



MEMORANDUM

TO: CITY COUNCIL

FROM: JIM BERGMAN, CITY MANAGER

SUBJECT: RECONSIDERATION OF AGREEMENT WITH THE COUNTY OF SAN LUIS OBISPO TO JOINTLY FINANCE AND CONSTRUCT A REPLACEMENT ANIMAL SERVICES SHELTER

DATE: OCTOBER 24, 2017

SUMMARY OF ACTION:

Provide direction to staff regarding the City's participation in the construction of a replacement animal shelter, in light of potential withdrawal of participation by other participating agencies.

IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:

Significant costs could be incurred, depending on the number of agencies that participate in constructing the replacement animal services shelter. The City has previously estimated the cost of participating at \$70,000 to \$87,000 per year. Depending on which agency/agencies withdraw from the agreement, the City's costs could increase to approximately \$129,000 per year during the 25 year finance period for the new shelter. This estimate does not include any increase in the City's share of annual payments for the operation of animal control services due to the withdraw of participating cities.

RECOMMENDATION:

It is recommended the City Council: 1) Authorize the Mayor to send the attached letter to the Cities of Atascadero and Paso Robles urging continued participation in the animal shelter project; and 2) Consider authorizing staff to withdraw from the Agreement at a specified threshold.

BACKGROUND:

In February 2017, the City entered into an Agreement with the County of San Luis Obispo, and the Cities of Atascadero, Grover Beach, Morro Bay, Pismo Beach, Paso

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Robles and San Luis Obispo to jointly finance and construct the replacement of an animal services shelter.

Based on each of these entities participating, the City of Arroyo Grande's apportioned share of the \$13.3 million estimated total costs was 8.4%. The Agreement contains cost containment provisions with respect to actual costs and provides a mechanism to reduce costs or allow a participating City to terminate the Agreement if costs exceed the estimated capital budget of \$13.3 million by 10% or more. In addition, the Agreement identifies timeframes and consequences for any party to withdraw from the Agreement.

Essentially, if a City chooses not to participate in the shelter construction, the City is allowed to withdraw from the Agreement and pay its proportionate share of all the costs incurred up to the date of withdrawal. If this occurs, the allocation of each party's share of the total project costs is adjusted upward for the remaining parties. If a party withdraws prior to October 31, 2017 they shall not be required to pay any portion of the financing costs, but they would still have to pay their proportional share of other costs incurred as of the withdrawal date. After the project is constructed, cities have the option to withdraw from future participation in the animal shelter by providing a minimum of one year's written notice to all of the other parties and prepaying its entire allocation of the total project costs by the effective date of the withdrawal. The County will recalculate future payments of the remaining parties using revised percentages based on shelter use.

It has come to the attention of City staff that the City of Paso Robles and the City of Atascadero are considering their continued participation in the construction of the shelter on October 30, 2017. If they withdraw from the Agreement, the remaining parties (the County of San Luis Obispo, and the Cities of Grover Beach, Arroyo Grande, Morro Bay, Pismo Beach, and San Luis Obispo) would need to absorb those future costs attributed to Paso Robles and Atascadero. It is believed that the City of San Luis Obispo may also reconsider continued participation depending on the outcome of the decisions in Paso Robles and Atascadero.

ANALYSIS OF ISSUES:

Based on the allocation formula identified in the Agreement, the City of Paso Robles comprises 18.81% of the total, with the City of Atascadero representing 14.37%. Together, they represent approximately 33% of the total or \$4.4 million of the \$13.3 million construction project. Other than the unincorporated areas of the County (at 37.96%), these two Cities comprise the largest shares of the allocation. If either of these cities withdrew from the Agreement, the resulting impact to the City of Arroyo Grande would be an increase in total costs of \$202,000 to \$279,000. If both cities withdraw, the City of Arroyo Grande's total costs would increase by almost \$600,000.

