

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: September 13, 2016 [X] Consent [] Regular
[] Public Hearing

Department: Department of Public Safety
Submitted By: Department of Public Safety
Submitted For: Division of Animal Care and Control

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to receive and file: A) Donation Agreement with Petey's Playhouse, LLC (d.b.a. Darbster Dog DayCare), and B) Donation Agreement with Scenthound Holdings, LLC.

Summary: On April 5, 2016, the County (BCC) adopted Resolution R2016-0458 approving a standard donation agreement for the provision of free or discounted goods and services for each individual who adopts an animal from Palm Beach County Division of Animal Care and Control. These executed donation agreements are now being submitted to the Board to receive and file. Countywide (SF)

Background and Justification: The provision of donated items to adopters provides an additional incentive for residents to adopt, gives new pet owners additional resources to properly care for their new pet, and is in line with the Division's mission of promoting and maintaining responsible pet ownership in the County.

Attachments:

1. Donation Agreement with Petey's Playhouse, LLC (d.b.a. Darbster Dog DayCare)
2. Donation Agreement with Scenthound Holdings, LLC

Recommended by: Stephanie Seinoke 8/24/16
Department Director Date

Approved by: [Signature] 9/8/16
Deputy County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2016	2017	2018	2019	2020
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	<u> 0 </u>	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u> 0 </u>	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes No

Budget Account Exp No: Fund _____ Department _____ Unit _____ Object _____
 Rev No: Fund _____ Department _____ Unit _____ RevSc _____

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

There is no fiscal impact. Donations received by the County's Animal Care and Control Division from Petey's Playhouse, LLC and Scenthound Holdings, LLC will be donated to individuals who adopt from the Division.

C. Departmental Fiscal Review: _____ *[Signature]*

III. REVIEW COMMENTS

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

[Signature] OFMB *ET 8/26 8/29* Contract Development and Control *9/21/16*
[Signature]

B. Legal Sufficiency:

[Signature]

 Assistant County Attorney

C. Other Department Review:

 Department Director

This summary is not to be used as a basis for payment.

**DONATION AGREEMENT
BETWEEN
PALM BEACH COUNTY**

AND
Pete's Playhouse (dba Darbster Dog Daycare)

This Agreement is made on this 30th day of June, 2016, by and between Palm Beach County, a Political subdivision of the State of Florida, by and through its Board of County Commissioners, ("County") and Alan Gould, an individual or corporation authorized to do business in the State of Florida, ("Donor"), both being referred to collectively as the "parties."

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations contained herein, the parties agree as follows:

Section 1. Term.

The term of this Agreement shall commence upon execution by both parties and shall terminate as provided herein.

Section 2. Donor's Responsibilities/Certifications.

A. Donor will provide gift certificates, coupons ("donated item") to County, which may be provided to each individual who adopts an animal from the Palm Beach County Division of Animal Care and Control (the "Division").

B. Donor certifies that Donor:

1. Is not and during the term of this Agreement shall not be a vendor, lobbyist, or principal or employer of a lobbyist that lobbies County as set forth in Ord. No. 2011-011, as amended; and
2. Does not and during the term of this Agreement shall not have a permit/approval application pending with any Department/Division of County; and
3. Does not have any pending enforcement action involving any Department/Division of County.

Section 3. County's Responsibilities.

County may provide the donated item to each individual who adopts an animal from the Division.

Section 4. Donation Standards and Requirements.

A. Any logo/advertisement contained within the donated item supplied by the Donor shall be limited to speech that proposes a commercial transaction.

B. Donated items that include the following are prohibited: false, misleading, or deceptive statements or material; promotion of illegal activity; material that is explicitly sexual or obscene; promotion of tobacco products; language that is obscene, vulgar or profane; depictions of violence; promotion of candidates, campaigns or organizations of a political nature; or promotion of activities or products that are reasonably determined by County to be detrimental to the public health or safety.

C. Donated items that negatively impact or disrupt the efficient and cost effective operation and administration of County or are inappropriate or likely to hinder County's business practices are prohibited.

