

File No. 140623

Committee Item No. 10

Board Item No. 16

**COMMITTEE/BOARD OF SUPERVISORS**  
AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date June 19, 2014

Board of Supervisors Meeting

Date June 20, 2014

Date 7/15/14

**Cmte Board**

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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance                                    |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Youth Commission Report                      |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Introduction Form                            |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/>            | MOU  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Form 126 – Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Award Letter                                 |
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Completed by: Linda Wong Date June 13, 2014  
Completed by: L.W. Date 7/2/14

1 [Administrative Code - Use of Art Enrichment Funds and Maintenance of Public Art]

2  
3 **Ordinance amending the Administrative Code to define "art enrichment"; to allow**  
4 **aggregation of art enrichment funds for use on any City property rather than only the**  
5 **funding department's property; to allow the Arts Commission to reserve up to 10% of**  
6 **the art enrichment budget for maintenance and conservation; to allow art enrichment**  
7 **funds to be used exclusively for maintenance and conservation under limited**  
8 **circumstances; and to clarify references to the Arts Commission's jurisdiction over**  
9 **works of art consistent with the Charter; and making environmental findings.**

10 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
11 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
12 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
13 **Board amendment additions** are in double-underlined Arial font.  
14 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
15 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
16 subsections or parts of tables.

15 Be it ordained by the People of the City and County of San Francisco:

16 Section 1. Environmental Findings.

17 (a) The Planning Department has determined that the actions contemplated in this  
18 ordinance comply with the California Environmental Quality Act (California Public Resources  
19 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
20 Supervisors in File No. 140623 and is incorporated herein by reference.

21  
22 Section 2. The Administrative Code is hereby amended by revising Section 3.19 to  
23 read as follows:

1           **SEC. 3.19. APPROPRIATION FOR ART ENRICHMENT OF PROPOSED PUBLIC**  
2 **BUILDINGS, ABOVEGROUND STRUCTURES, PARKS AND TRANSPORTATION**  
3 **IMPROVEMENT PROJECTS.**

4           **(a) Art Enrichment Allocation.** Before proposing a bond issue or making a request  
5 for an appropriation for the construction of any of the projects set forth in Subsection (c)  
6 below, the officer, board or commission concerned shall add thereto for the art enrichment of  
7 the proposed construction, two percent of the gross estimated construction cost, exclusive of  
8 the items proposed for such art enrichment. Where funding eligibility is limited by law or  
9 funding agency rules, the art enrichment allocation shall be based upon two percent of eligible  
10 construction costs.

11           If the officer, board or commission concerned determines that two percent of the  
12 gross estimated construction cost is inappropriate for art enrichment, such officer, board or  
13 commission shall submit its recommendation regarding the art enrichment budget and the  
14 basis for its determination to the Arts Commission for the Arts Commission's review. If the  
15 officer, board or commission concerned is unable to resolve the matter with the Arts  
16 Commission, the matter shall be submitted to the Mayor by the Arts Commission for final  
17 determination within 60 days from the date the recommendation is made.

18           Failure of the Arts Commission to submit the matter to the Mayor for resolution  
19 within such time shall be deemed equivalent to the Arts Commission's acceptance of the  
20 recommendation made by the officer, board or commission concerned.

21           **(b) Definitions.** For purposes of this Section:

22           ~~(1)~~ "Alteration" of a building, aboveground structure, or transportation  
23 improvement project shall include substantial changes to elements such as walls, partitions,  
24 or ceilings on 2/3 or more of the total floor space, excluding basements. "Substantial  
25 changes" shall include additions to, removal of, and modification of such elements.

1           "Art Enrichment" shall mean the acquisition and installation of original works of art (including  
2 limited editions), or temporary installation, display, or presentation of the same, on City property for  
3 aesthetic and cultural enhancement of public buildings and public spaces and engagement of the public  
4 with the creative work of artists, as approved by the Arts Commission.

5           "Civic Art Collection" shall mean the various artworks owned by the City under the  
6 jurisdiction of the Arts Commission that are accessioned by Resolution of the Commission into the  
7 Civic Art Collection.

8           (2) "Construction cost" shall mean the total estimated construction contract award  
9 amount, including the costs of all built-in fixtures, unless otherwise agreed to by the Arts  
10 Commission. "Construction cost" shall not include movable or personal property or  
11 construction cost contingency.

