



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Nanci Klein

**SUBJECT:** SEE BELOW

**DATE:** May 23, 2024

Approved

Date: 5/24/24

**SUBJECT: REVENUE TO SUPPORT ARTS AND CULTURAL ORGANIZATIONS  
AND FACILITIES**

## **BACKGROUND**

As approved by the City Council, the Mayor's March Budget Message for Fiscal Year 2024-2025, directed the Administration to evaluate the feasibility of establishing an admissions fee and other potential revenue opportunities for San José arts and cultural organizations and facilities. This Manager's Budget Addendum outlines the forthcoming process and timeline to conduct the evaluation.

The creative, destination marketing, and destination events industries have long been valued contributors to San José's cultural, economic, and community prosperity and are important sectors in our growing, dynamic and diverse community. At City Council's direction, the Administration held a study session on February 16, 2024, to establish a common understanding of the importance of funding models for arts, destination marketing, and destination events. The *Arts, Destination Marketing, and Destination Events Funding Report* included a range of potential funding strategies for arts, destination marketing, destination (cultural and sports) events, deferred capital maintenance, and capital improvements for City-owned convention and cultural facilities. The report presented the City's current funding model, trends of existing City revenues that fund these sectors, and funding models of other public agencies. The presentation reported on potential funding models, included their pros and cons, and rated their feasibility. Among the potential funding strategies presented for Council's consideration included an admissions fee.

These potential funding strategies may be subject to Proposition 26, a California state law that defines the criteria between a tax and fee imposed by a local government. In 2010, California voters approved Proposition 26, which amended the California Constitution to define "tax" as any levy, charge, or exaction of any kind imposed by a local government unless it falls into one of seven exemptions. Local governments must prove the charge is not a tax; the amount is no more than necessary to cover the reasonable costs of the governmental activity; and the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's

burden on, or benefits received from, the governmental activity. Proposition 26 requires a two-thirds vote for all new or existing fees that are extended or increased unless they fall under one of the seven exemptions. Amongst the seven exemptions for local governments includes a charge imposed for entrance to or use of local government property, or the purchase, rental, or lease of local government property.

## **ANALYSIS**

To evaluate the feasibility of establishing an admissions fee and other potential revenue opportunities for San José arts and cultural organizations and facilities, the Administration will conduct a focused analysis of different admissions fees and other revenues models in the United States with an emphasis on California models. A potential model may be a specific amount charged to visitors of City-owned venues including and not limited to theaters, auditoriums, and museums. It will consider the types and levels of fees, how they are applied and collected, and potentially sliding scales and/or exemptions. The analysis will also evaluate the current San José market, different potential approaches and the potential levels and revenue, potential uses, and engage stakeholders. The evaluation will include legal analysis.

Developing a process for evaluating the feasibility of a new admissions fee and other revenues for arts organizations and cultural facilities in San José, while engaging stakeholders, is crucial for ensuring transparency, inclusivity, and the primary goal of additional support. The evaluation will be conducted with those central goals. The Administration may choose to work with an independent firm to support this evaluation and feasibility study, for which it would solicit proposals.

The proposed public process will involve the following key steps:

### 1. Stakeholder Identification and Engagement

- Engage key stakeholders including facility/venue operators, users, audiences, and arts and cultural organizations.

### 2. Market Analysis and Data Collection

- Gather relevant data on existing admissions fees models in other cities.
- Review San José attendance patterns and other demographics/financial impacts.

### 3. Financial Feasibility Assessment

- Analyze financial projections, considering various scenarios and assumptions.
- Evaluate the legal and regulatory implications.

### 4. Policy Recommendations to City Council

- Based on the study findings and stakeholder input, make informed policy recommendations regarding the feasibility of a new admissions fee and/or revenue-generating strategies and the use of the funds.

5. Implementation

- Develop an implementation plan outlining a timeline, responsible parties, and communication strategies.

6. Continuous Engagement and Evaluation

- Regularly evaluate the financial performance and impact of the implemented fees and revenue streams and solicit feedback from stakeholders to inform future decision-making and improvements, ensuring accountability and intended outcomes.

While not part of this scope of work, the City will continue to explore other potential revenues, including a bond issuance and, over the longer term, an Enhanced Infrastructure Financing District to address the capital needs of City-owned facilities.

The Administration will conduct a structured process to evaluate the feasibility of an admissions fee and associated legal analysis, and engage stakeholders as appropriate, prior to returning to the City Council with a report by the end of the calendar year. The feasibility study costs will be funded through the Cultural Grants and Programs allocation in the Transient Occupancy Tax Fund at an estimated cost of \$100,000. By undertaking this comprehensive process, the City Council can make an informed decision regarding a potential admissions fee and/or other revenues to support the vibrancy, health and sustainability of San José's arts and cultural sector and the ongoing capital maintenance and improvements to City-owned cultural facility assets.

**COORDINATION**

This Manager's Budget Addendum has been coordinated with the Finance Department, City Attorney's Office, and the City Manager's Budget Office.

/s/

NANCI KLEIN

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Development and Cultural Affairs