

RESOLUTION NO. 2011-049

Adopted by the Sacramento City Council

February 1, 2011

AUTHORIZING EXECUTION OF A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF SACRAMENTO AND THE SACRAMENTO FOOD BANK & FAMILY SERVICES (“SFBFS”)

BACKGROUND

- A. Among its programs offered to the community, the Animal Care Services division, Department of General Services, conducts a Community Spay/Neuter Project. Through this project, the division offers a number of community spay/neuter events each year. These events are typically held at various locations to maximize the outreach to City residents.
- B. The Sacramento Food Bank & Family Services (“SFBFS”) has agreed to grant permission to the City to use its parking lot located at 2469 Rio Linda Boulevard to conduct a community spay/neuter event.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The Interim City Manager or the Interim City Manager’s designee is authorized to execute a Memorandum of Understanding (Exhibit A hereto and made a part of this Resolution) between the City of Sacramento and Sacramento Food Bank & Family Services (“SFBFS”) granting the City permission to use SFBFS’s real property to conduct a community spay/neuter event.

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Exhibit A: Memorandum of Understanding Between the City of Sacramento and
Sacramento Food Bank & Family Services

Adopted by the City of Sacramento City Council on February 1, 2011 by the following vote:

Ayes: Councilmembers Ashby, Cohn, D Fong, R Fong, McCarty, Pannell, Schenirer, Sheedy, and Mayor Johnson.

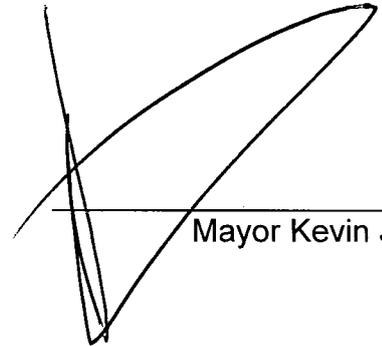
Noes: None.

Abstain: None.

Absent: None.

Attest:


Shirley Concolino, City Clerk



Mayor Kevin Johnson

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF SACRAMENTO AND
SACRAMENTO FOOD BANK & FAMILY SERVICES**

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is made and entered into this _____ day of _____, 2011, by and between the City of Sacramento ("City"), a municipal corporation, acting by and through its Animal Care Services ("ACS"), and Sacramento Food Bank & Family Services ("SFBFS"), a 501c(3) charity. ACS and SFBFS may be referred to collectively as "Parties" or in the singular as "Party," as the context requires.

RECITALS

WHEREAS, among the programs offered to the community, ACS conducts a Community Spay / Neuter Project; and,

WHEREAS, SFBFS has agreed to grant permission to ACS for use of SFBFS's parking lot, located at 2469 Rio Linda Blvd, Sacramento CA 95815- to conduct its Community Spay / Neuter Project.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties hereby agree as follows:

The City will host at Sacramento Food Bank and Family Services located at 2469 Rio Linda Blvd, Sacramento CA 95815 three (3) Community Partnership Mobile Spay /Neuter Clinics on February 4-7, March 11-14 and April 15-18, 2011

SFBFS will:

Provide their location at 2469 Rio Linda Blvd during the day as a location for three (3) of the outreach events and a secure parking area in the evening for the mobile outreach vehicle.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties hereby agree as follows:

1. TERM OF MOU; TERMINATION

This MOU shall be effective when it is signed by both Parties. This MOU will remain in force and effect until April 18, 2011. Either Party may terminate this MOU for its convenience, upon giving written notice to the other Party in the manner specified in Paragraph 3.

2. NOTICE

Any communication required during the term of this MOU, including, without limitation, notice of termination, shall be deemed given when placed in the United States Mail, postage prepaid, and addressed as follows:

Notice to the City: Penny E. Cistaro
Manager Animal Care Services
City of Sacramento
2127 Front Street
Sacramento, CA 95818
(916) 808-7433 direct

Notice to SFBFS: Jeremiah Rhine
Chief Operating Officer
Sacramento Food Bank & Family Services
3333 Third Ave.
Sacramento, CA 95817
(916) 456-1980

A party may change its person designated to receive notice, its telephone number or its address from time to time by giving notice to the other party in accordance with the procedures set forth above.

