temporary delay in the project. After paying off the loan on the land in early 2011, the Board of Directors of Larimer Humane Society decided to move forward with the planning process for the new facility.

The initial step in that process was the issuance of a Request for Proposal for Architectural and Engineering Services for Programming and Schematic Design. As a result of the selection process, Larimer Humane Society retained Animal Arts Design Studios, Inc. of Boulder Colorado to assist with this phase in the development of the new animal shelter.

Animal Arts used the following assumptions in developing a program for the new shelter:

- The building shall meet current PACFA (Colorado Department of Agriculture Pet Animal Care Facilities Program) regulations.
- The program shall implement the Association of Shelter Veterinarians Guidelines for Standards of Care in Animal Shelters, released in 2010, when possible.
- The building shall implement best practices for biological risk management.
- The animal environments shall be designed using proven methods for reducing stress.
- The shelter shall be easy to operate and shall be designed to minimize maintenance.
- The interior and exterior spaces shall comply with current building codes, regulations, and handicapped accessibility laws.
- Human environments shall be designed to be welcoming.
Provide for excellence in animal care and customer service.

II. Larimer Humane Society Background

Founded in 1969, Larimer Humane Society is an open door, animal sheltering organization serving approximately 12,000 animals annually. Larimer Humane Society is an independent, non-profit organization. Larimer Humane Society contracts with several local governments to provide animal protection and control services.

Larimer Humane Society is a leader locally and nationwide for these reasons:

- High return to owner rate for dogs and cats using industry-accepted metrics.
- High adoption rate using industry-accepted metrics.
- Outreach and cooperation with many local, state and national organizations.
- Full-service programs including education, foster, and spay/neuter programs.

- Partnership with CSU College of Veterinary Medicine & Biomedical Sciences and Veterinary Teaching Hospital.

Larimer Humane Society has been occupying the building at 6317 Kyle Avenue in Fort Collins since 1974 with two additions to the original building. Despite rigorous operational protocols, it is clear that the building has outlived its useful life. Problems include, but are not limited to:

- structural issues due to shifting soils,
- water and air infiltration,
- ongoing maintenance costs,
- poor traffic flow,
- insufficient square footage for and separation of necessary functions,
- insufficient staff and volunteer meeting and work areas,
- over-crowded animal areas,
- animal housing that does not meet current best practices, and
- space constraints that required housing administrative functions at a separate building at 5137 South College Avenue.

The new shelter will provide one location for shelter and administrative staff to improve efficiency and promote collaboration.

Larimer Humane Society continues to strive to improve conditions for animals in the community by planning for the future. Strategic goals are as follows:

- The placement of all healthy and treatable cats and dogs by 2020.
- To become an employer of choice within the animal welfare community in the Mountain States Region.
- Establishment of a viable funding framework that provides for the growth of Larimer Humane Society programs and services.
- Promote a collaborative effort with other concerned entities in Larimer County focusing on responsible pet ownership and increasing live release rates.
- Design, fund and construct a new state of the art facility for Larimer Humane Society.
- Recruit new Larimer Humane Society board members and promote increased training for new and existing board members.

III. Description of Programming Phase

The overarching goal for the needs assessment and programming phase of the project was to use a rigorous information gathering process to ensure that the needs of the community and the shelter were properly identified and justified. This phase included surveys of staff, board members and volunteers, meetings with key staff members, a programming workshop, and analysis of service data (especially animal intake and outcome data) for the past ten years.

The program developed reflects existing Larimer Humane Society functions and its desire to provide excellence in animal care and exceptional community service. Enhancements to existing functions reflect changing trends in service, such as increased medical and behavioral work for “treatable” animals. Other enhancements included necessary improvements based on current regulations or industry best practices, such as increased or improved size, quality and quantity of animal housing areas and better separation of customer service areas.

IV. Summary of Program Analysis

The program analysis of space needs for Larimer Humane Society emphasized the animal capacity requirements. For purposes of developing the program, 2010 statistics were used, but ten year trends were reviewed.

Animal Arts considered the human population of the area served and compared it to the number of animals that enter the shelter each year. The number of companion animals entering the shelter is 2.9% of the human population. The Humane Society of the United States uses these averages for the number of animals that may be expected to be cared for by the local animal shelters:

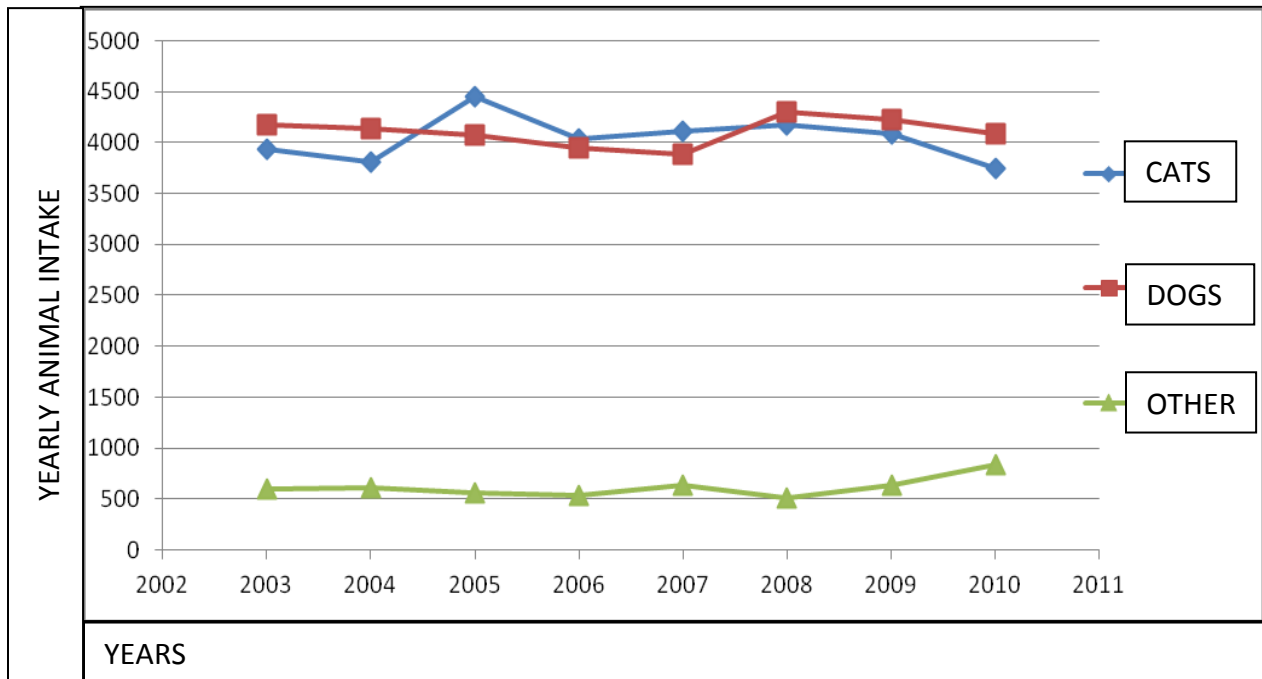
- Rural areas: 5-7% of human population
- Urban areas: 4-5% of human population

While at first it may seem that our numbers are statistically low, we are serving the community well based on the following facts:

- The Front Range of Colorado has lower than average numbers of homeless animals,
- We have been in the same location for decades,
- Our return to owner rates for stray animals are significantly higher than average, and
- Abundant wildlife results in fewer feral cats entering the shelter.

The graph below shows historical intake data for Larimer Humane Society, broken down into dogs, cats, and other animals over the period of 2003 until 2010.

LARIMER HUMANE SOCIETY ANIMAL INTAKE OVER TIME



The intake of animals into the shelter is relatively stable and Larimer Humane Society's programs as well as societal trends have compensated for the growth in the human population.

For the purposes of developing the shelter program, 10% growth capacity for cats, small mammals, and exotics was added with no additional growth capacity for dogs. These projections are similar to other communities in the area that are starting to see stabilization or reduction in dog intake and increases in cat intake.

V. Programming Conclusions

Larimer Humane Society has been offering excellent, comprehensive services to the community from its current facilities for many years. As an example, UC Davis Veterinary School's Shelter Medicine Program states that "the adoption capacity of a community is 6-9 adoptions per thousand people per year." Good marketing can push this number to 10 animals adopted per thousand people per year. Larimer Humane Society's adoption rate exceeds 10 per thousand people per year.

Because Larimer Humane Society is doing well in a facility that has outlived its useful life, they must work harder to develop a shelter that will allow them to continue to provide excellence in animal care and exceptional community service for the next 30 years and beyond.

Throughout the programming process, staff, board and volunteers stressed that in order to achieve their goals, they will need high-performance animal environments that reduce stress, prevent the spread of disease, and allow staff and volunteers to perform their jobs efficiently. These environments will, in turn, allow Larimer Humane Society to reduce animal care days for easily adoptable animals and focus efforts on animals that may require more medical treatment or behavior training to be adopted into homes, thus reducing euthanasia rates and increasing live release rates.

VI. Schematic Design

Following from the building Program, the design team worked to develop a schematic design involving building floor plan and site plan schematics. The schematic design meets the project objectives and delivers a solution that is unique to Larimer Humane Society. Architecturally, the Larimer Humane Society building respects the site and the community that it serves. It is intended to be a friendly building that is both professional and memorable.

The current design meets Larimer Humane Society's primary program goals and objectives:

- The building accommodates the requirements for animal capacity, including seasonal peak capacity and future expansion in cat capacity.
- Enough space is allocated in the animal areas to allow them to meet or exceed current best practices for animal housing, including PACFA standards and the ASV Guidelines for Standards of Care in Animal Shelters.
- Most of the animal spaces are on exterior walls, allowing for natural light and opportunities for easy access to outdoor exercise areas.
- Separate primary circulation paths are used by the general public and the shelter staff, which allows for efficient shelter operations.
- Specified materials hold up to heavy use in animal sheltering environments.
- The visitor areas of the building are inviting, quiet, and full of light. Retail strategy was employed to encourage the adoption of all animals, but especially cats.
- Public spaces are located along the east and south sides to take advantage of Colorado's excellent climate.

