

ORDINANCE NO. 2019-O-177

AN ORDINANCE OF THE CITY OF LAREDO, TEXAS, PROVIDING FOR THE LAREDO PUBLIC ART PROGRAM AND DELINEATING THE ADMINISTRATION OF THE SAME; AUTHORIZING THE ALLOCATION OF TWO PERCENT (2%) OF THE CONSTRUCTION COSTS OF ELIGIBLE CAPITAL IMPROVEMENT PROJECTS FOR ART; ESTABLISHING CRITERIA FOR REVIEW OF SUITABLE CAPITAL PROJECTS AND ESTABLISHING A METHOD FOR CALCULATING ART APPROPRIATIONS FOR CAPITAL PROJECTS; PROVIDING FOR QUALIFICATIONS, TERM LIMITS, AND ADDITIONAL DUTIES FOR THE FINE ARTS AND CULTURE COMMISSION; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City of Laredo is a municipal corporation organized under the Constitution and the laws of the State of Texas and exercises the powers granted by the City's Charter and the provisions of Article XI, Section 5 of the Texas Constitution; and

WHEREAS, on April 11, 2017, the Laredo City Council moved to create the Fine Arts and Culture Commission; and

WHEREAS, the Laredo City Council recognizes public art can promote economic development by increasing tourism, business and tax revenues, and property values; and

WHEREAS, the Laredo City Council recognizes public art aids the beautification of the City and promotes community pride; and

WHEREAS, the Laredo City Council also recognizes that the inclusion of public art in appropriate capital improvement projects will promote the cultural heritage and artistic development of the city, enhance the city's character and identity, and expand the experience and participation of citizens with visual arts; and

WHEREAS, the City Council recognizes that once art is placed throughout the City, it is necessary to provide for the ongoing maintenance of the City's art collection; and

WHEREAS, the Laredo City Council desires to establish a public art program, as well as provide funding for both acquisition and conservation of public art in the City of Laredo.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAREDO, TEXAS THAT:

Section 1. The City of Laredo Code of Ordinances, Chapter 17, Library, Article II, Administration, is hereby amended by adding a new Division 4 entitled "Public Art Program" to hereafter read as follows:

DIVISION 4. – Public Art Program

17-41. – Purpose.

The intent of this division is to promote and encourage private and public programs to further the development and public awareness of, and interest in, the fine arts and cultural properties, to increase employment opportunities in the arts, to develop a tourism economy, to encourage the integration of art into the architecture of municipal structures for the City, and to provide for the citizens of the City high quality, publicly accessible works of art, which contribute to the urban landscape and symbolize the City's sense of place.

17-42. - Definitions.

For this division, the following definitions apply:

- (a) "Capital Improvement Project" means any permanent public improvement project paid wholly or in part by monies appropriated by the city to construct, improve, or renovate a building, including its appurtenant facilities, a decorative or commemorative structure, a park, a street, a sidewalk, a parking facility, a utility, or any portion thereof, within the city limits or under the jurisdiction of the city.
- (b) "Conservation" or "Conservation Project" means the treatment of deteriorated or damaged artwork to approximate as nearly as possible its original form, design, color, and function with minimal further sacrifice of aesthetic and historic integrity.
- (c) "Conservation Plan" means that portion of the Public Art Program related to Conservation, including a prioritized list of Conservation Projects and a budget prepared and recommended by the Fine Arts and Culture Commission and the affected departments, and presented for the City Council for approval, describing all Conservation Projects to be started during a respective fiscal year, subject to available Public Art Program appropriations.
- (d) "Construction Cost" means the total City-funded portion of a Capital Improvement Project less Demolition Costs, Equipment Costs, Normal Major Maintenance Costs, and Real Property Acquisition Costs.
- (e) "Demolition Costs" means payments for any work needed for the removal of a building or other existing structure from city property.
- (f) "Equipment Costs" means payment for any rolling stock, equipment, or furnishing that is portable and of standard manufacture or that is installed as part of normal major maintenance, whether portable or affixed. The term does not include an item, whether portable or affixed, that is custom designed or specially fabricated for a facility.
- (g) "Maintenance" means actions taken by each city department to retard or prevent deterioration or damage to that portion of the public art collection under its control by controlling the environment and/or treating the structure to maintain such portion of the public art collection in as unchanging state as possible.
- (h) "Normal Major Maintenance Costs" means payments for any work needed to maintain and preserve city property in a safe and functional condition, including, but not limited to, the cleaning, replacement, and repair of floors, ceilings, roofs, landscaping, and plumbing, mechanical, and electrical systems.

