

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: October 17, 2006

☒ Consent ☐ Regular
☐ Ordinance ☐ Public Hearing

Department:

Submitted By: Public Safety Department

Submitted For: Animal Care and Control Division

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to receive and file: A standard agreement with Raphael Z. Gilbert, D.V.M. for veterinary services in an amount not to exceed \$10,000 for the period July 1, 2006 through September 30, 2007 for the Public Safety Department.

Summary: Resolution R97-583 authorizes the County Administrator or his designee to execute standard contracts with various Florida licensed veterinarians to provide needed part-time, relief and emergency "on-call" professional medical services for shelter animals. Countywide (DW)

Background and Justification:

Attachments:

1. Standard veterinary agreement

Recommended by:

Paul M. Lee
Department Director

Date

9/21/06

Approved By:

Vincent G. Benvenuto
Assistant County Administrator

Date

9/25/06

VETERINARY SERVICES CONTRACT

FOR

PALM BEACH COUNTY ANIMAL CARE AND CONTROL DIVISION
WEST PALM BEACH, FLORIDA

This Contract is made as of the 1st day of July, 2006, by and between Palm Beach County, a Political Subdivision of the State of Florida, by and through its Board of Commissioners hereinafter referred to as the COUNTY, and Raphael Z. Gilbert, D.V.M. [X] an individual, [] a partnership, [] a corporation authorized to do business in the State of Florida and who is licensed in the State of Florida, veterinary license # VM9737, hereinafter referred to as the VETERINARIAN, whose Federal I.D. or Social Security number is 094-62-8384, for a position hereinafter referred to as "Relief Veterinary Services," and/or "Emergency On-Call After-Hour Veterinary Services."

WHEREAS, it is necessary for the COUNTY to engage the services of a VETERINARIAN for relief veterinary services and emergency on-call after-hour veterinary services; and

WHEREAS, the VETERINARIAN is able to provide said services for compensation and shall be entitled to compensation under this Contract.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the COUNTY and the VETERINARIAN agree as follows:

ARTICLE 1 – SERVICES

The VETERINARIAN'S responsibility under this Contract is to provide professional/consultation services in the area of veterinary medicine, as more specifically set forth in the Scope of Work detailed in Exhibit "A".

The COUNTY'S representative/liaison during the performance of the Contract shall be Dianne M. Sauve, Director, telephone no. 561-233-1251.

The VETERINARIAN'S representative/liaison during the performance of the Contract shall be Raphael Z. Gilbert, DVM, telephone no. 917-399-6418.

ARTICLE 2 - CONTRACT SCHEDULE

The VETERINARIAN shall commence services on July 1, 2006 and complete all services by September 30, 2007. This Contract may be renewed by written mutual agreement of the parties for up to two (2) additional years for the same terms and conditions. Renewal is subject to available funding at the time of renewal. Reports and other items shall be delivered or completed in accordance with the detailed schedule set forth in Exhibit "A".

ARTICLE 3 - CHARGES AND RATES FOR SERVICE PAYMENT

The VETERINARIAN will be paid for all services ordered, hereunder at the following rates (fill in only those that are applicable):

A. HOURLY, DAILY AND/OR WEEKLY RATES:

1. RELIEF VETERINARY SERVICES

- a. Hourly rate for providing relief veterinary services from 8:00 a.m. to 5:00 p.m. when notice is given of need for services:
Hourly rate: \$50.00
- b. Daily rate for providing relief veterinary services (8 hours per day) from 8:00 a.m. to 5:00 p.m.:
Daily rate: \$400.00
- c. Weekly rate for providing relief veterinary services when the regular staff veterinarian will be away for five days or more:
Weekly rate: N/A

2. EMERGENCY ON-CALL AFTER-HOUR VETERINARY SERVICES

- a. Hourly rate for providing emergency on-call after-hour veterinary services for the Animal Care and Control shelter from 5:01 p.m. to 12:00 midnight weekdays (Monday through Friday):
Rate for first hour: N/A
Rate for second and subsequent hours: N/A
- b. Hourly rate for providing emergency on-call after-hour veterinary services for the Animal Care and Control shelter from 12 midnight to 8:00 a.m. weekdays (Monday through Friday):
Rate for first hour: N/A
Rate for second and subsequent hours: N/A
- c. Hourly rate for providing emergency on-call after-hour veterinary services for the Animal Care and Control shelter from 8:01 a.m. to 12:00 midnight each weekend (Saturday and Sunday) and county holidays (12 per year):
Rate for first hour: N/A
Rate for second and subsequent hours: N/A
- d. Hourly rate for providing emergency on-call after-hour veterinary services for the Animal Care and Control shelter from 12:00 midnight to 8:00 a.m. each weekend (Saturday and Sunday) and county holidays (12 per year):
Rate for first hour: N/A
Rate for second and subsequent hours: N/A
- e. Percentage discount of usual and customary charges for medications, materials, etc. when animals are treated at an alternative veterinary clinic.
Percentage discount: N/A
- f. If animals are treated off-site, maximum cost for each case: N/A

