


STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL  
FROM: JOHN PETERS, CHIEF OF POLICE   
SUBJECT: ADOPTION OF FEDERAL EQUITABLE SHARING AGREEMENT

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**BACKGROUND**

The City of Grover Beach is a participating agency in the San Luis Obispo County Special Operations Unit (SOU), a multi-agency narcotic task force coordinated by the Sheriff's Office of San Luis Obispo County. As a result of our participation, we have the opportunity to receive federally forfeited funds (including equipment purchased with such funds) from SOU. However, in order to receive such assets, the City needs to have the Federal Equitable Sharing Agreement on file with the Department of Justice and the Department of the Treasury. Prior to 2007, policy required each agency to submit a Federal Equitable Sharing Agreement every three years, now each agency is required to submit each year whether any funds have been received or not. Typically any forfeited assets have been and will continue to be maintained and used by the County's SOU as determined by the Sheriff's Office.


**DISCUSSION**

In addition to being a participating agency with the SOU, the Police Department's Special Enforcement Team (SET) will also conduct street-level narcotics investigations. Some of the investigations conducted by SOU and SET may result in the seizure of assets (cash and/or property) that could be determined to be the proceeds of illegal drug transactions, or used in the furtherance of such transactions. These drug assets may be seized under state or federal law. If the assets are proved to be drug-related, they are subject to forfeiture by a court of law. Once deemed legally forfeited, the assets may be available to be shared with agencies that were involved in the original investigation.

There are strict guidelines under both state and federal law governing the use of forfeited assets by cities and counties. These assets must be used for law enforcement purposes to supplement the regular budget "above and beyond" those items that are normally or already budgeted for. There are strict prohibitions against supplanting General Fund allocations with forfeited funds. The use of forfeited assets is a very cost-effective way to further our public safety goals without impacting the General Fund, especially when faced with City-wide fiscal challenges such as those experienced during the past several years.

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**APPROVED FOR FORWARDING**



ROBERT PERRAULT  
CITY MANAGER

**Please Review for the Possibility of a Potential Conflict of Interest:**

- |  |                                  |
|--|----------------------------------|
| <input checked="" type="checkbox"/> None Identified by Staff | <input type="checkbox"/> Bright  |
| <input type="checkbox"/> Shoals                              | <input type="checkbox"/> Nicolls |
| <input type="checkbox"/> Lee                                 | <input type="checkbox"/> Shah    |

Meeting Date: December 21, 2015

Agenda Item No. 4

If a drug asset is forfeited under federal law, the responsible federal agency is not able to transfer that asset to local law enforcement agencies involved in the case without a signed Federal Equitable Sharing Agreement on file with both the Department of Justice and the Department of the Treasury. This agreement states that the City will comply with the following conditions upon receipt of a federally forfeited asset:

1. The forfeited funds will be not be commingled with funds from other sources and will be accounted for using a separate revenue account or accounting code.
2. Interest earned on federally forfeited assets must be accounted for in the same account as the forfeited assets.
3. The forfeited funds will be subject to all standard accounting requirements as well as to specific requirements for federally forfeited funds.
4. The City (via the Police Department) will submit annual Certification Reports to the Department of Justice and the Department of the Treasury accounting for the shared federal funds.

The Police Department will be responsible for ensuring the City's compliance with the agreement, including the annual reporting. We will work with Administrative Services regarding the accounting aspects of the agreement to ensure the forfeited funds and earned interest are tracked separately from other funds and utilized in accordance with federal law.

The Federal Equitable Sharing Agreement each year requires the signatures of both the head of the Governing Body for the City and the Chief of Police.

### **ALTERNATIVES**

The City Council has the following alternatives to consider:

1. Adopt the Resolution authorizing the Mayor and the Chief of Police to sign a Federal Equitable Sharing Agreement that will allow the City to receive federally forfeited assets from adjudicated narcotics cases, pursuant to the federal equitable sharing program.
2. Do not adopt the Resolution authorizing the Mayor and the Chief of Police to sign the sharing agreement. Staff does not recommend this alternative. By not executing the agreement, the City will not be eligible to receive federally forfeited assets from investigations Police Department personnel were involved in. As a result, the Police Department will not benefit from the additional funds.
3. Provide direction to staff.

