

Memorandum of Understanding
On Provision of Animal Care Services

This Memorandum of Understanding (“MOU”) is entered into as of March 1, 2006 by and among Solano County, a political subdivision of the State of California (“County”), and the cities of Benicia, Dixon, Fairfield, Rio Vista, Suisun City, Vacaville, and Vallejo all municipal corporations (“Cities” or individually “City”), sometimes individually referred to as “Party” and collectively referred to as “Parties,” with reference to the following:

RECITALS

WHEREAS, the County and the Cities are desirous of working together for the performance of animal shelter services within the County, and the County is able to provide and has historically provided those services; and

WHEREAS, agreements between a county and the cities within that county for the performance of municipal services are authorized by California Government Code § 54980, et seq.; and

WHEREAS, each of the Parties possesses the power to shelter animals within its jurisdiction; and

WHEREAS, the Parties wish to obtain certain animal shelter services in the interests of public safety for all County and City residents and the humane treatment of the animals kept within those stated jurisdictions; and

WHEREAS, the County currently operates an animal shelter facility, located at 2510 Claybank Road, Fairfield, California (“Claybank Facility”); and

WHEREAS, the Cities desire to have the County provide animal shelter services for them and are willing to contribute their proportional shares of the cost of maintaining and operating the County's animal shelter facility and caring for the animals; and

WHEREAS, the County is willing to contract with the Cities to provide certain animal shelter services; and

WHEREAS, the Parties understand and acknowledge that the Claybank Facility will likely need to be replaced, substantially refurbished, or supplemented by an additional facility during the term of this MOU; and

WHEREAS, each of the Parties understands and acknowledges that the cost of a new or refurbished animal shelter must be borne by all of the Parties that will utilize the new shelter.

NOW, THEREFORE, the Parties agree as follows:

1. Term.

A. Initial Term. The initial term ("Initial Term") of this MOU shall commence on March 1, 2006 ("Effective Date") and shall expire on June 30, 2013, unless sooner terminated by the unanimous consent of the Parties.

B. Additional Terms. Upon conclusion of the Initial Term, this MOU shall automatically renew for an additional five (5) year term; provided, however, that any Party to this MOU may withdraw at the end of the Initial Term if it provides written notice to all other Parties no later than two (2) years prior to the expiration of the Initial Term and has satisfied its fiscal obligations under this MOU through June 30, 2013. Upon conclusion of each additional term, if any, this MOU shall automatically renew in the same manner as described above and shall continue to do so at the end of each such additional term; provided, however, that any Party to this MOU may withdraw at the end

of any additional term if it provides written notice to all other Parties no later than two (2) years prior to the expiration of such additional term and has satisfied its fiscal obligations under this MOU through June 30th of the fifth year of such additional term.

2. Facility. The County shall furnish animal shelter services at the Claybank Facility. During the 2006-2007 fiscal year, the Parties shall meet to discuss replacing the Claybank Facility, substantially refurbishing the Claybank Facility, or supplementing the Claybank Facility through construction of an additional animal shelter facility.

3. Care of Shelter and Animals. The County shall maintain the Claybank Facility in a humane manner and provide the animals with necessary and prompt veterinary care, nutrition, and shelter in accordance with the laws of the State of California throughout the term of this MOU. The County shall give the prescribed notices and use humane methods of care and euthanasia for any animal at the Claybank Facility.

The animal care costs to be borne by all Parties pursuant to this MOU may include expanded veterinarian and other services for a microchipping program, a spaying/neutering clinic, or other purposes ("New Animal Care Programs"). New Animal Care Programs that are expected to exceed five (5) percent of the Net Cost (as defined in Section 4, below) of providing animal care services will be presented to the City/County Manager's Group in the first quarter of each calendar year for review and discussion and shall be subject to approval by the County Administrator and a majority of the City Managers representing a majority of the animals received by the Shelter at the time of such approval in order for the charges to be passed through to the Parties. New Animal Care Programs that are mandated by the state or federal government, however, are not subject to this requirement.

