

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY
AND RECORD OF ACTION**

August 20, 2024

FROM

SHANNON D. DICUS, Sheriff/Coroner/Public Administrator

SUBJECT

Agreement with Southern Cross Aircraft, LLC for the Purchase of a Fixed-Wing Aircraft

RECOMMENDATION(S)

1. Approve an Aircraft Purchase **Agreement No. 24-757** with Southern Cross Aircraft, LLC, including non-standard terms, for the purchase of a 2022 Beechcraft Corporation King Air 360 fixed-wing aircraft, Serial No. FL-1303, associated equipment, remaining manufacturer's warranty, and associated training in the amount of \$8,997,902, excluding sales tax.
2. Authorize the Purchasing Agent to issue a purchase order to Southern Cross Aircraft, LLC, for the purchase of a 2022 Beechcraft Corporation King Air 360 fixed-wing aircraft, Serial No. FL-1303, in the amount of \$9,697,902, including use tax.
3. Authorize the Sheriff/Coroner/Public Administrator, Undersheriff, Assistant Sheriff, or Deputy Chief to execute the necessary Technical Acceptance/Rejection Letter, and the Aircraft Delivery Receipt form, Exhibits A and B respectively, included with the Aircraft Purchase Agreement, and any other documentation from the Federal Aviation Administration required to complete the sale and transfer of the 2022 Beechcraft Corporation King Air 360 fixed-wing aircraft, Serial No. FL-1303 to San Bernardino County.
4. Direct the Sheriff/Coroner/Public Administrator, Undersheriff, Assistant Sheriff, or Deputy Chief to transmit the executed Technical Acceptance/Rejection Letter, and the Aircraft Delivery Receipt form, Exhibits A and B respectively, referenced in Recommendation No. 3, to the Clerk of the Board of Supervisors within 30 days of execution.
5. Authorize the Auditor-Controller/Treasurer/Tax Collector to post adjustments to the Sheriff/Coroner/Public Administrator's 2024-25 budget, as detailed in the Financial Impact section (Four votes required).

(Presenter: Kelly Welty, Chief Deputy Director, 387-3760)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Improve County Government Operations.

Operate in a Fiscally-Responsible and Business-Like Manner.

Provide for the Safety, Health and Social Service Needs of County Residents.

FINANCIAL IMPACT

Approval of this item will result in the use of additional Discretionary General Funding (Net County Cost). On June 11, 2024 (Item No. 110), the Board of Supervisors (Board) approved the use of the County's Asset Replacement Reserve to fund the purchase of one fixed-wing aircraft for the Sheriff/Coroner/Public Administrator (Department): \$9,000,000 for the aircraft and \$225,000 for a County surplus charge for the same purchase; all as part of the 2024-25 Budget.

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As a result of the price of the aircraft and associated costs, the Department requests the use of an additional \$725,000 from the County’s Asset Replacement Reserve.

The Department requests the Auditor-Controller/Treasurer/Tax Collector to post the following adjustments to the 2024-25 budget:

Fund Center	Commitment Item	Description	Action	Amount
4430001000	54504050	Vehicles	Increase	\$725,000
1000	37008200	Fund Balance-Committed - Asset Replacement	Decrease	\$725,000

BACKGROUND INFORMATION

The Department provides law enforcement services in the unincorporated areas of the County to 14 contract cities, and one Indian Tribe; at the same time, it operates a Detentions and Corrections Bureau with over 79,000 annual bookings and an average daily population of 6,126 inmates. In support of these services, the Department’s Aviation Division utilizes a fleet of aircraft to provide narcotics surveillance, personnel/cargo transport, aerial photography, search and rescue operations, wild land fire suppression, emergency medical transportation services, and general law enforcement support throughout the County.

The Department currently has three fixed-wing aircraft that were acquired with Board approval: a 1975 Rockwell 690A Turbo Commander (July 10, 2001; Item No. 89); a 1976 Beechcraft King Air A200 (August 5, 2014; Item No. 52), and a 1975 Beechcraft King Air A200 (March 13, 2018; Item No. 53). These last two aircraft were acquired from the California Emergency Management Agency (CalEMA) 1033 Excess Property program.

The 1975 Rockwell Turbo Commander (Commander) aircraft is costly to maintain and operate due to its age and parts availability. Once the 2022 Beechcraft King Air being acquired is placed into service, the Department will return to the Board to request authorization for the surplus sale of the Commander. Proceeds from the sale would be deposited into the County’s Asset Replacement Reserve.

Approval of Recommendation No. 1 will approve the required Aircraft Purchase Agreement (APA) with Southern Cross Aircraft, LLC (SCA), for the purchase of a used 2022 Beechcraft Corporation King Air 360 fixed-wing aircraft (Aircraft), associated equipment, remaining manufacturer’s warranty, and associated training for pilots and aviation mechanics required to maintain and operate the Aircraft. Approval of Recommendation No. 3 will authorize the Sheriff/Coroner/Public Administrator, Undersheriff, Assistant Sheriff, or Deputy Chief to execute the necessary Technical Acceptance/Rejection Letter, the Aircraft Delivery Receipt form, and any other documentation required from the Federal Aviation Administration, to complete the sale and transfer of the Aircraft to the County. Approval of Recommendation No. 5 will authorize the Auditor-Controller/Treasurer/Tax Collector to post the necessary budget adjustments and transfer funds from the County’s Asset Replacement Reserve to the Department to fund the purchase.

