



Interoffice Memorandum

AGENDA ITEM

January 12, 2022

TO: Mayor Jerry L. Demings
-AND-
County Commissioners

THRU: Yolanda G. Martinez, EdPhD., PhD., Director
Health Services Department

A handwritten signature in black ink, appearing to read "YGM", is written over the name Yolanda G. Martinez.

FROM: Diane Summers, Manager
Animal Services Division
Contact: (407) 254-9144

SUBJECT: Contractual Services Agreement between PetSmart Charities, Inc. and
Orange County
Consent Agenda – January 25, 2022

The Animal Services Division is requesting approval and execution of an agreement with PetSmart Charities, Inc. Animal Services has applied for and been awarded a PetSmart Charities, Inc. grant in the amount of **\$50,000** for the purpose of helping medically needy shelter animals obtain external veterinary care. This effort will help secure adoption or rescue placement for these animals

Animal Services believes accessing these funds will have a positive impact on the quality of life for shelter pets and ultimately aid in the goal toward helping as many as possible secure a live release. Therefore, we are requesting authorization from the County Mayor and County Commissioners to sign this agreement.

These funds will be used for Animal Services operations through November 30, 2022.

ACTION REQUESTED: Approval and execution of PetSmart Charities Grant Agreement between PetSmart Charities, Inc. and Orange County, Florida that will award Animal Services \$50,000 in grant funding to be put toward helping medically needy pets obtain veterinary care at external providers. The funds are to be utilized through November 30, 2022. No county match is required. **(Animal Services Division)**

Attachments

C: John Goodrich, Deputy Director, Health Services Department



GRANT AGREEMENT

This Grant Agreement ("Grant Agreement") is entered into between PetSmart Charities Inc., an Arizona nonprofit corporation and tax-exempt public charity under Section 501(c)(3) of the Internal Revenue Code ("Code"), whose address is 19601 N. 27th Avenue, Phoenix, AZ 85027 ("Charities"), and Orange County, Florida, a political subdivision of the State of Florida, whose address is 201 South Rosalind Avenue, Orlando, Florida 32801, ("Grantee" or "Organization"). The effective date of this Grant Agreement is upon execution and delivery by both parties, as indicated below.

Section 1 – Grant Purpose and Terms:

Grant Funds	\$50,000.00
Grant Purpose	The Grant Funds in the amount of \$50,000 over 12 months will be used to support movement of adoptable animals for adoption, transport and/or other positive outcomes. A minimum of 200 pets to be impacted during the term of the grant.
Distribution Schedule of Grant Funds	Single payment
Grant Period	Upon execution through 11/30/2022
Grant Conditions	<p>The Organization is required to abide by all international, federal state and provincial laws related to interstate transport of animals, including ensuring the required paperwork is in place in advance of transport activities. PetSmart Charities supports established best practices for transport such as those guidelines included in the Association of Shelter Veterinarians Guidelines for Standards of Care in Animal Shelters.</p> <p>If the Organization wishes to request an extension, a request must be submitted in writing to PetSmart Charities for approval a minimum of 30 days prior to end of the Grant Period. The request must outline progress to date including funds expended, funds remaining and a rationale for the requested grant amendment. If any Grant Funds remain unspent for the Grant Purpose following the Grant Period, the Organization must contact PetSmart Charities within 30 days after the end of the Grant Period for consideration of remaining funds or return any unused funds to PetSmart Charities. Only one extension per grant may be approved and PetSmart Charities reserves the right to consider organizations ineligible for additional grant funding during an extension. However, organizations that are PetSmart Charities Adoption Partners may continue to accrue Adoption Rewards.</p>

