



CITY OF OAKLAND

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OAKLAND

2018 MAY -4 AM 8:41

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Mark Sawicki
Director, EWD

SUBJECT: Supplemental Report on Amendments to
Chapter 15.78: Public Art Requirements
For Private Development Ordinance

DATE: May 2, 2018

City Administrator Approval

Date:

5/3/18

RECOMMENDATION

Staff Recommends That The City Council Receive A Supplemental Report From The City Administrator On Implementation of Proposed Amendments To Chapter 15.78: Public Art Requirements For Private Development Ordinance.

REASON FOR SUPPLEMENTAL

This supplemental report was prepared by staff on behalf of the City Administrator to address the implementation of the proposed amendments, as well as the need for public input concerning any proposed amendments to the current Municipal Code requirements.

Proposed amendments to Oakland Municipal Code (OMC) Chapter 15.78, Public Art Requirements for Private Development, as submitted by Councilmember Gibson McElhaney, would allow a developer, subject to City approval, to satisfy a public art requirement by making an in-lieu contribution to a City-owned arts facility within one mile of the development site for capital improvements, or to satisfy the requirement by installing art on nearby property owned by other public agencies.

Staff supports the intention of the proposed amendments yet we have concerns regarding how the City will operationalize these alternatives. The drafted amendments are implementable but only if sufficient time and resources are allocated to evaluate, approve and realize these alternative options. The alternative proposals submitted by developers will require additional analysis, preparation of Committee, Commission and Council reports for their approval; and coordination between staff of Public Art, Planning and Building, and Public Works to review, approve and implement them. The fiscal and administrative impact of the proposed revisions should be considered by the Council as part of this amendment process.

Item: _____
CED Committee
May 8, 2018

Additionally, while we are aware these proposed amendments have been requested by certain community members, the proposed revisions have yet to be discussed or considered by the broader community and relevant oversight boards like the original Municipal Code requirements adopted in 2014 and the amendments made in July 2017. These revisions should be preceded by community meeting discussions and public hearings with the Public Art Advisory Committee (PAAC) and the Planning Commission.

BACKGROUND / LEGISLATIVE HISTORY

The original legislation requiring freely accessible public art for certain private development projects was adopted by the City Council in December 2014 and went into effect February 2015. After discussion with City staff and stakeholders, the Public Art Advisory Committee and Planning Commission in January 2017, the legislation was amended in July 2017 to clarify specific requirements and allow for implementation of projects in the Public Right of Way within a ¼ mile of the development site. Currently, projects are required to meet all requirements through submittal of documents to demonstrate compliance in accordance with Planning and Building and Public Art Program regulations. Projects currently proposed for within a ¼ mile of the development site are required to meet previously established Public Art Advisory Committee (PAAC) criteria for artworks in the Public Right of Way, in addition to any City-related building and encroachment permitting requirements.

ANALYSIS AND POLICY ALTERNATIVES

The proposed amendments are implementable if sufficient staff time and resources can be added or allocated. Council should consider the potential increased cost to implement, and the implications of receiving a high number of alternative equivalent proposals from private development projects. Not only will processing these proposals create an additional burden on staff, but they may add delay to the development approval process, particularly during the current construction boom

Proposed Amendment Option 1: Current established Public Art review and approval procedures could be expanded to accommodate public art proposals for artwork to be placed on property owned by other public agencies. Costs associated with those reviews, including development of review criteria, proposal applications and City Council approved transfer of ownership and long-term maintenance agreements would need to be evaluated and assessed. A cost recovery mechanism is currently included in the Master Fee schedule for Public Art review of smaller projects of limited scope, but it does not anticipate this level of facilitation and administration. Actual costs associated with administration of inter-agency agreements regularly exceed any costs recovered.

Proposed Amendment Option 2: Staff has not had the opportunity to analyze or consider the review process for alternative equivalent proposals, including contribution of funds for City-owned arts facilities. Administrative protocols on how to operationalize these contributions, as well as how to ensure they have the desired results, will need to be established. Our preference would be to establish these protocols prior to adopting the amendments.

In addition to overall administration of the program, City expenses to review and assess these alternative proposals are not fully covered by existing fees. There is currently only one staff person managing the Public Art program. Cost recovery models utilized by other cities to implement and administer public art requirements for private development, which should be considered in light of expanded workloads, include one or more of the following Program Administration Cost Recovery Mechanisms:

- A) Dedicated staff costs covered by general purpose funds
- B) A percentage of relevant building department permit fees
- C) A percentage for all alternative proposal budgets
- D) A percentage from all required developments budgets

FISCAL IMPACT

The management of projects realized in accordance with the proposed amendments will necessitate facilitation and coordination with multiple City departments, including the City Administrator, Economic and Workforce Development, Planning and Building, Public Works and the Department of Transportation, as well as other public agencies. The staff and other administrative costs associated with this work have not yet been analyzed and quantified, and will be dependent on how frequently the alternative proposal options are utilized by developers.

PUBLIC OUTREACH / INTERESTS

The proposed amendments will be presented to the Public Art Advisory Committee at its regular meeting on May 7, 2018.

COORDINATION

This report has been prepared by staff in the Cultural Affairs Division of Economic and Workforce Development. Additional time would be needed for better interdepartmental coordination with the City Attorney, Planning and Building, Public Works and others, as well as with community stakeholders, the Public Art Advisory Committee and Planning Commission.

SUSTAINABLE OPPORTUNITIES

There is no current analysis of economic, environmental or social equity opportunities associated with this report.

Sabrina B. Landreth, City Administrator

Subject: Supplemental Report on Amendments to Chapter 15.78: Public Art

Date: May 1, 2018

Page 4

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council receive a supplemental report from the City Administrator on implementation of proposed amendments to Chapter 15.78: Public Art Requirements For Private Development Ordinance and authorize the City Administrator additional time for public outreach and cost analysis pertaining to implementation of the proposed amendments before final adoption.

For questions regarding this report, please contact Kristen Zaremba, Public Art Coordinator at 510-238-2155.

Respectfully Submitted



Mark Sawicki
Director, EWD

Reviewed by:
Roberto Bedoya, Cultural Affairs Manager
Economic & Workforce Development Department

Prepared by:
Kristen Zaremba, Public Art Coordinator,
Economic & Workforce Development Department

Item: _____
CED Committee
May 8, 2018