



City of Long Beach

Working Together to Serve

Memorandum

Date: December 12, 2016

To: Mayor and Members of the City Council

From: Patrick H. West, City Manager *T.M.W.*

Subject: Percent for the Arts Program Recommendations

BACKGROUND

On January 26, 2016, the City Council requested that the City Manager report back on the feasibility of establishing a Percent for the Arts Program, as an ongoing funding source for the development of public art throughout the City. On June 22, 2016, staff provided a memorandum that outlined research on various aspects of this topic, including the history of public art programs and funding efforts in the City, and a national and state best practices.

The information presented in this memorandum provides (1) a brief review of Percent for the Arts programs in other cities, (2) recommendations for a Percent for the Arts program in Long Beach, (3) an analysis of the fiscal impacts of the recommendations, and (4) a review of other funding sources for the arts.

CASE STUDIES

Over 350 states and jurisdictions around the nation have Percent for the Arts programs, applied to both public and private development. Under these programs, a percentage of project costs are set aside for the creation and maintenance of art. As a part of final research and recommendations, the following municipalities with Percent for the Arts programs were explored: Pasadena, Sacramento and Santa Monica.

Pasadena

Pasadena has a public development Percent for the Art program to support public art. The goal of their Capital Improvement Program (CIP) Public Art Program is to include art and provide space for the creation and presentation of art as a part of CIP projects. The program applies to all of the projects identified and completed through the City's CIP planning process. One percent of the actual construction cost of each construction project is designated to fund public art. More specifically, the percent applies to all new construction and renovation of structures/facilities costing \$250,000 or more, municipal buildings, street improvements, transit facilities, sewer/storm drains, and parks and landscaping. The CIP Public Art Fund is a standing account that holds the funds generated by CIP projects that are identified to fund public projects. The program includes only actual construction costs, excluding architectural, engineering and administrative costs, costs for fees and permits, and indirect costs.

The assessment is not applied to those sources of capital funds restricted by law or regulation not to fund public art. These restricted funds include Residential Development Fees, Gas Tax,

Sacramento

The City of Sacramento has a Public Development Percent for Art program. The Art in Public Places (APP) program was established in 1977 as a means to improve public experiences of visual art by installing pieces of art in public spaces. APP is funded through City and County ordinances that specify that two percent of eligible City and County capital improvement project budgets be set aside for the commission, purchase, and installation of artwork throughout the City.

The Sacramento Metropolitan Arts Commission manages Sacramento's Public Art Program. The Art in Public Places Committee, a sub-committee of the Sacramento Metropolitan Arts Commission, oversees the development of a public art master plan, long range planning, policy and procedures, and also reviews and approves artist selection and projects. The Public Art Program includes a collection of more than 400 permanently sited works of art, integrated into Sacramento's built and natural environments. More than 80 percent of these artworks are by local and regional artists.

Sacramento's ordinance mandates that no less than two percent of the total project costs of any eligible construction project be expended for art.

Santa Monica

Santa Monica's public development Percent for Art program includes a number of different components and approaches, including the following:

- Art in public places
- Temporary public art installations
- Murals
- Works of art purchased or created for visual display
- Art in architecture projects

Established in 1986, Santa Monica's Percent for Art program allocates at least one percent of the total budget of all eligible capital projects. Funds are separated in a CIP allocation and expenditure account within the General Fund. No allocation from any capital project funded by an enterprise fund can be allocated, except for art projects that are directly related to the enterprise fund. Implementation is governed by a Public Art Plan, developed by the Cultural Affairs Manager in conjunction with representatives from other City departments and the Arts Commission.

RECOMMENDATION

As an initial step, it is recommended that City Council create a Percent for the Arts Program on all General Fund capital construction projects and any eligible other fund. The 1 percent would be assessed on all capital construction projects exceeding \$100,000.

Fund Analysis

City staff has reviewed various City funds that could potentially be eligible for Percent for the Arts Program, and also researched how other cities handle various funds for their Percent for the Arts Programs. General Fund Capital funds are the most flexible and can be used for a Percent for the Arts Program.

It is recommended that the Percent for the Arts apply to any General Fund capital construction project. In addition, several of the City's other funds can also utilize a Percent for the Arts, if the project specifically benefits the fund and abides by the restrictions of the fund. While a Percent for the Arts on General Fund capital construction projects could be spent anywhere in the City, a Percent for the Arts on another fund can only be spent to benefit the fund (i.e., on property paid for by the fund and used for that specific purpose).