3. INDEPENDENT CONTRACTORS

In the performance of any of the program study under this MOU, nothing herein shall be construed as or deemed to create the relationship of employer/employee or principal/agent between the Parties. Each Party shall assume responsibility for all personnel costs for its respective employees, including salaries, fringe benefits, overtime, workers' compensation insurance coverage, and federal and state income tax withholding, including, but not limited to, the Federal Income Tax (FIT), State Income Tax (SIT), Federal Insurance Contributions Act (FICA), State Unemployment Insurance (SUI), and State Disability Insurance (SDI), and any other deductions from income that such agency is required to make.

4. NO JOINT VENTURE

This MOU shall not create between the Parties a joint venture, partnership, or any other relationship of association.

5. NO GRANT OF AGENCY

Except as the Parties may specify in writing, neither Party shall have authority, express or implied, to act on behalf of the other Party in any capacity whatsoever as an agent. Neither Party shall have any authority, express or implied, pursuant to this MOU, to bind the other Party to any obligation whatsoever.

6. INDEMNITY

City shall indemnify, defend and hold harmless SFBFS and its officers, employees and agents, from and against any and all claims, actions, penalties, losses, liabilities, damages, or expenses of any nature, including payment of attorney's fees, whether for personal injury, property damage, economic losses or violation of any law or regulation, arising out of or in any way directly or indirectly related to or resulting from the operations or work of City or operation of City's equipment on the property which is the subject of this MOU, or any action or activity of City or its officers, employees, agents or contractors, relating to the performance of the terms of this MOU.

The indemnity provisions of this MOU shall survive the termination of this MOU.

7. INSURANCE

Each Party, at its sole cost and expense, shall carry insurance or self-insure its activities in connection with this MOU, and obtain, keep in force and maintain, insurance or equivalent programs of self-insurance, for general liability, workers compensation, property and professional liability to cover its potential liabilities hereunder. Each Party will provide 30 days' advance written notice of any cancellation, termination or lapse of any of the insurance or self-insurance coverage.

8. NON-DISCRIMINATION

In the performance of the services set out in this Agreement, the parties shall not discriminate against any employee or citizen on the ground of race, color, religion, sex, national origin, age, marital status, physical handicap or disability, or sexual orientation.

9. NON-WAIVER

Waiver of any breach of, or default under, this MOU shall not constitute a continuing waiver or a waiver of any subsequent breach either of the same or of another provision of this MOU.

10. ENTIRE AGREEMENT; MODIFICATION

This MOU contains all of the terms and conditions as agreed upon by the Parties, and supercedes any and all oral or written communications by and between the Parties. No waiver, alteration, or modification of this MOU shall be valid unless made in writing and signed by the Parties. In the event of a conflict between this MOU and any other agreement or understanding executed by the Parties subsequent to the commencement of this MOU, the terms of this MOU shall prevail and be controlling unless such other agreement expressly provides to the contrary.

11. ASSIGNMENT PROHIBITED

No Party may assign any right or obligation pursuant to this MOU. Any attempt or purported assignment of any right or obligation pursuant to this MOU shall be void and of no effect.

12. SEVERABILITY

If any term, covenant, or condition of this MOU is held to by a court of competent jurisdiction to be invalid, the remainder of this MOU shall remain in full force and effect.

13. GOVERNING LAW

The interpretation and enforcement of this MOU shall be governed by the laws of the State of California, the state in which the MOU is signed.

14. COUNTERPARTS

This MOU may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.

15. CAPTIONS

The headings or captions contained in this MOU are for identification purposes only and shall have no effect upon the construction or interpretation of this MOU.

16. AMBIGUITIES

The Parties have each carefully reviewed this MOU and have agreed to each term of this MOU. No ambiguity shall be presumed to be construed against either Party.

17. AUTHORITY

The persons executing this MOU have the capacity and are authorized to execute this MOU as the representatives of their respective Party, and to bind their respective Party to the terms of this MOU.

CITY OF SACRAMENTO,
a Municipal Corporation

**SACRAMENTO FOOD BANK
AND FAMILY SERVICES**

By: _____
Reina Schwartz, Director General Services

By:  _____
Jeremiah Rhine, Chief Operating Officer

Attest:

City Clerk

Approved As To Form:



Senior Deputy City Attorney