BILL 2015-48

****** Second and Final Reading ******

Agenda Item

TO: Mayor and City Council

FROM: Tim Hamilton, Community Development Director

DATE: December 16, 2015

RE: Agreement with Safe Haven Animal Rescue

Please find the attached agreement between the City of Cameron and Safe Haven Animal Rescue for your consideration. This agreement is for the placement of a 12 foot by 16 foot accessory building on a portion of property owned by the City, and currently occupied by the City Pound facility. The building will be used to house stray cats acquired, and cared for by Safe Haven staff. This operation will be separate and independent of the City Pound. This Agreement will lease a 20 foot by 35 foot area of property located 521 S. Elm to Safe Haven for a period of twelve months, after which this Agreement may be reconsidered by The City. It is staff understanding that in the event that the Safe Haven operation ceases to exist, the accessory building will become property of The City.

Recommendation

Staff recommends that the Council consider this Bill.

Bill 2015-48

AN ORDINANCE AUTHORIZING AN AGREEMENT BETWEEN THE CITY OF CAMERON, CLINTON AND DEKALB COUNTIES, MISSOURI AND SAFE HAVEN ANIMAL RESCUE TO OPERATE A CAT SHELTER FACILITY ON PROPERTY CURRENTLY OCCUPIED BY THE CITY OF CAMERON POUND

WHEREAS, the City of Cameron and Safe Haven Animal Rescue find this arrangement satisfactory and all entities are in agreement with the terms provided.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CAMERON, CLINTON AND DeKALB COUNTIES, MISSOURI, AS FOLLOWS:

Section 1. The City Manager is hereby authorized to sign the attached Agreement by and between the City of Cameron, and Safe Haven Animal Rescue, a copy of which is attached hereto and made a part hereof, for a cat shelter facility to operate independently of the City Pound facility.

Section 2 The term of this agreement shall be for a period of twelve months beginning on the date of approval of this Ordinance, after which renewal of the agreement shall be at the discretion of the City Manager.

Section 3. The Mayor is hereby authorized to sign this Ordinance on behalf of the City of Cameron.

Section 4. The City Clerk is hereby directed to attest to the Mayor's signature.

Section 5. This Ordinance shall be in full force and effect from and after its passage.

Passed and approved on first reading this 21st day of December 2015.
Passed and approved on second reading this 4th day of January 2016.
Passed and approved on third and final reading this 4th day of January 2016.

_____
Mayor Dennis M. Clark

ATTEST:

_____
City Clerk/Finance Clerk

Second and Final Reading

Lease Agreement

This Lease Agreement ("Agreement") is entered into on this _____ day of December, 2015, by and between the CITY OF CAMERON, MISSOURI (hereinafter referred to as "Lessor") and SAFE HAVEN ANIMAL RESCUE, a Missouri nonprofit corporation (hereinafter referred to as "Lessee")

WITNESSETH:

WHEREAS, Lessee is a nonprofit corporation organized pursuant to and under the laws of the State of Missouri; and

WHEREAS, Lessor is possessed of fee simple title to certain real property, more commonly known as the "animal shelter", located at 521 S. Elm, Cameron, Clinton County, Missouri; and

WHEREAS, Lessee has expressed an interest in donating and operating a 12' by 16' cat house for the benefit of Lessor, in a manner complimentary to the use of the Lessor's animal shelter facility and has identified land near Lessor's animal shelter facility for this charitable purpose; and

WHEREAS, Lessor is desirous of utilizing the cat house in a manner which will most greatly benefit the public by providing rescue services and as a temporary housing facility for wild and stray cats found and/or trapped within the city for housing and treatment before adoption; and

WHEREAS, Lessor deems it to be in furtherance of its goals and of the public interest to lease to Lessee a portion of the animal shelter property to be utilized solely for the purpose of operation of the cat house donated by Lessee to Lessor, which is expected to provide certain shelter related activities such as animal housing, animal care, and animal adoption.

