



# Memorandum

**TO: HONORABLE MAYOR &  
CITY COUNCIL**

**FROM: Debra Figone**

**SUBJECT: SAFER GRANT**

**DATE: June 2, 2011**

## RECOMMENDATION

- (A) Recommend adopting a resolution accepting the *Staffing for Adequate Fire and Emergency Response (SAFER)* grant award in the amount of \$14,922,759<sup>1</sup> and authorize the City Manager and Fire Chief to execute the Grant Agreement and all related documents;
- (B) Approve the following amendments to the 2011-2012 Proposed Operating Budget in the General Fund:
  - (1) Increase the Personal Services appropriation to the Fire Department in the amount of \$6,762,928,
  - (2) Increase the Non-Personal/Equipment appropriation to the Fire Department in the amount of \$184,410
  - (2) Increase the Earned Revenue Estimate from the Federal Government by \$5,972,838, and
  - (3) Increase the Earned Revenue from Transfers and Reimbursements by \$974,500.
- (C) Approve the following position additions to the 2011-2012 Proposed Operating Budget: Effective July 1, 2011:
  - (1) 6.0 Fire Captains to the Fire Department,
  - (2) 5.0 Fire Engineers to the Fire Department, and
  - (3) 25.0 Fire Fighters to the Fire Department.Effective February 1, 2012, an additional:
  - (1) 3.0 Fire Captains to the Fire Department,
  - (2) 7.0 Fire Engineers to the Fire Department,
  - (3) 3.0 Fire Fighters to the Fire Department
- (D) Approve the following amendment to the 2011-2012 Proposed Operating Budget in the Airport Maintenance and Operation Fund:
  - (1) Increase the Transfer to the General Fund by \$974,500.
  - (2) Decrease the Airport non-personal/equipment appropriation by \$974,500.
- (E) Direction to the City Manager to not proceed with potentially outsourcing Fire Rescue service at the Norman Y. Mineta San Jose International Airport prior to June 30, 2013.
- (F) City Council acknowledgement that the above recommendations restricts the Fire Department potential 2012-2013 budget reduction amount at approximately 31 Fire sworn positions based on current attrition projections and in order to comply with the SAFER grant requirements.

<sup>1</sup> SAFER Grant covers a two-year period, of which \$5,972,838 is estimated for 2011-2012 and \$8,949,921 is estimated for 2012-2013

## MANAGER'S BUDGET ADDENDUM

SUBJECT: SAFER Grant

June 2, 2011

Page 2 of 6

### OUTCOME

Approval of this recommendation would restore 49 fire fighter positions and assign them throughout the fire system and, specifically, preserve Fire Department staffing at the Airport. This approach allows for the on-going restoration of:

- Funding of the 5<sup>th</sup> Engine Company subject to elimination effective July 1, 2011
- Staffing for an additional Engine or Truck Company;
- Preservation of the Engine Company at the Airport; and
- Addition of 7 Relief Fire Fighter positions.

This recommendation resolves several policy issues that have recently been discussed such as:

- **Outsourcing Fire Rescue Services at the Airport** – Under this scenario, all activity to outsource these services at the Airport are postponed for two years, the SAFER grant performance period.
- **Fire Company Flexible Brown-Out Plan** – Through restoring 49 Fire Fighter positions, implementation of the Fire Company Flexible Brown-Out Plan can be postponed until vacancies occur resulting in the delay of reduced staffing levels to operate engine companies.
- **Fire Department Staffing** – Restoring 49 Fire Fighter positions immediately increases the capacity in the Fire Department to sustain response time goals and respond to calls for service.
- **SAFER Grant Acceptance** – The proposal concept sufficiently minimizes risk associated with accepting the grant funds and the Administration feels that there are sufficient remedies in place to comply with the two-year no-lay-off grant requirement.

### BACKGROUND

On February 11, 2011, Federal Emergency Management Agency/Department of Homeland Security (FEMA/DHS) formally notified the San Jose Fire Department of a SAFER Grant award in the amount of approximately \$15 million dollars (\$14,922,759). The goal of SAFER is to enhance local fire departments' abilities to comply with staffing, response and operational standards established by the National Fire Protection Association (NFPA) and Occupational Safety and Health Administration (OSHA). The City's application proposed to rehire 36 firefighters and to reinstate two decommissioned Engine Companies for a period of two years. This grant would also be able to support the 13 positions at the Airport that are included in the 2011-2012 Proposed Operating Budget scheduled for elimination by January 31, 2012, for a total of 49 Fire sworn personnel. This is the largest SAFER Grant awarded in the program's history.

