

RESOLUTION NO. 11-11

**A Resolution of the Scientific and Cultural Facilities District  
Pertaining to Statutory Exclusion of Capital Construction from Annual Operating Expenses and  
Annual Operating Income**

WHEREAS, C.R.S. §32-13-107(3)(a)(I), states that “ninety-five percent of said sales and use tax revenues shall be distributed for **annual operating expenses;**” and

WHEREAS, C.R.S. §32-13-103(1), §§32-13-107(3)(a) and (3)(a)(I), and (3)(b) and (3)(b)(I), state specifically that ninety-five percent of the collected sales and use tax revenues be distributed by the SCFD board to eligible scientific and cultural facilities in each of the three tiers for **annual operating expenses;** and

WHEREAS, C.R.S. §32-13-106(2)(h) requires the SCFD board “to administer and use moneys collected pursuant to section 32-13-107, in accordance with the guidelines specified in section 32-13-107(3);” and

WHEREAS, C.R.S. §32-13-103(1) defines **annual operating expenses** as “expenditures for all purposes except capital construction, endowment, and payment of debt principal or interest;” and

WHEREAS, C.R.S. §32-13-103(1.5) defines **annual operating income** as “operating income from all sources, except capital construction fund income, designated funds raised for the purchase of specified capital needs, income for endowment corpus, and any distribution of moneys by the board;” and

WHEREAS, these exclusions articulate the public’s desire to have the collected tax funds spent in the year of collection on programming and activities that enlighten and entertain the public rather than on the acquisition or enhancement of capital assets or investments; and

WHEREAS, §32-13-106(2)(d) authorizes the SCFD Board of Directors to engage staff to assist the Board in its duties; and

WHEREAS, the Board of Directors desires to implement policy clarifying the legislative language with respect to the exclusion of capital construction from the definition of both annual operating income and annual operating expenses; and

WHEREAS, the Board of Directors issued public notice of this proposed policymaking process and afforded an opportunity for public comment at its regular monthly board meetings in September and October;

THEREFORE BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SCIENTIFIC AND CULTURAL FACILITIES DISTRICT AS FOLLOWS:

Section 1. Capital construction shall be defined as a non-recurring expenditure for physical improvements, including, but not limited to, costs for: acquisition of existing buildings, land, or interests in land; construction of new buildings, including additions and major alterations; construction of streets, highways or utility lines; acquisition of permanently attached or non-mobile fixed equipment, the removal of which would cause structural damage; non-mission-related landscaping; any structural

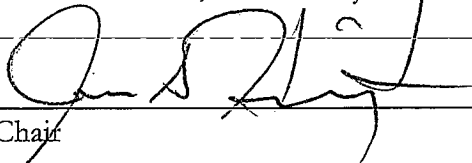
change, renovation or addition to existing facilities; new construction; acquisition of or improvements to sites, buildings or service systems such as heating, ventilation, air conditioning, electrical or plumbing systems; improvements to amenities such as bathrooms, cafeterias, kitchens, parking facilities or any other physical spaces.

Section 2. Use of SCFD funds for improvements to existing, free-standing interior exhibits and improvements to comply with physical accessibility requirements pursuant to the Americans with Disabilities Act or Section 504 of the Rehabilitation Act of 1973, up to \$10,000 in a single year, shall not be defined as capital construction for purposes of exclusion from annual operating expenses or annual operating income.

Section 3. The acquisition of capital assets not intended as permanent or long-term improvements to property or facilities, but intended rather to directly and currently advance or perform an organization's mission to conduct programming and activities that enlighten and entertain the public, e.g., interior exhibits, costumes, theatrical sets, interpretive signage, animals, artifacts and their restoration, choir and orchestra risers, and public art, shall not be considered capital expenditures for purposes of statutory exclusion from annual operating expenses or annual operating income. Routine maintenance and repairs shall not be defined as capital construction for purposes of the statutory exclusion.

Section 4. Under the provisions of this policy, SCFD staff may review an organization's reported annual operating expenses and annual operating income to determine whether revenue or expenses shall be excluded or included. Staff may request additional information from the scientific or cultural organization before making its determination.

Introduced and approved at a regular meeting of the Board of Directors of the Scientific and Cultural Facilities District, the 17th day of November, 2011.

  
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Chair

ATTEST:

  
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Secretary