	<p>The Grantee acknowledges that future operational funding for this organization and its programs is not guaranteed beyond the Grant Period.</p>
Impact Report(s)	<p>The Organization agrees to provide the following reports to PetSmart Charities in connection with this grant, on or before the deadlines set forth below. PetSmart Charities reserves the right to change the method and format of how reports are provided. Unless otherwise specified, submit all reports via SmartSimple.</p> <p>The interim grant report will become available one (1) day after the first payment date and is due by 5/30/2022. The final impact report will be available on 10/01/2022 and is due by 12/30/2022.</p> <p>Impact reports will include:</p> <ul style="list-style-type: none"> • Detail use of Grant Funds and expenditures • Number of animals impacted • Number of animals physically moved out of Organization's facility by all that apply; <ul style="list-style-type: none"> o Adoption o Transport - specify (ground or air) o Foster o Other – elaborate • Description of any challenges to completing grant (if necessary) <p>The Grantee acknowledges that emails with the grant report link and reminders of due dates will be emailed to the "Grantseeker" of the original submitted application. It is the Organization's responsibility to update all organization contact information as necessary at https://petsmartcharities.smartsimple.com/s_Login.jsp and to notify PetSmart Charities via grants@petsmartcharities.org if there are personnel changes to the "Grantseeker" during the Grant Period.</p> <p>Failure to submit reports as required may impact your Organization's future grant eligibility.</p>
Grant Acknowledgement	<p>For PetSmart Charities grants issued in amounts between \$20,000 and \$99,000, partners are required to leverage the following materials:</p> <ul style="list-style-type: none"> • Distribute press release (a template will be provided) with a quote from a PetSmart Charities spokesperson announcing the recent grant and its purpose to local media outlets. Please e-mail PublicRelations@petsmartcharities.org for approval. Please also post press release on your organization's web site. • Add a PetSmart Charities digital badge to your Organization's donor page, linking back to www.petsmartcharities.org. • Should you require assistance or to confirm completion of these recognition requests, please email: petsmartcharitiesmarketing@petsmartcharities.org • Include the PetSmart Charities logo on any collateral promoting the PetSmart Charities-funded event, initiative or program. All logo use must be approved by PetSmart Charities via email to petsmartcharitiesmarketing@petsmartcharities.org

	<ul style="list-style-type: none"> • Share announcement news and impact stories about your grant on social media using the sample social posts provided as a guide and tag the appropriate PetSmart Charities channels so we can engage with your posts. • All grantees are expected to share stories and visual assets (photos/video) showing the impact of your grant with the marketing and PR teams at PetSmart Charities via email: petsmartcharitiesmarketing@petsmartcharities.org <p>Link to templated materials, including a press release, digital badge, door cling and social media templates: https://petsmartcharities.org/pro/resources/marketing-support</p> <p>All press releases and marketing materials that incorporate PetSmart Charities' logo need to be approved via email by a PetSmart Charities team member. For all press release or media alert approvals, please e-mail PublicRelations@petsmartcharities.org. For all Marketing approvals, including but not limited to signage, please e-mail PetSmartCharitiesMarketing@petsmartcharities.org. Please allow 5-10 business days for approvals.</p>
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- A. Use of Grant. Grantee agrees that it will not use, and will not allow any of its employees, agents or representatives to use, any funds provided under this Grant Agreement for any purpose other than the Grant Purpose (including, without limitation, any lobbying or political activities or any other purpose not permitted in Section 501(c)(3) of the Code), during the Grant Period, and subject to any Grant Conditions. If the Grant Funds include any in-kind product, Grantee may be required to execute the Donated Goods Addendum. Grantee will immediately notify Charities if it is unable to comply with the terms of this Grant Agreement. If Grantee has previously received any form of grant from Charities, this Grant Agreement is contingent upon successful performance by Grantee under that agreement. If the Grant Funds include the any services or products, such support may be provided directly by Charities or indirectly through a subsidiary, contractor, representative or agent of Charities and Grantee will participate in any specified program, technical assistance, or training within the guidelines, procedures and timelines defined by Charities or its authorized representative.
- B. Acknowledgment of Grant. Grantee will publicly acknowledge this Grant as required by the Grant Acknowledgment. Before making such acknowledgement, however, Grantee will obtain prior written approval from Charities (including details such as graphics, layout, copy, media, etc.). Grantee will provide Charities a reasonable amount of time for such review and approval.
- C. Unspent Funds; Failure of Grant Purpose or Conditions. If any Grant Funds are not spent at the expiry or sooner termination of the Grant Period, such unspent funds must be returned to Charities within thirty (30) days following such expiry or termination. Additionally, if Grantee is unable or unwilling at any time during the Grant Period to comply with the Grant Purpose or the Grant Conditions, Grantee will immediately notify Charities.