It is important to note that the application was submitted at a time when the 2011-2012 budget shortfall was estimated at approximately \$41 million. The 2011-2012 Proposed Operating Budget closes a General Fund shortfall of \$115 million. FEMA has made several amendments to its grant requirements and has been accommodating in responding to the City's needs to successfully accept this grant award. Given the City's current and future fiscal problems and based on certain grant requirements, it would have been difficult for the City to accept the award without the accommodations outlined in this report.

## **MANAGER'S BUDGET ADDENDUM**

**SUBJECT:** SAFER Grant

June 2, 2011

Page 3 of 6

While there is still some risk associated with the acceptance of this grant award, given that there still exists the potential for positions to be eliminated from the Department at some point during or at the end of the period of performance, staff continues to recommend acceptance as it will restore a significant level of much needed emergency services and resources to the City of San Jose.

Furthermore, through the proposed concept developed by staff, this recommendation provides relief for the Airport and San Jose Fire Department in a manner that addresses multiple policy and fiscal goals as outlined below. This report describes the associated risk and outlines the assumptions that support staff's recommendation.

In addition, FEMA has confirmed that the San Jose Fire Department is on a waiting list for additional funds that may become available in August or September of this federal fiscal year. This additional funding would provide the opportunity for the Department to expand the scope of the grant and may allow for staffing of one additional Engine Company, for a total of four; however, the City's fiscal situation will need to be heavily weighed to determine whether receipt of the grant is feasible. This staff report does not address these additional funds and, based on the City's fiscal situation, I do not have a position on whether to accept or decline at this time.

### **ANALYSIS**

The purpose of this Manager's Budget Addendum (MBA) is to recommend acceptance of the SAFER Grant and provide the basis for this recommendation and discusses the due diligence completed to accept this grant, including disclosure of changes to terms and conditions and risks to the City for accepting the grant and impacts to the Fire Department System Resources.

#### ***Due Diligence Completed on SAFER Grant***

Over the past months, City staff has completed due diligence on key grant requirement areas that posed barriers for successfully accepting the SAFER grant earlier this year. Upon receipt of additional information, the Administration now feels that the risks associated with acceptance of the grant have been sufficiently mitigated, but does acknowledge that there is a level of risk associated with this recommendation. Attachment A provides discussion of the areas that required additional review and coordination with FEMA to determine whether to recommend acceptance of the grant or not.

It is important to note that there are risks for the City in terms of accepting the grant and possibly having to default, or not accepting the grant at all. Although there is risk in both cases, through extensive coordination with FEMA, staff has attempted to minimize the risk and recover costs within grant guidelines. The significant accommodations that FEMA has provided throughout the last few months and its willingness to provide the City with the flexibility and assurances we have been requesting to accept the grant, it appears that FEMA is fully aware of the City's fiscal situation and the uncertainties that face the City.

#### ***City of San Jose Fire Department System Resources (Citywide and the Airport)***

As the Fire Department has noted frequently, its resources compose a system that the entire City relies on to respond to fires and other emergencies. It is the position of the Fire Chief, that service delivery models need to be reviewed considering the entire system of fire resources not by singular services provided by a fire station or geographic response area. The fire system covers the entire City and

**MANAGER'S BUDGET ADDENDUM****SUBJECT:** SAFER Grant

June 2, 2011

Page 4 of 6

includes Fire Rescue Services at the Airport, which is recommended for outsourcing effective February 1, 2012 as part of the 2011-2012 Proposed Operating Budget.. The 2010-2011 Adopted Budget includes funding for one year for an Engine Company which is proposed for elimination effective July 1, 2011 (e.g., Engine #29).

In order to maximize the grant award and related resources to the City, the Administration proposes that the Airport postpone any activity related to the potential outsourcing of Fire Rescue Services for two years. The funds proposed to be used for outsourcing Fire Rescue Services as part of the 2011-2012 Proposed Operating Budget are recommended to be used to reimburse the General Fund for services provided by the Fire Department for the entire 2011-2012. Under this scenario, the Airport would reimburse the City the equivalent amount proposed by the vendor that submitted a proposal to the Airport's Request for Proposal process. This allows the Airport to lower its costs while providing sufficient reimbursement to the General Fund to cover the expenses related to the SAFER grant funded fire fighter positions.

The recommendation is to restore 49 fire fighter positions and assign them throughout the fire system and, specifically, preserve the staffing at the Airport. This approach allows for the on-going restoration of:

- Funding of 5<sup>th</sup> Engine Company subject to elimination effective July 1, 2011 as approved as part of the 2010-2011 Adopted Budget (e.g., Engine #29);
- Staffing for an additional Engine or Truck Company;
- Preservation of the Engine Company at the Airport; and,
- Addition of 7 Relief Fire Fighter positions.