12           (3) "Transportation improvement project" refers to Municipal Railway and  
13 Department of Public Works projects which include both aboveground and below-ground  
14 transportation-related projects; new boarding ramps; new transit platforms; new terminals and  
15 transportation systems with their attendant passenger amenities, such as shelters, seating,  
16 lighting, landscaping, and signage; new transportation-related structures such as maintenance  
17 and operating facilities; power substations; and street/highway-related transit improvements  
18 such as bridges and overpasses.

19           **(c) Application.** This Section shall apply to the construction or alteration of the  
20 following: (1) a building; (2) an aboveground structure; (3) a new park; or (4) a transportation  
21 improvement project.

22           The requirements of this Section shall also apply to the alteration of a building,  
23 aboveground structure, or transportation improvement project.

24           **(d) Exemptions.** The following shall be exempt from the requirements of this  
25 Section:

1           (1) Transportation improvement projects limited to rail replacement, rehabilitation  
2 or extension of catenary wiring; sidewalk (including curbs and gutters), street paving, repair or  
3 improvements; or transit vehicle purchases;

4           (2) All mechanical, plumbing and electrical system upgrades, structural or seismic  
5 upgrades, and modifications for disabled access, unless occurring in conjunction with  
6 alteration of a building, an aboveground structure or transportation improvement project;

7           (3) All park and landscape renovation projects including, but not limited to court  
8 resurfacing; landscape renovation or replanting; sewer and water lines; drainage and irrigation  
9 systems; wells; erosion control; restrooms; repaving; new paving; stairway repair or  
10 replacement; utilities; community gardens; modifications for disabled access; signage;  
11 lighting; fence replacement or repair; replacement or repair of existing play structures; natural  
12 areas management; modifications to existing parks; and new land uses within existing parks;

13           (4) Annual CIP funded capital improvements for security/life safety and health  
14 deficiencies when not occurring in conjunction with alteration of existing public buildings,  
15 aboveground structures, parks and transportation projects which are supported by the  
16 General Fund;

17           (5) Aboveground pipelines and their supports, such as trestles, anchor blocks and  
18 saddles; valve lots; power transmission lines and towers; switchyards and substations; and  
19 dwellings in watershed areas;

20           (6) Airfields and Airports Commission equipment; *and*

21           (7) Airports Commission signage when not occurring in conjunction with a larger  
22 construction contract subject to this Section.

23           **(e) Administrative Fees.** The Arts Commission shall supervise and control the  
24 expenditure of all funds appropriated for art enrichment and shall allocate up to 20 percent of  
25 said funds for all necessary and reasonable administrative costs incurred in connection

1 therewith, ~~unless the Arts Commission agrees to a lesser amount on projects with art enrichment~~  
2 ~~budgets in excess of \$750,000, or~~ unless such administrative fee is limited or prohibited by the  
3 funding source.

4 (f) **Aggregation of Funds.** When mutually agreed upon by the Arts Commission,  
5 ~~and~~ the City department from whose capital project the art enrichment allocation was  
6 obtained, and any other City department with jurisdiction over a proposed alternative site, and  
7 where permitted by the funding source, the Arts Commission shall have the authority to  
8 aggregate art enrichment funds for use ~~at a more publicly accessible facility under the jurisdiction~~  
9 ~~of the participating City department on an alternative City property.~~

10 (g) **Maintenance and Conservation Funds.** When permitted by the funding  
11 source, the Arts Commission may set aside and expend up to ~~five~~ten percent of the total art  
12 enrichment allocation for each project for maintenance and conservation ~~purposes of artworks in~~  
13 ~~the Civic Art Collection. If the project has limited public access, or generates funds insufficient to~~  
14 ~~acquire new artwork, or cannot otherwise be used judiciously for that purpose, the Arts Commission~~  
15 ~~may use the entire project Art Enrichment allocation for maintenance and conservation (aggregating~~  
16 ~~or transferring funds as per subsection (f) above).~~ When permitted by the funding source, ~~f~~Funds set  
17 aside pursuant to this Section shall be invested in an interest-bearing account when the total  
18 of such funds set aside exceeds \$10,000.

19 (h) **Miscellaneous Provisions.**

20 (1) When a client department suggests a mitigation measure to address any  
21 perceived safety concerns relative to any element of the art enrichment, the Arts Commission  
22 shall work with the client department to ensure that such mitigation is implemented to the  
23 satisfaction of the client, the Arts Commission and the artist, if such safety concern is raised  
24 by the client department within 30 days after the element has been presented for review to the  
25 client department.

