



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Citizen Oversight
Committee for the Public
Safety Bond Program

SUBJECT: SEE BELOW

DATE: 02-14-11

COUNCIL DISTRICT: Citywide

**SUBJECT: ANNUAL FINANCIAL REPORT ON THE PUBLIC SAFETY BOND
PROGRAM FOR FISCAL YEAR 2009-2010**

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 eighth fiscal year (2009-2010).

BACKGROUND

On March 5, 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 17, 2010, the COC met with staff to review expenditures of the projects included in the Public Safety Bond Measure and to discuss issues related to the South San José Police Substation. On December 8, 2010, the COC conducted a public hearing to review expenditures for fiscal year 2009-2010. 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.

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 2009-2010.

ANALYSIS

During the eighth fiscal year (2009-2010) 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. 36 – New:** On May 1, 2009, the City received an Order of Immediate Possession (OIP) from Santa Clara Superior Court 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. On July 20, 2010, the City and PG&E agreed to a total compensation of \$6,283 for all easements necessary to complete the project.

As of this report, thirteen projects have completed land acquisitions. There are no future land acquisitions planned for this bond measure.

Through the end of the 2009-2010 fiscal year, the total expenditures and encumbrances related to land acquisition totaled approximately \$15.69 million for all funds.

Project Management & Design:

During the eighth 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 2009-2010 and the first several months of 2010-11.

1. **Fire Station No. 21:** Staff has begun work on program confirmation and preliminary site design. Selection of a consultant and commencement of design phase are pending decisions on staff resources.
2. **Fire Station No. 37:** On December 15, 2009 Council approved an architectural design consultant agreement that incorporated use of City staff for civil and landscaping disciplines. Staff is currently working with the consultant on the design phase. The project is scheduled to go out to bid in late spring 2011.

Through the end of the 2009-2010 fiscal year, the total expenditures and encumbrances for project delivery totaled approximately \$41.38 million for all funds. This total includes approximately \$0.77 million in remaining balances on consultant agreements for design and construction support services.

Construction:

During the eighth fiscal year of the Bond program, staff continued to oversee construction of multiple concurrent projects. The following lists project updates and milestones achieved in 2009-2010 as well as a few from the first several months of 2010-2011.

1. **Fire Station No. 2 – Rebuild:** Construction began on March 17, 2009 and the project achieved substantial completion and became operational on November 9, 2010. A grand opening and dedication celebration was held on November 13, 2010.
2. **Fire Station No. 19 – Relocation:** Construction began on September 15, 2008 and the project achieved Substantial Completion on November 3, 2010. A grand opening and dedication celebration was held on November 20, 2010.
3. **Fire Station No. 36 – New:** On January 26, 2010, Council awarded the construction contract. Construction began on April 22, 2010 with completion scheduled in summer 2011. As of this report construction is approximately 20% complete.
4. **South San José Police Substation:** The project achieved substantial completion on October 12, 2010. The contractor is anticipated to complete all punch list items by the end of 2010. Per the adopted 2010-2011 Operating Budget the facility will not be occupied by staff until September of 2011 at the earliest. The actual move-in date is pending due to projected general fund shortfalls and may be deferred further by the 2011-2012 budget process.

The total construction costs expended and encumbered up to this reporting period stand at approximately \$108.57 million for all funds. This includes approximately \$6.12 million in remaining balances on construction contracts. This trend of increased construction expenses and encumbrances will continue at a much more moderate pace as two more fire stations are placed out to bid over an 18 month period.

Program “Sunk Costs”:

As previously reported, the COC has requested that staff provide and update a special report that explains and analyzes the program’s expenditures to date for projects that are no longer being pursued. Also requested 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 latest report at the December 8, 2010 annual meeting which communicated the following.

The total sunk costs expended program-wide remains at approximately \$2.34 million on a total of nine different projects. This equates to 1.3% of the \$170 million in bond funds for this program. As of this report, there are no additional projects that are considered “at risk.”

Project Budget and Schedule Adjustments:

During Fiscal Year 2009-2010, staff identified an increase in the overall funding need of the Public Safety Bond program of approximately \$1.0 million over the prior fiscal year's adopted Capital Improvement Program (CIP) budget. The causes of these increases were largely attributed to increased construction change orders, revised scopes and increased construction management costs. Through a combination of project scope reductions, favorable bids on recent construction contracts, bond contingency reserve reductions, savings from completed projects and a modest increase in bond interest revenue, Council addressed this increased funding need.

