

AGREEMENT

This Agreement is made on the 2 day of December, 2008 between The Greenbrier County Commission, State of West Virginia ("County") and The Greenbrier County Humane Society, Inc., ("Humane Society") a non-profit corporation organized under the laws of the State of West Virginia.

WITNESSETH

WHEREAS, the County has an interest in providing for the safe and humane treatment of cats and dogs in Greenbrier County as well as for the safety and welfare of County residents;

WHEREAS, the County is responsible for the humane sheltering of stray or abused cats and dogs according to local and state ordinances and;

WHEREAS, the Humane Society is experienced in sheltering and in the humane treatment of cats and dogs;

WHEREAS, the County and the Humane Society entered into an Operating Agreement dated March 22, 2000, attached hereto as Exhibit A, and

WHEREAS, the County and the Humane Society desire to Amend Article V and Article VI of the Operating Agreement to provide effective management practices and use of resources in furtherance of both parties interests.

NOW THEREFORE, in consideration of the mutual covenants set forth below, the County and the Humane Society agree as follows:

SECTION I. MUTUAL RESPONSIBILITIES

- 1.1 The Humane Society shall act as an Independent Contractor for the sheltering and care of cats and dogs in Greenbrier County.
- 1.2 The County shall grant funding for the program and services in the maximum amount of \$240,000.00 annualized in the first year, \$60,000.00 to be paid upon execution of this Agreement and invoices for reimbursement submitted quarterly thereafter beginning January 1, 2009.
- 1.3 The County shall continue to pay for utilities including electric, propane, water, sewer, and trash at the shelter, so long as the charges for the same represent reasonable use at the shelter.
- 1.4 The Humane Society warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion,

sexual orientation, national origin, age, handicap, or marital status. The Humane Society agrees to provide all services and programs in full compliance with all Greenbrier County ordinances, resolutions or other regulations as well as all applicable State and Federal laws and regulations.

- 1.5 All program personnel, except independent Contractors and employees of independent Contractors, shall be the employees of the Humane Society.
- 1.6 Representatives of the Humane Society and the County shall meet at least semi-annually to discuss mutual goals, expectations, and program planning issues, including outcomes, quality improvement, accessibility and customer satisfaction.
- 1.7 County is legally obligated to employ the Greenbrier County Animal Control Officer(s). County will continue to be responsible for all duties and functions of the Greenbrier County Animal Control Officers including all funding necessary to fulfill their functions and obligations. Humane Society agrees to provide the Animal Control Officers an adequate office location and space within the Animal Shelter Facility and reasonable access to such office.
- 1.8 Prior to March 1, 2009 and annually thereafter, the Humane Society will submit a budget request to the County which has been reviewed by the Greenbrier County Animal Shelter Advisory Committee for the upcoming fiscal year. The fiscal year request shall be considered by the County in cooperation with the Humane Society; such approval will not be unreasonably withheld. However, County retains the right of final approval prior to inclusion in the County's Budget Document and submission to the West Virginia State Auditor's Office no later than March 28th of each year.

SECTION II. RECORDS AND REPORTS

- 2.1 The Humane Society agrees to keep books, accounts and records that reflect all revenues and all expenditures received in connection with the management and operation of the program and services. The books, accounts and records shall be maintained in accordance with Generally Accepted Accounting Principles at the Humane Society's principal place of business. The Humane Society shall make the books, accounts and records required to be maintained hereunder available to the County for examination or audit during normal business hours, upon five (5) days written notice. The Humane Society agrees to comply with all requirements of West Virginia Public Records Law, if applicable.
- 2.2 The Humane Society shall furnish the County with regular written program and financial reports on a quarterly basis, and on an annual basis the Humane Society shall submit an updated plan of goods, services, objectives,

units of service and any other pertinent organization changes for the upcoming year.

SECTION III. TERM OF AGREEMENT

- 3.1 This Agreement shall be for a 36 ½ month term commencing on December 15, 2008, and ending on December 31, 2011, with the agreement that the renewal of said contract will be negotiated by both parties six (6) months prior to termination.

SECTION IV. DEFAULT AND TERMINATION OF AGREEMENT

- 4.1 In the event that any Audit Report, Review, Report, Compilation Report or financial records reveal that the Grant funds were not used for the purposes set forth in this Agreement, then the County may require the Recipient to return such funds and reimburse the County for improperly used funds.
- 4.2 If the Humane Society breaches any of the terms of this Agreement, the County shall give the Humane Society written notice of such breach, as described in Section VI below. If the Humane Society fails to remedy the breach within sixty (60) days after receiving the above-described notice, the County may terminate this Agreement.
- 4.3. The obligations of the County under this Agreement are subject to the availability of funds lawfully appropriated for its purpose by the Greenbrier County Commission. The parties hereto agree and recognize that this Agreement is contingent upon the continued quarterly appropriation and budgeting of adequate funding by the County. If such appropriation is not sufficient to fund this Agreement, the Agreement shall be deemed terminated in accordance with this section and the County will resume its legal obligations.
- 4.4 In the event the County terminates this Agreement, the Humane Society shall return all funds not used as of the date of termination of the Agreement within ten (10) calendar days.