NOW THEREFORE, in consideration of the mutual obligations, covenants, and agreements set forth, Lessor and Lessee agree as follows:

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ARTICLE I
GENERAL PROVISIONS

Lessor hereby leases, lets and demises to Lessee the cat house donated to Lessor and to be placed on Lessor's animal shelter property, as described on Exhibit "A" (attached aerial photo – approximately 20' deep X 35' wide includes structure and parking area) , which is attached hereto and incorporated herein (the "Lease Premises"). Lessor agrees to provide an amount not exceeding Six-hundred Dollars ($600) towards the sheltering and care of stray cats at the Lessee's facility. The Lessor agrees that the Lessee's employees, customers and agents shall have access to the parking facilities. The Lessor will provide water, electric and sewer utilities; however, should billed usage deviate materially from normal usage for the size of structure, the City will have recourse to charge for the difference in actual usage versus reasonable usage for the size of structure as determined by the Lessor.

ARTICLE II
CONSIDERATION

Commencing on the first day of the term of this Lease and during the remainder of the term thereof, Lessee shall provide the following consideration to Lessor:

1. To maintain and preserve the Lease Premises, thereby relieving Lessor of the cost of such maintenance;

2. To operate the programs and cat house for the increased benefit of the general public, and

a. Perform all of its other covenants herein and to keep and observe all of the terms and conditions hereof;

b. Provide to the Animal Control Director (hereinafter "Director") an annual report listing the programs offered and number of participants recorded for each program for the preceding 12-month period (July 1 through June 30).

ARTICLE III

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TERM OF THE LEASE

A. The initial term of this Lease shall be for a period of one (1) year commencing on the ___ day of _____, 2015, and ending on the _____ day of _____, 2016. At the expiration of the one (1) year lease period, Lessee shall have the option to renew this lease for additional one (1) year terms by written notice to Lessor not less than two (2) months prior to the expiration date of the lease period, by mutual consent. If Lessee does not properly exercise the renewal option, the Lease shall automatically terminate and Lessee shall vacate the premises on the scheduled expiration date.

B. The Lessor shall have the right to terminate this Lease at any time, with or without cause, by giving the Lessee thirty (30) day's written notice. If a review of Lessee's operation of the cat house reveals a violation of any state or federal regulation, the Lessor shall have the further right to immediately terminate the Lease without written notice, in addition to any other rights of termination.

ARTICLE IV
MAINTENANCE AND OPERATIONS

A. Lessee accepts the Lease Premises in the condition in which it shall be on the date this Lease Agreement is executed. Except as may be otherwise expressly provided herein, the Lessor makes no agreement whatsoever to make improvements, alterations or repairs to the Lease Premises.

B. Lessee shall at its expense maintain the Lease Premises at all times in a safe, neat and sightly condition and shall be responsible for grounds maintenance, janitorial services, janitorial supplies, trash removal, electrical, mechanical, plumbing and other repairs as needed within the Lease Premises. Electrical, mechanical and plumbing repairs shall be made by licensed personnel or craftsmen skilled in the work done and performing such work regularly as a trade, and shall be approved in advance by the Lessor.

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C. Lessee agrees that upon the expiration of the term of this Agreement, or sooner cancellation thereof, said premises shall be delivered to Lessor in as good condition as when received, reasonable wear and tear excepted. Reasonable wear and tear shall be determined by Lessor and Lessee upon inspection of the Lease Premises from time to time. Lessor reserves the right to make periodic inspection of the Lease Premises, improvements and equipment at any time.

D. Lessee agrees to operate its cat house on the Lease Premises only during the following hours:

Monday – Friday: 6:00 AM – 10:00 PM
Weekends: 6:00 AM – 10:00 PM

ARTICLE V
DESTRUCTION OF PREMISES

A. In the event of damage to or destruction or loss of the cat house by an insured risk, which damage, destruction or loss is not capable of being repaired within six (6) months, Lessor and Lease shall each have the option, exercisable by written notice given to the other party within thirty (30) days after the occurrence of such event, to terminate this Lease forthwith as it pertains to the damaged or destroyed cat house, such termination to be effective as of the date of such damage, destruction or loss. In the event neither party exercises the foregoing option to terminate this Lease, or in the event said damage, destruction or loss is capable of being repaired within six (6) months, this Lease shall not terminate with respect to the damaged or destroyed facility.

ARTICLE VI
LESSOR'S RESERVED RIGHTS

A. The Lessor reserves the right to make improvements and engage in construction upon the Lease Premises. However, when practical to do so, the Lessor shall notify Lessee of its intent to make improvements or engage in construction for its own use at no additional fee.

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When reasonably possible, such improvements and/or construction undertaken by Lessor shall not materially interfere with Lessee's use of the Lease Premises.