Animal shelter buildings must be designed with function front and center. They must be easy to clean and operate, and the finishes must be durable. Despite these necessities, architecture must not be forgotten. The new facility is likely to stand for decades and must make a good

impression, and the right impression. The building should look professional enough to boost confidence in the organization, without becoming a monument to architecture.

In order to get the most “bang for the buck,” Animal Arts took the following approach to designing the building:

- The building is oriented with the primary facades facing north and south to reduce energy costs and to take advantage of numerous openings to the outside.
- The circulation pattern was designed with simplicity in mind. It is a linear spine with saddle bags that extend from each side. Both the spine and the saddle bags can be expanded to provide for future additions to the building.
- The building is rectangular in shape. Because of its size, it is necessary to utilize a low-slope roof rather than a pitched roof form. Therefore, the primary form of the building is a box which is a simple shape to build.
- Mechanical units may be set away from building edges to reduce the necessity to construct mechanical screens.

The Animal Arts team agreed that the architectural language of the buildings should refer to the agrarian nature of the site. They developed a language of agriculturally-influenced forms and materials, including:

- Simple pitched gabled roofs with metal roofing.
- Agricultural fabric-roofed structures to enclose outdoor dog exercise areas.
- Long overhanging porches.
- Vertically applied metal siding and concrete block building materials.

The end result is a building that not only looks like it belongs on the site, but also a building that looks like it belongs in Colorado. Animal Arts refrained from using shapes that are overly trendy so that the Larimer Humane Society can maintain a timeless image for years to come.

At the end of the schematic design phase, the project has the following scope:

- An animal shelter building of approximately 33,362 square feet on the first floor, 3,791 square feet on the second floor, and 5,440 square feet of exterior yards. The total building footprint is **38,802** square feet. (The total building is 37,153 square feet of interior space and 5,440 square feet of covered exterior yard.)
- A separate multipurpose building of approximately 3,000 square feet.
- Associated site and offsite improvements.
- The anticipated capital construction cost for the proposed program is **\$9,997,301**.
- With the addition of other anticipated project costs including professional and development fees, equipment, moving costs, contingencies, cost escalation and fundraising costs, and transition costs the anticipated project budget is **\$16,500,000**.

VII. Summary of Budget Analysis

The goal in developing the budget for Larimer Humane Society was to take into consideration the anticipated hard and soft costs in order to develop a realistic overall project cost. Inflation factors were also included, as well as contingencies, to produce a budget that can be sustained over the number of years that it will take to complete the project.

The budget includes the shelter and multipurpose building, associated site development costs, landscaping and outdoor runs, a dog park, transition costs and fundraising costs.

Following is a description of the rationale behind the preliminary budget estimate:

- **Capital Construction Cost:**
 - The cost for the shelter itself is roughly \$220 per square foot, including site development costs (excluding multipurpose building, offsite road and utility and inflation.) The cost of the building assumes that it is constructed as a state of the industry municipal quality shelter. We are not assuming that it incorporates additional grand architectural statements or unusual green building systems.
 - The outside yards are budgeted as simple structures that are designed to cover but not condition the spaces.
 - The multipurpose building is budgeted as a simpler pre-fabricated metal building.
 - Offsite road and utility costs assumes required offsite road development and bringing 3 phase power and a gas line to the new building. Upgrades to existing sewer and water are in site development costs.
 - Furnishings, fittings, and equipment at approximately 5% of construction costs.
 - Inflation costs are assumed at 5% inflation for the next four years.
- **Professional Services:** Includes architecture and engineering services and an outside project manager to facilitate and manage the project and normal legal fees.
- **Permitting Fees:** Based on fees paid to utility owners and municipalities to develop the site.
- **Fundraising Costs:** Costs for capital campaign and voter initiative efforts.
- **Contingency:** To cover unknowns, change orders, etc. that are a normal part of a construction project.
- **Transition Costs:** This would provide funding to allow for increased expenses and programmatic activities during the first two to three years of operation while revenue catches up with expenses.

Animal Arts put together the following funding comparisons for their report. The names of other organizations have been removed to protect their privacy. (Only hard construction costs are used in this comparison.)

Description	size	animals	people	cost	cost/s.f.	cost/animal	cost/person
Municipal- West	36,000	10,984	600,000	10,500,000	292	956	18
Municipal- East	53,000	13,585	1,100,000	15,700,000	296	1,156	14
Municipal- South	24,000	4,561	133,000	7,400,000	308	1,622	56
Non-Profit-North	38,104	7,252	909,800	9,700,000	255	1,338	11
Non-Profit-South	35,000	8,315	186,880	9,250,000	264	1,112	49
Average	37,221	8,939	585,936	10,510,000	283	1,237	30
Larimer Humane	38,802	8,666	300,000	8,301,060	214	958	28

The two shelters at the top of the list only care for a portion of the animal population in their communities. When you consider this, it is the professional opinion of Animal Arts that Larimer Humane Society is embarking on a project that is reasonable and normal for the size of their community.

**Program Budget
Larimer Humane Society - New Facility
Animal Care Campus**

9/4/14

	Budget
Real Estate Expenses	\$1,400,000
Land Acquisition	\$1,400,000
Professional Services	\$1,543,244
Architectural and Engineering	\$1,076,504
Project and Construction Management	\$456,740
Legal	\$10,000
Permitting	\$225,000
Development Fees	\$100,000
Water and Sewer Fees	\$120,000
Ditch Company	\$5,000
Capital Construction	\$10,235,561
Shelter - Main Facility	\$8,301,066
Multipurpose Building	\$495,235
FF&E	\$750,260
Offsite Road and Utility	\$245,000
Capital Construction Inflation	\$434,000
Commissioning	\$10,000
Outdoor Site Work, Landscaping & Dog Park	\$440,000
Outdoor Dog Runs	\$125,000
Perimeter Fencing & Landscaping	\$175,000
Directional Signage	\$40,000
Dog Park	\$100,000
Transition Costs	\$500,000
Moving Costs	\$50,000
Fundraising and Ballot Initiative Costs	\$750,000
Contingency	\$1,356,195
Total Budget	\$16,500,000

**AGREEMENT REGARDING
CONSTRUCTION AND OPERATION OF A HUMANE SOCIETY FACILITY**

This Agreement Regarding Construction and Operation of a Humane Society Facility (“Agreement”) is made and entered into by and between LARIMER COUNTY, COLORADO, a body politic organized and existing by virtue of the laws of the State of Colorado (the “County”), and the LARIMER HUMANE SOCIETY, a Colorado non-profit corporation (the “Society”).

WITNESSETH

WHEREAS, the County is authorized pursuant to Section 30-15-101(1)(a)(IV), C.R.S. to establish a dog pound or other animal holding facility and to engage personnel to operate it and otherwise enforce Chapter 6 of the Larimer County Code (Animals);

WHEREAS, it is important to the public health, safety, welfare, and convenience of the residents and taxpayers of Larimer County that a means for controlling animals be provided through sheltering, spaying, neutering and adoption services;

WHEREAS, the control of animals serves to keep stray and unwanted animals out of the County and avoids the spread of disease;

WHEREAS, the Society is a Colorado non-profit corporation which is designated as a charitable organization under 501(c)(3) of the Internal Revenue Code and which operates without any motive of private economic gain;

WHEREAS, the Society was created for the purposes described above and has been operating an animal care and shelter facility at 6317 Kyle Avenue, Fort Collins, Colorado 80525, for over forty years (the “Current Facility”);

WHEREAS, neither the County, nor the municipalities currently being served by the Society have the facilities, equipment or personnel necessary to provide animal control and shelter services;

WHEREAS, for many years the Society has been providing animal control and sheltering services to the County and various municipalities contained within the boundaries of Larimer County;

WHEREAS, in addition to providing animal control and impounding services to governmental entities within Larimer County on a contract basis, the Society also provides sheltering and related services to the general public;

WHEREAS, the Current Facility is in poor condition due to age and intensity of use, and is of inadequate design and size to accommodate even existing demand for animal control and shelter services within Larimer County;

WHEREAS, the Society is the owner of two additional parcels of real property located in the City of Loveland, Larimer County, commonly known by street addresses as 3437 E. 71st Street and 3501 E. 71st Street, Loveland, CO, and legally described on **Exhibit "A"** attached hereto and incorporated herein by this reference (the "Parcel 1 and Parcel 2"):

WHEREAS, the Society is willing to make an approximately 15 to 20-acre portion of Parcel 1 and Parcel 2 available without cost to the County for the construction of a new animal control facility, a preliminary conceptual depiction of which is attached hereto as **Exhibit "B"** attached hereto and incorporated herein by this reference ("Depiction") and the exact legal description of which will be determined through a minor subdivision process by the Society in accordance with Section 3(i) below (the "Property");

WHEREAS, in spring 2014, a citizen's initiative was undertaken and a petition ("Petition") circulated which called for a 1/10th of one cent increase in sales and use tax ("Sales and Use Tax") within Larimer County for the purpose of building a new animal control facility on the Property (the "New Facility");

WHEREAS, the County has certified that the aforementioned citizen's initiative obtained a sufficient number of signatures on the Petition to have the measure placed on a ballot ("Ballot Measure"), and will include the Ballot Measure on the ballot for the general election to be held on November 4, 2014 (the "Initiated Tax Measure");

WHEREAS, the Petition states that the Society and the County will enter into an agreement regarding the design, financing, construction and use of the New Facility on the Property; and

WHEREAS, the construction of the New Facility and its continued operation as provided in this Agreement and for the reasons described above serves an important public purpose.

