

**JOINT POWERS AGREEMENT ESTABLISHING THE
STANISLAUS ANIMAL SERVICES AGENCY**

This Joint Powers Agreement (the "Agreement") Establishing the Stanislaus Animal Services Agency is made and entered into by and among the cities of Ceres, Hughson, Modesto, Patterson and Waterford, and the County of Stanislaus on October, 27, 2009.

INTRODUCTION

A. Article 1 (commencing with section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code authorizes two or more public agencies, by a joint powers agreement entered into respectively by them and authorized by their legislative or governing bodies, to exercise jointly any power or powers common to the contracting agencies.

B. The Board of Supervisors of any county pursuant to Government Code section 25802 or the governing body of any city pursuant to Government Code section 38792, and both pursuant to Food and Agriculture Code section 30501, may take up and impound animals and establish animal control programs, including the authority to maintain, regulate, and govern public animal shelters.

C. The joint operation and management of an animal shelter for the mutual benefit of the parties and their respective residents provides efficiency and economy in government operations through the cooperation of member governments and the pooling of common resources.

D. The parties desire to form a regional agency to operate and manage an animal shelter and to provide animal services needed or requested by each participating member.

NOW, THEREFORE, the parties agree as follows:

1. Recitals.

The recitals set forth in the introduction to this Agreement are true and correct and are deemed to be part of the terms and conditions of this Agreement.

2. Purpose.

The purpose of this Agreement is to facilitate cooperation among the member agencies for specific purposes, interrelated actions, and for adoption of common policies with respect to issues and problems related to the operation and management of an animal shelter and provision of animal services within each member agency's jurisdiction.

3. Establishment of Stanislaus Animal Services Agency.

3.1 Separate Entity. Upon the effective date of this Agreement, the parties hereto establish the Stanislaus Animal Services Agency (the "Agency") as a public entity separate and distinct from its member entities, as the agent to exercise the common powers provided for in this Agreement, and to administer or otherwise execute this Agreement.

3.2 Member Agencies. The Agency shall be composed of the County of Stanislaus and the Cities of Ceres, Hughson, Modesto, Patterson and Waterford (the "Member Agencies"). In addition, any city within Stanislaus County that is not a named party or that may hereafter be incorporated, and which desires to participate in the activities of the Agency, may do so provided sufficient capacity will exist at the animal

shelter to accommodate the new participant's needs, and upon approval of two-thirds (2/3) of the Member Agencies, subject also to adoption of a resolution by the new party's governing body authorizing execution of this Agreement, and agreement to fully participate financially in the Agency.

3.3 Powers and Functions. The Agency shall have the common power of the Member Agencies to plan, establish and exercise all government functions necessary to provide animal services for the benefit of the Member Agencies. Pursuant to Government Code Section 6509, the Agency's manner of exercising such powers shall be subject to those restrictions applicable to the City of Modesto. The Agency Board is authorized to do the following in the name of the Agency:

- (a) Employ an Executive Director as the chief administrative officer of the Agency.
- (b) Employ agents and employees and contract for professional services and employee services from another public agency. The Agency Board may appoint sufficient personnel to act in a staff capacity for the Agency, which may include staff from Member Agencies and may hire and retain consultants, Personal Services Contractors, and others, as determined to be necessary to accomplish the purposes of this Agreement.
- (c) Make and enter into contracts authorized in the Agency budget.
- (d) Acquire, hold and convey real and personal property, including leasehold interests, and exercise the power to acquire real property by eminent domain.
- (e) Cooperate with other agencies, counties and other local public and non profit groups or private agencies and participate in joint projects as necessary.

- (f) Incur debts, obligations and liabilities, which shall be the sole responsibility of Agency and shall not be a debt, obligation or liability of Member Agencies.
- (g) Accept contributions, grants or loans from any public or private agency or individual, or the United States, the State of California or any department, instrumentality or agency thereof, for the purposes of financing its activities.
- (h) Sue and be sued, in its own name only, but not in the name or stead of any Member Agency.
- (i) Adopt Bylaws to govern or regulate the conduct of meetings, designate Agency officers, and other affairs of the Agency not otherwise specified in this Agreement.
- (j) Do all other acts reasonable and necessary to carry out the purposes of this Agreement.

3.4 Withdrawal of Member Agency. A Member Agency may withdraw from the Agency at any time by giving notice to all other Member Agencies by resolution of intent to withdraw adopted by the governing board of the withdrawing party. Upon the effective date of such withdrawal, the withdrawing party shall cease to be bound by the Agreement, except for any long-term financing obligations placed upon the withdrawing party under this Agreement. However, upon agreement between the Agency and the withdrawing party, the withdrawing party may sell and assign its equity interest in the animal shelter facility, first, to the Agency, then to another Member Agency, if additional animal capacity is needed by the Agency or another Member Agency.