On June 29, 2010, the City Council adopted the 2010-2011 Capital Budget & 2011-2015 CIP as amended by the Mayor's June Budget Message.

In 2009-2010, interest earnings in the Public Safety Bond fund (Fund 475) exceeded year-end estimates. As part of the 2009-2010 Annual Report, the additional funding (\$199,000) was appropriated in the Bond fund's Contingency Reserve. The value of this reserve represents a budgeted contingency of approximately 1% 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 \$155.68 million in General Obligation (GO) Bonds have been issued to fund Public Safety Bond projects through the fourth quarter of 2009-2010. In addition to bond revenue, interest earned and fund transfers as of June 30, 2010 totaled approximately \$15.27 million, for total revenue of \$170.95 million.

Approximately \$156.62 million of bond funds have been expended or encumbered as of June 30, 2010. The City expects to issue the remaining GO bonds under the Neighborhood Security Act Bond authorization within the next year.

The following table shows the total revenues, expenditures and encumbrances through June 30, 2010 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	4,454,065	26,389,996	
2008-09	10,870,793	44,423,501	
2009-2010 ^(a)	842,635	31,976,488	
Totals:	\$170,945,508	\$156,623,230	\$ 14,322,278

(a) As of June 30, 2010

(b) Encumbrances included in 2009-2010 only

Not included in the preceding table is the additional \$10.53 million from non-bond funding sources that have been authorized by Council as of June 30, 2010 to augment the program. As of June 30, 2010, a total of \$9.02 million of these funds have been expended and encumbered, leaving \$1.51 million remaining.

The independent accounting firm Macias, Gini & O'Connell, LLP (MGO) completed its annual audit of City funds in November for the fiscal year ended June 30, 2010. The audited financial statements, known as the Comprehensive Annual Financial Report (CAFR), included a review of the Neighborhood Security Bond Projects Fund. During the course of an outside auditor's work any significant issues are identified and commented upon. The CAFR will be reported to the City Council on December 7, 2010. No significant issues were identified and reported on for the Neighborhood Security Bond Projects Fund. A letter from the independent auditor and relevant extracts from the 2009-2010 CAFR are attached. (See Attachment A.)

The CAFR is posted on the Finance Department'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.

Conclusion:

As the Public Safety Capital Bond program completed its eighth fiscal year, expenditures and encumbrances (funds "committed") program-wide are continuing to level off. The \$156.62 million in total Public Safety Bond funds committed through the fourth quarter of the 2009-2010 fiscal year represents an approximate 8% rise in overall use of bond funds when compared to the prior seven fiscal years combined. This modest increase is partially due to the award of Fire Station No. 36. As additional design agreements and construction contracts for fire stations are realized there will be a continued and modest expansion of utilization of bond funds.

Of the Public Safety Bond Program projects as of this report, twenty-seven have been completed or achieved "Beneficial Occupancy," one is under construction, three are in the various stages of design, and thirteen have acquired real estate for new or temporary facilities. Staff will continue to provide updates to the COC on the status of the projects and their expenditures as they progress.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 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)**
- Criterion 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 for the March 8, 2011, Council agenda.

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 website. No members of the public attended the hearing. No questions from the public were submitted at the hearing.

COORDINATION

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

HONORABLE MAYOR AND CITY COUNCIL

02-14-11

Subject: Annual Financial Report on the Public Safety Bond Program

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CEQA

Not a project.

/s/

PHYLLIS LAZZARINI

Chairperson,

Public Safety Bond – Citizen Oversight Committee

Attachment



City Council
City of San José, California

Independent Auditor's Report

We have audited the accompanying financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of San José, California (the City), as of and for the year ended June 30, 2010, which collectively comprise the City's basic financial statements as listed in the table of contents. These financial statements are the responsibility of the City's management. Our responsibility is to express opinions on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinions.

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of San José, California, as of June 30, 2010, and the respective changes in financial position and, where applicable, cash flows thereof for the year then ended in conformity with accounting principles generally accepted in the United States of America.