4. Payment.

A. Proportional Shares. Each Party shall pay its proportional share of the net cost of maintaining and operating the Claybank Facility and caring for the animals ("Net

Cost”). The Net Cost shall be determined by subtracting the amount of all non-license revenue received by the County’s Animal Care Division and the cost of animal patrol services for the unincorporated area of the County from the total cost of maintaining and operating the Claybank Facility and caring for the animals. The Parties acknowledge that the costs of maintaining and operating the Claybank Facility include, among other costs, the cost of one full-time equivalent animal control officer.

Each Party’s proportional share shall be determined by dividing the total number of animals received by the County at the Claybank Facility from all Parties for a specific fiscal year by the total number of animals received by the County at the Claybank Facility from that Party for the same fiscal year (“Baseline Percentage”).

For purposes of this MOU, the total number of animals received from the City of Fairfield shall include those animals received from Travis Air Force Base. The County shall use its best efforts to work with the City of Fairfield and Travis Air Force Base to facilitate an agreement between Travis Air Force Base and the City of Fairfield to cover Travis Air Force Base’s proportionate share of the City of Fairfield’s proportional share of the Net Cost.

B. Payment for March 1, 2006 through June 30, 2006. The County shall determine each Party’s proportional share of the Net Cost for the 2005/2006 Fiscal Year by: (i) multiplying the Net Cost for the 2004/2005 Fiscal Year by that Party’s Baseline Percentage for the 2004/2005 Fiscal Year, and (ii) multiplying the product thereof by one-third to account for the fact that this MOU is effective for only four (4) months of the 2005/2006 Fiscal Year. The actual amounts owed by each Party for the March 1, 2006 through June 30, 2006 period are set forth in Exhibit 1, which is attached hereto and incorporated herein by reference. For this period, the County shall invoice each of the Cities within sixty (60) days of the Effective Date of this MOU, and payment shall be due within thirty (30) days of receipt of the invoice.

C. Payments for Subsequent Fiscal Years. Beginning July 1, 2006, each Party's proportional share for each subsequent fiscal year shall be determined by multiplying the Net Cost for the prior fiscal year by the Baseline Percentage for that same prior fiscal year. The County shall invoice each of the Cities during the month of October for the fiscal year, and payment shall be due within thirty (30) days of receipt of the invoice.

5. Subsidy. During the four months of the 2005/2006 Fiscal Year covered by this MOU and the 2006/2007 and 2007/2008 Fiscal Years, the County shall contribute, in addition to its own proportional share of the Net Cost of maintaining and operating the Claybank Facility and caring for the animals, a percentage of the Cities' proportional shares of the Net Cost, as set forth below. In addition to its own proportional share, during the four (4) months of the 2005/2006 Fiscal Year covered by this MOU, the County shall contribute thirty percent (30%) of the proportional shares to be paid by the Cities; during the 2006/2007 Fiscal Year, the County shall contribute twenty percent (20%) of the proportional shares to be paid by the Cities; and during the 2007/2008 Fiscal Year, the County shall contribute ten percent (10%) of the proportional shares to be paid by the Cities. These additional contributions by the County shall be applied to the costs owed by each City on a proportional basis based on its Baseline Percentage of animals actually received at the Claybank Facility during the prior fiscal year.

6. Countywide Cost Allocation Plan Costs. The budget for the County Animal Care Division includes costs allocated to the County Animal Care Division under the Countywide Cost Allocation Plan to cover central administrative and overhead expenditures ("A87 Costs"). The Parties understand and acknowledge that A87 Costs fluctuate from year to year, and the Parties agree that the Cities' obligation to pay A87 Cost increases shall be limited in the manner set forward herein. The County Animal Care Division's A87 Costs for the Base Year were \$414,058. The Parties agree that, if the increase in the County Animal Care Division's A87 Costs for any one fiscal year over the previous fiscal year exceeds ten percent (10%) of the prior year's A87 Costs, the County shall present the figure to the City/County Manager's Group in the first quarter of

each calendar year for review and discussion; provided, however, that the County is not required to present an increase in the A87 Costs to the City/County Manager's Group if the total A87 Costs for that year, including the increase, do not exceed the A87 Costs for the Base Year. If not approved by the County Administrator and a majority of the City Managers representing a majority of the animals received by the Shelter at the time of such disapproval, the charges shall be absorbed by the County.