NOW, THEREFORE, for and in consideration of the above premises and the within terms and conditions, the parties agree as follows:

1. Term. The term of this Agreement shall commence upon execution and shall extend for a period equal to the greater of thirty-two (32) years or the date on which the Instrument (as "Instrument" is defined in Section 6(a) below) has been satisfied (the "Term").

2. Design of New Facility.

a. Architect. The parties agree that Animal Arts Design Studio, Inc., of Boulder, Colorado ("Animal Arts Design"), shall be the architect for the New Facility. The County shall be responsible for entering into a contract with Animal Arts Design for the provision of such services, in which the Society shall be a third party beneficiary. The County agrees to provide the Society with an opportunity to review and comment upon such contract prior to its execution, and to in good faith consider the Society's comments and recommended changes on the same. In the event that Animal Arts Design is

unavailable to act as architect for the New Facility, or is unable to perform such services to completion, a replacement architect shall be selected by the County after good faith consultation with the Society and good faith consideration of the Society's recommendations.

- b. Justification for Bid Waiver. The parties agree that Animal Arts Design has substantial experience in the design of animal shelter facilities, has worked with the Society on a preliminary schematic design for the New Facility and is qualified to serve as the architect. Within thirty (30) days following the date on which the vote tally on the Ballot Measure is certified by the County Clerk, and providing the Ballot Measure passes, the County shall submit to the County Manager a request to waive the County's bid process for selection of an architect.
- c. Design Selection and Oversight. The final design of the New Facility shall be consistent with the schematic design attached hereto and incorporated herein as **Exhibit "C."** All substantive decisions concerning the final design shall be made by the County, after good faith consultation with the Society and good faith consideration of changes recommended by the Society. The final design of the New Facility shall meet the following basic requirements:
 - i. The New Facility shall meet current Colorado Department of Agriculture Pet Animal Care and Facilities Act, C.R.S. 35-80-101 et seq. ("PACFA") Program regulations;
 - ii. The New Facility shall implement best practices for biological risk management;
 - iii. Animal environments shall be designed using proven methods for reducing stress;
 - iv. The shelter portion of the New Facility shall be easy to operate and shall be designed to minimize maintenance;
 - v. The interior and exterior spaces shall comply with current building codes, regulations, and handicapped accessibility laws; and
 - vi. Human environments shall be designed to be welcoming.
- d. County Not Liable for Design. The County shall bear no liability or responsibility for any deficiencies or defects in the final design of the New Facility or for any claims resulting directly or indirectly from the final design.

3. Construction of New Facility.

- a. Contracting Party. The County shall be the contracting party for the construction contract for the New Facility (the "Construction Contract"), and shall be

responsible for bidding and letting of the Construction Contract. To the degree practicable, the County agrees to in good faith consult with and involve the Society in substantive matters and decisions related to procurement of the Construction Contract.

- b. Society as Third-Party Beneficiary. The Construction Contract shall provide that the Society is a third-party beneficiary of the Construction Contract.
- c. Construction Deadline. The County agrees to use its best efforts to ensure that the Construction Contract is bid, entered into and capable of being completed within a time frame that allows for final completion by the County of the New Facility by December 31, 2016. Final completion shall occur when the Project and Construction Manager, as hereinafter defined, confirms, in writing, to the County and the Society that construction of the New Facility has been completed in accordance with Construction Contract, including completion of all punch lists and cleanup work (“Final Completion”).
- d. Project and Construction Manager. The County agrees to utilize Ditesco, LLC, of Fort Collins, Colorado (“Ditesco”), as project and construction manager (“Project and Construction Manager”) for construction of the New Facility pursuant to the the Construction Contract (the “Project”), and shall be responsible for entering into a contract with Ditesco for the provision of such services, in which the Society shall be a third party beneficiary. The County agrees to provide the Society with an opportunity to review and comment upon such contract prior to its execution, and to in good faith consider the Society’s comments on the same. In the event that Ditesco is unavailable to act as Project and Construction Manager, or is unable to perform such services throughout the term of the Construction Contract, a replacement project and construction manager shall be selected by the County, after good faith consultation with the Society and good faith consideration of the Society’s recommendations.
- e. Justification for Bid Waiver. The parties agree Ditesco is a full service engineering, program, project and construction management services firm located in Fort Collins, Colorado and is qualified to serve as Project and Construction Manager. Ditesco has provided engineering and management services on a variety of Northern Colorado projects ranging from water and wastewater treatment, commercial buildings and transit projects. Ditesco is experienced in budget forecast and control, scheduling, contract administration, claims avoidance, construction management and inspection, project close out and warranty activities. Ditesco has managed a number of projects at the Society’s existing shelter facility and has helped the Society realize on-time, on-budget projects built to animal care industry quality. Ditesco has been involved with the Society’s animal shelter project since its inception in 2007 and has worked with Animal Arts Design in early programming, budgeting and facility planning. Within thirty (30) days following the date on which the vote tally on the Ballot Measure is certified by the County Clerk, and providing the Ballot Measure passes, the County shall submit to the County Manager a request to waive the

County's bid process for selection of Ditesco as the Project and Construction Manager.

- f. Project Oversight and Management. Management and oversight of the Project shall be the responsibility of the Project and Construction Manager in consultation with the County's designated representative (the "County Representative"). Such County Representative may be a current County employee or may be someone hired by the County on a temporary basis solely to manage and oversee the Project. The County Representative shall consult with a representative designated by the Society (the "Society Representative") about all substantive elements of the Project. The County Representative and the Society Representative shall meet at such intervals as such representatives deem appropriate under the circumstances, to coordinate and share information regarding the status of the New Facility, and to review and discuss any anticipated changes to or pending issues regarding, the New Facility. In the event of a disagreement between the County Representative and the Society Representative concerning management and oversight of the Project, the Society agrees that the County Representative shall have the authority to make a final determination on any such matter.
- g. The County and Society acknowledge the County may incur direct costs for the Project after the date on which the vote tally on the Ballot Measure is certified by the County Clerk but before both adoption of the Project budget and the date on which funds are deposited into the Project Fund pursuant to Section 8(b) ("Interim Direct Costs"). The Society shall advance to the County funds for the Interim Direct Costs. The County shall reimburse the Society for the Interim Direct Costs within sixty (60) days following funds being deposited into the Project Fund.
- h. Disbursement of Funds. Subject to the requirements of this Agreement for consultation with the Society, the County shall have control over all disbursements from the Project Fund as defined in Section 8.b, including progress payments, disposition of the retainage, and final payment.
- i. Minor Subdivision. The Society shall be responsible for preparing the documentation necessary to obtain approval from the City of Loveland a subdivision plat to adjust the boundary lines of Parcel 1 and Parcel 2 in order to create a separate legal parcel to be used for construction of the New Facility (the "Property", as defined in the recitals and conceptually depicted on **Exhibit "B"**), with the remainder of Parcel 1 and Parcel 2 being retained by the Society for future development. The Society shall have the sole discretion in deciding how to adjust the boundary lines of Parcel 1 and Parcel 2. The Society shall submit such minor subdivision application prior to or concurrently with the submittal of any development review applications required pursuant to Section 3(j) below. The Society shall be responsible for paying the cost of such submittal and review, including the payment of any required fees. The legal description of the Property created through the minor subdivision process shall be used in the Deed of Trust referenced in Section 6(a) below.

- j. Land Development Review. The Property is located and the New Facility will be constructed within the incorporated boundary of the City of Loveland. The Society represents that the Property and use of the Property for an animal shelter facility and associated activities is a use by right under the City's zoning designation for the Property. The parties understand that notwithstanding the zoning designation, certain development reviews and approvals by the City of Loveland are required. The County shall be the named applicant for the required reviews and approvals. The Project and Construction Manager shall be responsible for preparing the documentation necessary for all such reviews and approvals, and shall be responsible for paying the cost of the same, including payment of any required fees.
- k. Building Permit and Inspection Approvals. The parties agree that permits for the construction of the New Facility including, but not limited to, development construction permits, grading permits, footing and foundation permits and building permits, shall be obtained from the Larimer County Building Department, with the approval of the City of Loveland Building Official. The County shall be responsible for preparing and submitting applications for all required permits, and for payment of any required fees. The County shall be reimbursed for all Direct Costs incurred in connection with obtaining any such permit. All required building plan reviews and inspections shall be performed by the Larimer County Building Department or special inspector accepted by the Larimer County Chief Building Official.
- l. Additional Buildings on the Property. Although the Society contemplates construction of other buildings on the Property to serve its mission, the parties agree that the only buildings to be constructed by the County as contemplated by this Agreement are the animal shelter, barn and storage building depicted on the preliminary schematic design for the New Facility on **Exhibit "C."** Any other buildings to be constructed on the Property will be constructed by the Society at its sole cost and expense.

4. Consent to Construction of New Facility, Authority to Enter Property. The Society consents to the construction of the New Facility on the Property. The County, its employees, agents, representatives and contractors, shall have access to the Property at any time prior to and during construction of the New Facility and through Final Completion for any and all purposes necessary or advisable for such construction.

5. Society's Obligation to Operate New Facility. No later than sixty (60) days after Final Completion of the New Facility ("Commencement of Operations"), the Society agrees that it shall operate the New Facility for a period of no less than thirty (30) years, subject to Section 16 below, and that such operations shall be consistent with the stated purpose of the Society, which is attached hereto and incorporated herein as **Exhibit "D."** Throughout the Term, such operations shall include:

- a. Providing to the general public sheltering services for animals; and

- b. Being available to provide on a contract basis animal control and impounding services to the County and municipalities located within the boundaries of Larimer County.
- c. Operating the New Facility in a manner that does not cause tax exempt revenue bonds to become taxable and providing a certification the County annually that this requirement has been met so long as the bonds are outstanding.
- d. Maintaining the Property and New Facility, including mechanical components, in a satisfactory condition so as to prevent the Property and New Facility from deteriorating or decreasing in value due to its condition.
- e. Allowing the County to inspect the New Facility, at reasonable times and dates, and upon reasonable advance notice, during the Term of this Agreement to verify the New Facility is being adequately maintained and operated in conformance with this Agreement.

