

Record and return to:
Whitfield County Engineering
301 W. Crawford Street
Dalton, Georgia 30722



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STORMWATER FACILITY MAINTENANCE AGREEMENT

THIS AGREEMENT, made and entered into this ___ day of _____, 20 __, by and between the **Humane Society of Northwest Georgia, Inc.**, a Georgia non-profit corporation (hereinafter "SUBLESSEE") and the **City of Dalton**, a Georgia municipal corporation (hereinafter "CITY").

WHEREAS, the SUBLESSEE is the tenant of certain real property described as (Tax Map/Parcel Identification Number) 12-179-02-014 and 12-179-02-016 as recorded by deed in the land records of Whitfield County, Georgia, Deed Book 3463, Page(s) 331-332, hereinafter called the "Property".

WHEREAS, the SUBLESSEE is party to a lease of all, or a portion of, the Property as shown on Exhibit "A" (the "Leased Property") with the LESSEE of the Property, the **Dalton-Whitfield County Joint Development Authority** (the "LESSEE") dated March 18, 2013; and

WHEREAS, improvements are being built on the Property including stormwater management facilities; and

WHEREAS, the Site Plan known as The Animal Shelter Humane Society of Northwest Georgia hereinafter called the "Plan", which is expressly made a part hereof, as approved or to be approved by the CITY, provides for management of stormwater, as indicated, within the confines of the Leased Property; and

WHEREAS the CITY, LESSEE, SUBLESSEE, their successors and assigns, including any property owners association, agree that the health, safety and welfare of the residents of Whitfield County, Georgia, require that on-site stormwater management facilities be constructed and maintained on the Leased Property; and

WHEREAS, the CITY requires that once constructed as shown on the Plan, on-site stormwater management facilities as shown on the Plan and located on the Leased Property shall be adequately maintained by the SUBLESSEE, its successors and assigns and by LESSEE if the leasehold interest in the Property of SUBLESSEE is extinguished.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:

1. The on-site stormwater management facilities shall be constructed by the SUBLESSEE, its successors and assigns, in accordance with the plans and specifications identified in the Plan. SUBLESSEE shall complete as-built survey & engineer of records design certification per CITY requirements for the stormwater management facilities.
2. Following completion of the matters stated in Paragraph 1 above, the SUBLESSEE, its successors and assigns, shall adequately maintain the stormwater management facilities. Stormwater management facilities shown on the Plan include all pipes, channels or other conveyances built to convey stormwater, as well as all structures, proprietary water quality devices, proprietary inlet filters, improvements, and vegetation provided to control the quantity and quality of the stormwater. Adequate maintenance is herein defined as good working condition so that these facilities are performing their design function which includes all manufacturer recommended maintenance. The Stormwater Structural Control Maintenance Checklist as shown in Exhibit "B" is to be used to establish what good working condition is acceptable to the CITY.
3. The SUBLESSEE, its successors and assigns, shall inspect the stormwater management facility and submit an inspection report annually to the CITY. The purpose of the inspection is to assure safe and proper functioning of the facilities. The inspection shall cover the entire facilities, berms, outlet structure, pond areas, access roads, etc. Deficiencies shall be noted in the inspection report.
4. The SUBLESSEE, its successors and assigns, and LESSEE hereby grant permission to the CITY, its authorized agents and employees, to enter upon the Leased Property upon reasonable notice to SUBLESSEE in order to inspect the stormwater management facilities at mutually agreeable times. The purpose of inspection is to follow-up on reported deficiencies and/or to respond to citizen complaints, which shall be provided to SUBLESSEE at or before each such inspection. The CITY shall provide the SUBLESSEE, its successors and assigns, copies of the inspection findings and a written directive to commence with the repairs if necessary.
5. In the event the SUBLESSEE, its successors and assigns, fails to maintain the stormwater management facilities in good working condition within a reasonable time period after receiving a written directive from the CITY, the CITY may enter upon the Leased Property and take reasonable steps to correct deficiencies identified in the inspection report and repair directive, and to thereafter charge the reasonable costs of such repairs to the SUBLESSEE, its successors and assigns.

This provision shall not be construed to allow the CITY to erect any structure of permanent nature on the land of the SUBLESSEE outside of the easement for the stormwater management facilities. It is expressly understood and agreed that the CITY is under no obligation to routinely maintain or repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on the CITY.

6. The SUBLESSEE, its successors and assigns, including any property owners association, will perform the work necessary to keep the facilities in good working order as appropriate. In the event a maintenance schedule for the stormwater management facilities (including sediment removal) is outlined on the approved plans, the schedule will be followed.
7. In the event the CITY pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the SUBLESSEE, its successors and assigns, shall reimburse the CITY upon demand, within thirty (30) days of receipt thereof for all actual cost incurred by the CITY hereunder.
8. This agreement imposes no liability of any kind whatsoever on the CITY and the LESSEE, and SUBLESSEE agree to hold the CITY harmless from any liability in the event the stormwater management facilities fail to operate properly.
9.
 - a. This agreement shall be recorded among the land records of Whitfield County, Georgia, and shall constitute a covenant running with the land, and shall be binding on the LESSEE, and SUBLESSEE, their executors, assigns, heirs and any other successors in interests.
 - b. Any deed or conveyance transferring an interest in the land to a subsequent LESSEE or SUBLESSEE shall contain language essentially as follows, to wit: "The land conveyed herein is subject to that Stormwater Facility Maintenance Agreement of record in Deed Book ____, Page ____, Whitfield County, Georgia, Clerk's Records" (inserting proper recording data).
 - c. Upon any conveyance of the land by LESSEE or conveyance of the leasehold interest by SUBLESSEE, said LESSEE or SUBLESSEE shall notify Whitfield County in writing addressed to Stormwater Coordinator Whitfield County, Georgia, P.O. Box 248, Dalton, GA 30722 of the name, address and phone number of the new LESSEE/SUBLESSEE; and said notification shall be acknowledged in writing by the new LESSEE/SUBLESSEE as the case may be.

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d. In the event the leasehold interest in the Property of SUBLESSEE is extinguished, the LESSEE, its successors and assigns shall be responsible for all of said duties, obligations, performance requirements, maintenance and reporting provisions required by this Agreement.

