



CITY OF MOUNTAIN VIEW

MEMORANDUM

Public Works Department

DATE: November 30, 2021

TO: Council Policy and Procedures Committee

FROM: Rey S. Rodriguez, Senior Project Manager
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Dawn S. Cameron, Public Works Director

VIA: Kimbra McCarthy, City Manager

SUBJECT: Council Policy K-5 – Public Art and CIP Projects

BACKGROUND

In 1987, the City Council approved Council Policy K-5 to include public art for major City capital improvement program (CIP) projects, defined as projects costing \$1 million or more, and set an art budget of 1% of the project cost. The Policy was revised by Council on May 21, 2013 to clarify that the project cost threshold and 1% calculation are based on the construction budget and to add the role of the Visual Arts Committee (VAC) to advise Council on art and artists for qualifying projects. The policy as revised in 2013 consists of the following single paragraph:

“One percent of the construction budget of all major capital improvement projects (\$1 million or more) shall be devoted to the selection and purchase of a significant appropriate piece of art which shall be incorporated as an integral piece of the design of the project. This artwork may consist of works integrated into the project; acquisitions; art commissioned for the building exterior, interior, or site; or other appropriate installations. The Visual Arts Committee is responsible for advising the City Council on the selection of art and artists for qualifying capital improvement projects.”

Originally, the Policy was primarily applied to City buildings. However, as the construction costs of new parks projects began to exceed \$1 million, the application of Policy K-5 expanded beyond buildings to include new parks. Recently, staff has incorporated public art budgets into other capital projects, such as the new U.S. 101/Shoreline Bicycle/Pedestrian Bridge currently in preliminary design.

In addition, Council recently began to approve public art at 2% of the construction budget for new parks projects due to the lower construction costs to ensure that there was an adequate amount of funding for art. Staff was also requested to bring to Council a potential policy revision to increase the public art budget from 1% to 2% for all projects.

Public Art Strategy

The Fiscal Year 2021-22 and Fiscal Year 2022-23 Strategic Roadmap Action Plan includes a Council priority project to continue to work with the VAC to encourage public art. City staff is working with the VAC on the Public Art Strategy that will build on Council Policy K-5 to allow more public art opportunities throughout the community. Various potential mechanisms are being considered as part of the Public Art Strategy, including partnerships, public art in private development, public art decommission policy, and additional public art programming and processes.

It was originally planned that revisions to Council Policy K-5 related to CIP projects would be included in Council's deliberations related to the Public Art Strategy. Development of the Strategy, however, was delayed due to the COVID-19 pandemic. The current schedule is to bring the proposed Strategy goals and framework to Council for discussion in early 2022.

There are several CIP projects that are potentially subject to Council Policy K-5 that will soon begin preliminary design. To provide staff with clear direction related to applying Council Policy K-5 to these and future CIP projects, staff is bringing forward recommended revisions related to CIP projects separately from the new Public Art Strategy.

ANALYSIS

There are five components to Council Policy K-5:

1. Types of projects for which the Policy is applicable;
2. The construction cost threshold level for applying the Policy to a CIP project;
3. Amount (percentage) of funding to dedicate to public art;
4. When to integrate the art in the project; and
5. Role of the Visual Arts Committee.

This report is focused on the first three components: applicable projects for public art, threshold level, and amount (percentage) to budget.

Applicable Projects

The current policy language about applicable projects is not specific and simply states “all major capital improvement projects.” As stated above, the Policy was originally applied to just building projects and has since been expanded to apply to new parks that exceed \$1 million in construction costs. In the 2013 Council report, it was noted that the Policy would not apply to routine maintenance and utility infrastructure projects, such as streets, sidewalks, sewer, and water lines, although this was not specified in the Policy itself.

To address the ambiguity of the project types in the current policy, **staff recommends that the Policy specify the following applicable capital projects: new parks, new buildings, major renovations of buildings, new bridges, new or renovated public plazas, new trails or trail extensions, and new bicycle/pedestrian over- or undercrossings.**

Consistent with the intentions in the 2013 Council report, maintenance, replacement, and repair projects for streets, sidewalks, sewer, and water lines would not be included. Other routine maintenance, replacement, and repair projects that can have high construction costs would also not be included, such as reroofing City buildings, replacing Heating, Ventilation, and Air Conditioning (HVAC) systems, and synthetic turf replacements in athletic fields. In addition, projects that add bicycle and pedestrian improvements within existing right-of-way would not be included, such as the El Camino Real and Stierlin Road bicycle and pedestrian improvements projects. These types of projects do not provide opportunities for public art as part of the project, and many have restricted funding sources.

Construction Cost Threshold Level

In 1987, Council Policy K-5 defined a major project as having a minimum construction cost of \$1 million and set a 1% public art budget (equal to a \$10,000 minimum art budget). When factoring for inflation, a \$1 million project in 1987 is equivalent to a \$2.4 million project today (or a \$24,000 minimum art budget).

During the last few years, as project costs increased and construction budgets for small parks exceeded \$1 million, the VAC reviewed and recommended public art to Council for placement in new parks. A 1% public art budget for most of these parks projects would have only been \$13,000 to \$18,000. As there was concern that this amount was too

small for a meaningful art budget, Council approved public art at 2% of the construction budget for these parks projects.

