**COUNTY OF SISKIYOU**

**STAFF REPORT**

**MEETING DATE:** November 12, 2024

**TO:** Siskiyou County Board of Supervisors

**FROM:** Elizabeth Nielsen, Deputy County Administrator

**SUBJECT:**  Evans Annexation Tax Sharing Negotiations and Proposed Tax Sharing Resolution

1. **BACKGROUND AND SUMMARY**

In the fall of 2023, an application was submitted to the Siskiyou County Local Agency Formation Commission (LAFCO) by Rick Evans to increase the size of a City of Yreka lot from 2.12 acres to 5.21 acres through the annexation into the City of approximately 3 acres from a second parcel in the unincorporated area of the County. This annexation application initiated a statutory process for the City and County to negotiate and potential exchange tax revenue for the proposed 3-acre annexation area. As part of this process, the Auditor was required to notify the City and County of the amount of property tax revenue subject to negotiation and exchange between the agencies. The area to be annexed to the City generates approximately $40 per year in 1% ad valorem property tax, however, only a portion of that amount is subject to negotiation and allocation between the City and the County. The portion subject to negotiated exchange between the parties consists of 1) the Siskiyou County General Fund portion of the base property tax, which is approximately $14.38, and 2) the South Yreka Fire Protection District portion of the base property tax, which is approximately $2.29. The base property taxes that are being discussed by the parties thus totals $16.67. In addition to this base amount, which remains static over time, the annual tax increment (the increase upon this amount each fiscal year after the annexation is completed) is also subject to exchange. LAFCO cannot proceed with processing the property owner’s application to annex the unincorporated land into the City, unless a property tax exchange agreement is reached between the City and County about this $16.67 and any associated future increment.

1. **HISTORY OF NEGOTIATIONS**

The initial 60-day statutory negotiation period between the City and County did not result in an agreement. Thus, upon request of the County, the negotiation period was extended pursuant to Revenue and Taxation Code section 99(b)(4), to 90 days.

Negotiations between the parties proceeded as follows:

* The County proposed 100% retention of the base and splitting the increment 50/50 with the City (consistent with County Resolution 24-104 (Attachment 1)).
* The City rejected this proposal, and countered with the City and County splitting the base 50/50 and splitting the increment 75% City/25% County.
* County staff rejected this proposal, and countered with its original proposal, plus an added Transient Occupancy Tax (TOT) provision to equally split TOT if the annexation area is rezoned for temporary lodging uses.

Following this, the City did not respond with a counteroffer, and the extended negotiation period ended on May 5, 2024, without the parties reaching an agreement.

1. **DISPUTE RESOLUTION PROCESS**

When a City and County cannot reach an agreement within the negotiation period the Revenue and Taxation Code provides for a mediation process which involves (in sequential steps) a third-party fiscal analysis, a mediator, and an arbitrator. As explained by another jurisdiction’s LAFCO, “This process is almost never used (here or statewide) because it is unwieldy, and the results are non-binding on the agencies.” The costs of the fiscal analysis, the mediation, and the arbitration are to be equally divided between the City and the County. If a sustained impasse leads the parties to the arbitration phase, “[t]he arbitrator shall select one of the offers and recommend that offer to the governing bodies of the city and the county. If the governing body of the city or the county rejects the recommended offer, it shall do so during a public hearing, and shall, at the conclusion of that hearing, make written findings of fact as to why the recommended offer was not accepted.” Revenue and Taxation Code § 99(e)(C). The negotiation process thereafter ends, and the annexation does not move forward.

1. **CONTINUED EFFORTS TO REACH A NEGOTIATED SOLUTION**

Given the costs associated with the dispute resolution process described above, and remaining cognizant that LAFCO and Mr. Evan’s were awaiting action by the City and County, on May 29, 2024, in an attempt to get the parties closer to resolution, County staff made a counteroffer to the City that removed the TOT from the proposed tax exchange resolution and returned to the County’s original proposal (County retains 100% base of its existing base and splits future increment on that base 50/50) (Attachment 2).

On June 4, 2024, City staff rejected the County’s counteroffer.

On July 15, 2024, the parties entered into an agreement with Berkson Associates to provide third-party fiscal consultation services and began the sequential steps of the dispute resolution process.