SECTION V. INSURANCE AND INDEMNIFICATION

- 5.1 The Humane Society agrees to maintain insurance for such injuries, occurrences, losses and damages that constitute a reasonable risk of such programs and services and provide proof of insurance with County as Additional Insured. Humane Society shall provide proof of worker's compensation insurance as required by law, if applicable.

5.2 The Humane Society shall indemnify County for acts of fraud, misrepresentation or negligence on behalf of its employees, representatives or officers.

SECTION VI. NOTICES

6.1 All notices, requests, demands, or other communications shall be in writing, and shall be deemed to have been duly given if delivered in person, or within two (2) days after deposited in the United States mail postage prepaid, certified, with return receipt requested, or otherwise actually delivered to **the Greenbrier County Commission at ~~P.O. Box 506~~, 200 North Court Street, Lewisburg, West Virginia 24901**, or to **the Greenbrier County Humane Society, Inc. of West Virginia at P.O. Box 305, Lewisburg, West Virginia 24901**. Either party to this Agreement may change the address at which it receives written notices by so notifying the other party in writing.

SECTION VIII. ASSIGNMENT

7.1 This Agreement shall be binding on and inure to the benefit of the successors and assigns of the parties to it, and their respective successors and assigns; provided, however, that this Agreement may not be assigned by the Humane Society without prior written consent of the County.

SECTION VIII. SEVERABILITY

8.1 Should any section or any part of any section of this Agreement be rendered void, invalid, or unenforceable by any court of law, for any reason, such a determination shall not render void, invalid, or unenforceable any other section or any part of any section in this. This has been made entered into in the State of West Virginia, and the laws of West Virginia shall govern the validity and interpretation of this Agreement and the performance due under it.

SECTION IX. INTEGRATION

9.1 The drafting, execution, and delivery of this Agreement by the parties have been induced by no representations, statements, warranties, or agreements other than those expressed in it. This Agreement embodies the entire understanding of the parties, and there are no further or other agreements or understandings, written or oral, in effect between the parties relating to its subject matter unless expressly referred to in it.

SECTION X. PRIOR AGREEMENTS

10.1 Upon the effective date of this agreement, the General Operations and Procedures Contract entered into between the parties on October 1, 2002, and subsequent amendments thereto, and a Lease entered into between said parties dated February 20, 2002 shall become null and void. If this Agreement is terminated for any cause, the prior agreements referred to in this section shall be immediately reinstated.

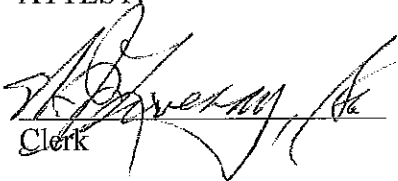
SECTION XI. MODIFICATIONS

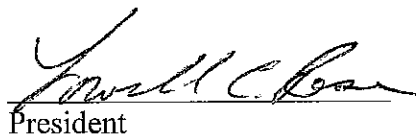
11.1 This Agreement may not be modified unless such modification is in writing and signed by both parties to this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hand and seals this 2 day of DECEMBER 2008.

GREENBRIER COUNTY
COMMISSION

ATTEST:

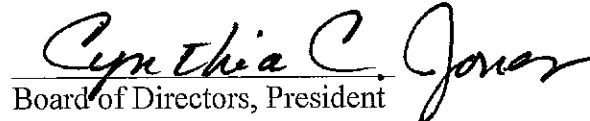

Clerk


President

APPROVED AS TO FORM AND CORRECTNESS:


Greenbrier County Attorney

THE GREENBRIER COUNTY HUMANE SOCIETY, INC.


Board of Directors, President

STATE OF WEST VIRGINIA,

COUNTY OF GREENBRIER, to-wit:

The foregoing instrument was acknowledged before me this 2nd day of December 2008, by Cynthia C. Jones as President of the Greenbrier County Humane Society, Inc., a West Virginia not-for-profit corporation, on behalf of the corporation; as President, Greenbrier County Commission; and H. Rod Mohler as the Greenbrier County Attorney.

My commission expires: 8-4-2018

JoAnn Jackson
NOTARY PUBLIC

