



# City of San Antonio

## Agenda Memorandum

**File Number:**13-992

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**Agenda Item Number:** 32.

**Agenda Date:** 11/21/2013

**In Control:** City Council A Session

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**DEPARTMENT:** Police

**DEPARTMENT HEAD:** William McManus

**COUNCIL DISTRICTS IMPACTED:** City Wide

### **SUBJECT:**

Authorizing Interlocal Agreements with the DA's Office

### **SUMMARY:**

This ordinance authorizes the City Manager, or her designated representative, to enter into two (2) interlocal agreements (Contraband Forfeiture Agreement and Contraband Forfeiture Agreement for Gambling Property and Proceeds) with the Bexar County Criminal District Attorney's Office to share proceeds from asset forfeiture cases pursuant to Chapters 18 and 59 of the Code of Criminal Procedures (C.C.P.). The term of the agreements is for a five (5) year period commencing on April 1, 2014 and ending March 30, 2019.

### **BACKGROUND INFORMATION:**

Asset Seizure serves as an enforcement tool in combating crime by removing resources from the criminal. The San Antonio Police Department (SAPD) presently administers five (5) asset seizure projects that share funds with the District Attorney's Office (DA). These agreements cover all seizures of money and property by the SAPD submitted to the DA's Office for forfeiture action.

The funds must be used for law enforcement purposes. The funds are to supplement the endeavors of the Police Department and cannot be used to supplant other activities.

The Contraband Forfeiture Agreement allows the SAPD and the DA to share proceeds from asset forfeiture cases other than gambling on the following basis:

- Forfeited money (i.e., cash, securities, negotiable instruments, stocks or bonds) shall be divided as follows: 70% of the value to SAPD and 30% of the value to the DA's Office.
- Gross proceeds from the disposition of forfeited property, other than money shall be divided as follows: 70% of the value to SAPD and 30% of the value to the DA's Office.

The Contraband Forfeiture Agreement for Gambling Property and Proceeds allows the SAPD and the DA's Office to share proceeds from asset forfeiture cases involving gambling on the following basis:

- Forfeited cash proceeds shall be divided as 50% of the value to SAPD and 50% of the value to the DA's Office.
- Gross proceeds from the disposition of forfeited property, other than cash shall be divided as follows: 60% of the value to SAPD and 40% of the value to the DA's Office.

Allocation disbursement terms were added in both agreements to account for special circumstances. Allocation of the proceeds from asset forfeiture cases including gambling may be negotiated on a case to case basis in the form of a written agreement between SAPD, DA, and other law enforcement agencies, if applicable, in the following special circumstances:

- Assistance from another law enforcement agency
- DA initiates investigation and has a higher level of participation

However, if SAPD has agreed on allocation of proceeds from asset forfeiture cases with other law enforcement agencies independent of the DA, the division will be taken from SAPD's share. Moreover, proceeds from contraband asset forfeiture cases through the federal government will be divided as follows: 70% of the value to SAPD and 30% of the value to the DA's Office unless the DA is individually included in the same distribution. Proceeds from gambling forfeiture cases through the federal government will be divided as follows: 60% of the value to SAPD and 40% of the value to the DA's Office unless the DA is individually included in the same distribution.

The previous agreements did not allow for deductions from the proceeds. However, certain operational expenses can now be deducted from the gross amount of proceeds prior to the allocation which include the following:

- court costs
- citations by publication
- ad litem fees
- court reporter/transcript fees
- commission to auctioneer
- law enforcement overtime for working the auction
- advertising fees for auction
- storage costs
- disposal costs
- liens unless a lien is filed on the property and the property is going to be placed into service, the agency taking possession of the property will bear the cost of the lien.

## ISSUE:

This ordinance continues City Council's policy of cooperation with other governmental agencies and promoting safer neighborhoods for its citizens by removing resources from the criminals.

**ALTERNATIVES:**

If this ordinance is not approved, one alternative would be the discontinuation of the services provided under the interlocal agreements identified herein since none of the parties are under any obligation to provide such services to the other party. However, this would result in proceeds from the contraband property seizures going to the State general revenue fund rather than to City and County contraband property funds.

**FISCAL IMPACT:**

The funds will be deposited into the Confiscated Property Fund in accordance with the FY 2014 Adopted Budget. The funds are to supplement the endeavors of the Police Department and cannot be used to supplant other activities.

**RECOMMENDATION:**

Staff recommends that the City Council approve these agreements.