



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Christopher M. Moore

SUBJECT: SEE BELOW

DATE: January 3, 2011

Approved

Date

1/5/11

COUNCIL DISTRICT: Citywide

SUBJECT: SECOND AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING REGARDING THE OPERATION OF THE AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM AND TO PROVIDE LOCAL LAW ENFORCEMENT AGENCIES ACCESS TO THE CALIFORNIA IDENTIFICATION SYSTEM IN ORDER TO CHANGE THE METHODOLOGY FOR ALLOCATING COSTS AMONG PARTICIPATING AGENCIES FROM ONE BASED UPON POPULATION TO ONE BASED UPON HISTORICAL USEAGE

RECOMMENDATION

Adoption of a resolution authorizing the City Manager to:

1. Execute a Second Amendment to the Memorandum of Understanding regarding the operation of the Automated Fingerprint Identification System (AFIS) and to provide local law enforcement agencies access to the California Identification (CAL ID) System in order to change the methodology for allocating costs among participating agencies from one based upon population to one based upon historical usage; and
2. Negotiate and execute future amendments to the Memorandum of Understanding without further Council action other than the appropriation of funds.

OUTCOME

The Memorandum of Understanding provides the operating framework of the CAL ID system operating in Santa Clara County. The Second Amendment modifies the allocated percentages CAL ID participants pay by replacing a cost-share allocation based on participating agency population with a cost-share allocation based on system usage.

BACKGROUND

Senate Bill 190, which became law effective January 1986, created the CAL ID System to automate the California Department of Justice's (DOJ) manual fingerprint files and establish an automated statewide system for identifying latent fingerprints. A local Remote Access Network (RAN) Board was established to represent the various jurisdictions within Santa Clara County. In 1988, Santa Clara County and the incorporated cities, including San Jose, entered into a Joint Powers Agreement entitled "Agreement to Provide Local Law Enforcement Agency Access to the California Identification System," referred to as the CAL ID program. San Jose administered the CAL ID program through the Police Department. CAL ID program personal services expenses and non-personal services expenses were shared by the County and participating cities, including the City of San Jose.

In May 1998, a new Automated Fingerprint Identification System (AFIS) was acquired as the result of an MOU between the City of San Jose and the County of Santa Clara. The equipment for AFIS replaced most of the equipment originally purchased for the CAL ID system.

The San Jose Police Department administered and operated both the CAL ID and AFIS programs, with separate Memorandums of Agreement for the two programs. After discussions with the City of San Jose, in 2002 the County of Santa Clara and other Santa Clara County CAL ID participating agencies agreed that the two programs should be consolidated under one MOU, with the CAL ID RAN Board overseeing the full operations of the program. In April 2002 the San Jose City Council approved a new MOU, with the Santa Clara County District Attorney's Office contributing 26.8% of total annual program expenses. The remaining 73.2% of annual CAL ID expenses was allocated based on the respective participating agency's population. In May 2003, the San Jose City Council approved the First Amendment to the MOU, improving the operability of the MOU and clarifying member agency responsibilities.

ANALYSIS

In accordance with the CAL ID MOU then in effect, 26.8% of annual CAL ID program expenses were allocated to the Santa Clara County District Attorney's Office, and the balance of annual expenses were allocated among participating CAL ID cities based on the proportion of a city's population to that of the entire county. Amounts paid to the City of San Jose by the County and participating cities paid for their respective shares of annual CAL ID personal and non-personal services, as well as paying the City of San Jose an additional amount for CAL ID program overhead.

Since the inception of the CAL ID system in the 1980's, the operations of CAL ID had never been audited by either the County or any of the participating CAL ID cities, including the City of San Jose. In 2007-2008 the Santa Clara County Board of Supervisors ordered a comprehensive audit of the Office of the District Attorney, and as part of the review by the Board of Supervisors' Management Audit Division, the CAL ID program was subject to audit. The audit of the CAL ID program was completed in early 2009 and the results were submitted to the Santa Clara County Board of Supervisors in March 2009.