Signed, sealed and delivered this ____ day of _____, 20__ in the presence of:

Humane Society of Northwest Georgia, Inc.

Unofficial Witness

By: _____
Signature

Notary Public

Attest: _____
SUBLESSEE (printed name)

Signed, sealed and delivered this 11 day of _____, 20__ in the presence of:

Dalton-Whitfield Joint Development Authority

Unofficial Witness
Unofficial Witness

By: J. Carl Campbell
Signature

Notary Public
Notary Public

Attest: J. Carl Campbell
LESSEE (printed name)

Allison K Harp
Notary Public
Whitfield County, Georgia
My Commission Expires June 09, 2020

Signed, sealed and delivered this ____ day of _____, 20__ in the presence of:

City of Dalton, Georgia

Unofficial Witness

By: _____
Signature

Notary Public

Attest: _____
OWNER (printed name)

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Maintenance Facility Contact Information: (Please print or type)

Name: _____ Phone Number: _____

Address: _____ Email : _____

CITY/ State/ Zip: _____

Approved as to Form:

Printed Name: Chris Hester

Signature: _____ Date: _____
(County Representative)

Exhibit A

LEASE AGREEMENT

GEORGIA, WHITFIELD COUNTY.

THIS LEASE AGREEMENT (this “Lease”) is made and entered into this the ___ day of _____, 2013 (the “Effective Date”), by and between the **City of Dalton, Georgia**, a municipal corporation (the “City”), and the **Dalton-Whitfield County Joint Development Authority**, an instrumentality of the State of Georgia and a public corporation (the “Authority”).

WHEREAS, the City is the owner of the premises described in Exhibit “A”, incorporated herein by reference, together with all appurtenances thereto (the “Premises”); and

WHEREAS, the Premises have not been dedicated to public use by the City and the City has no public use for the Premises; and

WHEREAS, the City is permitted by law to lease the Premises to the Authority; and

WHEREAS, the Authority is permitted by law to sublease the Premises and shall sublease the Premises to the Humane Society of Northwest Georgia, Inc. (the “Sublessee”) pursuant to a separate sublease agreement between the Authority and the Sublessee (the “Sublease”), a copy of which is attached hereto as Exhibit “B” and incorporated herein by reference; and

WHEREAS, the Authority is not receiving any monetary benefit or profit by virtue of the Sublease but the lease of the Premises will result in substantial improvement to the Premises and also promote commerce and improve quality of life; and

WHEREAS, the benefit of this Lease to the City is to enable the long term lease of the Premises and enable the development of the property by Sublessee which will construct and operate an animal shelter, animal welfare center, and adoption agency for stray cats and dogs; and

WHEREAS, an important benefit to the Authority in entering into this Lease with the City and entering into such Sublease (the “**Project**”) is the Sublessee’s construction of substantial improvements on the Premises and the business services that will be provided by Sublessee on the Premises that will generate commerce, create jobs, and improve the quality of life within the jurisdictional limits served by the Authority; and

WHEREAS, this Lease constitutes an intergovernmental agreement under Georgia Constitution Art. IX, Sec. III, Para. I (a) (the “**IGA Clause**”) between the Authority and the City with regard to the provision of services and a related facility; and

WHEREAS, the City and the Authority have found and determined, and do hereby find and determine that:

(a) The Project will promote the public welfare and will promote commerce and employment opportunities in the City;

(b) The public benefit consideration to be received by the Authority and the City and its citizens from the Project includes, without limitation, the following:

(i) the Agreement of the Sublessee to locate the new operational center required by the Sublease on the Premises, resulting, among other things, in the employment thereof of numerous persons in new full-time jobs;

(ii) value being added to the City's tax digest with respect to taxable properties owned by third parties whose property will increase in value as a result of the Project; and

(iii) the economic stimulus that the new operational center will add to the City's economy.

(c) The economic benefits that will inure to the Authority and the City and its citizens from the Project, and from the public benefit consideration flowing from the Sublease, are substantial and will be greater in value than the benefits to be derived by the Sublessee from the Sublease; this transaction is the best and most feasible way to obtain such benefits for the Authority and the City and its citizens; and, therefore, the entry of the City and the Authority into this Lease, and the provision of the benefits described in the Sublease, and the subleasing of the Premises to the Sublessee, involves no gratuity to either the Authority or the Sublessee that is prohibited by the Constitution of the State of Georgia of 1983; and

(d) It is in the public interest to approve this Lease and the Sublease in order to induce the Sublessee to build and operate a new operational center in the City.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. PREMISES. The City, for the consideration of the rents, covenants, agreements and stipulations herein contained to be kept and performed by the Authority, hereby agrees to lease the Premises to the Authority and the Authority hereby agrees to lease the Premises from the City, at the rent and upon the conditions herein set forth.

2. TERM. The term of this Lease shall be for forty (40) years commencing on the Effective Date and terminating at midnight on the fortieth anniversary of the Effective Date, unless sooner terminated as set forth herein (the "Term"). In the event the Sublease terminates prior to the end of the Term, this Lease shall also terminate. The Authority shall surrender the Premises to the City immediately upon the termination of this Lease.

3. RENT. The Authority shall pay the City the sum of one dollar (\$1.00) annually during the Term as rent. As additional consideration for the rental of the Premises, the Authority shall enter into

the Sublease.

4. EASEMENT. The City hereby retains all utility easements of record or by implication over and about the Premises.

5. AUTHORITY'S RIGHT TO ALTER AND IMPROVE.

5.1 The Authority shall not make, and the Sublease requires the Sublessee to agree not to make, any alterations to, or modifications of, the Premises until the City shall have first approved, in writing, the plans and specifications therefor, which approval shall not be unreasonably withheld or delayed.

5.2 All modifications, alterations and improvements made or added to the Premises shall be deemed real property and a part of the Premises. Any such modifications, alterations or improvements, once completed, shall not be altered or removed from the Premises during the Term without the City's written approval. At the expiration or sooner termination of this Lease, all such modifications, alterations and improvements shall automatically become the property of the City and shall be surrendered to the City as part of the Premises, unless the City shall require the removal any of such modifications, alterations or improvements in which case the Authority shall require the the Sublessee to remove same. The City shall have no obligation to reimburse the Authority for all or any portion of the cost or value of any such modifications, alterations or improvements so surrendered to the City.

