



MEMORANDUM

TO: CITY COUNCIL

FROM: JAMES A. BERGMAN, CITY MANAGER

SUBJECT: CONSIDERATION OF FIVE CITIES FIRE AUTHORITY JOINT POWERS AUTHORITY AGREEMENT SECOND AMENDMENT

DATE: JUNE 11, 2019

SUMMARY OF ACTION:

Consideration of approval of the Second Amendment to the Five Cities Fire Authority Joint Powers Authority Agreement.

IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:

The new funding formula would increase the City's contribution for fire and emergency services by \$57,294 in FY 2019-20, which is considered a transition year to allow the Oceano Community Services District (OCSD) to pursue a ballot measure in March of 2020. This increase is included in the 2019-20 budget pending Council adoption on June 11, 2019. The City's contribution for FY 2019-20 is \$2,580,955.

Continued implementation of the Five Cities Fire Authority (FCFA) will result in a modified funding formula that will reduce the overall percentage of the City's allocation but will result in an overall cost increase into the future as the strategic plan is implemented.

RECOMMENDATION:

It is recommended the City Council adopt a Resolution approving the Second Amendment to the Five Cities Fire Authority Joint Exercise of Powers Agreement.

BACKGROUND

Given the challenges of increased costs for fire and emergency services, the FCFA member agencies (Arroyo Grande, Grover Beach, and Oceano) approved a Memorandum of Agreement (MOA) in 2018 that outlined a process for determining changes to the FCFA Joint Powers Agreement including the funding formula. Following the adoption of the MOA, the "Managers Working Group" comprised of the three city/general managers of the member agencies along with the Fire Chief worked diligently in an interest-based approach to develop a new funding formula that supports implementation of the FCFA Strategic Plan in a more equitable manner for the three agencies.

At the March 12, 2019 Council meeting, the City Council received an update on the Five Cities Fire Authority (FCFA) Joint Powers Agreement (JPA) Memorandum of Agreement related to JPA amendments and funding options. Direction from the Council was:

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Council comments ensued in support of the six month extension, and that amendments to the JPA should include: 1) Determine to which stage the City can responsibly fund the Strategic Plan (priority of items that can be funded); 2) Continue to refine the funding formula; 3) Require Oceano to do their due diligence in placing a measure on the March 2020 ballot to fund their portion of the formula; 4) Ensure that Oceano seeks sufficient funds in its ballot measure to cover future priorities of the Strategic Plan; 5) a provision that Oceano will withdraw if the ballot measure is unsuccessful and is unable to provide its share of necessary funding based on the new formula; 6) clarification of the effective date of the new funding formula; 7) include a contingency plan for the remaining agencies of the JPA if Oceano withdraws, which includes the distribution of assets and liabilities; 8) Include a provision to amend Section 17a for a wind down of 8 months that would begin once the outcome of the measure is known; 9) that a set date/year be established for the JPA to be reviewed; and 10) that the amendment be brought back to the Council no later than September 1, 2019. Additional comments included ensuring that work continues concurrently on having a backup plan and costs in place should the measure fail and Oceano withdraws from the JPA, and ensuring that worker's compensation and PERS liabilities are addressed in the discussion of the funding formula.

Discussion

Key components of the Second Amendment to the Five Cities Fire Authority are discussed below:

Section 2 Strategic Plan – This section commits the three parties to continue implementing the hiring of three (3) full-time positions to be assigned to the Grover Beach fire station during Fiscal Year 2019-20.

Section 3 Fiscal Year 2019/2020 – This section expressly states the amount each partner agency will fund the Five Cities Fire Authority during FY 2019-20. Arroyo Grande will increase its contribution by \$57,294 from FY 2018-19.

Section 4 Funding Formula - A new funding formula is included as Attachment 1 to the Second Amendment to the JPA.

The current formula produces a current cost allocation of 47% for Arroyo Grande, 34% for Grover Beach, and 19% for Oceano based on a four-part methodology as follows:

- Number of service calls from the previous year
- Population
- Assessed property value
- Service levels (staffing) at JPA inception

The revised funding formula as included in Attachment 1 removes the assessed property value component and changes the service level/staffing component to the number of stations in each jurisdiction. The service calls component was also modified to be a three-year rolling average versus single-year data to smooth out annual discrepancies. This formula is supported by the Managers Working Group as an improvement to the existing formula that leads to a more equitable distribution of costs among member agencies.