B. Lessor, through its duly authorized agent, shall have at any and all times the full and unrestricted right to enter the Lease Premises for the purpose of inspection or maintenance and for the purpose of doing any and all things which it is obligated and has a right to do.

ARTICLE VII
NON-INTERFERENCE WITH OPERATION OF FACILITIES

Lessee covenants and agrees that it will not permit the conduct of any activity on such premises which shall materially or adversely affect the development, improvement, operation, or maintenance of the facilities. If any proscribed or prohibited condition or activity, as described above, shall be permitted to exist on the Lease Premises, then, as an alternative to termination of this Lease as a result of a breach of the provisions of Article 3, Lessor may give thirty (30) days written notice to Lessee to abate or correct same. During the thirty (30) day notice period Lessee may abate or correct the omission or objection set forth in Lessor's notice. In the event of such notice, Lessee agrees to pay Lessor the expenses Lessor incurred as a result of Lessor's correction of such omission or objections as additional rent within thirty (30) days after submission of an invoice showing the reasonable expenditure by Lessor.

ARTICLE VIII
PERSONS AND PERSONAL PROPERTY ON LEASE PREMISES AT RISK OF LESSEE

All personal property of every kind belonging to Lessee which may be on said Lease Premises during the term hereof shall be at the sole risk of Lessee or those claiming under it and Lessor shall not be liable to Lessee, or any person whatsoever, for any injury, loss, or damage to any person or property in or upon said Lease Premises, or upon the sidewalks and alleyways contiguous thereto. Lessee hereby covenants and agrees to assume all liability for or on account

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of any injury, loss, theft or damage above described and to defend and to save Lessor harmless therefrom.

ARTICLE IX
REMOVAL OF PERSONAL PROPERTY

It is mutually agreed that all personal property placed on the Lease Premises by Lessee may be removed by Lessee at the termination of this Lease or any extension thereof. The removal of any such property, as aforesaid, shall be accomplished before the expiration of the term of this Lease, or any extension thereof, and all damage caused to said premises by such removal shall be repaired by Lessee on or before the expiration of said term.

ARTICLE X
MISCELLANEOUS COVENANTS

A. Lessee shall at all times observe and comply with any and all requirements of the constituted public authorities and with all federal, state or local statutes, ordinances, regulations and standard rules applicable to Lessee or its use of the Lease Premises, including by way of example, but not of limitation, all general rules and regulations promulgated from time to time by the United States Department of Agriculture, the Missouri Department of Agriculture, or City Animal Control Officer in connection with the administration of the cat house.

B. Lessee shall not erect, maintain, or display any signs or other advertising at or on the Lease Premises without first obtaining the written approval of the Lessor and complying with all applicable ordinances of the City of Cameron. Lessee shall have the right to place signage on the property identifying it as a universal rescue cast house operated by Safehaven Animal Rescue, subject to the issuance of a sign permit by the City of Cameron.

C. Lessee hereby agrees to make no claims or file or cause to be filed any legal or equitable actions against Lessor for any kind of damages which result from the operation of the cat house on the animal shelter premises, but instead shall contact the Lessor regarding any such concerns.

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D. Lessee agrees that Lessor shall not provide any supporting services, material items or provisions incidental to the operation or support of lessee's facility. Lessor also agrees not to solicit lessee for any supporting services, or material support of lessor's facility.

ARTICLE XI
INDEMNITY AND INSURANCE BY LESSEE

A. Lessee further covenants and agrees that it shall defend, indemnify and save forever harmless Lessor from any and all claims for damages of any kind or nature which may hereafter be made against Lessor on account of any personal injuries (including wrongful death) or property damage resulting from the use of said premises by Lessee or resulting from any of the operations authorized under this Lease by Lessee.

B. Lessee shall purchase or cause to be purchased, and cause to be maintained in effect for the term of this Lease with insurance carriers acceptable to Lessor, liability insurance and property damage insurance covering all of Lessee's activities on the Leased Premises; the policy limits of the liability insurance to be not less than $1,000,000.00 for one claimant and $200,000.00 for any one incident or occurrence involving injury (including wrongful death) to more than one claimant, with property damage insurance of not less than $100,000.00 for any one accident. Lessee shall furnish Lessor with a certificate of such insurance coverage, on Lessor's standard form, which shall provide that the City of Cameron is an additional insured under said policy or policies and that said policy or policies cannot be cancelled or materially modified except upon ten (10) days advance written notice to Lessor.