Examples of funds that could potentially apply a Percent for the Arts (subject to specific review of individual projects and funding requirements):

- General Fund
- Tidelands Funds (for public projects in the Tidelands area)
- Airport Fund (for public art on Airport Property)
- Gas and Oil (for capital facilities that benefit the Gas and Oil funds)
- Refuse (for capital facilities that benefit the Refuse fund)
- SERRF (for capital facilities that benefit the SERRF fund)
- Belmont Shore Parking Meter Fund (for capital projects in that jurisdiction)
- Community Development Block Grants (subject to HUD requirements)
- Health Fund (for Health Capital Projects and subject to grant restrictions)
- Towing (for capital facilities at the tow yard)

There are also a number of funds that appear to have restrictions that prevent the application of a Percent for the Arts. These include:

- Gas Tax for street improvements
- Proposition A (County Transit funds)
- Proposition C (County Transportation Funds)
- Measure R (Metro road projects)
- Measure M (Additional Metro road projects)
- State and Federal grants, unless specifically allowed under the grant
- AB 2766 (State Air Quality funding)
- Internal service funds

Additionally, there are funds outside of the City Council's purview that could potentially enact a Percent for the Arts, if approved by their individual governing boards. Both Harbor and Water funds could potentially create a Percent for the Arts if the funds were used to specifically benefit the mission of those two departments.

Fund Uses

Funds are recommended to be used as follows:

- 40 percent for the creation of public art in the public domain, through the Arts Council;
- 20 percent to the Arts Council to be awarded as small grants for capacity building and matching grants for art institutions and artists to promote a variety of arts throughout Long Beach; and
- 40 percent for support of established arts groups in the City of Long Beach.

Technical Components

To meet legal restrictions, funding from restricted other funds will remain with the restricted fund and will be used for public art installations in connection to the eligible facility or use of the fund. Each capital project will be reviewed on a case by case basis for the other funds, to determine applicability and a relevant nexus to arts funding.

The City Manager will determine through Administrative Regulations the most appropriate and cost-efficient method of calculating the Percent for the Arts. The fee will be assessed on construction costs and excludes equipment and other soft costs such as architectural, engineering and administrative costs, costs for fees and permits, and indirect costs. To ensure the fee does not generate an undue burden on large projects, the fee will not exceed \$500,000 on any particular project. In lieu of contributing the fee, projects may incorporate a significant art component in the design of approximately equal value, as determined by the City Manager.

The Arts Council will manage disbursement of the funds to the various entities, the necessity of spending, and determine the appropriate distribution of funds, as envisioned by their long-standing operating agreement with the City. Together, the Arts Council and the City will create an agreement on timelines and specifications for public art installations throughout the entire City using the 40 percent for art in the public domain. In addition, 20 percent will be granted under the existing arts grant program for small grants and capacity building. Lastly, 40 percent will be reserved for the established arts groups eligible for receiving operating grants. These groups, as currently defined by the Arts Council granting process, are:

- Long Beach Symphony Orchestra
- Musical Theatre West
- Musica Angelica
- International City Theatre
- Long Beach Opera
- Long Beach Playhouse
- Museum of Latin American Art
- Arts & Services for the Disabled

The Harbor and Water Departments will be asked to consider joining the program, subject to their governing board's approval and funding restrictions. In order to formalize the program, the City Manager will create specific Administrative Regulations governing the implementation of the Percent for the Arts Program.

FISCAL IMPACT OF RECOMMENDATIONS

It is a goal that the creation of a Percent for the Arts Program provide \$750,000 over the next three fiscal years for public art in the City based on General Fund capital construction funding. This funding is highly variable as the funds for capital construction projects are often one-time and fluctuates from year to year. Funding from the various other eligible funds has not yet been determined and would provide additional support for the arts.

While the amount of funds generated by other funds has yet to be determined, it consequently would have an equal impact on the ability to provide capital projects as essentially the Percent for the Arts will reduce the budget of each capital project by 1 percent. Some fully funded projects may be delayed due to a funding shortfall, or will need to proceed with less funds available for contingency, leaving fewer resources to address the unforeseen issues that may arise. If the any other funds are eligible to contribute to the Percent for Arts Program, funds will stay and contribute to art in their respected areas, or for their specific uses.

The following chart provides an estimate of the funds that could be contributed to the arts over the next three years, if the \$750,000 amount is achieved:

Funds over 3 years	
Public Art	\$ 300,000
Mini-Grants	\$ 150,000
Existing Organizations	\$ 300,000

The City's two publicly-funded arts institutions, the Museum of Art and the Municipal Band, are funded separately through the City's annual budget. Both have received increases in funding in the FY 17 budget.

One-time Verses Ongoing Funding

The level of funding generated annually is difficult to predict as it will fluctuate based on the amount of construction activity, construction prices, and the timing of those projects. Therefore, these funds should be treated as one-time amounts each year and utilized for one-time expenses, as to not create an expectation in any given year of a guaranteed amount of funding.

OTHER FUNDING SOURCES

In addition to the General Fund Capital Fund and other non-general fund sources, there are alternative funding sources that could be utilized for public art funding.

