



COUNCIL AGENDA: 01-29-08
ITEM: 2.9(b)

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Citizen Oversight
Committee for the Public
Safety Bond Program

SUBJECT: See Below

DATE: December 5, 2007

**SUBJECT: ANNUAL FINANCIAL REPORT ON THE PUBLIC SAFETY BOND
PROGRAM FOR FISCAL YEAR 2006-2007**

RECOMMENDATION

Acceptance of this report on the Public Safety Bond Program.

OUTCOME

This report to the Mayor and Council provides an update on the status of the Public Safety Bond projects at the end of its fifth fiscal year (2006-2007).

BACKGROUND

On March 5th, 2002, voters approved Measure O, San José 911, Fire, Police, Paramedic and Public Safety Act, authorizing the City to issue general obligation bonds up to \$159,000,000. Consistent with bond requirements, the City established a Public Safety Bond Citizen Oversight Committee (COC) to conduct an annual public hearing and prepare an annual report informing the Council and the public of the appropriateness of bond expenditures, the progress of the various projects, and the results of the annual audit.

On May 2nd and August 22nd of 2007, the COC met with staff to review quarterly expenditures of the projects included in the Public Safety Bond Measure. On November 28th, 2007, the COC conducted a public hearing to review expenditures for fiscal year 2006-2007. City staff presented information to the COC regarding the appropriateness of bond expenditures and the progress of the various projects. The results of the annual citywide financial audit were also included in the information packet reviewed by the COC. The COC also requested that a supplemental meeting be held on December 5, 2007 to discuss the status of the Police Substation award and the overall Safety Bond Contingency Reserve funding levels. A separate letter will be forwarded to Council from the COC regarding those items.

This report to the Mayor and Council provides an update on the status of the Public Safety Bond project expenditures at the end of fiscal year 2006-2007.

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ANALYSIS

During the fifth fiscal year (2006-2007) of the Public Safety Bond Program, City staff and consultants have made significant progress in multiple areas.

Land Acquisition:

As a result of work performed during the last fiscal year, the staff has updated the COC on some important developments. As communicated in the last report, in June 2006 voters approved the use of up to an acre of park land for the **Fire Station No. 36** project at the Silver Creek linear Park. While developing the design for this station staff discovered some PG&E easements that were undisclosed at the time the park property was transferred to the City and that had potential to affect the development of the project. After conferring with PG&E, staff is proceeding with appraisals and preparing documents for additional land transactions with PG&E. A planned donation of property for **Fire Station No. 21** may not be possible which has prompted staff to begin to evaluate opportunities for a direct purchase of land. **Station No. 37** is still in the site investigation phase for viable private or City owned parcels in the Willow Glen Neighborhood, including the Willows Senior Center.

The land acquisition process for the **East and South Community Policing Center** projects are on hold, as approved by City Council in of the 2008-2012 CIP Budget. Funding for both of these projects is in Reserve status and was approved for allocation toward the construction of the **South Police Substation** project. Staff will continue to seek opportunities to secure locations for the East and South CPCs via low cost lease agreements with private commercial properties. Any tenant improvements to the above leased spaces will be implemented with non-bond funds.

As of this report, ten projects have completed land acquisitions, one has completed site selection and is in various stages of negotiations and/or public outreach; three have identified one or more site options and are in the process of due diligence to verify suitability; and two are on pursuing low cost leases with non-bond funding.

Through the end of the 2006-2007 fiscal year, the total expenditures related to land acquisition totaled approximately \$ 13.2 million. This amount includes the \$1.55M placed in escrow for the Fire Station 19 relocation property in October 2006. The final cost for Fire Station 19's property will not be known until either a settlement is reached with the former owners or the matter is adjudicated in court.

Project Management & Design:

Throughout this fifth fiscal year of the bond program, staff continued to work with consultants on various phases of its projects.