ARTICLE XII
ASSIGNMENT AND SUBLETTING

A. Lessee shall not assign or transfer this Lease or any interest therein, nor sublet said premises or any part thereof without the prior written consent of Lessor nor shall this Lease

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be assignable or transferable by operation of law or by any process or proceeding of any Court, or otherwise without the written consent of Lessor first obtained.

B. Lessee may, with the prior written consent of Lessor, assign or sublet all or a portion of the Leased Premises; provided, however, the term of any such sublease shall not extend beyond the term of this Agreement. In the event of such assignment, Lessee shall remain liable to Lessor to pay to Lessor any portion or the rental fees provided for herein upon failure of the assignee to pay the same when due; moreover, no subleasing shall release Lessee from its obligations to pay all rental amounts hereunder or release Lessee from any of the terms, covenants or conditions herein contained on the part of Lessee to be performed, kept and observed. Further, in the event of an approved assignment or subleasing, neither assignee nor sublease shall assign or sublet any portion of the Lease Premises except with the prior approval of Lessor and Lessee herein, and any sub-lessee or assignment of Lessee shall contain a clause to this effect.

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ARTICLE XIII
FACILITIES NON-DISCRIMINATION

A. As used in this Article, the term "facility" means meeting rooms, game rooms, restrooms and any other areas of a public nature on the Lease Premises.

B. The Lessee agrees that it will not discriminate by segregation or otherwise against any person or persons because of race, color, religion, sex, national origin, ancestry or age in furnishing or refusing to furnish, to such person or persons the use of any facility, including any and all services, privileges, accommodations and activities provided thereby. Nothing herein shall require the furnishing to the general public of the use of any space customarily provided by the Lessee solely to their employees, customers, patients, clients, guests, and invitees.

ARTICLE XIV
INGRESS AND EGRESS

Upon paying the rental hereunder and performing the covenants of this Agreement, Lessee, its officers, employees, agents, servants, customers, vendors, suppliers, patrons and invitees shall have the right of ingress to the egress from the Lease Premises.

ARTICLE XV
NOTICE OF TERMINATION

In the event the Lessor exercises its option to terminate this Lease Agreement, subject to the provisions of Article 3, any notice of termination given pursuant to the provisions of said Article 3 shall be sufficient to cancel and terminate this Lease Agreement; and, upon such termination, Lessee hereby agrees that it will forthwith surrender possession of the Lease Premises to the Lessor.

ARTICLE XVI
NOTICES

Notices or communications shall be sufficient if sent by mail, postage prepaid, or if hand delivered to:

Safe Haven Animal Rescue
Drew Davis, Registered Agent
PO Box 610
602 Lana Dr. Suite F
Cameron, MO 64429

City of Cameron
City Manager
205 N. Main
Cameron, MO 64429

ARTICLE XVII
MISCELLANEOUS PROVISIONS

Lessee agrees to comply with all laws and regulations including ordinances of the City of Cameron applicable to Lessee's use and occupancy of the Lease Premises and further Lessee agrees as follows:

1. Secure gate when not accessing property.
2. No unattended vehicles.
3. No outside storage of material's, equipment, supplies or food.

ARTICLE XVIII
USE OF LEASE PREMISES BY CITY

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The Lessor specifically reserves the right to use the Lease Premises for certain City-sponsored activities which may be in the best interest of the citizens of Cameron. The Lessor agrees to give Lessee thirty (30) days' notice of when Lessor plans to use the Lease Premises, when reasonable to do so, and the parties agree to fully cooperate in scheduling the use of said Lease Premises.

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ARTICLE XIX
AGREEMENT CONSTRUED AS WHOLE

The language in all parts of the Agreement shall in all cases be construed as a whole according to their fair meeting and not strictly for, nor against the Lessor or Lessee.

ARTICLE XX
COMPLETE AGREEMENT

This is the complete Agreement between the parties hereto.

ARTICLE XXI
GOVERNING LAWS

This Lease shall be governed by the laws of the State of Missouri.

WHEREFORE, the City and Safe Haven executed this Agreement the day and year first above written.

_____
City of Cameron
By: _____
Title: _____

_____
Safe Haven Animal Rescue
By: _____
Title: _____

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