7. Audit. Each Party shall have the right to conduct an annual audit of the County's records with respect to the number of animals the County has received from each Party.

8. License Fee Revenue.

A. Each Party shall receive one hundred percent (100%) of the licensing revenue attributable to animals within its jurisdiction. All Parties agree to work together on programs that will increase the license fee revenues for each Party.

B. Pursuant to Government Code Section 50022.9, each City shall enact an animal license fee ordinance which incorporates by reference the County Animal License Fee Ordinance, and any amendments to it.

C. The Cities may either individually impose a separate license fee or mutually adopt a standardized license fee which may be revised annually by unanimous consent of the Cities. The County shall collect the city license fee and shall remit the fee to the appropriate City.

D. Nothing in this agreement shall affect the ability of the Cities to impose their own license fees. Where Cities have duly adopted a separate City license fee, County agrees to accept payment for such City license fee and pass through the revenue to the City.

E. The County may recover the cost of administering the fee collection from all Parties.

9. Indemnification. All of the Parties to this MOU agree to indemnify and hold harmless the other Parties from and against any and all actual or alleged claims, demands, causes of action, liabilities, losses, damages, or injuries, to property or persons, including all legal costs, attorneys' fees, and expert fees arising out of or incident to any actual or alleged acts, omissions, negligence, or willful misconduct of any Party in connection with or arising out of the performance of this MOU, even if the allegations prove to be false.

10. Third-Party Beneficiaries. The performance of the County's and the Cities' respective obligations under this MOU are not intended to benefit any party other than the County and the Cities. No person or entity not a signatory to this MOU shall have any rights or causes of action against any Party to this MOU as a result of that Party's performance or non-performance under this MOU.

11. Interpretation. The Parties acknowledge that this MOU is the product of mutual arms-length negotiation and drafting and that each Party has been represented by legal counsel in the negotiation and drafting of this MOU. Accordingly, the rule of construction that provides that ambiguities in a document shall be construed against the drafter of that document shall have no application to the interpretation and enforcement of this MOU. In any action or proceeding to interpret or enforce this MOU, the finder of fact may refer to any extrinsic evidence not in direct conflict with any specific provision of this MOU to determine and give effect to the intention of the Parties.

12. Counterpart Originals; Integration. This MOU may be executed in duplicate originals, each of which is deemed to be an original, but when taken together shall constitute one instrument. This MOU, and its Exhibits, represent the entire understanding of the Parties and supersedes all negotiations, correspondence, or previous agreements of any kind whatsoever between the Parties with respect to all or any part of the subject matter addressed herein.

13. No Waiver. Failure to insist on any one occasion upon strict compliance with any of the terms, covenants, or conditions of this MOU shall not be deemed a waiver of such term, covenant, or condition, nor shall any waiver or relinquishment of any rights or powers under this MOU at any one or more times be deemed a waiver or relinquishment of such other right or power at any other time or times.

14. Severability. If any portion of this MOU is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

15. Notices. All notices, demands, invoices, and other written communications required by or issued in conjunction with this MOU shall be in writing and shall be delivered to the following addresses or such other addresses as the Parties may designate by written notice:

County Administrator
County of Solano
675 Texas St., Suite 6500
Fairfield, CA 94533

City Manager
City of Rio Vista
One Main Street
Rio Vista, CA 94571

City Manager
City of Benicia
250 East "L" Street
Benicia, CA 94510

City Manager
City of Suisun City
701 Civic Center Blvd.
Suisun City, CA 94585

City Manager
City of Dixon
600 East "A" Street
Dixon, CA 95620

City Manager
City of Vacaville
650 Merchant Street
Vacaville, CA 95688

City Manager
City of Fairfield
1000 Webster Street
Fairfield, CA 94533

City Manager
City of Vallejo
555 Santa Clara Street
Vallejo, CA 94590

Depending upon the method of transmittal, notice shall be deemed received as follows: by facsimile, as of the date and time sent; by messenger, as of the date delivered; and by U.S. Mail first class postage prepaid, as of seventy-two (72) hours after deposit in the U.S. Mail.

