

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: September 11, 2007 Consent Regular
 Workshop Public Hearing

Department

Submitted By: Environmental Resources Management
Parks and Recreation

Submitted For: Environmental Resources Management
Parks and Recreation

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: Cooperative Service Agreement (Agreement) with the United States Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS), Wildlife Services (WS) for services to control destructive or nuisance animals throughout the County, for a term of five (5) years, not to exceed \$553,280.

Summary: APHIS/WS will monitor and assist the County in controlling destructive wild and feral animals that are jeopardizing human health and safety, preying on threatened and endangered species or damaging ecologically sensitive lands or public resources in County parks and natural areas. This Agreement is similar to a previous Agreement the County had with APHIS/WS, with the exception of three articles. The three articles in the previous agreement dealt with the location of legal proceedings for any legal actions necessary to enforce the Agreement, the costs associated with enforcement of the terms of the Agreement and a severability clause providing that if one section of the Agreement was found invalid, it would not affect the remaining portions of the Agreement. APHIS/WS has informed the County that they will not alter their standard agreement which they use in providing services to numerous other state and local governmental agencies throughout the country. Those three articles are not in their standard agreement and therefore, are not included in the attached Agreement. Staff from the Department of Environmental Resources Management (ERM) has found that APHIS/WS has the most qualified personnel, has the appropriate equipment, and is the most effective at providing the desired services at the most reasonable cost. ERM recommends continuing to use the services of APHIS/WS in accordance with the terms of their standard Agreement format. The County will reimburse APHIS/WS for services rendered not to exceed \$108,160 in FY2008; \$110,240 in FY2009 and FY2010; and \$112,320 in FY2011 and FY2012. It is anticipated that ERM will provide no more than \$93,160 and that the Parks and Recreation Department will provide no more than \$15,000 in FY2008. Countywide (SF)

(continued on Page 3)

Attachments:

1. Cooperative Service Agreement

Recommended by:

Burt Miller
 Department Director

8/24/07
 Date

Approved by:

John J. ...
 County Administrator

9/11/07
 Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2008	2009	2010	2011	2012
Capital Expenditures					
Operating Costs	<u>108,160</u>	<u>110,240</u>	<u>110,240</u>	<u>112,320</u>	<u>112,320</u>
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>108,160</u>	<u>110,240</u>	<u>110,240</u>	<u>112,320</u>	<u>112,320</u>
# ADDITIONAL FTE					
POSITIONS (Cumulative)	_____	_____	_____	_____	_____
Is Item Included in <i>Proposed</i> ERM Budget?			Yes <input checked="" type="checkbox"/>	No _____	
Is Item Included in <i>Proposed</i> Parks Budget?			Yes <input checked="" type="checkbox"/>	No _____	
Budget Account No.:	Fund <u>1226</u> <u>0001</u>	Department <u>380</u> <u>580</u>	Unit <u>3162</u> <u>5221</u>	Object <u>3401</u> <u>3401</u>	

B. Recommended Sources of Funds/Summary of Fiscal Impact:

FY2008 funding to be provided as follows:
 ERM \$93,160 Natural Areas Fund (1226)
 Parks \$15,000 General Fund (0001)
108,160

C. Department Fiscal Review: *JF*

III. REVIEW COMMENTS

A. OFMB Fiscal and /or Contract Dev. and Control Comments:

[Signature] 8-29-07
 OFMB CN 8/27/07

[Signature] 8/30/07
 Contract Development and Control
 ERM 8/30/07

B. Legal Sufficiency:

[Signature]
 Assistant County Attorney

This Contract complies with our contract review requirements.

C. Other Department Review:

[Signature]
 Department Director

Background and Justification: The County owns and manages land that contains many plants and animals that are endemic to Florida. Some of these are listed as endangered or threatened and in need of stringent protection. One of the greatest dangers to the listed plant and animal communities are non-endemic and nuisance animals that cause threats to public health and safety when their populations become artificially inflated due to human activities. The Cooperative Service Agreement provides for an APHIS/WS wildlife specialist to monitor and control nuisance wildlife at County parks and natural areas. Funding has been requested in the FY 2008 Budget.

