



**SAN DIEGO COUNTY  
REGIONAL AIRPORT AUTHORITY  
STAFF REPORT**

Item No.  
**6**

Meeting Date: **OCTOBER 6, 2011**

**Subject:**

**Approve a Local Preference for Public Art Opportunities**

**Recommendation:**

Adopt Resolution No. 2011-0129, approving a scoring preference of up to 20% of the total available points awarded as part of the overall scoring matrix used to determine award of public art contracts to local artists who meet the definition of "local business" under Policy 5.13.

**Background/Justification:**

Authority Policy 5.13, adopted on October 1, 2009, and amended on January 6, 2011, reflects the Authority's commitment to maximizing opportunities to local businesses to participate in the Authority contracts to the highest extent possible, while complying with applicable codes, statutes, regulations and laws. Policy 5.13 defines a "local business" as a business that meets the following criteria: (1) have a valid business certificate issued by San Diego County, or a valid business license issued by a city within San Diego County; and (2) 25% of the work force based in the local office must reside in San Diego County; and (3) be headquartered or have a physical commercial address located within the limits of San Diego County for a minimum of 6 months prior to release of the solicitation for which the business responds as a local business participant. In furtherance of Policy 5.13, on January 6, 2011 the Authority adopted Policy 5.14 which allows a local business preference of up to 2% for contracts awarded based upon qualification rather than price.

Consistent with the Authority's commitment to maximize opportunities to local businesses set forth in Authority Policy 5.13 and 5.14, Authority staff requests that the Board adopt Resolution No. 2011-0129, allowing a preference of up to 20% of the total available points awarded as part of the overall scoring matrix used to determine award of public art contracts to local artists who meet the definition of "local business" under Policy 5.13. A local preference of up to 20% in the award of public art contracts is narrowly tailored and rationally related to the Authority's legitimate interest to promote regional economic development as set forth in the San Diego County Regional Airport Authority Act (the "Act") (Cal. Pub. Util. Code §170000, *et seq.*). Specifically, Section 170004 of the Act provides that airports help to "link local, regional, statewide, national and global economic activities" and that "airports promote economic development, protect environmental quality, and enhance social equity" and finally that airport planning has "significant regional consequences" requiring the creation of a "regional airport authority."

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The Authority is a regional public agency that is an integral part of the fabric of the local community of San Diego County. The Authority's Airport Art Program serves the local community by contributing to and participating in cultural tourism by way of showcasing local artists' work which results in an understanding and appreciation of the culture of the San Diego community.

Public art projects are not abundant jobs that provide constant or consistent opportunities for artists to have work visible in public spaces, especially in San Diego. Allowing a local artist preference in the award of public art opportunities, demonstrates the Authority's legitimate interest to promote economic development of the local artist community, but also shows that the Authority is committed to providing a platform that acknowledges the unique art and culture of the San Diego Region.

It is staff's recommendation that when the opportunity for public art is available, that the use of a local preference be reviewed on a case-by-case basis and the percentage preference amount for each public art opportunity be determined by the Airport Art Committee. Staff further recommends a scoring preference of up to 20% of the total available points awarded as part of the overall scoring matrix used to determine award of public art commissions to local artists who meet the definition of "local business" under Policy 5.13 and that a local preference may be applied to no more than 25% of the remaining Public Art budget in the Capital Improvement Program, (CIP) for the applicable year.

**Fiscal Impact:**

Funds for this Agreement are in the FY2012 CIP budget.

**Authority Strategies:**

This item supports one or more of the Authority Strategies, as follows:

- Community Strategy     Customer Strategy     Employee Strategy     Financial Strategy     Operations Strategy

**Environmental Review:**

- A. This Board action is not a project that would have a significant effect on the environment as defined by the California Environmental Quality Act (CEQA), as amended. 14 Cal. Code Regs. §15378. This Board action is not a "project" subject to CEQA, Pub. Res. Code §21065.
- B. California Coastal Act Review: This Board action is not a "development" as defined by the California Coastal Act. Cal. Pub. Res. Code §30106.

**Equal Opportunity Program:**

The Authority's small business program promotes the use of small, local, disadvantaged, and other business enterprises, on all contracts, to provide equal opportunity for qualified firms. By providing education programs, making resources available, and communicating through effective outreach, the Authority strives for diversity in all contracting opportunities.

The Authority has a Disadvantaged Business Enterprise ("DBE") Plan as required by the Department of Transportation, 49 CFR Part 26. The DBE Plan calls for the Authority to submit an annual over-all goal for DBE participation on all federally funded projects. This project does not use federal funds; therefore, it will not be applied toward the Authority's over-all DBE goal.

