



CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 498-9030

OFFICE OF
JAMES P. MALONEY, JR.
ASSISTANT CITY MANAGER
FISCAL AFFAIRS

TO: Robert W. Healy, City Manager

FROM: James P. Maloney, Asst City Manager/Fiscal Affairs

DATE: February 22, 1990

SUBJ: Special Law Enforcement Trust Fund

The City established a Special Law Enforcement Trust Fund pursuant to Mass Gen Law Ch. 94 C S. 47. in June of 1989. Funds from the trust are used to defray the cost of protracted investigations, to purchase additional technical equipment, to provide matching funds to obtain federal grants or for other law enforcement purposes as the Chief of Police deems appropriate. Trust funds cannot be used to meet the operating needs of the Police Department. A copy of the trust document, which provides a detailed description of the trust fund, is attached.

The current balance of the fund is \$230,103. To date, approximately \$6,000 has been expended from the trust fund. These expenditures included purchase of a video camera and bullet proof vests, funds for a seminar entitled "Community Approach to the Drug Problem," and funds for various undercover operations. Proposed expenditures from the trust fund in the next six to twelve months include purchase of special portable radios for the Youth - Vice/Narcotics Division; purchase of a portable data terminal for surveillance and undercover assignments; purchase of 9mm handguns; and reimbursement for overtime expenditures for special narcotics investigations.

SPECIAL LAW ENFORCEMENT TRUST FUND

ARTICLE I. TITLE

This Trust shall be known as the "Cambridge Special Law Enforcement Trust Fund."

ARTICLE II. PURPOSE

This Trust is intended to be the "special law enforcement trust fund" referred to in M.G.L. c. 94c s. 47, and the Trustees are hereby authorized to receive and accept proceeds pursuant to that statute, and other contributions from any source whatsoever.

The purpose of this trust is to expend funds to defray the costs of protracted investigations, to provide additional technical equipment or expertise to the Cambridge Police Department, to provide matching funds to obtain federal grants or for such other law enforcement purposes as the Chief of Police of the City of Cambridge deems appropriate. Trust funds shall not be considered a source of revenue to meet the operating needs of such department. No portion of the Trust Fund shall inure to the benefit of any private individual who will provide services beyond the scope of purpose for which expenditures may be made pursuant to this section or M.G.L. c. 94c, s. 47(d). This Trust shall not operate for the purpose of carrying on a trade or business for profit, nor shall any trust property be used in any way in connection with any political campaign on behalf of any candidate for public office, nor be expended in any attempt to influence legislation.

ARTICLE III. BOARD OF COMMISSIONERS OF TRUST FUND

Section 3.1. Composition

The Board shall consist of three (3) Ex Officio Trustees: the City Manager, the City Treasurer and the Chief of Police.

Each trustee shall serve without compensation and in a purely fiduciary capacity; provided however, that each may be reimbursed by the Trust for all out-of-pocket expenses reasonably incurred in the performance of his or her duties.

Section 3.2. Term of Office

The term of office for each Trustee shall be co-terminous with the office the Trustee holds in city government as City Manager, City Treasurer or Chief of Police.

ARTICLE IV. DISTRIBUTION AND USE OF PRINCIPAL AND INCOME

Section 4.1. Use of Distribution

The principal and income of all property received and accepted by the trustees to be administered under this Declaration of Trust shall be forever held in trust by them and their successors, and the trustees may from time to time distribute such portion or portions of the the Trust, be it principle or interest, as the Board deems to be appropriate and consistent with purposes enumerated in Article II herein.

Section 4.2. Method of Distribution

Each distribution of principal and/or income shall require the favorable vote of at least two members of the Board of Trustees.

Section 4.3. Limitation

No funds, gift, bequest or demise of any such property shall be received and accepted if it is conditioned or limited in such manner to require the disposition of any income or its principal to any person or

organization other than as set forth in M.G.L. c. 94c s. 47(d). The Board shall not engage in any activity or distribute any funds in a manner inconsistent with requirements of Section 501(c)(3) of the Internal Revenue Code pertaining to entities organized and operating exclusively for charitable purposes; and in a manner inconsistent with Chapter 68 of the Massachusetts General Laws.