WS-ER (7/07)

Agreement No.:
Accounting Code:

COOPERATIVE SERVICE AGREEMENT
between
PALM BEACH COUNTY
and
UNITED STATES DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE (APHIS)
WILDLIFE SERVICES (WS)

This Cooperative Service Agreement ("Agreement") is made and entered into on the _____ day of _____, 2007, by and between Palm Beach County, a political subdivision of the State of Florida, a public agency as defined in Part I of Chapter 163, Florida Statutes, by and through its Board of County Commissioners ("COUNTY") and the United States Department of Agriculture ("USDA"), Animal and Plant Health Inspection Service, Wildlife Services ("APHIS WS"), hereinafter referred to collectively as the parties.

ARTICLE 1

The COUNTY owns and manages land that contains many plants and animals that are endemic to Florida. Some of these are listed as endangered or threatened and in need of stringent protection. One of the greatest dangers to the listed plant and animal communities are non-endemic and nuisance animals that prey upon listed species and destroy habitat necessary to their survival. Additionally, the non-endemic and nuisance animals can cause threats to public health and safety when their populations become artificially inflated due to human activities.

The purpose of this Agreement is to to implement a program to monitor and control feral hogs and other wildlife that are jeopardizing human health and safety, preying on threatened and endangered species, or damaging ecologically sensitive lands or public resources belonging to the COUNTY and designated as protected lands and parks by the Department of Environmental Resources Management (ERM) and the Parks and Recreation Department (Parks/Rec).

ARTICLE 2

APHIS WS has statutory authority under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C.426-426b) as amended, and the Act of December 22, 1987 (101Stat. 1329-331, 7 U.S.C. 426c), to cooperate with States, local jurisdictions, individuals, public and private agencies, organizations, and institutions while conducting a program of wildlife services involving mammal and bird species that are reservoirs for zoonotic diseases, or animal

species that are injurious and/or a nuisance to, among other things, agriculture, horticulture, forestry, animal husbandry, wildlife, and human health and safety.

ARTICLE 3

This Agreement shall become effective on October 1, 2007, and shall expire on September 30, 2012.

ARTICLE 4

APHIS-WS and the COUNTY mutually agree:

1. The parties' authorized representatives who shall be responsible for carrying out the provisions of this Agreement shall be:

ERM: Richard E. Walesky, Director
Dept. of Environmental Resources Mgmt.
Palm Beach County
2300 North Jog Rd
West Palm Beach, FL 33411-2743
(561)233-2400
(561)233-2414 (FAX)

Parks/Rec: Dennis Eshleman, Director
Parks and Recreation Department
Palm Beach County
John Prince Park
2700 Sixth Avenue, South
Lake Worth, FL 33461
(561)966-6600
(561)963-6719 (FAX)

APHIS-WS: Bernice Constantin
USDA, APHIS, WS
2820 East University Avenue
Gainesville, FL 32641
(352)377-5556
(352)377-5559 (FAX)

2. To meet as determined necessary by either party to discuss mutual program interests, accomplishments, needs, technology, and procedures to maintain or amend the Work Plan (Attachment A). Personnel authorized to attend meetings under this Agreement shall be the ERM Director, Parks/Rec Director, the State Director (WS), their designees, and/or those additional persons authorized and approved by ERM, Parks/Rec, and the State Director.

3. APHIS-WS shall perform services more fully set forth in the Work Plan, which is attached hereto and made a part hereof. The parties may mutually agree in writing, at any time during the term of this Agreement, to amend, modify, add or delete services from the Work Plan.

