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**DEPARTMENT OF
ANIMAL SERVICES**

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BRENDA F. BARNETTE
GENERAL MANAGER

VACANT
ASSISTANT GENERAL MANAGER

DR. JEREMY PRUPAS
CHIEF VETERINARIAN

April 15, 2015

Honorable Eric Garcetti
Mayor, City of Los Angeles
Room 303, City Hall
200 North Spring Street
Los Angeles, CA 90012

REQUEST TO ACCEPT DONATION OF MICROCHIPS AND SCANNERS FROM THE FOUND ANIMALS FOUNDATION VALUED AT \$125,000 ANNUALLY

Dear Mayor Garcetti:

At its meeting of April 14, 2015, the Board of Animal Services Commissioners took the following actions:

1. APPROVED the Memorandum of Understanding from the Found Animals Foundation to assist in reuniting people with their lost pets;
2. APPROVED the acceptance of a maximum of 26,000 free microchips per year, sixty (60) free scanners per year and free access to the Found Animals Registry from the Found Animals Foundation; and
3. DIRECTED the Department to FORWARD the Memorandum of Understanding to the Mayor and City Council for approval.

SUMMARY

The Department of Animal Services (Department) seeks approval to accept a donation of microchips, scanners and free access to the Found Animals Registry, valued at \$125,000 yearly, from the Found Animals Foundation. This in-kind donation will be used to offset the need for a microchip provider.

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Per LAMC § 53.15.5, the Department is required to implant each dog and cat adopted from the Department's shelters with an electronic animal identification device. The Found Animals Foundation wishes to donate microchips and scanners to the Department for this purpose. Found Animals is a non-profit organization dedicated to minimizing shelter euthanasia through the reunification of pets to their owners, and offers assistance to U.S. animal welfare organizations. In order to accept the donation, the attached Memorandum of Understanding (MOU) was developed to formalize the terms and conditions of the donation.

The term of the MOU is two years from the date of execution and the agreement can be cancelled by either party provided that Found Animals gives the City one hundred and fifty (150) days notice and the City gives Found Animals a thirty (30) day notice.

The Found Animals will provide a maximum of 26,000 microchips each year free of charge, to be ordered on a monthly basis (100 minimum), and may donate additional microchips upon a request by the Department. In addition, sixty (60) free scanners will be provided, in a variety of models based on the Department's needs and model availability, each year as follows: six (6) Xtend Max, twenty-four (24) Iso Max V, and thirty (30) Omni Max scanners will be provided within sixty (60) calendar days of the execution of the agreement. Scanners donated the second year of the agreement may vary depending on the Department's needs and model availability.

The Found Animals Registry will be accessible to the public for purposes of informing a pet owner that the pet has been found and providing information on how to contact the finder of the pet. The customer data will be used by Found Animals for this purpose. Marketing information may be provided if the customer wishes to receive it and voluntarily opts in. Customer data may not be sold, rented or otherwise transferred to others for any purpose including fundraising or marketing.

Found Animals will provide use information and training to the Department and the Department will provide Found Animals with customer data for those who receive a microchip, including email addresses as they tend to be more reliable and permanent than mailing addresses. Found Animals may monitor or audit the Department's customer data to ensure microchip registration, and may take corrective action if incomplete or inaccurate customer data is being provided. Corrective action may include the right to revoke this agreement should the Department fail to take reasonable corrective measures.

The Department will have access to the Found Animals Registry and may import customer data of microchip records for the previous ten (10) years, during the term of the agreement. The Department will also be able to look up microchip numbers, access customer contact information and initiate a Found Pet Alert for pet owners. Found Animals will also provide a phone number and 24/7 service to provide customers with information regarding a lost pet.

The Department may not transfer any microchips and/or scanners supplied by Found Animals to another entity or person for distribution or resale. Found Animals will replace any faulty microchip for a period of ten (10) years from the date of implantation, or one hundred forty-four (144) months from the date the microchip was received by the Department, whichever is less. Faulty scanners will be replaced within one (1) year of receipt by the Department.

