



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Kim Walesh

**SUBJECT:** SEE BELOW

**DATE:** March 22, 2018

Approved

*D. D. Syl*

Date

*3/23/18*

## SUPPLEMENTAL

**SUBJECT: ARTS COMMISSION'S RESPONSE TO THE CITY AUDITOR'S RECOMMENDATION TO CONSIDER ELIMINATING THE PUBLIC ART REQUIREMENT FOR CERTAIN RATE-PAYER CAPITAL PROJECTS**

## REASON FOR SUPPLEMENTAL

At its regular meeting on Monday, March 19, 2018, the Arts Commission was apprised of the City Auditor's March 27, 2018 Council item and recommendation that "the Administration should consider recommending that the City Council amend the public art ordinance to eliminate the public art requirement for certain ratepayer-funded capital projects, including those related to underground utilities or the wastewater treatment process."

After much discussion, the Arts Commission agreed on a recommendation that coincides with the Administration's position to retain this requirement and close out the outstanding audit recommendation. The Commission also requests Council to consider returning the percent for arts to 2% funding on Capital Improvement Projects and Capital Improvement Infrastructure Projects with the exemption of the Regional Wastewater Facility (RWF).

## COMMISSION RECOMMENDATION/INPUT

The Arts Commission recommendation to Council is as follows:

"As an Arts Commission to adopt the recommendation to officially ask City Council as a Commission to abide by the City Manager's recommendation and to not disturb this fund and to also bring to their attention that we are still deeply concerned and anxious to hear about the restoration to 2%."

**ANALYSIS**

In 2008, after significant community and stakeholder outreach involving over 1,000 people, the San José City Council approved amendments to the City's Public Art Ordinance under Title 22 of the San José Municipal Code to reduce the art allocation from two percent (2%) to one percent (1%), and to broaden the eligibility to include capital improvement infrastructure projects.

On June 6, 2017, the Council amended the public art ordinance to eliminate RFW CIP projects from the public art requirement. This resulted in loss of \$2.8 million over five years, 40% of the public art budget in the 2017-2021 adopted CIP.

Subsequent to that Council action, the Arts Commission evaluated different options to backfill the loss in public art funding as a result of the exemption of RFW capital projects from the public art ordinance. Based on staff analysis, neither the Urban Village Implementation or potential downtown sign district would be reliable sources of public art funding.

On October 16, 2017, the Arts Commission had developed a recommendation that the Council amend the City's Public Art Ordinance under Title 22 to return the percent for art allocation to 2% for all Capital Improvement Projects and Capital Improvement Infrastructure Projects, with the exemption of the Regional Wastewater Facility (RWF).

At its March 19, 2018 meeting, the Commission moved to forward a recommendation to the full Council in support of the Administration's recommendation to close out the outstanding audit recommendation as well as to express their interest in returning to a 2% for art ordinance.

/s/

KIM WALESH

Deputy City Manager

Director of Economic Development

For questions, contact Kerry Adams-Hapner, Director of Cultural Affairs, at (408) 793-4333.