



City Council Staff Report

From: City Manager

Report Type: ACTION ITEMS

Lead Department: Community Services

Meeting Date: August 14, 2023

Report #:2306-1712

TITLE

Approval of a revised Term Sheet with Pets in Need for Operations of the Palo Alto Animal Shelter and an Interim Payment in the Amount of \$55,535 per month beginning June 1, 2023 until a new Agreement is executed; CEQA status - not a project.

RECOMMENDATION

Staff recommends the Council approve:

1. a proposed Term Sheet with Pets in Need for operations of the Palo Alto Animal Shelter and direct staff to return to Council for approval of an Agreement reflecting these terms, and
2. an interim payment to Pets in Need in the amount of \$55,535 per month beginning June 2023 and each month until a new Agreement is executed, and authorize the City Manager to execute any contract amendment necessary.

EXECUTIVE SUMMARY

In February 2022, the City Council directed staff to work with Pets-in-Need (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. The Council discussed the proposed terms at a Study Session on March 27, 2023¹ and provided direction and feedback to staff June 12, 2023². The direction received from Council and additional input provided by the PIN Board of Directors on July 20, 2023 resulted in a revised Term Sheet (Attachment A) that staff is recommending for approval.

¹ City Council, March 27, 2023; Agenda Item #3; SR #2302-0940,
<https://portal.laserfiche.com/Portal/DocView.aspx?id=65785&repo=r-704298fc>

² City Council, June 12, 2023, Agenda Item #13,
<https://cityofpaloalto.primegov.com/Portal/viewer?id=2049&type=0>

The terms included represent increased staffing and associated compensation to PIN with proposed net cost of \$1.4 million for the first year with an annual escalator equivalent to the Consumer Price Index (CPI). This reflects an increase from the Fiscal Year 2023 compensation of \$0.7 million. The FY 2024 Adopted Operating Budget anticipated increased costs for services and includes additional funding of \$0.5 million in FY 2024 for a total of \$1.2 million. Based on the current term sheet, additional funding will be needed. Other terms include an increase in the City's capital investment to improve the shelter facility and a minor reduction in scope of services. The FY 2024 Adopted Capital Budget includes funding of approximately \$2.8 million in the Animal Shelter Renovation capital project (PE-19002) for estimated capital investment based on the current terms. PIN is also requesting an interim payment of \$55,535 per month beginning June 1, 2023 and continuing until a new Agreement is finalized. The fee represents the per month difference between the Year 5 compensation in the current Agreement (Attachment B) and the first-year compensation in the proposed new Agreement (Attachment A).

Staff, along with Pets in Need, are returning to Council with a revised Term Sheet that includes revised language on handling of feral cats, more specificity on level of service and metrics for spay/neuter surgeries, and updated reporting requirements.

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, 2018³ to operate the Animal Shelter. The term and compensation of the current Agreement (Attachment B) include:

- Five-year term commencing January 17, 2019 through January 17, 2024
- 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

³ City Council, November 26, 2018; Agenda Item #13, SR#9822, <https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/reports/city-manager-reportscmr/yr-archive/2018/id-9822-pets-in-need.pdf?t=62179.92>

- 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

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.

Development of a new Agreement

City and PIN staff discussed how best to operate the Animal Shelter for the remaining term of the Agreement and began exploring how to continue the partnership beyond the termination date. On February 14, 2022⁴, the City 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 to end on March 15, 2023. On March 27, 2023⁵, a Council Study Session provided an update on the status of contract negotiations with PIN and an opportunity for the Council to provide feedback on a draft Term Sheet. City staff included a preliminary estimate of the cost and revenue associated with bringing operations of the Animal Shelter back to an in-house model. PIN and City staff

⁴ City Council, February 14, 2022; Agenda Item #9; SR #13952,
<https://portal.laserfiche.com/Portal/DocView.aspx?id=59364&repo=r-704298fc>

⁵ City Council, March 27, 2023; Agenda Item #3; SR #2302-0940,
<https://portal.laserfiche.com/Portal/DocView.aspx?id=65785&repo=r-704298fc>

continued to refine the Term Sheet and mutually agreed to extend the current agreement to terminate on September 30, 2023.

