



¹CITY COUNCIL STAFF REPORT

From: City Manager

Report Type: STUDY SESSION

Lead Department: Community Services

Meeting Date: March 27, 2023

Report #: 2302-0940

TITLE

Review and Provide Feedback on a Term Sheet with Pets in Need for Operation of the Palo Alto Animal Shelter; CEQA status – not a project.

RECOMMENDATION

Staff recommends that the City Council provide feedback on a draft term sheet (Attachment A) with Pets in Need (PIN) for operation of the Palo Alto Animal Shelter.

EXECUTIVE SUMMARY

In February 2022, the City Council directed staff to work with PIN toward development of a new Agreement that would result in a long-term partnership for shelter operations.

City staff and PIN have been working collaboratively to develop a Term Sheet that, if approved by the Council and PIN Board of Directors would be the basis for a new five-year Agreement for the period 2023 - 2027. Staff is seeking City Council feedback on the draft Term Sheet and overall animal shelter operations. Since this is a Study Session, no action will be taken by the Council.

The terms included represent an increased staffing model and associated compensation to PIN. The current year (Fiscal Year 2023) compensation is \$703k and the proposed compensation is \$1.37 million for the first year with an annual escalator equivalent to the Consumer Price Index. Other terms include an increase in the City's capital investment to improve the shelter facility and a minor reduction in scope of services. To provide Council a point of comparison, staff created preliminary estimates for the cost of operating the shelter in-house by City staff.

BACKGROUND

California requires that cities and counties provide animal control and sheltering services for the purpose of ensuring the safety of people and animals, providing for the proper care, and

sheltering of abandoned or neglected domestic animals, licensing domestic animals and providing humane disposal of animals when necessary. There are several ways local jurisdictions meet these requirements; some agencies manage their own animal shelters and animal control services, while others partner with other agencies to take advantage of economies of scale and to reduce costs. Historically, Palo Alto has maintained its own shelter and provided animal services to other neighboring cities. Since 2019, Palo Alto has provided animal sheltering services for Palo Alto and two partner cities, Los Altos and Los Altos Hills, through a public/private partnership with Pets in Need. Animal Control is provided by the Palo Alto Police Department's Animal Control Officers (ACOs).

Summary of Current (2019-2023) Agreement

City Council approved a Professional Services Agreement (Agreement) with the nonprofit Pets in Need on November 26, 2018 (Staff Report ID #9822²) to operate the Animal Shelter. The term and compensation of the current Agreement (Attachment A) include:

- Five-year term commencing January 17, 2019
- Compensation to be paid to PIN for performance of the Scope of Services in a not to exceed amount \$3,440,626 over the five-year term
- A Contingency Fund of \$200,000
- A Compensation for Renovation Delays Fund of \$60,000
- Completion by City of capital improvement projects not to exceed \$3.4 million

Key responsibilities of Pets in Need include:

- Animal Shelter Services including sheltering stray, abandoned, and owner surrendered animals
- Medical Services including veterinarian services to shelter animals, vaccination clinics, micro-chipping, and a low cost spay and neuter clinic
- Animal adoptions and foster program
- Operating schedules for shelter services, emergency veterinary services, and public hours and access (minimum of 6 days/40 hours per week)
- Animal licensing
- Impoundment and transfer of wildlife
- Records management and reporting
- Services to Los Altos and Los Altos Hills

Key responsibilities of the City include:

²City Council Staff Report 9822 November 26, 2018

<https://portal.laserfiche.com/Portal/DocView.aspx?id=39642&repo=r-704298fc&searchid=eb072240-38b3-46db-a97b-becf57c5673a>

- Provide an adequate and safe facility
- Provide ACOs and their services including processing of citations
- Payment of facility utilities charges
- Provide or pay for animal shelter management software (Chameleon)
- Fund and complete capital improvement projects in an amount not to exceed \$3.4 million

The Agreement between the City and PIN included capital improvements to the shelter facility to be funded and completed by the City. At the time the Agreement was approved, the construction costs for the improvements totaled approximately \$3.4 million and included remodeling and expanding the medical suite, installing a modular office/classroom building, minor improvements to the existing dog kennel building, and installing a new kennel building with 16 new dog kennels. Additional compensation was added to the Agreement if shelter renovation projects were delayed. The amount of compensation for delays equaled up to \$5,000 per month for up to 12 consecutive months, or a maximum of \$60,000.