16. Jurisdiction and Venue. This MOU shall be construed in accordance with and governed by the laws of the State of California. Any legal action or proceeding brought to interpret or enforce this MOU, or which in any way arises out of the Parties' activities undertaken pursuant to this MOU, shall be filed and prosecuted in the appropriate California state court in Solano County, California. Each Party waives the benefit of any provision of state or federal law providing for a change of venue to any other court or jurisdiction including, without limitation, a change of venue because governmental entities are parties to the action or proceeding, or that a federal right or question is involved or alleged to be involved in the action or proceeding.

17. Attorneys' Fees and Costs. If any arbitration, lawsuit, or other legal action or proceeding is brought by one Party against the other Party in connection with this MOU, the prevailing party, whether by final judgment or arbitration award, shall be entitled to and shall recover from the other party all costs and expenses reasonably incurred by the prevailing party, including actual attorneys' and experts' fees. This Section 17 shall survive the termination or expiration of this MOU.

[SIGNATURES ON FOLLOWING PAGES]

SIGNATURE PAGE TO
MEMORANDUM OF UNDERSTANDING
ON PROVISION OF ANIMAL CARE SERVICES

Date

County of Solano
Name: _____

02/09/06

Date

James R. Erickson

City of Benicia
Name: James R. Erickson, City Manager

Date

City of Dixon
Name: _____

Date

City of Fairfield
Name: _____

Date

City of Rio Vista
Name: _____

Date

City of Suisun City
Name: _____

Date

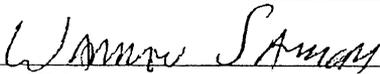
City of Vacaville
Name: _____

Date

City of Vallejo
Name: _____

APPROVED AS TO FORM
James R. Erickson
CITY ATTORNEY

SIGNATURE PAGE TO
MEMORANDUM OF UNDERSTANDING
ON PROVISION OF ANIMAL CARE SERVICES

Date	County of Solano Name: _____
Date	City of Benicia Name: _____
01-11-06	
Date	City of Dixon Name: Warren Salmons
Date	City of Fairfield Name: _____
Date	City of Rio Vista Name: _____
Date	City of Suisun City Name: _____
Date	City of Vacaville Name: _____
Date	City of Vallejo Name: _____

SIGNATURE PAGE TO
MEMORANDUM OF UNDERSTANDING
ON PROVISION OF ANIMAL CARE SERVICES

Date

County of Solano
Name: _____

Date

City of Benicia
Name: _____

Date

City of Dixon
Name: _____

Date

2/10/06

City of Fairfield
Name: *KEVIN O'ROURKE*

Date

City of Rio Vista
Name: _____

Date

City of Suisun City
Name: _____

Date

City of Vacaville
Name: _____

Date

City of Vallejo
Name: _____

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Date

County of Solano
Name: _____

Date

City of Benicia
Name: _____

Date

City of Dixon
Name: _____

Date

City of Fairfield
Name: _____

Date


City of Rio Vista
Name: BRADLEY L. BAXTER

Date

City of Suisun City
Name: _____

Date

City of Vacaville
Name: _____

Date

City of Vallejo
Name: _____

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County of Solano
Name: _____

Date

City of Benicia
Name: _____

Date

City of Dixon
Name: _____

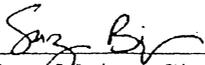
Date

City of Fairfield
Name: _____

Date

City of Rio Vista
Name: _____

2-27-06
Date



City of Suisun City
Name: SUZANNE BERGDON

Date

City of Vacaville
Name: _____

Date

City of Vallejo
Name: _____

SIGNATURE PAGE TO
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ON PROVISION OF ANIMAL CARE SERVICES

Date

County of Solano

Name: _____

Date

City of Benicia

Name: _____

Date

City of Dixon

Name: _____

Date

City of Fairfield

Name: _____

Date

City of Rio Vista

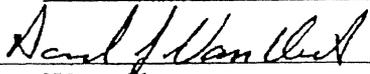
Name: _____

Date

City of Suisun City

Name: _____

2-27-06
Date



City of Vacaville

Name: David J. Van Kirk

Date

City of Vallejo

Name: _____

SIGNATURE PAGE TO
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County of Solano
Name: _____