The City Council discussed and provided feedback on the draft term sheet during the study session on March 27, 2023. The Council requested information on the following:

- A breakdown of PIN's costs showing the increased compensation from the original Agreement.
- The percentage of PIN's operating budget that is for animals covered in Palo Alto, Los Altos and Los Altos Hills.
- A comparison chart of PIN's fees with other municipal shelters' fees.
- A more detailed and accurate comparison of PINs services to the Peninsula Humane Society.
- PIN's revenue over the previous five years.
- Consideration of a minimum and maximum number of surgeries and events.
- A side-by-side comparison of PINs proposal and the in-house model.
- A more defined capital plan identified in the Agreement.
- Additional information on feral cats, including the method by which they are handled, how many cats are in Palo Alto, where cats are released.

PIN prepared responses to the Council's questions and presented them to Council on June 12, 2023. The responses are included as Attachment C to the June 12th staff report⁶. During this meeting, an additional term was introduced that would provide PIN additional compensation of \$55,535 for services rendered since June 1, 2023 and continuing until a new Agreement is executed. PIN calculates this as the difference between the monthly fee (1) specified for Year 5 in Exhibit B of the 2019 Agreement and (2) the monthly fee specified for Year 1 in the proposed new Agreement, effective June 1, 2023.

Staff and PIN received valuable feedback from Council at the June 12th meeting and Council passed the following motion unanimously:

Direct staff to negotiate an agreement with Pets in Need (PIN) and bring back to Council in August with the following amendments and review:

1. No Trap/Neuter/Return (TNR) changes, through language such as: "Both parties will work together to develop a transparent and humane feral cat program reflective of municipal best practices and the impact on public health and wildlife, and that maintains the current practice where PIN does not release feral cats or cause them to be released."
2. Review on the number of surgeries

⁶ City Council, June 12, 2023, Agenda Item #13,
<https://cityofpaloalto.primegov.com/Portal/viewer?id=2049&type=0>

3. Higher revenue opportunities
4. Consider a possible 3-year contract
5. Level of service and termination clause
6. Reporting and oversight
7. Spayed and neutered metrics

ANALYSIS

Since the June 12th Council meeting, staff from the City and PIN have been meeting regularly to revise the Term Sheet in response to the Motion and other comments received during the meeting. The Term Sheet (Attachment A) has been revised to reflect the Council's comments and direction to staff as described below. In some instances, where staff recommend not changing the term, an explanation is provided.

No Trap/Neuter/Return (TNR) changes – The language included in the revised Term Sheet is generally consistent with the language proposed in the motion. The language reads, “Both parties will work together to develop a transparent and humane feral cat program that reflects municipal best practices and takes into account the impact on public health and wildlife. The program will continue the current practice of not releasing feral cats or causing them to be released.”

Number of surgeries – It is difficult to do a direct comparison of the number of in-jurisdiction⁷ spay/neuter surgeries performed by the City prior to 2019 and the number of in-jurisdiction surgeries performed by PIN because the City's records did not track that information. Moving forward, the focus will be meeting demand of in-jurisdiction animals. Wait times for surgery for in-jurisdiction animals will be no more than one month, except in the event of unexpected and exceptional circumstances.

Higher revenue opportunities – Staff from the City and PIN discussed where opportunities might exist to bring in more revenue. PIN may inform customers of the full cost of a service and invite customers to voluntarily cover all or a portion of the full cost. Donations received via adoption and veterinary services at the Palo Alto Animal Shelter will be used exclusively for the Palo Alto Animal Shelter. Staff explored a revenue share with the City and PIN; however, due to requirements to honor donor intent, as well as intensive non-profit accounting requirements, the option for fundraising collaboration is not considered a feasible option. This has also resulted in a modification to how capital improvements are funded. In the Term Sheet, the City's commitment for future capital investments is \$2.5M. In previous versions, any amount over that would be funded by PIN. Since the funds PIN would need to contribute would come from donations, PIN has determined this is not feasible for the same reasons described above. The City and PIN would need to renegotiate any additional capital funds needed beyond the allocated amount in the agreement.