- D. Modifications to Grant. Any modifications to this Grant Agreement must be in writing and signed by both parties, except the following modifications may be made without a formal amendment if a written request is submitted by Grantee in writing (e-mail is acceptable if acknowledged by the recipient) and approved in writing (including e-mail) by Charities in its sole discretion:
1. Minor adjustments to the Grant Purpose or Grant Conditions that do not materially affect the original intent of the Grant; or
 2. Change or extend the Grant Period.
- E. Reporting. Grantee is required to submit the Impact Report(s) to Charities set forth above, along with information that indicates how the Grant Funds were spent and such other information as may be reasonably requested by Charities.
- F. Early Termination by the Parties. At any time prior to the end of the Grant Period, either party may terminate this Grant Agreement at any time, with or without cause, upon at least thirty (30) days written notice of such termination to the other party.
- G. Early Termination by Charities. Charities may immediately terminate this Grant Agreement upon written notice to Grantee if Charities determines in its sole discretion that:
1. Grantee has not complied with the Grant Purpose or Grant Conditions;
 2. Grantee is the subject of any legal, regulatory or media investigation or is engaged in any action or course that appears to be unprofessional, uncharitable or otherwise inappropriate related to the subject matter of this Grant Agreement;
 3. Grantee ceases to operate or materially and adversely changes its method of operation, is insolvent, or files for or is the subject of any type of receivership, bankruptcy or similar proceeding;
 4. Any representation made by Grantee was not accurate when made or it becomes inaccurate at any time during the Grant Period;
 5. Charities finds the results of any audit or inquiry regarding Grantee to be unacceptable;
 6. Grantee (or any person or organization linked to or with Grantee) becomes disreputable or is the subject of negative media attention, including social media related to the subject matter of this Grant Agreement; or
 7. Grantee has not complied with the requirements of any other agreement Grantee has with Charities.
- H. Effect of Termination. Upon termination of this Grant Agreement for any reason, Grantee will return to Charities any unspent portion of the Grant Funds as provided above, and all rights and obligations of the parties will cease, except for any rights and obligations that by their terms survive the expiry or termination of this Grant Agreement.
- I. Additional Actions by Charities. If Charities terminates this agreement as set forth in Section G, or if anytime either during the Grant Period or for two (2) years thereafter, Charities determines in its sole and absolute discretion that the Grant Purpose was not fulfilled or that the Grant Conditions were not satisfied, Charities may (without limiting its other rights or remedies hereunder or at law):
1. Withhold any pending or future payments of Grant funds; or
 2. Revoke any payment of funds not used in accordance with this Grant Agreement and require Grantee to provide a full refund to Charities of all previously provided funds.
- J. License to Grantee. In addition and subject to Section B, Charities may provide a paid-up, limited, non-exclusive, revocable right to publish, print, transmit, display or otherwise use Charities' name and logo ("Marks"), and Grantee will provide any recognition and benefits at the same level provided to

other organizations giving Grantee comparable levels of funding. Any materials that include the Marks (or other intellectual property) of Charities, including, but not limited to, any information to be transmitted in electronic or digital format (including e-mail, social media platforms or websites), must be approved by Charities for quality control purposes prior to any printing, distribution, publication or other use (even if such use is the same as or similar to prior approved uses). Charities' Marks may only be used in the exact form, style, font and colors as required by Charities, and Charities may dictate the copyright, trade or service mark indicia that must accompany each use of a Mark. Grantee will endeavor to provide Charities with at least ten (10) business days to review a proposed use of Charities Marks, and each submission of such proposed use will include the full context (e.g., media, platform, accompanying collateral or materials, etc.) associated with such use. Grantee will not use any Marks of Charities' without approval nor will Charities' Marks be used in a negative light or critical manner. The foregoing limited license may not be transferred, assigned or sublicensed. Charities may immediately terminate this license if Charities, in its sole and absolute discretion, determines Grantee's use of the Marks to be unacceptable.