The County agrees that, so long as the above conditions are satisfied, the specific manner in which the Society operates the New Facility shall be within the sole discretion of the Society. The County further agrees that the obligations of the Society set forth in Sections 5(a) and (b) above shall be limited to what the Society can reasonably provide based upon the size and design of the New Facility, as well as the staffing of the Society; provided, however, that the Society shall generally maintain throughout the Term a level of staffing consistent with industry standards for a facility of the capacity and design of the New Facility, and which shall comply with PACFA, as well as other applicable laws concerning staffing levels for an animal control facility. The Society shall have the right to assign its obligations under this Section 5 to a qualified third-party with the written consent of the County, which consent shall not be unreasonably withheld.

6. Instrument and Deed of Trust to the County.

- a. Instrument and Deed of Trust. To secure performance of the Society's obligations contained in Section 5 above, the Society agrees to execute and deliver to the County the non-interest bearing, non-recourse promissory note attached hereto and incorporated herein as **Exhibit "E"** (the "Instrument"), within ten (10) business days following Final Completion of the New Facility. The Instrument shall be secured by a deed of trust against the Property (both the land and all improvements existing thereon on the date of the deed of trust or subsequently constructed or installed) in the form attached hereto and incorporated herein as **Exhibit "F"** (the "Deed of Trust"). The Society agrees that the Deed of Trust shall be a first lien against the Property. The amount of the monetary obligation evidenced by the Instrument shall be the initial amount of the Project Fund, as such term is defined in Section 8(b) below.
- b. Reduction in Obligation Evidenced by the Instrument. The Instrument shall have a term of thirty (30) years, beginning on the date of Commencement of

Operations. The monetary amount evidenced by the Instrument shall decrease by one-thirtieth (1/30th) each year that the Society operates the New Facility, with a partial year being pro-rated based upon the number of days that the New Facility was operated in such year. Once the Society has operated the New Facility in accordance with the requirements of Section 5 above for thirty (30) years or the Instrument has been paid in full, the Instrument shall be deemed to be satisfied.

- c. Default. In the event the Society fails to operate the New Facility in the manner required by Section 5 above, the County shall have the right to foreclose on the Deed of Trust to recover the amount remaining on the Instrument as of the date of such default by the Society, subject to the following limitations:
- i. Prior to commencing an action for foreclosure, the County shall provide written notice to the Society identifying the nature of the default. Within ninety (90) days, the Society shall notify the County of its plan to cure the default. The Society shall have one hundred eighty (180) days from receipt of the County's written notice of default to remedy such default or pay to the County an amount equal to the unpaid balance evidenced by the Instrument as of the date of the Society's default.
 - ii. A suspension of operations at the New Facility which is due to the destruction of the New Facility, or damage sufficient to render the New Facility unusable, shall not constitute a default under this Section 6(c), unless the Society fails to repair or replace the New Facility within six (6) months or such period of time as the parties may mutually agree on.
 - iii. A suspension of operations at the New Facility which is due to an event envisioned by Section 14 below, entitled "Force Majeure," shall not constitute a default under this Section 6(c), provided that the Society acts reasonably in resuming operations at the New Facility upon cessation of the event which led to suspension of such operations.
 - iv. Should operations at the New Facility be suspended due to an event described in Sections 6(c)(ii) or 6(c)(iii) above, the annual decrease in amount of debt evidenced by the Note shall likewise be suspended during the time that operations at the New Facility are suspended.
- d. Release of Deed of Trust. Once the amount owed under the Instrument has been satisfied as provided in Section 6(b) above, or has been paid off pursuant to Section 16 below, the County agrees to promptly execute and record a release of the Deed of Trust.

7. Ownership of the New Facility. The parties agree that within ten (10) business days following Final Completion of the New Facility by the County, and presentment by the Society to the County of the Instrument and Deed of Trust, ownership of the New Facility shall be transferred to the Society, which transfer shall be evidenced by a quit claim deed from the County to the Society. Excepting its interest in the Deed of Trust, the County shall have no interest whatsoever in the New Facility or the Property. Accordingly, the County shall not be responsible for any costs or expenses associated with owning, maintaining or operating the Property or the New Facility, including, by way of example and without limitation, routine building or grounds maintenance, building repairs, utility payments, or payment of property or other taxes.

8. Financing of the New Facility.

- a. As used in the Petition, the term “Bonds” shall be interpreted to mean any debt or other financial obligation incurred for the purpose of generating moneys for the financing or refinancing of the New Facility including, but not limited to, bonds, notes, loans or similar obligations incurred by the County through the public issuance or private placement of securities or the execution of a loan or borrowing incurred through banks or other financial institutions. The decision as to the particular mechanism by which financing is obtained and the principal amount of the financing shall be within the sole discretion of the County; provided, however, that the County shall in good faith consider which financing mechanism is most appropriate under the circumstances, taking into account, among other factors, the cost of such financing. The County shall use reasonable efforts to select a financing mechanism that will allow it to meet the construction deadline stated in Section 3(c) above.
- b. The County, in consultation with the Society, agrees to obtain financing in accordance with the terms of the Petition in a principal amount of \$14,900,000 or such lesser amount as the County, in consultation with the Society, determines should be issued. The proceeds of the financing shall, after deducting costs of the financing and any required reserve fund deposition, be deposited into a segregated account to be held by the County (the “Project Fund”) and used to pay the costs of the design, construction and fixtures of the New Facility; the County’s direct costs as hereinafter defined; the costs for relocation of the Society’s existing facility to the New Facility; and reimbursement to the Society for Interim Direct Costs, all in accordance with the terms of the Petition (collectively the “Project Costs”). The Project Fund shall be invested in the sole discretion of the County.

Direct costs shall be those out-of-pocket costs incurred by the County in connection with the New Facility which costs the County would not incur “but for” the Project. These include costs for architectural services, project management, construction materials, laborers, plan review, onsite testing, inspections and new employees hired by the County solely to work on the Project (“Direct Costs”).

- c. The Project Costs shall not exceed the amount initially deposited to the Project Fund plus investment income on such deposit. The County and the Society shall expeditiously and in good faith agree on a budget for the Project Costs and, with the exception of the costs incurred by the County and/or the Society under any contract with Animal Arts Design or Ditesco for the preparation of such budget and a project timetable, no costs shall be reimbursed on such project until such budget has been established and approved by the Society's Board of Directors and the Board of County Commissioners.
- d. When the County has determined that the construction of the New Facility has been completed and all Project Costs (including, after payment of all other Project Costs, reimbursement of the Society for costs of relocation from its existing facility to the New Facility and reimbursement to the County of Direct Costs incurred by the County in connection with the design and construction of the New Facility) in connection therewith have been paid or are determinable, with reserves set aside in the Project Fund for any final unpaid amounts, the County shall deliver a notice of completion (the "Completion Notice") to the Society and all remaining moneys in the Project Fund shall be disbursed as provided in Section 9 below.

The Society shall be responsible to pay costs of equipment and furnishings for the New Facility. The Society represents that at the time of execution of this Agreement it has sufficient funds set aside in a segregated account specifically designated to pay these costs.

- e. The Society covenants that it will not use or operate the New Facility in a manner that would cause the interest on the Bonds to be included in gross income for federal tax purposes. Commencing on the date that the Completion Notice is delivered by the County until one year after the date of the payment in full of the Bonds, the Society shall, within 30 days from the date of the annual filing of its federal tax form 990, provide the County with a letter prepared by an independent certified public accountant which either (i) states that the Society had no unrelated business income attributable to its use or operation of the New Facility, or (ii) identifies the amount of unrelated business income attributable to the Society's use or operation of the New Facility which was reported in the federal tax form 990 of the Society.
- f. If the Society uses the New Facility for taxable retail sales, the Society agrees it shall obtain a current sales tax license and remit the sales tax on a timely basis.

9. Residual Moneys.

- a. Project Fund. As stated above in Section 8, moneys on deposit in the Project Fund are to be used for the Project Costs in accordance with the terms of the

Petition. Project Costs for the New Facility shall be limited to the moneys on deposit in the Project Fund and the County has no liability for any costs in excess of the Project Fund. The County may, in its reasonable discretion, and after good faith consultation with the Society, make any modifications to design or construction which are necessary to insure the amount in the Project Fund is not exceeded. Following the delivery of the Completion Notice by the County to the Society, all remaining moneys in the Project Fund shall be used, subject to any limitation which may be imposed by applicable law, rule or regulation, for the payment of the accrued interest on, and principal of, the Bonds.

- b. Facility Tax Fund. Pursuant to the terms of the Petition, there is to be established the “Larimer County Animal Care and Control Facility Capital Improvement Fund” (the “Facility Tax Fund”). Moneys received by the County from the “net sales and use tax revenues”, as defined in the Petition, are to be deposited into the Facility Tax Fund, together with the earnings on such moneys, and are to be used solely for the payment of the principal of, premium if any, and interest on the Bonds and for the current payment of costs and expenses incurred by the County directly related to the Bonds. At such time that there have been deposited into the Facility Tax Fund sufficient moneys to provide for the payment of the principal of and interest on the Bonds in accordance with the terms of the resolution, indenture or other documents controlling the issuance of the Bonds, the sales and use tax is to terminate on the earliest possible date. Following the payment in full of the principal of and interest on the Bonds, or the legal defeasance of the Bonds, the balance of moneys in the Facility Tax Fund shall be disbursed in the following order of priority:
 - i. to the Society for any unreimbursed costs of relocation from its existing facility to the New Facility;
 - ii. to the County for any unreimbursed Direct Costs;
 - iii. to the County in an amount of \$10,000 as an administrative fee associated with time spent by County staff in connection with the New Facility; and
 - iv. for the operation and maintenance costs of the New Facility in accordance with the terms of the Petition.