⁷ In-jurisdiction is defined as animals originating from Palo Alto, Los Altos, or Los Altos Hills.

Contract term – Council directed staff to consider a three-year term for a new Agreement. Staff from both the City and PIN prefer to maintain the five-year term, which is consistent with the term in the current Agreement. The capital project would likely not be completed until well into that three-year period, leaving PIN with little opportunity to demonstrate their ability to operate the shelter with the additional space improvements before the Agreement expires. Also, staff is hopeful that the revised agreement will provide better clarity in roles and responsibilities resulting in a successful, long-term partnership with PIN. The Agreement will include a termination clause that allows either party to terminate the Agreement similar to the current Agreement.

Level of service – PIN and the City have agreed to service levels provided at the shelter. These include shelter hours, surgery wait times, and number of vaccine clinics. These are included in the Term Sheet in Attachment A.

Reporting and oversight – PIN has been submitting monthly reports to the City, and an annual financial report as required in the current Agreement. Staff reviewed the current reporting requirements and made some minor modifications. Reporting requirements will include medical statistics for both in-jurisdiction and out of jurisdiction animals, and number of animals in and out of the shelter, and city of origin of animals brought into the shelter. In the new Agreement, PIN would submit quarterly financial reports to include revenues from services received at the shelter, expenditures, and pending board approval, the amount of reduced fees provided.

Spayed and neutered metrics – The Term Sheet focuses on wait time for in-jurisdiction animals rather than the number of surgeries performed. As stated above, wait times for surgery for in-jurisdiction animals will be no more than one month, except in the event of unexpected and exceptional circumstances.

Since the Council last reviewed the Term Sheet in June, there have been additional modifications. These include: more specificity on the capital improvements; adding a contingency in the amount of \$20,000 per year for unforeseen ancillary expenses; and clarifying who is responsible for disposal of dead wildlife.

The PIN Board of Directors reviewed and approved the new Term Sheet as revised on July 20, 2023. With Council's approval, Staff will work with the City Attorney's Office to draft an Agreement that will be brought back to Council for consent approval.

FISCAL/RESOURCE IMPACT

The FY 2024 Adopted Operating Budget includes \$1.2 million for contract costs to manage the Animal Shelter. Approximately \$170,000 in additional funding is expected beyond proposed budget levels to align with the new operating agreement at \$1.4 million. This expense is expected to be offset by adjustments to increase revenue estimates to recognize licensing fees. The FY 2024 Adopted Capital Budget includes \$2.8 million for the Animal Center Renovation Project (PE-19002), including \$1.6 million for anticipated increases for the new PIN agreement. To date, a

total of \$6.0 million has been allocated to this project and \$2.9 million has been expended on shelter improvements.

PIN has added an additional term to address City compensation for additional services rendered each month beginning June 1, 2023 until a new contract is executed. PIN calculates this as the difference between the monthly fee (1) specified for Year 5 in Exhibit B of the 2019 Agreement and (2) the monthly fee specified for Year 1 in the proposed new Agreement, effective June 1, 2023. This cost equates to \$55,535 per month in additional compensation beginning June 1, 2023 and each month until a new Agreement is executed. This additional compensation is part of the annual \$1.4 million estimated PIN costs for FY 2024. Once a revised term sheet is accepted by the Council, staff will return with a new agreement with PIN along with budget amendments for FY 2024 to align the budget with the agreement.

STAKEHOLDER ENGAGEMENT

Staff from the City Manager's Office, Community Services Department, and Police Department have worked closely with PIN staff and members of the Pets in Need Board of Directors to develop and revise the Term Sheet. Several Council discussions have provided the community the opportunity to follow the negotiations and provide comments.

ENVIRONMENTAL REVIEW

Council action on this item is not considered a Project within the requirements of CEQA.

ATTACHMENTS

Attachment A: Proposed Term Sheet between Pets in Need and City of Palo Alto for a new Five-year Agreement, Revised July 20, 2023

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

APPROVED BY:

Kristen O'Kane, Community Services Director