Because this in-kind donation is valued at over \$25,000, authority is required from both the Board and City Council to accept the donation.

If you or your staff requires additional information, please contact Rita Moreno at (213) 482-9597 or rita.moreno@lacity.org.

Sincerely,



BRENDA F. BARNETTE
General Manager

Attachment

cc: David Zaft, President, Board of Animal Services Commissioners
Ryan Carpio, Office of the Mayor
Mandy Morales, Office of the Mayor
Dov Lesel, Assistant City Attorney
Rita Moreno
File



**AGREEMENT TO DONATE MICROCHIPS
TO THE CITY OF LOS ANGELES DEPARTMENT OF ANIMALS SERVICES**

This Agreement (the “Agreement”) is made and dated as of April __, 2015, by and between Found Animals Foundation, Inc. (“Found Animals”) and City of Los Angeles Department of Animal Services (“Recipient” or “Department”) (collectively the “Parties”).

RECITALS

WHEREAS, Found Animals is a non-profit organization dedicated to minimizing shelter euthanasia. Found Animals believes that all lost pets deserve to be found and the effective use of pet microchips is a key component of this effort;

WHEREAS, Found Animals offers U.S. animal welfare organizations affordable, high quality microchips and scanners along with free access to the Found Animals Registry;

WHEREAS, Section 53.15.5 of the Los Angeles Municipal Code requires the Department to implant each dog and cat adopted from the Department’s care centers with an electronic animal identification device;

WHEREAS, Found Animals and Recipient understand that while microchips have incredible potential for getting lost pets home, the microchip itself is only one component in a technology system involving microchips, scanners and registries. All components of the system have to work together to ensure a happy reunion for a lost pet;

WHEREAS, Found Animals expects Recipient to be proactive in the mission of reunification of pets to their owners, which includes, but is not limited to, training all relevant staff on Registry features and functions, registering microchips with required customer data, and providing educational materials to customers regarding how to access and use the Found Animals Registry; and

WHEREAS, Found Animals wishes to donate and Recipient wishes to accept a donation of free microchips and scanners from Found Animals and to freely access the Found Animals Registry.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, the Parties agree to the following:

AGREEMENT

1. Definitions.
 - a. “Customer Data” is defined as customer name (first and last), email address, mailing address, home and cell phone numbers, species of animal, sex of animal, approximate date or year of animal’s birth, microchip number, and dates of service (i.e., date of microchip implantation, adoption and/or surgery).
 - b. “Microchip Program” is Found Animals’ program through which it promotes microchipping of pets as an important way to greatly increase the likelihood of a lost pet being reunited with its owner and decrease the likelihood of the pet being euthanized. Found Animals reserves the right to provide microchips and scanners by any manufacturer. Found Animals agrees to provide 134.2 kHz (ISO) microchips as well as microchip scanners to Recipient under this Agreement.
 - c. “Optional Customer Data” is defined as secondary mailing address, customer’s work phone number, animal’s name, and animal’s primary and secondary breed.
 - d. “Registry” refers to an online microchip registry that Found Animals owns and maintains, which contains Customer Data received through the Microchip Program, as well as Customer Data for organizations or private parties who elect to join the Registry. Recipient has access to search pets by microchip number and can initiate a Found Pet Alert, which is an automatic owner notification process, via the Registry.



