



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Citizen Oversight
Committee for the Public
Safety Bond Program

SUBJECT: SEE BELOW

DATE: 12-15-08

**SUBJECT: ANNUAL FINANCIAL REPORT ON THE PUBLIC SAFETY BOND
PROGRAM FOR FISCAL YEAR 2007-2008**

RECOMMENDATION

Accept the 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 sixth fiscal year (2007-2008).

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 February 27th, May 21st and August 20th of 2008, the COC met with staff to review quarterly expenditures of the projects included in the Public Safety Bond Measure. On December 10th 2008, the COC conducted a public hearing to review expenditures for fiscal year 2007-2008. 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.

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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 2007-2008.

ANALYSIS

During the sixth fiscal year (2007-2008) of the Public Safety Bond Program, City staff and consultants have made significant progress in multiple areas.

Land Acquisition:

The following are updates to land acquisition projects for the public safety bond program since the last report:

1. **Fire Station No. 2 – Rebuild:** In July 2008, staff finalized the negotiations for and secured a lease for use of a neighboring church property as a temporary home for the No. 2 engine company during the construction of that project. The No. 2 truck company is planned to temporarily relocate to the newly completed Fire Station No. 34 for the duration of construction. The battalion chief is being relocated to existing Fire Station No. 21 where temporary quarters are being constructed.
2. **Fire Station No. 19** a final settlement with the former land owners for an additional \$1.12 million above the original offer was reached on March 21, 2008. Final price paid by the City was \$2.67 million
3. **Fire Station No. 21:** negotiations for purchase of a portion of a private parcel are on-going. Staff is also reviewing two other alternate sites also on private property in the adjacent areas.
4. **Fire Station No. 36:** Council held a need and necessity hearing on April 8, 2008 to secure easements for rights to use portions of PG&E property adjacent to the proposed Fire Station 36 site at the corner of Silver Creek and Yerba Buena Avenue. The City and PG&E are in negotiations to secure an order of possession for the easements.
5. **Fire Station No. 37:** On the November 4, 2008 ballot, a majority of voters passed Measure L, which allows the construction of a fire station on up to $\frac{3}{4}$ acre of the existing Lincoln Glen Park parking lot. Staff is now beginning the process of confirming the staffing levels and corresponding scope for this project. Once these items are confirmed, staff will establish the project schedule and commence the design process.
6. **Public Safety Driver Training Facility:** Since the last report staff has changed the land acquisition status of this project from “complete” back to the “site due diligence” stage due to recent developments in the Water Pollution Control Plant master plan process and the pending agreement between the City and Tesla motors that is underway. Staff is continuing to meet with member agencies that have financial interest in the WPCP and its buffer lands to reaffirm support for their use for this project at a nominal cost. The EIR process is on hold pending confirmation of the WPCP buffer land’s availability.

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- 7. East and South Community Policing Center:** A new low cost 5 year lease has been secured for the existing South Community Policing Center at the Oakridge Mall. Staff is continuing to seek opportunities to secure a location for the East Community Policing Center project via a low cost lease agreement with a private commercial property. Any leases or tenant improvements to the above leased spaces will be implemented with non-bond funds.

As of this report, eleven projects have completed land acquisitions, two have completed site selection and are in various stages of negotiations and/or public outreach; two have identified one or more site options and are in the process of due diligence to verify suitability; and one is pursuing a long term lease outside of the bond program funding.

Through the end of the fourth quarter of the 2007-2008 fiscal year, the total expenditures and encumbrances related to land acquisition totaled approximately \$ 14.31 million.

Project Management & Design:

During the sixth fiscal year, staff continued to work with consultants on the design, bid and award phases of several projects. The following lists project updates and milestones achieved in 2007-2008 as well as a few from the last several months.

- 1. Fire Station No. 19 – Relocation:** On June 24, 2008, Council voted to grant the City manager authority to award the project during the July Council recess. Since the low bid received was slightly below the engineer's estimate and within available funds, the City manager awarded the contract on July 23, 2008. Construction began on September 15, 2008.
- 2. Fire Station No. 2 – Rebuild:** staff and consultants completed the bid documents for which bids were received on November 4, 2008. A total of 17 bids were received and staff is in the process of preparing its recommendation to Council regarding award. Construction of the temporary facilities to house the No. 2 Engine and Truck Companies is on-going with completion anticipated in January 2009.
- 3. Fire Station No. 36:** The staff review of the 95% design submittal resulted in the recommendation for design changes to adequately address anticipated future growth in the number of firefighters at this station and the eventual expansion of fire services in the area. The recommended design changes will impact the critical path schedule for the design completion phase of the project. The design process along with sufficient time for the staff to review and comment prior to bid will push the design completion out to April of 2009.
- 4. Emergency Communications Dispatch Center Remodel:** The design of this project was completed in late September 2008. On November 4, 2008 a total of 13 bids were received and the Director of Public Works awarded the project to the low bidder on November 24, 2008. Construction is scheduled to commence in January 2009.

