



Marcia Mayeda
Director

County of Los Angeles
Department of Animal Care and Control
Administrative Office
5898 Cherry Avenue
Long Beach, California 90805
(562) 728-4610 • Fax (562) 422-3408
<http://animalcare.lacounty.gov>



ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

May 31, 2016

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

51 May 31, 2016

LORI GLASGOW
EXECUTIVE OFFICER

Dear Supervisors:

**ACCEPTANCE OF DONATION OF FLEA, TICK, AND
HEARTWORM CONTROL TREATMENT FOR DOGS AND
CATS IN COUNTY ANIMAL CARE CENTERS
(ALL SUPERVISORIAL DISTRICTS)
(3-VOTES)**

SUBJECT

Request approval to accept a donation of a one year supply of flea, tick, and heartworm control medication from the Los Angeles County Animal Care Foundation (Foundation) to the Department of Animal Care and Control (Department).

IT IS RECOMMENDED THAT THE BOARD:

1. Accept the one year in-kind donation valued at up to \$866,260 in the form of flea, tick, and heartworm control medication from the Foundation to provide flea, tick, and heartworm control treatment for dogs and cats in County animal care centers.
2. Instruct your Board to prepare and send a letter of appreciation to the donors for their generous donation.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The Department is pleased to inform your Board that it recently received the offer of a donation valued at up to \$866,260 in flea, tick, and heartworm control treatment from the Foundation to treat and prevent flea, tick, and heartworm parasites in dogs and cats. This donation will be used to enhance the Department's animal care and medical programs and increase the health and comfort of dogs and cats at all County animal care centers.

Implementation of Strategic Plan Goals

The acceptance of the donated products to the Department will support the organizational goal of service excellence (Goal 1) by enhancing the care and health of animals at County animal care centers, thereby supporting the public interest of providing safe and humane animal care on behalf of County residents.

FISCAL IMPACT/FINANCING

The Foundation will procure and arrange for the delivery of the flea, tick, and heartworm treatment medication from Merial, LCC, in accordance with the enclosed agreement between the Foundation and Merial (Attachment I). The recommended action will not result in any additional cost to the Department.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Government Code Section 25355 permits the County to accept donations or other gifts for a specific County purpose. Section 2.4.2 of the County Fiscal Manual authorizes County departments to accept donations in excess of \$10,000 with Board approval.

The Foundation is a registered 501(c)3 non-profit foundation. The Foundation's sole purpose is to assist and promote the programs of the Department. Your Board approved an agreement between the Foundation and the Department on October 21, 2002, pursuant to County policies requiring Board approval of agreements between County departments and their supporting nonprofit foundations.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

The donation of flea, tick, and heartworm medication will greatly enhance the health and medical care of dogs and cats housed at County animal care centers. Fleas and ticks carry certain pathogens, create skin disorders, and make animals very uncomfortable. Heartworms cause deadly parasitic infections in dogs. Dogs and cats are less likely to be adopted if they are harboring internal and external parasites. Customer service to adopters and pet owners will be enhanced by ensuring the animals are free from these parasites. By providing flea, tick, and heartworm prevention, the animals will be healthier, happier, and more adoptable.

The medications that will be provided are NexGard®, FRONTLINE® and HEARTGARD®. These are safe and well established flea, tick, and heartworm medications. The medication is administered topically or by chewable tablet and will be provided to the animals when they enter the animal care centers. This administration of these medications will be part of the animals' routine intake process and will not take additional staff time or resources since they take only moments to administer. The entire animal population will be protected because the medication has immediate effect, and animals will not enter the general housing areas infested with external parasites. Therefore, the entire animal population at the animal care centers will be healthier, more comfortable, and more adoptable.

CONCLUSION

Upon Board approval, the Executive Officer, Board of Supervisors, is requested to send letters thanking Merial and the Los Angeles County Animal Care Foundation for the generous donation.

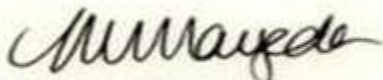
The Honorable Board of Supervisors

5/31/2016

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Draft appreciation letters are shown as Attachment II. Also, please return one adopted stamped Board letter to the Department of Animal Care and Control.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "M Mayeda", is centered on a light yellow rectangular background.

MARCIA MAYEDA

Director

MM:in

Enclosures

c: Chief Executive Office
County Counsel
Executive Office, Board of Supervisors

**TIER 1 SHELTER
PARTNERS IN PROTECTION® PROGRAM AGREEMENT**

This TIER 1 SHELTER PARTNERS IN PROTECTION PROGRAM AGREEMENT (this "Agreement") is dated March 22, 2016 and is by and between **Merial, Inc.**, with a place of business at 3239 Satellite Boulevard, Bldg. 500, Duluth, Georgia 30096 ("Merial") and **Los Angeles County Animal Care Foundation**, with an address at 5898 Cherry Avenue, Long Beach, CA 90805 ("Foundation").