3. RATES FOR TELEPHONE CONSULTATIONS/COVERAGE PERIODS:

There is no charge for a telephone consultation when it is necessary to physically respond to an injured/sick animal case after hours.

Rate for each telephone consultation with personnel/veterinary technicians at the Animal Care and Control shelter from:

- a. 5:01 p.m. to 12:00 midnight weekdays (Monday through Friday):
Rate for each telephone call: N/A
- b. 12:00 midnight to 8:00 a.m. weekdays (Monday through Friday):
Rate for each telephone call: N/A
- c. 8:01 a.m. to 12:00 midnight each weekend (Saturday and Sunday) and county holidays (12 per year):
Rate for each telephone call: N/A
- d. 12:00 midnight to 8:00 a.m. each weekend (Saturday and Sunday) and county holidays (12 per year):
Rate for each telephone call: N/A

4. HOURLY RATE INVOLVING ANIMAL CRUELTY CASES:

- a. Hourly rate for serving as an expert witness in court for animal cruelty cases that the relief or emergency on-call after-hour veterinarian initially examined:
Hourly rate: N/A
- b. Hourly rate for responding to emergency on-call after-hour cases involving cruelty to animals directly at the scene of the alleged cruelty. It will be necessary to prepare a detailed written report for such cases. The need for

the emergency on-call after-hour veterinarian to perform these services will be infrequent.

Hourly rate: N/A

Invoices received from the VETERINARIAN pursuant to this Contract will be reviewed and approved by the COUNTY's representative, to verify that services have been rendered in conformity with the Contract. Approved invoices will then be sent to the Finance Department for payment. Invoices will normally be paid within thirty (30) days following the COUNTY representative's approval.

Invoices may be submitted to Animal Care and Control weekly or monthly. The VETERINARIAN shall receive no additional compensation for performance under this Contract except as provided for herein and under no circumstances shall the total value of all combined orders exceed \$ 10,000 in any one fiscal year. It is understood that the total amount that may be expended for all emergency on-call after-hour veterinary service contracts and all relief veterinary services shall not exceed that approved budget allocation for the Animal Care and Control Division.

Final Invoice: In order for both parties herein to close their books and records, the VETERINARIAN will clearly state "final invoice" on the VETERINARIAN'S final/last billing to the COUNTY. This shall constitute VETERINARIAN'S certification that all services have been properly performed and all charges and costs have been invoiced to Palm Beach County. Any other charges not properly included on this final invoice, are waived by the VETERINARIAN.

The COUNTY shall not be obligated to provide the VETERINARIAN with any fringe benefits. The COUNTY shall not be obligated to withhold U.S. income tax, withholding or social security tax, unemployment, or worker's compensation payments, and any similar withholdings. It is expressly understood that the VETERINARIAN is not entitled to participate in the State Retirement Program.

ARTICLE 4 - SCHEDULING

The veterinary responsibilities described below are only applicable for the charges and rates submitted by the VETERINARIAN in Article 3 above.

A. RELIEF VETERINARY SERVICES

The relief VETERINARIAN is to work at the Palm Beach County Animal Care and Control shelter when the staff veterinarian is unable to perform regular and routine duties due to scheduled or unscheduled leave (i.e. vacation, sickness/injury, required training, etc.). Under normal circumstances, the relief VETERINARIAN would only be called to perform back-up services during regular operational hours, 8:00 a.m. to 5:00 p.m. County holidays are normally excluded. Every attempt will be made by the COUNTY to give the relief VETERINARIAN at least 24 hours advance notice when his/her services are required. In the case of normal and scheduled vacation periods or training, the COUNTY will give at least seven days advance notice. There may be infrequent occasions when the relief VETERINARIAN would be needed to assist the staff veterinarian with an emergency situation (i.e. a massive animal cruelty seizure, an accident involving injuries to large numbers of animals, post hurricane or other disaster, etc.) Hourly rates may be applied to the nearest fifteen minute interval.