6. ASSIGNMENT AND SUBLETTING. The Authority shall not assign this Lease or any interest herein or sublet the Premises or any part thereof except that the Authority shall sublease the Premises to the Sublessee as provided in paragraph 3 above.

7. RESPONSIBILITIES OF AUTHORITY.

7.1 Except as specifically provided in this paragraph 7, the Authority's responsibilities with respect to the Premises shall be limited to those of lessor under the Sublease. The Authority's liability to the City under this Lease shall be limited solely to the Authority's leasehold interest in the Premises. Without limitation, the Authority shall have no liability for any act or omission on the part of the Sublessee, including, without limitation, any that is contrary to the Sublease.

7.2 The Sublease requires the Sublessee to obtain and maintain during the term of the Sublease general liability insurance on an occurrence basis with a combined single limit for personal injury and property damage in a form and with carriers acceptable to the City and an amount not less than \$1,000,000, and workers' compensation insurance as required by law. The Sublessee's comprehensive general liability insurance policy shall be endorsed to provide that (i) it may not be cancelled or altered in such a manner as adversely to affect the coverage afforded thereby without thirty (30) days prior written notice to the City, (ii) the City and the Authority are named as additional insureds, and (iii) such insurance is primary with respect to the City and the Authority, and that any other insurance maintained by the City or the Authority is excess and noncontributing with such insurance. If, in the opinion of the City's insurance adviser, based on a substantial increase in

recovered liability claims generally, the specified amounts of coverage are no longer adequate, then the Authority, by and through its attorney-in-fact, will require the Sublessee to appropriately increase such coverage. Prior to the commencement of the term, the Authority, by and through its attorney-in-fact, will require the Sublessee to deliver to the City a duplicate of such policy or a certificate thereof to the City for retention by it, with endorsements, and at least thirty (30) days prior to the expiration of such policy or any renewal thereof, the Authority, by and through its attorney-in-fact, will require the Sublessee to deliver to the City a replacement or renewal binder, followed by a duplicate policy or certificate within a reasonable time thereafter.

7.3 The Authority shall comply with the terms of any state or federal statutes or local ordinances or regulations applicable to the Authority upon the written request of the City and at the expense of the City or the Sublessee, as provided in the Sublease.

8. CITY'S RIGHT TO ENFORCE SUBLEASE. The City, at its cost, shall perform the Authority's obligations under the Sublease and exercise any and all of the Authority's rights as lessor under the Sublease. The Authority appoints the City as its exclusive agent and attorney-in-fact to perform and exercise any and all of the obligations and rights of the Authority as lessor under the Sublease without prior approval from the Authority. The rights granted to the City in this paragraph 8 shall be superior to the right of the Authority to enforce the obligations under the Sublease. The obligations of the Authority under the Sublease shall be undertaken only through its attorney-in-fact. The City may take action on behalf of the Authority either in the name of the Authority (upon prior written notice to the Authority) or in its own name. Inasmuch as the City will, pursuant to this paragraph 8 and the other provisions of this Agreement, control the performance by the Authority under the Sublease, the City shall indemnify, hold harmless and defend the Authority and its members, officers, employees and representatives from and against any and all loss, liabilities and claims that may arise out of or relate to (i) any act or omission by or attributable to the City's exercise of its rights under this paragraph 8; (ii) any other act, omission, fact or condition for which the Authority would be responsible as sublessor of the Premises, whether under the Sublease or otherwise; or (iii) any claim that the Project is not authorized for the City under the IGA Clause. The foregoing indemnity obligation of the City shall include reasonable attorneys' fees, investigation costs, and all other reasonable costs and expenses incurred by the Authority from the first notice that any claim or demand is to be made or may be made. Said indemnity shall survive the expiration or earlier termination of this Lease or the Sublease.

9. CITY'S RIGHT TO ENTER. The City and its agents shall have the right to enter the Premises during normal business hours for the purpose of (i) inspecting the same; (ii) performing any repairs or maintenance it is required to perform under this Lease; and (iii) performing any of the Authority's rights or obligations under the Sublease.

10. CHANGE IN AUTHORITY'S POWERS. In the event that any subsequent law, legal interpretation, or judicial order shall result in the liquidation, or dissolution of the Authority or the repeal of the Authority's authority to act as a lessee under this Lease or as the lessor under the Sublease, then this Lease shall be terminable at the option of the City or the Authority and the City shall be deemed the successor lessor under the Sublease and the Sublessee shall attorn to the City as successor. For such purposes, a "repeal" shall include the determination by the City or the Authority

that the Authority's so acting is inadvisable under the circumstances. The City or the Authority, as applicable, shall provide the other party with written notice in the event of such a termination.

11. NOTICES. All notices required or desired to be given with respect to this Lease shall be in writing and shall be deemed to have been given when hand delivered or three (3) days after deposited, postage prepaid, with the United States Postal Service (or its official successor), certified, return receipt requested, properly addressed as follows:

To the Authority:

Elyse Cochran-Davis, Executive Director
Dalton-Whitfield County Joint Development Authority
100 S. Hamilton Street
Dalton, GA 30720

To the City:

Ty Ross, City Administrator
City of Dalton, Georgia
P.O. Box 1205
Dalton, GA 30722

Such addresses may be changed from time to time by either party by notice to the other.

12. INDEMNIFICATION. In addition to the indemnity provided in paragraph 8, above, as a separate and independent obligation, the City shall indemnify and hold the Authority harmless for any damage, cost or expense the Authority may incur as Lessee and sublessor of the Premises provided such damage, cost or expense does not arise out of the actions of the Authority in violation of this Lease or the failure of the Authority to give the City prompt written notice of any claim, suit or charge asserted against the Authority as Lessee or sublessor of the Premises and such failure to give notice results in actual harm to the City. Said indemnity shall survive the expiration or earlier termination of this Lease. The indemnity set forth above specifically extends to, but is in no way limited to, governmental or other claims relating to any actual or alleged violation of any Environmental Laws (defined below), regardless of whether or not any such violation relates to any period prior to the date of this Lease. "Environmental Laws" means all federal, state, and local laws, rules, regulations, ordinances, programs, permits, guidance, orders, and consent decrees relating to health, safety, and environmental matters, including, but not limited to, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, the Toxic Substances Control Act, as amended, the Clean Water Act, as amended, the Clean Air Act, as amended, the Superfund Amendments and Reauthorization Act of 1986, as amended, state and federal superlien and environmental cleanup programs and laws, and U.S. Department of Transportation regulations.