Date

City of Benicia
Name: _____

Date

City of Dixon
Name: _____

Date

City of Fairfield
Name: _____

Date

City of Rio Vista
Name: _____

Date

City of Suisun City
Name: _____

Date

City of Vacaville
Name: _____

3/29/06
Date



City of Vallejo
Name: JOHN THOMPSON

Exhibit 1

PRO-RATED COST RATIOS FOR EACH CITY OVER THREE YEARS
(Based on Total Number of Animals Received in the Shelter)

City	FY 04/05 Total Animals Received ^(1,2)	Baseline Percentage	Payment from Cities / County ⁽³⁾ Using Baseline %	FY 05/06 (4 months) ⁽⁴⁾			20% ⁽⁵⁾		10% ⁽⁷⁾	
				County Absorbs 30% of Cities Share ⁽⁶⁾	Annual Payment from Cities/ County	4 Months Cost to Cities/County ^(4,5,6)	County Absorbs 20% of Cities Share	Annual Payment from Cities/ County	County Absorbs 10% of Cities Share	Annual Payment from Cities/ County
Benicia	172	1.93%	\$27,124	1.35%	\$18,987	\$6,329	1.54%	\$21,699	1.73%	\$24,411
Dixon	236	2.64%	\$37,216	1.85%	\$26,052	\$8,684	2.11%	\$29,773	2.38%	\$33,495
Fairfield	2,647	29.64%	\$417,421	20.75%	\$292,196	\$97,399	23.72%	\$333,939	26.68%	\$375,681
Travis AFB	216	2.42%	\$34,062	1.69%	\$23,844	\$7,948	1.94%	\$27,250	2.18%	\$30,656
Rio Vista	120	1.34%	\$18,924	0.94%	\$13,247	\$4,416	1.08%	\$15,139	1.21%	\$17,031
Suisun	798	8.94%	\$125,841	6.26%	\$88,089	\$29,363	7.15%	\$100,674	8.04%	\$113,258
Vacaville	2,005	22.45%	\$316,180	15.72%	\$221,327	\$73,776	17.96%	\$252,946	20.21%	\$284,564
Vallejo	2,226	24.93%	\$351,031	17.45%	\$245,723	\$81,908	19.94%	\$280,826	22.44%	\$315,930
Unincorporated	509	5.70%	\$80,267	33.99%	\$478,602	\$159,534	24.56%	\$345,821	15.13%	\$213,041
Total	8,929	100.00%	\$1,408,067	100.00%	\$1,408,067	\$469,356	100.00%	\$1,408,067	100.00%	\$1,408,067

Notes:

(1) Number is based on statistics from FY04/05

(2) Total animals received for County includes those animals born at shelter

(3) Net cost is based on FY04/05 Actuals:

1,862,813 expenses
-153,719 patrol services for unincorporated area; assumed 1 ACO fee works in the Shelter.
<u>1,709,094 adj expenses</u>
-301,027 non-license revenue received
<u>1,408,067 net cost</u>

(4) In FY 05/06 costs to cities will be pro-rated to cover only March thru June of 2006.

(5) In addition to the County's own share the County is absorbing 30% of cities share of cost in FY 05/06. The County's annualized share in FY 05/06 will be \$1,098,245.

(6) FY 06/07 costs will be based on FY 05/06 Actuals (available in Sept'06). For the purposes of this spreadsheet the figures are estimated based on FY 04/05 Actuals.

(7) FY 07/08 costs will be based on FY 06/07 Actuals (available in Sept'07). For the purposes of this spreadsheet the figures are estimated based on FY 04/05 Actuals.