

Memorandum

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Nanci Klein

SUBJECT: SEE BELOW

DATE: June 8, 2023

Approved



Date

6/9/2023

**SUBJECT: AGREEMENT WITH THE COUNTY OF SANTA CLARA FOR THE
DEVELOPMENT AND IMPLEMENTATION OF COUNTY OF SANTA
CLARA PUBLIC ART PROGRAM**

RECOMMENDATION

Adopt a resolution authorizing the City Manager, or designee, to negotiate and execute an agreement to provide the County of Santa Clara with professional services for the development and implementation of percent for art-funded public art projects, and for the County of Santa Clara to compensate the City an amount of up to \$800,000 for these services.

SUMMARY AND OUTCOME

The recommended action allows for the negotiation and execution of a professional services agreement with the County of Santa Clara (County) for the development and implementation of the County of Santa Clara Art Program.

BACKGROUND

On December 18, 2018, the County's Board of Supervisors unanimously approved the recommendation to negotiate an agreement with the City of San José's Office of Economic Development and Cultural Affairs (OEDCA) to provide public art services to the County to develop an Arts Policy for the County's recently approved One Percent for Arts Program. City Council subsequently authorized OEDCA to negotiate and execute this agreement on June 25, 2019. OEDCA worked with the County and community partners to develop a County Arts Policy that was presented to the County Board of Supervisors on October 19, 2020 and unanimously approved. Approval of the County Arts Policy created a need for project management services; however, the pandemic effectively froze the development of public art services. With the pandemic subsiding, the need for those services has resumed and the County intends to contract with the City to provide project management services in furtherance of the County's program. Approval of this action will allow the City to provide services to the County.

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ANALYSIS

The City of San José's Public Art Program boasts one of the most established public art programs in the country and one of the nation's largest and most diverse public art collections (over 400 artworks in locations citywide and in digital assets). For many years, San José's Public Art Program has been regarded as a national leader. Over its 40-year history, the program has evolved significantly, focusing initially on major commissions downtown, now more recently on projects in community facilities throughout the city. Recent artworks at the airport, libraries, parks, and City Hall are among the Public Art Program's finest accomplishments. The Public Art Program has been contracted by public and private agencies for expertise in the development of public art policies and projects, including the most recent partnership with the Santa Clara Valley Transportation Authority. Recognizing this expertise, the County requested that the Public Art Program aid in the development of its, 'One Percent for Art Projects' which commits one percent of the budget for a designated Capital Improvement Project for public art.

Given that Capital Improvement Projects public art revenues ebb and flow according to the City's capital programs, inter-agency agreements are viewed as not only a positive means of promoting best public art practices within the city and region, but also a means to retain and sustain public art program staff, whose hours are largely charged to the capital projects that they manage. City current staffing level capacity within its Public Art program can address existing City priorities as well as the proposed services for the County; however, City initiatives/priorities will take precedent for staffing time, and should those priorities exceed City capacity to provide services for County, staffing levels may need to be considered for adjustment and/or services with County terminated.

The recommended actions authorize the City Manager to negotiate and execute an agreement with the County to provide professional public art services, with maximum compensation and revenue to the City not to exceed \$800,000 over a five-year term, with the option to renew. Funding will be provided in advance, starting in Fiscal Year 2023-2024. Funding from the County will cover City staff time allocated to County-designated capital improvement projects, as well as the curation of one exhibit space at the County Government Services building. All work will be conducted in accordance with the County Arts Policy and Guidelines, approved by the Board of Supervisors on October 20, 2020. For that detail and a copy of the Arts Policy, please visit the County's [Board of Supervisors website](#). The policy and guidelines were developed by the City, per a previous agreement with County, and were informed by input from arts leaders in the City/County, and in reference to many other 'percent for art policies' throughout the nation. Funding to provide public art services will be paid in advance, with the first payment to be upon execution of the agreement.

EVALUATION AND FOLLOW-UP

Subsequent to the agreement's execution, staff will return to City Council as part of the City Manager's 2022-2023 Annual Report, on October 17, 2023, to recognize and appropriate an amount of \$200,000 for Fiscal Year 2023-2024.

COST SUMMARY/IMPLICATIONS

The potential maximum compensation under the agreement is \$800,000, which OEDCA expects to reach in full over the five-year term. Per the agreement, the County will advance funding in increments of \$200,000 until this maximum compensation is reached. The first installment is anticipated to be recognized and appropriated as part of City Council's approval of the City Manager's 2022-2023 Annual Report scheduled for October 17, 2023. Subsequent budget action will be brought forward for City Council approval to allocate additional funding as project timing warrants. Existing OEDCA staff resources are expected to accommodate the scope of work in 2023-2024, as currently funded public art projects in the 2024-2028 Capital Improvement Program projects are closed out.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office and the City Manager's Budget Office.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the June 20, 2023 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

This project was reviewed as part of the Capital Improvement Projects Art in Public Places 2023-2027 Work Plan and recommended to the Arts Commission for approval at the Public Art Committee meeting on April 4, 2023. The Arts Commission unanimously recommended that the City Council approve this project as part of the Public Art Work Plan at its meeting on April 17, 2023.

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CEQA

Categorically exempt, File No. ER20-225, CEQA Guidelines Section 15300.2. The City has considered the projects applicability to all the exceptions under Section 15300.2. An analysis of each of these exceptions is included in the exemption File No. ER20-225.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/

NANCI KLEIN
Director of Economic
Development and Cultural Affairs

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

