

Staff Report

Date: Dec. 12, 2012

To: Visual Arts Committee

From: Susan Pontious

RE: ESER Bond Use; Pooling Funds and Diverting Funds to Marina Earthquake Memorial

Capital improvements for a number of fire houses will generate approximately \$817,000 in Art Enrichment funds. The Fire Dept. has communicated that due to lack of opportunity for Art Enrichment at Fire Stations #36 and #16, they would like to waive the art program at those stations. Instead funds would be pooled for use on stations #5 and #35. Both the Art Enrichment Ordinance and our guidelines allow this use of funds.

Chief Hayes-White from the Fire Dept. has also told Tom DeCaigny that the Fire Dept. would like to contribute some amount of funds to a Marina Earthquake Memorial, which has been proposed by a community group. The design of this memorial came to Civic Design in Sept., 2008, and although no formal motion was made by the Committee, a letter of support was nonetheless written by former Chairperson Jeannene Przyblyski. As per Administrative Code Section 2A.150 (below,) formal approval of the final design of the Memorial should go to Civic Design.

Administrative Code #3.19 (Art Enrichment Ordinance) clearly states that the Arts Commission shall supervise and control the expenditure of AE funds, so the choice to use the funds in this manner does not reside with the Fire Department. However, the Fire Dept. could come to the Arts Commission and ask the Commission to waive or reduce AE allocation. If the two departments do not agree on this, the Ordinance calls for submitting the Arts Commission to submit the matter to the Mayor within 60 days.

It should be noted that the proposed memorial features a piece of apparatus from a fire boat. There is no artist involved in designing the memorial, nor is the design of the memorial use the apparatus in any transformative way. Therefore, in accordance with our guidelines, the memorial's primary identity is that of a historical artifact, and therefore not eligible to be included in the collection or funded with AE funds.

One final note, staff did pursue investigating whether the bond funds could be used at a site other than the bond funded projects. The city attorney's opinion was that they could, as long as the use was for a capital project.

Staff Recommendations:

1. Approve waiving art enrichment funds for Fire Stations #36 and #16 to pool for use on Stations #5 and #36.
2. Staff is of the opinion that it is inappropriate to use Art Enrichment funds for non-art projects. The Fire Department must make their request to the VAC regarding allocating Art Enrichment

funds to the Marina Earthquake Memorial and Staff is working to get the Fire Department to come to the Commission with their request and the January, 2013 VAC meeting.

Below is a summary of the relevant Civil Code and Guidelines for Reference.

Administrative Code Section 2A.150:

“No work of art shall be contracted for or placed or erected on property of the City and County or become the property of the City and County by purchase, gift or otherwise, except for any museum or art gallery, unless such work of art, or a design or model of the same as required by the Arts Commission, together with the proposed location of such a work of art shall have been submitted to and approved by the Commission. The term work of art ...shall comprise paintings, murals decorations, stained glass, statues, bas relief or other sculptures; monuments, fountains, arches and other structures of a permanent or temporary character intended for ornament or commemoration....The Commission shall have similar powers with respect to the design of buildings, bridges, viaducts, elevated ways, approaches, gates, fences, lamps and other structures erected or to be erected upon land belonging to the City and County...”

Administrative Code Section 3.19 (Art Enrichment Ordinance)

“If the officer, board or commission concerned determines that two-percent of the gross estimated construction cost is inappropriate for art enrichment, such officer, board or commission shall submit its recommendation regarding the art enrichment budget and the basis for its determination to the Arts Commission for Arts Commission’s review. If the officer, board or commission concerned is unable to resolve the matter with the Arts Commission, the matter shall be submitted to the Mayor by the Arts Commission for final determination within 60 days from the date the recommendation is made.

Failure of the Arts Commission to submit the matter to the Mayor for resolution within such time shall be deemed equivalent to the Arts Commission’s acceptance of the recommendation made by the officer, board or commission concerned.”

(e) Administrative Funds: “The Arts Commission shall supervise and control the expenditure of all funds appropriated for art enrichment ...”

(f) Aggregation of Funds: When mutually agreed upon by the Arts Commission and the City department from whose capital project the art enrichment allocation was obtained, and where permitted by the funding source, the Arts Commission shall have the authority to aggregate art enrichment funds for use at a more publicly accessible facility under the jurisdiction of the participating City department.

Policies and Guidelines for the Civic Art Collection:

Goals of the Civic Art Collection:

1. Artwork acquired and maintained within the collection should reflect the highest aesthetic standards.
 - a. **Objects accepted into the collection must be of known authorship and be accepted based on their value as works of art.**
 - b. **Objects whose primary identity is that of an historical, architectural, or religious artifact should not be included in the collection.**
2. Artwork accepted into the collection should be able to be permanently exhibited in an appropriate site, and be able to be maintained by the Commission for public display according to the guidelines herein.
3. The City's collection should be diverse in its representation of artists and artistic styles and be reflective of the ethnic diversity of the local population.
4. The City's collection should emphasize Bay Area artists, styles and movements, but should also seek to include the work of artists nationally and internationally so that local culture may be seen within a global context.
5. Artwork acquired and accepted into the collection should be appropriate in scale, media and context with its intended display location, and be relevant within the cultural, historical, social/political and environmental context of San Francisco and the Bay Area.

Section 4 of Public Art Guidelines

4.1 Allocation of Funds:

- 4.1.1 Project Allocation: All allocations will be made specific to an eligible capital improvement project (CIP). In accordance with Section 3.19 of the Administrative Code, allocations will represent 2% of the gross estimated construction cost (excluding the cost of the proposed artwork) based upon the submission of the Art Enrichment Survey Form.
- 4.1.2 Final Art Enrichment Allocation: The final art enrichment allocation will be determined by the estimated construction cost at the completion of Construction Documents; verification of final art enrichment allocation must be received prior to being calendared for Civic Design Phase 3 Approval.
- 4.1.3 Pooling of Funds/Use of Funds at a location other than the CIP Site: The Arts Commission and the Client Agency may mutually decide to use the art enrichment funding generated by a CIP at a site other than the CIP generating the art enrichment funds for any of the following reasons:
 - The art enrichment allocation is insufficient to execute a project appropriate to the site.
 - There is a lack of public visibility or accessibility making an art project at a particular location undesirable.

- The Commission and the Client Agency have identified another site as having greater priority for receiving artwork.

4.1.4 Alternative Use: Under these circumstances, the Client Agency and the Arts Commission may mutually agree to do the following:

- Use art enrichment funds at a more appropriate site within the department.
- Pool art enrichment funds from other Capital Improvement Projects within the department for use at an appropriate site.
- The Client Agency may request that the Arts Commission waive the art enrichment requirement.
- The art enrichment funds may be put into reserve until the funds can be either pooled or otherwise used at an appropriate site.

4.1.6.4 Exclusions: In general, the portion of capital appropriation reserved for art enrichment may not be expended for the following:

- Art objects that are mass produced and of standard design. However, limited editions signed by the artist of original prints, cast sculpture, photographs, etc., may be included.
- **Decorative, ornamental, or functional elements (unless for the security of the work or to ensure public safety) not designed by the artist.**
- Expenses related to the ongoing operation of the artwork such as electrical, water or mechanical service required to activate the work and utility costs.

Section 4.3 Eligibility:

4.3.1 Eligible Artwork: For the purposes of these guidelines, all forms of original creations (or limited editions) of visual art are eligible for acquisition through the Public Art Program.