4. Management Framework.

4.1 Board. The Agency shall be governed by a Board, the members of which shall be the City Manager of each member agency and the Chief Executive Officer of the County. Pursuant to Government Code section 6506, the Agency Board is designated as the administrator of this Agreement and of the Agency's affairs, and shall perform its duties and responsibilities in accordance with all provisions of this Agreement.

4.2 Alternate Representative. Each member agency shall designate at least one alternate representative. To be eligible to cast a vote, alternates must be designated, and notice of said designation given to the Executive Director of the Agency (or person acting in that capacity) at least 24-hours prior to the first meeting at which that alternate is to attend on behalf of the Member Agency's designated representative.

4.3 Voting. Each Member Agency shall have one vote on the Agency Governing Board.

4.4 Quorum and Majority Requirement. A quorum shall consist of one-half the total number of representatives entitled to vote, plus one. A simple majority of the representatives present shall be required for the Agency Board to take any action, except to adjourn a regular meeting where a quorum is not present. A two-thirds majority of Board Member representatives shall be required to approve all fiscal matters and any other action requiring, under existing law, a 2/3 majority. For purposes of this agreement, fiscal matters shall include approval of the Agency's budget and all amendments, adjustments or other changes to the approved budget.

4.5. Meeting Time and Place. The Agency Board shall establish a time and place for regular meetings, which shall occur at least once each year. All meetings shall be conducted in accordance with the Ralph M. Brown Act (Gov. Code Section 54950 et seq.).

4.6 Conflict of Interest. The Agency Board shall adopt and, thereafter, maintain a conflict of interest code in compliance with applicable provisions of the Political Reform Act (Gov. Code section 87300 et seq.) and the regulations adopted by the Fair Political Practices Commission (Cal. Code of Regs, tit. 2, section 1870 et seq.).

4.7 Operational Plan. The Agency Board shall, within six months of Agency establishment, create an operational plan to describe in detail the operation, reconciliation, budget process, schedule, and other operational, budgetary, and financial processes.

5. Fiscal Matters.

5.1 Ongoing Operation Expenses. The animal shelter operating expenses of the Agency shall be paid by the Member Agencies in proportion to the percentage of animals received from the Member Agency's jurisdiction to the total number of animals received at the animal shelter. Operational expenses shall include annual costs and expenses to provide animal shelter services including, without limitation, staff expenses, veterinary expenses, administration, utilities, insurance, maintenance, lease or rental payments, and other costs in the approved operating budget. Operational expenses shall not include capital financing costs. Member Agency's annual operating expenses will be based on the animal intake percentage from the fiscal year ending two years prior to the fiscal year to be applied.

5.2 Member Agency Payments. Member Agency payments shall be offset by and net of licenses and fee revenue generated to the agency by each jurisdiction. The actual method adopted by the Agency Board shall be incorporated into and made a part of the Agency operational plan.

5.3 Additional Animal Services. If any Member Agency elects to have the Agency provide additional animal services in its jurisdiction, including but not limited to field services and canvassing, the cost allocation methodology of the additional services

shall be determined by the Agency Board. The full costs of any additional services shall be born by the Member Agency requesting the additional service.

5.4 Additional Support. With prior approval of the Agency Board, any Member Agency may also provide resources in an amount determined by its governing body to be reasonable and appropriate for the purposes of the Agency, including staff and professional services of the Member Agency, provision of quarters, janitorial services and maintenance, supplies, printing and duplication, postage, telephone services, transportation services and professional and technical assistance. The Agency shall reimburse the Member Agency for the reasonable and necessary cost and expense of services or resources provided by the Member Agency as determined and approved by the Agency Board and in accordance with the approved budget.

5.5 Capital Improvements. The County shall cause to be constructed on County-owned land, an animal shelter of sufficient size and capacity to accommodate the current and projected needs of the Member Agencies. Subject to the reimbursement provisions set forth herein, upon completion of construction and acceptance by the County, the improvements shall automatically be owned by the Agency.

- a) The Agency will execute an agreement with the County to repay the County over 25 years for the cost of construction for the new animal shelter facility plus interest. The cost of construction will be the total capitalized costs, which will consist of those costs and expenses typically reflected in identifying total project costs, including without limitation, design, construction and construction management fees, equipment, furnishings, permits, fees, and all project costs in the adopted project budget. The repayment to the County will also include interest charges, including capitalized interest, calculated on the actual interest lost by the County from advancing County funds to construct the animal shelter facility.