Fire Station Program Validation Costs: During the May 2, 2007 COC meeting, the committee requested that staff assess the costs for the program validation exercise for the Fire Station No. 36 project and report back. As stated in that meeting, staff was using the Fire Station No. 36 project to test the standard Fire Station program in order to determine if any of the standard program components could be reduced to contain costs. This effort was engaged by staff as a

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result of the higher than anticipated construction bids received on recent fire station projects. The results of this exercise were used by staff to determine how to proceed with the design of the remaining fire stations including Nos. 19, 21, 36 & 37. The consultant and staff costs for the Program Validation effort are estimated to have been approximately \$15,000.

For the **Fire Station No. 36** project design itself, staff reports that a second schematic design effort was required to reduce the project costs to within the available budget. In order to achieve the necessary cost reductions, staff directed the consultant to permanently reduce the program by approximately 1300 square feet. The revised design will still allow for the addition of a second company to the station, if required, pending approval of the Evergreen Specific Plan and regional development needs. At that time moderate tenant improvements and site work will be implemented to bring the station to its full capacity.

On May 24, 2007, Council approved a resolution directing the City Manager to negotiate and execute a consultant agreement with Don Dommer Associates for the design of the **Fire Station No. 19 – Relocation** project based on **Fire Station No. 12** which is currently under construction. Several minor alterations to the building design were necessary to adapt it to the new site topography, local geological conditions and neighborhood context. As of this report, staff is reviewing the consultant's submission on the 30% construction documents package.

On September 25, 2007, Council voted to appropriate additional funds necessary to reinstate the **Fire Station No. 2** project as a full rebuild. Staff reports that the consultant design team has been re-engaged and the project is on track for design completion and award in early spring of 2008, if funding is approved pending school district negotiations.

On the Police side, consultants completed the construction documents package for the **South San Jose Substation** and the project was put out to bid on October 24, 2007. On November 8, 2007, three bids were received for this project. The apparent low bidder was 7.0 million (or 13%) over the project's construction budget of \$53.0 million. As of this report, staff is preparing a supplemental report on the bids received and recommendations for Council's consideration. Construction of the Substation is currently scheduled to commence in early 2008.

Through the end of the fifth fiscal year of the Public Safety Bond program the total expenditures and encumbrances for project delivery totals approximately \$ 25.2 million. This total includes approximately \$3.8 million in remaining balances on consultant agreements for design and construction support services.

Construction:

During the fifth fiscal year, staff oversaw the construction of **Fire Station Nos. 12, 17, 25, 34 & 35**. As of this report, three of the five are substantially complete and/or operational. Grand opening ceremonies were held on November 3rd and 16th for Fire Station Nos. 25 and 35 respectively. The activation of Fire Station No. 34 is pending crew redeployment and operational decisions by staff that is scheduled for implementation by the end of this calendar year. On April 10, 2007 Council awarded the fourth and fifth fire station construction contracts (**Fire Station Nos. 12 and 17**) and the encumbrances for their combined contract are reflected

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in this report. As of this report **Fire Station Nos. 12 and 17** are approximately 30% and 35% complete respectively. The total construction costs expended and encumbered up to this reporting period stands at approximately \$26.0 million. This total includes approximately \$6.8 million in remaining balances on construction contracts. This trend of increased construction expenses and encumbrances is expected to continue as several additional fire stations as well as the Police Substation are awarded over the next several quarters.

Project Budget and Schedule Adjustments:

On June 19, 2007, Council adopted the 2007-2008 Capital Budget and 2008-2012 Capital Improvement Program (CIP) budget. At this same meeting, Council also adopted the staff recommendations for the Spring 2007 budget clean-up requests. Contained in these Council actions were adjustments to Fire and Police projects necessary to address anticipated increases in project delivery and regional construction costs. The overall increased funding needed for the bond program was approximately \$6.48 million over the 2007-2011 CIP budget. This budget increase was funded through allocations of interest from bond sale proceeds, the Safety Bond Fund's Contingency Reserve and the Construction and Conveyance Tax Fund – Fire Purposes. On September 18, 2007, the COC submitted a letter to Council requesting that funding from non-bond sources be used to augment the Fire Station No. 2 budget so that this project could be reinstated as a full rebuild. Subsequently, on September 25, 2007, Council adopted additional changes related to the Fire Station No. 2 Project which increased that project's overall budget by \$2.7 million utilizing Redevelopment Agency Funds. With these increases to individual projects, the Public Safety Bond fund (Fund 475) in the adopted budget now carries a \$1.0 million Contingency Reserve while the Ending Fund Balance in the CIP totals \$1.5 million. The combined value of these reserve monies represents a budgeted contingency of approximately 2.8% of the remaining uncommitted program funds authorized under the Act.