10. County’s Costs for Sales and Use Tax Administration/Termination of Sales and Use Tax. Costs of administration and collection of the Sales and Use Tax shall be deducted from the Sales and Use Tax as collected in accordance with the County’s customary practice in connection with collection of sales and use taxes. The Sales and Use Tax will terminate on December 31 or June 30 occurring immediately after all of the Bonds have been paid and cancelled.

11. Insurance. The Society shall obtain and maintain throughout the Term a fire/casualty insurance policy or policies on the Property in an amount equal to full replacement value of the Facility. Such policy or policies shall be subject to approval by the County; provided, however, that such approval shall not be unreasonably withheld. The County, in its capacity as lien holder against the Property, shall be named as an additional insured and as a loss payee on the Society's fire/casualty insurance policy or policies for so long as the Note is outstanding. The Society shall deliver to the County annually so long as the Note remains outstanding, a certificate or certificates evidencing such insurance coverage, which certificate or certificates shall provide that such insurance coverage will not be cancelled without thirty (30) days' written notice to the County.

12. Damage to, Destruction of, the New Facility. In the event of damage to, or the destruction of, the New Facility, the Society agrees to promptly repair or replace the New Facility utilizing the proceeds from the insurance coverage identified in Section 11 above. The Society agrees that any replacement facility shall be of equal or greater class to the New Facility. In the event that the New Facility is destroyed, or sustains significant damages exceeding fifty percent (50%) of the New Facility's amortized value, and such damage or destruction is not covered by the insurance policy or policies identified in Section 10 above, or payment is not made to the Society by the insurance company or companies due to insolvency, government intervention or any other reason unrelated to the Society's actions, then the Society shall not be obligated to repair or replace the New Facility.

13. Animal Control and Impounding Services to the County. The parties acknowledge that the Society currently provides to the County, pursuant to a separate agreement, certain animal control and impounding services. The parties agree that this Agreement is not intended to affect, or address, the current or future provision of such services by the Society to the County. The future provision of such services by the Society to the County, if desired by the parties, shall be addressed by a separate agreement.

14. Force Majeure. In the event that the County or the Society is delayed or hindered in or prevented from the performance of any act required hereunder by reason of acts of God, strikes, lock-outs, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war or any other reason not within the reasonable control of the party delayed in performing work or doing acts required under the terms of this Agreement, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

15. Agreement Conditional Upon Voter Approval. This Agreement is expressly conditional upon Certification by the County Clerk that the Ballot Measure has been being approved by voters. In the event that the Ballot Measure is defeated, this Agreement shall be null and void.

16. Pay-Off of Instrument. The thirty (30) year term of the Instrument was based upon a thirty (30) year useful life of the New Facility, the Society's contribution of its land on

which the New Facility will be constructed, and the Society's ownership obligations for the New Facility, including payment of all insurance, operation and maintenance costs. The annual decrease in the amount of the Instrument represents the annual reduction in value of the New Facility over such useful life, as well as the Society's contribution of land and its annual ownership costs. Beginning with the date on which the County ceases to collect the Sales and Use Tax, the Society shall have the right to terminate this Agreement by delivering to the County payment in the amount remaining on the Instrument as of the day such payment is delivered. Payment shall be made by certified check or cashier's check, or by any other means agreed to by both parties, and shall delivered to the County Manager. Upon delivery of such payment to the County, this Agreement shall be terminated in its entirety, with both parties being fully discharged from any further performance hereunder.

The County shall use the amount paid for the purposes specified in the Petition to the extent reasonably feasible and otherwise for animal welfare purposes.

17. Defective Design or Construction. Provided that the Society is made a third party beneficiary of all design, construction management, and construction contracts relating to the New Facility, any claims for defective design, construction, or materials or breach of warranty shall be the responsibility of the Society to pursue or enforce and the County shall assign to the Society any rights it may have to pursue or enforce such claims. Society releases the County from any and all such obligations.

18. Notices. Any notice required or desired to be given by the parties shall be in writing and may be: (a) personally delivered; (b) sent by certified mail, return receipt requested; or (c) sent by a nationally recognized receipted overnight delivery service, including the United States Postal Service, United Parcel Service or Federal Express, for earliest delivery the next day. Any such notice shall be deemed to have been received as follows: (a) when personally delivered to the party to whom it is addressed; (b) when mailed, three delivery (3) days after deposit in the United States mail, postage prepaid; and (c) when by overnight delivery service, one (1) day after deposit in the custody of the delivery service. The addresses for the mailing or delivering of notices shall be as follows:

If to the Society:	Larimer Humane Society Attn: Executive Director 6317 Kyle Avenue Fort Collins, Colorado 80525
With a copy to:	Liley, Rogers & Martell, LLC Attn: Lucia Liley 300 South Howes Street Fort Collins, Colorado 80521
If to the County:	Larimer County Manager 200 W. Oak Street P.O. Box 1190 Fort Collins, CO 80522

With a copy to: Larimer County Finance Director
200 W. Oak Street
P.O. Box 1190
Fort Collins, CO 80522

Notice of a change of address of a party shall be given in the same manner as all other notices.

19. Indemnity. The Society agrees to indemnify, save and hold harmless the County, and the past, present and future members of its Board of County Commissioners, officers, directors, counsel, employees and agents (the “Indemnified Parties”) from and against any and all losses, claims, damages, liabilities, or expenses (including attorney’s fees), causes of action, including reasonable costs of investigation, to which jointly or severally, any or all of the Indemnified Parties may become subject insofar as any such loss, claim, damage, liability or expense (or actions with respect thereto) arises out of or is based on any act or omission of the Society, its employees, agents, subcontractors, or assigns, in the use and operation of the New Facility by the Society and/or the use or operation of the New Facility in a manner that would cause the Bonds to be considered “private activity bonds” within the meaning of the Internal Revenue Code of 1986, as amended, or which otherwise causes the interest on the Bonds to be included in gross income for federal tax purposes.

20. Approval and Consent. No approval or consent required of either party under this Agreement shall be unreasonably withheld or delayed.

21. Copartnership Disclaimer. Nothing contained in this Agreement shall be deemed or construed as creating an agency, partnership or joint venture relationship between the Society and the County.

22. Integration, Severability. This Agreement, including any exhibits incorporated herein by reference, represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations or agreements, whether written or oral. Further, the parties acknowledge that this is a negotiated agreement, and agree that no term or condition shall be construed against the Society or the County as its author. If any term or condition of this Agreement is held to be illegal, invalid or unenforceable under applicable law, rule or regulation, such term or condition shall be fully severable.

23. Material Nature of Terms, General Default Remedy. Each and every term and condition contained herein shall be deemed to be a material element of this Agreement. In the event a party has been declared in default, such defaulting party shall be allowed a period of ten (10) days within which to cure said default. In the event the default remains uncured after the ten (10) day period:

- a. If the County is the party in default, the Society may seek specific performance of this Agreement.

- b. If the Society is the party in default, the County may elect to: (i) terminate this Agreement and seek damages; (ii) seek specific performance of this Agreement; or (iii) avail itself of any other remedy at law or equity. The election of any particular form of remedy by the County shall not preclude the County from seeking any other form of remedy provided at law or equity.

The general default remedy contained in this Section 23 shall not apply to any section of this Agreement which provides its own default remedy.

24. Time is of the Essence. Time is of the essence regarding the requirement that the County use its best efforts to obtain Final Completion of the New Facility by December 31, 2016. .

25. Limitation on Waiver, Binding Nature. The failure of either party to insist, in any one instance or more, upon the performance by the other party of any of the duties, obligations or conditions of this Agreement, or to exercise any right or privilege herein conferred, shall not be construed as thereafter waiving any such duties, obligations, conditions, rights or privileges, but the same shall continue and remain in full force and effect. All duties, obligations, conditions, rights and privileges contained herein shall be binding upon, inure to the benefit of, and be enforceable by, the parties, their successors and assigns.

26. Governing Law and Court Jurisdiction. This Agreement shall be interpreted and enforced under the laws of the State of Colorado. Court jurisdiction shall be exclusive in the District Court for Larimer County, Colorado.

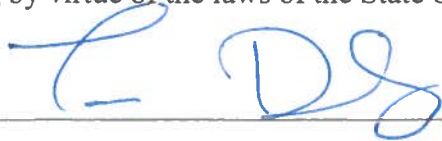
27. No Third Party Beneficiaries. No term or condition contained herein shall be deemed or construed as creating any right or entitlement which inures to the benefit of any third party.

28. Immunity. Notwithstanding any other provision to the contrary, nothing herein shall constitute a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the Colorado Governmental Immunity Act ("CGIA"), CRS §24-10-101, et seq., or the Federal Tort Claims Act ("FTCA") 28 U.S.C. 2671 et seq., as applicable, as now or hereafter amended nor shall any portion of this Agreement be deemed to have created a duty of care which did not previously exist with respect to any person not a party to this Agreement. Liability for claims for injuries to persons or property arising from the negligence of the County, its departments, institutions, agencies, boards, officials, and employees is controlled and limited by the provisions of the CGIA or the FTCA as applicable, as now or hereafter amended.

29. Sections and Headings. Sections and headings contained herein are for organizational purposes only and shall not affect the interpretation of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of the last signature written below.