- (i) "Public Art Account" means a separate account established within each capital improvement project fund by the city to receive monies appropriated to the public art program; provided that:
 1. City bond proceeds to be used for the public art program must be maintained in the respective bond funds established in accordance with the city ordinance authorizing the issuance of the bonds; and
 2. Monies from non-bond sources that are appropriated from a city fund to be used for the public art program must be maintained in a separate account within that fund.
- (j) "Public Art Administration Fund" means an annual appropriation from each public art account for administration of the public art program.
- (k) "Public Art Collection" means all city-owned works of art that are not under the care and control of nonprofit institutions operating under management agreements with the city.
- (l) "Public Art Master Plan" means a plan that reflects the City's commitment to the public engagement process to develop policy that will enhance public spaces with art that reflects the culture of the community.
- (m) "Public Art Plan" means an annual prioritized list, to be recommended by the Fine Arts and Culture Commission and be approved by the City Council, of public art projects, including budgets, location, artist selection process and recommended design approaches, developed in consultation with city departments anticipating capital improvement projects.
- (n) "Public Art Program" means the process for administration, selection, approval, funding, acquisition, or commissioning of public works of art under this division.
- (o) "Real Property Acquisition Costs" means payment made for the purchase of parcels of land, and any existing building, structures, or improvements on the land, and costs incurred by the city for appraisals or negotiations in connection with the purchase.
- (p) "Work of Art" or "Artwork" means any public art project that is a work of visual art, including but not limited to, a drawing, painting, mural, fresco, sculpture, mosaic, photograph, work of calligraphy, work of graphic art (including an etching), works in clay, textile, fiber, wood, metal, plastic, glass, stone, concrete, and like materials, or mixed media (including a collage, assemblage, or any combination of the foregoing art media). For projects that involve no structure, a work of art may include a combination of landscaping and landscape design (including some natural and manufactured materials such as rocks, fountains, reflecting pools, sculptures, screens, benches, and other types of streetscapes). A work of art may include an artist participating in master planning, conceptual development, design development, construction drawings, or construction oversight for any municipal project. Except as provided herein, the term "work of art" or "artwork" excludes the performing arts of dance, music, theatre, or the literary arts, unless expressed in or combined with a work of visual art or design.

17-43. - Funding

- (a) Capital Improvement Projects shall include an amount for works of art equal to two percent (2%) of the construction costs available for the project whether funded by general obligation bonds, revenue bonds or certificates of obligation, but shall not include capital acquisitions; provided, however, that if the bond election ordinance, the bond ordinance authorizing the revenue bonds, other appropriate laws or regulations, or an official interpretation by the State

- Attorney General regarding allowable uses of funds which it is providing for the project precludes art as an expenditure of funds, the amount of funds so restricted shall be excluded from the total funding available in calculating the amount to be committed to works of art.
- (b) Method of Calculation: The amount to be appropriated for artists' services and artworks is equal to the total capital improvement project construction costs multiplied by 0.02; provided that amounts budgeted for financing costs, costs paid for from the contingency reserve fund, capital reserve funds, or interest earnings on city bond proceeds, costs of any below-grade water, wastewater or stormwater improvements, and costs of resurfacing or repair of existing streets, sidewalks, and appurtenant drainage improvements are not subject to the calculation.
 - (c) The appropriation for the public art program will be calculated only on the original appropriation for design and construction services, excluding any subsequent amounts appropriated for amendments and change orders.
 - (d) In order to ensure that works of art have sufficient public visibility and impact, funds generated from the various Capital Improvements Projects, if allowed by law, may be pooled or aggregated together and utilized for one or more large works of art as recommended by the Fine Arts and Culture Commission and upon approval by the City Council.
 - (e) If not otherwise prohibited by law, monies appropriated as part of one project, but not deemed necessary by the City Council in total or in part for the project, may be expended on other projects approved under the public art plan; provided that proceeds from bonds issued and authorized for a particular use or purpose shall not be used or diverted for a different use or purpose.
 - (f) Funds generated pursuant to this Section shall be budgeted as part of the Capital Improvements Program budget. Additional private or public contributions for works of art may be added to these funds and shall be budgeted in a similar manner. Such contributions may be earmarked for particular projects. A fund or funds will be established within the Library Department for the Public Arts Program. Funds will be administered by the Director of the Library Department.
 - (g) The City Manager, or his/her designee, shall establish appropriate accounting procedures for the public art program and shall report to the City Council periodically regarding the amounts appropriated, encumbered and expended under the program.