- b) Total capitalized costs allocable to Agency shall be capped at \$11,000,000. Should total capitalized costs exceed \$11,000,000, Member Agency cities shall have the option to withdraw from Agency. If any Member Agency city elects to withdraw under the terms of this paragraph, that Agency City shall have no further financial responsibility to Agency.

- c) Each Member Agency's proportion of capitalized costs shall be fixed and shall be based upon the average of the total animal intake of Member Agencies in proportion to each Member Agency's annual percentage of animal intake at the shelter for fiscal years 2007-08, 2008-09, and 2009-10. Each Member Agency shall pay to the Agency its proportional share of the costs identified in paragraph 5.5(a). The first payment shall be due on the first day of the fiscal year following the date of the actual occupancy of the new animal shelter by the Agency. Member Agencies may elect to pay capitalized cost in advance upon facility completion

- d) Except as provided in Section 5.5 (b), the obligation of a Member Agency to reimburse the Agency for the cost of financing capital improvements as set forth in paragraph 5.5 (a) shall survive termination or rescission of this Agreement or the withdrawal of a Member Agency. In the event of a termination or rescission of this Agreement, Member Agencies shall make their payments directly to the County of Stanislaus or its designee. Should a Member Agency withdraw and the Agency does not elect to purchase the withdrawing Member Agency's percentage share and Member Agency does not sell its percentage to a public or government agency as provided in paragraph (f), the withdrawing Member Agency shall continue to make its payments under this Agreement to the Agency.

- e) Upon a Member Agency's withdrawal, Agency has first right of refusal to purchase, at a price as agreed by Agency and Member Agency, exiting Member Agency's percentage share.
- f) If the Agency does not purchase the exiting Member Agency's percentage share, the exiting Member Agency may transfer or sell, as appropriate, to a public or governmental agency, with the approval of a majority of the remaining Member Agencies.

5.6 Long-Term Ground Lease. The Agency shall enter into a 25-year, zero cost lease with the County for use of the County property on which the animal shelter is constructed. The lease may be extended, at Agency's discretion, for two additional 25 year terms, provided the Agency gives at least 60 days written notice of its intention to extend the lease for an additional 25 years prior to the expiration of the current lease, or any previous extension of its term. Improvements shall belong to the Agency, provided that upon expiration of the lease term, the improvements will revert to County ownership, upon payment by the County of the then reasonable value of the improvements.

5.7 Fiscal Year/Member Agency Payments. The Fiscal Year of the Agency shall commence on July 1 of each year and shall terminate on June 30 of the following year. Each Member Agency shall deposit an amount equal to the first quarterly payment of operational and debt service costs with the Treasurer of the Agency no later than July 1 of each year, the remaining three quarters will be due October 1, January 1, and April 1 of each year.

6. General Terms and Conditions.

6.1 Term of Agreement. This Agreement shall continue in force without a specific term until it is terminated or rescinded upon the mutual agreement of the parties.

6.2 Accountability. Pursuant to Government Code section 6505, the Agency shall be strictly accountable for all funds received by the Agency.

6.3 Agency Treasurer and Auditor-Controller. Treasurer and Auditor-Controller for Agency shall be selected by Agency upon a majority vote of Member Agencies. The Agency shall reimburse any other government agency or Department providing approved services.

6.4 Legal Counsel. Legal Counsel for Agency shall be selected by Agency upon a majority vote of Member Agencies. The Agency shall reimburse any other government agency or Department providing approved services.

6.5 Property of Agency. The Executive Director, or in his or her absence, the chairman of the Agency Board, shall be in charge of, handle, or have access to any property of the Agency and shall file with the Agency an official fidelity bond in a penal sum determined by the Agency as security for the safekeeping of the Agency's property entrusted to the person or employee. However, if the Executive Director or other persons designated are already bonded by another agency, and the existing bonding incorporates coverage levels and limits required by Agency, no additional bonding shall be required by this section. Premiums for any bonds required under this section shall be paid by the Agency.

6.6 Surplus Property. Pursuant to Government Code section 6511, upon termination of this Agreement, any surplus property shall be returned, pro rata, to the Federal, State, or local agency or the Member Agency that provided the property. The parties shall use good faith efforts and fair dealing in processing and dividing any surplus property that cannot be attributed to any single Member Agency.

6.7 Distribution of Assets. Pursuant to Government Code section 6512, any surplus money on hand after termination of the Agreement shall be returned to the funding source from which funds were furnished, or to the agency making the

contribution. The parties shall use good faith efforts and fair dealing in processing and dividing any surplus money that cannot be attributed to any single funding source or Member Agency, keeping in mind the position of the parties before they entered into this Agreement.