1           (2) ~~If a City department can sufficiently demonstrate to the Arts Commission that a project~~  
2 ~~is not appropriate for public access, the Arts Commission shall waive the art enrichment allocation for~~  
3 ~~such project provided that the art enrichment funding cannot be aggregated for use at a more publicly~~  
4 ~~accessible facility under the jurisdiction of the participating City department.~~

5           (3) Construction and installation of art enrichment shall comply with the  
6 requirements of all applicable building codes, laws, ordinances, rules and regulations.

7           (43) Nothing in this Section contained shall be construed to limit or abridge the  
8 legal powers of the governing boards of the War Memorial, the Fine Arts Museums, the Asian  
9 Art Museum or the Port of San Francisco.

10          (54) Nothing in this Section shall be construed to limit or abridge the jurisdiction of  
11 the officer, board or commission of the participating City department to supervise and control  
12 the expenditure of project funds other than the two percent allocation for art enrichment.

13          (65) This amendment shall not be applied retroactively to projects for which an art  
14 enrichment allocation previously would not have been required, nor to those projects for which  
15 project funding has been approved either by prior voter action or by airport revenue bond  
16 sales, but not yet appropriated or expended. Nor shall this ordinance be construed to allow for  
17 an increase in the total art enrichment allocation for a project that is already underway or for  
18 which the art enrichment allocation has already been established.

19  
20          Section 3. The Administrative Code is hereby amended by revising Section 2A.150.1  
21 to read as follows:

22           **SEC. 2A.150.1. ARTS COMMISSION; ADDITIONAL RESPONSIBILITIES.**

23           **(a) Cataloging, Care and Maintenance of Public Art Media.** ~~The Consistent with~~  
24 ~~Charter Section 5.103, the~~ cataloging, care and maintenance of all sculptures, statues, murals,  
25 paintings and other art media belonging to the City and County of San Francisco, other than

1 and excepting those located on properties under the jurisdiction and control of the San  
2 Francisco Unified School District, the ~~M. H. de Young Memorial Museum, the California Palace of~~  
3 ~~the Legion of Honor charitable trust departments under Section 5.101 of the Charter, or, the~~  
4 California Academy of Sciences, ~~and the Recreation and Park Commission,~~ shall be under the  
5 jurisdiction of the Arts Commission.

6 (b) ~~Agreement with Recreation and Park Commission. The Arts Commission shall be~~  
7 ~~authorized to enter into agreement with the Recreation and Park Commission, upon such terms as may~~  
8 ~~be mutually agreed, for the cataloging, care and maintenance of any or all of the above media located~~  
9 ~~on properties under the jurisdiction of the Recreation and Park Commission.~~

10 (e) **Authorization for Sale of Works of Art.** When the Arts Commission determines  
11 that it would be advantageous to the City and County, a work of art under the jurisdiction of  
12 the Arts Commission may be sold or exchanged as hereinafter set forth.

13 The Arts Commission may execute and accept all deeds of conveyance necessary  
14 and proper to effect a duly authorized sale or exchange. A work of art to be sold or exchanged  
15 shall be cataloged, listed and described with reasonable certainty and a copy of such catalog  
16 shall be furnished to the ~~P~~purchaser of supplies.

17 (c) **Exchange of Works of Art.** The Arts Commission may exchange a work of art  
18 on such terms as the Arts Commission, by a 2/3 vote of the members of the Arts Commission,  
19 determines appropriate; provided that any exchange is subject to the approval of the  
20 ~~P~~purchaser of supplies.

21 (d) **Public Auction.** A work of art under the jurisdiction of the Arts Commission  
22 may be sold at public auction to the highest and best bidder and the Arts Commission may  
23 contract with a licensed auctioneer for the purpose of conducting the sale or sales. The  
24 contract shall specify the compensation to be paid for the auctioneer's services and set forth  
25



1 the terms and conditions under which the sale or sales are to be conducted. Each such  
2 contract shall be approved by the Purchaser *of Supplies*.

3 **(ef) Sale at Other Than Public Auction.** A work of art under the jurisdiction of the  
4 Arts Commission may be sold by private sale under the following circumstances:

5 (1) If the work is offered at public auction and no bids are received, or if the bids  
6 are rejected; or

7 (2) If the Arts Commission determines, by a 2/3 vote of the members of the Arts  
8 Commission, that the work may be sold on terms more advantageous to the City and County  
9 if sold through private sale. Any contract for the private sale of a work of art is subject to the  
10 approval of the Purchaser. A work of art on which bids have been rejected shall not thereafter  
11 be sold through private sale for less than the amount of the highest bid received.