17-44. - Use of Monies in Public Arts Accounts

- (a) Monies appropriated under this Division may be used for artists' design concepts and for the selection, acquisition, purchase, commissioning, placement, installation, exhibition, and display of works of art. Funds shall not be used for professional graphics, mass produced work or work not produced by an approved artist.
- (b) Monies appropriated under this Division may also be used for costs and expenses of a conservation project included in the conservation plan. Such costs and expenses may include, but are not limited to fees, costs and/or expenses for: assessment of condition and conservation needed for a work of art included in the public art collection; conservation of a work of art, including conservation fees and expenses; and preparation of a condition report and method of treatment.
- (c) An artist or artist team will be contracted for the commissioning or purchase of art. Progress payments may be made to the artist for works of art that have been recommended by the Fine

Arts and Culture Commission and approved by the City Council. Such payments may reimburse the artist for the cost of materials. The City may negotiate a final payment to the artist or artist team that will be withheld until the completion of the work. The final payment shall be no less than fifteen percent (15%). If feasible, and if the law allows, the City may negotiate a payment of up to twenty percent (20%) of the total project cost to the artist once the contract is signed for the purchase of material, design work, or labor.

- (d) To the extent practical, artist selection should be concurrent with selection of the architect or designer to ensure integration of the work of art into the project architecture.
- (e) No more than fifteen percent (15%) of the total annual public art appropriation may be expended for the administrative costs of the Public Art Program. Examples of administrative costs include, but are not limited to, project administration, artist-selection related costs, architect's fees where collaboration is involved, design, drawing, and maquette costs, community education, insurance, curatorial services, identifying plaques, documentation, publicity, and such other purposes as may be deemed appropriate by the City Council for the administration of the public art program.

17-45. - Administration

- (a) The City hereby designates the Director of the Library Department to administer the Public Art Program including appropriate staffing and administrative support of the program, subject to budget appropriations approved by the City Council.
- (b) In alignment with the Public Arts Master Plan, its goals and policies, implementation guidelines, and any of its updates, the Fine Arts and Culture Commission, acting in cooperation with the Library Director, shall have the following duties and responsibilities associated with the administration of the public art program:
 1. Submit an annual Public Art Plan in alignment with the Public Arts Master Plan to the City Council for approval. The public art plan shall include new projects to be initiated in the following fiscal year, and shall describe the planned location, proposed budget, timetable and artist selection process for each project; as well as updates on public art projects in progress.
 2. Recommend written regulations as are necessary to carry out the purpose of this Division. The regulations shall include, but not be limited to, criteria for the selection of artists and works of art.
 3. Make recommendations regarding the establishment of program policies and guidelines and the budget of the public art program.
 4. Develop an annual report to be presented the City Council setting forth the prior year's Public Art Program activities, including a detailed accounting of expenditures of the Public Art Program and administrative expenses related thereto.
 5. Make recommendations regarding the commission of works of art, the review of the design, placement of the works of art, and the removal of works of art from the public art collection.
 6. Make recommendations regarding the designation of sites for the implementation of the public art program, the determination of the scope of public art projects, and the oversight of the artist selection process.

7. Review of a survey of the condition of the public art collection. The survey must include a report on the condition of each artwork, prioritized recommendations for the restoration, repair, and maintenance of the artwork, and estimated costs.
8. Make recommendations on an annual designation of funds for repair and maintenance of the public art collection.
9. Make recommendations on additional sources of public funds for the public art program; provided, however, that any such public funding shall be subject to approval by the City Council and to the City's financial review and control.
10. Examine all works of art or designs or models of same that are proposed for permanent or long-term placement on City property or that are to become the property of the City by purchase, gift or otherwise (other than those works to be placed in a museum or gallery), and make recommendations to the Mayor and City Council for the proposed location and suitability of such works of art.
11. Recommend policies and guidelines to ensure the long-term collection of works of art by the city represents a broad range of artistic schools, styles, tastes and media, without giving exclusive support to any particular one.
12. Make recommendations for programs and activities to educate the community on the public art program and further the development and public awareness of art in public places.