ARTICLE V. POWERS OF THE TRUSTEES

Section 5.1. Chairperson

The City Manager shall serve as Chairperson and shall be responsible for convening, conducting and adjourning board meetings. The Chairperson may, from time to time, delegate any portion or all of his duties to any other Trustee; provided, however, that each such delegation shall be written and revocable.

Section 5.2. Secretary and Staff

The Chairperson may appoint a secretary, who shall not be a Trustee, and such other staff as the Chairperson deems necessary. Such persons shall work under the supervision of the Chairperson and may be paid reasonable compensation.

Section 5.3. Keeper of Records

The City Treasurer shall serve as Keeper of Records and shall be responsible for maintaining all financial and other records for the Trust. The Keeper of Records shall have in addition the following discretionary powers:

- a) To invest and reinvest the principal and income of the trust in such property and in such manner as they shall deem proper to invest or retain any stocks, shares, bonds, notes, obligations, or personal or real property. No principal or income of the

trust shall ever be loaned, directly or indirectly, to any trustee, nor to anyone except on the basis of an adequate interest charge and with adequate security.

- b) To employ a bank or trust company as custodian of any funds or securities and to delegate to it such powers as they deem appropriate; to hold trust property without indication of fiduciary capacity but in the name of a registered nominee, provided the trust property is at all times identified as such on the books of the trust, and to hold any securities in registered or bearer forms to employ clerks, accountants, investment counsel, and investment agents, to provide special services and to contract for any special trust-related services, and to pay the reasonable compensation and expenses of all such services.

5.4. Law Enforcement Purposes

The Chief of Police shall determine the law enforcement purposes for which trust funds shall be expended. Such purposes shall not be inconsistent with those set forth in Article II herein.

5.5. Trustees

In extension and not in limitation of the common law and statutory powers of the trustees and other powers and limitations set forth in this Declaration of Trust, the Trustees, upon majority vote, shall have the following discretionary powers:

- a) To sell, lease or exchange any property of the trust, and to make such contracts and enter into such undertakings relating to the

trust property, as they consider advisable.

- b) To borrow money for such periods, at such rates of interest, and upon such terms as the trustees consider advisable, and, as security for such loans, to mortgage or pledge any real or personal property with or without power of sale.
- c) To execute and deliver deeds, assignments, transfers, mortgages, pledges, leases, covenants, contracts, notes, releases, and all other instruments, necessary, proper or incident to any transaction in which they engage for the accomplishment of the purposes of this trust or of any of the powers herein granted.
- d) To determine to what extent money and other property coming into their possession shall be deemed principal or income, and to apportion the same between principal and income to the extent they determine.
- e) To extend the time of payment of any obligation.
- f) To compromise, arbitrate, defend, enforce, release settle or otherwise adjust claims in favor of or against the trust, including claims for taxes, and to accept any property, in either total or partial satisfaction of any indebtedness or other obligation.
- g) To make distributions in cash or in kind.
- h) To hold all or part of the trust fund uninvested for such purposes and for such times as the trustees may deem appropriate.

I. To hold trust property without indication of fiduciary capacity but only in the name of a registered nominee, provided the trust property is at all times identified as such in the books of the Trust, and to hold any securities in registered or in bearer form; the Trustees shall keep all of

the trust property or funds (other than real property) in one or more separate accounts maintained for such purpose in the Office of the Cambridge City Treasurer;

ARTICLE VI. OPERATION OF BOARD OF TRUSTEES

Section 6.1. Meetings

The Board shall meet at least quarter-annually on dates to be determined by the Managing Trustee on an annual basis. The Board may also meet at such other times as may be designated for special meetings by the Managing Trustee.

Section 6.2. Quorum

A quorum shall be present at each meeting if at least two (2) of the members of the Board are present in person.

Section 6.3. Votes and Actions Taken by Written Consent

Except as otherwise herein provided, the Board shall act by majority vote of the members of the Board present at a meeting. Any action required or permitted to be taken by the Board may be taken without a meeting if all members of the Board entitled to vote consent in writing to the taking of such action without a meeting. Such written consents shall be treated for all purposes as a vote at a meeting, and shall become part of the permanent records of the Board.