LARIMER COUNTY, a body politic organized and existing by virtue of the laws of the State of Colorado

By: 

Date: 9/9/14

LARIMER HUMANE SOCIETY, a Colorado non-profit corporation

By: 

Printed Name: Judith A Carlson

Title: Executive Director

Date: 9/4/14


DATE: 9-4-14
APPROVED AS TO FORM:

COUNTY ATTORNEY

Exhibit "A"
(Page 1 of 2)

Legal Description of the Parcel I and Parcel 2

PARCEL 1:

A tract of land situated in the Northwest Quarter of Section 28, Township 6 North, Range 68 West of the 6th P.M., being more particularly described as follows:

Considering the North line of the Northwest Quarter of said Section 28 as bearing South 90°00'00" East and with all bearings contained herein relative thereto:

Commencing at the Northwest corner of said Section 28; thence North 90°00'00" East and along the North line of the Northwest Quarter, 1838.09 feet to the True Point of Beginning; Thence leaving said North line of the Northwest Quarter South 02°36'00" East, 1115.69 feet to a point on the center line of the Louden Ditch; Thence following said center line of the Louden Ditch along the following courses:

Thence South 50°30' East, 42.42 feet;
Thence South 45°30' East, 118.00 feet;
Thence South 37°09' East, 109.50 feet;
Thence South 43°24' East, 79.65 feet;
Thence South 39°48' East, 80.58 feet;
Thence South 21°36' East, 91.00 feet;
Thence South 30°40' East, 68.71 feet;
Thence South 39°44' East, 113.00 feet;
Thence South 45°22' East, 65.45 feet;
Thence South 57°00' East, 14.00 feet;

Thence leaving the center line of the Louden Ditch, North 02°36' West, 1717.77 feet to the North line of the Northwest Quarter of Section 28. Thence following said North line South 90°00'00" West, 463.60 feet to the point of beginning, County of Larimer, State of Colorado.

PARCEL 2:

A portion of land located in the North Half of Section 28, Township 6 North, Range 68 West of the 6th P.M., considering the North line of the Northwest Quarter of Section 28 as bearing East and west with all bearings contained herein relative thereto:

Beginning at the Northwest corner of Section 28; Thence East and along the North line of said Section 28, 2301.69 feet to the true point of beginning; thence East and along the North line of said Section 28, 354.08 feet; thence South 02°36' East , 2090.54 feet to a point on the center line of the Louden Ditch, thence along the center line of said Ditch on the following courses: North 33°02'36" West 84.09 feet, arc length of 85.91 feet, radius length of 120.0 feet; thence North

Exhibit "A"
(Page 2 of 2)

21°25' West 81.84 feet, arc length of 82.17 feet, radius length of 265.0 feet; thence North 43°39' West 133.92 feet, arc length of 135.14 feet, radius length of 120.0 feet, thence North 57°00' West 242.00 feet; thence departing centerline of said Ditch, North 02°36' West 1717.77 feet to the true point of beginning. **EXCEPT** parcel conveyed by Deed from Mary P. Kerr to Ivan C. Schott and Margaret T. Schott recorded June 12, 1971 in Book 1468 at Page 221, County of Larimer, State of Colorado. Also **EXCEPT** that parcel conveyed by Deed from Robert J. Gall and Nancy E. Gall to Ivan C. Schott and Margaret T. Schott recorded June 9, 1983 in Book 2223 at Page 896.

ALSO

That portion of the Northwest Quarter of Section 28, Township 6 North, Range 68 West of the 6th P.M., County of Larimer, State of Colorado, more particularly described as follows:

Considering the North line of said Northwest Quarter as bearing East and West with all bearings contained herein relative thereto:

Beginning at the North Quarter corner of said Section, thence South 2°36' East, 622.76 feet; thence North 89°07'30" West, 267.12 feet to the True Point of Beginning; thence continuing North 89°07'30" West, 26.96 feet; thence North 2°51'15" East, 119.13 feet; thence South 88°34'36" East, 24.32 feet; thence South 1°35'12" West, 118.83 feet more or less to the True Point of Beginning, County of Larimer, State of Colorado.

Director



Exhibit "B"

Conceptual Depiction of Property

Draft in Progress

Printed: 8/20/14

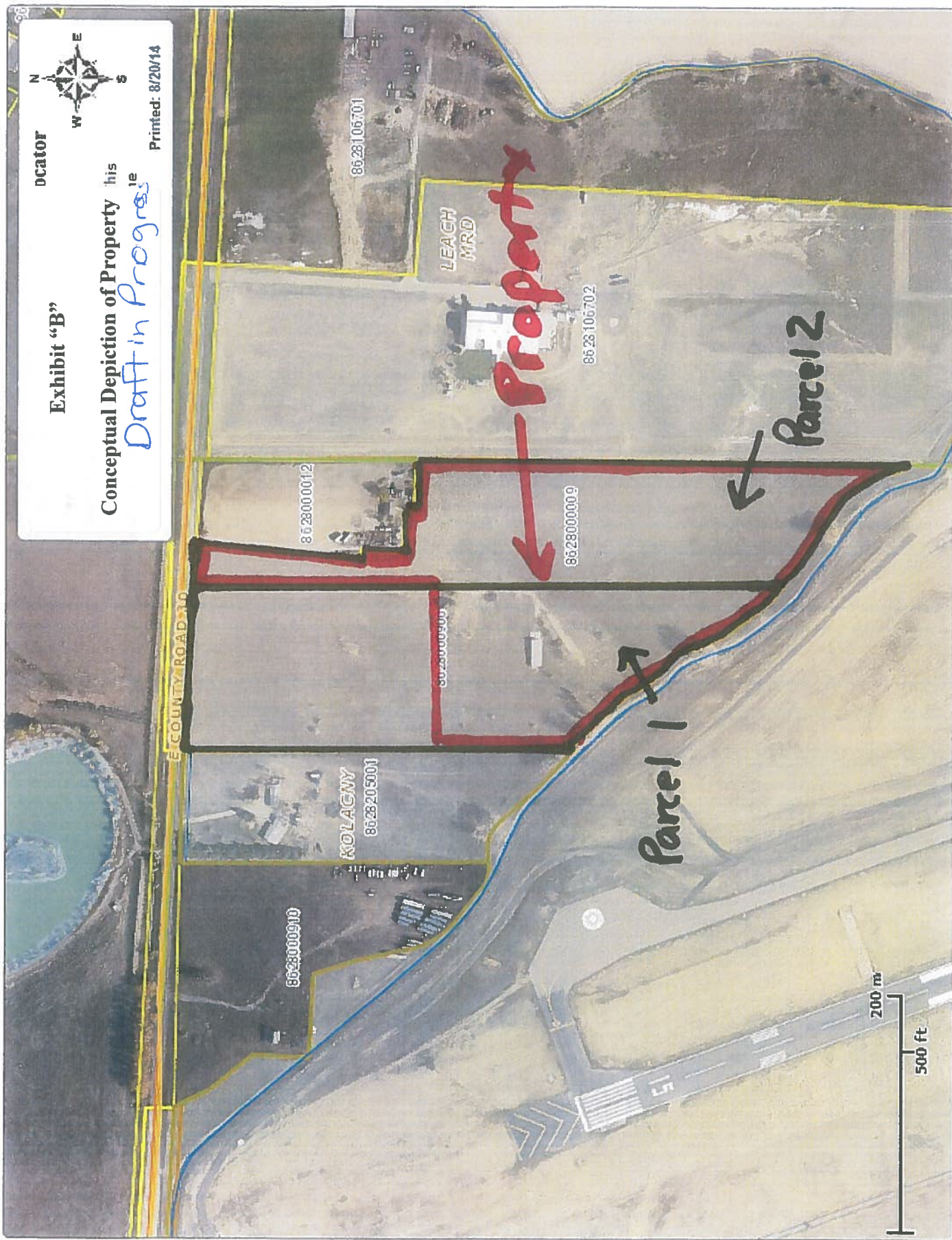
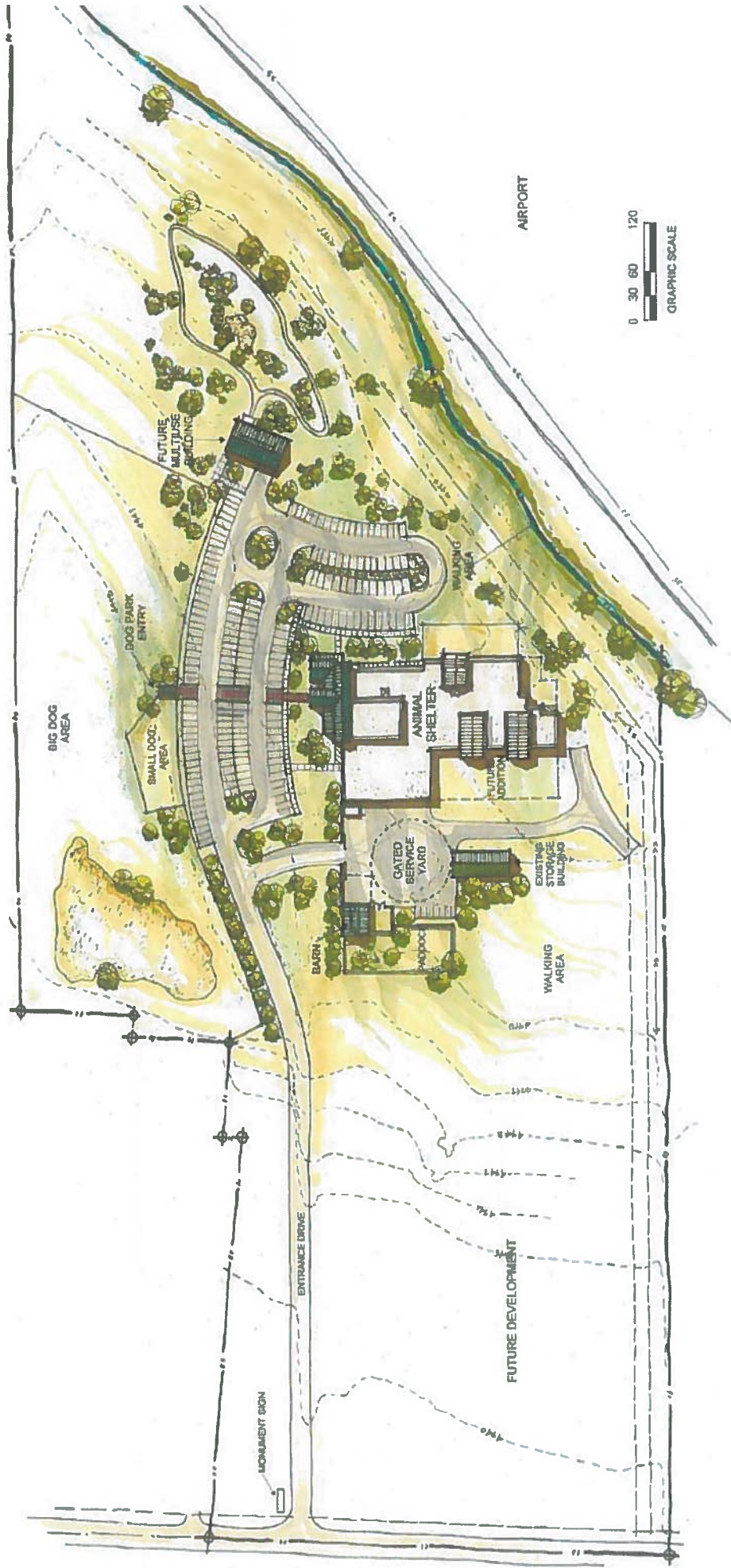