B. EMERGENCY ON-CALL AFTER-HOUR VETERINARY SERVICES

The COUNTY wishes to have all legitimately injured and seriously ill stray/unowned dogs, cats and various types of other animal cases reviewed or seen by a VETERINARIAN as soon as possible after impoundment.

The staff veterinarian will be responsible for the care of all stray/unowned injured/sick dogs, cats and other types of animals during his/her regular hours (usually Monday through Friday, 8:00 a.m. to 5:00 p.m.). The staff veterinarian will be scheduled to respond to 25%-40% of the "after-hour" emergency cases.

ARTICLE 5 - ROUTINE RESPONSIBILITIES

The veterinary responsibilities described below are only applicable for the charges and rates submitted by the VETERINARIAN in Article 3 above.

All of the services required hereunder shall be performed by the VETERINARIAN or under his/her supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

The VETERINARIAN warrants that all professional services shall be performed by skilled and competent personnel to the highest professional standards in the field.

A. RELIEF VETERINARY SERVICES

The relief VETERINARIAN is in a temporary caretaker position and in the absence of the regular staff veterinarian would be responsible for overseeing the overall health of incoming, impounded, and outgoing animals. The VETERINARIAN is to work closely with the clinic staff, clinic coordinator, kennel supervisor, and Division director in assuring that appropriate medical care is given to all animals under the responsibility of the Division according to established policies. While the VETERINARIAN may provide direction to the Division veterinary technicians, it is also expected that the VETERINARIAN will perform actual hands-on medical work with animals in the clinic.

The tasks of providing veterinary care for animals impounded at the Animal Care and Control shelter are not the same as would normally be expected from a private clinic treating/caring for private animals. The large volume of animals, the fact that approximately 70% of the animals are ultimately euthanized, and limited resources dictate veterinary strategies different than those in a private hospital.

Essentially, the Animal Care and Control Division is responsible for assuring that all impounded animals are kept comfortably in an environment that is as disease free as possible. Injured/sick animals are given sufficient and appropriate medical care to keep them comfortable and free of pain. Extensive surgery and complex medical treatments are generally inappropriate. For severely injured/sick animals, the VETERINARIAN will decide if such animals should be immediately euthanized (according to state law). The VETERINARIAN will need to give attention to diseases that are easily communicable from animal-to-animal.

The specific regular responsibilities of the VETERINARIAN, include but are not limited to:

1. Provide, coordinate, and direct appropriate medical care for small animals impounded at the Palm Beach County Animal Care and Control shelter according to established procedures. This care will include routine animal examinations performed by the VETERINARIAN, as well as prescribing and administering drugs for sick/injured animals.
2. Direct the animal case work performed by Animal Care and Control personnel who are providing routine and medical care of impounded animals. Clinic technicians are expected to perform routine medical procedures under the direction and supervision of the VETERINARIAN.
3. Perform medical treatments and analyses for adopted animals. This includes heartworm check, fecal analysis for internal parasites, and other laboratory

analyses that may be appropriate or warranted depending on the species and health of each particular animal. The VETERINARIAN will be responsible for the actual physical examination of each animal that is to be adopted. The VETERINARIAN, in conjunction with standard Division policy, will make the final decision as to an animal's fitness for adoption.

4. Surgically sterilize pre-scheduled adopted dogs and cats, older than eight weeks of age, unless medically inappropriate.
5. Monitor impounded animals with potentially dangerous diseases that may affect animal or human populations. The VETERINARIAN is responsible for initiating appropriate medical responses to such occurrences.
6. Use and direct personnel in the use of existing diagnostic equipment (x-ray, processor, etc.) for injured/sick animals where additional testing is indicated or required.
7. Assist in the review, evaluation and examination of animals that are subject to animal cruelty cases. In such cases, the VETERINARIAN may be required to go to where the animal(s) are located in Palm Beach County. The VETERINARIAN will provide the necessary assistance in determining if particular animals should be seized according to state law. In such cases, it will be necessary for the VETERINARIAN to prepare a detailed report of his/her medical findings, conclusions, and recommendations. It will also be necessary for the VETERINARIAN to serve as an expert witness for the COUNTY in such animal cruelty cases. It is expected that the relief VETERINARIAN would handle very few of these cases.

