



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Christopher M. Moore

SUBJECT: 2010 COPS HIRING PROGRAM
GRANT AWARD

DATE: November 29, 2010

Approved

Date

11/30/10

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

It is recommended that the City Council take the following actions regarding the 2010 Community Oriented Policing Services (COPS) Hiring Program Grant:

1. Adopt a resolution accepting the 2010 COPS Hiring Program Grant in the amount of \$7,187,984 and authorizing the City Manager and Chief of Police to execute the Grant Agreement and all related documents; and
2. Authorize the City Manager and Chief of Police to negotiate and execute additional amendments to the grant without further Council action.

OUTCOME

This action will allow the Police Department to avoid laying off 16 full-time police officers for a period of four years. The grant will cover the majority of the costs for the first three years. The maintenance of effort cost during the first three years of the grant is approximately \$931,228. The City will be required to retain the officers for at least one additional year, approximately \$3.2 million, at its own expense.

BACKGROUND

The 2010 COPS Hiring Program (CHP) is funded through the United States Department of Justice Office of Community Oriented Policing Services (COPS Office) and provides funding directly to law enforcement agencies to hire or rehire law enforcement officers to address full-time sworn needs and to increase capacity to engage in community policing. Up to \$298 million

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dollars are being awarded under this grant program. Applications for this program were due by June 16, 2010. The Police Department applied for funding for 25 new police officers and has been awarded funding for 16 new police officers. In 2009, the Police Department applied for 25 police officers under the COPS Hiring Recovery Program (CHRP), but was not awarded any funding.

ANALYSIS

The COPS Office created this grant program to save police officer positions. The award is for 16 new officer positions and could be used to save 16 of the 65 sworn positions expiring on June 30, 2011. In light of the severe cuts the Police Department is taking and the projected 2011-2012 preliminary General Fund shortfall of \$70 million city-wide, this grant will be the City's only opportunity to retain sworn staff. This investment is consistent with the commitment to find ways to fund the Police Department.

Listed below are key stipulations related to the 2010 CHP grant:

1. CHP grant funding is available on a competitive basis to approximately 6,000 agencies who applied for the 2009 COPS Hiring Recovery Program.
2. Funding covers 100% of the approved entry-level salary and fringe benefits of each newly-hired and/or rehired, full-time sworn law enforcement officer over a 36-month period.
3. There is no local match requirement, but see number 4 below.
4. The City must retain any CHP-funded officer position awarded for at least 12 months after the 36 months of federal funding has ended for each position.
5. Any additional costs for higher than entry-level salaries or non-reimbursable benefits will be the responsibility of the City.
6. The City requested funding for hiring new police officers. The grant allows the City to request a change in the use of the 2010 grant funds to retain officers rather than hiring new officers.
7. If the budget situation for the City changes requiring a change to the funding hiring category for which it received funding, the City may request a post-award grant modification and must receive prior approval before spending CHP funding.
8. There is a non-supplanting requirement. Non-supplanting means that COPS grant funds must be used to supplement (increase) local funds that would have been dedicated toward the grant purpose if federal funding had not been awarded.
9. The City may not reduce its budget for sworn officers just to take advantage of the CHP grant. Any sworn staffing cut must be unrelated to the receipt of CHP grant funds to avoid a violation of the COPS statute regarding the non-supplanting requirement.
10. CHP grant funds must not be used to replace local funds that agencies otherwise would have devoted to sworn officer hiring. The hiring or rehiring of officers under CHP must be in addition to, and not in lieu of, officers who otherwise would have been hired or rehired with local funds.

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11. Funding can only be drawn down based upon immediate cash disbursement needs throughout the 36-month funding, and not as a lump sum payment.