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As reflected on the following page, the City's proportional share of cost increases dramatically if Atascadero, Paso Robles or San Luis Obispo (or a combination thereof) withdraws from the Agreement. The City's proportional share could grow from the current 8.39% to 15.33% if all three cities chose to withdraw from the Agreement.

Party	Current	If Atascadero withdraws	If Paso Robles withdraws	If both Paso Robles & Atascadero withdraw	If SLO withdraws	If Paso Robles, Atascadero & SLO all withdraw
Arroyo Grande	8.39%	9.80%	10.34%	12.56%	9.55%	15.33%
Atascadero	14.37%	0.00%	17.70%	0.00%	16.34%	0.00%
Grover Beach	3.71%	4.33%	4.57%	5.55%	4.22%	6.78%
Morro Bay	3.23%	3.78%	3.98%	4.84%	3.68%	5.91%
Paso Robles	18.81%	21.96%	0.00%	0.00%	21.39%	0.00%
Pismo Beach	1.44%	1.68%	1.77%	2.15%	1.64%	2.63%
SLO City	12.09%	14.12%	14.90%	18.10%	0.00%	0.00%
County	37.96%	44.32%	46.75%	56.80%	43.18%	69.35%
	<u>100.00%</u>	<u>100.00%</u>	<u>100.00%</u>	<u>100.00%</u>	<u>100.00%</u>	<u>100.00%</u>
Est. Cost	\$ 14,362,385					
AG's Share	\$ 1,205,269	\$ 1,407,500	\$ 1,484,438	\$ 1,803,607	\$ 1,371,098	\$ 2,202,174
Increase (Total)		\$ 202,231	\$ 279,170	\$ 598,338	\$ 165,829	\$ 996,905
Annual Pmts	\$ 70,640	\$ 82,511	\$ 87,021	\$ 105,731	\$ 80,377	\$ 129,096
Incr (annual)		\$ 11,871	\$ 16,381	\$ 35,091	\$ 9,737	\$ 58,456

If other agencies decide to withdraw their participation in the shelter, the City of Arroyo Grande will need to determine a course of action. The City could continue to participate at a higher cost, along with all other remaining parties. Or the City could identify another provider for animal control and shelter services, which could include contracting with another public agency, a private entity or directly providing the service by constructing, staffing and operating a City owned animal shelter.

Staff has previously estimated that the cost for the City to provide its own animal field services or shelter services and build its own facility would exceed \$225,000 per year. Therefore, other alternatives such as contracting with another public agency like Santa Barbara County or private entity would likely be more cost effective than providing the services directly. Staff has not explored the possibilities of contracting with any other party at this point.

The City Council could consider authorizing staff to withdraw from the Agreement if certain conditions occur or estimated costs exceed a particular threshold. The City Council could consider a withdrawal threshold based on proportional share or a specific

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dollar amount. The criteria may not be met immediately, even if another participating party withdrew from the Agreement.

For example, if the City Council used a threshold of 15% of total cost, then the withdrawal of Atascadero and Paso Robles would still result in the City's participation because the allocated percentages would be 12.56%. However, the withdrawal of both parties and the City of San Luis Obispo would exceed the 15% threshold and the City Council would authorize staff to withdraw from the Agreement.

It should be noted that the current allocation formula is based on shelter use during a rolling three year period. If a particular agency experiences dramatic increases or decreases in shelter use, the percentage allocations will be adjusted annually. For example, if a city were able to reduce the number of animals utilizing shelter services substantially, their proportional share would decrease in future years. Therefore, changes in behaviors, animal populations or other operations could result in the City of Arroyo Grande's proportional share increasing beyond a threshold, even if all parties continue to participate.

ALTERNATIVES:

The following alternative is provided for the Council's consideration:

- Provide direction to staff regarding the continued participation in the Agreement

ADVANTAGES:

Providing direction to staff on the threshold at which point the City opts to withdraw from the Agreement will allow City staff to submit a notice of withdrawal prior to the October 31, 2017 deadline for the payment of the proportional cost of financing, should the threshold be reached.