Although Council has recently approved art selections with 2% budgets, the art budget for a project with a construction cost of \$1 million remains small (\$20,000). The public art budget covers expenses for the artist and include materials, structural engineering (when necessary), permits, transportation, installation, and insurance premium costs to meet City requirements. It is very challenging to secure artwork suitable for an outdoor setting for only \$20,000.

Staff recommends increasing the project construction hard-cost threshold for determining applicable CIP projects to \$1.5 million to provide a minimum public art budget of \$30,000 at the 2% budget rate. A construction cost of \$1.5 million is more reflective of a “major” capital project in terms of staff time and project process. In addition, a minimum of \$30,000 for public art will better support artists to provide an art piece suitable for a public setting and to cover associated expenses. In the case where the art is indoors and part of a building, \$30,000 could be used to purchase multiple paintings and photographs or sculptures for display. Outdoor settings that require durable public art may require the full \$30,000 for a single piece of artwork.

Percentage of Construction Budget for Public Art

Since the Policy revisions were approved in 2013, public art has been included in the following building projects based on 1% of the construction budget: Fire Station No. 5, The View Teen Center, Library renovation, and the new Community Center. Prior to 2018, park projects did not qualify for public art because construction budgets were below \$1 million. In 2018, park construction costs rose to levels exceeding the threshold, and, ultimately, Council approved budgets and art for Wyandotte, Mora, and Pyramid Parks based on 2% of the construction costs due to the relatively low construction cost basis. Table 1 shows the 1% calculation used for these building projects and what a 2% budget would have been. It also provides the 2% used for park projects in recent years and what it would have meant if a 1% factor was used.

Table 1: Approved Capital Projects Public Art Budgets 2013-2021

<u>Project</u>	<u>Construction Budget</u>	<u>1% Public Art Budget</u>	<u>2% Public Art Budget</u>
Fire Station No. 5	\$6.7 million	<u>\$67,000</u>	\$134,000
Library Renovation	\$3 million	<u>\$30,000</u>	\$60,000
New Community Center	\$14 million	<u>\$140,000</u>	\$280,000
The View Teen Center	\$3 million	<u>\$30,000</u>	\$60,000
Wyandotte Park	\$1.8 million	\$18,000	<u>\$36,000</u>
Mora Park	\$1.0 million	\$10,000	<u>\$20,000</u>
Pyramid Park	\$3.0 million	\$30,000	<u>\$60,000</u>
Fayette Park	\$1.3 million	\$13,000	<u>\$26,000</u>

NOTE: **Bold underlined** numbers are the approved public art budgets.

Over the last several years, construction costs have increased at a much higher annual rate than inflation. This was occurring even before the supply chain issues created by the pandemic that have further increased construction costs. All the projects listed above would cost significantly more to construct today with proportionately higher art funding. It is unlikely that any future new park projects will cost less than the recommended threshold of \$1.5 million.

A 2% art budget can be included in most of the City’s CIP project costs without creating a significant funding issue. However, the City does have some very high-cost capital projects in the planning phases that will be challenging to fund and/or will be dependent on grants which will not cover public art. Examples of these projects include:

- Public Safety Building Project – Anticipated construction budget of around \$100 million.
- Transit Center (Castro) Grade Separation and Access Project – Estimated construction budget of \$87 million.

- Rengstorff Grade Separation Project – Estimated construction budget of nearly \$200 million.
- Stevens Creek Trail Extension to West Remington Drive and Mountain View High School – Anticipated construction budget of over \$35 million.

The City may be financing the costs of one or more of these projects and, for the grade separation projects, relying on grants for a large percentage of the construction costs. A 1% and 2% public art budget for projects at this scale would range from \$700,000 to \$4 million. Some of these higher-cost projects may be using funding sources with many competing demands, such as the CIP Reserve and Construction/Conveyance Tax Fund, and very high art budgets will affect funding for other projects reliant on these funding sources, such as building and street maintenance projects. Staff is, therefore, recommending an approach that sets a maximum budget for public art that will be adequate to provide for meaningful art installations balanced with avoiding increasing a project's funding challenges.

Staff recommends that the public art budget in Council Policy K-5 be revised to be 2% of the construction cost for all applicable CIP projects, up to a cap of \$400,000. Most of the City's applicable capital projects have construction costs of \$20 million or less, which would mean that most projects would receive the 2% art budget.

Table 2 lists a sample of upcoming CIP projects that would be subject to Council Policy K-5 as recommended in this memorandum. Also shown is what their public art budget would be based on current estimated construction costs and application of the recommendation of a 2% rate with a cap of \$400,000. All of these projects have either just completed preliminary design, are going to start design in the next year, or are planned to start design as part of the five-year CIP for Fiscal Year 2021-22 through Fiscal Year 2025-26. For the latter projects, the construction costs are order-of-magnitude estimates.