The presumption from the COPS Office is that the City will maintain the total sworn strength throughout the grant and retention period (3 years plus 1 year retention). However, accepting this award will not limit City from making cuts in the budget during the grant period. The COPS Office is aware that all major cities around the country are dealing with deficits and they are willing to work with local agencies on their grant awards. The key is that any future cuts should be completely unrelated to the grant award. If there are changes in staffing during the grant period, the COPS funded positions can continue through the grant period and retention period as planned, as long as the City can demonstrate the change in staffing was unrelated to the grant award. The City would request a decrease in the baseline sworn staffing numbers if sworn cuts are needed throughout the grant period.

Funding under the 2010 COPS Hiring Grant started on September 1, 2010; however, the City is allowed to use funds as needed and can start funding July 1, 2011, or later if needed. Regardless of when the funds are utilized, the award must be accepted and received by the grantor by December 29, 2010. The City may also withdraw from the grant without penalty after the award is accepted if the circumstance within the City changes drastically and the City can no longer meet the terms of the grant.

The grant award was approved for 16 new officer positions; however, the Department plans to change the purpose of the grant to rehire sworn officers scheduled for layoff. The grant allows an agency to request such a change without impacting the grant award. Based on City Council approved direction in the 2010-2011 Adopted Operating Budget, 65 sworn positions will expire on June 30, 2011. The Department has reviewed attrition trends to determine if there will be enough vacancies by June 30, 2011, in order to avoid any sworn officer layoffs. Based on the number of staff eligible to retire by this date, the Department anticipates there will be only 49 vacancies by June 30, 2011. The COPS Office has stated that the City can request a change in the use of the 2010 grant funds once the grant award has been accepted. Once the award is approved and accepted, the Department will work with the City Manager's Office to submit a request to the COPS Office for a modification of the grant, showing that the cuts were approved during the 2010-2011 budget process and not due to the grant being awarded to the City.

EVALUATION AND FOLLOW-UP

The Police Department will need to return to the City Council in order to appropriate the funding from this grant. This will most likely occur during the budget development process for the 2011-2012, 2012-2013 and 2013-2014 Operating Budgets.

POLICY ALTERNATIVES

Alternative #1: Do not accept the 2010 COPS Hiring Grant.

Pros: Additional funding for maintenance of effort will not be required.

Cons: The City will not be able to retain 16 sworn positions on June 30, 2010.

Reason for not recommending:

If the City chooses to not accept the 2010 COPS Hiring Grant, the City will forego the \$7.2 million in funding awarded by the Department of Justice and instead will lay off sworn officers whom the City has invested time and money for recruitment and training. In light of the severe reductions in staffing Police Department is facing and may have to propose in response to the 2011-2012 preliminary General Fund shortfall of \$70 million city-wide, this grant will be the City's only opportunity to retain sworn staff. This investment is consistent with the commitment to find ways to fund the Police Department.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This memorandum will be posted on the City's website for the December 14, 2010, City Council Agenda.

COORDINATION

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

COST SUMMARY/IMPLICATIONS

Grant funding covers 100% of the approved entry-level salary and fringe benefits of each newly-hired and/or rehired, full-time sworn law enforcement officer over a 36-month period. While there is no match requirement, City funding will be needed to pay the difference between the actual salary and benefit costs and the entry-level costs, as well as any increases in salary, benefits or premium pays for officers during the 36 months of federal funding. Uniform allowance, employee assistance program, and benefit fee are unallowable costs under this program, so the grant will not reimburse these costs. This maintenance of effort is estimated to be \$931,228 for the first 36 months of the grant (see Chart 1 below). Additionally, the City will be required to absorb the ongoing costs of approximately \$3.2 million for the 16 positions for an additional 12 months after the 36 months of federal funding expires.