6.8 Indemnity. No Member Agency or any of its officers or employees shall be responsible for any damage or liability arising out of or relating to any obligation of a Member under the Agreement. The Member Agencies further agree, pursuant to Government Code section 895.4, that each Member Agency shall fully indemnify and hold harmless all other Member Agencies and its agents, officers, employees and contractors from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney fees, arising out of, resulting from, or in connection with any work delegated to or action taken or omitted to be taken by such party under this Agreement. Selection of insurance coverage and insurers shall be by majority vote of Member Agencies and shall include both those coverages required by law and as may be selected by a majority vote of Member Agencies.

6.9 Severability. Should any part, term, portion, or provision of this Agreement be finally decided to be in conflict with any law of United States or the State of California, or otherwise be unenforceable or ineffectual, the validity of the remaining parts, terms, portions, or provisions shall be deemed severable and shall not be affected thereby, provided such remaining portions or provisions can be construed in substance to constitute the Agreement which Member Agencies intended to enter into in the first instance.

6.10 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of any successors to or assigns of the parties.

6.11 Amendment. This Agreement may be modified, amended, changed, added to, or subtracted from by the mutual consent of a 2/3 majority of the parties to the Agreement provided the amendment or change is in written form and executed with

the same formalities as this Agreement and attached to the original Agreement to maintain continuity.

6.12 Effective Date. This Agreement shall become effective upon approval of this Agreement by resolution of two or more of the governing bodies for the Member Agencies, and shall have no binding force and effect on any Member Agency unless and until approved by its governing body.

6.13 Counterpart Execution. This Agreement, or any amendment to this Agreement, may be executed in counterparts, each of which shall be deemed to be an original and said counterparts shall constitute one in the same document which may be sufficiently evidenced by one counterpart.


IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first herein above written.

- Signatures on Following Pages -


**JOINT POWERS AGREEMENT
(Stanislaus Animal Services Agency)**

Member Agency Approval

COUNTY OF STANISLAUS

By: 
Jim DeMartini, Chairman
Board of Supervisors

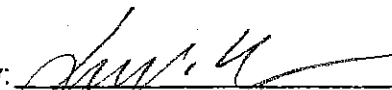
ATTEST: Christine Ferraro-Tallman
Clerk of the Board of Supervisors of the
County of Stanislaus, State of California

By: 
Deputy Clerk

APPROVED AS TO CONTENT:

By: 
Richard Robinson
Chief Executive Officer

APPROVED AS TO FORM:

By: 
John P. Doering
County Counsel

**JOINT POWERS AGREEMENT
(Stanislaus Animal Services Agency)**

Member Agency Approval

CITY OF CERES

By: 

Anthony Cannella
Mayor

ATTEST:

By: 

Cindy Heidorn
City Clerk

APPROVED AS TO FORM:

By: 

Mike Lyons
City Attorney

JOINT POWERS AGREEMENT
(Stanislaus Animal Services Agency)

Member Agency Approval

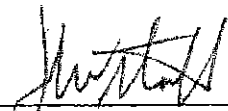
CITY OF HUGHSON

By: 
Ramon Bawan
Mayor

ATTEST:

By: 
Dominique Spinale
Deputy City Clerk


APPROVED AS TO FORM:

By: 
John Stovall
City Attorney

**JOINT POWERS AGREEMENT
(Stanislaus Animal Services Agency)**

Member Agency Approval

CITY OF MODESTO

By: 


Jim Ridenour
Mayor

ATTEST:

By: 

Stephanie Lopez
City Clerk

APPROVED AS TO FORM:

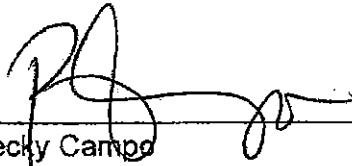
By: 

Susana Alcala-Wood
City Attorney


**JOINT POWERS AGREEMENT
(Stanislaus Animal Services Agency)**

Member Agency Approval

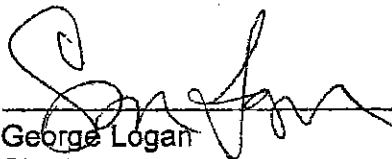
CITY OF PATTERSON

By: 
Becky Camp
Mayor

ATTEST:

By: 
Maricela Vela
City Clerk

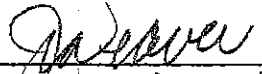
APPROVED AS TO FORM:

By: 
George Logan
City Attorney


**JOINT POWERS AGREEMENT
(Stanislaus Animal Services Agency)**

Member Agency Approval

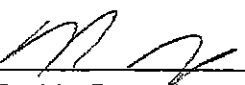
CITY OF WATERFORD

By: 
Charlie Boeken Jim Weaner
Mayor Vice-mayor

ATTEST:

By: 
Lori Martin
City Clerk

APPROVED AS TO FORM:

By: 
Corbett Browning Corbett J. Browning
City Attorney