Through this arrangement, the Airport will continue to reimburse the General Fund for the entire 2011-2012, rather than the recommended partial funding of seven months as included as part of the 2011-2012 Proposed Operating Budget, and in an amount equivalent to the cost for outsourcing for the remainder of 2011-2012. The table below documents the proposed funding strategy:

<b>Source of Funds</b>	<b>2011-2012</b>	<b>2012-2013</b>	<b>Two Year Total</b>
SAFER Grant	\$5,972,838	\$8,949,921	\$14,922,759
Airport Reimbursement (Feb. 1, 2012 – June 30, 2013)	974,500	1,684,274	2,658,774
<b>Total Source of Funds</b>	<b>6,947,338</b>	<b>10,634,195</b>	<b>17,581,533</b>
<b>Use of Funds</b>			
One-Time Academy Costs	1,008,921	0	1,008,921
14 Fire Positions (5 <sup>th</sup> Engine Company)	2,019,266	2,913,495	4,932,761
13 Fire Positions (Airport) + 1 Relief Fire Fighter	1,253,596	2,913,495	4,167,091
14 Fire Positions (Additional Engine or Truck)	2,019,266	2,913,495	4,932,761
7 Fire Positions (Relief) <sup>2</sup>	646,289	1,306,123	1,952,412
Increased Benefit Costs <sup>3</sup>		587,587	587,587
<b>Total Use of Funds</b>	<b>6,947,338</b>	<b>10,634,195</b>	<b>17,581,533</b>
General Fund Surplus/Shortfall	0	0	0

<sup>2</sup> Relief Staffing costs partially offset by minimum staffing overtime reduction of \$235,000

<sup>3</sup> Factors in potential for increases in benefit costs

## MANAGER'S BUDGET ADDENDUM

SUBJECT: SAFER Grant

June 2, 2011

Page 5 of 6

Under the above scenario, for a two year term, the following are assumed:

- Airport reimburses the cost for 13 firefighters at the Airport in an amount of \$2,658,774 (as outlined in Table 1);
- Fire Department will achieve its attrition assumptions (2011-2012: 25 retirements/departures; and 2012-2013: 6 retirements/departures); and,
- The Fire Department budget reduction target for 2012-2013 will align to the forecasted attrition level of up to 31 Fire sworn positions (or the approximate amount of \$5.5 million) in 2011-2012.

With the above scenario, and according to grant requirements, the City Council must agree to comply with the no-lay-off requirement for the grant performance period, which dictates a budget reduction maximum in 2012-2013 achieved through the estimated value of the forecasted attrition. If less than anticipated Fire sworn personnel leave City employment, then the assumed maximum budget reduction of approximately \$5.5 million may not be achieved. At this time, the 2012-2013 Preliminary General Fund shortfall is approximately \$80 million.

This is a significant policy decision required of the City Council in order to avoid default, which while there appears to be flexibility in terms of outcome, it does not predict whether the City will be reviewed negatively for future grant awards. Given the above assumptions and the related policy decision, staff still believes that the City can accept the 49 fire fighter grant funded positions with some risk. Please note that, if the City Council accepts these recommendations, FEMA will review this proposed plan and will issue a final grant award upon approval of the plan.

### ***Possible Reduction of Future Safer Funding***

Although the 2010 SAFER award provides the best opportunity to obtain funding for fire fighter staffing from the Federal Government, future funding reductions are possible. On May 12, 2011, the Homeland Security Subcommittee of the House Appropriations Committee released a plan to reduce fire service programs Fiscal Year 2012. Also, the proposed Department of Homeland Security Fiscal Year 2012 Appropriations Bill would further reduce the Assistance to Firefighters Grant programs by more than half, and cut the U.S. Fire Administration by over \$3 million. The resulting impact on the SAFER program is a funding reduction from \$405 million to \$150 million.

### ***Timeline***

The timing of the City's decision whether to accept the SAFER Grant is in June 2011. The Administration has developed a comprehensive implementation plan in anticipation of that decision.

**MANAGER'S BUDGET ADDENDUM**

**SUBJECT:** SAFER Grant

June 2, 2011

Page 6 of 6

**POLICY ALTERNATIVE**

To minimize any risk and not bind the City over the next two years with the SAFER grant requirements, the City Council can decline to accept this preliminary grant award. Under this scenario, it is assumed that there are no changes to the 2011-2012 Proposed Operating Budget for both the Airport and Fire Department. This would result in the Airport proceeding with its work plan related to developing costs saving options for the City Council to consider later this year (e.g., outsourcing). Additionally, this alternative would put in place the Fire Company Flexible Brown-Out Plan.