The chart below represents estimated costs to avoid laying off 16 police officer positions:

Chart 1: Estimated General Fund Obligation Re: CHP Grant (16 Saved Police Officers)

	Year 1	Year 2	Year 3	Total 3 Year	Year 4
Total Personal Services Costs	\$2,372,446	\$2,615,374	\$2,889,532	\$7,877,352	\$3,119,959
Grant to Fund	\$2,170,800	\$2,385,984	\$2,631,200	\$7,187,984	-
Non-Personal Costs	\$80,620	\$80,620	\$80,620	\$241,860	\$80,620
City Costs	\$282,266	\$310,010	\$338,952	\$931,228	\$3,200,579

For saving 16 police officers positions, the total grant award remains \$7.2 million. The impact to the City for incremental salary and benefit costs, as well as non-personal costs, is estimated to be \$931,228 during the grant period, plus ongoing salary, benefit and non-personal costs of \$3.2 million after the 36-month grant cycle. The grant allows the City to utilize federal asset forfeiture funds to cover the maintenance of effort. Federal asset forfeiture funds are available to offset the \$931,228 for the first three years of the grant.

Asset Forfeiture Funds:

In his June 2010 Budget Message, the Mayor requested staff to provide information outlining allowable uses for state and federal drug forfeiture funds in order to augment the City's current gang prevention, intervention and suppression efforts (#JBMp10.d). The Police Department participates in both the state and federal asset forfeiture program. The asset forfeiture program is meant to remove the tools of crime from criminal organizations, deprives wrongdoers of the

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proceeds of their crimes, recovers property that may be used to compensate victims, and deters crime. Agencies that participate in the program receive an equitable share of the assets seized. While participation in the program is ongoing by the Department, the amount the City receives varies from year to year. Funds can only be used for law enforcement purposes and can not be used to supplant existing expenditures.

Both the state and federal programs allow a portion of shared funds to be utilized in support of programs that combat drug abuse and divert gang activity. 65% of state asset forfeiture funds are allocated to local law enforcement that participates in the seizure; of this 65%, 15% must be deposited in a special fund to be used for the sole purpose of funding programs designed to combat drug abuse and divert gang activity. The 15% is taken off the top of the City's share and deposited in a special fund maintained by the County of Santa Clara. Based on regulation, a panel consisting of the sheriff, a police chief, the district attorney, and chief probation officer determines the distribution of these funds.

Federal guidelines allow a local law enforcement agency to use up to 15% of the total of shared monies received by the agency in the last two fiscal years for the costs associated with drug abuse treatment, drug and crime prevention education, housing and job skills programs, or other nonprofit community-based programs or activities that are formally approved by the chief of that agency and consistent with law enforcement effort, policy, and/or initiatives. For the City of San Jose, the 15% cap allowable to spend in this area is approximately \$130,000. While it is allowable under the asset forfeiture guidelines to allocate these funds to a community-based organization for the purpose outlined above, the City has targeted these funds for specific purposes as outline below.

The Department has collected an average of \$78,000 and \$350,000 annually in state and federal asset seizure funds, respectively. Currently the state asset forfeiture funds total \$1.4 million and approximately \$500,000 has been reserved to purchase law enforcement equipment in the Police Substation, leaving \$900,000 unrestricted. Currently the federal asset forfeiture funds total \$2.2 million and have been set aside to fund the replacement of the Department's helicopter. The helicopter will reach the end of its useful life within two to three years. Funding to replace the helicopter, is estimated to be \$1.8 million. This estimate is based on removing the equipment installed in the current helicopter and re-installing it in the replacement helicopter. The Department recommends utilizing \$931,228 of the federal asset funds to offset the additional costs to the City to retain the 16 sworn officer positions under the COPS Hiring Grant. The COPS Office has confirmed this is an appropriate use of the asset forfeiture funds. Asset forfeiture funds may be used for the fourth year of funding to meet the City's requirement under the grant if necessary. The Department may request some General Fund money to continue funding these 16 positions to meet the fourth year grant obligation as well as ongoing non-personal costs depending on the balance of the asset forfeiture funds during the budget development process for the 2014-2015 Operating Budget. Otherwise, asset forfeiture funds will be utilized to replace the helicopter. The Department continues to look for alternative solutions for funding the helicopter replacement.

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CEQA

Not a Project, File No.PP10-066 (a).

/s/

Christopher M. Moore
Acting Chief of Police

For questions please contact Lisa Perez, Chief Administrative Officer at 277-2450.