13. NO ESTATE IN LAND. This Lease creates the relationship of landlord and tenant between the City and the Authority. No estate shall pass out of the City, and the Authority has only a usufruct which is not subject to levy and sale.

14. RECORDING. This Lease may be recorded.

15. SEVERABILITY. If any clause or provision of this Lease is held to be invalid or unenforceable, the remaining provisions of this Agreement will remain in full force and effect.

16. SUCCESSORS AND ASSIGNS. The provisions of this Lease shall inure to the benefit of and be binding upon the City and the Authority, and their respective successors and permitted assigns.

17. TIME IS OF THE ESSENCE. Time is of the essence of this Lease.

18. EXECUTION. This Lease may be executed in any number of counterparts, each of which shall be deemed an original and any of which shall be deemed to be complete in itself and shall be admissible into evidence or used for any purpose without the production of the other counterparts.

19. FORCE MAJEURE. The City shall be excused from the performance of any of its obligations for the period of any delay resulting from any cause beyond its control, including, without limitation, all labor disputes, governmental regulations or controls, fires or other casualties, inability to obtain any material or services, or acts of God. No such excuse shall apply to any payment or indemnification obligation.

20. ENTIRE AGREEMENT. The recitals at the beginning of this Lease are a part hereof. This Lease constitutes the entire agreement of the City and the Authority with respect to the subject matter hereof.

IN WITNESS WHEREOF, the parties hereto have executed these presents the day and year first above written.

CITY:

City of Dalton, Georgia

By: _____

Mayor

AUTHORITY:

**Dalton-Whitfield County
Joint Development Authority**

By: 
Chairperson

EXHIBIT "A"

The Premises

[legal description to be inserted]

EXHIBIT "B"

Sublease

[attached]

SUBLEASE AGREEMENT

GEORGIA, WHITFIELD COUNTY.

THIS SUBLEASE AGREEMENT (the "Sublease") is made and entered into this the _____ day of _____, 2013, (the "Effective Date"), by and between the **Dalton-Whitfield County Joint Development Authority**, an instrumentality of the State of Georgia and a public corporation (the "Authority"), as sublessor, and the **Humane Society of Northwest Georgia, Inc.**, a Georgia non-profit corporation (the "Humane Society"), as sublessee.

WHEREAS, the Authority is the lessee of the premises described in Exhibit "A" incorporated herein by reference and made a part hereof, together with all appurtenances thereto (together with the operational center described in subparagraph 5.1 below, the "Premises"); and

WHEREAS, the Humane Society desires to rent the Premises from the Authority, and the Authority desires to rent the Premises to the Humane Society on the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ACKNOWLEDGEMENT OF STATUS OF THE AUTHORITY

The Humane Society acknowledges that the owner of the Premises is the City of Dalton (the "City") and that the City is the attorney-in-fact for the Authority for all purposes under this Sublease. The Humane Society agrees that any act or right of the Authority granted under this Sublease will be undertaken by the City on behalf of the Authority, either in the name of the Authority or in its own name. The Humane Society expressly waives any defense that the City is not a party in interest and is not authorized to act on behalf of the Authority either in the name of the Authority or in its own name.

CONDITION OF SUBLEASE

The Humane Society hereby acknowledges that the Authority is now leasing the Premises under a lease with the City (the "Lease"), a copy of which is attached hereto as Exhibit "B" and incorporated herein by reference as fully as if the terms and provisions of that said Lease were set forth in full in this Sublease. The Humane Society agrees to take no action, or to refrain from action, if the result would cause the Authority to be in breach of the Lease. The Humane Society agrees to perform all of the obligations required of the Authority as lessee under the Lease. The Humane Society agrees to look exclusively to the City for the performance of all of the obligations of the sublessor contained herein, in addition to all obligations of the City specified herein.

1. PREMISES. The Authority, for the consideration of the rents, covenants, agreements and

stipulations herein contained to be kept and performed by the Humane Society, hereby agrees to sublease the Premises to the Humane Society and the Humane Society hereby agrees to rent the Premises from the Authority, at the rent and upon the conditions herein set forth.

2. PURPOSE. Subject to paragraph 10 below, the Premises shall be used and occupied by the Humane Society in connection with its business of sheltering, providing welfare for and facilitating the adoption of, stray cats and dogs for the City of Dalton and for Whitfield County and shall include all ancillary and related uses thereto. The benefit to the Authority in entering into this Sublease is the Humane Society's construction of substantial improvements on the Premises and the business services that will be provided by the Humane Society on the Premises that will generate commerce, create jobs, and improve the quality of life within the jurisdictional limits served by the Authority.

3. TERM. The term of this Sublease shall be for forty (40) years commencing on the Effective Date and terminating at midnight on the fortieth anniversary of the Effective Date, unless sooner terminated as set forth herein (the "Term"). The Humane Society shall surrender the Premises to the Authority immediately upon the termination of this Sublease. In the event the Lease terminates prior to the expiration or earlier termination of this Sublease for any reason, including, without limitation, pursuant to the provisions of paragraph 10 of the Lease, the City shall be deemed the successor lessor under this Sublease and the Humane Society shall attorn to the City as successor.

4. RENT. The Humane Society shall pay the Authority the sum of one dollar (\$1.00) annually during the Term as rent ("Rent").