On July 31, 2024, Richard Berkson, Berkson Associates provided the first phase of a draft report for the Evans-Willmarth Tax Exchange negotiation. The first phase provided a breakdown of the current property taxes and provided property tax options to the City and the County.

On August 19, 2024, the County, City and Richard Berkson had a meeting to discuss the draft report. Following this meeting, on August 21, 2024, and as the County’s understanding of the base property tax figures at issue became clearer, County staff prepared a revised draft counter-offer tax sharing resolution (Attachment 3) that updated certain provisions and proposed as follows:

* Clarified (underlined): County shall retain 100% of the General Fund portion of the Base Property Tax Revenues (approximately $14.38).
* Added: The City shall be allocated the South Yreka Fire Protection District’s portion (approximately $2.29) of the Base Property Tax Revenue.
* Clarified (underlined): The Incremental Property Tax Revenues available for allocations (the Siskiyou County General Fund and South Yreka Fire Protection District position) shall be allocated 50% to the City and 50% to the County.

The City did not respond to the County’s revised offer, and nor has it done so to date.

On October 14, 2024, Richard Berkson provided the second phase of the draft fiscal analysis which included a County Budget Analysis (Attachment 4). (Please note that this is an administrative draft document, subject to change, that the parties and the fiscal consultant are still discussing, and it is not a final document.) Page 14 of the draft analysis states that:

“If the annexed property remains undeveloped, the current unincorporated property taxes **(the “base” taxes) to the County and South Yreka Fire Protection District (FPD) are required** **to avoid fiscal impacts that would otherwise be caused by the loss of existing property tax. In the event of future development of the annexed property, the fiscal analysis shows that the County requires 45.2 percent of future property tax increment** from the site to mitigate its net costs of services to new residents.” [Emphasis added.]

This 45.2% appe2024, to refer to the total increment available for allocation, inclusive of the Fire District increment. On October 24, 2024, the County and the City had a meeting to discuss the second phase of the fiscal analysis, during which the County again provided the City staff with its revised offer. No agreement has been reached and the City proposes to begin outreach to mediators and arbitrators.

While there remains the final phase of the fiscal analysis left to complete, based on previous discussions, it is unknown whether an agreement can be reached at the staff level between the County and the City. If no agreement is reached, the next phases of the process include a mediation between the parties with a mediator, and then engaging in the arbitration process. These processes and proceedings are expected to have a significant cost to both the County and the City. In addition, while the arbitration proceeding is adjudicatory in the sense that at the end of the process the parties submit their final, best offers and the arbitrator will select one of the offers, the obligation that is imposed as a result of the arbitrator’s selection is that the City or County either accept the selected offer or the City or County hold a public hearing on the offer and adopt written findings of facts as to why the Arbitrator’s recommendation was not accepted. Thus, at the end of the process, if the parties have not come to a meeting of the minds, the annexation may still not proceed.

1. **RECOMMENDATIONS AND NEXT STEPS**

In another effort to reach an agreement with the City for the Evans Annexation tax sharing negotiations, and to conserve scarce resources, as well as to facilitate forward movement in the LAFCO process, County staff is recommending that the Board approve the attached draft Tax Sharing Resolution (Attachment 5). This resolution has not been presented to the City staff nor approved by the City. Staff after reviewing the administrative draft fiscal analysis believes it is an agreement that would be fiscally responsible for the County, while also recognizing the City’s interests. Having the Board approve it in advance may make exiting this process simpler by leaving only City consideration and action necessary for the matter to resolve. The main terms of the proposed resolution, include the following:

* County shall retain 100% of the General Fund portion of the Base Property Tax Revenues (approximately $14.38).
* The City shall be allocated 100% of the South Yreka Fire Protection District’s portion (approximately $2.29) of the Base Property Tax Revenue.
* The Incremental Property Tax Revenues associated with the Siskiyou County General Fund shall be allocated 50% to the City and 50% to the County.
* The incremental Property Tax Revenues associated with the South Yreka Fire Protection District’s portion of the Base Property Tax Revenue, shall be allocated 100% to the City.

If approved by the Board, the County will provide the tax sharing resolution, and this staff report, to both the City of Yreka staff and the City Mayor.