12 **(fg) Reproductions or Adaptations.** The Arts Commission may license the making  
13 of reproductions or adaptations of works of art under its jurisdiction.

14 **(gh) Disposition of Proceeds from the Sale or Exchange of a Work of Art or of**  
15 **a Reproduction or Adaptation Thereof.** All moneys received from the sale of a work of art  
16 under the jurisdiction of the Arts Commission, or from the licensing of the making of a  
17 reproduction or adaptation thereof, shall be placed in the *public art media fund Arts Commission*  
18 *Public Arts Fund* as provided for in Section ~~10.117-1~~ 10.100-30 of the *San Francisco*  
19 *Administrative Code*. The monies in this fund attributable to the sale or exchange of a work of  
20 art shall be used exclusively for the purpose of acquiring or maintaining one or more other  
21 works of art ~~for the same public building or purpose for which the original work was acquired.~~

22  
23 Section 4. Effective Date. This ordinance shall become effective 30 days after  
24 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
25

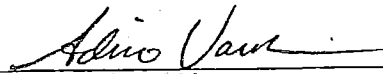
1 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
2 of Supervisors overrides the Mayor's veto of the ordinance.

3  
4 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
5 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
6 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
7 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
8 additions, and Board amendment deletions in accordance with the "Note" that appears under  
9 the official title of the ordinance.

10  
11 Section 6. Severability. If any section, subsection, sentence, clause, phrase, or word  
12 of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any  
13 court of competent jurisdiction, such decision shall not affect the validity of the remaining  
14 portions of the ordinance. The Board of Supervisors hereby declares that it would have  
15 passed this ordinance and each and every section, subsection, sentence, clause, phrase, and  
16 word not declared invalid or unconstitutional without regard to whether any other portion of  
17 this ordinance would be subsequently declared invalid or unconstitutional.

18 Section 7. No Conflict with Federal or State Law. Nothing in this ordinance shall be  
19 interpreted or applied so as to create any requirement, power, or duty in conflict with any  
20 federal or state law.

21  
22 APPROVED AS TO FORM:  
DENNIS J. HERRERA, City Attorney

23  
24 By:   
ADINE VARAH  
Deputy City Attorney

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Mayor Lee  
BOARD OF SUPERVISORS

Page 9

## LEGISLATIVE DIGEST

[Administrative Code - Use of Art Enrichment Funds and Maintenance of Public Art]

**Ordinance amending the Administrative Code to define "art enrichment"; to allow aggregation of art enrichment funds for use on any City property rather than only the funding department's property; to allow the Arts Commission to reserve up to 10% of the art enrichment budget for maintenance and conservation; to allow art enrichment funds to be used exclusively for maintenance and conservation under limited circumstances; and to clarify references to the Arts Commission's jurisdiction over works of art consistent with the Charter; and making environmental findings.**

### Existing Law

Under the Art Enrichment Ordinance, Section 3.19 of the Administrative Code (the "Ordinance"), 2% of the gross estimated construction cost of a public construction project must be used for art enrichment of the project, subject to certain limitations and unless otherwise required by the funding source. The Ordinance, which does not define "art enrichment," allows use of the funds only for art enrichment of the building or other property under the jurisdiction of the funding source department. In addition, the Ordinance allows the Arts Commission to reserve no more than 5% of the art enrichment budget for maintenance and conservation.

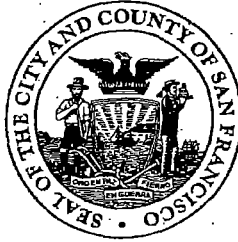
Charter Section 5.103 vests in the Arts Commission, rather than the Recreation and Park Commission, the authority to maintain works of art on Recreation and Park ("Park") property. But Administrative Code Section 2A.150.1, enacted prior to the 1996 Charter and based on the 1932 Charter, erroneously suggests that the Arts Commission lacks the authority to maintain art on Park property.