B. EMERGENCY ON-CALL AFTER-HOUR VETERINARY SERVICES

The emergency on-call after-hour VETERINARIAN will be notified by telephone or pager that Animal Care and Control has impounded an injured or sick animal. The animal care veterinary assistant or other trained personnel will provide the VETERINARIAN with the vital signs, observations and ownership status of the impounded animal. The VETERINARIAN will then determine if it is necessary or appropriate for him/her to examine the animal immediately or if sufficient instructions/directions may be given for appropriate disposition or stabilization according to established procedures. The COUNTY prefers that if appropriate and reasonable, cases be handled by telephone consultation with Animal Care and Control personnel. An animal that can be stabilized will be seen by the staff veterinarian on the next regular workday.

The VETERINARIAN will be required to immediately respond to examine/treat animals that have a known owner or are tagged according to established procedures.

Veterinary examinations will take place at the Animal Care and Control shelter, 7100 Belvedere Rd., West Palm Beach or at N/A. (The VETERINARIAN will designate which clinic will be used and what circumstances will affect that determination.) The "after-hour" VETERINARIAN will physically examine the injured/sick animal and make a determination as to whether: 1) the animal should be saved and given necessary medical treatment or 2) the animal should be euthanized because of the seriousness of the injuries/illness (according to state and local laws). If there is considerable uncertainty as to the condition of an injured/sick animal, additional limited diagnostic testing may be initiated (i.e. x-ray, blood tests, etc.). X-ray equipment and some diagnostic equipment are available at Animal Care and Control.

If the decision is made to treat the animal, then the VETERINARIAN is to either provide specific directions to the veterinary assistant or administer the initial

treatment himself/herself. If the animal is hospitalized, the staff veterinarian will monitor the condition of the animal and treat appropriately for the duration that the animal is at the shelter. The after-hour emergency VETERINARIAN is to give sufficient information to the staff veterinarian, in writing, concerning initial observations and treatment so that there is continuity in veterinary services for such animals.

It should be understood that the emergency veterinary care for stray/unowned impounded injured/sick animals is not the same as would be expected in a hospital where privately owned pets are treated. As many as 80% of these animals die because of the injury or are euthanized because the owner fails to reclaim it. Essentially, the Animal Care and Control Division is responsible for assuring that injured/sick animals are kept comfortable and are in as little pain as possible while staying at the Animal Care and Control shelter.

ARTICLE 6 - FACILITIES AND EQUIPMENT

During the term of this Contract, the COUNTY shall provide the VETERINARIAN with necessary drugs, surgical equipment, surgical apparel and supplies used to perform sterilization of animals. The COUNTY will attempt to comply with the VETERINARIAN'S request for preferred surgical equipment, materials, gowns, gloves and drugs as may be reasonably necessary for the VETERINARIAN to perform his duties as required by this Contract. The COUNTY will provide a full time veterinary technician for assistance in the surgery area.

Medical supplies used to treat injured/sick animals will be provided by the COUNTY, unless the animal is treated at an alternately approved veterinary clinic.

ARTICLE 7 - TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Contract by the VETERINARIAN shall also act as the execution of a truth-in-negotiation certificate certifying that the wage rates, over-heard charges, and other costs used to determine the compensation provided for in this Contract are accurate, complete and current as of the date of the Contract and no higher than those charged the VETERINARIAN'S most favored customer for the same or substantially similar service.

The said rates and costs shall be adjusted to exclude any significant sums should the COUNTY determine that the rates and costs were increased due to inaccurate, incomplete or non-current wage rates or due to inaccurate representations of fees paid to outside consultants. The COUNTY shall exercise its rights under this Article 4 within three (3) years following final payment.

ARTICLE 8 - FEDERAL AND STATE TAX

The COUNTY is exempt from payment of Florida State Sales and Use Taxes. The COUNTY will sign an exemption certificate submitted by the VETERINARIAN. The VETERINARIAN shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the COUNTY, nor is the VETERINARIAN authorized to use the COUNTY'S Tax Exemption Number in securing such materials.

The VETERINARIAN shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this contract.

ARTICLE 9 - AVAILABILITY OF FUNDS

The COUNTY'S performance and obligation to pay under this Contract for subsequent fiscal year's is contingent upon annual appropriations for its purposes by the Board of County Commissioners.