D. County has sole discretion to approve or deny the use/display of any logo/advertisement/material relating to the donated item. Entry into this Donation Agreement shall not be construed as promotion or endorsement of Donor's business, products, or services and Donor shall make no such representations to members of the public.

E. Donor shall refrain from any use or display of County's logo and understands that the unauthorized use of County's logo in any manner or format, including black and white or other color scheme, shall be a violation of Ordinance 96-5 and punishable as provided by law.

Section 5. Termination.

This Agreement may be terminated by Donor or County, with or without cause, immediately upon written notice to the other party. Upon termination, County shall return to Donor any unused donated items supplied by Donor, unless otherwise agreed to by the parties in writing.

Section 6. Independent Contractor Relationship.

Donor is and shall be, in the activities under this Agreement, an independent contractor, and not an employee, agent, or servant of County. Donor does not have the power or authority to bind County in any promise, agreement or representation.

Section 7: Indemnification.

Donor shall protect, defend, reimburse, indemnify and hold County, its agents, employees and elected officials harmless from and against any and all claims, liability, loss, expense, cost, damages, or causes of action of every kind or character, including attorneys' fees and costs, whether at trial or appellate levels or otherwise, arising during and as a result of Donor's performance of the terms of this Agreement or due to the acts or omissions of Donor. This provision shall survive termination or expiration of this Agreement.

Section 8: Remedies.

This Agreement is governed by the laws of the State of Florida. Any action to enforce this Agreement shall be brought in Palm Beach County, Florida. Donor's sole remedy for County's breach of this Agreement shall be return of all or part of the donated items in the possession of County upon the date of termination.

No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of County and/or Donor.

Section 9: Notices.

All formal notices between the parties shall be deemed received if sent by certified mail, return receipt requested, or facsimile with confirmation receipt to the Parties' Representatives set forth below:

County Representative:

Director, Palm Beach County
Division of Animal Care and Control
7100 Belvedere Road
West Palm Beach, FL 33411
Facsimile: 561-233-1234

Donor Representative:

Meagan Hughes / Alan Goul.
Dartster Companies
1226 Omar Rd
WPB, FL 33405
Facsimile: 800-883-1970

Section 10: Severability.

If any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

Section 11: Inspector General.

Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the Donor, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

Section 12: Nondiscrimination.

Donor shall not discriminate against any individual because of that individual's race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression or genetic information with respect to any activity occurring pursuant to this Agreement.

Donor has submitted to the County a copy of its non-discrimination policy which is consistent with the above policy, as contained in Resolution R-2014-1421, as amended, or in the alternative, if Donor does not have a written non-discrimination policy, it has acknowledged through a signed statement provided to the County that Donor's non-discrimination policy conforms to R-2014-1421, as amended.

Section 13: Entirety of Contractual Agreement.

County and Donor agree that this Agreement 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 the Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

Attachment # 1
Page 3 of 4

IN WITNESS WHEREOF, The County has made and executed this Agreement on behalf of the County and Donor has hereunto set its hand the day and year above written.

PALM BEACH COUNTY:

Veronica C. Baker
County Administrator or Designee

APPROVED AS TO TERMS
AND CONDITIONS:

Stephanie Elmore

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

[Signature]
Assistant County Attorney

DONOR:

Alan Gould
Signature

Alan Gould
Name (type or print)

President
Title (If applicable)

**DONATION AGREEMENT
BETWEEN
PALM BEACH COUNTY
AND
Scrutbound Holdings, LLC**

This Agreement is made on this 10 day of April, 2016, by and between Palm Beach County, a Political subdivision of the State of Florida, by and through its Board of County Commissioners, ("County") and Scrutbound Holdings LLC, an individual or corporation authorized to do business in the State of Florida, ("Donor"), both being referred to collectively as the "parties."

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations contained herein, the parties agree as follows:

Section 1. Term.