Project Financing and Expenditures:

A total of \$146.70 million in General Obligation (GO) Bonds have been issued to fund Public Safety Bond projects through the end of the 2006-2007 fiscal year. In June 2007, the City sold additional bonds for its three active capital bond programs. The Public Safety Bond portion of that sale totaled \$67.9 million. In addition to bond revenue, interest earned to date as of June 30, 2007 totaled approximately \$ 8,054,434, for total revenue of \$154.73 million. This total does not include approximately \$6.9 million in supplemental funding allocated to date by Council from the Construction and Conveyance Tax Fund – Fire Purposes (Fund 392) and the Redevelopment Agency (Fund 450).

Approximately \$64.41 million of bond funds to date have been expended or encumbered. The City expects to issue additional GO bonds under the Public Safety Act Bond authorization over the next two years.

The following table shows the total revenues, expenditures and encumbrances through June 30, 2007 for Public Safety Bond funds (Fund 475 only).

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Fiscal Year	Bond Proceeds & Interest	Expended & Encumbered**	Balance
2002-03	40,660,080	2,190,303	
2003-04	660,429	8,952,788	
2004-05	40,418,700	4,527,979	
2005-06	1,976,090	15,856,570	
2006-2007 *	71,056,712	32,872,170	
Totals:	\$ 154,772,011	\$ 64,399,810	\$ 90,372,201

* As of June 30, 2007

** Encumbrances included in 2006-2007 only

Conclusion:

As the Public Safety Capital Bond program completed its fifth fiscal year, expenditures and encumbrances (i.e. funds "committed") accelerated. The \$32.9 million in total public safety bond funds committed during the 2006-2007 fiscal year was greater than total expenditures during the four prior fiscal years combined. This sizable increase in activity is likely be repeated in the next several quarters as additional construction contract awards for the Police Substation and several Fire Stations are realized.

Of the Public Safety Bond Program projects, thirty three have incurred expenses and/or encumbrances through the fourth quarter of the 2006-2007 fiscal year. As of this report, twenty one have been completed or achieved "Beneficial Occupancy," two are under construction, one is pending award for construction, six are in the various phases of design, four are on hold pending receipt of bids on other projects and/or land acquisition; and ten have acquired real estate for new facilities. Staff will continue to provide quarterly updates to the COC on the status of the projects and their expenditures as they progress.

EVALUATION AND FOLLOW-UP

Status reports on the project expenditures and performance of the Public Safety Bond projects are reported by staff to the Citizen Oversight Committee for the Public Safety Bond Program on a quarterly basis. On an annual basis, the COC issues their report to Council. No additional follow up action with the Council is expected at this time.

POLICY ALTERNATIVES

Not applicable.

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PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this action does not meet any of the criteria above, this report will be available on the City's website.

The public hearing for the review of this item was posted on the City's Brown Act board. It was also advertised in all City library branches and community centers. A meeting notice was also posted on the City's web site and issued to the media as a press release. One member of the public attended the hearing. No questions from the public were submitted at the hearing.

FISCAL/POLICY ALIGNMENT

This report meets the legal commitment and requirement to implement a Citizen's Oversight Committee to review the expenditures of the Public Safety Bond Program and provide the public with opportunities to understand, review and address any significant and relevant issues related to the Program expenditures.

COST SUMMARY/IMPLICATIONS

Not applicable.

COORDINATION

This memo has been coordinated with the City Manager's Office, Police Department, Fire Department, Budget Office, Finance Department and the Department of Public Works.

CEQA

Not a project.



PHYLLIS LAZZARINI
Chairperson
Public Safety Bond – Citizen Oversight Committee

For questions please contact DAVID SYKES, ASSISTANT DIRECTOR, at (408) 535-8300