



COUNCIL AGENDA: 06/25/19

FILE: 19-533

ITEM: 2.27

# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Edgardo Garcia

**SUBJECT:** SEE BELOW

**DATE:** June 3, 2019

Approved

Date

6.13.19

**SUBJECT: MEMORANDUM OF UNDERSTANDING WITH COUNTY OF SANTA CLARA FOR CRIMINAL ASSET FORFEITURE FUNDS FORFEITED PURSUANT TO THE CALIFORNIA CONTROL OF PROFITS OF ORGANIZED CRIME ACT**

## RECOMMENDATION

Adopt a resolution authorizing the City Manager to negotiate and execute a Memorandum of Understanding for the allocation and distribution certain criminal asset forfeiture funds from the County of Santa Clara forfeited pursuant to the California Control of Profits of Organized Crime Act.

## OUTCOME

Approval of this recommendation will allow the County of Santa Clara to distribute certain criminal asset forfeiture funds to the City's San José Police Department for investigations above a threshold of \$500,000 in assets seized, for a period from July 1, 2019, through December 31, 2023.

## BACKGROUND

The California Control of Profits of Organized Crime Act (Penal Code, §§ 186-186.8) (Act) governs the process for seizure of criminal assets acquired and accumulated as a result of organized crime. In these statutory sections, the Legislature provided that criminal asset forfeiture funds seized in such cases shall be retained and used by the general fund of the local government agency that prosecutes the criminal violations in order to punish and deter further criminal activities of organized crime.

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## **ANALYSIS**

Notwithstanding these statutory sections, in certain complex, time- and resource-intensive cases that result in seizures of asset forfeiture funds of significant value, the County of Santa Clara (County) through its Office of the District Attorney (DA) wishes to enter into an asset-sharing arrangement with the City that recognizes the San José Police Department's (Department) contribution to successful investigation and prosecution of offenses within the Act.

In cases investigated by the Department in which the DA initiates and pursues criminal asset forfeiture proceedings under the Act, and successfully obtains forfeiture of assets totaling \$500,000 or more in value after all expenditures made or incurred in connection with the sale of the property and for the payment of restitution, the County and the City shall equitably allocate the forfeited assets as follows:

| <b>City of San José Police Department</b>          | <b>District Attorney</b>  |
|--|---|
| 50% of value of forfeited assets for investigation | 50% of value of forfeited assets to the District Attorney's Asset Forfeiture Proceeds Fund (Fund 0336). |

Potential funding can be used in enhanced Department operations such as staffing, outreach, supplies and equipment.

## **EVALUATION AND FOLLOW-UP**

No additional City Council action is expected for the acceptance of these potential revenues.

## **PUBLIC OUTREACH**

This memorandum will be posted on the City's website for the June 25, 2019, City Council Agenda.

## **COORDINATION**

This memorandum has been coordinated with the Office of the City Attorney and the City Manager's Budget Office.

## **COMMISSION RECOMMENDATION/INPUT**

This item does not have input from any board or commission.

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**COST SUMMARY/IMPLICATIONS**

Approval of this memorandum of understanding will allow the Department to accept potential future revenues. As needed, the Department will bring forward appropriate spending plans and associated appropriation actions for City Council approval.

**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

For questions please contact Lisa Perez, Chief Administrative Officer, at (408) 537-1624, or Heidi York, Assistant Administrative Officer, at (408) 537-1625.

CS:HY