

The Public Art Task force met approximately ten times in the course of drafting the proposed amendments to the Public Art ordinance. The Task Force engaged in fact-finding regarding the administration, funding, and implementation of public art in other communities and evaluated the current ordinance for potential improvements with input from staff, the City Attorney's Office, and the public.

### **Summary of Proposed Amendments**

The primary change is the deletion of the requirement to use 1% of capital improvement project costs for public art. Under the proposed amendments, each capital improvement project will instead be evaluated individually to determine whether it is appropriate for the inclusion of public art – appropriate projects will be designated as “enhanced projects.” This determination will be based on written criteria to be developed by staff and approved by Council. Staff and the Public Art Commission will recommend projects based on these criteria, subject to Council approval.

When a project has been designated as an “enhanced project,” staff will work with the art administrator and the Public Art Commission to incorporate public art into the project from an early stage. The amount to be spent on public art for each project will be flexible and will depend on the nature of the specific project. Council must approve an annual list of “enhanced projects.” Council may add or strike projects from this list at any time. Council must also approve the budget for each project and approve any contract over \$25,000 relating to the project.

Other changes:

- Under 1:831 and 1:834, the City is now expressly permitted to accept gifts and grants, raise money in coordination with nonprofits, and use crowdfunding to fund public art.
- Under 1:832, several definitions have been altered, added, or deleted as part of the primary change discussed above. “Crowdfunding” is defined. “Public art” now expressly includes “architectural enhancements” (also defined) and temporary public art. The definition of “capital improvement projects” eligible for public art has been made more flexible.
- Section 1:833 lays out the process for implementing enhanced projects as described above.
- Section 1:835 (previously 1:834) adds a cut-off date of July 1, 2013 for funds gathered under the previous 1% requirement. Pooled funds will continue to exist and be drawn down under the terms of the existing ordinance unless Council decides to refund the pooled funds to their funds of origin.
- Section 1:836 (previously 1:835) has been revised to include enhanced projects and reflect the drawdown of pooled funds.
- Section 1:837 (previously 1:836) has been revised to give staff and Council more flexibility over the handling of extraordinary maintenance and eliminate the requirement of written consent from Public Art Commission for such maintenance. A provision was also added specifying that ownership of temporary art remains with the person providing it.

- Section 1:838 (previously 1:837) has revised the duties of the Public Art Commission as follows:
  - Subsection 2(B) now requires the Commission to submit a recommendation of “enhanced projects” by February 1 of each year.
  - Subsection 2(J) was added requiring the Commission to seek public input through the City’s public engagement process.
  - Subsection 2(K) was added requiring the Commission to collaborate on architectural enhancements.
- Section 1:838(3) was revised to allow the Public Art Commission to request updates on available funds from the City Administrator on an as-needed basis, rather than at specific intervals.

### **Task Force Conclusions**

Staff was present at the latter meetings of the Task Force. The following is a summary of some of the Task Force’s conclusions and recommendations, followed by staff comments.

**Task Force Conclusion 1:** Public Art programs do better where the community is involved in selection and funding of certain projects. The City should work with outside entities, such as local arts organizations and the Ann Arbor Area Community Foundation, to locate, design, and raise funds for such projects.

**Staff comments:** The Ann Arbor Area Community Foundation has two existing accounts dedicated to public art that were established in 1999 in conjunction with the City. One is an endowment account and the other is a donor-advised account for which the City is the advisor. The City could work with the AAACF to use these accounts for fundraising for projects. Crowdfunding could also be used where appropriate.

**Task Force Conclusion 2:** Administration of the City’s public art activities is complex, involving long-term planning for capital improvement projects, public engagement, education, and community and donor relations, among other duties. A full-time art administrator is preferable.

**Staff comments:** Staff anticipates that much of an art administrator’s time could be paid for from existing pooled funds, while such funds remain and to the extent that the administrator’s time relates to the purposes of those funds. At present, 8% of percent-for-art funds that are collected are set aside for administrative costs. Since no new funds would be added to the pooled art funds, the 8% self-imposed limit would not make sense as the funding winds down, and a larger portion of the remaining funds may be utilized for art administrative purposes.

After pooled funds are depleted, that portion of the art administrator’s time that is spent on enhanced projects may be reimbursed from those projects’ budgets. However, art administrator duties that are not related to pooled funds or enhanced projects would need separate funding. Possible sources of this funding include the City General Fund or external sources. In order to minimize potential General Fund impact, the scope of work for an art administrator should include a requirement to engage in grant-writing and fund-seeking for administrative expenses.

Staff anticipates that the art administrator's time related to administrative work on capital projects that cannot be tied to a specific project will be billed through the Municipal Service Charge and result in a General Fund expenditure offset by General Fund revenue from the contributing projects/funds. However, since some funds don't pay the Municipal Service Charge, there will likely be some unreimbursed expenses that will remain in the General Fund (unless covered by a non-City source). The amount of General Fund impact will depend on the scope of the art administrator's duties.

**Task Force Conclusion 3:** Staff should review the successful implementation of any changes in the ordinance after approximately three years. This timing is based on fact that capital improvements usually take longer than two years to move from inception to completion.

**Staff comments:** Most capital improvement projects are conceived approximately 5-6 years before construction. After three years, staff and Council should have a better understanding of the process and may have some completed projects to analyze, however even after three years, staff may not be able to provide a comprehensive analysis of the full public art process for long-term enhanced projects.

### **Additional Staff Comments**

- Section 1:833(1) requires the City Administrator to create written criteria for evaluating which capital projects should be designated "enhanced projects." These criteria must also be approved by Council. Staff views these written criteria as the proper place for detailed and practical requirements vis a vis public art. For example, staff anticipates that these criteria will automatically exclude certain categories of projects, such as underground utilities, since they are generally not visible to the public. The criteria should also set limits for acceptable maintenance costs for public art.
- Section 1:833(2) requires Council to approve an annual list of enhanced projects, which may be amended at any time. Staff anticipates that this will be rolling list of projects beginning with those projects that are in the conceptual phase 5-6 years out, up to those projects that are actually being budgeted in the current year. Staff will rely on this list to conserve staff resources and allocate staff time for art only to those capital projects that are on the list.
- Section 1:833(3) requires staff to identify, to the extent possible, that portion of the project budget attributable to public art for each enhanced project. For discrete artworks that are created and installed under a separate contract, this will likely be straightforward, however where art is integrated into the capital project or takes the form of architectural enhancements, those costs may be impossible to separate completely. In those cases, staff will provide an estimate of the incremental cost of the artistically enhanced features.
- Section 1:835(6) presumes that these amendments will not be passed before the FY2014 budget is approved. If so, the FY2014 budget must include the 1% for art, as required under the existing ordinance. If Council wants the option to remove the 1% for art from

the FY2014 budget, an amendment should be added to this ordinance that expressly permits Council to amend that budget to eliminate the 1%.