



Memorandum

TO: ARTS COMMISSION

FROM: PUBLIC ART COMMITTEE

**SUBJECT: PRESERVATION OF PUBLIC
ART FUNDING**

DATE: October 5, 2017

Approved

Date

10/6/17

RECOMMENDATION

To accept the Public Art Committee recommendation to amend the City's Public Art Ordinance under Title 22 to return the Percent for Arts allocation to pre-recession levels of 2% for all Capital Improvement Projects and Capital Improvement Infrastructure Projects, with the exemption of the Regional Wastewater Facility (RWF) and, until the Airport reaches 12.2 million passengers, the airport as well.

BACKGROUND

The amendment to Chapter 22.08 (Public Art Program) of Title 22 of the San José Municipal code to exempt the San José-Santa Clara Regional Wastewater Facility¹ (RWF) from the one percent public art assessment on Capital Improvement Projects (CIP) was approved by City Council on June 6, 2017. The exemption is forecasted to create a \$2.8 million dollar funding level decrease to the Public Art Program. This decrease would represent a 40% cut to public art funding, and will be almost half of the projected funding for public art projects in the 2017-2021 Adopted CIP. With the existing ordinance and projected capital projects it is forecasted that the Public Art Program will not have sufficient funds to support staffing levels or projects by 2022, and force reductions in staff, reduce projects available to the public, which would in turn negatively impact the labor market.

Public art projects create jobs for: artists, contractors, engineers, heavy equipment operators, landscape architects, food service operators, software technicians, maintenance and ground crew workers, hardware technicians, concrete specialists, carpenters, shipping and packing workers, and much more. The limitation of projects will damage the labor market in this community.

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.

The City of San José Public Art Program percent assessment has been modified three times in ten years, with the most recent amendments catalyzing significant reductions.

San José NEXT! is the City's public art master plan developed in coordination with over 1,000 residents of the City of San José and approved by City Council on March 13, 2007. A key component of the public art master plan is funding strategies that include the Capital Improvement and Infrastructure Project funding. In 2008, as an intended strategy to enhance public art funding, given the City's Decade of Investment in which there was a bond initiative funded extensive City-wide capital projects was nearing completion, the San José City Council altered the art allocation from two percent (2%) to one percent (1%) and eligibility of CIP projects was broadened to include a infrastructure which stabilized the fund and the program until subsequent reductions and revisions to the ordinance caused a reduction in revenue. In June 2010, City Council deferred the Public Art Allocation for Airport projects until passenger levels reach 12.2 million. In June 2017, the Regional Wastewater Facility was exempted from the percent for art ordinance. These reductions, along with a General Fund crisis, reduced the Public Art Program staffing levels from seven to three and shifted one full time employee to the Transient Occupancy Tax. Because the Decade of Investment was completed and the Citywide bond initiative expired the number of projects available to the public. The recent RWF exemption will eliminate 40% of the public art budget. If the Airport deferment remains, per the five year CIP forecast the Public Art Program will not have sufficient funds to support staffing levels or projects by 2022 - unless some other type of reliable funding remediation occurs.

In its role in advising the City Council in matters pertaining to the arts, including policy and funding, the Arts Commission will consider the Public Art Committee's recommendation. In response to Council direction in June 2017, Office of Cultural Affairs staff is presenting its financial modeling and analysis to interdepartmental representatives, including the City Manager's Office, for review and consideration of a recommendation to the City Council.

ANALYSIS

In June of 2017, per City Council direction, Public Art staff began investigating the potential for the Urban Village Framework and the Downtown Sign District to backfill the recent RWF exemption.

The Urban Village Framework, part of the Vision for the San José 2040 General Plan, is for the City of San José to achieve fiscal sustainability and improve its job-to-housing balance. Therefore, development within Urban Villages is planned to occur in phases, which are referred to as Horizons in the General Plan. There is a total of three Horizons and 64 prospective urban villages that have been proposed.

Commercial sign districts have been successfully implemented in Denver, Miami and Atlanta. The basic concept is that limited advertising space is sold in high traffic areas to generate revenue for community benefit. If a Downtown Sign District is implemented in San Jose a portion of the revenue generated could potentially be earmarked for public art. City staff in the

Office of Economic Development, Planning, Building and Code Enforcement and the Attorney's Office are currently working through a number of issues associated with the potential formation of a Downtown Sign District. The project is still in the research and planning phase. Staff is scheduled to provide a status update on this work to the Community and Economic Development Subcommittee in November.

After months of research and meetings with staff engaged in the Urban Village Framework and the Downtown Sign District, it was concluded that both are unreliable sources of possible funding and would not be able to backfill the RWF exemption or provide a steady source of revenue for the Public Art Program. The Downtown Sign District could prove to be a useful revenue source if it is realized and City Council earmarks this funding for arts and culture; however, it faces competition with other city priorities. Below are the reasons each source is not reliable.

Urban Village Framework:

- There is no requirement for a developer to participate.
- There is no set funding percentage if the developer decides to participate.
- It is proposed that the developer will have eight options to choose from and among the options public art will compete with contributions towards affordable housing and other amenities.
- The framework has yet to be finalized or approved. There are three horizons to this prospective development that may or may not occur. It is proposed that each horizon would be released in phases by council from now until 2040.