### Amendments to Current Law

The Proposed Ordinance would provide more clarity and flexibility to the Arts Commission in managing and maintaining public art by making the following changes: It would define "art enrichment," as the "acquisition and installation of original works of art (including limited editions), or temporary installation, display, or presentation of the same, on City property for aesthetic and cultural enhancement of public buildings and public spaces and engagement of the public with the creative work of artists, as approved by the Arts Commission." It would also allow aggregation of art enrichment funds for use on any alternative City property rather than just the funding department's property. Further, it would allow the Arts Commission to reserve up to 10% of the art enrichment budget for maintenance and conservation and allow art enrichment funds to be used exclusively for maintenance and conservation under limited circumstances. Consistent with the Charter, the Proposed Ordinance also makes clear that the Arts Commission has jurisdiction over works of art on Park property.

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BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

## MEMORANDUM

TO: Tom DeCaigny, Director of Cultural Affairs, Arts Commission

FROM: Linda Wong, Assistant Clerk, Budget and Finance Committee, Board of Supervisors

DATE: June 11, 2014

SUBJECT: LEGISLATION INTRODUCED

---

The Board of Supervisors' Budget and Finance Committee has received the following proposed legislation, introduced by Mayor Lee on June 3, 2014:

**File No. 140623**

**Ordinance amending the Administrative Code to define "art enrichment"; to allow aggregation of art enrichment funds for use on any City property rather than only the funding department's property; to allow the Arts Commission to reserve up to 10% of the art enrichment budget for maintenance and conservation; to allow art enrichment funds to be used exclusively for maintenance and conservation under limited circumstances; and to clarify references to the Arts Commission's jurisdiction over works of art consistent with the Charter; and making environmental findings.**

If you have any additional comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall; Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Rebekah Krell, Arts Commission  
Sharon Page Ritchie, Arts Commission

**Wong, Linda (BOS)**

---

**From:** Pereira Tully, Marisa (MYR)  
**Sent:** Wednesday, June 11, 2014 11:14 AM  
**To:** Guzman, Monica  
**Cc:** Wong, Linda (BOS); Jones, Jermain (MYR)  
**Subject:** RE: BOS File No. 140623 - Administrative Code - Use of Art Enrichment Funds and Maintenance of Public Art  
**Attachments:** Planning Committee CEQA Sign-off.pdf

Apologies, the previous email only had the attachment of the legislation. Now attached is a copy of the legislation with the Planning Committee's sign-off on the last page.

Thank you,  
Marisa

Marisa Pereira Tully  
Fiscal & Policy Analyst  
Mayor's Office of Public Policy and Finance  
City and County of San Francisco  
Phone: 415-554-6216  
Email: [marisa.pereira.tully@sfgov.org](mailto:marisa.pereira.tully@sfgov.org)

---

**From:** Pereira Tully, Marisa (MYR)  
**Sent:** Wednesday, June 11, 2014 10:55 AM  
**To:** Guzman, Monica  
**Cc:** Wong, Linda (BOS); Jones, Jermain (MYR)  
**Subject:** FW: BOS File No. 140623 - Administrative Code - Use of Art Enrichment Funds and Maintenance of Public Art

Hi Monica,

Please see the CEQA determination document attached.

Thank you,  
Marisa

Marisa Pereira Tully  
Fiscal & Policy Analyst  
Mayor's Office of Public Policy and Finance  
City and County of San Francisco  
Phone: 415-554-6216  
Email: [marisa.pereira.tully@sfgov.org](mailto:marisa.pereira.tully@sfgov.org)

---

**From:** Guzman, Monica  
**Sent:** Wednesday, June 11, 2014 9:05 AM  
**To:** Jones, Jermain (MYR)  
**Cc:** Wong, Linda (BOS)  
**Subject:** BOS File No. 140623 - Administrative Code - Use of Art Enrichment Funds and Maintenance of Public Art

Hello Jermain,

Could you provide the following document for the above mentioned file. The document is mentioned on pg. 1 of the attached legislation.

\* CEQA Determination

Feel free to contact Linda Wong at [linda.wong@sfgov.org](mailto:linda.wong@sfgov.org) if you have any questions or concerns.

Thank you,

Monica L. Guzman  
Assistant Committee Clerk  
Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244  
San Francisco, CA 94102-4689  
Phone: (415) 554-7708 | Fax: (415) 554-5163  
[monica.guzman@sfgov.org](mailto:monica.guzman@sfgov.org) | [board.of.supervisors@sfgov.org](mailto:board.of.supervisors@sfgov.org)

FILE NO.

ORDINANCE NO.