The APA is SCA’s standard document that includes the terms and conditions for the purchase of the specific Aircraft selected. The APA includes or omits terms that differ from the standard County contract as follows:

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1. The APA does not require SCA to meet the County's insurance standards, as required pursuant to County Policies 11-05, 11-07, and 11-07SP.
 - (c) County Policy requires contractors to carry appropriate insurance limits and under conditions determined by the County's Risk Management Department, as set forth in County policy and in the County standard contract.
 - (d) Potential Impact: The County has no assurance that SCA will be financially responsible for claims that may arise from the County's purchase of the Aircraft from SCA, which could result in expenses to the County.

2. The APA disclaims all liability, without exception.
 - (c) The County standard contract does not include a limitation of liability.
 - (d) Potential Impact: Claims could exceed the APA amount, leaving the County financially liable.

3. The APA only includes SCA's warranty of title to the Aircraft, with the aircraft and each part thereof being sold and delivered to the County on an "As Is, Where Is, With All Faults" basis, and the APA disclaims all warranties of any kind.
 - (c) County Policy 11-05 requires a contractor to fully warrant its services and products.
 - (d) Potential Impact: The County's use of the Aircraft and its parts is solely at its own risk.

4. The APA requires the County to indemnify SCA from and against any unpaid sales, delivery, or transfer taxes, as well as from and against any claims made by any broker, consultant, or other party claiming an interest in the Aircraft or the purchase price arising from an actual or alleged relationship or agreement with the County.
 - The County standard contract does not include any indemnification or defense by the County of a contractor.
 - Potential Impact: By agreeing to indemnify SCA, the County could be contractually waiving the protection of sovereign immunity. Claims that may otherwise be barred against the County, time limited or expense limited, could be brought against SCA without such limitations and the County could be responsible to defend and reimburse SCA for costs, expenses, and damages, which could exceed the total APA amount.

While these are notable exceptions to the County standard contract language, the Department recommends approval of this item for the purchase of the Aircraft, associated equipment, warranty, and associated training through SCA to standardize the Department's aircraft fleet. County Counsel and Risk Management Department have provided input on the proposed agreement with SCA.

PROCUREMENT

The Department is seeking to standardize its fleet of fixed-wing aircraft to reduce maintenance and training costs for pilots and aviation mechanics by acquiring and flying the Aircraft due to its performance and passenger capacity. With that goal in mind, the Department's Aviation Division approached the manufacturer and found that there is an estimated three-year waiting period to purchase a new aircraft due to production delays. Therefore, the Aviation Division searched the pre-owned aircraft market and found aircraft with similar specifications, including the recommended Aircraft model with very low operating hours and a remaining manufacturer's warranty for the airframe, avionics, and engines through September 28, 2027, and September 28, 2025 for the propellers.

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Aircraft	Model Year	Aircraft Only Pre-Tax Cost	Warranty	Operation Hours	Total Landings
Beechcraft King Air 250	2017	\$5,150,000	Unknown	1,447	1,167
Beechcraft King Air 360	2020	\$7,200,000	Unknown	680	833
Beechcraft King Air 350I	2020	\$7,495,000	Unknown	234	211
Beechcraft King Air 360	2022	\$8,395,000	Yes	230	155

County Policy 11-04 requires departments to seek Board approval when contracting for competitive and non-competitive purchases of goods and services in excess of \$200,000 during a single annual period. The Purchasing Department supports this non-competitive procurement.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Grace B. Parsons, Deputy County Counsel, 387-5455) on August 14, 2024; Purchasing (Jason Cloninger, Lead Buyer, 387-0321) on August 14, 2024; Auditor-Controller/Treasurer/Tax Collector (Charlene Huang, Auditor-Controller Manager, 382-7022) on August 13, 2024; Risk Management (Gregory Ustaszewski, Staff Analyst, 396-9008) on August 13, 2024; Finance (Erika Rodarte, Administrative Analyst, 387-4919) on August 15, 2024; and County Finance and Administration (Robert Saldana, Deputy Executive Officer, 387-5423) on August 15, 2024.

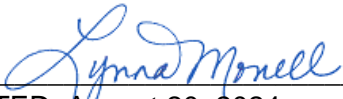
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Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

Moved: Curt Hagman Seconded: Joe Baca, Jr.
Ayes: Col. Paul Cook (Ret.), Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: August 20, 2024



cc: Sheriff/Coroner - Welty w/agree
 Contractor - c/o Sheriff/Coroner w/agree
 File - w/agree
MBA 08/21/2024