### **RECOMMENDED ACTION**

Staff recommends that the City Council adopt the Resolution authorizing the Mayor and the Chief of Police to sign a Federal Equitable Sharing Agreement that will allow the City to receive federally forfeited assets from adjudicated narcotics cases, pursuant to the Federal Equitable Sharing Program.

**FISCAL IMPACT**

There is no negative fiscal impact to the City. Typically, expenditures of proceeds derived from such seizures after disposition shall be authorized by Sheriff's Office in compliance with Section 11489 of the California Health and Safety Code and/or federal guidelines. If any federally forfeited funds are shared with the Police Department, they will benefit the City by allowing the department to purchase equipment or training that we would not normally be able to afford. There will be a minimum amount of staff time needed within the Police Department to ensure proper accounting of the funds and compliance with the sharing agreement. This department has determined that we can absorb this staff time within our existing staff allocations.

**PUBLIC NOTIFICATION**

The agenda was posted in accordance with the Brown Act.

**Attachments**

1. Resolution No. 15-\_\_\_\_
2. Federal Equitable Sharing Agreement

RESOLUTION NO. 15-\_\_

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GROVER BEACH  
AUTHORIZING THE MAYOR AND THE CHIEF OF POLICE TO SIGN A  
FEDERAL EQUITABLE SHARING AGREEMENT

**WHEREAS**, each year the City of Grover Beach is required to submit a Federal Equitable Sharing Agreement; and

**WHEREAS**, the Agreement sets forth the requirements for participation in the federal equitable sharing program; and

**WHEREAS**, the Agreement must be signed by the head of the Governing Body for the City and the Chief of Police; and

**WHEREAS**, any shared asset shall be used for law enforcement purposes in accordance with the statutes and guidelines that govern the federal equitable sharing program.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Grover Beach does hereby authorize the Mayor and the Chief of Police to sign a Federal Equitable Sharing Agreement.

On motion by \_\_\_\_\_, second by \_\_\_\_\_, and on the following roll call vote, to wit:

- AYES: Council Members
- NOES: Council Members
- ABSENT: Council Members
- ABSTAIN: Council Members

the foregoing Resolution was **PASSED, APPROVED, AND ADOPTED** at a Regular Meeting of the City Council of the City of Grover Beach, California, this 21st day of December, 2015.

\_\_\_\_\_  
JOHN P. SHOLE, MAYOR

ATTEST:

\_\_\_\_\_  
DONNA L. McMAHON, CITY CLERK

**DRAFT**



## Equitable Sharing Agreement and Certification



OMB Number 1123-0011  
Expires January 31, 2018

- Police Department  
  Sheriff's Office  
  Task Force (Complete Table A)  
 Prosecutor's Office  
  National Guard Counterdrug Unit  
  Other

*\* Please fill each required field. Hover mouse over any fillable field for pop-up instructions. \**

**Agency Name:** Grover Beach Police Department

**NCIC/ORI/Tracking Number:**

C	A	0	4	0	0	2	0	0
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**Mailing Address:** 711 Rockaway Ave

**City:** Grover Beach

**State:** CA

**Zip:** 93433

**Finance Contact:** First: John

Last: Peters

Phone: 805-473-4500

Email: jpeters@gbpd.org

**Preparer:** First: John

Last: Peters

Same as  
Finance Contact

Phone: 805-473-4500

Email: jpeters@gbpd.org

**Last FY End Date:** 06/30/2015

**Agency Current FY Budget:** \_\_\_\_\_

\$3,635,450.00

- New Participant:** Read Equitable Sharing Agreement and sign Affidavit  
 **Existing Participant:** Complete Annual Certification Report, read Equitable Sharing Agreement, and electronically sign Affidavit  
 **Amended Form:** Revise Annual Certification Report, read Equitable Sharing Agreement, and electronically sign Affidavit