ARTICLE 10 - INSURANCE

- A. VETERINARIAN shall, at its sole expense, agree to maintain in full force and effect at all times during the life of this Contract, insurance coverages and limits (including endorsements), as described herein. VETERINARIAN shall agree to provide the COUNTY with at least ten (10) days prior notice of any cancellation, non-renewal or material change to the insurance coverages. The requirements contained herein, as well as COUNTY'S review or acceptance of insurance maintained by VETERINARIAN are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by VETERINARIAN under the Contract.
- B. **Commercial General Liability** VETERINARIAN shall maintain Commercial General Liability at a limit of liability not less than **\$500,000** Each Occurrence. Coverage shall not contain any endorsement excluding Contractual Liability or Cross Liability unless granted in writing by County's Risk Management Department. VETERINARIAN shall provide this coverage on a primary basis.
- C. **Business Automobile Liability** VETERINARIAN shall maintain Business Automobile Liability at a limit of liability not less than **\$500,000** Each Accident for all owned, non-owned and hired automobiles. In the event VETERINARIAN doesn't own any automobiles, the Business Auto Liability required shall be amended allowing VETERINARIAN to agree to maintain only Hired & Non-Owned Auto Liability. This amended required may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto coverage form. VETERINARIAN shall provide this coverage on a primary basis.
- D. **Worker's Compensation Insurance & Employers Liability** VETERINARIAN shall maintain Worker's Compensation & Employers Liability in accordance with Florida Statute Chapter 440. VETERINARIAN shall provide this coverage on a primary basis.
- E. **Professional Liability** VETERINARIAN shall maintain Professional Liability, or equivalent Errors & Omissions Liability at a limit of liability not less than **\$1,000,000** Each Claim. When a self-insured retention (SIR) or deductible exceeds **\$10,000**, COUNTY reserves the right, but not the obligation, to review and request a copy of VETERINARIAN'S most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis, VETERINARIAN shall maintain a Retroactive Date prior to or equal to the effective date of this Contract. The Certificate of Insurance providing evidence of the purchase of this coverage shall clearly indicate whether coverage is provided on an "occurrence" or "claims-made" form. If coverage is provided on a "claims-made" form, the Certificate of Insurance must also clearly indicate the "retroactive date" of coverage. In the event the policy is canceled, non-renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the life of this Contract, VETERINARIAN shall purchase a SERP with a minimum reporting period not less than 3 years. VETERINARIAN shall provide this coverage on a primary basis.
- F. **Additional Insured** VETERINARIAN shall endorse the COUNTY as an Additional Insured with a CG 2026 Additional Insured – Designated Person or Organization endorsement, or its equivalent, to the Commercial General Liability. The Additional Insured endorsement shall read
- "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents." VETERINARIAN shall provide the Additional Insured endorsements coverage on a primary basis.
- G. **Waiver of Subrogation** VETERINARIAN hereby waives any and all rights of Subrogation against the County, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then

VETERINARIAN shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which a condition to the policy specifically prohibits such an endorsement, or voids coverage should VETERINARIAN enter into such an agreement on a pre-loss basis.

- H. **Certificate(s) of Insurance** Prior to execution of this Contract, VETERINARIAN shall deliver to the COUNTY'S representative as identified in Article 26, a Certificate(s) of Insurance evidencing that all types and amounts of insurance coverages required by this Contract have been obtained and are in full force and effect. Such Certificate(s) of Insurance shall include a minimum ten (10) day endeavor to notify due to cancellation or non-renewal of coverage. The certificate of insurance shall be issued to

Palm Beach County
c/o Animal Care and Control
7100 Belvedere Road
West Palm Beach, FL 33411

- I. **Umbrella or Excess Liability** If necessary, VETERINARIAN may satisfy the minimum limits required above for either Commercial General Liability, Business Auto Liability, and Employer's Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for either Commercial General Liability, Business Auto Liability, or Employer's Liability. The COUNTY shall be specifically endorsed as an "**Additional Insured**" on the Umbrella or Excess Liability, unless the Certificate of Insurance notes the Umbrella or Excess Liability provides coverage on a "Follow-Form" basis.
- J. **Right to Review** COUNTY, by and through its Risk Management Department, in cooperation with the contracting/monitoring department, reserves the right to review, modify, reject or accept any required policies of insurance, including limits, coverages, or endorsements, herein from time to time throughout the term of this Contract. COUNTY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.

ARTICLE 11- INDEMNIFICATION

The VETERINARIAN shall protect, defend, reimburse, indemnify and hold COUNTY, its agents, employees and elected officers harmless from and against all claims, liability, expense, loss, cost, damages or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising during and as a result of their performance of the terms of this Contract or due to the acts or omissions of VETERINARIAN.