Of these projects, the medical suite renovations, installation of the modular building and minor improvements to the dog kennels were completed in 2020. The new dog kennel building was designed, but not constructed. The architectural review process and the first building permit review of the new kennel building design were completed. However, construction cost estimates exceeded the budgeted amount, and the new kennel building was put on hold while the funding gap was discussed with PIN. At this same time, PIN requested that the City prioritize more extensive upgrades to the existing kennels in lieu of the new kennel building. The design work for the upgrades was completed, but before staff could bring an exemption from competitive solicitation to Council, PIN notified the City it would be terminating the Agreement. The City paid PIN the full compensation of \$60,000 for renovation delays. More information on the costs and schedule of these improvements can be found in the February 14, 2022 staff report.³

Early Termination

On November 15, 2021, Pets in Need (PIN) provided formal notification to the City that it would exercise its right to terminate the Agreement without cause in 12 months' time as allowed in Section 19.2 of the Agreement. PIN stated delays in completing the capital improvement projects, particularly the new dog kennel building as the primary reason for terminating the Agreement.

City and PIN staff discussed how best to operate the Animal Shelter for the remaining term of the Agreement and began exploring how we might continue the partnership beyond the termination date. On February 14, 2022, the City Council provided direction to staff on negotiations with PIN

³ February 14, 2022 City Council Staff Report

<https://portal.laserfiche.com/Portal/DocView.aspx?id=59364&repo=r-704298fc>

related to both operations and capital improvements at the Animal Shelter. The Council passed the following motion unanimously:

- A. That as a condition for continuing good faith negotiations, that Pets in Need would agree to extend the notice of termination six months beyond the current date;
- B. Proceed with negotiations with Pets in Need for a long-term contract agreement for animal services in Palo Alto;
- C. Evaluate the necessary kennel size for community partners that we serve;
- D. Include some form of trap and neuter program;
- E. Include a small animal area in the renovation plans;
- F. Assure that the contract agrees upon hours of operation and services provided;
- G. That the parties agree to pursue a fundraising program to supplement existing capital commitments for the shelter; and
- H. Explore the transition to a new database.

The PIN Board supported extending the termination date for six additional months, so the current Agreement will terminate on May 15, 2023. Since that time, PIN and City staff have been negotiating a Term Sheet (Attachment B) to guide development of a new Agreement.

ANALYSIS

Staff from the Community Services Department and Police Department along with three members of the Pets in Need Board of Directors and Interim Executive Director have been discussing new Agreement terms that would meet the needs of both the City and PIN. The primary focus areas of these discussions included: responding to Council's February 14, 2022 direction, scope of work, compensation to PIN, and capital investments. Staff's priorities in a new Agreement with PIN are assurances that the public has access to animal shelter services for the amount of time specified in the Agreement and that a low cost spay and neuter clinic and vaccination clinic be available to residents of Palo Alto and partner cities with performance metrics to monitor progress.

Key terms of the 2019 Agreement as compared to the new Term Sheet are shown in the Fiscal/Resource Impact section and described below.

Scope of Work – The majority of the tasks in the original Scope of Work would remain unchanged, including hours of operation (minimum of six days and 40 hours per week) and most shelter services. PIN has stated that they expect to open the shelter seven days per week in the near future. There are some tasks that PIN is proposing to eliminate or reduce. Tasks that would be eliminated or reduced include:

- 1) Eliminate animal licensing and return this function to the City. This would require an additional 0.5 FTE Administrative Associate (or similar classification) in the Police

Department at a cost of \$40,000 and would bring in revenue to the City of approximately \$180,000 per year.

- 2) Eliminate after-hours veterinary care for stray hold animals. The City would need to contract with another provider for after-hours veterinary care at a cost of up to \$15,000 per year.
- 3) Reduce veterinary (vet) services for cruelty investigations to be done at PIN's own discretion. If PIN chose to not provide vet services for a cruelty investigation, this service would need to be contracted to another provider. This could result in up to \$10,000 per year in additional costs.

