



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Edgardo Garcia  
Julia H. Cooper  
Margaret McCahan

**SUBJECT:** SEE BELOW

**DATE:** November 20, 2017

Approved

*D. D. S. L.*

Date

*11/21/17*

**SUBJECT: ACTIONS RELATED TO THE FUNDING AND PURCHASE ORDER FOR A HELICOPTER FOR THE POLICE DEPARTMENT**

## RECOMMENDATION

Adopt a resolution authorizing the City Manager to:

- (a) Execute a purchase order with Airbus Helicopters Inc. (Grand Prairie, TX), to purchase one model H125 Helicopter in an amount not to exceed \$5,211,074 including the base configuration helicopter, configuration options as required by the Police Department, and pilot training, exclusive of any applicable taxes and fees.
- (b) Approve a contingency of \$500,000 for any unforeseen changes or modifications to the final configuration to the helicopter, subject to the appropriation of funds.
- (c) Adopt the following Fiscal Year 2017-2018 Appropriation Ordinance amendments in the Federal Drug Forfeiture Fund:
  - (1) Establish a new appropriation for Police Helicopter Replacement in the amount of \$3,473,500; and
  - (2) Decrease the Ending Fund Balance by \$3,473,500.

## OUTCOME

Replace the Police Department's existing Airbus EC-120B (Air2) helicopter that has reached its end of life and is no longer economical to maintain and repair.

## **BACKGROUND**

The Police Department's Air Support Unit (ASU) currently operates an Airbus EC-120B helicopter. The mission of Air2 is primarily to support the Bureau of Field Operations, Field Patrol Division. The helicopter assists units on the ground for a variety of situations, which include supporting patrol officers on routine calls for service, responding to priority events such as vehicle pursuits, and searching for armed suspects and missing persons. Air2 also provides a visible and psychological deterrent to law violators during patrol. Air2 is a critical asset for specialized units working special events or conducting reconnaissance during tactical operations. The helicopter is also a critical tool during catastrophic incidents or other large-scale operations where aerial views provide enhanced situational awareness for personnel managing the events. The Police Department released a Helicopter Replacement Plan memorandum<sup>1</sup> on September 7, 2017, that contains additional background information.

## **ANALYSIS**

In November 2016, the Police Department initiated discussions with the Finance Department on the best way to purchase an Airbus H125 helicopter (Air3). Approval to purchase the requested make and model of Airbus helicopter was established by following the guidelines set forth for brand name purchases in City Policy 5.1.4, *Brand Name and Sole Source Procurements*.

In addition, the current Memorandum of Agreement (MOA) between the City and San José Police Officers' Association provides guidance for selecting police patrol vehicles as follows:

*Police Vehicle Specifications: In the acquisition of new police patrol vehicles, the specifications currently used by the City of Los Angeles or California Highway Patrol shall be followed by the City insofar as is reasonably possible so as to provide vehicles reasonably safe and suitable for patrol purposes.*

Consistent with this standard, derivations of the Airbus H125 are used by the City and County of Los Angeles, the California Highway Patrol, and similar Airbus models are operated by the Counties of Orange, San Bernardino, and Riverside, CA.

The helicopter purchase includes a base or "green" configuration that is outfitted with airframe and avionic options that are specific to the requirements of the Police Department. Helicopter options are either installed by Airbus during the manufacturing process, or by Hangar One, a third party completion center subcontracting to Airbus.

Finance staff researched recent Airbus helicopter purchases by public agencies in California:

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<sup>1</sup> Link to September 7, 2017 Police Helicopter Replacement Plan:

<http://files.constantcontact.com/7a210436601/b2028efd-9849-4735-abc2-3e340d02a33e.pdf>

- a) In 2014, the State of California issued a competitive bid calling out Airbus specifications and the bid was open for any manufacturer to submit a bid equal to the Airbus specification (Airbus or equal). Airbus submitted the only bid and the State currently has a multi-year cooperative agreement with Airbus for the purchase of 14 helicopters that is available to all State and local public agencies to leverage (also referred to as “piggybacking”).
- b) In 2014, Riverside County sole source purchased a similar model Airbus helicopter directly from Airbus. They cited that their pilots were already trained on Airbus models as the basis for their sole source determination.
- c) In 2016, Orange County, CA issued competitive bids for a similar model Airbus Helicopter and received one bid from Airbus. They issued a separate bid for certain aspects of the completion of the helicopter and received one bid from Hangar One.
- d) In 2017, San Bernardino County issued a competitive bid for a similar model Airbus Helicopter, and received one bid from Airbus.