**Prepared by:**

CONSTANCE Y. WHITE  
MANAGER, ART PROGRAM

RESOLUTION NO. 2011-0129

A RESOLUTION OF THE BOARD OF THE SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY, APPROVING A SCORING PREFERENCE OF UP TO 20% OF THE TOTAL AVAILABLE POINTS AWARDED AS PART OF THE OVERALL SCORING MATRIX USED TO DETERMINE AWARD OF PUBLIC ART CONTRACTS TO LOCAL ARTISTS WHO MEET THE DEFINITION OF "LOCAL BUSINESS" UNDER POLICY 5.13

WHEREAS, Authority Policy 5.13, adopted on October 1, 2009 [Resolution No. 2009-0126] and amended on January 6, 2011 [Resolution No. 2011-0011], reflects the Authority's commitment to maximizing opportunities to local businesses to participate in the Authority contracts to the highest extent possible, while complying with applicable codes, statutes, regulations and laws; and

WHEREAS, Policy 5.13 defines a "local business" as a business that meets the following criteria: (1) have a valid business certificate issued by San Diego County, or a valid business license issued by a city within San Diego County; and (2) 25% of the work force based in the local office must reside in San Diego County; and (3) be headquartered or have a physical commercial address located within the limits of San Diego County for a minimum of 6 months prior to release of the solicitation for which the business responds as a local business participant; and

WHEREAS, in furtherance of Policy 5.13, on January 6, 2011 the Authority adopted Policy 5.14 [Resolution No. 2011-0011] which allows, among other things, a local business preference of up to 2% for contracts awarded based upon qualifications rather than price; and

WHEREAS, consistent with the Authority's commitment to maximize opportunities to local businesses set forth in Authority Policy 5.13 and 5.14, Authority staff requests that the Board authorize and permit a scoring preference of up to 20% of the total available points awarded as part of the overall scoring matrix used to determine award of public art contracts to local artists who meet the definition of "local business" under Policy 5.13; and

WHEREAS, a local preference of up to 20% in the award of public art contracts is narrowly tailored and rationally related to the Authority's legitimate interest to promote regional economic development as set forth in the San Diego County Regional Airport Authority Act (the "Act") (Cal. Pub. Util. Code §170000, et seq.); and

WHEREAS, §170004 of the Act provides that airports help to "link local, regional, statewide, national and global economic activities" and that "airports promote economic development, protect environmental quality, and enhance social equity" and finally that airport planning has "significant regional consequences" requiring the creation of a "regional airport authority"; and

WHEREAS, the Authority is a local governmental entity of regional government with jurisdiction extending throughout San Diego County; and

WHEREAS, the Authority operates San Diego International Airport ("Airport"), which depends upon infrastructure, including streets and roadways, which are built and maintained by the County of San Diego ("County") and cities within the County, for the public's access to and use of the Airport; and

WHEREAS, the Airport generates much of its operating revenue through user fees, not taxes, which necessitates the public's ability to readily access the Airport from locations throughout the county; and

WHEREAS, local businesses situated within the County contribute revenue to the County and cities within the County through the payment of taxes, licenses, fees, all of which pay for the costs to construct and maintain transportation infrastructure throughout the County and for access to the Airport; and

WHEREAS, the Authority's Airport Art Program serves the local community by contributing to and participating in cultural tourism by way of showcasing local artists' work which results in an understanding and appreciation of the culture of the San Diego community; and

WHEREAS, allowing a local artist preference in the award of public art opportunities, demonstrates the Authority's legitimate interest to promote economic development of the local artist community, but also shows that the Authority is committed to providing a platform that acknowledges the unique art and culture of the San Diego Region; and

WHEREAS, this Board action does not establish any quotas or set-asides nor does this Board action bar any business entity or artist from competing for Authority's public art contracts, but simply grants a narrowly tailored, minimal benefit to qualifying local businesses entities and local artists participating in Authority's public art contracts; and

WHEREAS, a "local artist" for purposes of this Board action shall have the same definition and requirements as set forth in Policy 5.13(2); and

WHEREAS, staff recommends that when an opportunity for public art is available, that the use of a local preference be reviewed on a case-by-case basis and the specific percentage preference amount for each individual public art opportunity be determined by the Airport Art Committee.

WHEREAS, staff recommends that the local preference be applied to no more than 25% of the remaining Public Art budget in the Capital Improvement Program, (CIP) for the applicable year.

NOW, THEREFORE BE IT RESOLVED that the Board APPROVES a scoring preference of up to 20% of the total available points awarded as part of the overall scoring matrix used to determine award of public art contracts to local artists who meet the definition of "local business" under Policy 5.13; and

BE IT FURTHER RESOLVED that the Board FINDS that a local preference may be applied to no more than 25% of the remaining Public Art budget in the Capital Improvement Program, (CIP) for the applicable year.

BE IT FURTHER RESOLVED that the Board FINDS that a local preference of up to 20% in the award of public art contracts is narrowly tailored and rationally related to the Authority's legitimate interest to promote regional economic development as set forth in the San Diego County Regional Airport Authority Act (the "Act") (Cal. Pub. Util. Code §170000, *et seq.*);

BE IT FURTHER RESOLVED that the use of a local preference for public art opportunities shall be reviewed on a case-by-case basis by the Airport Art Committee and that the specific local preference percentage amount for each individual public art opportunity shall be determined by the Airport Art Committee.

BE IT FURTHER RESOLVED that this Board action is not a "project" as defined by the California Environmental Quality Act (CEQA), Cal. Pub. Res. Code §21065; nor is it a "development" as defined by the California Coastal Act, Cal. Pub. Res. Code §30106.

PASSED, ADOPTED, AND APPROVED by the Board of the San Diego County Regional Airport Authority at a regular meeting this 6<sup>th</sup> day of October, 2011, by the following vote:

AYES: Board Members:

NOES: Board Members:

ABSENT: Board Members:

ATTEST:

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TONY R. RUSSELL  
DIRECTOR, CORPORATE SERVICES/  
AUTHORITY CLERK

APPROVED AS TO FORM:

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BRETON K. LOBNER  
GENERAL COUNSEL

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