1 [Administrative Code - Use of Art Enrichment Funds and Maintenance of Public Art]

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(a) The Planning Department has determined that the actions contemplated in this

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ordinance comply with the California Environmental Quality Act (California Public Resources

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Code Sections 21000 et seq.): Said determination is on file with the Clerk of the Board of

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4 with the creative work of artists, as approved by the Arts Commission.

5           "Civic Art Collection" shall mean the various artworks owned by the City under the  
6 jurisdiction of the Arts Commission that are accessioned by Resolution of the Commission into the  
7 Civic Art Collection.

8           (2) "Construction cost" shall mean the total estimated construction contract award  
9 amount, including the costs of all built-in fixtures; unless otherwise agreed to by the Arts  
10 Commission. "Construction cost" shall not include movable or personal property or  
11 construction cost contingency.

12           (3) "Transportation improvement project" refers to Municipal Railway and  
13 Department of Public Works projects which include both aboveground and below-ground  
14 transportation-related projects; new boarding ramps; new transit platforms; new terminals and  
15 transportation systems with their attendant passenger amenities, such as shelters, seating,  
16 lighting, landscaping, and signage; new transportation-related structures such as maintenance  
17 and operating facilities; power substations; and street/highway-related transit improvements  
18 such as bridges and overpasses.

19           (c) **Application.** This Section shall apply to the construction or alteration of the  
20 following: (1) a building; (2) an aboveground structure; (3) a new park; or (4) a transportation  
21 improvement project.

22           The requirements of this Section shall also apply to the alteration of a building,  
23 aboveground structure, or transportation improvement project.

24           (d) **Exemptions.** The following shall be exempt from the requirements of this  
25 Section:

1           (1) Transportation improvement projects limited to rail replacement, rehabilitation  
2 or extension of catenary wiring; sidewalk (including curbs and gutters), street paving, repair or  
3 improvements; or transit vehicle purchases;

4           (2) All mechanical, plumbing and electrical system upgrades, structural or seismic  
5 upgrades, and modifications for disabled access, unless occurring in conjunction with  
6 alteration of a building, an aboveground structure or transportation improvement project;

7           (3) All park and landscape renovation projects including, but not limited to court  
8 resurfacing; landscape renovation or replanting; sewer and water lines; drainage and irrigation  
9 systems; wells; erosion control; restrooms; repaving; new paving; stairway repair or  
10 replacement; utilities; community gardens; modifications for disabled access; signage;  
11 lighting; fence replacement or repair; replacement or repair of existing play structures; natural  
12 areas management; modifications to existing parks; and new land uses within existing parks;

13           (4) Annual CIP funded capital improvements for security/life safety and health  
14 deficiencies when not occurring in conjunction with alteration of existing public buildings,  
15 aboveground structures, parks and transportation projects which are supported by the  
16 General Fund;

17           (5) Aboveground pipelines and their supports, such as trestles, anchor blocks and  
18 saddles; valve lots; power transmission lines and towers; switchyards and substations; and  
19 dwellings in watershed areas;

20           (6) Airfields and Airports Commission equipment; and

21           (7) Airports Commission signage when not occurring in conjunction with a larger  
22 construction contract subject to this Section.

23           **(e) Administrative Fees.** The Arts Commission shall supervise and control the  
24 expenditure of all funds appropriated for art enrichment and shall allocate up to 20 percent of  
25 said funds for all necessary and reasonable administrative costs incurred in connection

1 therewith, ~~unless the Arts Commission agrees to a lesser amount on projects with art enrichment~~  
2 ~~budgets in excess of \$750,000, or~~ unless such administrative fee is limited or prohibited by the  
3 funding source.

4 **(f) Aggregation of Funds.** When mutually agreed upon by the Arts Commission,  
5 and the City department from whose capital project the art enrichment allocation was  
6 obtained, and any other City department with jurisdiction over a proposed alternative site, and  
7 where permitted by the funding source, the Arts Commission shall have the authority to  
8 aggregate art enrichment funds for use ~~at a more publicly accessible facility under the jurisdiction~~  
9 ~~of the participating City department on an alternative City property.~~

10 **(g) Maintenance and Conservation Funds.** When permitted by the funding  
11 source, the Arts Commission may set aside and expend up to ~~five~~ten percent of the total art  
12 enrichment allocation for each project for maintenance and conservation ~~purposes of artworks in~~  
13 the Civic Art Collection. If the project has limited public access, or generates funds insufficient to  
14 acquire new artwork, or cannot otherwise be used judiciously for that purpose, the Arts Commission  
15 may use the entire project Art Enrichment allocation for maintenance and conservation (aggregating  
16 or transferring funds as per subsection (f) above). When permitted by the funding source, ~~f~~Funds set  
17 aside pursuant to this Section shall be invested in an interest-bearing account when the total  
18 of such funds set aside exceeds \$10,000.