Staff concluded that issuing competitive Request for Bids would not result in multiple bids, and explored the use of the State of California cooperative agreement to purchase the helicopter. While the State’s helicopter configuration is not identical to the City’s, approximately 80% of the purchase price of the City’s helicopter configuration was benchmarked against the State contract.

The estimated time from order to delivery of the helicopter is 120 to 180 days.

This purchase meets the following criteria as set forth in the San José Municipal Code:

- a) Section 4.12.230: Sole Source Purchases: *“The procurement authority may make purchases of such supplies materials or equipment which can be obtained from only one vendor or manufacturer.”*
- b) This purchase also meets the criteria as set forth in the City of San José City Administrative Policy Manual 5.1.6, Procurement with Grant Funds.

The helicopter is being acquired using multiple funding sources including the General Fund, Gift Trust Fund, Supplemental Law Enforcement Services Fund, State Drug Forfeiture Fund, and the Federal Drug Forfeiture Fund. On September 29, 2017, City Administration released the 2016-2017 Annual Report<sup>2</sup> which contained a further refinement of the Police Department’s Helicopter Replacement Plan as well as partial funding actions for the replacement helicopter. The 2016-2017 Annual Report, as approved by City Council on October 17, 2017, included the following appropriation actions: \$1.6 million under the Urgent Fiscal/Program needs on page IV-20, and \$150,000 from the State Drug Forfeiture Fund on page IV-50. Due to a temporary

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<sup>2</sup> Link to 2016-2017 Annual Report: <http://www.sanjoseca.gov/DocumentCenter/View/72245>

spending restriction on the Federal Drug Forfeiture Fund, additional funding for the replacement helicopter was not appropriated as part of the Annual Report actions. On October 26, 2017, the Police Department received notice from the United States Department of Justice that the restriction was lifted, and the Department is now bringing forward actions to appropriate this additional helicopter funding.

The Supplemental Law Enforcement Services (SLES) Grant for 2016-2018 was approved by the City Council on December 13, 2016<sup>3</sup>. On October 12, 2017, the Police Department was notified by the County of Santa Clara that additional funding for the grant would be received. An update to the Spending Plan and the appropriation of a portion of these additional funds for the helicopter replacement is recommended in a separate Council memorandum on the December 5, 2017 Agenda.

These budget actions combined with the actions recommended in this memorandum, the separate Supplemental Law Enforcement Services Spending Plan memorandum, as well as existing budgeted allocations will provide full funding for the replacement of the Police Department's aging helicopter.

A summary of the helicopter replacement funding is as follows:

<b>Fund</b>	<b>Item</b>	<b>Amount</b>	<b>Budget Action</b>
General Fund	Police Helicopter Replacement	\$ 1,600,000	2016-2017 Annual Report
General Fund	Helicopter maintenance	\$ 100,000	2017-2018 Adopted Budget – Police Non-Personal/Equipment
Gift Trust Fund	Investigative Enhancements	\$ 37,574	2017-2018 Adopted Budget
Supplemental Law Enforcement Services	SLES Grant 2016-2018	\$ 350,000	Recommended in a separate Council memorandum
State Drug Forfeiture Fund	Police Helicopter Replacement	\$ 150,000	2016-2017 Annual Report
Federal Drug Forfeiture Fund	Police Helicopter Replacement	\$ 3,473,500	Recommended in this memorandum
<b>Total Funding</b>		<b>\$ 5,711,074*</b>	

\* - Includes estimated Sales Tax of approximately \$500,000

Funding and procurement of the helicopter is expected to be one time. Ongoing costs of routine operations and maintenance are expected to be absorbed within the Police Department's existing allocations for the Air Support Unit as Air2 will be retired as soon as Air3 is commissioned.