Section 17-46. – Selection Process.

- (a) The Fine Arts and Culture Commission may assemble Artist Selection Panels to review proposals and recommend artists to the Fine Arts and Culture Commission. The Fine Arts and Culture Commission will review the recommendations and create the annual public art plan to be presented to the City Council for review and approval.
- (b) For works of art that are commissioned and are listed in the annual public art plan, Artists will be selected by the approved artist selection process stated in the annual public art plan in accordance with the written regulations for the criteria for selection of artists and works of art.
- (c) For all works of art, the Fine Arts and Culture Commission shall consult with the department that oversees the site where the work of art will be located and involve them in the artist and art selection process in the manner that appears most feasible.

Section 17-47. - Selected Works of Art.

- (a) The work of art shall be an integral part of the project or be placed in, at, or near the project or other city property.
- (b) Any work of art that is chosen must comply with the following standards in addition to any regulation, guidelines, and timetables recommended by the Fine Arts and Culture Commission and approved by the City Council for the public art program:
 - a. Works of art funded by general obligation bonds, revenue bonds, or certificates of obligation shall have a permanence of at least comparable to the lifetime of the project and shall be likely to remain a thing of value for this time period. Works of art funded from other sources may be permanent or temporary.

- b. The work of art must be located in a public place with visibility and impact.
- c. The work of art shall enhance the environment of the City of Laredo.

Section 17-48.- Ownership and maintenance of works of art.

- (a) The City shall have absolute, unrestricted rights incidental to its full ownership of the final artistic work to alter, change, modify, destroy, remove, move, replace, transport, or transfer in whole or in part, the final artistic work when the City deems necessary within its discretion in order to exercise the City's powers and responsibilities in regard to public works and improvements, in furtherance of the City's operations or for any other good cause. The artist may retain copyright and other intellectual property rights in and to the final design and the final artistic work itself. The Artist shall grant to the City a perpetual, irrevocable license to graphically depict or display the final artistic work for any non-commercial purpose whatsoever.
- (b) Maintenance of works of art shall be the responsibility of the City department having jurisdiction over the work of art included in the city collection; provided, however, that such maintenance activities shall not include Conservation of the Public Art Collection. Such maintenance shall comply with any contractual obligations, if any, which may have been entered into upon the acquisition of the work of art.
- (c) The City may request as part of the contract process that the artist or artist team include maintenance provisions that includes repairs. The artist, or artist team, will also be required to provide a maintenance manual.

Secs. 17-49 – 17.50. – Reserved.

Section 2. The City of Laredo Code of Ordinances, Chapter 2, Administration, Article V, Boards, Commissions, Councils, etc., Division V, is hereby amended to hereafter read as follows:

Sec. 2-240. – Created; composition, qualifications, and term limits.

- (a) The Fine Arts and Culture Commission is hereby created.
- (b) The Fine Arts and Culture Commission shall be comprised of nine (9) voting members who shall reside in the city, and who shall be appointed by the mayor and city council.
- (c) Each member shall be appointed based upon their professional competence and experience in the arts and culture and may include concerned members of the public.
- (d) At least two-thirds of the members appointed by the city council will be required to demonstrate an expertise, or experience in the following areas and professional fields: performing arts, visual arts, media or literary arts, arts education, architecture or landscape architecture, visitor industry, galleries and arts businesses, marketing and public relations and organizational or strategic planning. At least three of these persons shall demonstrate experience, education, or expertise in art history. Such persons shall submit a written statement to the city manager or designee detailing the requisite knowledge or experience.
- (e) Individuals appointed pursuant to this section may be artists, business owners, professional consultants, architects, design professionals and other professionals.
- (f) To avoid possible conflicts of interest in administering the mission of the Fine Arts and Culture

Commission and the distribution of funds by or through the City of Laredo, a nominee for appointment to the Fine Arts and Culture Commission shall not be an officer or board member of any local organization that is receiving or applying for city funding.