Admissions Tax

Some states and cities have imposed a tax or fee on entertainment venues or events. This is often referred to as a "Ticket Tax." This tax has been levied in different ways, either by a flat tax (fee) or as a percentage of the ticket price. There have also been differences in what categories are taxed. A number of California cities impose these admission taxes; some apply the tax to entertainment, while others limit the fee to certain venues. Carson, California

established a 2 percent tax on tickets at the Stub Hub Center, which has amounted to an estimated \$300,000 in annual revenue for the city.

There is a significant amount of ticket sales in Long Beach. However, most of these occur at the Convention Center, which includes the Terrace Theater, Arena and the Beverly O'Neill Theater, the Aquarium of the Pacific and the Queen Mary.

A citywide tax on ticket sales would require approval by the voters, with a two-thirds approval (66 percent), if the funds were to be dedicated to the Percent for the Arts. A tax would likely apply to any ticket sales in Long Beach, including movies, entertainment, arts events, music events, etc. While it has the potential to generate revenue, it could be detrimental to special events booking and participation. City staff does not currently have an estimate of how much revenue this could generate, and additional research would be needed if this is considered further.

Convention Center Entertainment Fund Fee

As an alternative to an Admissions Tax, the Long Beach Convention Center has established the Long Beach Convention and Entertainment Center Entertainment Fund. The fund is comprised of a \$3 fee that is charged and collected for (1) each event that is held in the Terrace Theater, the Beverly O'Neill Theater and the Long Beach Arena, and (2) each ticket purchased by an attendee via Ticketmaster, any box office of the property, and/or on a consignment basis (i.e. Stubhub). The fee of \$3 is exclusive of any service fees charged by Ticketmaster and any other fees that may apply to the ticket price. If the event is held by the Long Beach Symphony, Long Beach Opera, International City Theater, The Long Beach Ballet, or any other local Long Beach performing arts group, the \$3 fee is not charged.

The fee is implemented and managed by SMG, the contracted private facility management firm that operates and manages the Long Beach Convention Center.

Previously the fee had been \$1, but effective November 16, 2016, the Center increased the fee to \$3 per ticket for all new events. The proceeds of the fee are used to provide additional support to the Arts at the Center, as outlined in the attached document. It is expected that this fund will generate approximately \$255,000 per year.

Development Impact Fee

As a requirement for new development, the City charges development impact fees to offset potential external costs that are created as a result of new development in Long Beach. By collecting a proportional share of funds from new development and allocating that money to infrastructure improvement and other public facilities, a city can lessen the externalities caused by new projects. The Mitigation Fee Act, California Government Code Section 66000, et seq. (also known as AB 1600) outlines requirements for impact fees, including the requirement for a nexus or linkage between the fees being charged and the benefit of the facilities to mitigate new development impacts.

An important consideration of any new development fee is to determine how the City currently compares to other cities in the marketplace, as high development costs may cause projects to move elsewhere, where costs are lower. Based on preliminary data from a City consultant, Long Beach is currently in the top 50 percent of the highest impact fees. Cities used for comparison include Anaheim, Culver City, Huntington Beach, Irvine, Los Angeles, San Diego,

San Jose, Santa Monica, and Torrance.

The City of Long Beach charges four development impact fees, as shown in the chart below:

Fee	Recipient
Public Safety Fee	Police and Fire Departments
Park Impact Fee	Parks, Recreation, and Marine Department
Sewer Capacity Impact Fee	Water Department
Traffic Impact Fee	Public Works Department

In addition, Long Beach Unified School District charges an independent impact fee on any new development.

To ensure further funding of arts in Long Beach, an additional Arts Impact Fee could be considered. In order to understand the potential effects this fee would have on business and development climate, a nexus study would be required. This research would outline any additional burdens that such a fee would have on future development opportunities, and verify its legality if it were to be adopted by the City Council. If this option were chosen, the City would need to hire a consultant to conduct the fee nexus study at a cost ranging from \$100,000 to \$200,000. City staff are currently in the process of a review of the factors affecting development in the City of Long Beach, and part of the scope of that review is examining in detail the City's development impact fees as they relate to other cities. Before embarking on a nexus study, and a potential second phase of the Percent for the Arts Program, staff recommends that it first complete the study of development costs.

NEXT STEPS

Staff will present a recommendation to the City Council to consider on December 20, 2016. If approved, staff will work to develop the formal program, engage in discussions with the Arts Council on the program structure for the public art, and create administrative regulations to develop the final program implementation details.

If you have questions or comments, please contact Tom Modica, Assistant City Manager, at (562) 570-5091.

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ATTACHMENT

CC: CHARLES PARKIN, CITY ATTORNEY
LAURA L. DOUD, CITY AUDITOR
TOM MODICA, ASSISTANT CITY MANAGER
ARTURO M. SANCHEZ, DEPUTY CITY MANAGER
ALL DEPARTMENT DIRECTORS
LEA ERIKSEN, ASSISTANT DIRECTOR OF FINANCIAL MANAGEMENT
REBECCA JIMENEZ, ASSISTANT TO THE CITY MANAGER