ARTICLE 12 - SUCCESSORS AND ASSIGNS

The COUNTY and the VETERINARIAN each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Contract and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract. Except as above, neither the COUNTY nor the VETERINARIAN shall assign, sublet, convey or transfer its interest in this Contract without the prior written consent of the other, except that the VETERINARIAN may assign his/her right to receive payment. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the COUNTY, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the COUNTY and the VETERINARIAN.

ARTICLE 13 - REMEDIES

This Contract shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the Contract will be held in Palm Beach County. No remedy herein conferred upon any

party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

ARTICLE 14 - CONFLICT OF INTEREST

The VETERINARIAN represents that he/she presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance or services required hereunder, or as provided for in Chapter 112, Part III, Florida Statutes. The VETERINARIAN further represents that no person having any such conflict of interest shall be employed for said performance of services.

The VETERINARIAN shall promptly notify the COUNTY'S representative, in writing by certified mail, of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the VETERINARIAN'S judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the VETERINARIAN may undertake and request an opinion of the COUNTY, as to whether the association, interest or circumstance would, in the opinion of the COUNTY constitute a conflict of interest if entered into by the VETERINARIAN. The COUNTY agrees to notify the VETERINARIAN of his/her opinion by certified mail within thirty (30) days of receipt of notification by the VETERINARIAN. If, in the opinion of the COUNTY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the VETERINARIAN, the COUNTY shall so state in the notification and the VETERINARIAN shall, at his/her option, enter into said association, interest or circumstance and he/she shall be deemed not in conflict of interest with respect to services provided to the COUNTY by the VETERINARIAN under the terms of this Contract.

ARTICLE 15 - EXCUSABLE DELAYS

The VETERINARIAN shall not be considered in default by reason or any failure in performance if such failure arises out of causes reasonably beyond the control of the VETERINARIAN or its subcontractors and without their fault or negligence. Such causes include, but are not limited to, acts of God, force majeure, natural or public health emergencies, labor disputes, freight embargoes, and abnormally severe and unusual weather conditions.

Upon the VETERINARIAN'S request, the COUNTY shall consider the facts and extent of any failure to perform the work and, if the VETERINARIAN'S failure to perform was without it or its subcontractors fault or negligence, the Contract Schedule and/or any other affected provision of this Contract shall be revised accordingly, subject to the COUNTY'S rights to change, terminate, or stop any or all of the work at any time.

ARTICLE 16 - ARREARS

The VETERINARIAN shall not pledge the COUNTY'S credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. The VETERINARIAN further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract.

ARTICLE 17 - DISCLOSURE AND OWNERSHIP OF DOCUMENTS

The VETERINARIAN shall deliver to the COUNTY'S representative for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the COUNTY under this Contract.

To the extent allowed by Chapter 119, Florida Statutes, all written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by the COUNTY or at its expense will be kept confidential by the VETERINARIAN and

will not be disclosed to any other party, directly or indirectly, without the COUNTY'S prior written consent unless required by a lawful court order. All drawings, maps, sketches, programs, data base, reports and other data developed, or purchased, under this Contract for or at the COUNTY's expense shall be and remain the COUNTY'S property and may be reproduced and reused at the discretion of the COUNTY.

The COUNTY and the VETERINARIAN shall comply with the provisions of Chapter 119, Florida Statute (Public Records Law).

All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Contract and the consummation of the transactions contemplated hereby.

ARTICLE 18 - INDEPENDENT CONTRACTOR RELATIONSHIP

The VETERINARIAN is, and shall be, in the performance of all work services and activities under this Contract, an Independent CONTRACTOR, and not an employee, agent, or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to this Contract shall at all times, and in all places, be subject to the VETERINARIAN'S sole direction, supervision, and control. The VETERINARIAN shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the VETERINARIAN'S relationship and the relationship of its employees to the COUNTY shall be that of an Independent Contractor and not as employees or agents of the COUNTY.

The VETERINARIAN does not have the power or authority to bind the COUNTY in any promise, agreement or representation.

ARTICLE 19 - CONTINGENT FEES

The VETERINARIAN warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the VETERINARIAN to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the VETERINARIAN, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Contract.

ARTICLE 20 - ACCESS AND AUDITS

The VETERINARIAN shall maintain adequate records related to all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years after completion of this Contract. The COUNTY shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the VETERINARIAN'S place of business.