5. ADDITIONAL RENT. This Sublease shall be deemed and construed to be a "triple net lease," and the Humane Society shall pay absolutely net, during the Term, the Rent and all other payments required hereunder, free of any deductions, without abatement, diminution, or set-off other than those herein expressly provided. The Humane Society agrees to pay as additional rent ("Additional Rent"), in addition to the Rent described in paragraph 4 hereinabove, the following:

5.1 Any and all sums which may become due by reason of the failure of the Humane Society to comply with all covenants of this Sublease, the Humane Society agreeing to pay any and all damages, costs or expenses which the Authority may suffer or incur by reason of any default of the Humane Society or failure on its part to comply with the covenants of this Sublease; and any and all damages to the Premises caused by any intentional or negligent act of the Humane Society or the Humane Society's agents or invitees;

5.2 All charges for water, electricity, gas and any other utility services consumed upon the Premises when the same become due. The Humane Society agrees to take all steps necessary to place the services for said water, electricity, gas and other utility services in the name of the Humane Society, and the Humane Society shall indemnify and hold the Authority and the City harmless from any liability for payment of such services;

5.3 Additional Rent, if reimbursable to the City or to the Authority for any reason, shall

be due and payable fifteen (15) days after the Humane Society's receipt of the Authority's or the City's invoice regarding the same.

6. EASEMENT. The City shall retain all utility easements of record or by implication over and about the Premises.

7. HUMANE SOCIETY'S RIGHT TO ALTER AND IMPROVE.

7.1 Within one (1) year of the execution of this Sublease the Humane Society shall submit to the Authority for review and written approval by the City in accordance with this paragraph 7, plans and specifications signed by a licensed architect for a new operational center for the carrying out of the Humane Society's business purpose described in paragraph 2. If the plans and specifications are approved then the Humane Society shall, within two (2) years of the date of the City's written approval, construct the new operational center in accordance with the approved plans and specifications.

7.2 The Humane Society shall not make any alterations to or modifications of the Premises or construct any improvements within the Premises (including signage) until the City, shall have first approved, in writing, the plans and specifications therefor, which approval shall not be unreasonably withheld or delayed. Modifications, alterations or improvements, if any, once approved by the City, shall be made, constructed or installed by the Humane Society at the Humane Society's expense (including all permit fees and governmental charges related thereto), using a licensed contractor first approved by the City, in substantial compliance with the City-approved plans and specifications therefor. All work undertaken by the Humane Society shall be done in accordance with all laws and in a good and workmanlike manner using new materials of good quality. The Humane Society shall not commence the making of any such modifications or alterations or the construction of any such improvements until (i) all required governmental approvals and permits shall have been obtained, (ii) all requirements regarding insurance imposed by this Sublease have been satisfied, and (iii) if requested by the City, the Humane Society shall have obtained contingent liability and broad form builder's risk insurance in an amount satisfactory to the City in its reasonable discretion to cover any perils relating to the proposed work not covered by insurance carried by the Humane Society pursuant to this Sublease. Any construction contracts entered into by the Humane Society shall be as principal and not as agent of the City or the Authority.

7.3 All modifications, alterations and improvements made or added to the Premises by the Humane Society shall be deemed real property and a part of the Premises. Any such modifications, alterations or improvements, once completed, shall not be altered or removed from the Premises during the Term without the City's written approval. At the expiration of this Sublease, all such modifications, alterations and improvements shall automatically become the property of the owner of the Premises and shall be surrendered by the Humane Society unless the Authority or the City shall require the Humane Society to remove any of such modifications, alterations or improvements in which case the Humane Society shall remove same. Neither the City nor the Authority shall have any obligation to reimburse the Humane Society for all or any

portion of the cost or value of any such modifications, alterations or improvements so surrendered to the Authority.

7.4 The Humane Society shall keep the Premises and every part thereof free from any lien, and shall pay when due all bills arising out of any work performed, materials furnished, or obligations incurred by the Humane Society, its agents, employees or contractors relating to the Premises. If any such claim of lien is recorded against the Humane Society's interest in this Sublease, the Premises or any part thereof, the Humane Society shall bond against, discharge or otherwise cause such lien to be entirely released within ten days after the same has been recorded.

8. INSURANCE.

8.1 The Humane Society shall obtain and maintain, during the term of this Sublease, general liability insurance on an occurrence basis with a combined single limit for personal injury and property damage in a form and with carriers acceptable to the City and the Authority and an amount not less than \$1,000,000, and workers' compensation insurance as required by law. The Humane Society's comprehensive general liability insurance policy shall be endorsed to provide that (i) it may not be cancelled or altered in such a manner as to adversely affect the coverage afforded thereby without thirty (30) days prior written notice to the City, (ii) the Authority and the City are named as additional insureds, and (iii) such insurance is primary with respect to the Authority and the City and that any other insurance maintained by the Authority or the City is excess and noncontributing with such insurance. If, in the opinion of the Authority's insurance adviser, based on a substantial increase in recovered liability claims generally, the specified amounts of coverage are no longer adequate, then such coverage shall be appropriately increased. Prior to the commencement of the Term, the Humane Society shall deliver to the Authority a duplicate of such policy or a certificate thereof to the Authority for retention by it, with endorsements, and at least thirty (30) days prior to the expiration of such policy or any renewal thereof, the Humane Society shall deliver to the Authority a replacement or renewal binder, followed by a duplicate policy or certificate within a reasonable time thereafter. If the Humane Society fails to obtain such insurance or to furnish the Authority any such duplicate policy or certificate as herein required, the Authority may, at its election, upon five (5) days' prior notice to the Humane Society but without any obligation to do so, procure and maintain such coverage and the Humane Society shall reimburse the Authority on demand as Additional Rent for any premium so paid by the Authority.

8.2 The Humane Society shall hold the Authority and the City harmless from and defend the Authority and the City against all claims (except those arising from the gross negligence or willful misconduct of the Authority and the City, their agents or employees) (i) for damage to any property or injury to or death of any person arising from the use of the Premises by the Humane Society, or (ii) arising from the negligence or willful misconduct of the Humane Society, its employees, agents, or invitees. The foregoing indemnity obligation of the Humane Society shall include reasonable attorneys' fees, investigation costs, and all other reasonable costs and expenses incurred by the Authority from the first notice that any claim or demand is to be made or may be made. The provisions of this paragraph 8.2 shall survive the expiration or termination of this Sublease with respect to any damage, injury, or death occurring prior to such

expiration or termination. The indemnity set forth above specifically extends to, but is in no way limited to, governmental or other claims relating to any actual or alleged violation of any Environmental Laws (defined below), provided any such violation occurs on or subsequent to the Effective Date of this Sublease. "Environmental Laws" means all federal, state, and local laws, rules, regulations, ordinances, programs, permits, guidance, orders, and consent decrees relating to health, safety, and environmental matters, including, but not limited to, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, the Toxic Substances Control Act, as amended, the Clean Water Act, as amended, the Clean Air Act, as amended, the Superfund Amendments and Reauthorization Act of 1986, as amended, state and federal superlien and environmental cleanup programs and laws, and U.S. Department of Transportation regulations.