ARTICLE 5

The COUNTY agrees:

1. To authorize APHIS-WS to conduct direct control activities to reduce risks to threatened and endangered species, human health and safety, and property damage associated with non-endemic and nuisance animals as provided in the Work Plan. These activities are defined in the Work Plan. APHIS-WS will be considered an invitee on the project areas controlled by the COUNTY while present to perform activities or services pursuant to this Agreement. The COUNTY will be required to exercise reasonable care to warn APHIS-WS as to dangerous conditions or activities in the project areas.
2. To reimburse APHIS-WS for costs of services provided under this Agreement in amounts up to but not exceeding the amount specified in the Financial Plan (Attachment B). The COUNTY will begin processing payment invoices submitted by APHIS-WS within 30 days of receipt. The COUNTY ensures and certifies that it is not currently debarred or suspended and is free of delinquent Federal debt.
3. To designate to APHIS-WS a contract manager whose responsibility shall be coordination and administration of COUNTY activities conducted pursuant to this Agreement.
4. To notify APHIS-WS verbally or in writing as far in advance as practical of the date and time of any proposed meeting related to the program.
5. That APHIS-WS shall be responsible for administration and supervision of the program describe in Attachment A.
6. That all equipment purchased by APHIS-WS for the program is and will remain the property of APHIS-WS.
7. To coordinate with APHIS-WS before responding to all media requests relating to the services which USDA-WS provides to the COUNTY.
8. To obtain the appropriate permits for removal activities for nuisance wildlife and list USDA, APHIS, Wildlife Services as subpermitees.

ARTICLE 6

APHIS-WS Agrees:

1. To conduct activities on the COUNTY properties as described in the Work and Financial Plans attached hereto.
2. Designate to the COUNTY the authorized APHIS-WS individual who shall be responsible for the joint administration of the activities conducted pursuant to this Agreement.
3. To bill the COUNTY for actual costs incurred by APHIS-WS during the performance of services agreed upon and specified in the Work Plan. APHIS-WS shall itemize and invoice ERM and Parks/Rec charges separately. APHIS-WS shall keep records and receipts of all reimbursable expenditures hereunder for a period of not less than three years from the date of completion of the services provided under this Agreement and the COUNTY shall have the right to inspect and audit such records.
4. To coordinate with the COUNTY before responding to all media requests relating to the services which the COUNTY provides to USDA-WS.

ARTICLE 7

This Agreement is contingent upon the passage by Congress of an appropriation from which expenditures may be legally met and shall not obligate APHIS upon failure of Congress to so appropriate. This Agreement may also be reduced or terminated if Congress only provides APHIS funds for a finite period under a Continuing Resolution.

This Agreement is also contingent upon annual appropriations for its purpose by the Palm Beach County Board of County Commissioners. If the appropriation is not approved, neither APHIS-WS nor the County is required to perform under the terms of this Agreement.

ARTICLE 8

APHIS assumes no liability for any actions or activities conducted under this Cooperative Service Agreement except to the extent that recourse or remedies are provided by Congress under the Federal Tort Claims Act (28 U.S.C. 1346(b), 2401(b), and 2671-2680).

To the extent permitted by law, the COUNTY shall indemnify, defend and hold harmless APHIS-WS against any actions, claims or damage arising out of the

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COUNTY's negligence in connection with this Agreement, and APHIS-WS shall indemnify, defend and hold harmless the COUNTY against any actions, claims or damage arising out of the APHIS-WS's negligence in connection with this Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28, nor shall the same be construed to constitute agreement by either party to indemnify the other party for such other party's negligent willful or intentional acts or omissions. This article will survive the termination or expiration of this Agreement.

ARTICLE 9

Pursuant to Section 22, Title 41, United States Code, no member of or delegate to Congress shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom.

ARTICLE 10

All activities will be conducted in accordance with all applicable Federal, State and local laws, rules, and regulations. Nothing in this Agreement shall prevent APHIS- WS from entering into separate agreements with any other organization or individual for the purpose of providing wildlife damage management services exclusive of those provided for under this Agreement.

