



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kerrie Romanow

**SUBJECT: PUBLIC ART APPROPRIATION
REVIEW**

DATE: September 27, 2016

Approved

Date

9/29/16

INFORMATION

The attached information memorandum will be submitted to the Treatment Plant Advisory Committee to provide background and analysis for the adjustments made to the Public Art Appropriation between the City of San José, City of Santa Clara, and tributary agencies as part of the 2015-2016 Plant Capital Improvement Program budget.

/s/ Ashwini Kantak for
KERRIE ROMANOW
Director, Environmental Services

For questions, please contact Ashwini Kantak, Assistant Director of Environmental Services, at (408) 975-2553.

Attachment

Memorandum

TO: TREATMENT PLANT
ADVISORY COMMITTEE

FROM: Kerrie Romanow

**SUBJECT: PUBLIC ART APPROPRIATION
REVIEW**

DATE: September 27, 2016

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INFORMATION

BACKGROUND

In 1984, the City established the Art in Public Buildings Program. The purpose of the San José Public Art Program is to enhance the appearance of public places; to engage artists to help beautify the appearance of the City; to provide staff to assist the City on matters pertaining to public art; and to implement the provisions of the public art master plan. Over time, updated resolutions were approved specifying guidelines, procedures and funding sources for public art projects.

In June 2008, the San José City Council considered amendments to the City's Public Art Ordinance under Title 22 of the San José Municipal Code to reduce the art allocation from two percent (2%) to one percent (1%), and to broaden the eligibility to include infrastructure projects whose sites were not accessible from the public right of way. Unless restricted by the funding source, appropriations may be pooled within a fund and be allocated to projects remote from capital project where they were generated. In creating this new funding source, the City Council endorsed the Public Art Master Plan recommendation to "*establish ongoing collaborative relationships with other City Departments to ensure that the Public Art Program aligns with their plans.*" For example, public art projects funded by ratepayer-funded capital projects for the wastewater treatment process are intended to be highly visible to the public and facilitate education and behavior changes in ways that are beneficial to the utility system and ultimately the ratepayers in the service areas. The Council adopted the amendments in August 2008 following a recommendation by the Treatment Plant Advisory Committee (TPAC).

The preferred alternative for the San José-Santa Clara Regional Wastewater Facility¹ (RWF) Master Plan was approved by San José City Council on April 19, 2011. This prompted a review by the Administration of the Public Art funding at the RWF included in the 2012-2016 Proposed Capital Improvement Program (CIP) to confirm compliance with the Public Art Ordinance. As follow-up to the review by staff, San José City Council approved the City Manager's Budget Addendum #11 to amend the 2011-2012 Proposed Capital Budget by decreasing the allocation for Public Art by \$314,000, and to amend the Water Pollution Control Plant Capital Improvement Program for 2012-2013 through 2015-2016 to decrease the Public Art allocation by \$2,002,000.

In August 2012, the Office of the City Auditor issued a report entitled "Environmental Services: A Department at a Critical Juncture," and recommended that the Administration review past and current public art allocations in the Water Pollution Control fund to determine whether the appropriations are in accordance with the Public Art Ordinance. As previously mentioned, a review was conducted for the Fiscal Year 2011-2012 Proposed Capital Budget and the 2012-2016 Regional Wastewater Facility Five-Year CIP resulting in an adjusted, and reduced, RWF public art allocation. In Fiscal Year 2015-2016, staff also concluded a review of the 2007-2008, 2008-2009, 2009-2010, and 2010-2011 RWF CIP budgets, and confirmed if prior allocations included capital projects costs that would be considered exempt since Fiscal Year 2011-2012.

ANALYSIS

The Administration has determined that, in alignment with the evaluation conducted in 2011, public art costs associated with the following projects should have been exempt from the Public Art Ordinance as specified further below.

To address this needed adjustment, staff proposed changes to the FY 2015-2016 budget. With the June 21, 2016 San José City Council approval of the 2015-2016 Appropriation Ordinance and Funding Sources Resolution amendments in various funds, the Public Art allocation for the 2015-2016 Plant CIP budget Public Art appropriation was reduced by \$719,000. As a result of this action, the City of San José, City of Santa Clara, and each tributary agency will be credited for their share of the Public Art appropriation reduction as indicated in Table A on the following page.

