

October 21, 2002

The Honorable Board of Supervisors
County of Los Angeles
Room 383, Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

ANIMAL CARE FOUNDATION AGREEMENT

(All Districts—3 votes)

IT IS RECOMMENDED THAT YOUR BOARD:

1. Approve the agreement between the Department of Animal Care and Control and the Los Angeles County Animal Care Foundation, a registered non-profit foundation with 501 [c] (3) tax status.
2. Authorize the Chairman of the Board to sign the agreement on behalf of Los Angeles County.

JUSTIFICATION FOR RECOMMENDED ACTION

The foundation was created in 1983 to serve as a fund-raising arm for the department. As such, it has donated more than \$1 million dollars for programs that directly benefit animals housed at Los Angeles County shelters.

On the appointment of a new director of Animal Control it was discovered that, although there had been a long partnership between the Department and the foundation, there was no Board-approved agreement between them.

When this oversight was discovered, the Department stopped all official transactions between the foundation and Animal Care and Control until an agreement, crafted in accordance with County policy and reviewed by the Office of the County Counsel, could be completed. That agreement is now before your Board.

Implementation of Strategic Plan Goals

Approval of the agreement is consistent with County Strategic Plan Goal No. 4, fiscal responsibility. The agreement defines and clarifies the role the foundation fulfills as the fund-raising adjunct of the Department.

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FISCAL IMPACT:

In recent years the foundation has donated, on average, \$200,000 per year for Department programs that directly benefit the care of domestic animals housed at County shelters. Inasmuch as the foundation was created as the fund-raising arm of the Department, the receipt and disbursement of donation funds are a critical issue.

FACTS AND PROVISIONS:

A Board-approved agreement will formalize the relationship and clearly set out the duties and responsibilities of both parties.

IMPACT ON CURRENT SERVICES:

The agreement will not impact or alter the animal care and control services performed by the Department.

Respectfully submitted

MARCIA MAYEDA
Director
Department of Animal Care and Control

cc: Executive Office (22)
Chief Administrative Office
County Counsel
Auditor-Controller

**LOS ANGELES COUNTY ANIMAL CARE
FOUNDATION AGREEMENT**

This Agreement is made and entered into as of this day of December 1, 2002, by and between the Los Angeles County Animal Care Foundation, a nonprofit, public benefit corporation ("Foundation"), and the County of Los Angeles, a body corporate and politic ("County").

RECITALS

WHEREAS, the County is charged with animal care and control responsibilities within its jurisdiction ; and,

WHEREAS, the animal care and control services of the County can be expanded and improved with the assistance of private individuals and organizations; and,

WHEREAS, increasing public awareness of County animal control programs can cause greater public benefit to be derived from them; and

WHEREAS, the Foundation was incorporated in 1983 as a nonprofit, public benefit corporation, for the sole purpose of assisting and promoting the programs of the Los Angeles County Department of Animal Care and Control; and,

WHEREAS, the County and the Foundation deem it necessary and desirable to enter this Agreement to set forth their respective duties and obligations with respect to the continued relationship and activities of each, the receipt and disbursement of public and private funds and the use of County resources; and,

NOW THEREFORE, for and in consideration of the foregoing premises, the parties do hereby agree as follows:

SECTION 1. Foundation Obligations

- (a) The foundation shall devote its time and resources to the purpose of developing financial, material, and other resources for the Los Angeles County Animal Care and Control Department to support programs and activities that promote the welfare of animals served by the Department. Said activities may include fundraising events in accordance with applicable County polices.

(b) The Foundation shall fully reimburse the County for resources provided by the County pursuant to Section 2 (a), including, but not limited to salaries of County employees and materials and other expenses incurred in the completion of activities which are consistent with its mission.

(c) The Foundation shall provide quarterly financial and activity reports to the County, and such other reports as may be required by guidelines for foundations issued by the County Auditor-Controller and approved by County Board of Supervisors.

SECTION 2. County Obligations

(a) Upon the approval of the Director of the Los Angeles County Department of Animal Care and Control, the County shall provide resources for use by the Foundation for activities and services consistent with its obligations identified herein, provided, that the County is fully reimbursed for said resources by the Foundation, as hereinbefore provided in Section 1 (b).

(b) During the term of this Agreement, the County may, in its sole discretion, transfer such funds to the Foundation which have been donated to the County for public purposes consistent with the Foundation's obligations identified herein.

(c) The County shall provide recommendations for the Foundation's support of the County's animal welfare programs.

(d) The Director of the Los Angeles County Department of Animal Care and Control, or his or her designee, is encouraged, without reservation, to participate, advise and consult with The Foundation at all meetings of the Foundation's Board of Directors. No employee of the County may serve as an Officer, or, in any capacity in the Foundation, which involves the approval or expenditure of Foundation funds directly benefiting the department.

SECTION 3. Contract Administration

(a) The Foundation's contract administrator shall be its Managing Director or such other person as may be designated from time to time by Foundation's board of directors.

(b) The County's contract administrator shall be the Director of the Los Angeles County Department of Animal Care and Control.

SECTION 4. Term

The term of this Agreement shall commence on the date of approval hereof by the Los Angeles County Board of Supervisors, and shall continue from year to year unless otherwise terminated by either party as set forth herein.

SECTION 5. Termination for Convenience

This Agreement may be terminated in whole or in part when such action is deemed by the County or the Foundation to be in its best interest. Termination shall be affected by mailing to the County or to the Foundation a sixty (60) calendar day advance Notice of Termination specifying the extent to which performance of this Agreement is terminated, and the date upon which such termination becomes effective.

