



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kim Walesh

SUBJECT: SEE BELOW

DATE: 09-20-11

Approved

Date

9/21/11

SUBJECT

AUTHORIZATION TO NEGOTIATE AND EXECUTE AN EXTENSION TO THE REIMBURSABLE SPACE ACT AGREEMENT WITH THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AMES RESEARCH CENTER (NASA ARC)

RECOMMENDATION

Adopt a resolution authorizing the City Manager or designee to negotiate and execute an extension to the Reimbursable Space Act Agreement with the National Aeronautics and Space Administration Ames Research Center for utilization of Moffett Federal Airfield for Law Enforcement and Emergency Response Capabilities, for an extension period not to exceed two years, for support services related to the use of space and estimated fuel costs not to exceed \$167,000 over the two year term of the extension.

OUTCOME

By authorizing the extension of the Agreement with the National Aeronautics and Space Administration Ames Research Center (NASA ARC), Council authorizes the payment of rent for the use of hanger and office space of approximately \$27,000, and estimated fuel and supplies cost of \$140,000 for the two year extension.

BACKGROUND

In 2003, the San José Police Helicopter Unit was displaced from the Norman Y. Mineta San José International Airport with only two viable options for relocation. The relocation to Moffett Federal Airfield was preferable to the alternate location of the County's Reid Hillview Airport. The primary factor for the relocation to the Moffett facility was the availability of additional security.

The City of San José first executed an agreement for use of the facility from NASA ARC on June 17, 2003 for a term of three years with a not to exceed cost of \$27,296. The cost of the agreement was determined based upon an estimate provided by NASA ARC that identified the space rental charges and anticipated fuel costs and was used as an exhibit to the original agreement. The agreement also provided for early termination by either party. The agreement, through amendments, was extended annually through September 30, 2009.

In October 2009, the City and NASA ARC executed a new Fully Reimbursable Space Act Agreement. The term of the agreement was for one year with an annual estimated cost of \$35,265. In addition, the agreement provided the option to request an annual extension by providing written notice 90 days before the expiration of the current term.

In August 2010, NASA ARC provided the City with a modification document which allowed for an extension of the original term through September 30, 2011 with an annual estimated cost of \$83,284 (\$13,202 for hanger and office space and \$70,082 for fuel and supplies costs). The remaining terms of the original agreement would remain in effect including the right for either party to terminate.

In March 2011, the operation of the Police Helicopter Unit (PHU) was suspended due to the severity of the General Fund shortfall. During the June 2011 Budget Hearings the Council approved a proposal to continue the suspension of the PHU through 2011-2012. While the operations of the PHU have been suspended it is still necessary to perform maintenance on the equipment and conduct periodic flights to ensure the equipment is in operational order.

ANALYSIS

The City has occupied hangar and office space at Moffett Federal Airfield since the departure from Norman Y. Mineta San José International Airport in 2003. Since that time both the Police Department and Real Estate staff has conducted research for other possible locations for the Police Helicopter. The Police Department is continuing its analysis of future options for relocation. Due to the special requirements for this type of equipment, options are very limited and require time for evaluation and the identification of a funding source. During this research period it is necessary for this City operation to remain at NASA with sufficient funding to maintain the equipment in an operational status.

The PHU program has been suspended for an additional year and staff have been released or reassigned to other duties within the Police Department. It is still necessary to have staff continue to conduct regular weekly required maintenance flights at Moffett Field. Given the temporary suspension of the PHU and the need to maintain the helicopter in an operational condition it is necessary to have the helicopter located at NASA and in a hangar.

The agreement contains a liability and risk of loss provision that is not standard to City contracts. It requires the City to waive any claims for damage against NASA ARC, and to indemnify NASA ARC from third party claims even when such damage is caused by NASA's negligence.

Staff recommends that Council approve the recommended two-year extension in the amount of \$167,000, which will also allow for a time to renegotiate the liability and risk of loss provision beyond the September 30, 2011 expiration date. This level of funding is based upon the estimate which was provided by NASA ARC in September 2010. Since receiving that estimate the PHU program has been suspended and therefore the anticipated fuel costs should be significantly lower than the \$140,000 estimate provided by NASA ARC. NASA ARC will provide the City with new rates for the next 12 month period in a separate document anticipated to be delivered before October 1, 2011.

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)**

The approval of this extension does not meet any of the above criteria; however, this memorandum will be posted on the City's website for the September 27, 2011, Council agenda.

COORDINATION

This item has been coordinated with the Police Department, the City Manager's Budget Office and the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

This item is consistent with the General Budget Principles in that it protects a vital core City service for public safety and maintenance of public safety equipment.

COST SUMMARY/IMPLICATION

The Police Department's 2011-2012 operating budget includes \$69,094 for support of the Police Helicopter. This amount is available for a combination of space rent and maintenance charges from NASA ARC. If the space rent, maintenance, and fuel charges are in line with the 2010 estimate (reflecting a fully operational PHU) there would be a shortfall in funding of approximately \$15,000 for 2011-2012. Based upon the suspension of the complete PHU in March 2011 it is anticipated that there are sufficient funds to complete the 2011-2012 fiscal year; however, if costs for 2011-2012 are higher than the budgeted amount, the overage will be absorbed in the Police Department's Non-Personal/Equipment appropriation.

BUDGET REFERENCE

Fund #	Appn #	Appropriation Name	Total Appn.	2011-2012 Proposed Operating Budget Page*	Last Budget Action (Date, Ord. No.)
001	0502	Non Personal/ Equipment	\$22,038,073	VIII-287	28928 6-21-11

*The 2011-2012 Proposed Budget was adopted by the City Council on June 21, 2011.

CEQA

Not a project, File No. PP10-066(f).

/S/
KIM WALES
Director of Economic Development
Chief Strategist

For questions please contact Nanci Klein, Deputy Director, at 535-8181.