8.3 The City shall obtain and maintain, at all times during the term hereof a policy of hazard insurance covering the Premises for all hazards, including, but not limited to, fire, flood, and earthquake, for the full replacement value of the Premises, naming the Humane Society and the Authority as an additional insured. Likewise, the City shall maintain, at all times during the term hereof, general liability insurance coverage for the benefit of the Humane Society, the City and the Authority, in an amount not less than \$1,000,000, covering any occurrences at or on the Premises by person(s) at the Premises at the direction of the City or Authority.

9. ASSIGNMENT AND SUBLETTING. The Humane Society shall not assign this Lease or any interest herein or sublet the Premises or any part thereof without the prior written consent of the Authority.

10. AFFIRMATIVE COVENANTS AND RESPONSIBILITIES OF HUMANE SOCIETY. The Humane Society covenants and agrees that the Humane Society will, without demand:

10.1 Comply with any requirements of any of the constituted public authorities, and with the terms of any state or federal statutes or local ordinances or regulations applicable to the Humane Society or to the Humane Society's use of the Premises and save the Authority and the City harmless from penalties, fines, costs or damages resulting from the failure to do so;

10.2 Give to the Authority and the City prompt written notice of any material accident involving persons other than agents or employees of the Humane Society, fire, or damage occurring on or to the Premises;

10.3 At the termination of this Sublease, remove any signs, improvements of a non-permanent nature, projections or devices placed upon the Premises at or prior to the expiration of this Sublease. In case of breach of this covenant, in addition to all other remedies given to the Authority in case of breach of any condition or covenant of this Sublease, the Authority shall have the privilege of removing said improvements, signs, projections, or devices and the Humane Society, at the Authority's option, shall be liable to the Authority for any and all expenses so incurred by the Authority;

10.4 Not permit any mechanic's lien or security interest to be filed against the Premises

as a result of any actions or conduct of the Humane Society at or with respect to the Premises.

11. ADDITIONAL COVENANTS:

11.1 If the Premises are totally destroyed by storm, fire, lightning, earthquake or other casualty, this Sublease, and all rights and obligations arising hereunder, shall, at the Humane Society's sole option, either terminate as of the date of such destruction, and Rent shall be accounted for as between the Authority and the Humane Society as of that date or the Humane Society may choose to rebuild the Premises in substantially similar condition using as much as available insurance or casualty proceeds. If the Premises are damaged but not totally destroyed by any such casualty, the Humane Society, subject to the limitation below, shall restore the Premises to substantially the same condition as before such damage. For purposes of this section, damage to the Premises to the extent that the Premises are wholly untenable, or damage to the extent that full repairs cannot be made solely from the proceeds of insurance maintained on the Premises as provided in this Sublease, shall be deemed to be a total destruction of the Premises. In no event shall the Humane Society be obligated to expend sums other than, or in excess of, replacement value insurance proceeds received for such damage. In no event shall the Authority or the City be obligated to expend sums other than, or in excess of, replacement value insurance proceeds received for such damage.

11.3 It is hereby covenanted and agreed by and between the parties that any law, usage or custom to the contrary notwithstanding, the Authority shall have the right at all times to enforce the covenants and provisions of this Sublease in strict accordance with the terms hereof, notwithstanding any conduct or custom on the part of the Authority in refraining from so doing at any time or times, and further, that the failure of Authority at any time or times to enforce the Authority's right under said covenants and provisions strictly in accordance with the same shall not be construed as having created a custom in any way or manner contrary to the specific terms, provisions or covenants of this Sublease, or as having in any way or manner modified the same.

12. AUTHORITY'S RIGHT TO ENTER. The Authority and the City and their agents shall have the right to enter the Premises during normal business hours for the purpose of (i) inspecting the same; (ii) performing any of the Humane Society's obligations when the Humane Society has failed to do so. Any entry into the Premises obtained by the Authority or the City in accordance with this paragraph shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into, or a detainer of, the Premises, or an eviction, actual or constructive of the Humane Society from the Premises or any portion thereof. In exercising its rights under this paragraph, the Authority and the City shall use commercially reasonable efforts to minimize interference with the Humane Society's use of the Premises.

13. SURRENDER OF POSSESSION. Immediately prior to the expiration of this Sublease, the Humane Society shall remove all of the Humane Society's equipment, trade fixtures, furniture, supplies, wall decorations and other personal property from within the Premises, and shall vacate and surrender the Premises to the Authority in the same condition, broom clean, as existed at the commencement date of this Sublease, reasonable wear and tear excepted. Except for such reasonable wear and tear, the Humane Society shall (i) repair all damage to the Premises caused by the Humane Society's removal of its property, (ii) patch and refinish, to the

Authority's reasonable satisfaction, all penetrations made by the Humane Society or its employees to the roof, floor, interior or exterior walls or ceiling of the Premises, whether such penetrations were made with the Authority's approval or not, (iii) repair or replace all stained or damaged ceiling tiles, wall coverings and floor coverings to the reasonable satisfaction of the Authority, (iv) repair all damage caused by the Humane Society to the Premises and the paved surfaces of the Premises and, where necessary, replace or resurface same. Additionally, to the extent that the Authority shall have notified the Humane Society in writing to remove the improvements to the Premises, the Humane Society shall, upon the expiration or sooner termination of the Sublease, remove any such improvements constructed or installed by the Authority or the Humane Society and repair all damage caused by such removal. If the Premises is not surrendered to the Authority in the condition required by this paragraph at the expiration or sooner termination of this Sublease, the Authority may, at the Humane Society's expense, so remove the Humane Society's signs, property and/or improvements not so removed and make such repairs and replacements not so made or hire, at the Humane Society's expense, independent contractors to perform such work. The Humane Society shall be liable to the Authority for all costs incurred by the Authority in returning the Premises to the required condition, together with interest on all costs so incurred from the date paid by the Authority at the then maximum rate of interest not prohibited or made usurious by law until paid. The Humane Society shall pay to the Authority the amount of all costs so incurred plus such interest thereon, within ten (10) days of the Authority billing the Humane Society for same. The Humane Society shall indemnify the Authority and the City against loss or liability resulting from delay by the Humane Society in surrendering the Premises.