19 **(h) Miscellaneous Provisions.**

20 (1) When a client department suggests a mitigation measure to address any  
21 perceived safety concerns relative to any element of the art enrichment, the Arts Commission  
22 shall work with the client department to ensure that such mitigation is implemented to the  
23 satisfaction of the client, the Arts Commission and the artist, if such safety concern is raised  
24 by the client department within 30 days after the element has been presented for review to the  
25 client department.

1           (2) ~~If a City department can sufficiently demonstrate to the Arts Commission that a project~~  
2 ~~is not appropriate for public access, the Arts Commission shall waive the art enrichment allocation for~~  
3 ~~such project provided that the art enrichment funding cannot be aggregated for use at a more publicly~~  
4 ~~accessible facility under the jurisdiction of the participating City department.~~

5           (3) Construction and installation of art enrichment shall comply with the  
6 requirements of all applicable building codes, laws, ordinances, rules and regulations.

7           (43) Nothing in this Section contained shall be construed to limit or abridge the  
8 legal powers of the governing boards of the War Memorial, the Fine Arts Museums, the Asian  
9 Art Museum or the Port of San Francisco.

10          (54) Nothing in this Section shall be construed to limit or abridge the jurisdiction of  
11 the officer, board or commission of the participating City department to supervise and control  
12 the expenditure of project funds other than the two percent allocation for art enrichment.

13          (65) This amendment shall not be applied retroactively to projects for which an art  
14 enrichment allocation previously would not have been required, nor to those projects for which  
15 project funding has been approved either by prior voter action or by airport revenue bond  
16 sales, but not yet appropriated or expended. Nor shall this ordinance be construed to allow for  
17 an increase in the total art enrichment allocation for a project that is already underway or for  
18 which the art enrichment allocation has already been established.

19  
20          Section 3. The Administrative Code is hereby amended by revising Section 2A.150.1  
21 to read as follows:

22           **SEC. 2A.150.1. ARTS COMMISSION; ADDITIONAL RESPONSIBILITIES.**

23           **(a) Cataloging, Care and Maintenance of Public Art Media.** ~~The~~ Consistent with  
24 Charter Section 5.103, the cataloging, care and maintenance of all sculptures, statues, murals,  
25 paintings and other art media belonging to the City and County of San Francisco, other than

1 and excepting those located on properties under the jurisdiction and control of the San  
2 Francisco Unified School District, the *M. H. de Young Memorial Museum, the California Palace of*  
3 *the Legion of Honor* ~~charitable trust departments under Section 5.101 of the Charter, or, the~~  
4 California Academy of Sciences, ~~and the Recreation and Park Commission~~, shall be under the  
5 jurisdiction of the Arts Commission.

6 (b) ~~Agreement with Recreation and Park Commission. The Arts Commission shall be~~  
7 ~~authorized to enter into agreement with the Recreation and Park Commission, upon such terms as may~~  
8 ~~be mutually agreed, for the cataloging, care and maintenance of any or all of the above media located~~  
9 ~~on properties under the jurisdiction of the Recreation and Park Commission.~~

10 (e) **Authorization for Sale of Works of Art.** When the Arts Commission determines  
11 that it would be advantageous to the City and County, a work of art under the jurisdiction of  
12 the Arts Commission may be sold or exchanged as hereinafter set forth.

13 The Arts Commission may execute and accept all deeds of conveyance necessary  
14 and proper to effect a duly authorized sale or exchange. A work of art to be sold or exchanged  
15 shall be cataloged, listed and described with reasonable certainty and a copy of such catalog  
16 shall be furnished to the ~~Ppurchaser of supplies.~~

17 (cd) **Exchange of Works of Art.** The Arts Commission may exchange a work of art  
18 on such terms as the Arts Commission, by a 2/3 vote of the members of the Arts Commission,  
19 determines appropriate; provided that any exchange is subject to the approval of the  
20 ~~Ppurchaser of supplies.~~

21 (de) **Public Auction.** A work of art under the jurisdiction of the Arts Commission  
22 may be sold at public auction to the highest and best bidder and the Arts Commission may  
23 contract with a licensed auctioneer for the purpose of conducting the sale or sales. The  
24 contract shall specify the compensation to be paid for the auctioneer's services and set forth  
25

1 the terms and conditions under which the sale or sales are to be conducted. Each such  
2 contract shall be approved by the Purchaser *of Supplies*.