Through the end of the fourth quarter of the 2007-2008 fiscal year the total expenditures and encumbrances for project delivery totals approximately \$31.03 million. This total includes

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approximately \$2.55 million in remaining balances on consultant agreements for design and construction support services.

Construction:

During the sixth fiscal year of the Bond program, staff continued to oversee construction of multiple projects. The following lists project updates and milestones achieved in 2007-2008 as well as a few from the last few months

1. **Fire Station No. 25:** This relocated station in Alviso became operational as of October 15, 2007 and the Grand Opening Celebration was held on Saturday November 03, 2007
2. **Fire Station No. 34:** This new fire station on Las Plumas Ave. was completed in September of 2007. The station became operational in February of 2008. A dedication celebration and ceremony was held on September 8, 2008.
3. **Fire Station No. 35:** This new station at Cottle and Poughkeepsie became operational on November 4, 2007. A grand opening ceremony and celebration was held on November 16, 2007.
4. **Fire Station Nos. 12 and 17:** As of this report, Fire Station Nos. 12 and 17 are substantially complete and the contractor is performing final punch list items. Fire Station No. 17 became operational on November 5th, 2008 while Fire Station No. 12 was activated on November 24th, 2008.
5. **South San Jose Police Substation** is in the 9th month of its 20 month construction phase and has reached approximately 50% completion as of this report. All of the major steel has been erected and most floors and concrete are in place. On November 4, 2008 Council increased the Director of Public Works authority to issue change orders in excess of \$100,000 each on multiple topics for a maximum combined value of \$1.5 Million. Since these change orders, in combination with the executed and pending change orders, are estimated to consume more than the balance of the remaining construction contingency, staff is preparing a separate memo to council regarding recommendations for increased funding and any potential scope reductions.

The total construction costs expended and encumbered up to this reporting period stand at approximately \$ 87.87 million. This includes approximately \$ 49.34 million in remaining balances on construction contracts. This trend of increased construction expenses and encumbrances will continue as several additional fire stations are placed out to bid over the next several quarters.

Program "Sunk Costs":

At the COC's request, staff provided a special report on May 21, 2008, that explained and analyzed the program's expenditures to date for projects that are no longer being pursued. Also included in that report was an analysis of on-going projects that are considered "at-risk" due to pending major policy decisions, funding availability and/or land acquisition. The COC voted to accept the report at the August 20, 2008 quarterly meeting.

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The total sunk costs expended have remained unchanged at \$1.64 million in on a total of eight different projects. In terms of "At-Risk" projects, there has been approximately \$ 779,611 in expenses as of June 30, 2008, on a total of three different projects that as of this report still have substantial outstanding unresolved issues that could cause these projects to become non-viable. With the passage of Measure L by the voters on Nov. 4, 2008, the Fire Station No. 37 site was secured allowing that project to be taken off the at-risk list. The remaining "At Risk" projects are **Fire Station No. 21** and the **Public Safety Driver Training Center** due to land and the **exterior public art component of the Police Substation** due to funding.

Project Budget and Schedule Adjustments:

During Fiscal Year 2007-2008, staff identified an increase in the overall funding need of the Safety Bond program of approximately \$15.60 Million over the prior fiscal year's adopted CIP budget. The causes of these increases were largely attributed to projected construction costs escalation projections, revised scopes and increased construction management costs. Through a combination of project scope reductions, bond contingency reserve reductions, increased bond interest revenue as well as Redevelopment Agency and General Fund sources Council addressed this increased funding need.

On June 17, 2008 the City Council adopted the 2008-2009 Capital Budget & 2009-2013 Capital Improvement Program (CIP) as amended by the Mayor's June Budget Message which included one additional change in a source of funding but did not increase the overall funding for the program.

1. **Fire Station No. 37:** Council directed the City Manager to replace \$800,000 from the Construction and Conveyance Tax Fund - Fire Purposes (that was originally to be funded by the future sale of Fire Station No. 6) with monies from General Fund Future Capital Projects (FF&E) reserve, thereby creating a separate General Fund appropriation for Fire Station 37.

The Public Safety Bond fund (Fund 475) in the adopted budget was increased slightly due to interest earnings in excess of that projected and now carries approximately \$800,000 in its Contingency Reserve. The value of this reserve represents a budgeted contingency of approximately 2.5 % of the remaining uncommitted program funds authorized under the Act. As individual project or program-wide funding needs and adjustments are identified, staff will forward recommendations to Council regarding use of these funds.

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 fourth quarter of 2007-2008. In addition to bond revenue, interest earned to date as of June 30, 2008 totaled approximately \$12.48 million, for total revenue of \$159.18 million. An arbitrage refund for excessive interest earnings on the 2005 GO bond proceeds in the amount of \$254,000 was transferred out of the fund and is tracked as an expense.

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Approximately \$128.37 million of bond funds have been expended or encumbered to date. The City expects to issue additional GO bonds under the Neighborhood Security Act Bond authorization over the next two years.