On April 19, 2019, the FCFA Board provided direction to support this new formula along with use of a “transitional” formula in determining member contributions in Fiscal Year 2019-20 as further described below. This new formula is now being brought to the respective governing boards of

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FCFA member agencies. The amendment was considered and adopted by the City of Grover Beach on June 3, 2019 and will be considered by the Oceano Community Services District (OCSD) on June 12th followed by consideration of the FY 2019-20 FCFA Budget by the FCFA Board on June 14th.

The following chart illustrates how the funding formula is currently weighted and calculated to allow for community cost allocation along with the proposed changes. While all three communities have a stated goal of consistent station staffing of three personnel daily, the “transitional” model for FY 2019-20 reflects the current staffing levels between the two cities which have three personnel and Oceano which has two personnel per shift. OSCD is placing a measure on the March 2020 ballot to generate additional revenues for fire and emergency medical services and if successful, the revised formula for FCFA contributions would go into effect beginning in FY 2020-21 and the Oceano station would be staffed with three personnel per shift.

| Funding Formula Components & Weighting | | | |
|---|-----------------------|-------------------|----------------------------|
| | <u>Current</u> | <u>New</u> | <u>Transitional</u> |
| Population | 25.0% | 33.3% | 33.3% |
| Calls for Service | 25.0% | 33.3% | 33.3% |
| Assessed Valuation | 25.0% | N/A | N/A |
| Stations | 25.0% | 33.3% | 33.3% * |
| <i>Station Staffing - AG*</i> | | | 37.5% |
| <i>Station Staffing - GB*</i> | | | 37.5% |
| <i>Station Staffing - OCE*</i> | | | 25.0% |

| Community Contribution Percentages | | | |
|---|-----------------------|-------------------|----------------------------|
| | <u>Current</u> | <u>New</u> | <u>Transitional</u> |
| Arroyo Grande | 47.0% | 43.7% | 45.0% |
| Grover Beach | 34.0% | 33.3% | 35.1% |
| Oceano | 19.0% | 23.0% | 19.9% |

Based on the weighting identified above, the member community contribution percentages are presented in the following table. The “current” percentages reflect the existing formula and the “new” percentages reflect the new formula beginning in FY 2020-21 while the “transitional” formula reflects the formula for FY 2019-20.

Section 5 Ballot Measure - The Second Amendment to the JPA Agreement includes language about the OCSD ballot measure in March 2020 and the actions that will occur if the ballot measure does not pass. If the measure does not pass, OCSD will cease to be a member agency of the FCFA on June 30, 2021 following a 16-month “wind down period” identified in the amendment.

Section 6 Wind Down Period - This section specifies a 16-month time period for the distribution of assets and payment of liabilities if the OCSD ballot measure does not pass. During this period,

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the transitional funding formula used in FY 2019-20 would remain in place rather than using the new funding formula included in the amendment. Staff would work with other members of the Managers Working Group to represent the City's interests during this wind down period. Staff would also engage the Council in discussing the future provision of fire and emergency services in Arroyo Grande during this time.

ALTERNATIVES:

The following alternatives are provided for the Council consideration:

1. Adopt a Resolution approving the Second Amendment to the Five Cities Fire Authority Joint Exercise of Powers Agreement;
2. Do not adopt a Resolution approving the Second Amendment; or
3. Provide alternative direction to staff.

ADVANTAGES:

Approving the Second Amendment to the Five Cities Fire Authority Joint Exercise of Powers Agreement will continue the partnership to provide fire and emergency services to the City of Arroyo Grande.

DISADVANTAGES:

There are no disadvantages identified.

ENVIRONMENTAL REVIEW:

No environmental review is required for this item at this time.

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.

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
ARROYO GRANDE APPROVING A SECOND
AMENDMENT TO THE FIVE CITIES FIRE AUTHORITY
JOINT EXERCISE OF POWERS AGREEMENT**

WHEREAS, the City of Arroyo Grande ("City") is a member agency of the Five Cities Fire Authority (FCFA), which was created in 2010 upon approval of a Joint Powers Authority Agreement by the City, City of Grover Beach, and the Oceano Community Services District); and

WHEREAS, the City, City of Grover Beach and the Oceano Community Services District wish to approve a Second Amendment to the FCFA Joint Exercise of Powers Agreement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Arroyo Grande that the Second Amendment to the Five Cities Fire Authority Joint Exercise of Powers Agreement, attached hereto and incorporated herein as Exhibit A, is hereby approved and the Mayor and City Clerk are authorized to sign the same on behalf of said City.

On motion of Council Member _____, seconded by Council Member _____, and by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

the foregoing Resolution was passed and adopted this 11th day of June, 2019.

