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SHERIFF OF ERIE COUNTY

February 5, 2019

The Honorable
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Re: New Narcotics Detection K9s

Honorable Members:

Attached, please find a proposed resolution and accompanying memorandum from the Erie County Sheriff's Office seeking authorization to transfer Asset Forfeiture Trust Account and Telephone Revenue funds to purchase a new narcotics detection K9s for the Police Services Division and the Jail Management Division.

Representatives of the Sheriff's Office will be available to answer any questions.

Very truly yours,

TIMOTHY B. HOWARD
SHERIFF OF ERIE COUNTY

Attachments

ACCOMPANYING MEMORANDUM

To: Honorable Members of the Erie County Legislature
From: Erie County Sheriff's Office
Re: New Narcotics Detection K9s
Date: January 22, 2019

Summary of Recommended Action

The attached resolution requests authorization for and the Erie County Sheriff's Office to transfer \$40,000.00 from the Asset Forfeiture Trust Account and \$24,000.00 from Telephone Revenue Account to purchase four canines for the Police Services Division and four canines for the Jail Management Division.

Fiscal Implications of Proposal

None to the 2019 budget or to the taxpayers of Erie County because the \$64,000.00 needed for the work dogs will be transferred from the Asset Forfeiture Trust Account and the Telephone Revenue account for the purchase.

Reasons for Recommendation

The Erie County Sheriff's Office operates one of the largest K9 units outside of New York City and the State Police. The ECSO trains its narcotics detection canines on numerous illicit drug scents and marijuana is included. However, due to the anticipated legalization of recreational marijuana in New York, the current Police Services' narcotics detection K9s will no longer be able to be utilized for drug interdiction operations.

Currently, the Police Services narcotics detection K9s are trained to alert on multiple substances including marijuana. When New York legalizes the use and possession of recreational marijuana, any search by our current K9s will result in a judicial dismissal or the Sheriff's Office will no longer be able to secure a search warrant based on the positive indication for narcotics order. Since we cannot "un-train" the work dogs to detect and alert on the presence of marijuana, the ECSO must retire the canines and utilize new work dogs that are not trained to alert on marijuana.

The Sheriff's Office Jail Management Division (JMD) K9 unit has four narcotics detection canines; two assigned to the holding center and two assigned to the correctional facility. The ECSO relies on these K9s to stem the flow of illegal drugs into the facilities. These K9s perform frequent and random searches of the facilities for the presence of illegal narcotics within housing units and on the persons entering the facilities.

Not only is contraband a serious safety concern for the administration, but drugs also presents a potential catastrophic health concern as well as have an unanticipated interaction with current prescribed medications.

Although the anticipated recreational marijuana law will not affect the categorization of marijuana as contraband, three of the Jail Management Division K9s have been diagnosed with a terminal illness. Therefore, the JMD is seeking to purchase four new canines and begin training and certifying the work dogs as soon as possible.

Consequences of Negative Action

The Sheriff's Office could not continue its efforts to locate and seize illicit drugs, especially heroin, from entering Erie County. Furthermore, the Jail Management Division would not be able to secure the facilities and prevent the smuggling of contraband into the jails.

Steps Following Approval of Measure

Certified copies of the approved resolution are sent to the County Executive, the County Attorney, the Division of Budget and Management, the Division of Purchasing, the Erie County Comptroller's Office, and the Chief of Administration of the Sheriff's Office for implementation.

**A RESOLUTION SUBMITTED BY:
ERIE COUNTY SHERIFF'S OFFICE**

Re: New Narcotics Detection K9s

WHEREAS, Governor Cuomo and the majority leaders in the state senate and assembly have indicated a desire to pass legislation by April 1, which authorizes the use and possession of legal recreational marijuana; and

WHEREAS, one of the unforeseen consequences of legal marijuana is the costs handed down to sheriff's offices and municipal law enforcement agencies who maintain a narcotics detection canine(s) which a new legal-marijuana law would render these work dogs obsolete; and

WHEREAS, the Erie County Sheriff's Office has four narcotics detection canines assigned to the Polices Services Division; and

WHEREAS, all four K9s are trained and certified to detect and alert on the positive presence of marijuana; and

WHEREAS, once marijuana is made legal in New York, the canines positive indication for narcotics odor can no longer provide probable cause to obtain search warrants because the Deputy cannot testify to the fact the work dog alerted on the presence of marijuana or of another illicit drug, such as heroin; and

WHEREAS, this new law will make all active narcotics detection canines trained to detect marijuana obsolete and these canines can no longer be utilized in narcotics eradication operations; and