ARTICLE 21- NONDISCRIMINATION

The VETERINARIAN warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation.

ARTICLE 22 - ENFORCEMENT COSTS

If any legal action or other proceeding is brought for the enforcement of this Contract, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Contract, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses (including taxes) even if not taxable as court costs (including, without limitation, all such fees, costs and expenses incident to appeals), incurred in

that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

ARTICLE 23 - AUTHORITY TO PRACTICE

The VETERINARIAN hereby represents and warrants that he/she has and will continue to maintain all licenses and approvals required to conduct his/her business, and that he/she will at all times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the COUNTY'S representative upon request.

ARTICLE 24 - SEVERABILITY

If any term or provision of this Contract, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Contract, or the application of such terms or provisions, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Contract shall be deemed valid and enforceable to the extent permitted by law.

ARTICLE 25 - PUBLIC ENTITY CRIMES

As provided in F.S. 287.132-133, by entering into this Contract or performing any work in furtherance hereof, the VETERINARIAN certifies that he/she, his/her affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the date hereof. This notice is required by Florida Statutes, Section 287.133(3)(a).

ARTICLE 26 - CRIMINAL HISTORY RECORDS CHECK

The CONSULTANT shall comply with the provisions of Ordinance 2003-030, the Criminal History Records Check Ordinance ("Ordinance"), if CONSULTANT'S employees or subcontractors are required under this contract to enter a "critical facility" as identified in Resolution R-2003-1274. The CONSULTANT acknowledges and agrees that all employees and subcontractors who are to enter a "critical facility" will be subject to a fingerprint based criminal history records check. Although COUNTY agrees to pay for all applicable FDLE/FBI fees required for criminal history record checks, the CONSULTANT shall be solely responsible for the financial, schedule, and staffing implications associated in complying with Ordinance 2003-030.

ARTICLE 27 - MODIFICATIONS OF WORK

The COUNTY reserves the right to make changes in Scope of Work, including alterations, reductions therein or additions thereto. Upon receipt by the VETERINARIAN of the COUNTY'S notification of a contemplated change, the VETERINARIAN shall, in writing: (1) provide a detailed estimate for the increase or decrease in cost due to the contemplated change; (2) notify the COUNTY of any estimated change in the completion date, and (3) advise the COUNTY if the contemplated change shall affect the VETERINARIAN'S ability to meet the completion dates or schedules of this Contract.

If the COUNTY so instructs in writing, the VETERINARIAN shall suspend work on that portion of the Scope of Work affected by a contemplated change, pending the COUNTY'S decision to proceed with the change.

If the COUNTY elects to make the change, the COUNTY shall initiate a Contract Amendment and the VETERINARIAN shall not commence work on any such change until such written amendment is signed by the VETERINARIAN and approved and executed on behalf of Palm Beach County.

ARTICLE 28 - NOTICE

All notices required in this Contract shall be sent by certified mail, return receipt requested, hand delivery or other delivery service requiring signed acceptance. If sent to the COUNTY, notices shall be addressed to:

County Administrator
P.O. Box 1989
West Palm Beach, Florida 33402

and

Animal Care and Control
7100 Belvedere Road
West Palm Beach, Florida 33411

with a copy to: Palm Beach County Attorney's Office
301 North Olive Avenue
West Palm Beach, Florida 33401

and if sent to the VETERINARIAN shall be addressed to:

Raphael Z. Gilbert, DVM
4794 North Citation Drive
Apt. #201
Delray Beach, FL 33445

ARTICLE 29 - ENTIRETY OF CONTRACTUAL AGREEMENT

The COUNTY and the VETERINARIAN agree that this Contract sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Contract may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto in accordance with Article 27 – Modifications of Work.

ARTICLE 30 - TERMINATION

This Contract may be terminated by the VETERINARIAN upon sixty (60) days prior written notice to the COUNTY'S representative in the event of substantial failure by the COUNTY to perform in accordance with the terms of this Contract through no fault of the VETERINARIAN. It may also be terminated, in whole or in part, by the COUNTY, with or without cause, immediately upon written notice to the VETERINARIAN. Unless the VETERINARIAN is in breach of this Contract, the VETERINARIAN shall be paid for services rendered to the COUNTY'S satisfaction through the date of termination.