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2. Term. This contract shall be effective as of the date written above and will continue for two years unless cancelled by either party. Found Animals may cancel this Agreement by providing one hundred and fifty (150) days' notice to Recipient. Recipient may cancel this Agreement by providing thirty days' notice to Found Animals.
3. Services.
- a. Supplies.
- i. Microchips. Found Animals agrees to donate a maximum of 26,000 microchips to Recipient per year. Recipient's orders under this Agreement are fulfilled on a monthly basis. A minimum order is 100 microchips. Found Animals may, at its sole discretion, donate additional microchips upon the request of Recipient.
- ii. Scanners. Found Animals will donate sixty (60) scanners to Recipient per year in a variety of scanner models based on Recipient's needs, availability and cost as follows: Within 60 calendar days of the execution of this Agreement, Found Animals will provide the Department with 6 Xtend Max, 24 Iso Max V, and 30 Omni Max scanners at no cost to the Department. Found Animals will also provide operating instructions for each model of scanners. The scanners shall be capable of reading all frequencies commonly used in pet identification microchips in North America. During the first 30 days of the second year of this Agreement Found Animals will donate an additional 60 scanners to the Department. The scanners donated during the second year of this Agreement shall be a mix of scanner models based on availability and the needs of the Department. Found Animals may, at its sole discretion, donate additional scanners to the Department. Found Animals may also, at its sole discretion, donate new scanner models to the Department as such models become available. Scanners provided to the Department by Found Animals shall become the property of the Department and the Department will not be obligated to return scanners to Found Animals upon Termination of this Agreement.
- b. Registry
- i. Recipient understands that any member of the public can access the Registry for purposes of triggering a Found Pet Alert which will inform a pet owner that his pet has been found and provide information on how to contact the finder of the pet. Members of the public cannot access Customer Data.
- ii. Recipient acknowledges that Customer Data provided by Recipient will be used by Found Animals to contact pet owners. Found Animals will initially contact pet owners to confirm that their pet has been registered. In that communication Found Animals will also give pet owners the option to receive further communication from Found Animals if they so choose. If a pet owner declines to receive further communication from Found Animals they will only receive communications related to the registration of their pet. Found Animals will not send marketing communications to registrants unless the registrant is willing to receive such marketing communications and voluntarily agree to opt in to such communications by an affirmative act such as actively checking a box and may opt out at any time by "unsubscribing".
- iii. Recipient acknowledges that some Customer Data provided by Recipient may contain information regarding pet owners already present in the Registry or in other databases maintained by Found Animals. The provision of such Customer Data by Recipient will in no way limit or restrict Found Animals' right to use such Customer Data in any legally permissible way as long as it is consistent with the restrictions in this Agreement. These restrictions will survive the termination or expiration of the Agreement.
- iv. Found Animals will not sell, rent or otherwise transfer or allow others to use Customer Data for any purpose including fundraising or marketing. Without an opt-in or consent by the pet owner



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Found Animals will not provide pet owner with marketing material. Found Animals will not hold itself out as acting on behalf of or with the consent or approval of the City or Department.