14. EVENTS OF DEFAULT. The occurrence of any of the following shall constitute Events of Default:

14.1 Failure of the Humane Society to submit when due plans and specifications signed by a licensed architect for a new operational center as required under subparagraph 7.1 above;

14.2 Failure of the Humane Society to substantially complete construction of a new operational center on the Premises in accordance with the approved plans and specifications;

14.3 Failure of the Humane Society to pay Rent, Additional Rent or any other sum payable under this Sublease when due and after fifteen (15) days after written notice by the Authority and/or City of such default;

14.4 The Premises is deserted or vacated for sixty (60) consecutive days, even though the Humane Society may continue to pay Rent;

14.5 Any petition is filed by or against the Humane Society under any section or chapter of the Federal Bankruptcy Code, and, in the case of a petition filed against the Humane Society, such petition is not dismissed within thirty (30) days after the date of such filing;

14.6 The Humane Society becomes insolvent or transfers property in fraud of creditors;

14.7 The Humane Society makes an assignment for the benefit of creditors;

14.8 A receiver is appointed for any of the Humane Society's assets; or

14.9 The Humane Society breaches or fails to comply with any term, provision, condition or covenant of this Sublease, other than the payment of Rent, Additional Rent or any other sum payable under this Sublease, and fails to cure such default within thirty (30) days of written notice to cure from the Authority.

15. REMEDY. Upon the occurrence of an Event of Default, the Authority shall have all rights and remedies as may be provided for or allowed by law or in equity. Upon the occurrence of an Event of Default as described in subparagraphs 14.1, 14.2 or 14.4 the Authority may terminate this Sublease on ten (10) days written notice to the Humane Society.

16. SUBLEASE CONTAINS ALL AGREEMENTS. It is expressly understood and agreed by and between any parties hereto that this Sublease and the Exhibits attached hereto and forming a part hereof, including the Lease, set forth all of the promises, agreements, conditions and understandings between the Authority, or the Authority's agents, and the Humane Society relative to the Premises, and that there are no promises, agreements, conditions or understandings, either oral or written, between them other than as set forth herein. It is further understood and agreed that, except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Sublease shall be binding upon the Authority or the Humane Society unless reduced to writing and signed by them.

18. PARTIES BOUND. All rights and liabilities herein given to, or imposed upon, the respective parties hereto shall extend to and bind the several and respective successors and permitted assigns of said parties by the terms, covenants and agreements herein. No rights, however, shall inure to the benefit of any assignee of the Humane Society unless the assignment to such assignee has been approved by the Authority in writing as herein provided.

19. NOTICES.

Except for legal process which may also be served as by law provided, all notices required or desired to be given with respect to this Sublease shall be in writing and shall be deemed to have been given when hand delivered or three (3) days after deposited, postage prepaid, with the United States Postal Service (or its official successor), certified, return receipt requested, properly addressed as follows:

To the Humane Society:

Humane Society of Northwest Georgia
107 Green Leaf Circle
Dalton, GA 30721

To the Authority:

Dalton-Whitfield County Joint Development Authority

With a copy to the City:

City of Dalton, Georgia

100 Hamilton Street
Dalton, GA 30720
Attn: Executive Director

P.O. Box 1205
Dalton, GA 30722
Attn: City Administrator

Such addresses may be changed from time to time by either party by notice to the other.

20. HOLDING OVER. If the Humane Society remains in possession of the Premises after the expiration of this Sublease and without the execution of a new Sublease, the Humane Society shall be deemed to be occupying the Premises as a tenant at sufferance. The base Rent as of the day the Humane Society becomes a tenant at sufferance shall become market rent, as set forth on Schedule 20 attached hereto and incorporated herein by reference, until such tenancy at sufferance shall be terminated.

21. NO ESTATE IN LAND. This Sublease creates the relationship of landlord and tenant between the Authority and the Humane Society. No estate shall pass out of the Authority, and the Humane Society has only a usufruct which is not subject to levy and sale. At any time during the term hereof and at the Humane Society's sole option, the Humane Society may acquire for itself leasehold title insurance.

22. RECORDING. A memorandum of this Sublease may be recorded by the Humane Society, the form of which shall be subject to the reasonable approval of the Authority.

23. SEVERABILITY. If any clause or provision of this Sublease is held to be invalid or unenforceable, the remaining provisions of this Agreement will remain in full force and effect.

24. WAIVER OF BREACH. The waiver by either party of a breach of any provisions of this Sublease shall not operate or be construed as a waiver of any subsequent breach by either party.

25. SUCCESSORS AND ASSIGNS. The provisions of this Sublease shall inure to the benefit of and be binding upon the Authority and the Humane Society, and their respective successors and permitted assigns.

26. STATE LAW; VENUE. The laws of the State of Georgia shall govern the interpretation, validity, performance and enforcement of this Sublease. The parties agree that the exclusive venue for any proceeding arising from or related to this Sublease shall be the Superior Court of Whitfield County, Georgia, and the parties hereby waive all personal jurisdictional defenses that may be available to them.

27. TIME IS OF THE ESSENCE. Time is of the essence of this Sublease.

28. EXECUTION. This Sublease may be executed in any number of counterparts, each of which shall be deemed an original and any of which shall be deemed to be complete in itself and be admissible into evidence or used for any purpose without the production of the other counterparts.

29. FORCE MAJEURE. Any party hereto shall be excused from the performance of any of

its obligations for the period of any delay resulting from any cause beyond its control, including, without limitation, all labor disputes, governmental regulations or controls, fires or other casualties, inability to obtain any material or services, or acts of God. No such excuse shall apply to any payment or indemnification obligation.

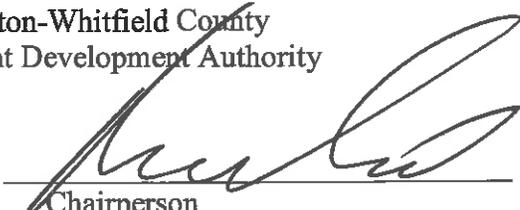
30. PEACEFUL POSSESSION. So long as the Humane Society observes and performs the covenants and agreements contained herein, it shall at all times during the Sublease term hereunder peacefully and quietly have and enjoy possession of the Premises, but always subject to the terms hereof.

