



CITY of CALABASAS
CITY COUNCIL AGENDA REPORT

DATE: SEPTEMBER 22, 2017

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: SCOTT H. HOWARD, COLANTUONO HIGHSMITH & WHATLEY,
CITY ATTORNEY

SUBJECT: REPORT ON ARBITRATOR'S RECOMMENDATION ACCEPTING
THE CITY'S TAX SHARING PROPOSAL IN THE MATTER OF
CALABASAS V. HAMAI ET AL

**MEETING
DATE:** OCTOBER 11, 2017

SUMMARY RECOMMENDATION:

Recommendation to approve this report and by doing so, acknowledging and accepting the arbitrator's decision recommending all parties accept the City's proposed tax sharing proposal in the matter of Calabasas v. Hamai et al. related to the proposed annexation of the West Agoura Road area.

BACKGROUND:

In March 2014 the City commenced proceedings proposing to annex into the City the area which has been titled "the West Agoura Road Annexation Area". As part of the proposed annexation, a city and county are obligated to negotiate a property tax sharing agreement. The County interprets this requirement to include negotiation of all taxes, including sales tax. As a result, although the City attempted to propose a number of reasonable tax sharing alternatives, negotiations stalled and in September 2015 the City filed legal action seeking a declaration from the Court that only property taxes were subject to negotiation under state law. In December 2015 the Court ordered the matter into a process which included

mediation and, if that failed, arbitration. The process to be followed was outlined under Revenue and Taxation Code (R & T) section 99.

Prior to mediation, the Council provided its legal counsel with direction on the parameters of an offer to resolve the matter. Mediation occurred in March 2017 and was unsuccessful. The matter then proceeded into arbitration. A retired judge was selected by the parties, briefs were submitted and arguments made, with a particular focus on the issue of sharing of sales tax revenue. Both parties submitted a "last best and final offer" to share tax revenue should the West Agoura Road Annexation Area proposal proceed through LAFCO to completion. The City's offer was based on the direction to counsel provided prior to mediation. On September 19, 2017, the arbitrator selected and recommended without change or limitation, the City's proposal to share tax revenue and rejected the County's proposal. The arbitrator made a number of findings, noting initially that;

"The City's offer presents a balanced sharing of tax revenues spread out over a time period that allows substantial time for any necessary adjustment and fiscal planning as a result of the annexation."

Since, the arbitrator accepted and recommends the City's proposal there is technically no legal requirement for the Council to take action, as the statute (R & T Section 99) requires a vote and findings if the Council were to reject the arbitrator's recommendation. However, to avoid any confusion, staff recommends Council reaffirm approval of the recommendation through a motion to approve this report.

FISCAL IMPACT:

Revenues and expenses associated with the annexation have been analyzed by Finance and are included in the LAFCO annexation process. There may be continuing legal expenses to prosecute the Court action should the County reject the arbitrator's recommendation.

REQUESTED ACTION:

Approve this report and accept the arbitrator's recommendation.

ATTACHMENTS:

Advisory Recommendation After Arbitration Pursuant to California Revenue & Taxation Code Section 99(e)(1)(C) – Decision of Arbitrator.