- K. License to Charities. During the Grant Period, and subject to the terms of this paragraph and Orange County, Florida's code and regulations, Charities has the paid-up, limited, non-exclusive, revocable right to publish, print, transmit, display or otherwise use Grantee's logo ("Marks"). Grantee's Marks will not be used in a negative light or critical manner. The foregoing limited license may not be transferred, assigned or sublicensed. Charities use of Grantee's Marks will limited to only be used to support or further Charities' mission. Notwithstanding anything in this Grant Agreement to the contrary, Grantee agrees Charities may use Grantee's name and factual information regarding this Grant Agreement or the existence and purpose of the relationship that is the subject of this Grant Agreement in public statements, whether written or oral, for any legitimate business purposes, to advance Charities charitable works, to satisfy any reporting and funding obligations, or as required by applicable law or regulation, without permission from Grantee.

Section 2 – Grantee's Representations. As of the date of this Grant Agreement, Grantee represents to Charities that:

- A. Grantee is either: an organization exempt from federal income tax under Section 501(c)(3) of the Code, (ii) a governmental entity identified in Section 170(c)(1) of the Code that will use the grant for exclusively public purposes, or (iii) an "Indian tribal government," as defined under Section 7701(a)(40) of the Code, that is treated as a State under Section 7871 of the Code and that it will use Grant Funds for exclusively public purposes.
- B. Grantee holds and maintains all licenses, permits and registrations necessary or appropriate for its lawful operation and fulfillment of the Grant Purpose and satisfaction of the Grant Conditions.
- C. Grantee is and will remain in compliance with all applicable local, state, tribal and federal laws, regulations and other requirements to which Grantee is subject.
- D. Grantee is not on any federal terrorism "watch list" and any Grant Funds will be used in compliance with all applicable anti-terrorist financing and asset control laws, statutes and executive orders.
- E. Grantee agrees that all statements made by Grantee in any application and ancillary materials are true and accurate in all material respects. Grantee agrees to notify Charities promptly in writing of any change regarding the ongoing truthfulness and accuracy of such statements during the Grant Period.

Section 3 – Miscellaneous Provisions.

- A. Maintenance of Records and Audit. Grantee agrees to maintain adequate books and records and other financial documents appropriate for its organization (including all records related to disposition of the Grant) (collectively, "Records"). Grantee will maintain the Records in a manner that Charities (or its auditor) may readily determine that all Grant Funds were used exclusively for the Grant Purpose. During the Grant Period and for two (2) years thereafter, Charities may inspect and audit the Records to determine Grantee's compliance with this Grant Agreement upon at least ten (10) business days prior notice and during normal business hours. Grantee will provide Charities (and its auditor) with unfettered access to the Records and will fully cooperate with such inspection or audit. Grantee expressly grants permission to Charities or its designees to make inquiries and discuss with, or request documentation from, third parties about Grantee related to Grantee's performance under this Grant Agreement.
- B. Regulatory Compliance Cooperation. Grantee will fully cooperate with Charities and provide Charities with any requested information or documentation regarding Charities' compliance with the requirements of any governmental agency, including Charities' nonprofit or tax-exempt status.
- C. Independent Entities. Nothing in this Grant Agreement is intended or will be construed to create any type of partnership, joint venture, employment, franchise or other similar relationship between the parties. The parties agree each party is an independent entity and will be solely responsible for the acts and omissions of its respective officers, agents, employees, and representatives and during and after the term of this Grant Agreement. The parties further agree that the Grant Funds are being provided for the purpose of supporting the Grantee, and there is no explicit or implicit oral or written agreement or understanding that any Charities director, officer or other representative will receive compensation in connection with such payment.
- D. Indemnification. Grantee agrees to defend, indemnify, and hold harmless Charities and PetSmart, Inc., its officials and employees from all claims, actions, losses, suits, judgments, fines, liabilities, costs and expenses (including attorneys' fees) arising from the Grantee's own negligent acts or omissions, or those negligent acts or omissions of the Grantee's officials and employees acting within the scope of their employment, or arising out of or resulting from the Grantee's negligent performance under this Agreement. Grantee's indemnification is expressly limited to the amounts set forth in Section 768.28(5), Florida Statutes as amended by the Florida State Legislature. Nothing contained herein shall constitute a waiver of sovereign immunity or the provisions of Section 768.28, Florida Statutes. The foregoing shall not constitute an agreement by either party to assume any liability of any kind for the acts, omissions, and/or negligence of the other party, its officers, officials, employees, agents, or contractors.
- E. Non-Disparagement. Grantee will not make, directly or indirectly, any legally defamatory statements, whether libelous or slanderous about Charities, PetSmart or their respective activities, owners, officers, directors, or employees.
- F. Equal Opportunity. Grantee agrees that it will not discriminate by reason of race, color, creed, religion, national origin, age, sexual orientation, disability, veteran status, gender, marital status or any other legally protected status.
- G. Jurisdiction and Governing Law. [INTENTIONLLY OMITTED]
- H. Legal Fees. [INTENTIONALLY OMITTED]