As discussed in Note I.E. to the financial statements, as of July 1, 2009, the City adopted the provisions of Governmental Accounting Standards Board (GASB) Statement No. 51, *Accounting and Financial Reporting for Intangible Assets*, and GASB Statement No. 53, *Accounting and Financial Reporting for Derivative Instruments*.

As described in Note IV.A., based on the most recent actuarial valuation as of June 30, 2009, the Police and Fire Department Retirement Plan's and the Federated City Employees' Retirement System's independent actuaries determined that, at June 30, 2009, the value of the defined benefit pension plans' actuarial accrued liability exceeded the actuarial value of their assets by \$393.9 million and \$729.6 million, respectively. The most recent actuarial value of assets as of June 30, 2009 does not reflect the impact of the Police and Fire Department Retirement Plan's \$600.0 million and the Federated City Employees' Retirement System's \$420.0 million of deferred investment losses for the defined benefit pension plans that will be recognized in future valuations. Also, as described in Note IV.A, based on the most recent actuarial valuation as of June 30, 2009, the independent actuaries determined that, at June 30, 2009, the value of the postemployment healthcare plans' actuarial accrued liability exceeded the actuarial value of its assets by \$706.0 million for the Police and Fire Department Retirement Plan and \$710.9 million for the Federated City Employees' Retirement System.

The management's discussion and analysis, the schedules of revenues, expenditures, and changes in fund balances – budget and actual for the General Fund and the Housing Activities Fund, and the schedules of funding progress listed in the table of contents are not a required part of the basic financial statements but are supplementary information required by accounting principles generally accepted in the United States of America. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the required supplementary information. However, we did not audit the information and express no opinion on it.

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the City's basic financial statements. The introductory section, combining nonmajor governmental, trust and agency funds financial statements and schedules, and statistical section are presented for purposes of additional analysis and are not a required part of the basic financial statements. The combining nonmajor governmental, trust and agency funds financial statements and schedules have been subjected to the auditing procedures applied in the audit of the basic financial statements and, in our opinion, are fairly stated in all material respects in relation to the basic financial statements taken as a whole. The introductory and statistical sections have not been subjected to the auditing procedures applied in the audit of the basic financial statements and, accordingly, we express no opinion on them.

Macias Gini & Connell LLP
Certified Public Accountants

Walnut Creek, California
November 22, 2010

**City of San José
Combining Balance Sheet
Nonmajor Capital Project Funds
June 30, 2010**

	Neighborhood Security Bond Projects (Fund 475)
ASSETS	
Equity in pooled cash and investments held in City Treasury	\$ -
Receivables (net of allowance for uncollectibles)	-
Due from other funds	-
Advances and deposits	3,470
Restricted assets:	
Equity in pooled cash and investments held in City Treasury	7
Cash and investments held with fiscal agent	22,136,174
Total assets	<u>\$ 22,139,651</u>
LIABILITIES	
Accounts payable	\$ 707,291
Accrued salaries, wages and payroll taxes	61,959
Due to other funds	1,339,726
Advances from other funds	-
Total liabilities	<u>2,108,976</u>
FUND BALANCE	
Reserved for:	
Encumbrances	5,702,925
Noncurrent advances and loans	3,470
Unreserved:	
Undesignated	14,324,280
Total fund balance	<u>20,030,675</u>
Total liabilities and fund balance	<u>\$ 22,139,651</u>

(Continued)

City of San José
Combining Statement of Revenues, Expenditures and Changes in Fund Balances
Nonmajor Capital Project Funds
For The Year Ended June 30, 2010

	<u>Neighborhood Security Bond Projects (Fund 475)</u>
REVENUES	
Taxes	\$ -
Intergovernmental	-
Charges for current services	-
Investment income	373,090
Other revenues	224
Total revenues	<u>373,314</u>
EXPENDITURES	
Current:	
Capital maintenance	376,282
Capital outlay	25,703,164
Total expenditures	<u>26,079,446</u>
Excess (deficiency) of revenues over (under) expenditures	<u>(25,706,132)</u>
OTHER FINANCING SOURCES (USES)	
Transfers in	471,321
Transfers out	(190,646)
Total other financing sources (uses)	<u>280,675</u>
Net change in fund balances	(25,425,457)
Fund balances - beginning	<u>45,456,132</u>
Fund balances - ending	<u>\$ 20,030,675</u>

Source: FY 2009-2010 Comprehensive Annual Financial Report