The reduction in scope of services is at PIN's request and is based on staffing levels. With the staffing model that PIN is proposing, there would not be enough staff to accomplish these additional tasks.

Compensation to PIN – In the current Agreement, the five-year compensation totaled \$3.4 million, with a final annual (Year 5) compensation of \$703,581. PIN has re-examined their operating costs and staffing needs and is now requiring a compensation of \$1.37 million per year with an annual escalator based on the Consumer Price Index. This compensation provides for the same operating hours as in the current Agreement and 60 spay/neuter surgeries per month with priority for in-jurisdiction animals. The current Agreement does not specify the number of surgeries to be performed monthly.

PIN has stated that the increased staffing model more accurately reflects the resources required to deliver services at the Palo Alto Animal Shelter. Additionally, the increase in compensation generally reflects a workforce shortage, competitive market and increased costs in materials and supplies. PIN is proposing to adjust staff salaries to bring them up to market and make PIN a more competitive employer particularly for veterinary medical staff, such as Registered Veterinary Technicians.

Capital Improvements – The City and PIN agree that the 2019 Agreement was too prescriptive in its requirements for scope and schedule of capital improvement projects. The timelines for completing the capital projects were unrealistic and PIN has since reprioritized other improvements, such as expanding the small animal area over a new dog kennel building (City staff and PIN agree that the current number of dog kennels is adequate for City and partner agencies' needs). To allow flexibility in scope and realistic timing for projects, a new Agreement would require the City and PIN to develop and agree upon a prioritized project list within 60 days after the Agreement is executed. Types of projects might include a renovated or expanded small animal area and upgraded or new dog kennels.

PIN is requesting an additional investment by the City for capital improvements. The 2019 Agreement required the City to invest a not-to-exceed amount of \$3.4 million into capital improvements, of which approximately \$1 million remains. The Term Sheet requires that the

City allocate a total of \$2.5 million in Fiscal Year 2024 for capital improvements. Anything beyond this would be funded and completed by PIN, following all applicable laws such as prevailing wage, and with City review and approval.

Other notable terms – There are two additional terms worth noting that differ from the current Agreement.

Feral Cats: The current Agreement requires PIN to develop, in cooperation with the City, a feral cat plan to include how PIN handles feral cats, spay/neuter provisions, and release of cats. It also prohibits feral cats from being released in Palo Alto or partner cities. PIN has stated that a program to release trapped and neutered cats to their territory of origin is important for PIN and has added a new term that states, “Both parties will work together to implement a Trap, Neuter, Return program that the community will support, and which will humanely reduce the feral cat population in the community.” Staff agrees that a plan needs to be developed but prefers to not limit the outcome of a trap and neuter program to return only and is unsure if the community would support such a program. Feral cat management programs evoke strong responses from stakeholders and would necessitate significant staff time to conduct outreach and gain support from environmental and wildlife advocate groups.

Corrective Action Plan: A new proposed contract term is a corrective action plan, which is activated when either party determines it will fail to deliver a service or not meet a due date. This is intended to replace monetary penalties that were placed on the City for failure to meet deadlines for capital improvements, and proposed penalties to PIN for failure to meet service requirements. To date, PIN has been unable to open the shelter to the public for 40 hours per week as required in the Agreement due to staffing constraints although has stated they expect to open the shelter seven days per week soon. PIN is concerned the City will not complete additional capital improvements in a reasonable timeframe. The Corrective Action Plan is intended to hold both parties accountable while being more collaborative in developing solutions to issues and concerns.

Software Database System: The Council motion from February 14, 2022 included direction to explore transitioning to a new database to resolve PIN and the City using two different shelter management software systems. Transitioning to a new database is not reflected in the Term Sheet, staff from both organizations are researching the best option based on compatibility with City IT requirements, security, cost, and features. If this is not resolved in the near term, staff and PIN will partner to resolve contract terms in the future as needed.

FISCAL/RESOURCE IMPACT

Annual operating costs would increase by \$554,820 for the first year and increase each subsequent year at a rate still to be negotiated. This is based on a summation of annual compensation to PIN and additional services the City would need to provide less revenue the City would accrue from licensing. These costs and revenue are summarized in the table below.