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CAREN RAY RUSSOM, MAYOR

ATTEST:

KELLY WETMORE, CITY CLERK

APPROVED AS TO CONTENT:

JAMES A. BERGMAN, CITY MANAGER

APPROVED AS TO FORM:

HEATHER WHITHAM, CITY ATTORNEY

**SECOND AMENDMENT TO FIVE CITIES FIRE AUTHORITY
JOINT EXERCISE OF POWERS AGREEMENT**

This Second Amendment to the Five Cities Fire Authority (“FCFA”) Joint Exercise of Powers Agreement, dated June 7, 2010 (“JPA”) (“Second Amendment”), is made and entered into as of July 1, 2019, by and between the cities of Arroyo Grande and Grover Beach, and the Oceano Community Services District (“Oceano”), which are hereinafter referred to as “Party” and “Parties.”

WHEREAS, on June 7, 2010, the Parties entered into a JPA pursuant to Section 6500 et seq. of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California, for the purpose of allowing the Parties to share a combined fire department in order to provide efficient and economical fire protection services; and

WHEREAS, in or about May of 2018, the Parties executed a Memorandum of Agreement Amending the FCFA JPA (“First Amendment”) in order to provide an opportunity for the Parties to meet and confer for the purpose of considering amendments to the JPA including, but not limited to, modifications to the funding formula contained in Exhibit B of the JPA (“Funding Formula”), the provisions regarding member withdrawal, and future staffing levels beyond Fiscal Year 2018/19; and

WHEREAS, the First Amendment required the Parties to agree upon amendments to the JPA by April 1, 2019 or the JPA would terminate as of December 31, 2019; and

WHEREAS, in March of 2019, the Parties executed an extension of the First Amendment, which extended the time for the Parties to mutually agree upon JPA Amendments to October 1, 2019; and

WHEREAS, the parties have met in good faith and now desire to amend the JPA.

NOW THEREFORE, in consideration of the mutual covenants and conditions set forth herein, the Parties agree as follows:

1. **Recitals**. The above recitals are true and correct and incorporated herein.
2. **Strategic Plan**. The Parties agree to fund the following priorities of the five-year Strategic Plan, which was adopted by the FCFA Board of Directors in 2017 for the Fiscal Year 2019/20 budget:

Continued transition to Career Firefighter position with hiring of three (3) full-time positions to be assigned to the Grover Beach fire station.

3. **Fiscal Year 2019/2020.** Each Parties' contributions for funding the Fiscal Year 2019/20 FCFA Budget shall be:

| | |
|---------------------------------------|-------------|
| A. City of Arroyo Grande | \$2,580,955 |
| 45.01%_____ | |
| B. City of Grover Beach | \$2,015,115 |
| 35.14%_____ | |
| C. Oceano Community Services District | \$1,062,383 |
| 19.85%_____ | |

4. **Funding Formula.**

- A. The Funding Formula contained in Exhibit B to the JPA is hereby amended and replaced in its entirety as set forth in Attachment 1 to this Amendment. All references in the JPA to Exhibit B shall now refer to Attachment 1.
- B. For Fiscal Year 2019-20, a transitional formula is used to determine the funding contributions specified in Section 3. This transitional formula modifies component 3 of the Funding Formula related to fire stations to reflect current staffing levels. This transitional formula may be used for the subsequent Fiscal Year 2020-21 as noted in Section 5B.
- C. The Funding Formula will be reviewed by the Jurisdiction every three years in the month of January, commencing 2023.

5. **Ballot Measure.**

- A. Oceano agrees to undertake the legally required procedures to place a special tax on the March 2020 ballot in accordance with Government Code Section 61121. Oceano will seek a special tax amount sufficient to enable Oceano to be able to fund its share of the Funding Formula taking into account the priorities of the Strategic Plan as determined by the Five Cities Fire Authority Board of Directors.
- B. If the March 2020 Oceano ballot measure does not pass and Oceano is unable to fund its share of the Funding Formula, by operation of this Second Amendment and subject to the Wind Down Period (identified below), Oceano will automatically and without further action cease to be a member of the JPA on June 30, 2021. The time between when the County Clerk Recorder concludes that the 2020 Oceano ballot measure has failed and June 30, 2021 will be known as the "Wind Down Period." Oceano agrees that should it no longer be a member agency of the FCFA, the cities of Arroyo Grande and Grover Beach may continue to operate under the trademark name of Five Cities Fire Authority with no further rights of Oceano to that name. Should the March 2020 ballot measure fail, the funding obligations set forth in Section 3 above for the Fiscal Year 2019/20 FCFA Budget, shall be the same in Fiscal Year 2020/2021.