## Annual Certification Report

Summary of Equitable Sharing Activity		Justice Funds <sup>1</sup>	Treasury Funds <sup>2</sup>
1	Beginning Equitable Sharing Funds Balance (Must match Ending Balance from prior FY)	\$0.00	\$0.00
2	Equitable Sharing Funds Received	\$0.00	\$0.00
3	Equitable Sharing Funds Received from Other Law Enforcement Agencies and Task Forces (Complete Table B)		
4	Other Income	\$0.00	\$0.00
5	Interest Income <input checked="" type="radio"/> Non-Interest Bearing <input type="radio"/> Interest Bearing	\$0.00	\$0.00
6	Total Equitable Sharing Funds (total of lines 1 - 5)	\$0.00	\$0.00
7	Equitable Sharing Funds Spent (total of lines a - n below)	\$0.00	\$0.00
8	Ending Equitable Sharing Funds Balance (difference between line 7 and line 6)	\$0.00	\$0.00

<sup>1</sup> Department of Justice Asset Forfeiture Program participants are: FBI, DEA, ATF, USPIS, USDA, DCIS, DSS, and FDA.

<sup>2</sup> Department of the Treasury Asset Forfeiture Program participants are: IRS, ICE, CBP, AND USSS.

Summary of Shared Funds Spent		Justice Funds	Treasury Funds
a	Law enforcement operations and investigations	\$0.00	\$0.00
b	Training and education	\$0.00	\$0.00
c	Law enforcement, public safety, and detention facilities	\$0.00	\$0.00
d	Law enforcement equipment	\$0.00	\$0.00
e	Joint law enforcement/public safety operations	\$0.00	\$0.00
f	Contracting for services	\$0.00	\$0.00
g	Law enforcement travel and per diem	\$0.00	\$0.00
h	Law enforcement awards and memorials	\$0.00	\$0.00
i	Drug, gang, and other education or awareness programs	\$0.00	\$0.00
j	Matching grants (Complete Table C)		
k	Transfers to other participating law enforcement agencies (Complete Table D)		
l	Support of community-based programs (Complete Table E)		
m	Non-categorized expenditures (Complete Table F)		
n	Salaries (Complete Table G)		
<b>Total:</b>		\$0.00	\$0.00

Please fill out the following tables, if applicable.

**Table A: Members of Task Force**

Agency Name	NCIC/ORI/Tracking Number										
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%; height: 20px;"></td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> </tr> </table>										

**Table B: Equitable Sharing Funds Received from other Agencies**

Transferring Agency Name, City, and State	Justice Funds	Treasury Funds								
Agency Name: <input style="width: 400px;" type="text"/>	<table border="1" style="width: 100%; height: 50px;"> <tr><td style="width: 50%;"></td><td style="width: 50%;"></td></tr> </table>			<table border="1" style="width: 100%; height: 50px;"> <tr><td style="width: 50%;"></td><td style="width: 50%;"></td></tr> </table>						
NCIC/ORI/Tracking Number: <table border="1" style="display: inline-table; width: 150px; height: 20px;"><tr><td style="width: 10%;"></td><td style="width: 10%;"></td><td style="width: 10%;"></td><td style="width: 10%;"></td><td style="width: 10%;"></td><td style="width: 10%;"></td><td style="width: 10%;"></td><td style="width: 10%;"></td><td style="width: 10%;"></td><td style="width: 10%;"></td></tr></table>										

**Table C: Matching Grants**

Matching Grant Name	Justice Funds	Treasury Funds				
	<table border="1" style="width: 100%; height: 30px;"> <tr><td style="width: 50%;"></td><td style="width: 50%;"></td></tr> </table>			<table border="1" style="width: 100%; height: 30px;"> <tr><td style="width: 50%;"></td><td style="width: 50%;"></td></tr> </table>		

**Table D: Transfers to Other Participating Law Enforcement Agencies**

Receiving Agency Name, City, and State	Justice Funds	Treasury Funds
Agency Name: <input type="text"/>	<input type="text"/>	<input type="text"/>
NCIC/ORI/Tracking Number: <input type="text"/>		