<sup>3</sup> Link to SLES Grant 2016-2018 Spending Plan:

[http://sanjose.granicus.com/MetaViewer.php?view\\_id=&event\\_id=2662&meta\\_id=605149](http://sanjose.granicus.com/MetaViewer.php?view_id=&event_id=2662&meta_id=605149)

**EVALUATION AND FOLLOW-UP**

No follow up is anticipated; however, the Police Department can provide updates during its Operations and Performance Bi-monthly Status Report to the Public Safety, Finance and Strategic Support Committee as needed.

**PUBLIC OUTREACH**

This item will be posted on the City's website for the December 5, 2017 City Council Agenda.

**COORDINATION**

This memorandum has been coordinated with the City Attorney's Office.

**COMMISSION RECOMMENDATION**

The memorandum does not require input from a board or commission.

**FISCAL/POLICY ALIGNMENT**

This action is consistent with the City's 2017-2018 Adopted Operating Budget City Service Area Delivery Framework for Public Safety Services: Provide effective and timely police and fire response to high-priority calls for service from the community to protect the safety, health, and property of San José residents and businesses.

**COST SUMMARY/IMPLICATIONS**

The proposed cost of the project is as follows:

Base or "green" helicopter:	\$3,040,684
Airframe & Avionics options:	\$2,170,390
Sales Tax:	<u>\$ 500,000</u>
Total	\$5,711,074*

\*This project total does not include the \$500,000 contingency recommended. Should any issue arise stemming from this project, the Department will use Supplemental Law Enforcement Services grant monies to cover any unanticipated costs.

The Police Department has \$1,887,574 currently allocated to this project, \$3,473,500 recommended in this memorandum, and \$350,000 recommended in the separate SLES grant memorandum on this Agenda for a total allocation of \$5,711,074 (which includes estimated

Sales Tax of approximately \$500,000). Ongoing costs are already allocated to the Police Department.

**BUDGET REFERENCE**

The table below identifies the fund and appropriations to fund the contracts recommended as part of this memo.

Fund #	Appn #	Appn. Name	Current Appn	Rec'd Budget Action	Amt. for Contract	2017-2018 Adopted Operating Budget Page	Last Budget Action (Date, Ord. No.)
001	201Y	Police Helicopter Replacement	\$1,600,000	N/A	\$1,600,000	N/A	10/17/2017, Ord No. 30014
001	0502	Police – Non-personal/Equipment	\$26,779,228	N/A	\$100,000	p. 800	10/17/2017, Ord No. 30014
139	3450	Investigative Enhancements	\$37,971	N/A	\$37,574	p. 800	10/17/2017, Ord No. 30014
414	200I	SLES Grant 2016-2018	\$1,565,246	N/A	\$350,000*	p. 1047	10/17/2017, Ord No. 30014
417	202C	Police Helicopter Replacement	\$150,000	N/A	\$150,000	p. 800	10/17/2017, Ord No. 30014
419	New	Police Helicopter Replacement	\$0	\$3,473,500	\$3,473,500	p. 800	N/A
419	8999	Unrestricted Ending Fund Balance	\$3,498,396	(\$3,473,500)	N/A	p. 800	10/17/2017, Ord No. 30014

\*The additional funding of \$350,000 is recommended in a separate SLES memorandum on the December 5, 2017 Agenda.

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**CEQA**

Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

/s/

EDGARDO GARCIA  
Chief of Police

/s/

JULIA H. COOPER  
Director of Finance



MARGARET MCCAHAN  
Budget Director

For operational questions, please contact Loyd Kinsworthy, Police Captain at 408-537-1891.  
For purchasing questions, please contact Mark Giovannetti, Deputy Director of Finance, at 408-535-7052.