DEBRA FIGONE  
City Manager

Attachment (1)

*If you have further questions, please contact Deputy City Manager Deanna Santana at 535-8280 or Fire Chief William McDonald at 794-6951.*

**1. Grant Performance Period - The SAFER Grant performance period begins on May 5, 2011 and allows for reimbursement through May 4, 2013.**

**Response/Adjustment:** The City was concerned that the grant performance date was in advance of the City Council's adoption of the 2011-2012 Budget. Staff worked with FEMA to advise it of the impacts that this posed for clear decisions on whether to receive this grant or not. Taking into account our budget schedule and cycle, FEMA agreed to move the grant performance start date to July 16, 2011 and to extend the period to July 2013. Given that approval of the 2011-2012 Adopted Budget is scheduled for June 21, this allows for sufficient time to work with FEMA to accept this grant. Additionally, in light of the national recession and given that this is a reimbursement based grant, FEMA has agreed to allow reimbursements as frequently as each pay period or monthly. In past years reimbursement of expended funds (salary and benefits) were issued by quarter.

**2. Two Year No-Lay-Off Requirement - The SAFER grant requires that the City not lay off any firefighters for two years. Lay offs during the Period of Performance are prohibited and will cause a default.**

**Response/Adjustment:** The two year no-lay-off requirement is still in place; however, through the changes to the repayment requirement for default, the impact of this provision has been minimized (see #3 below). If the City's budgetary situation does not show improvement over the next two years, it might be necessary to eliminate Fire Sworn positions which will have become vacant during the grant performance period and at the end of the grant performance period. Additionally, securing funding from the Airport for fire fighter staffing does reduce the risk of layoff for some of the grant funded positions.

**3. Repayment Requirement for Default - The SAFER Grant requires that the City repay all reimbursements received if there is a default.**

**Response/Adjustment:** In the event that the City's financial situation worsens during the performance period and the City can no longer adhere to the grant provisions, the City would need to "default" on the grant award. This means that the City would terminate the grant activities during the period of performance, likely laying off fire fighters, and be required to work with FEMA to close out this SAFER grant. FEMA has responded that repayment of expended grant funds due to default is not automatic. The decision is managed on a case-by-case basis that takes into account a documented financial hardship. If the City cancels its grant, FEMA will de-obligate all remaining funds from this award. Also, FEMA will consider waiving the repayment of disbursed funds if the cancellation of the award meets the following conditions:

- Funds were spent prior to the date of cancellation and were used for grant expenditures made in accordance with grant regulations (i.e., were allowable and documented).
- There is documentable economic hardship that causes City budget cuts that affect all sectors (not just public safety).

FEMA has stated that if documentation is provided that meets this criteria, FEMA would not require the City to return the disbursed grant funds. FEMA's accommodation significantly reduces the risks of accepting the grant for the City of San Jose.

Additionally, because this recommendation does present a level of risk to the City, staff has identified some internal strategies to reduce the potential for the need to layoff current and future employees. It

should also be noted that after the two-year period of performance of the grant, there is no obligation to continue staffing the Fire Department at the employee level achieved as a result of accepting the grant. Preliminary internal strategies to reduce the potential for layoff or default include:

- a. Fire staff to forecast and closely monitor retirement eligible employees and freeze filling of vacancies created by retirements or other separations until such time that it has been determined that operational needs outweigh the projected layoff concern to support filling vacant positions.
  - b. Staff will continue to evaluate budget options throughout the year to determine what other actions, if any, could be implemented either on-going or for a defined period of time that would be a viable alternative to reducing the Fire sworn workforce.
  - c. Acceptance of the SAFER Grant may completely offset the need for temporary company closures (brown-outs). If conditions worsen or do not improve enough to retain staffing levels of the Department, instead of layoffs, the temporary closure plan can be restarted to ensure expenditures meet budgeted allocations.
4. **Staffing Level at the Time of Award - FEMA's requirement is that the staffing level at the time of award be maintained and cannot be adjusted.**

**Response/Adjustment:** To address the concerns related to possible inflated staffing levels resulting from not factoring in 2011-2012 proposed reductions in the Fire Department or possible outsourcing at the Airport, FEMA has agreed to move the grant performance period to July 16, 2011 to set a revised staffing level that accounts for the 2011-2012 Fire Department sworn staffing level. Additionally, FEMA has approved the Department's ability to reduce Department staffing levels through attrition throughout the period of performance. Staff has also taken into consideration the potential changes in the way that Fire Rescue services are provided at the Airport by the above outlined concept.

5. **Attrition Process - Clarification on this grant provision.**

**Response/Adjustment:** The grantee is required to maintain the staffing level at the time of the grant award, in addition to the SAFER-funded firefighters. If the grantee has lost personnel between application and award, no waiver is needed for that staffing reduction. FEMA has additionally advised staff that attrition throughout the period of performance is allowable and will be granted through the waiver process.

6. **Requirement to Maintain 4-Person Engine Company Staffing - Clarification on this grant provision.**

**Response/Adjustment:** FEMA has stated that company staffing levels are not restricted or impacted in any way as a result of accepting the grant.