**Table E: Support of Community-based Programs**

Recipient	Justice Funds	Treasury Funds
<input type="text"/>	<input type="text"/>	<input type="text"/>

**Table F: Expenditures not Categorized in (a) - (n) Above**

Description	Justice Funds	Treasury Funds
<input type="text"/>	<input type="text"/>	<input type="text"/>

**Table G: Salaries**

Salary Type	Justice Funds	Treasury Funds
<input type="radio"/> Overtime <input type="radio"/> Match for Federal Salary Grant <input type="radio"/> DARE/SRO Officer <input type="radio"/> Federal Task Force Replacement Officer	<input type="text"/>	<input type="text"/>

**Table H: Civil Rights Cases**

Name of Case	Type of Discrimination Alleged			
	<input type="text"/>	<input type="checkbox"/> Race	<input type="checkbox"/> Color	<input type="checkbox"/> National Origin
	<input type="checkbox"/> Disability	<input type="checkbox"/> Age	<input type="checkbox"/> Other	<input type="text"/>

Paperwork Reduction Act Notice

Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a valid OMB control number. We try to create accurate and easily understood forms that impose the least possible burden on you to complete. The estimated average time to complete this form is 30 minutes. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, please write to the Asset Forfeiture and Money Laundering Section: 1400 New York Avenue, N.W., Washington, DC 20005.

# Equitable Sharing Agreement

This Federal Equitable Sharing Agreement, entered into among (1) the Federal Government, (2) the above-stated law enforcement agency ("Agency"), and (3) the governing body, sets forth the requirements for participation in the federal Equitable Sharing Program and the restrictions upon the use of federally forfeited cash, property, proceeds, and any interest earned thereon, which are equitably shared with participating law enforcement agencies.

By submission of this form, the Agency agrees that it will be bound by the statutes and guidelines that regulate shared assets and the following requirements for participation in the Department of Justice and Department of the Treasury Equitable Sharing Programs. Receipt of the signed Equitable Sharing Agreement and Certification (this "Document") is a prerequisite to receiving any equitably shared cash, property, or proceeds.

**1. Submission.** This Document must be submitted to [aca.submit@usdoj.gov](mailto:aca.submit@usdoj.gov) within 60 days of the end of the Agency's fiscal year. This Document must be submitted and signed electronically. This will constitute submission to the Department of Justice and the Department of the Treasury.

**2. Signatories.** This agreement must be electronically signed by the head of the Agency and the head of the governing body. Examples of Agency heads include police chief, sheriff, director, commissioner, superintendent, administrator, chairperson, secretary, city attorney, county attorney, district attorney, prosecuting attorney, state attorney, commonwealth attorney, and attorney general. The governing body's head is the head of the agency that appropriates funding to the Agency. Examples of governing body heads include city manager, mayor, city council chairperson, county executive, county council chairperson, director, secretary, administrator, commissioner, and governor. The governing body head cannot be from the law enforcement agency and must be from a separate entity.

**3. Uses.** Any shared asset shall be used for law enforcement purposes in accordance with the statutes and guidelines that govern the Department of Justice and the Department of the Treasury Equitable Sharing Programs as set forth in the current edition of the *Guide to Equitable Sharing for State and Local Law Enforcement Agencies (Guide)*.

**4. Transfers.** Before the Agency transfers funds to other state or local law enforcement agencies, it must first verify with the Department of Justice that the receiving agency is a current and compliant Equitable Sharing Program participant. Transfers of tangible property are not permitted.

**5. Internal Controls.** The Agency agrees to account separately for federal equitable sharing funds received from the Department of Justice and the Department of the Treasury. Funds from state and local forfeitures, joint law enforcement operations funds, and other sources must not be commingled with federal equitable sharing funds.

The Agency agrees that such accounting will be subject to the standard accounting requirements and practices employed by the Agency's jurisdiction as supplemented by requirements set forth in the current edition of the *Guide*, including the requirement to maintain relevant documents and records for five years.