The term of this Agreement shall commence upon execution by both parties and shall terminate as provided herein.

Section 2. Donor's Responsibilities/Certifications.

A. Donor will provide An Essential Care Pack Voucher and dog care infographic ("donated item") to County, which may be provided to each individual who adopts an animal from the Palm Beach County Division of Animal Care and Control (the "Division").

B. Donor certifies that Donor:

1. Is not and during the term of this Agreement shall not be a vendor, lobbyist, or principal or employer of a lobbyist that lobbies County as set forth in Ord. No. 2011-011, as amended; and
2. Does not and during the term of this Agreement shall not have a permit/approval application pending with any Department/Division of County; and
3. Does not have any pending enforcement action involving any Department/Division of County.

Section 3. County's Responsibilities.

County may provide the donated item to each individual who adopts an animal from the Division.

Section 4. Donation Standards and Requirements.

A. Any logo/advertisement contained within the donated item supplied by the Donor shall be limited to speech that proposes a commercial transaction.

B. Donated items that include the following are prohibited: false, misleading, or deceptive statements or material; promotion of illegal activity; material that is explicitly sexual or obscene; promotion of tobacco products; language that is obscene, vulgar or profane; depictions of violence; promotion of candidates, campaigns or organizations of a political nature; or promotion of activities or products that are reasonably determined by County to be detrimental to the public health or safety.

C. Donated items that negatively impact or disrupt the efficient and cost effective operation and administration of County or are inappropriate or likely to hinder County's business practices are prohibited.

D. County has sole discretion to approve or deny the use/display of any logo/advertisement/material relating to the donated item. Entry into this Donation Agreement shall not be construed as promotion or endorsement of Donor's business, products, or services and Donor shall make no such representations to members of the public.

E. Donor shall refrain from any use or display of County's logo and understands that the unauthorized use of County's logo in any manner or format, including black and white or other color scheme, shall be a violation of Ordinance 96-5 and punishable as provided by law.

Section 5. Termination.

This Agreement may be terminated by Donor or County, with or without cause, immediately upon written notice to the other party. Upon termination, County shall return to Donor any unused donated items supplied by Donor, unless otherwise agreed to by the parties in writing.

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Donor is and shall be, in the activities under this Agreement, an independent contractor, and not an employee, agent, or servant of County. Donor does not have the power or authority to bind County in any promise, agreement or representation.

Section 7: Indemnification.

Donor shall protect, defend, reimburse, indemnify and hold County, its agents, employees and elected officials harmless from and against any and all claims, liability, loss, expense, cost, damages, or causes of action of every kind or character, including attorneys' fees and costs, whether at trial or appellate levels or otherwise, arising during and as a result of Donor's performance of the terms of this Agreement or due to the acts or omissions of Donor. This provision shall survive termination or expiration of this Agreement.

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County Representative:

Director, Palm Beach County
Division of Animal Care and Control
7100 Belvedere Road
West Palm Beach, FL 33411
Facsimile: 561-233-1234

Donor Representative:

Tim Vogel
Seventhoond Holdings LLC
1095 Jupiter Park Dr #9
Jupiter, FL 33458
Facsimile:

Section 10: Severability.

If any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

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Donor has submitted to the County a copy of its non-discrimination policy which is consistent with the above policy, as contained in Resolution R-2014-1421, as amended, or in the alternative, if Donor does not have a written non-discrimination policy, it has acknowledged through a signed statement provided to the County that Donor's non-discrimination policy conforms to R-2014-1421, as amended.

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IN WITNESS WHEREOF, The County has made and executed this Agreement on behalf of the County and Donor has hereunto set its hand the day and year above written.

PALM BEACH COUNTY:

Stephanie Deprohe
County Administrator or Designee

Verdiana Baker
County Administrator

APPROVED AS TO TERMS
AND CONDITIONS:

[Signature]

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

[Signature]
Assistant County Attorney

DONOR:

[Signature]
Signature

Tim Vogel
Name (type or print)

Founder of LEO
Title (If applicable)