- I. Assignment; Third-Party Beneficiaries. This Grant Agreement will be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. Grantee will not assign, delegate or sublicense, in whole or in part, any of its rights or obligations under this Grant without the prior written consent of Charities, which may be granted, withheld or conditioned in its sole discretion. Nothing in this Grant Agreement is intended or will be construed to give any third party any legal or equitable right, remedy or claim under or with respect to this Grant Agreement, except for a party's permitted successors or assigns.
- J. Survival. The terms and provisions of paragraph 3.D. (Indemnification), along with any other terms or provisions of this Grant Agreement that are by their terms intended to survive the expiry or termination of the Grant Agreement, will survive expiry or termination of this Grant Agreement.
- K. Construction. This Grant Agreement will not be construed for or against either party on the basis of which party drafted this Grant Agreement, and each party had the opportunity to review this Grant Agreement with their respective legal counsel (or other professional advisor) to the party's satisfaction.
- L. Notices. Any notice given or required under this Grant Agreement will be in writing and delivered to the respective addresses of the parties set forth above or at such other address as either party specifies in writing. Notices will be deemed received: (a) five (5) days after being sent by certified or registered mail, postage prepaid, return receipt requested; (b) on the next business day after when sent by overnight delivery with a major overnight courier; or (c) on receipt of confirmation following transmission via electronic mail or facsimile if received on a business day during business hours (otherwise, deemed received the next business day) and if followed by a hard copy sent by using one of the delivery methods in the preceding clauses (a) or (b) of this paragraph.
- M. Waiver; Severability. The failure of either party to insist upon the performance of any term or provision of this Grant Agreement or to exercise any right or remedy will not be construed as a waiver or relinquishment of such party's right to assert or rely upon any such term or right or remedy on any future occasion. If any provision of this Grant Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired. If one or more provisions of this Grant Agreement are held to be unenforceable under applicable laws by a court of competent jurisdiction, those provisions will be limited or eliminated to the minimum extent necessary.
- N. Sovereign Immunity. Any agreement by Grantee to make any payments to or for Charities pursuant to this Grant Agreement, including, but not limited to, the provisions regarding "Indemnification", is expressly limited to the amounts set forth in Section 768.28(5), Florida Statutes, as amended by the Florida State Legislature. Nothing contained in this Grant Agreement shall constitute a waiver of Grantee's sovereign immunity provisions or protections pursuant to Section 768.28, Florida Statutes.
- O. Execution; Counterparts. The parties each represent that the individuals signing below are duly authorized to execute this Grant Agreement on behalf of the party for which they are signing. This Grant Agreement will not be effective until all information requested by Charities is provided by Grantee and is fully executed. This Grant Agreement may be executed by facsimile or electronically (including exchange of scanned signature pages by e-mail), each of which will be deemed an original, and in several counterparts, all of which will constitute one and the same instrument.
- P. Entire Agreement. This Grant Agreement constitutes the entire agreement and understanding between the parties, and supersedes any and all prior discussions, negotiations or other communications

regarding the subject matter hereof. Any waiver or amendment of the terms of this Grant Agreement is binding only if in writing and signed by the authorized representatives of both parties.

TO EVIDENCE THEIR AGREEMENT, the parties have executed and delivered this Grant Agreement, all effective as of the last date written below.

"CHARITIES"

PetSmart Charities, Inc.

DocuSigned by:

Signature: _____

Steve Kaufman

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Name: Steve Kaufman

Title: Sr. Manager, Adoption Initiatives

Date: 1/26/2022

"GRANTEE"

ORANGE COUNTY, FLORIDA

By: The Board of County Commissioners

By: _____

Jerry L. Demings

for Jerry L. Demings, Orange County Mayor

Date: January 26, 2022

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of the County Commissioners

for

By: _____

Heather Pez

Date: January 26, 2022