The following table shows the total revenues, expenditures and encumbrances through June 30, 2008 for Public Safety Bond funds (Fund 475).

Fiscal Year	Bond Proceeds & Interest	Expended & Encumbered ^(b)	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	
2006-07	71,062,716	22,305,605	
2007-08 ^(a)	4,399,082	74,533,677	
Totals:	\$159,177,097	\$128,366,922	\$ 30,810,175

(a) As of June 30, 2008

(b) Encumbrances included in 2007-2008 only

Not included in the above table is the additional \$11.04 million from non-bond funding sources that have been authorized by Council as of June 30, 2008 to augment the program. As of June 30, 2008, a total of \$5.41 million of these funds have been expended and encumbered, leaving \$5.63 million remaining.

The independent accounting firm of Macias, Gini & Company completed their annual audit of the City funds on October 8, 2008 for the fiscal year that ended on June 30, 2008. The audited financial statement, known as the Comprehensive Annual Financial Report (CAFR), included a review of the Public Safety Bond Projects Fund (Fund 475). As part of the outside auditor's review, any significant issues are identified and commented upon. No significant issues were reported regarding the Public Safety Bond Projects Fund (Fund 475). The CAFR was presented by the Finance Department and the City's independent outside auditors to the City's Public Safety, Finance & Strategic Support Committee (PSFSS) on October 16, 2008 and to the City

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Council on October 28, 2008. The report was accepted by both PSFSS and City Council on the respective dates.

The CAFR is posted on the City's website (www.csjfinance.org) where the complete report can be found. Copies can also be obtained from the Finance Department on the 13th floor of City Hall at 200 East Santa Clara Street, San José, California. Relevant excerpts from the 2007-2008 CAFR are incorporated in this report as Attachment A.

Conclusion:

As the Public Safety Capital Bond program completed its sixth fiscal year, expenditures and encumbrances (funds "committed") program-wide have risen significantly. The \$128.37 million in total Public Safety Bond funds committed through the fourth quarter of the 2007-2008 fiscal year represents an approximate 140% rise in overall use of bond funds when compared to the prior five fiscal years combined. This sizable increase is primarily due to the award of the Police Substation's \$59.9 million construction contract. Over the next several quarters as additional construction contract awards for fire stations are realized there will be more modest expansions of utilization of bond funds.

Of the Public Safety Bond Program projects as of this report, twenty-three have been completed or achieved "Beneficial Occupancy," two are under construction, four are in the various stages of design, and eleven have acquired real estate for new or temporary 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

Staff provides status reports on expenditures of Public Safety Bond projects to the COC on a quarterly basis. Annually, the COC issues its report to Council.

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

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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. A meeting notice and associated reports were also posted on the City's web site. No members of the public attended the hearing. No questions from the public were submitted at the hearing.

FISCAL POLICY AND 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 issues related to program expenditures.

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, Department of Public Works
(408) 535-8440.

Attachment

City of San Jose
Combining Statement of Revenues, Expenditures and Changes in Fund Balances
Nonmajor Capital Project Funds
For The Year Ended June 30,2008

	<u>Public Safety Bond Projects (Fund 475)</u>
REVENUES	
Taxes	-
Intergovernmental	-
Charges for current services	-
Investment Income	4,480,517
Other revenues	1,638
Total Revenues	<u>4,482,155</u>
EXPENDITURES	
Current:	
Capital Maintenance	1,075,393
Capital outlay	<u>25,060,603</u>
Total expenditures	26,135,996
Excess (deficiency) of revenues over (under) expenditures	<u>(21,653,841)</u>
OTHER FINANCING SOURCES (USES)	
Bonds issues	-
Transfers in	53,345
Transfers out	<u>(254,000)</u>
Total other financing sources (uses)	<u>(200,655)</u>
Net change in fund balances	(21,854,496)
Fund balances - beginning	<u>101,158,571</u>
Fund balances - ending	<u>79,304,075</u>

Source: FY 2007-2008 Comprehensive Annual Financial Report

City of San Jose
Combining Balance Sheet
Nonmajor Capital Project Funds
For The Year Ended June 30,2008

	Public Safety Bond Projects (Fund 475)
	(Fund 475)
ASSETS	
Equity in pooled cash and investments held in City Treasury	-
Receivables (net of allowance for uncollectibles)	20
Due from other funds	-
Advances and deposits	3,470
Restricted assets:	
Equity in pooled cash and investments held in City Treasury	2,656
Other investments	94,114,308
Total assets	94,120,454
LIABILITIES	
Accounts payable	4,413,617
Accrued salaries, wages and payroll taxes	77,013
Due to other funds	10,325,749
Advances from other funds	-
Total liabilities	14,816,379
FUND BALANCE	
Reserved for:	
Encumbrances	48,140,211
Noncurrent advances and loans	3,470
Undesignated	31,160,394
Total fund balance	79,304,075
Total liabilities and fund balance	94,120,454

Source: FY 2007-2008 Comprehensive Annual Financial Report