- (g) The members of the Fine Arts and Culture Commission will serve staggered terms that will coincide with the term of the appointing member of the City Council. The Fine Arts and Culture Commission members may not serve more than two consecutive terms.
- (h) The initial terms of the members nominated by the Mayor and Councilmembers 1, 2, 3, and 6 shall run through October 31, 2018. The initial terms of the members nominated by Councilmembers 4, 5, 7, and 8 shall run through October 31, 2020. Thereafter, all terms shall be four years, except for appointments made to fill vacancies occurring during any term, which shall be for the remainder of the unexpired term.

Sec. 2-241. – Duties and Powers

(a) The Fine Arts and Culture Commission will make recommendations to city council for the expenditure of city hotel occupancy funds for the promotion of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms.

(b) The Fine Arts and Culture Commission shall advise the City Council on matters pertaining to, but not limited to, the arts funding program and public art programming in accordance with Section 17-45 of the Code of Ordinances.

(c) [(b)] The Fine Arts and Culture Commission is expressly authorized to:

- 1) actively solicit interest in the submission of applications from qualified individuals, groups and companies for funding for permanent display art. “Permanent display art” includes sculpture, painting, or similar art work that is intended for permanent display for a period of more than one year;
- 2) make recommendations to the city council for fine arts and culture programs to be offered at city recreation centers and city events;
- 3) develop guidelines and curriculums for fine arts and culture programs to be offered at city recreation centers and city events;
- 4) develop and adopt procedural guidelines for evaluating funding applications; and
- 5) make recommendations to city council for permanent display art, including recommendations made independently of funding applications.
- 6) Establish standing and special committees, including artist selection panels, as needed to support the Commission’s activities.

(d) [(e)] With respect to applications for funding for permanent display art, the Fine Arts and Culture Commission will make recommendations to city council for awards of funding and proposed locations. The city council will make the final decision on funding and locations for permanent display art.

Section 3. This ordinance shall be cumulative of all provisions of ordinances of the City of

Laredo Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

Section 4. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 5. The publishers of the City Code of Laredo, Texas are authorized to amend said code to reflect the changes adopted herein and to correct typographical errors and to index, format and number paragraphs to conform to the existing code.

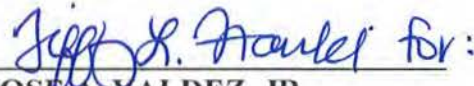
Section 6. This Ordinance shall become effective immediately upon passage.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR ON THIS
21 DAY OF October 2019.



PETE SAENZ
MAYOR

ATTESTED:

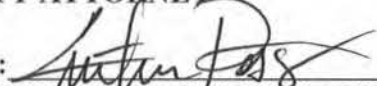


JOSE A. VALDEZ, JR.
CITY SECRETARY



APPROVED AS TO FORM:

KRISTINA K. LAUREL HALE
CITY ATTORNEY

BY: 

CRISTIAN ROSAS-GRILLET
ASSISTANT CITY ATTORNEY

City Council-Regular

Meeting Date: 10/21/2019

Staff Source: Cristian Rosas-Grillet, Assistant City Attorney

SUBJECT

2019-O-177 An Ordinance of the City of Laredo, Texas, providing for the Laredo Public Art Program and delineating the administration of the same; authorizing the allocation of two percent (2%) of the construction costs of eligible Capital Improvement Projects for art; establishing criteria for review of suitable capital projects and establishing a method for calculating art appropriations for capital projects; providing for qualifications, term limits, and additional duties for the Fine Arts and Culture Commission; providing that this ordinance shall be cumulative; providing a severability clause; and declaring an effective date.

PREVIOUS COUNCIL ACTION

On August 19, 2019, City Council approved a motion to set aside two percent (2%) of the construction costs of eligible capital improvement projects for the Laredo Public Art Program.

BACKGROUND

N/A

COMMITTEE RECOMMENDATION

N/A

STAFF RECOMMENDATION

City Council introduced this ordinance on October 7, 2019.

Fiscal Impact

Fiscal Year:

Budgeted Y/N?:

Source of Funds:

Account #:

Change Order: Exceeds 25% Y/N:

FINANCIAL IMPACT:

Funding will be designated when new bonds are issued.

Attachments

Final Reading Ordinance 2019-O-177