Section 6.4. Rules and Regulations

The Board shall promptly establish and periodically review written rules and regulations for the operation of the Trust and the Board, including rules and regulations for evaluating all applications to the trust, and for ensuring that distributions are used exclusively for the purposes for which this trust has been created. Rules and regulations shall

be established pursuant to applicable Massachusetts laws and statutes regarding trusts. A copy of such rules and regulations, and all amendments thereto, shall be recorded pursuant to ARTICLE X, Section 10.4 herein.

ARTICLE VII. ACCOUNTS

The Trust shall be audited annually by the City of Cambridge's independent auditing firm, in conjunction with the City's annual independent audit. Copies thereof shall be recorded and kept in the same manner as the City's annual independent audit.

ARTICLE VIII. AMENDMENT

This Trust may be amended from time to time by majority vote of the Board; provided, however, that no such amendment shall violate the purpose of this Trust as set forth in Article II. In addition, no amendment of this Trust shall authorize the Board to conduct the affairs of this Trust in any manner or for any purpose contrary to the provisions of Section 501(c)(3) of the Internal Revenue Code. Any amendment made pursuant to this Article shall be attached to each original counterpart of this instrument and shall not take effect until recorded as provided in Article X, Section 10.4 herein.

ARTICLE IX. DISSOLUTION

It is intended that this trust shall continue in perpetuity. If for any reason it becomes impossible to continue this trust, then the trust may be terminated upon unanimous vote of the Board. If for any reason this trust is voluntarily or involuntarily dissolved or wholly inoperative, all property held by the trustees shall be distributed forthwith to the City of Cambridge, to be used solely for purposes consistent with that set forth in Article II.

ARTICLE X. MISCELLANEOUS

Section 10.1. Titles and Subtitles

Titles of the Articles and Section subtitles are placed herein for reference only, and in case of any conflict, the text of this instrument, other than such titles or subtitles, shall be controlling.

Section 10.2. Massachusetts Law

This trust shall at all times be governed by the laws of the Commonwealth of Massachusetts.

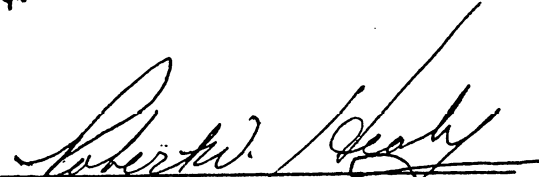
Section 10.3. Counterpart Copies

This trust may be printed and executed in as many counterparts as deemed desirable by the Board, and each such counterpart shall be an original and may be recorded as herein provided. At least one original counterpart shall always be kept on file and open to public inspection in the Office of the Cambridge City Clerk.

Section 10.4. Recording

Executed counterparts of this Trust shall be recorded in the Office of the Cambridge City Clerk and in the Division of Public Charities of the Office of the Attorney General of said Commonwealth (or such other office of said Commonwealth as shall be authorized to receive accounts from public charities).

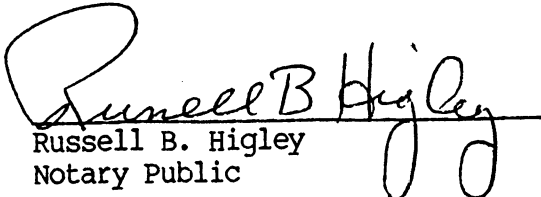
IN WITNESS WHEREOF, this Declaration of Trust is hereby made and executed as of June 29, 1989.


Robert W. Healy, City Manager

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

Then personally appeared the above-named ROBERT W. HEALY, City Manager as aforesaid, and acknowledged the foregoing instrument to be his free act and deed on this 29th day of June, 1989, before me.


Russell B. Higley
Notary Public

My commission expires: 12/14/95



CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139

TEL. 498-9011

EXECUTIVE DEPARTMENT

ROBERT W. HEALY

City Manager

RICHARD C. ROSSI

Deputy City Manager

February 26, 1990

To The Honorable, The City Council:

In response to Awaiting Report Item No. 35, dated 2/12/90, relative to the Special Law Enforcement Trust Fund, please find attached a response from James P. Maloney, Assistant City Manager for Fiscal Affairs.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert W. Healy", is written over the typed name and title.

Robert W. Healy
City Manager

RWH/mev
enclosure

Agenda # 11 S-180A

Awaiting Report Item Number 35
regarding Special Law Enforcement
Trust Fund.

In City Council,

February 26, 1990

Placed on file