- c. Recipient's Obligations.
- i. Customer Data. For each microchip Found Animals supplies, Recipient agrees to use its best efforts to provide Found Animals with Customer Data for customers who receive a microchip. Among the many types of Customer Data required, Found Animals considers email addresses as one of the most important Customer Data that Recipient should take special care to collect accurately. Email addresses are usually one of the most permanent and reliable manners of communication with customers since physical addresses and phone numbers tend to change often. Recipient understands that Found Animals will periodically monitor or audit Recipient's Customer Data to verify that all microchips are being registered with Customer Data and notify Recipient in the event that microchips are not being registered with Customer Data. Found Animals may exercise corrective action, including its right to revoke this Agreement should Recipient fail to take reasonable measures to provide Found Animals with complete and accurate Customer Data, especially customers' accurate email addresses, following a reasonable cure period.
 - ii. Customer Data Uploads. Recipient agrees to enter directly or upload the required Customer Data and any Optional Customer Data to the Registry within one week of providing each microchip to a customer and at a minimum frequency of once per week following a format provided by Found Animals, compatible with the Department's data output capabilities.
 - iii. Training. Recipient agrees to train all relevant staff on how to use the Registry. Found Animals offers weekly live webinars and extensive online resources to support this training. Found Animals will also provide live training at each facility operated by Recipient.
 - iv. Requirement of Exclusive Use. All items donated by Found Animals under this Agreement must be used exclusively by the Recipient. Recipient may not sell, donate, or otherwise transfer any items donated by Found Animals under this Agreement to any other municipality, nonprofit organization or business entity.
- d. Customer Notices and Forms. Recipient's customers must be provided with Found Animals-provided printed materials explaining how to access the Found Animals' Microchip Registry. For every microchip supplied by Found Animals, Recipient agrees to provide the customer with the microchip number, and information on the importance of maintaining their registration with current contact information.
- e. Registry. Found Animals agrees to provide Recipient with access to its Registry, which will provide Recipient with an opportunity to look up microchip numbers, access customer contact information, and initiate a Found Pet Alert for pet owners whose Customer Data is contained in the Registry. Found Animals strongly encourages Recipient to import Customer Data of microchip records for the previous ten (10) years into the Registry during the Term. All such imported Customer Data will be treated accorded to the restrictions in this agreement, including without limitation the restrictions in Paragraph 3.b.iv, above. Found Animals further encourages Recipient to display the American Animal Hospital Association (AAHA) Pet Microchip Lookup tool website link on Recipient's website and to use the AAHA Pet Microchip Lookup tool as the starting point for searching microchips. Found Animals will also provide a phone number and 24/7 service to allow Recipient's customers to access information regarding a lost pet.
- f. Transfer of Supplies. Recipient agrees to not transfer any microchips and/or scanners supplied by Found Animals to any entity or person for distribution or resale.



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- g. Returns. Found Animals agrees to accept returns of microchips and/or scanners that are defective on a case by case basis...
4. Publicity. Found Animals agrees to provide informational materials regarding the Microchip Program to Recipient...
5. Assignment. This Agreement may not be assigned by either party without the prior written consent of the parties hereto...
6. Agreement Modification. Any agreement to change the terms of this Agreement in any way shall be valid only if the change is made in writing...
7. Warranties, Returns and Exchanges
a. Warranties: Except as otherwise specifically provided in this Agreement or hereby excluded by mutual agreement, Found Animals hereby disclaims any and all representations and warranties...
i. Microchip Warranty: Found Animals will replace any faulty microchip for a period equal to the lesser of (i) ten (10) years...
ii. Scanners: Found Animals will replace any faulty scanner within one (1) year...
8. Notices. All notices required or permitted under this Agreement shall be in writing.

Table with 2 columns: Found Animals contact information (Aimee Gilbreath, Executive Director) and Recipient contact information (Brenda Barnette, General Manager). Includes email addresses and phone numbers for both parties.



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9. Relationship of Parties. For the purposes of this Agreement, each party is an independent contractor and not an agent or employee of the other party. Neither party shall have authority to make any statements, representations, or commitments of any kind, or to take any action which shall be binding on the other party, except as may be explicitly provided for in this Agreement or authorized in writing by the other party.
10. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall be deemed to be one and the same instrument.
11. Headings. All headings contained in this Agreement are for convenience only and shall not affect the meaning of any provision of this Agreement.
12. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties and their respective permitted successors and permitted assigns.
13. Severability. In the event that any provision of this Agreement shall be held invalid or unenforceable for any reason, such invalidity or unenforceability shall not affect any other provision of this Agreement.
14. Attorney's Fees. None.
15. Choice of Law. This Agreement shall be governed under the laws of the State of California.
16. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to its subject matter and supersedes all prior agreements or understandings between the parties relating to its subject matter.



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IN WITNESS WHEREOF, the parties have caused these presents to be executed in duplicate as of the day and year first above written.

FOUND ANIMALS FOUNDATION, INC.

CITY OF LOS ANGELES
DEPARTMENT OF ANIMAL SERVICES

By: Aimee Gilbreath
Title: Executive Director

By: Brenda Barnette
Title: General Manager

Date

Date