3 **(ef) Sale at Other Than Public Auction.** A work of art under the jurisdiction of the  
4 Arts Commission may be sold by private sale under the following circumstances:

5 (1) If the work is offered at public auction and no bids are received, or if the bids  
6 are rejected; or

7 (2) If the Arts Commission determines, by a 2/3 vote of the members of the Arts  
8 Commission, that the work may be sold on terms more advantageous to the City and County  
9 if sold through private sale. Any contract for the private sale of a work of art is subject to the  
10 approval of the Purchaser. A work of art on which bids have been rejected shall not thereafter  
11 be sold through private sale for less than the amount of the highest bid received.

12 **(fg) Reproductions or Adaptations.** The Arts Commission may license the making  
13 of reproductions or adaptations of works of art under its jurisdiction.

14 **(gh) Disposition of Proceeds from the Sale or Exchange of a Work of Art or of**  
15 **a Reproduction or Adaptation Thereof.** All moneys received from the sale of a work of art  
16 under the jurisdiction of the Arts Commission, or from the licensing of the making of a  
17 reproduction or adaptation thereof, shall be placed in the ~~public-art-media-fund~~ Arts Commission  
18 Public Arts Fund as provided for in Section ~~10.117-1~~ 10.100-30 of the ~~San Francisco~~  
19 Administrative Code. The monies in this fund attributable to the sale or exchange of a work of  
20 art shall be used exclusively for the purpose of acquiring or maintaining one or more other  
21 works of art ~~for the same public building or purpose for which the original work was acquired.~~

22  
23 Section 4. Effective Date. This ordinance shall become effective 30 days after  
24 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
25

1 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
2 of Supervisors overrides the Mayor's veto of the ordinance.

3  
4 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
5 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
6 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
7 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
8 additions, and Board amendment deletions in accordance with the "Note" that appears under  
9 the official title of the ordinance.

10  
11 Section 6. Severability. If any section, subsection, sentence, clause, phrase, or word  
12 of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any  
13 court of competent jurisdiction, such decision shall not affect the validity of the remaining  
14 portions of the ordinance. The Board of Supervisors hereby declares that it would have  
15 passed this ordinance and each and every section, subsection, sentence, clause, phrase, and  
16 word not declared invalid or unconstitutional without regard to whether any other portion of  
17 this ordinance would be subsequently declared invalid or unconstitutional.

18 Section 7. No Conflict with Federal or State Law. Nothing in this ordinance shall be  
19 interpreted or applied so as to create any requirement, power, or duty in conflict with any  
20 federal or state law.

21 APPROVED AS TO FORM:  
22 DENNIS J. HERRERA, City Attorney

23 By: \_\_\_\_\_  
24 ADINE VARAH  
25 Deputy City Attorney  
n:\egana\as2014\1400420\00929304.docx

*Not defined as a project under  
CEQA guidelines Sections 15378 & 15060(b)  
because it does not result in a physical  
change in the environment.*

Mayor Lee  
BOARD OF SUPERVISORS

*J. P. Lee 5/60/14  
JBY KIMBRETE*

OFFICE OF THE MAYOR  
SAN FRANCISCO



EDWIN M. LEE  
MAYOR

TO: Angela Calvillo, Clerk of the Board of Supervisors  
FROM: *For* Mayor Edwin M. Lee *je*  
RE: Administrative Code Use of Art Enrichment Funds and Maintenance of  
Public Art  
DATE: June 2, 2014

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Attached for introduction to the Board of Supervisors is the ordinance amending the Administrative Code to define "art enrichment"; allow aggregation of art enrichment funds for use on any City property rather than only the funding department's property; allow the Arts Commission to reserve up to 10% of the art enrichment budget for maintenance and conservation; allow art enrichment funds to be used exclusively for maintenance and conservation under limited circumstances; and to clarify references to the Arts Commission's jurisdiction over works of art consistent with the Charter; and making environmental findings.

I request that this item be calendared in Budget and Finance Committee.

Should you have any questions, please contact Jason Elliott (415) 554-5105.

*SLB*  
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