The City's capital investment would increase by \$1.5 million as there is approximately \$1 million remaining in the capital budget for animal shelter improvements and PIN is asking the City to allocate \$2.5 million for capital improvements. To date, \$1.8 million has been spent from the Animal Shelter Renovation Capital Improvement Project (PE-19002) for shelter improvements so the total capital investment from the City would be \$4.3 million.

Summary of Key Terms and Comparison to 2019 Agreement-

	2019-2023 Agreement	2023-2027 Proposed	Increased cost to City (Revenue indicated in parentheses)
Compensation			
Shelter services and 60 spay/neuter surgeries per month	\$703,580	\$1,373,400	\$669,820/year
Annual escalator	2%	Minimum of the annual CPI rate	To be negotiated
Capital Improvements			
City investment	\$3.4M (~\$1M remaining)	\$2.5M	\$1.5M one time investment
Limit on PIN investment in additional projects	Up to \$10k	No limit but must follow prevailing wage and other laws and obtain City approval	\$0 Staff time to review and approve
Renovation Delays	\$60k	\$0	\$0
Scope of Work			
After hours veterinary care for stray hold animals	Included in scope	Not in scope	\$15,000
Veterinary services for cruelty investigations	Included in scope	PIN has discretion	\$10,000
Licensing	Included in scope	Not in scope. Add 0.5 FTE City staff.	\$40,000
Licensing revenue	To PIN	To City	(\$180,000)
Feral cats	No release in PA or Partner Cities	Trap/Neuter/Return Policy	Staff time for analysis and community engagement

Alternate Operating Models –

As an alternative to a service provider contract for animal shelter operations, staff performed preliminary work to provide Council a point of comparison were the City to return to an in-house model. This estimate is based on experience with operating the shelter and historical City staff levels and operating expenses. Staff estimates the total cost for the City to operate the shelter in Fiscal Year 2024 is \$1.31 million. This includes staffing costs of approximately \$1.04 million; an addition of 5-6 full time staff and 3-4 hourly staff. Non-personnel direct and indirect costs are estimated at about \$270,000. These costs were estimated using Fiscal Year 2018 budgeted amounts and an escalator of 3.6% annually, which is consistent with escalation rates of similar costs in the Police Department. This does not include costs such as Animal Control Officers and utilities which are already included in the City's budget.

An in-house model would accrue revenue to the City (rather than PIN) from licensing, vaccination clinics, spay and neuter surgeries, and adoption, impound, boarding and service fees. Annual revenues are estimated to be roughly \$425,000. The above numbers are rough estimates, if the Council directs staff to pursue this option, a more thorough cost analysis and transition plan would need to be developed, including long-range impact to the City.

Service levels using the staffing model described above include up to 100 surgeries per month. These numbers are based on average historical data when the shelter was last operated by the City. The shelter would be open to the public Monday through Saturday, 11:00 a.m. to 5:30 p.m., potentially closed on alternate Fridays, which is consistent with the operating hours when it was last operated by the City as well as the hours expected (though not realized to date) from PIN.

There are other ways in which the City could provide animal shelter services to Palo Alto residents. These include contracting services to an outside sheltering service such as the Silicon Valley Animal Control Authority (SVACA) or issuing a Request for Proposals (RFP) for a new provider to operate the Palo Alto Animal Shelter. Previous feedback on contracting with SVACA indicated that its shelter located in the city of Santa Clara is not an acceptable location for Palo Alto residents. Based on the previous RFP process and limited number of responses, staff does not have confidence that a new process would result in a different outcome.

STAKEHOLDER ENGAGEMENT

Staff from the Community Services and Police Departments have worked closely with members of the Pets in Need Board of Directors to develop the Term Sheet. Staff have communicated with Los Alto and Los Altos Hills that we are negotiating a new contract with Pets in Need.

ENVIRONMENTAL REVIEW

There is no action associated with this study session and therefore this is not a project within the meaning of CEQA.

ATTACHMENTS

Attachment A: Proposed Term Sheet between Pets in Need and City of Palo Alto for a new Five-year Agreement

Attachment B: Professional Services Agreement between Pets in Need and City of Palo Alto 2019 - 2023

APPROVED BY:

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