DISADVANTAGES:

If the City withdraws from the Agreement, animal control and shelter services will need to be provided by another method. The cost of providing the services through alternative means has not been fully identified or explored at this time.

ENVIRONMENTAL REVIEW:

No environmental review is required for this item.

PUBLIC NOTIFICATION AND COMMENTS:

The Agenda was posted at City Hall and on the City's website in accordance with Government Code Section 54954.2.

Attachments:

1. Draft letter to the Cities of Paso Robles and Atascadero
2. Sample letter of conditional withdraw

October 25, 2017

Atascadero Mayor and City Council
City Hall
6500 Palma Avenue
Atascadero, CA 93422

Paso Robles Mayor and City Council
City Hall
1000 Spring Street
Paso Robles, CA 93446

Dear Mayor O'Malley, Mayor Martin and Council Members,

After an extensive series of discussions and negotiations spanning the course of over two years, the County of San Luis Obispo and cities of Atascadero, Arroyo Grande, Grover Beach, Morro Bay, Paso Robles, Pismo Beach, and San Luis Obispo were successful in developing an agreement dated February 1, 2017 (the "Agreement") for the allocation of construction and financing costs for a new animal shelter to be located at 865 Oklahoma Avenue in San Luis Obispo.

This Agreement represents a significant collaborative and joint effort to ensure the construction of a new shelter. The new shelter would provide animal care and control services to residents of the seven cities and the County in a facility that would be consistent with current humane standards and public expectations. By agreeing to work together to construct the shelter, all of the agencies benefit from the economies of scale of sharing both capital and service costs for a new facility, which would not be feasible for most of the individual agencies.

Under the Agreement, each agency is apportioned a percentage of the estimated costs to construct the shelter based on the average use of the existing shelter from 2012-2015 by each agency. Therefore, the City of Arroyo Grande is troubled and concerned to hear that the cities of Paso Robles and Atascadero are reconsidering their continued participation in the construction of the shelter. If the cities of Paso Robles and Atascadero withdraw from the Agreement, the portion of the costs attributed to the withdrawing parties will be spread among the remaining agencies. Based on the allocation formula set forth in the Agreement, the City of Paso Robles's share comprises 18.81% of the total cost and the City of Atascadero's is 14.3%. Together, they represent approximately 33% of the total cost of the \$13.3 million construction project or \$4.4 million. Other than the unincorporated areas of the County (at 37.96%), these two cities bear the largest shares of the allocation. If Paso Robles and Atascadero withdraw from the Agreement, the resulting impact to the City of Arroyo Grande's total costs would be an increase of almost \$600,000.

Your potential last minute decision to withdraw after two years of honest and fair negotiations is damaging to your fellow cities in the following ways:

1. Withdrawal by Paso Robles and Atascadero may force the City of Arroyo Grande and other cities to also withdraw from the Agreement due to an inability to absorb the increase in costs. Such a decision could threaten the viability of the entire project. Thus diminishing the ability of all citizens of the County to receive this important service.

Sharing the costs of construction ensures a shelter meeting current industry standards will be built, which will benefit all of the communities involved. As was pointed out by the Executive Director of Woods Humane Society in her letter to the San Luis Obispo Tribune dated October 6, 2017, “[t]his economy of scale allows the shared usage of a sheltering facility, field officer response and the assurance that resources are available to respond to disasters and large-scale seizures. It gives the public a single point of contact for response and relieves local municipalities from the call volume, concerns and complaints that can arise related to animal issues.”

2. Your fellow cities now have to make last minute and speculative choices as opposed to well-reasoned decisions that can identify, analyze, and compare alternatives and find solutions that improve all the communities in this County.
3. This last minute change of course may also be damaging to future collaborative regional and countywide efforts. Why should regional partners believe in the future that your cities will negotiate fairly and not use this tactic in the future? If your quick decision to withdraw turns out not to be in the best interest of your community, why would the remaining partners want to let you rejoin the project later?
4. This action is wasteful to taxpayers in general. Two years of staff time, involvement of lawyers to make the agreement, and hours of public testimony may be jeopardized by changing course. This potential action is not an example of good governance but just the opposite.