Downtown Sign District:

- As far as staff can tell, there are currently no such sign districts established in California, where laws related to the formation of assessment and community facilities districts tend to be more stringent. Therefore, staff is unsure whether the proposed district will be a source of revenue for the public art program.
- Substantial resources will be needed for ongoing district management.
- Competition for funding among programs defined as providing "community benefit" will be fierce and for the revenue generated by this to be earmarked for public art, City Council support will be required.

Upon reporting to the Public Art Committee and the Arts Commission that neither the Urban Villages or Downtown Sign District initiative will backfill the RWF exemption, a Public Art Funding Ad Hoc Committee was appointed by the Chair of the Arts Commission to research other methods to backfill the exemption.

After receiving forecasts (tables 1, 2, 3 below) from the Budget Office, and feedback from the community, the staff determined that if the Percent for Arts allocation were returned to pre-recession levels of 2% for all Capital Improvement and Infrastructure Projects – except for the RWF and until the Airport reaches 12.2 million passengers the airport – it will not backfill the RWF entirely, but it will assist in maintaining public art program, and prevent the reduction of

ARTS COMMISSION

October 5, 2017

Subject: Preservation of Public Art Funding

Page 4 of 6

projects and jobs available to the public (table 3). The tables below exhibit the forecasts in each category – before the RWF exemption, after the exemption and a restoration of 2%.

Forecast prior to the RWF exemption (table 1):

CIP 1% 5 year forecast with RWF	Amount
Forecasted Amount	\$ 7,288,000
CIP Public Art 2018-2022 Project	
Budgets Total	\$ 3,095,000
Staffing Costs and Benefits	\$ 2,046,278
Remaining	\$ 2,146,722

Forecast after the RWF exemption (table 2):

CIP 1% 5 year forecast without RWF	Amount
Forecasted Amount	\$ 4,328,000
CIP Public Art 2018-2022 Project	
Budgets Total	\$ 3,095,000
Staffing Costs and Benefits	\$ 2,046,278
Remaining	\$ (813,278)

Forecast if the percent is restored to 2% (table 3):

CIP 2% 5 year forecast	Amount
Forecasted Amount	\$ 5,595,000
CIP Public Art 2018-2022 Project	
Budgets Total	\$ 3,095,000
Staffing Costs and Benefits	\$ 2,046,278
Remaining	\$ 453,722

The recent reductions in percent for art funding have had a negative impact on the Public Art Program and the community. Nearly 350 U.S. cities and municipalities have a percent for arts requirement. Many have 2% or more as their requirement on public and private projects, and those that do are technology and art meccas – Atlanta, GA; Austin, TX; San Francisco, CA; San Diego, CA; Palo Alto, CA; Philadelphia, PA; Portland, OR; Seattle, WA; etc. These cities realize to be innovators they must offer a culturally vibrant place to live and public art is an integral catalyst to make this happen. In the Bay Area alone, 10 other cities are out competing San José when it comes to funding percent for art programs: San Francisco, Palo Alto, Berkeley, Emeryville, Oakland, Napa, Livermore, Dublin, Petaluma and Santa Rosa. San José is at the bottom of the list in percent for art funding locally, regionally, and nationally which is a dramatic change from 10 years ago when San José was a leader. A return to 2% funding on Capital Improvement Projects and Capital Improvement Infrastructure Projects would allow San José to re-instill a commitment to the public through art and cultural innovation; create cultural work and add residual opportunities to the labor market; add value to residents, visitors, workers, and enhance the collection itself as a public asset.

OUTCOME

The RFW exemption will create a \$2.8 million dollar funding level decrease to the Public Art program for public art projects in the 2017-2021 Adopted CIP. The public art program will require staffing and project reductions by 2022. That is a significant funding level drop and will continue to erode the value of community participation that 1,000 residents took part in to create the public art master plan. A return to 2% for all Capital Improvement and Infrastructure Projects (with the exemption of the RFW and the Airport until passenger levels reach 12.2 million), would re-establish the value and commitment of the City of San José to its community, prevent the Public Art Program from insufficient funding levels, prevent staffing and project reductions, prevent reductions in labor opportunities, and perpetuate the ability to create a unique sense of place and well-being for residents.

PUBLIC OUTREACH

This memorandum was posted on the City Public Art Committee Agenda website for the October 3, 2017 Public Art Committee meeting and the recommendation was unanimously approved by the Public Art Committee. This item will be presented at the October 16, 2017 meeting of the City of San José Arts Commission, and has been posted in accordance with City posting requirements.

COORDINATION

The content of this memorandum has been coordinated with the City of San José City Manager's Office, the Budget Office, and the City Attorney's Office.

ARTS COMMISSION

October 5, 2017

Subject: Preservation of Public Art Funding

Page 6 of 6



Ron Muriera
Public Art Committee Chair

For questions, please contact Michael Ogilvie, Public Art Director, at (408) 793-4338.