WHEREAS, numerous law enforcement agencies will be in the same situation once recreational marijuana is legalized, and those agencies will face the choice of ending its narcotics detection K9 units or acquire new work dogs that won't be trained to alert on the presence of marijuana; and

WHEREAS, the Erie County Sheriff's Office expresses its desire and intent to continue to stem the trafficking of illicit drugs like heroin into Erie County; and

WHEREAS, one of the best tools the Erie County Sheriff's Office has is the remarkable odor detection capabilities of a well trained and certified work dog; and

WHEREAS, the Sheriff's Office wants to be position to acquire new work dogs as soon as possible to allow for proper training and New York State Department of Criminal Justice Services' certification; and

WHEREAS, the Sheriff's Office seeks to transfer \$40,000.00 from the Asset Forfeiture Trust Account to Account #53000 (Other Expenses) account to purchase new canines for

narcotics detection; and

WHEREAS, these canines will also be trained for tracking and police services; and

WHEREAS, as of January 22, 2019, the Sheriff's Asset Forfeiture Trust Account balance is \$138,283.00; and

WHEREAS, the Erie County Sheriff's Office would utilize Asset Forfeiture Trust Account funds to purchase the four work dogs which will eliminate any burden to the taxpayer or affect the 2019 Erie County Budget; and

WHEREAS, the Sheriff's Office also see transfer \$24,000.00 from the Telephone Revenue Account to Account #53000 (Other Expenses) as to purchase new work dogs for the Jail Management Division to be trained for narcotics detection; and

WHEREAS, the Telephone Revenue Account has nearly \$400,000.00, and the Sheriff's Office is authorized to utilize these funds for facility operations; and

WHEREAS, the Sheriff of Erie County and the County Executive agree that this expenditure is appropriate for to the enhancement and security of the Erie County Holding Center and Correctional Facility; and

WHEREAS, three of the current JMD narcotics detection K9s have been diagnosed with a terminal illness; and

WHEREAS, narcotics detection canines are a valuable asset for facility security, and

WHEREAS, the JMD narcotics detection canines work on a daily basis to prevent the smuggling illicit drugs into the facilities; and

WHEREAS, drug contraband presents major security and health risks to the inmates and the staff because of its high value as "jailhouse currency;" and

WHEREAS, the JMD K9 unit conducts frequent and random searches of the facilities for the presence of illegal narcotics within housing units and on the persons entering the facilities; and

WHEREAS, without narcotics detection canines on duty, the facilities could not prevent the introduction of deadly contraband from visitors or other methods; and

WHEREAS, the Erie County Sheriff's Office would utilize Telephone Revenue Account funds to purchase the four work dogs which will eliminate any burden to the taxpayer or affect the 2019 Erie County Budget.

NOW, THEREFORE, BE IT

RESOLVED, the Erie County Legislature authorizes the Erie County Sheriff's Office and Division of Budget and Management to transfer \$40,000.00 from the Asset Forfeiture Trust Account to Account #53000 (Other Expenses)

ERIE COUNTY SHERIFF'S OFFICE

Sheriff – SAFS Funded Program

REVENUE

421550 Forfeiture Crime Proceeds

DECREASE

\$40,000.00

APPROPRIATION

530000 Other Expenses

INCREASE

\$40,000.00

Total Revenue

\$40,000.00

; and be it further

RESOLVED, the Erie County Legislature authorizes the Erie County Sheriff's Office and Division of Budget and Management to transfer \$24,000.00 from the Telephone Revenue Account to Account #530000 (Other Expenses)

ERIE COUNTY SHERIFF'S OFFICE

Sheriff – Telephone Revenue Account

REVENUE

415622 Telephone Revenue

DECREASE

\$24,000.00

APPROPRIATION

530000 Other Expenses

INCREASE

\$24,000.00

Total Revenue

\$24,000.00

; and be it further

RESOLVED, the designated Asset Forfeiture Trust Account fund expenditure meets the criteria established by the U.S. Department of Justice for the use of equitable shared funds; and be it further

RESOLVED, the Sheriff of Erie County and the County Executive agree that the purchase of new K9s for the Jail Management Division is an allowable and appropriate expenditure which enhances the safety of the facilities, its staff, and the inmates; and be it further

RESOLVED, that the Erie County Sheriff's Office and the Division of Budget and Management are authorized to have any unused funds either remain in or returned to Telephone Revenue account; and be it further

RESOLVED, the Division of Budget and Management is authorized to make any technical adjustments necessary to effectuate the two transfers should there be any unforeseen issues; and be it further

RESOLVED, that certified copies of the approved resolution are sent to the County Executive, the County Attorney, the Division of Budget and Management, the Division of Purchasing, the Erie County Comptroller's Office, and the Chief of Administration of the Sheriff's Office for implementation.