WITNESSETH:

WHEREAS, Foundation is a recognized leader in animal protection and care and provides care and adoption services for thousands of dogs and cats each year; and

WHEREAS, Foundation desires to receive Merial's NexGard® for dogs, FRONTLINE® brand products for dogs, FRONTLINE® brand products for cats ("Flea and Tick Control Products") and HEARTGARD® (ivermectin) brand products (individually, a "Product" and collectively, "Products") at no cost to provide to dogs and cats in its care, and to promote the use of those Products by adopting owners to help the treatment and control of fleas and ticks as well as control parasites and improve the health of pets adopted from the County of Los Angeles Department of Animal Care and Control (the "Program"); and

WHEREAS, Merial wishes to provide Flea and Tick Control Products and HEARTGARD branded products to Foundation.

NOW, THEREFORE, in consideration of the mutual agreements and promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Obligations of Foundation

During the Term of this Agreement, Foundation agrees:

- a. to maintain its 501(C)(3) status or its status as a publicly supported animal care and control agency, and maintain state licensed kennel facilities;
- b. to provide Merial with a monthly inventory of Products necessary to fill each shelter's needs ("Inventory") in accordance with this Agreement;
- c. that each Product provided to Foundation shall be given or applied as a single dose for each cat and/or dog admitted into and housed onsite at the Foundation, in accordance with each Product label and that the applicable Product is used under the supervision of a licensed veterinarian;
- d. that each Product provided to Foundation may not be sold or otherwise distributed to any third party in any manner not specifically provided for in this Agreement;
- e. to exclusively apply or give Flea and Tick Control Products for the treatment and control of fleas and ticks in accordance with each Product label, to all cats and/or dogs admitted into the Foundation at the time of receipt of the Flea and Tick Control Products and exclusively provide HEARTGARD branded products for the prevention of heartworm disease to all cats and dogs

admitted into the Foundation at the time of receipt of the HEARTGARD branded products, unless the regular Foundation veterinarian determines that for medical reasons such as an animal adverse reaction, another product must be used;

- f. to encourage County of Los Angeles ("County") shelters to ask all pet adopters to provide Merial with their full name and email addresses for the purpose of Merial sending them promotional material and other animal health information;
- g. to prominently post materials to be provided by Merial that clearly communicates that Flea and Tick Control Products have been applied or given as the flea and tick treatment and control, and/or HEARTGARD branded products have been administered as the heartworm preventive treatment of the Foundation and the Program veterinarian (or community veterinarian supporting the Foundation), and are used exclusively by the Program for all adopted cats and dogs;
- h. to continue to distribute product information including the "*Healthy tips for healthy pets*" pet owner brochure with coupons for each applicable Product to every new pet adopter, and to continue counseling pet adopters to visit their veterinarian for continued maintenance of the proper pet wellness care routine established by the Program;
- i. to encourage the County to require that all adoption counselors, operations personnel and clinical staff attend or participate in introductory program and product training, to be completed onsite by one or more Merial sales or field veterinary services representatives, prior to initiation of Program; and
- j. to utilize the forms delivered electronically to Foundation by Merial entitled "Merial Partners in Protection® - Account Form, Foundation Contact & Account Information" and "Foundation Location Product, Partners in Protection® Foundation Account Form, Estimated Product Needs" to provide Program information to Merial or its agents.

2. Obligations of Merial

During the Term of this Agreement, Merial agrees:

- a. to provide the Foundation with the amount of Products in accordance with the Shelter requirements as set forth in the Inventory for use in connection with the Program on a monthly basis; provided that Merial may, at its sole option, withhold delivery of Products if it believes in good faith that such Product will not be utilized in accordance with this Agreement;
- b. to provide the Products described in Section 2(a) above at no cost to the Foundation;
- c. to provide the Foundation with such Products and pet counseling materials as it deems appropriate for display at the Foundation's adoption centers as described in Section 1(g) above, including the coupons described in Section 1(h) above;

- d. to provide Foundation with such introductory program and product training as it deems appropriate to allow the Foundation to comply with its obligations in Section 1(i) above;
- e. to provide Foundation with a new adopter brochure with Foundation uniquely coded, high-value product coupons redeemable at any veterinary clinic;
- f. to provide Foundation with onsite and web-based veterinary, clinical and caregiver staff continuing education programming, including programming that may be requested by the Foundation; and
- g. to provide Foundation with support for 1 - 4 onsite program orientations for Foundation's local community veterinarians.