¹ *The legal, official name of the facility remains San José/Santa Clara Water Pollution Control Plant, but beginning in early 2013, the facility was approved to use a new common name, the San José-Santa Clara Regional Wastewater Facility.*

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Table A- Public Art Reconciliation for the Water Pollution Control Plant Capital Program

Fund 512 Capital Improvement Program	2007 - 2008	2008 - 2009	2009 - 2010	2010 - 2011	Comments
Total Construction Projects	33,596,000	46,738,000	39,145,000	31,680,000	
Public Art	(102,000)	(419,000)	(138,000)	(275,000)	
Advanced Process Control and Automation				(1,940,000)	Equipment Replacement
Digester Gas Line Replacement	(1,100,000)				Equipment Replacement
Digester Rehabilitation		(10,000,000)	(2,000,000)	(1,000,000)	Rehabilitation/Replacement
Environmental Services Building Repair		(6,000,000)			Rehabilitation/Maintenance
Land Management and Improvements			(250,000)		Non-Construction
East Primary Concrete Tank Repair and Stainless Steel Conversion				(1,684,000)	Rehabilitation/Maintenance/Seismic Retrofit
Fine Bubble Membrane Diffuser Conversion and Automation				(750,000)	Equipment Replacement
Inactive Lagoons Bio-Solids Removal Study	(100,000)			(875,000)	Non-Construction
M5, Ring Buss and Cable Replacement and Automation	(7,000,000)				Equipment Replacement
Plant Electrical Reliability	(5,000,000)		(20,500,000)	(3,400,000)	Equipment Replacement
Scum Digestion	(2,350,000)				Maintenance/Equipment Replacement
Secondary and Nitrification Clarifier Rehabilitation			(1,000,000)	(3,701,000)	Rehabilitation/Equipment Replacement
Dissolved Air flotation dissolution Improvements				(298,000)	Maintenance/Equipment Replacement
Filter Improvements				(200,000)	Maintenance/Equipment Replacement
Equipment Replacement	(2,553,000)	(4,200,000)	(2,380,000)	(2,420,000)	Equipment Replacement
Plant Infrastructure Improvements	(7,552,000)	(7,991,000)	(5,738,000)	(8,472,000)	Rehabilitation/Maintenance
Unanticipated/Critical Repairs	(250,000)	(250,000)	(250,000)	(250,000)	Rehabilitation/Maintenance/Equipment
SBWR Reservoir Facility			(6,000,000)		Rebudget
Revised South Bay Action Plan - SBWR Extension	(2,000,000)	(9,301,000)			Rebudget
Subtotal	5,589,000	8,577,000	889,000	6,415,000	
1% for Public Art	55,890	85,770	8,890	64,150	
Actually Allocated Per Proposed	(102,000)	(419,000)	(138,000)	(275,000)	
Variance	(46,110)	(333,230)	(129,110)	(210,850)	
Total Variance	(719,300)				
Total Recommended Adjustment	(719,000)				

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Estimated Public Art Refund by Agency (FY07/08-FY10/11)

San José	\$480,102
Santa Clara	96,360
West Valley Sanitation District	48,265
Cupertino Sanitary District	31,035
City of Milpitas	55,582
County Sanitation District 2-3	5,913
Burbank Sanitary District	1,743
Total	\$719,000

EVALUATION AND FOLLOW-UP

As part of the annual year-end audit, staff has calculated the amount of credit owed to the City of San José, City of Santa Clara, and the tributary agencies, and any credits owed will be reflected in the January 2017 reconciliation for the Treatment Plant Capital Fund Annual Transaction Report.

COORDINATION

This memorandum has been coordinated with the City of San José City Manager's Budget Office, Office of Cultural Affairs, and with the City Attorney's Office.

/s/ Ashwini Kantak for
KERRIE ROMANOW
Director, Environmental Services

For questions, please contact Ashwini Kantak, Assistant Director of Environmental Services, at (408) 975-2553.