Exhibit "C"
(Page 1 of 2)
Preliminary Schematic Design of
New Facility



LARIMER HUMANE SOCIETY
SITE PLAN

Exhibit “D”

Purpose of Society



LARIMER HUMANE SOCIETY

Vision Statement:

Lead the way towards an aware and engaged community dedicated to compassionate and humane care of animals by promoting successful placement and responsible pet ownership.

Mission Statement

To promote and provide the responsible care and treatment of animals.

Strategic Goals

- The placement of all healthy and treatable cats and dogs by 2020.
- To become an employer of choice within the animal-welfare community in the Mountain State region.
- Establishment of a viable funding framework that provides for the growth of Larimer Humane Society programs and services.
- Promote a collaborative effort with other concerned entities in Larimer County focusing on responsible pet ownership and increasing live release rates.
- Design, fund and construct a new state of the art facility for Larimer Humane Society.
- Recruit new Larimer Humane Society Board members and promote increased training for new and existing Board members.

Instrument

**NON-NEGOTIABLE
PROMISSORY NOTE**

AMOUNT: _____

DATE: _____

FOR VALUE RECEIVED, the LARIMER HUMANE SOCIETY, a Colorado non-profit corporation ("Maker"), promises to pay to LARIMER COUNTY, COLORADO, a (INSERT ENTITY DESCRIPTION) ("Holder"), the principal sum of (INSERT SUM) (\$ _____), in accordance with the following:

1. Payment of Principal. Principal shall be paid as provided in that certain agreement, entitled "Agreement Regarding Construction and Operation of a Humane Society Facility" executed by and between Maker and Holder on _____ (insert date) (the "Agreement"), and according to the Schedule on page five (5) of this Promissory Note, until the entire indebtedness evidenced by this Promissory Note is fully paid.

2. Security. This Promissory Note and the indebtedness evidenced hereby, including principal, costs of collection and all other amounts due hereunder, are secured by a deed of trust (the "Deed of Trust") of even date herewith encumbering the property commonly known by street address as 3437 East 71st Street, Loveland, Colorado 80537 and legally described as follows:

[INSERT LEGAL]

together with all easements and other appurtenances thereto, the buildings and all other improvements presently located or subsequently constructed thereon, all fixtures attached thereto, and all water and sewer taps appurtenant thereto or historically used in connection therewith (the "Collateral").

3. Waiver. Maker hereby waives any and all rights to: (i) demand; (ii) presentment for payment; (iii) protest; and (iv) notice of dishonor, of protest, of demand, of nonpayment and of maturity.

4. Remedy. Default of this Promissory Note shall be governed by the terms of the Agreement. Should the Maker default under the terms of the Agreement, the entire unpaid principal sum, other amounts due under this Promissory Note, and all other obligations, direct or contingent, of the Maker, shall at once become due and payable without further notice, at the option of the Holder. Upon default, Holder shall be entitled to defaulting interest of twelve percent (12%) per annum on the outstanding principal balance. Interest shall be calculated from the date of default until payment of the outstanding principal balance.

5. Non-Recourse. Notwithstanding anything to the contrary contained herein or in any other instrument evidencing or securing this Promissory Note or executed in connection herewith, there shall be no personal liability on the Maker to pay the indebtedness evidenced by this Promissory Note or any other instrument evidencing or securing this Promissory Note, including principal, interest, and costs of collection. The Holder of this Promissory Note expressly agrees to look solely to the Collateral and will not seek any money judgment,

Exhibit "E"
(Page 2 of 4)

deficiency, or otherwise against the Maker in the event of the default in the payment of the indebtedness evidenced by this Promissory Note or in the event of any default under the terms of any other instrument evidencing or securing this Promissory Note.

6. Prepayment. Maker may pay without penalty all or a portion of the outstanding principal balance.

7. Expenses and Costs of Collection. In the event this Promissory Note is placed in the hands of an attorney for collection or suit is filed hereon; or if proceedings are commenced to foreclose any instruments securing this Promissory Note; or if proceedings are had in bankruptcy, receivership, reorganization or other legal or judicial proceedings for the collection of this Promissory Note or the foreclosure of any instrument securing this Promissory Note; Maker agrees to pay to Holder all expenses and costs, including reasonable attorneys' fees, court costs and other legal expenses, incurred by Holder in connection with any such suit, collection or proceeding.

8. Severability. If any term or provision of this Promissory Note is held to be illegal, invalid or unenforceable under present or future law, such term or provision shall be fully severable.

9. No Waiver. No failure on the part of Holder to exercise any right which Holder may have hereunder, nor any delay by Holder in exercising the same, shall operate as a waiver of such right, nor shall any single or partial exercise by Holder of any right hereunder preclude the exercise of any other right.

10. Modification. This Promissory Note may not be amended, altered, changed or modified, nor shall any waiver of any provision hereof be effective, except by an instrument in writing signed by the party against whom enforcement of any waiver, amendment, change, modification or discharge is sought.

11. Clerical Errors. In the event Holder at any time discovers that this Promissory Note, the Deed of Trust, the Agreement or any other document related to the indebtedness secured by this Promissory Note (collectively the "Documents") contains an error which was caused by a clerical mistake, calculation error, computer error, printing error or similar error, Maker agrees, upon notice from Holder, to re-execute any Documents that are necessary to correct any such error(s).

12. Lost, Stolen or Mutilated Documents. If any of the Documents are lost, stolen, mutilated or destroyed, and Holder delivers to Maker an indemnification reasonably acceptable to Maker, which is in Maker's favor and signed by Holder, then Maker shall sign and deliver to Holder a Document identical in form and content, which shall have the effect of the original for all purposes.

13. Notice. Any notice required or desired to be given by the parties hereto shall be in writing and may be: (i) personally delivered; (ii) mailed, certified mail, return receipt requested; or (iii) sent by a nationally recognized receipted overnight delivery service, including, by way of example and not of limitation, United Parcel Service or Federal Express. Any such notice shall be deemed given when: (i) personally delivered; (ii) if mailed, three (3) delivery days after deposit in

Exhibit "E"
(Page 3 of 4)

the United States mail, postage prepaid; or (iii) if sent by overnight delivery service, one (1) business day after deposit in the custody of the delivery service. The addresses for the mailing or delivering of notices shall be as follows:

If to Maker: Larimer Humane Society
Attn: Executive Director
6317 Kyle Avenue
Fort Collins, CO 80525

With copy to: **Liley, Rogers & Martell, LLC**
Attn: Lucia A. Liley
300 South Howes Street
Fort Collins, CO 80521

If to Holder: Larimer County Manager
200 W. Oak Street
P.O. Box 1190
Fort Collins, CO 80522

With copy to: Larimer County Finance Director
200 W. Oak Street
P.O. Box 1190
Fort Collins, CO 80522

Notice of a change of address of either party shall be given in the same manner as all other notices, as hereinabove provided.

EXECUTED in the City of Fort Collins, County of Larimer, State of Colorado, this ____ day of _____, 20____.

MAKER:

LARIMER HUMANE SOCIETY, a
Colorado non-profit corporation

By: _____, President

ATTEST:

Corporate Secretary

Deed of Trust

WHEN RECORDED PLEASE RETURN TO:

Larimer County
ATTN: (INSERT)
(INSERT ADDRESS)

DEED OF TRUST

THIS DEED OF TRUST is made on the date set forth below between LARIMER HUMANE SOCIETY, a Colorado non-profit corporation, the address of which is 6317 Kyle Avenue, Fort Collins, CO 80525 ("Grantor"), and the PUBLIC TRUSTEE OF THE COUNTY OF LARIMER, STATE OF COLORADO ("Trustee"), for the benefit of the COUNTY OF LARIMER, STATE OF COLORADO, a (INSERT ENTITY DESCRIPTION), the address of which is (INSERT ADDRESS) ("Beneficiary").

1. Property in Trust. Grantor, in consideration of the indebtedness herein recited and the trust herein created, does hereby grant, bargain, sell and convey unto the Trustee in trust, with power of sale, the property situate in the County of Larimer, State of Colorado, commonly known by street address as 3437 East 71st Street, Loveland, Colorado 80537, and legally described as:

(INSERT LEGAL)

together with all easements and other appurtenances thereto, and improvements presently located or subsequently constructed thereon (the "Property").

2. Promissory Note; Other Obligations Secured. This Deed of Trust is given to secure to Beneficiary the payment of a note, entitled "Promissory Note," of even date herewith, in the original principal amount of (INSERT AMOUNT) made and executed by Grantor and payable to Beneficiary in accordance with its terms (the "Note").