ARTICLE 11

The COUNTY certifies that APHIS-WS has advised the COUNTY that other private sector service providers may be available to provide wildlife management services and notwithstanding these other options, the COUNTY requests that APHIS-WS provide wildlife management services as stated under the terms of this Agreement.

ARTICLE 12

The performance of wildlife damage management actions by APHIS-WS under this Agreement is contingent upon a determination by APHIS-WS that such actions are in compliance with the National Environmental Policy Act, Endangered Species Act, and any other applicable environmental statutes. APHIS-WS will not make a final decision to conduct requested wildlife damage management actions until it has made the determination of such compliance.



ARTICLE 13

This Agreement may be amended at any time by mutual agreement of the parties in writing. Also, this Agreement may be terminated at any time by mutual agreement of the parties in writing, or by one party provided that party notifies the other in writing at least 120 days prior to effecting such action. Further, in the event the COUNTY does not provide necessary funds, APHIS-WS is relieved of the obligation to provide services under this Agreement.

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IN WITNESS WHEREOF, the COUNTY OF PALM BEACH, FLORIDA has caused this Agreement to be executed on its behalf by the Chair of the Board of County Commissioners and the seal of said Board to be affixed hereto and attested by the Clerk of said Board, pursuant to authority granted by said Board, and APHIS WS has caused this Agreement to be executed on its behalf, as of October 1, 2007.

**PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY COMMISSIONERS:**

BY: _____
Addie L. Greene, Chairperson

ATTEST: Sharon R. Bock, CLERK
& COMTROLLER

Date

BY: _____

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

County Attorney Date

County Attorney Date

APPROVED AS TO TERMS
AND CONDITIONS:

Richard E. Walesky 8/23/07
Richard E. Walesky, Director Date
Environmental Resources Management

Dennis Eshleman
Dennis Eshleman, Director Date
Parks and Recreation

In accordance with the Debt Collection Improvement Act of 1996, the Department of Treasury requires a **Taxpayer Identification Number** for individuals or businesses conducting business with the agency.

Palm Beach County Taxpayer Identification Number (TIN) 59-6000785

**UNITED STATES DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE
WILDLIFE SERVICES**

BY: _____
Charles S. Brown Date
Director, Eastern Region
USDA, APHIS, WS
920 Main Campus Drive; Suite 200
Raleigh, NC 27606

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ATTACHMENT A WORK PLAN

Introduction

The U.S. Department of Agriculture (USDA) is authorized to protect American agriculture and other resources from damage associated with wildlife. The primary authority for Wildlife Services (WS) is the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C.426-426b) as amended, and the Act of December 22, 1987 (101Stat. 1329-331, 7 U.S.C. 426c). Wildlife Services activities are conducted in cooperation with other Federal, State and local agencies; private organizations and individuals.

The WS program uses an Integrated Wildlife Damage Management (IWDM) approach (sometimes referred to as IPM or "Integrated Pest Management") in which a series of methods may be used or recommended to reduce wildlife damage. IWDM is described in Chapter 1, 1-7 of the Animal Damage Control Program Final Environmental Impact Statement (USDA, 1994). These methods include the alteration of cultural practices as well as habitat and behavioral modification to prevent damage. However, controlling wildlife damage may require that the offending animal(s) are killed or that the populations of the offending species be reduced.

Purpose

Palm Beach County owns and manages land that contains many plants and animals that are endemic to Florida. Some of these are listed as endangered or threatened and in need of stringent protection. One of the greatest dangers to the listed plant and animal communities are non-endemic and nuisance animals that prey upon listed species, and destroy habitat necessary to their survival. Additionally, the non-endemic and nuisance animals can cause threats to public health and safety when their populations become artificially inflated due to human activities.

The purpose of this Cooperative Service Agreement is to monitor and control feral hogs and other wildlife that are jeopardizing human health and safety, preying on threatened and endangered species, damaging property, or damaging ecologically sensitive lands or public resources belonging to Palm Beach County.