6. **Wind Down Period.**

- A. During the Wind Down Period, the Parties shall establish the distribution of assets currently owned and/or in the possession of the JPA, including but not limited to major pieces of apparatus and capital equipment, which will allow Oceano to maintain sufficient apparatus and capital equipment in order to establish an independent fire service and will allow Arroyo Grande and Grover Beach to continue to operate as the FCFA.
- B. During the Wind Down Period, the Parties will establish the obligations of the Parties to pay future obligations that were incurred by the FCFA prior to April 1, 2020, including, but not limited to the following:
 - a. Lease payments on Engine 2 and 3; however, the Parties mutually agree and understand that as a result of the dissociation and/or withdrawal of Oceano or any other Party, no Party will be obligated for future payment lease obligations for any Engine that does not remain in the custody, control, and possession of that Jurisdiction.
 - b. Withdrawal and/or dissociation of Oceano or any other Party shall not absolve such Party of liabilities arising out of the participation in the JPA incurred in the ordinary course of business. The Parties mutually agree and understand that as a result of the dissociation and/or withdrawal of Oceano or any other Party, all Parties will remain obligated to pay future FCFA employment related obligations incurred prior to June 30, 2021, including but not limited to pension/PERS, accrued fringe benefits etc.
 - c. During the Wind Down period, the FCFA will perform an unfunded actuarial accrued liability analysis to calculate Oceano or any other dissociating and/or withdrawing Parties' share of unfunded PERS liability, which will be due to the remaining JPA Parties or the City of Arroyo Grande should the JPA be dissolved.
 - d. During the Wind Down Period, the Parties will meet and confer in good faith in regards to the distribution of assets and liabilities as follows:
 - a. A determination as to the distribution of equipment and physical assets by October 1, 2020 (effective June 30, 2021).
 - b. An estimate as to the distribution of debt, employment liability, pension/PERS and other post-employment obligations by February 1, 2021 (effective June 30, 2021).
 - c. An estimate as to the distribution of all other assets by March 1, 2021 (effective June 30, 2021).
 - e. The parties mutually agree and understand that any liability related to unresolved claims or litigation existing prior to June 30, 2021 will remain the obligation of all Parties whether remaining members of the FCFA or not.
 - f. Prior to October 1, 2021, the Parties shall complete a post-dissociation reconciliation of all assets and liabilities incurred prior to June 30, 2021. Any party owing funds shall pay such funds to the other immediately upon determination. The parties agree to cooperate in completing this post closing reconciliation.

7. **Effect of Amendment.** All other provisions of the JPA shall remain unchanged and in full force and affect. To the extent there is inconsistency between this Amendment and the JPA, the terms of this Amendment shall control, including but not limited to JPA Sections 6.B, 8.B(3), and 17.
8. **Counterparts.** This Amendment may be executed in any number of counterparts and by the Parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.
9. **Severability.** If any part of this Amendment is found to be in conflict with applicable laws, that part will be inoperative, null and void insofar as it is in conflict with any applicable laws, but the remainder of the Amendment will remain in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be executed by their proper officers hereunto duly authorized.

CITY OF ARROYO GRANDE

CITY OF GROVER BEACH

DRAFT

Caren Ray Russom, Mayor

Jeff Lee, Mayor

ATTEST:

ATTEST:

Kelly Wetmore, City Clerk

Wendi Sims, City Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Heather K. Whitham, City Attorney

David Hale, City Attorney

OCEANO COMMUNITY SERVICES DISTRICT

Linda Austin, President

ATTEST:

By:

APPROVED AS TO FORM:

Jeff Minnery, District Counsel

ATTACHMENT 1

FUNDING FORMULA

Should the ballot measure pass, effective July 1, 2020, the Parties shall bear the costs of the Five Cities Fire Authority according to the following formula, to be calculated every three years when the budget is prepared. If the ballot measure fails, the funding will be in accordance with Section 5.B of this Second Amendment.

1. 33.33% of costs shall be assessed among the Parties in proportion to the population of each Jurisdiction as most recently determined by the U.S. Census and any intervening estimates prepared by the California Department of Finance when the Fire Chief prepares each annual budget.
2. 33.33% of costs shall be assessed among the Parties in proportion to the number of annual service calls, calculated on a three-year rolling average in each Jurisdiction as most recently determined when the Fire Chief prepares each annual budget.
3. 33.33% of costs shall be assessed among the Parties in proportion to the number of fire stations located in each Jurisdiction.