After receipt of a Termination Notice and except as otherwise directed by the COUNTY, the VETERINARIAN shall:

- A. Stop work on the date and to the extent specified.
- B. Terminate and settle all orders and subcontracts relating to the performance of the terminated work.
- C. Transfer all work in process, completed work, and other materials related to the terminated work to the COUNTY.
- D. Continue and complete all parts of the work that have not been terminated.

ARTICLE 31 – REGULATIONS; LICENSING REQUIREMENTS:

The VETERINARIAN shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, to include those applicable to conflict of interest and collusion. The VETERINARIAN is presumed to be familiar with all federal, state and local laws, ordinances, codes and regulations that may in any way affect the services offered.

IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this Contract on behalf of the COUNTY and VETERINARIAN has hereunto set its hand the day and year above written

ON BEHALF OF
PALM BEACH COUNTY, FLORIDA
BOARD OF COUNTY COMMISSIONERS

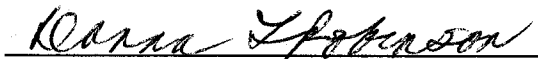
By: 

Vincent J. Bonvento

Title: Assistant County Administrator

WITNESSES AS TO THE
VETERINARIAN

VETERINARIAN



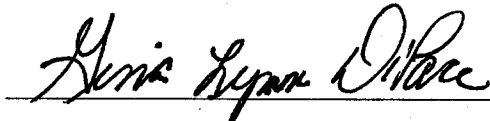
By: 

Donna L. Robinson

Name (type or print)

RAPHAEL Z. GILBERT, DVM

Name (type or print)



Gina Lynn DiPace

Name (type or print)

Sept. 5

, 2006

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: 

Dawn Wynn, Asst. County Attorney

APPROVED AS TO TERMS
AND CONDITIONS

By: 

Paul Milelli, Director Public Safety

TOTAL P.001

ACORD CERTIFICATE OF LIABILITY INSURANCE						DATE (MM/DD/YY) 8/15/2006	
PRODUCER AVMA Professional Liability Insurance Trust C/O Hub International Illinois 55 East Jackson Boulevard Chicago, IL 60604-4187				THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.			
INSURED Raphael Z. Gilbert, DVM 4794 North Citation Drive Apt. #201 Del Ray Beach, FL 33445				COMPANIES AFFORDING COVERAGE			
				COMPANY A Zurich American Insurance Company			
				COMPANY B			
				COMPANY C			
COMPANY D							
COVERAGES							
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.							
CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS		
A	GENERAL LIABILITY	099818	VPL	1/01/06	1/01/07	GENERAL AGGREGATE	\$3,000,000
	COMMERCIAL GENERAL LIABILITY						
	CLAIMS MADE <input type="checkbox"/> OCCUR <input type="checkbox"/>						
	OWNER'S & CONTRACTOR'S PROT						
X	Prof. Liab.					EACH OCCURRENCE	\$1,000,000
						FIRE DAMAGE (Any one fire)	\$
						MED EXP (Any one person)	\$
	AUTOMOBILE LIABILITY					COMBINED SINGLE LIMIT	\$
	ANY AUTO					BODILY INJURY (Per person)	\$
	ALL OWNED AUTOS					BODILY INJURY (Per accident)	\$
	SCHEDULED AUTOS					PROPERTY DAMAGE	\$
	HIRED AUTOS						
	NON-OWNED AUTOS						
	GARAGE LIABILITY					AUTO ONLY - EA ACCIDENT	\$
	ANY AUTO					OTHER THAN AUTO ONLY:	
						EACH ACCIDENT	\$
						AGGREGATE	\$
	EXCESS LIABILITY					EACH OCCURRENCE	\$
	UMBRELLA FORM					AGGREGATE	\$
	OTHER THAN UMBRELLA FORM						\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY					WC STATUTORY LIMITS	OTH. ER
	THE PROPRIETOR/PARTNERS/EXECUTIVE OFFICERS ARE:					EL EACH ACCIDENT	\$
	<input type="checkbox"/> INCL <input type="checkbox"/> EXCL					EL DISEASE - POLICY LIMIT	\$
	OTHER					EL DISEASE - EA EMPLOYEE	\$
DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS Professional Liability Insurance Trust Master Policy #EOL-5241302-01.							
CERTIFICATE HOLDER Palm Beach County Board of County Commissioners 7100 Belverdere Road West Palm Beach, FL 33411				CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE Martin P. Hughes			
GGM ACORD 255 (1/98)				ACORD CORPORATION 1988			

P.001/001

AVMA PLIT

AVG-15-2006 16:08