IN WITNESS WHEREOF, the parties hereto have executed these presents the day and year first above written.

AUTHORITY:

Dalton-Whitfield County
Joint Development Authority

By: _____


Chairperson

HUMANE SOCIETY:

Humane Society of Northwest Georgia, Inc.

By: _____


President

EXHIBIT "A"

The Premises

[legal description to be inserted]

EXHIBIT "B"

LEASE BETWEEN CITY AND AUTHORITY

[attached]

SCHEDULE 20

MARKET RENT

[to be determined]

Dalton Animal Shelter Stormwater Pond					
Maintenance Item	Condition				Comment
	Good	Marginal	Poor	N/A*	
General Inspection					
Access to the site is adequately maintained for inspection and maintenance.					
Area is clean (trash, debris, grass clippings, etc. removed).					
Inlet Structure					
Drainage ways (overland flow or pipes) to the practice are free of trash, debris, large branches, etc.					
Area around the inlet structure is mowed and grass clippings are removed.					
No evidence of gullies, rills, or excessive erosion around the inlet structure.					
Inlet pipe is in good condition, and water is going through the structure (i.e. no evidence of water going around the structure).					
Diversion structure (high flow bypass structure or other) is free of trash, debris, or sediment. Comment on overall condition of diversion structure and list type.	NA	NA	NA		
Pretreatment					
Forebay – area is free of trash, debris, and sediment.					
Filter Strip or Grass Channels – area is free of trash debris and sediment. Area has been mowed and grass clippings are removed. No evidence of erosion.					
Rock Lined Plunge Pools – area is free of trash debris and sediment. Rock thickness in pool is adequate.	na			na	
Main Treatment					
Main treatment area is free of trash, debris, and sediment.					
Erosion protection is present on site (i.e. turf reinforcement mats). Comment on types of erosion protection and evaluate condition.					
No algal growth along or within the pond.					
Native plants were used in the practice according to the planting plan. No undesirable vegetation.					
Practice seems to be working properly. No settling around the stormwater pond.					

Stormwater Pond					
Maintenance Item	Condition				Comment
	Good	Marginal	Poor	N/A*	
Comment on overall condition of stormwater pond.					
Vegetation within and around practice is maintained per landscaping plan. Grass clippings are removed.					
No significant sediment accumulation within the practice.					
No evidence of use of fertilizer on plants (fertilizer crusting on the surface of the soil, tips of leaves turning brown or yellow, blackened roots, etc.).					
Plants seem to be healthy and in good condition. Comment on condition of plants.					
Emergency Overflow					
Emergency overflow is free of trash, debris, and sediment.					
No evidence of erosion, scour, flooding, or animal activity around the structure.					
No evidence of erosion, scour, or flooding around the structure.					
Outlet Structure					
Outlet structure is free of trash, debris, and sediment.	Note Overflow and Outlet Structure are combined				
No evidence of erosion, scour, or flooding around the structure.					
Outlet structure does not appear to be blocked.					
No evidence of animal activity.					
No evidence of seepage on the downstream face.					
Results					
Overall condition of Stormwater Pond:					
Additional Comments					
Notes: * If a specific maintenance item was not checked, please check N/A and explain why in the appropriate comment box.					

Operations & Maintenance Guidance Document

Grass Channel					
Maintenance Item	Condition				Comment
	Good	Marginal	Poor	N/A*	
General Inspection					
Access to the site is adequately maintained for inspection and maintenance.					
Area is clean (trash, debris, grass clippings, etc. removed).					
Inlet					
Drainage ways (overland flow or pipes) to the practice are free of trash, debris, large branches, etc.					
Area around the inlet is mowed and grass clippings are removed.					
No evidence of gullies, rills, or excessive erosion around the inlet.					
No signs of clogging or damage around the inlet.					
Pretreatment (choose one)					
Forebay – area is free of trash, debris, and sediment.					
Filter Strip or Grass Channels – area is free of trash debris and sediment. Area has been mowed and grass clippings are removed. No evidence of erosion.					
Main Treatment					
Main treatment area is free of trash, debris, and sediment.					
No evidence of erosion in the practice.					
No evidence of long-term ponding or standing water in the ponding area of the practice (examples include: stains, odors, mosquito larvae, etc).					
No undesirable vegetation located within the practice.					
No evidence of use of fertilizer on plants (fertilizer crusting on the surface of the soil, blackened roots, etc.).					
Grass within and around practice is maintained at the proper height (3-4 inches). Grass clippings are removed.					
Grass cover seems healthy with no bare spots or dying grass.					

Grass Channel					
Maintenance Item	Condition				Comment
	Good	Marginal	Poor	N/A*	
No accumulating sediment within the grass channel.					
Outlet					
Outlet is free of trash, debris, and sediment.					
No evidence of erosion, scour, or flooding.					
Results					
Overall condition of Grass Channel:					
Additional Comments					
<p>Notes: * If a specific maintenance item was not checked, please check N/A and explain why in the appropriate comment box.</p>					

= Operations & Maintenance Guidance Document =

Gravity (Oil-Grit) Separator					
Maintenance Item	Condition				Comment
	Good	Marginal	Poor	N/A [*]	
General Inspection					
Access to the site is adequately maintained for inspection and maintenance.					
Contributing drainage area is clean (trash, debris, grass clippings, etc. removed).					
Inlet and outlet pipes are clean; stormwater can enter and exit the practice without being blocked.					
Overflow structure is in good condition and clean.	na				
Maintenance is being performed according to manufacturer's guidelines.	na				
Maintenance is being performed according to maintenance plan.					
Water is going through structure (i.e. no evidence of water going around the structure).					
Structure seems to be working properly. No settling around the structure. Comment on overall condition of structure.					
Results					
Overall condition of Gravity (Oil-Grit) Separator:					
Additional Comments					
<p>Notes: [*] If a specific maintenance item was not checked, please check N/A and explain why in the appropriate comment box.</p>					