**Table 2: Sample of Future Capital Projects
 Art Budget Based on Recommended Policy Revisions**

<u>Project</u>	<u>Estimated Construction Cost</u>	<u>City Funded Art Budget</u>
New Public Safety Building	\$100 million	\$400,000
Shoreline Boathouse Kitchen Expansion	TBD (over \$3 million)	Over \$60,000
Fire Station No. 5 Classroom/Training Modular Building	\$2.4 million	\$48,000
Evelyn Avenue Mini-Park	\$1.57 million	\$31,400
Villa Street Mini-Park	\$1.5 million	\$30,000
Showers/California Park	\$3.5 million	\$70,000
Stevens Creek Trail Extension	\$35 million	\$400,000
U.S. 101/Shoreline Bike/Ped Bridge	\$20 million	\$400,000
Transit Center Grade Separation and Access (Measure B and other grants – \$82 million)	\$87 million	\$400,000
Rengstorff Avenue Grade Separation (Measure B and other grants – \$103 million)	\$197 million	\$400,000
Villa Bike/Ped Undercrossing of Caltrain/Central Expressway	\$20 million	\$400,000

As shown above, most of the projects are \$20 million or less. Combined, these projects would provide over \$2.6 million toward public art as part of City CIP projects. There are several other new parks projects and other applicable CIP projects that are in the queue to add to the CIP that will further increase the public art investment.

Public Art Policies in Neighboring Cities

Staff reviewed the public art policies of other cities in Santa Clara County. These cities include public art policies for public CIP and private development projects with varying requirements and thresholds.

The criteria used by cities to determine which public projects are subject to public art varies, including the total project cost, just the construction cost, land size, or visual impact of the project. Most cities calculate the art budget based on 1% of construction cost. Once funding is available, cities use the funds for the project generating the funds or create a public art fund with detailed procedures for its use. For example, the City of San Jose extracts 1% of the eligible portion of their Capital Improvement Program each fiscal year for a public art fund. The City of Palo Alto's public art policy is based on project criteria and not funding levels of the project and specifies:

“The City will budget one percent (1%) of its construction costs to include public art for City capital improvement projects that have a visual impact on the surrounding environment by altering a site through new construction or reconstruction, at the initial stages of design, thereby ensuring that art elements become an integral part of the overall design.”

In summary, while 1% of the construction budget was a fairly common calculation to determine the public art funding from public projects, each city had its own approach to defining applicable public projects and the use of the funds.

VAC Discussion

The VAC discussed staff's recommended revisions to Council Policy K-5 at their November 10, 2021 meeting. The VAC suggested that the list of applicable CIP projects include new trails and public plazas, which staff has added to the recommended Policy. The VAC supported increasing the percentage for public art dedication from 1% to 2% and did not raise concerns about the \$400,000 maximum budget for public art.

However, the VAC did not come to a consensus about increasing the project construction cost threshold from \$1 million to \$1.5 million. Some Committee members felt the threshold should remain at \$1 million because of a concern that an increase will reduce the number of eligible public art projects funded by CIP projects. Other Committee members supported a revised project threshold because the Public Art Strategy will bring additional opportunities.

RECOMMENDATION

Staff recommends that the Council Policy and Procedures Committee (CPPC) consider a recommendation to the City Council to approve the following revisions to Council Policy K-5:

- Specify the following applicable capital projects: new parks, new buildings, major renovations of buildings, new bridges, new or renovated public plazas, new trails or trail extensions, and new bicycle/pedestrian over- or undercrossings;
- Increase the project construction hard-cost threshold for determining applicable CIP projects to \$1.5 million; and
- Revise the public art budget to be 2% of construction cost for all applicable CIP projects, up to a cap of \$400,000.

These changes would provide for improved consistency in applying Council Policy K-5 to CIP projects and certainty for CIP project budgets. Approval of these revisions does not preclude the City Council from adding or increasing public art for specific projects as deemed appropriate.

Based on these recommended revisions, the revised policy would be as follows (redline version in Attachment 1):

“Capital improvement program (CIP) projects that include new parks, new buildings, major renovations of buildings, new bridges, new or renovated public plazas, new trails or trail extensions, or new bicycle/pedestrian over- or undercrossings with construction hard costs of \$1.5 million or greater shall allocate two percent (2%) of the construction budget, not to exceed \$400,000, for the selection, purchase, and installation of significant appropriate piece(s) of artwork. All artwork selected and purchased shall be incorporated as an integral part of the project design. This artwork may consist of associated works integrated into the project, acquisitions, art commissioned, or other appropriate installations. The Visual Arts Committee is responsible for advising the City Council on the selection of art and artists for eligible CIP projects.”

ALTERNATIVES

1. Modify the list of eligible CIP projects.
2. Do not increase the project construction hard cost threshold to \$1.5 million.
3. Maintain the 1% public art budget and set a minimum public art budget.
4. Do not establish a public art budget cap or modify the \$400,000 cap.

RSR-RG-DSC/TS/6/PWK
943-11-30-21M

Attachment: 1. Redlined Council Policy K-5 – Public Art and CIP Projects

cc: PWD, APWD – Arango, APWD – Au, CSD, ACSD, EVM, EDS – Chew