3. Disclaimer of Warranties

ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT OF PROPRIETARY RIGHTS, ARE DISCLAIMED BY MERIAL.

4. Confidentiality

- a. Merial and Foundation have, and may in the future have, certain proprietary, confidential, and or trade secret information ("Information"), and each is willing to disclose to the other that portion of its Information which each decides in its own discretion is necessary for the purpose set forth in this Agreement.
- b. A party receiving Information hereunder, hereafter referred to as "Recipient", agrees to use the Information only for the purpose of this Agreement, and further agrees that it will not disclose to a third party or publish such Information without the prior written consent of the disclosing party. Recipient agrees to use the same level of care to prohibit disclosure of the Information and to prohibit the unauthorized use of the Information as Recipient uses to protect its own confidential information, but in no event less than reasonable care.
- c. The foregoing restrictions shall not apply to:
 - (i) information which is or becomes publicly known through no fault of Recipient;
 - (ii) information learned from a third party entitled to disclose such information;
 - (iii) information already known to or developed by Recipient prior to receipt hereunder, or information independently developed, at any time, by Recipient's personnel not privy to the proprietary information, as shown by Recipient's written records; or
 - (iv) information required to be disclosed by operation of law or court order, provided Recipient gives the disclosing party prompt notice prior to such

disclosure and allows the disclosing party a reasonable time to oppose such process before disclosing any Information.

(v) information required to be released under the California Public Records Act.

- d. All Information, without limitation, shall remain the personal and proprietary property of the disclosing party. Recipient shall not acquire any license or other intellectual property interest in any Information disclosed to it by the disclosing party.
- e. The obligation of confidentiality imposed by this provision shall expire five (5) years following the expiration or termination of this Agreement.
- f. In the event the Recipient is required by judicial or administrative process to disclose any or all of said Information or is under an obligation to disclose to competent government authorities to the extent necessary for properly carrying out the Agreement, the Recipient shall promptly notify the disclosing party and, subject to the judicial or administrative process, allow the disclosing party a reasonable time to oppose such process before disclosing any Information.

5. Representations and Warranties

- a. Each party represents and warrants that it has the full power and authority to enter into this Agreement and to perform all of its obligations hereunder without violating the legal or equitable rights of any third party.
- b. Each party recognizes the great value of the goodwill associated with the other party's logo and trademarks ("Marks") and acknowledges that such Marks and all rights and goodwill therein belong exclusively to the other party or its licensors. Each party represents and warrants that it will not use, in any way, the Marks or name of the other party, except solely to perform obligations as required under this Agreement, and that none of the other party's Marks shall be used in any way which could cause harm to the goodwill associated with such Marks.
- c. No party shall do anything to attack the title rights of the other party or its licensors, as the case may be, in the other party's Marks or attack the validity of this Agreement.
- d. Merial and the Foundation agree and acknowledge the following:
 - (i) Neither the County, nor any officer, agent, employee nor assign of the County of Los Angeles is a party to this Agreement;
 - (ii) No term or provision of this Agreement is binding on the County or on any officer, agent, employee or assign of the County;
 - (iii) Neither the Foundation nor any employee, agent or assign of the Foundation is an agent of the County; and
 - (iv) For the purposes of this Agreement, no employee, independent contractor or agent of the County is an agent of Merial or of the Foundation.

6. Ethical Conduct

Neither party shall knowingly commit any act that is or shall be an offense involving the violation of any public policy, law or regulation, or otherwise engage in any conduct that intentionally or willfully violates any public policy, law or regulation or that brings either party into public disrepute, contempt, scandal or ridicule, or which injures the successes of either party or any of its products or services. At the time of any such act or at any time after either party learns of such act, that party shall have the right, in addition to its other legal and equitable remedies, to immediately terminate this Agreement.

7. Indemnification

Each party ("Indemnitor") shall indemnify, defend and hold harmless the other party ("Indemnitee"), its affiliates, and each of Indemnitee's respective officers, directors, agents, and employees from and against any and all claims, demands, actions, causes of action, fines, losses or damages whatsoever and any cost and expense related thereto, including reasonable attorney's fees, arising from the performance of this Agreement or otherwise resulting from the work, services, equipment or materials furnished to, or on behalf of, the Indemnitee hereunder, to the extent such liability results from the negligence or willful misconduct of Indemnitor.

The provisions of this Article 7 shall survive any termination, expiration or cancellation of this Agreement.