Feral hogs are large, non-endemic, omnivorous animals common to Florida that have been observed in most of the larger natural areas owned by Palm Beach County. The species has the highest reproductive potential of any large mammal in North America, and feral swine are notorious for detrimental impacts to sensitive habitats. The ecological consequences that feral hogs impose upon their environment are multi-faceted. Common concerns are habitat degradation, predation on native species, and competition with native species. They are capable of destroying entire plant

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communities through their rooting activities. Some of these plant communities contain threatened or endangered plants and animals. Feral hogs are known nest predators of threatened and endangered sea turtles and gopher tortoises. They frequently prey upon other rare herpetofauna and ground-nesting birds. Additionally, feral hogs harbor a number of diseases transmittable to livestock and humans. Two diseases commonly found in feral hogs are brucellosis and pseudorabies. Of recent concern is the fact that feral swine are a potential mixing vessel for avian influenza virus, as feral hogs can harbor both avian and human strains of virus. This concern would magnify if highly pathogenic avian influenza virus (H5N1) were to manifest itself in North America.

Other non-indigenous and nuisance animals can be destructive to native plant and animal communities, damage property, or present human health and safety concerns, particularly when their populations become artificially inflated due to human activities. Examples include feral waterfowl, coyotes, non-endemic reptiles, rats, squirrels, and raccoons.

Planned USDA, APHIS, Wildlife Services Activities

In order to conserve native plant and animal communities on land owned by Palm Beach County, protect Palm Beach County property, and protect human health and safety interests, the USDA APHIS Wildlife Services, under the terms of this Agreement with Palm Beach County, will provide the following services:

1. Monitor feral hog damage and activity on sites owned by Palm Beach County, and control feral hogs through trapping, shooting, and exclusion when applicable.
2. Monitor properties designated by Palm Beach County for nuisance wildlife activity.
3. Provide a qualified Wildlife Biologist to remove nuisance wildlife from parks or protected lands belonging to Palm Beach County. This Wildlife Biologist will use the Integrated Wildlife Damage Management approach.
4. Seek new methods to more effectively locate and remove nuisance wildlife from protected lands belonging to Palm Beach County and to use such methods, if approved by Palm Beach County.
5. Monitor and improve efficacy of nuisance wildlife control on parks and protected lands belonging to Palm Beach County.
6. Provide data associated with the monitoring and removal of feral and nuisance wildlife to the COUNTY authorized individuals on a regular and consistent basis.

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**USDA, APHIS, WS
INTEGRATED WILDLIFE DAMAGE
MANAGEMENT
FINANCIAL PLAN**

FOR

PALM BEACH COUNTY

Funding

The COUNTY shall compensate WS for services rendered under the Work Plan attached as Attachment A as follows:

1. For year one (FY 2008) of this Agreement, the COUNTY will reimburse WS at the rate of \$52.00 per hour up to a total amount not to exceed \$108,160.00.
2. For years two and three (FY 2009 and 2010), the COUNTY will reimburse WS at the rate of \$53.00 per hour up to a total amount not to exceed \$110,240.00.
3. For years four and five (FY 2011 and 2012), the COUNTY will reimburse WS at the rate of \$54.00 per hour up to a total amount not to exceed \$112,320.00.
4. The COUNTY will only reimburse WS for the hourly rate of the qualified Wildlife Biologist while (s)he is directly removing nuisance wildlife from parks or protected lands belonging to Palm Beach County. Notwithstanding, if approved in advance by the COUNTY, the COUNTY will reimburse WS for the time spent by the authorized Wildlife Biologist to attend meetings, conferences and trainings that provide the authorized Wildlife Biologist with knowledge or skills that will be used in the performance of this Agreement.
5. There shall be no additional reimbursable expenses, other than the hourly rates provided herein.

Financial Point of Contact

COUNTY: Kraig Krum
<Name to call for billing questions>

(561) 233-2400
Phone

APHIS, WS: Jane E. Hatcher

(352) 377-5556
Phone

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