Your last minute reconsideration of the Agreement leaves us asking, what do you want that was not addressed in the long process of negotiating this agreement? Is it the price of the building? Is it that your citizens have to travel too far? If these are the reasons, we believe that your cities will fare much better staying in the Agreement and working to find cooperative solutions and not forcing your fellow communities to make quick decisions and be penalized by cost increases.

The City of Arroyo Grande asks the cities of Paso Robles and Atascadero to stay the course and not withdraw from the Agreement. The Agreement is the result of significant efforts by eight public agencies coming together with the common goal of providing a new animal shelter to replace the current shelter, which is in poor condition, outdated and no longer meets current industry standards for sheltering animals. To withdraw at this point in time will leave the remaining agencies in jeopardy of being unable to move forward with the project.

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Sincerely,

Jim Hill

Mayor, City of Arroyo Grande

c: County of San Luis Obispo
City of Grover Beach
City of Morro Bay
City of Paso Robles
City of Pismo Beach
City of San Luis Obispo

DRAFT

County of San Luis Obispo
Guy Savage, Assistant Chief Administrative Officer
Rita Neal, County Counsel
County Government Center
1055 Monterey Street
San Luis Obispo, CA 93408

City of Paso Robles
Tom Frutchey, City Manager
Iris Yang, City Attorney
1000 Spring Street
Paso Robles, CA 93446

City of Atascadero
Rachelle Rickard, City Manager
Brian Pierik, City Attorney
6500 Palma Avenue
Atascadero, CA 93422

City of Pismo Beach
James R. Lewis, City Manager
Dave Fleishman, City Attorney
760 Mattie Road
Pismo Beach, CA 93449

City of Grover Beach
Matthew Bronson, City Manager
David Hale, City Attorney
154 S. Eighth Street
Grover Beach, CA 93433

City of San Luis Obispo
Derek Johnson, City Manager
Christine Dietrick, City Attorney
990 Palm Street
San Luis Obispo, CA 93401

City of Morro Bay
Scott Collins, City Manager
Joseph Pannone, City Attorney
595 Harbor Street
Morro Bay, CA 93442

NOTICE OF WITHDRAWAL

Re: Agreement for Construction of an Animal Services Shelter

Dear Mssrs. and Mesdames:

It has come to the attention of the City of Arroyo Grande that the Cities of Atascadero and Paso Robles are meeting in the mid to late afternoon on October 30, 2017 to consider withdrawing from the Agreement for Allocation of Construction and Financing Costs for an Animal Services Shelter at 865 Oklahoma Avenue in San Luis Obispo, California, Between the Cities of Atascadero, Arroyo Grande, Grover Beach, Morro Bay, Paso Robles, Pismo Beach, and San Luis Obispo and the County of San Luis Obispo dated February 1, 2017 (the Agreement”).

Based upon email correspondence from Tom Frutchey, Paso Robles City Manager, their intent is to be able to “...enable both Councils to be able to make their decisions and provide the results from both cities to the County prior to 5p.m. on October 30th.” It has also come to our attention that other entities may also be considering withdrawing if Atascadero and Paso Robles withdraw.

Should the cities of Atascadero and Paso Robles or any other cities that are a party to the Agreement decide to withdraw from the Agreement, the City of Arroyo Grande has determined it may not be feasible for the City of Arroyo Grande to continue with the Agreement based on the additional costs that would be incurred due to the re-allocation of costs attributable to the withdrawing parties.

In order to effectuate timely notice of withdrawal prior to October 31, 2017 as set forth in Section 8(a)(i) of the Agreement, the City of Arroyo Grande finds it necessary to submit this Notice of Withdrawal should any combination of cities decide to withdraw from the Agreement such that their withdrawal results in an increase to 15% or more of the total costs allocated to the City of Arroyo Grande after project modifications that may result in savings due to the withdraw of major partners.

Sincerely,

James A. Bergman
City Manager

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