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OAKLAND

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OAKLAND CITY COUNCIL

Approved as to Form and Legality



City Attorney

RESOLUTION No. 88787 C.M.S.

Introduced by Councilmember _____

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR DESIGNEE TO ENTER INTO A MEMORANDUM OF UNDERSTANDING (MOU) WITH ALAMEDA COUNTY, THE CITY OF BERKELEY, THE CITY OF FREMONT, THE CITY OF LIVERMORE, AND UNION CITY TO PARTICIPATE IN THE ALAMEDA COUNTY NARCOTICS TASKFORCE (ACNTF), FROM JULY 1, 2020 THROUGH JUNE 30, 2022

WHEREAS, the purpose of ACNTF is the interdiction of the flow of illegal drugs into Alameda County and to support the disruption of major drug distribution networks operating within Alameda County; and

WHEREAS, the ACNTF investigates illegal drug networks with a nexus to violent crime; and

WHEREAS, the ACNTF facilitates the targeting, investigation and prosecution of individuals who organize, direct, finance or otherwise engage in high-level drug trafficking enterprises; and

WHEREAS, the ACNTF operates through the cooperation of Alameda County law enforcement and prosecutorial agencies; and

WHEREAS, the ACNTF seizes assets derived through illegal drug trafficking and provides procedures for dividing seized assets among ACNTF member agencies; and

WHEREAS, Article V, Section 504(l) of the Oakland City Charter requires that the City Council approve all inter-agency relationships such as between OPD and the ACNTF; and

WHEREAS, ACNTF member cities have been partnering through the ACNTF since 1990; OPD most recently signed this MOU in 2016 which authorizes participation through June 30, 2018, unaware that the City Charter requires all inter-agency agreements be approved by City Council and, OPD cannot sign a new MOU without Council approval; and

WHEREAS, the ACNTF will be directed by an Executive Policy Committee composed of members of the Alameda County Sheriff Office (ACSO), the Alameda County District Attorney Office (ACDAO), the President or designee of the Alameda County Chiefs of Police and Sheriffs' Association (ACCPSA), the Police Chiefs of participating agencies, and the Alameda County Director of the Behavioral Health Care Services Agency (BHCS); and

WHEREAS, ACSO will serve as the Project Director for ACNTF; and

WHEREAS, all ACNTF investigations shall be subject to review by the Executive Policy Committee; and

WHEREAS, ACSO provides a fixed-wing airplane for use with ACNTF investigations to support investigations where ground-based vehicles cannot provide taskforce officers necessary views; and

WHEREAS, the OPD ANCTF MOU provides language that covers the use, maintenance, management and airplane responsibility:

- The aircraft is owned and registered to the ACSO.
- The primary operator of the aircraft is the ACNTF and all operational costs associated with it shall be assumed by the ACNTF.
- Any personal or property damage arising out of the use of the surveillance aircraft will be borne solely by the individual agency(ies) who are controlling the operation and flying aircraft at the time the damage occurs.
- If the agency(ies) controlling the operation differs from the agency(ies) flying the aircraft, then each agency shall bear that portion of the liability for which it is at fault; and

WHEREAS, Oakland's Surveillance Ordinance No.13489 C.M.S., adopted by the City Council on May 15, 2018 adds Chapter 9.64 to the Oakland Municipal Code (OMC), and covers policy areas related to surveillance technology; and

WHEREAS, OMC 9.64.030.1.C requires City Council approval for new and existing surveillance technology; additionally, OMC Section 9.64.020.1 requires that, "Prior to seeking City Council approval for existing city surveillance technology under Section 9.64.030, city staff shall submit a Surveillance Use Policy (SUP) and Surveillance Impact report (SIR) to the Privacy Advisory Commission (PAC) for its review at a regularly noticed meeting; and

WHEREAS OPD staff presented a draft ACNTF Surveillance Airplane SUP and SIR at the June 3, 2021 PAC meeting and the PAC is still reviewing these draft documents; and

WHEREAS, OPD is prepared to communicate to ACNTF that the airplane cannot be used in support of OPD-related investigations if the Council approves adoption of this resolution, until: 1) the PAC completes its review; and 2) the Council approves the ANCTF Surveillance Airplane SUP and SIR; and

WHEREAS, A report and resolution for City Council adoption to authorize a MOU between OPD and the ACNTF, was presented to the City Council on July 6, 2021 (see *Attachment A*). The City Council requested additional information related to:

- The impacts of illegal narcotics crime within the City of Oakland,
- Current OPD illegal narcotics investigative capacity and impacts from changes in the new City Fiscal 2021-23 Budget, and
- Asset forfeiture rules related to the ANCTF; and

WHEREAS, OPD has produced an updated report to provide additional information about the ACNTF to the City Council; and

WHEREAS, operating procedures, standards, and guidelines will be designed to balance the rights of citizens and the need of law enforcement to detect, arrest, and prosecute individuals and groups engaged in illegal drug-related activity; now, therefore, be it

RESOLVED: that the MOU authorizing participation in ACNTF with Alameda County, the City of Berkeley, the City of Fremont, the City of Livermore, and Union City will be in effect from July 1, 2020 through June 30, 2022, unless OPD provides 30 days' notice in writing of its intention to cease participation in ACNTF; and be it

FURTHER RESOLVED: that any distributions of forfeited assets from ACNTF to OPD shall be deposited into Fund 2160, Org 102310, Account 46319, Project TBD, and Program PS03; and be it

FURTHER RESOLVED: that each participating agency will provide their staff with their own vehicles, fuel and maintenance for that vehicle; and be it

FURTHER RESOLVED: that OPD cannot request that the ACNTF airplane be used for OPD-related investigations until 1) the PAC completes its review; and 2) the Council approves the ANCTF Surveillance Airplane SUP and SIR; and be it

FURTHER RESOLVED: That the City Administrator or designee is authorized to complete all required negotiations, certifications, assurances, and documentation required to execute, modify, extend and/or amend the MOU without returning to the City Council; and be it

FURTHER RESOLVED: That in accordance with Article IV, Section 401(6) of the City Charter, the MOU authorized by this resolution shall be approved by as to form and legality before execution, and a copy of the fully executed agreement shall be placed on file with the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, JUL 26 2021

PASSED BY THE FOLLOWING VOTE:

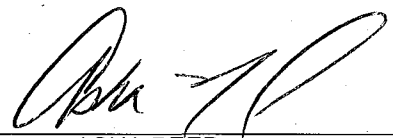
AYES - ~~Alvarado, Kalb, Kaplan, Reid, Taylor, Thao~~ - 5

NOES - Fife - 1

ABSENT -

ABSTENTION - President Bag - 1

Excused - Grillo - 1

ATTEST: 
ASHA REED
City Clerk and Clerk of the Council
of the City of Oakland, California