SECTION 6. Indemnification

(a) The Foundation agrees to indemnify, defend and hold harmless the County, its officers, agents and employees from and against all liabilities, including defense costs and attorneys fees and claims for damages of any nature whatsoever, including but not limited to bodily injury, death, personal injury, or property damage, arising from, or alleged to arise from, the Foundation's activities, including its performance of this Agreement.

(b) The County agrees to indemnify, defend and hold harmless any member of the Board of Directors of the Foundation from and against any and all liability, expense, including defense costs and attorneys fees, and claims for damages from any nature whatsoever, arising out of an action or omission to act, provided such actions or omissions arose directly from the performance of duties by a County employee, within the scope of the work to be performed under this Agreement. However, the County shall not be held liable under this Agreement for settlements entered into or judgments rendered against any Foundation board member for acts or omission constituting bad faith, willful misfeasance, gross negligence or reckless disregard of duties.

SECTION 7. Independent Contractor Status

(a) This Agreement is by and between the County and the Foundation, and is not intended, and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture, or association as between the County and the Foundation. The employees and agents of one party shall not be, or construed to be, the employees or agents of the other party for any purpose whatsoever.

(b) The Foundation shall be solely liable and responsible, and the County shall have no liability or responsibility, for the payment of any unemployment benefits, disability benefits, federal, state, or local taxes, retirement or savings plan contributions, or other compensation, benefit or taxes of Foundation directors, employees or agents.

SECTION 8. Assignment

This Agreement, or any provision hereof, or any right or obligation arising hereunder, is not assignable by either party, in whole or in part, without the express written consent of the other party.

SECTION 9. Retention of Business Records

Foundation agrees that County or any duly authorized representative shall have access to and the right to examine, audit, excerpt, copy or transcribe any pertinent transaction, activity, time cards, or other records relating to this agreement. Such material shall be kept and maintained by Foundation at a location in Los Angeles County for a period of (4) years after completion of this agreement, unless County's written permission is given to dispose of such material prior to the end of such period.

SECTION 10. Notices

(a) Notices will be sent to Foundation addressed as follows:

LaVonne Rodstein (310) 377-2998
(Contact Person & Telephone Number)

Animal Care Foundation
(Agency)

P. O. Box 1053, Downey, CA 90240
(Addresses)

(b) Notices and reports shall be sent to County addressed as follows:

LOS ANGELES COUNTY
DEPARTMENT OF ANIMAL CARE AND CONTROL
11258 South Garfield Ave.
Downey, CA 90242

SECTION 11. Confidentiality

Foundation shall maintain the confidentiality of all records, including but not limited to County records, in accordance with all applicable federal, state, and local laws, regulations, ordinances, and directives to confidentiality.

SECTION 12. Conflict of Interest

(a) No County employee whose position in County enables such employee to influence the award or administration of this Agreement or any competing agreement, and no spouse or economic dependent of such employee, shall be employed in any capacity by Foundation herein, or have any other direct or indirect financial interest in this Agreement. No officer or employee of Foundation who may financially benefit from the provision of services hereunder shall in any way participate in County's approval, or ongoing evaluation of such services, or in any way attempt to unlawfully influence County's approval or ongoing evaluation of such service.

(b) Foundation shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Agreement. Foundation warrants that it is not now aware of any facts which create a conflict of interest. If Foundation hereafter becomes aware of any facts which might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to County. Full written disclosure shall include, without limitation, identification of all persons implicated, and a complete description of all relevant circumstances.

SECTION 13. Governing Law, Jurisdiction and Venue

This Agreement shall be governed by, and construed in accordance with, the laws of the State of California. Foundation agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this Agreement and further agrees and consents that venue of any action brought hereunder shall be exclusively in the County of Los Angeles, California.

SECTION 14. Changes and Amendments

This Agreement fully expresses the agreement between parties. Any modification or alteration of the terms or conditions of this Agreement must be by means of a written document approved by both parties. Normal conversation between any officer or employee of the parties shall not modify the terms or conditions of this agreement.

SECTION 15. County Property

All reports and work in progress generated by Foundation while rendering services to County hereunder shall be the property of County. Upon termination of this Agreement, Foundation shall submit to County all such reports and work in progress, and all materials and supplies furnished by County to Foundation.

SECTION 16. Compliance with Laws

(a) The Foundation shall comply in all respects with the anti-discrimination requirements of Los Angeles County Code section 4.32.010.

(b) The Foundation agrees to comply with all applicable federal, state and local laws, rules, regulations or ordinances, including those pertaining to employment of aliens, and all provisions required to be included herein and hereby incorporated by reference. The Foundation agrees to indemnify and hold County harmless from any loss, damage or liability resulting from violation of such laws, rules, regulations or ordinances on the part of the Foundation.

SECTION 17. Further Assurances

The parties confirm and agree that this Agreement is made and entered into in recognition of the longstanding public/private partnership between the County and the Council which has evolved over many years and will continue to do so. In light thereof, the parties jointly commit to meet and confer in good faith, upon the reasonable request of either, upon matters set forth in this Agreement and on any other issues related to the maintenance and operation of the Council.

IN WITNESS WHEREOF, the Foundation has executed this Agreement, or caused it to be duly executed, and the County of Los Angeles, by order of its Board of Supervisors has caused this Agreement to be executed on its behalf by the Chairman of the Board, and attested by the Executive Officer-Clerk of the Board thereof, on the day and year first above written.

COUNTY OF LOS ANGELES

Chair, Board of Supervisors

Violet Varona-Lukens, Executive Officer
Board of Supervisors of the County of Los Angeles

By _____
Deputy

**APPROVED AS TO FORM:
BY COUNTY COUNSEL:**

LLOYD W. PELLMAN
County Counsel

By _____
Deputy

**LOS ANGELES COUNTY
ANIMAL CARE FOUNDATION**

By _____
President