The misuse or misapplication of shared resources or supplantation of existing resources with shared assets is prohibited. The Agency must follow its jurisdiction's procurement policies when expending shared funds. Failure to comply with any provision of this agreement shall subject the recipient agency to the sanctions stipulated in the current edition of the *Guide*.

**6. Audit Report.** Audits will be conducted as provided by the Single Audit Act Amendments of 1996 and OMB Circular A-133. The Department of Justice and the Department of the Treasury reserve the right to conduct periodic random audits or reviews.

**7. Freedom of Information Act.** Information provided in this Document is subject to the FOIA requirements of the Department of Justice and the Department of the Treasury.



# Affidavit

Under penalty of perjury, the undersigned officials certify that **they have read and understand their obligations under the Equitable Sharing Agreement** and that the information submitted in conjunction with this Document is an accurate accounting of funds received and spent by the Agency under the *Guide* during the reporting period and that the recipient Agency is compliant with the National Code of Professional Conduct for Asset Forfeiture.

The undersigned certify that the recipient Agency is compliant with the applicable nondiscrimination requirements of the following laws and their implementing regulations: Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 *et seq.*), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), and the Age Discrimination Act of 1975 (42 U.S.C. § 6101 *et seq.*), which prohibit discrimination on the basis of race, color, national origin, disability, or age in any federally assisted program or activity, or on the basis of sex in any federally assisted education program or activity. The Agency agrees that it will comply with all federal statutes and regulations permitting federal investigators access to records and any other sources of information as may be necessary to determine compliance with civil rights and other applicable statutes and regulations.

**During the past fiscal year: (1) has any court or administrative agency issued any finding, judgment, or determination that the Agency discriminated against any person or group in violation of any of the federal civil rights statutes listed above; or (2) has the Agency entered into any settlement agreement with respect to any complaint filed with a court or administrative agency alleging that the Agency discriminated against any person or group in violation of any of the federal civil rights statutes listed above?**       Yes     No

**If you answered yes to the above question, complete Table H**

## Agency Head Electronic Signature

Name: John Peters Title: Chief of Police  
Email: jpeters@gbpd.org

To the best of my knowledge and belief, the information provided on this form is true and accurate and has been reviewed and authorized by the Law Enforcement Agency Head whose name appears above. Entry of the Agency Head name above indicates his/her acceptance of and agreement to abide by the policies and procedures set forth in the *Guide to Equitable Sharing for State and Local Law Enforcement Agencies*, including ensuring permissibility of expenditures and following all required procurement policies and procedures. Entry of the Agency Head name above also indicates his/her acceptance of and agreement to abide by requirements set forth in this Equitable Sharing Agreement, and any policies or procedures issued by the Department of Justice or the Department of the Treasury related to the Asset Forfeiture or Equitable Sharing Programs. The Law Enforcement Head also certifies that no items on the Prohibited List, as detailed in "Recommendations Pursuant to Executive Order 13688", were purchased with equitable sharing funds after May 18, 2015.

## Governing Body Head Electronic Signature

Name: John P. Shoals Title: Mayor  
Email: jshoals@grover.org

To the best of my knowledge and belief, the agency's current fiscal year budget reported on this form is true and accurate and the Governing Body Head whose name appears above certifies that the agency's budget has not been supplanted as a result of receiving equitable sharing funds. Entry of the Governing Body Head name above indicates his/her acceptance of and agreement to abide by the policies and procedures set forth in the *Guide to Equitable Sharing for State and Local Law Enforcement Agencies*, this Equitable Sharing Agreement, and any policies or procedures issued by the Department of Justice or the Department of the Treasury related to the Asset Forfeiture or Equitable Sharing Programs.

I certify that I am authorized to submit this form on behalf of the Agency Head and the Governing Body Head.

### Final Instructions:

Step 1: Click to save for your records  
Step 2: Click to save in XML format

Step 3: Email the XML file to [aca.submit@usdoj.gov](mailto:aca.submit@usdoj.gov)