3. Title. Grantor covenants that Grantor owns and has the right to grant and convey the Property, and warrants title to the same, subject to general real estate taxes for the current year, and except and subject to easements or claims of easements not shown by the public record; rights or claims of parties in possession not shown by the public record; discrepancies, conflicts in boundaries, shortages in area, encroachments, and any facts which a correct survey or inspection of the property would disclose and which are not shown by the public records; easements and rights of way of records; restrictions, reservations, covenants, conditions and agreements of record; mineral reservation and leases of record; real property taxes; and inclusion of the property within any special districts.

4. Taxes, Assessments, Other Charges. Grantor shall pay when due, directly to the payee thereof, all taxes, assessments, fines, impositions and other charges attributable to the Property which may have or attain a priority over this Deed of Trust.

5. Insurance. Grantor shall comply with the property insurance requirements contained in that certain agreement entitled "Agreement for Construction and Operation of an Animal Control Facility" executed by and between Grantor and Beneficiary on _____ (insert date) (the "Agreement").

6. Removal of Improvements: Grantor shall not demolish or remove any improvements from the Property which were constructed with funds generated by the sales tax initiative approved by the voters of Larimer County on _____ (insert date) without Beneficiary's prior written consent. As a condition to the removal of any such improvements, Beneficiary may require Grantor to make arrangements satisfactory to Beneficiary to replace such improvements with improvements of at least equal value.

7. Compliance with Governmental Requirements. Grantor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property. Grantor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Beneficiary in writing prior to doing so and so long as, in Beneficiary's sole opinion, Beneficiary's interests in the Property are not jeopardized. Beneficiary may require Grantor to post adequate security or a surety bond, reasonably satisfactory to Beneficiary, to protect Beneficiary's interest.

8. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Beneficiary as hereinafter provided:

(a) Total or Partial Taking. In the event of a total taking of the Property, or a partial taking which prevents the continuation of the Agreement, the proceeds shall be applied to the sums secured by this Deed of Trust, with the excess, if any, paid to Grantor. In the event of a partial taking which does not prevent the continuation of the Agreement, the proceeds of any settlement or award for such taking shall be disbursed to Grantor.

(b) Abandonment of Property. If the Property is abandoned by Grantor, or if, after notice by Beneficiary to Grantor that the condemnor offers to make an award or settle a claim for damages, Grantor fails to respond to Beneficiary within thirty (30) days after the date such notice is given, Beneficiary is authorized to collect and apply the proceeds, at Beneficiary's option, either to restoration or repair of the Property or to the sums secured by this Deed of Trust.

9. Due on Sale. Beneficiary may, at Beneficiary's option, declare immediately due and payable all sums secured by this Deed of Trust upon the sale or transfer, without Beneficiary's prior written consent, which consent shall not be unreasonably withheld, of all or any part of the Property.. A "sale or transfer" means the conveyance of the Property or any right, title or interest in the Property, excluding: (a) the creation of a lien or encumbrance subordinate

to this Deed of Trust; or (b) the grant of any leasehold interest of three years or less not containing an option to purchase. . Acceleration under this Section 9 shall be governed by Section 12 below.

10. Compliance with Governmental Requirements. Grantor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property. Grantor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Beneficiary in writing prior to doing so and so long as, in Beneficiary's sole opinion, Beneficiary's interests in the Property are not jeopardized. Beneficiary may require Grantor to post adequate security or a surety bond, reasonably satisfactory to Beneficiary, to protect Beneficiary's interest.

11. Duty to Maintain, Duty to Protect, Nuisance, Waste. Grantor agrees not to abandon the Property. Grantor shall do all other acts which, from the character and use of the Property, are reasonably necessary to protect and preserve the Property. Grantor shall maintain the Property in good condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value. Grantor shall not cause, conduct or permit any nuisance, and shall not commit waste or permit impairment or deterioration of the Property.

12. Acceleration and Foreclosure

- a. Acceleration. In the event that Grantor defaults in its obligations under the Agreement, or sells or transfers the Property without the consent of Beneficiary in violation of Section 9 above, the Beneficiary may, at its option, invoke the power of sale and any other remedies permitted by law. Beneficiary shall be entitled to collect all reasonable costs and expenses incurred in pursuing the remedies provided in this Deed of Trust, including, but not limited to, reasonable attorneys' fees.
- b. Foreclosure. If Beneficiary invokes the power of sale, Beneficiary shall give written notice to the Trustee of such election. The Trustee shall give such notice to Grantor of Grantor's rights as is provided by law. The Trustee shall record a copy of such notice as required by law. The Trustee shall advertise the time and place of the sale of the Property for not less than four (4) weeks in a newspaper of general circulation in Larimer County, and shall mail copies of such notice of sale to Grantor and other persons as prescribed by law. After the lapse of such time as may be required by law, the Trustee, without demand on Grantor, shall sell the Property at public auction to the highest bidder for cash at the time and place (which may be on the Property or any part thereof as permitted by law), in one or more parcels, as The Trustee may think best, and in such order as the Trustee may determine. Beneficiary, or its designee, may purchase the Property at any sale. It shall not be obligatory upon the purchaser at any such sale to see to the application of the purchase money.

- c. Application of Proceeds. The Trustee shall apply the proceeds of the sale in the following order: Firstly, to all reasonable costs and expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees, and costs of title evidence. Secondly, to all sums secured by this Deed of Trust. Lastly, the excess, if any, to the person or persons legally entitled thereto.

13. Grantor's Right to Cure Default. Whenever foreclosure is commenced hereunder, Grantor shall be entitled to cure said defaults by paying all principal due as of the date of cure, in addition to costs, expenses, late charges, attorneys' fees and other fees, all in the manner provided by law.

14. Beneficiary's Expenditures. If Grantor fails (a) to keep the Property free of all taxes, or liens or encumbrances which take priority over this Deed of Trust; (b) to provide any required insurance on the Property, or (c) make repairs to the Property required by this Deed of Trust, then Beneficiary may do so. If any action or proceeding is commenced that would materially affect Beneficiary's interests in the Property, Beneficiary on Grantor's behalf may, but is not required to, take any action that Beneficiary believes to be appropriate to protect Beneficiary's interests. All expenses incurred or paid by Beneficiary for such purposes will become a part of the indebtedness and, at Beneficiary's option, will be payable on demand or will be added to the balance of the Note.

15. Appointment of Receiver; Possession of Property. Beneficiary, or the holder of the Trustee's certificate of purchase, shall be entitled to a receiver for the Property after Acceleration under Section 12(a) above, and shall also be so entitled during the time covered by foreclosure proceedings and the period of redemption, if any; and shall be entitled thereto as a matter of right without regard to the solvency or insolvency of Grantor or of the then owner of the Property, and without regard to the value thereof. Such receiver may be appointed by any court of competent jurisdiction upon ex parte application and without notice - notice being hereby expressly waived. Upon Acceleration, Beneficiary, in person, by agent or by judicially-appointed receiver, shall be entitled to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. All rents collected by Beneficiary or the receiver shall be applied in the following order: Firstly, to payment of the costs of preservation and management of the Property. Secondly, to payments due upon prior liens. Lastly, to payment of the sums secured by this Deed of Trust. Beneficiary and the receiver shall be liable to account only for those rents actually received.

16. Waiver of Exemptions. Grantor hereby waives all right of homestead and any other exemption in the Property under state or federal law presently existing or hereafter enacted.

17. Forbearance by Beneficiary Not a Waiver. No failure on the part of Beneficiary to exercise any right which Beneficiary may have hereunder, nor any delay by Beneficiary in exercising the same, shall operate as a waiver of such right, nor shall any single or partial exercise by Beneficiary of any right hereunder preclude the exercise of any other.

18. Release of Deed of Trust. Upon satisfaction of the debt evidenced by the Note and secured by this Deed of Trust, Beneficiary shall cause the Trustee to release this Deed of Trust and shall produce for the Trustee the Note. Grantor shall pay all costs of recordation, and

shall also pay the statutory Trustee's fees. If Beneficiary shall not produce the Note as aforesaid, then Beneficiary, upon notice to Grantor in accordance with Section 19 below, shall obtain and file, at Beneficiary's expense, any lost instrument bond required by Trustee, or pay the cost thereof, to effectuate the release of this Deed of Trust.

19. Notice. Except for any notice required by law to be given in another manner, any notice required or desired to be given by the parties hereto shall be in writing and may be: (i) personally delivered; (ii) mailed, certified mail, return receipt requested; or (iii) sent by a nationally recognized receipted overnight delivery service, including, by way of example and not of limitation, United Parcel Service or Federal Express. Any such notice shall be deemed given when: (i) personally delivered; (ii) if mailed, three (3) delivery days after deposit in the United States mail, postage prepaid; or (iii) if sent by overnight delivery service, one (1) business day after deposit in the custody of the delivery service. The addresses for the mailing or delivering of notices shall be as follows:

If to Grantor: Larimer Humane Society
Attn: Executive Director
6317 Kyle Avenue
Fort Collins, CO 80525

With copy to: ***Liley, Rogers & Martell, LLC***
Attn: Lucia A. Liley
300 South Howes Street
Fort Collins, CO 80521

If to Beneficiary: Larimer County Manager
200 W. Oak Street
P.O. Box 1190
Fort Collins, CO 80522

With copy to: Larimer County Finance Director
200 W. Oak Street.
P.O. Box 1190

Notice of a change of address of either party shall be given in the same manner as all other notices as hereinabove provided.

20. Successors and Assigns Bound. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Beneficiary and Grantor.

21. Governing Law and Severability. The laws of the State of Colorado shall govern the construction, interpretation, execution and enforcement of this Deed of Trust. If any term or condition of this Deed of Trust is held to be illegal, invalid or unenforceable under present or future law, such term or provision shall be fully severable.