January 3, 2011

Subject: Second Amendment AFIS and CAL-ID

Page 3

The audit concluded that, if compared to an allocation of costs based on system utilization, an allocation that was population-driven resulted in some cities being overcharged and some being undercharged. The major conclusion of the audit was a recommendation that CAL ID participating agencies renegotiate a use-based cost sharing methodology.

Prior to the commencement of negotiations to amend the CAL ID MOU the cities of Saratoga, Los Altos Hills, and Cupertino in April 2009 opted out of participating in CAL ID for 2009-2010 beginning on July 1, 2009.

The CAL ID program benefits all law enforcement agencies in Santa Clara County. Partly in response to the audit recommendations and partly in response to the loss of three participating cities the CAL ID RAN Board examined several alternate methods of allocating program costs. The final result is the proposed Second Amendment. The most significant change in the Second Amendment is the allocation of expenses. Under the Second Amendment, CAL ID annual expense allocations will be based on an agency's average usage over a preceding three-year period, with usage being defined in two ways:

1. The first element in each participating agency's allocation will be based on the percentage of bookings attributable to the participating agency; and
2. The second element in each participating agency's allocation will be based on the percentage of latent fingerprints submitted for analysis by the participating agency

As a result of the proposed changes in the Second Amendment to the Memorandum of Understanding the three cities that left the CAL ID program in 2009-2010 rejoined the program in 2010-2011.

In order to make minor, non-financially related changes to the Second Amendment the Council is also being requested to authorize the City Manager to negotiate and execute future amendments not involving the appropriation of funds.

EVALUATION AND FOLLOW-UP

The Second Amendment to the Memorandum of Understanding is an agreement between the County of Santa Clara and the City of San Jose. The Second Amendment was signed by the County Executive on behalf of Santa Clara County on October 25, 2010. After the Second Amendment is approved by the City of San Jose, all other participating Santa Clara County CAL ID agencies will sign an addendum acknowledging their acceptance of the Second Amendment to the Memorandum of Understanding, which in turn allows them to participate in the CAL ID program.

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)**

Although none of the above criteria apply to this recommendation, this memorandum will be posted on City website with the Council Agenda. The San Jose Police Department contacted all cities participating in the CAL ID program and solicited their input regarding the language of the Second Amendment.

COST SUMMARY/IMPLICATIONS

The Second Amendment amends CAL ID's cost sharing allocation formula from a calculation based on population to a calculation based on agency use. In addition, since 2002-2003 the Santa Clara County District Attorney's (D.A.) Office had contributed 26.8% of CAL ID's annual program expenses. However, with the Second Amendment the D.A.'s Office will no longer contribute to the program. In lieu of the loss of the D.A.'s Office as a funding source, the CAL ID RAN Board approved applying SB 720 funds towards CAL ID program expenses in 2010-2011. The 2010-2011 CAL ID budget is \$3.268 million. SB 720 contributed \$1.491 million towards the budget, and the remaining \$1.777 million was allocated to CAL ID agencies. Of this \$1.777 million, the City of San Jose's 2010-2011 allocation is \$825,485. Compared to recent years, this is a reduction of San Jose's allocation: in 2008-2009 it was \$1.237 million and in 2009-2010 it was \$1.241 million. The City of San Jose's share of future CAL ID program expenses will vary depending upon 1) San Jose's use of the CAL ID system, and 2) the availability of SB 720 funds. As San Jose's share of total CAL ID system use varies, San Jose's allocated share of program expenses will likewise increase or decrease. SB 720 is scheduled to sunset on January 1, 2012, but similar past sunset termination dates for SB 720 have been extended by the State. With the provision that SB 720 funds are available the CAL ID RAN Board voted to commit future SB 720 funds towards the CAL ID program through June 30, 2013.

COORDINATION

This memorandum was coordinated with the County of Santa Clara, the City Manager's Budget Office, and the City Attorney's Office.

HONORABLE MAYOR AND CITY COUNCIL

January 3, 2011

Subject: Second Amendment AFIS and CAL-ID

Page 5

CEQA

CEQA: Exempt

/s/

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Acting Chief of Police

For questions please contact Tamara Becker, Division Manager, at 277-4198

CMM/TB/RD