8. Term and Termination

- a. The Term of this Agreement shall begin as of the date of the last signature of this Agreement by the Parties and continue in effect up to and through December 31, 2016 (the "Term").
- b. Merial may immediately terminate this Agreement should Foundation make any statement or claim regarding Merial that is not previously approved in writing by Merial and which is materially inconsistent with statements that have been approved or provided by Merial.
- c. Merial may immediately terminate this agreement if it determines, in its sole discretion, that Foundation or any of its employees or agents has misused or sold any free product that has been delivered to Foundation pursuant to this Agreement, or if it determines, in its sole discretion, that Foundation has failed to abide by the exclusivity set forth in Section 1(e) above.
- d. Merial may terminate this agreement if it determines, in its sole discretion, that Foundation no longer meets the qualifications for the Program pursuant to Sections 1(a), (b) or (f) above or that Foundation has failed to meet its obligations under Sections 1(c), (d), or (g) - (j) above.
- e. Termination shall not extinguish obligations and liabilities of the parties accrued prior to termination.

9. Independent Contractor

The parties expressly intend that with regard to the provisions of this Agreement they are independent contractors, and no party hereto shall receive any other benefits besides those expressly provided for herein. Further, it is the express intent of the parties hereto that no agent, servant, contractor, or employee of one party be deemed an agent, servant, contractor, or employee of the other party. No party is granted any express or implied right or authority by the other party to assume or create any obligation or responsibility on behalf of, or in the name of, the other party, or to bind the other party in any manner whatsoever. All personnel of Foundation rendering services pursuant to the Agreement shall be employees or agents of Foundation. Regardless of anything else contained in or implied from this Agreement, any employee of Foundation who may be performing the services herein described shall remain an employee of Foundation, subject at all times to Foundation's policies and procedures, and in no way shall such employee be deemed an employee of Merial.

10. Governing Law

This Agreement will be governed by and construed in accordance with the laws of the State of Georgia, without regard to its conflicts of laws rules.

11. Integration

This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof and supersedes all prior agreements, whether written or verbal. No waiver, modification or addition to this Agreement shall be valid unless in writing and signed by the parties. If any part of this Agreement is rendered invalid or unenforceable, such rendering shall not affect the validity or enforceability of the remainder of this Agreement.

12. No Interpretation Against Any Drafter.

Any rules of construction relating to interpretation against any drafter or drafter's agent shall not apply to this Agreement, and are expressly waived.

13. Publicity

Except as may be otherwise provided herein, neither party shall release or distribute any materials or information containing the name or Marks of the other party without the prior written approval of an authorized representative of the other party, which approval shall not be unreasonably withheld. If the non-releasing party does not provide notice to the releasing party within ten (10) days of receipt of materials from the releasing party, such approval shall be deemed granted.

14. Counterparts. This Agreement may be executed and delivered (including by facsimile or other electronic transmission) in one or more counterparts, each of which when executed and delivered shall be deemed to be an original but all of which when taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the day and year first above written.

**LOS ANGELES COUNTY
ANIMAL CARE FOUNDATION**

By: Abby J. Douglass

Name: Abby Douglass

Title: Vice President

Date: March 31, 2016

MERIAL, INC.

By: Kin Sweet

Name: Kin Sweet

Title: Director Customer Marketing

Date: April 4, 2016

MERIAL LEGAL
JW/sch
22 March 2016

(DATE)

Mr. Kin Sweet
Merial, Inc.
3239 Satellite Boulevard, Bldg. 500
Duluth, GA 30096

Dear Mr. Sweet:

At its meeting of May 31, 2016, the County of Los Angeles Board of Supervisors accepted, with thanks, the generous donation of a one year in-kind donation in the form of flea, tick, and heartworm control medication, valued at \$866,260, for dogs and cats sheltered by the County of Los Angeles,.

This donation will greatly enhance the health and medical care of animals sheltered by the County of Los Angeles and create greater customer satisfaction among our adopters. We deeply appreciate your kindness in helping homeless animals.

The Board members requested that I express their appreciation to you for this generous donation.

Very Truly Yours,

LORI GLASGOW
Executive Officer, Board of Supervisors

(DATE)

Mr. John Gonzales
Los Angeles County Animal Care Foundation
P.O. Box 100515
Pasadena, CA 91189

Dear Mr. Gonzales:

At its meeting of May 31, 2016, the County of Los Angeles Board of Supervisors accepted, with thanks, the generous donation of a one year in-kind donation in the form of flea, tick, and heartworm control medication, valued at \$866,260, for dogs and cats sheltered by the County of Los Angeles,.

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