July 19, 2018

TO: David W. Louie, Chair
    Elvin W. Moon, Vice Chair
    Doug Smith, Commissioner
    Laura Shell, Commissioner
    Pat Modugno, Commissioner

FROM: Bruce Durbin, Supervising Regional Planner
      Ordinance Studies Section
      Grace Ramirez-Gaston, Director of Civic Art
      Los Angeles County Arts Commission

SUBJECT: PROJECT NO. 2017-000213
        ADVANCE PLANNING CASE NO. RPPL2017008325
        AMENDMENT TO TITLE 22 TO ESTABLISH THE PERCENT FOR ART
        IN PRIVATE DEVELOPMENT ORDINANCE
        AGENDA OF August 1, 2018 – AGENDA ITEM #7

BACKGROUND/INTRODUCTION

In a motion approved on March 14, 2017, the Board of Supervisors directed the Chief Executive Officer (CEO) and the Los Angeles County Arts Commission to draft an ordinance amending Title 22 (Planning and Zoning) of the County Code to establish requirements for civic art in private development. The Board directed the CEO and Arts Commission to consult with the Departments of Public Works and Regional Planning and County Counsel in drafting the ordinance, and consult with these Departments and the Department of Consumer and Business Affairs, to solicit input from community stakeholders including comments and recommendations on appropriate exceptions and thresholds.

The County has already established a Civic Art Policy, adopted by the Board in December 2004 and enacted in 2006, which includes a requirement of one percent of the building valuation on County-funded public building projects to fund civic art programs Countywide. However, there currently is no funding source through private development to provide civic arts in the unincorporated communities.
At least thirty-one municipalities within Los Angeles County have enacted both civic art policies and percent-for-art ordinances where private developers are required to provide artwork or cultural services on site or pay in-lieu fees to be used towards providing the civic art benefit within that municipality. The County is the only local jurisdiction that has a civic art policy but no percent-for-art requirement for private development. The art and cultural services provided by the proposed ordinance will create additional public access to the arts, contribute toward realizing cultural equity and inclusion, and create opportunities for artists in underserved communities in the unincorporated areas of the County.

PREVIOUS EFFORTS

In 1999, the Department of Regional Planning and the Arts Commission took similar efforts in drafting an ordinance to fund civic art through private development. It was presented to the Regional Planning Commission three times on February 23, March 22, and April 26, 2000, and the Commission recommended the ordinance to the Board for consideration. However, during continued outreach with stakeholders, concerns over the ordinance continued to grow and it was never ultimately considered by the Board. This ordinance is based on and modified from the draft that was presented and recommended in 2000 and based on similar private development civic art initiatives that were adopted by multiple municipalities within the County.

PROPOSED ORDINANCE

The Percent for Art in Private Development Ordinance (Ordinance) proposes the following:

1. Define new terms in Title 22 relating to civic art;
2. Applies only to commercial and industrial projects – new construction with a building valuation of at least $500,000 and repair/renovation of existing buildings with cumulative building valuation of at least $500,000;
3. Exempt certain commercial and industrial projects and certain renovations from this requirement, as specified;
4. Authorize the Arts Commission to administer the Percent for Art program, including reviewing applications, working with developers to develop project-specific civic art programs, collecting in-lieu fees and expending the collected fees specifically for civic art;
5. Allocate one percent of the building valuation or design and construction costs to go towards providing the civic art on site or as an in-lieu fee to the County Arts Commission to fund civic art; and
6. Require that civic art comply with all zoning requirements in Title 22.

Definitions

The Ordinance will add twelve new definitions to Title 22 relating to art and development to provide clarity and specificity on how these terms will be used within the Ordinance.
Such terms include “artist,” “building valuation,” “civic art,” and “commercial and industrial,” to name a few.

Project Applicability
Development projects to be subject to the Ordinance are limited to new commercial and industrial development on private property, or additions or modifications to existing commercial and industrial buildings on private property, with a cumulative building valuation of at least $500,000. Commercial components in a mixed-use residential-commercial development project are subject to the Ordinance; residential components are exempt. Exemptions are provided for certain commercial and industrial projects from the requirements of the Ordinance, such as religious facilities, facilities run by non-profit organizations used solely for the non-profit’s purpose; facilities that are fully designed or dedicated to the performing arts or museum spaces; renovations or rehabilitation required for seismic safety or for compliance with American with Disabilities Act; and replacement, repair, renovation, or rehabilitation to an existing building partially or completely destroyed by a fire or natural disaster up to the original building valuation.

Administration
The Ordinance will authorize the Arts Commission to administer the Percent for Art in Private Development program. When an application for a commercial or industrial development project goes through the entitlement process with Regional Planning, Regional Planning may advise the developer that the project may potentially be subject to the Percent for Art requirement. Before a building permit is issued, the Department of Public Works will provide a valuation of the construction of all buildings for the project, and if the valuation exceeds $500,000, Regional Planning will refer the application to the Arts Commission.

Civic Art Requirement
The Ordinance provides two avenues in which a developer of a commercial or industrial development project that meets the valuation threshold may choose to comply with the Percent for Art requirement:

1. **Provide Civic Art.** Include a publicly accessible civic artwork valued at one percent of the building valuation, either on site or in the vicinity of the site. The civic art may be comprised of, but not limited to:
   a. Newly commissioned original work of art;
   b. New cultural facility;
   c. Conservation or restoration of existing artwork, historic or architectural landmark, or cultural facility within a five-mile radius; or
   d. Artistic and cultural services – such as theatrical performances, arts education, or festivals – within a five-mile radius.

2. **In-Lieu Fee.** Pay an in-lieu fee to the County Civic Art Fund that is valued at one percent of the building valuation.

Compliance with Zoning Requirements
If a civic art installment is to be provided to satisfy the Percent for Art requirement, compliance with the requirement does not exempt the civic art project from all applicable Title 22 regulations. A cultural facility as a civic art installment, such as a museum or performing arts theater, must comply with Title 22 requirements, such as zoning for the chosen land use, required parking spaces, sign regulations, and required planning entitlements (i.e. conditional use permit), if applicable, prior to issuance of a building permit for the development project. An arts-related special event, such as an arts festival, used to satisfy the Percent for Art requirement must obtain a special events permit from Regional Planning prior to commencing the event.

Civic Art Standards
If the developer chooses to provide a civic art installation on-site or in the vicinity of the project site, the civic art must meet the following standards:

1. The civic art is to be privately owned and maintained by all future owners or occupants of the development, through a covenant or other written provision depending on the type of civic art chosen.
2. The civic art must be openly and freely accessible by the general public for at least eight hours a day, five days a week.
3. The civic art must comply with the County Public Art Policy.
4. The civic art satisfies the artistic and cultural needs of the development and the community where the development is located.
5. The civic art must be original artwork; not mass-produced or of standard design.

The following cannot be considered as part of civic art or factor into the one percent valuation threshold:

1. The costs involved in maintaining the civic art.
2. Services or utilities required to operate or maintain the civic art.
3. Supergraphics, signage, or coloring code.
4. Reproductions of original artwork (with the exception of media arts).
5. Building architecture or ornamentation, except if specially commissioned by an artist, however, considerations will be made for restoration of architectural landmarks.
6. Landscape architecture and gardening, except if specially commissioned by an artist.

Civic Art Fund
If the developer chooses to pay an in-lieu fee into the County Civic Art Fund to satisfy the Percent for Art requirement, the developer is to contribute one percent of the total building valuation of the entire development project, if new, or the added-on valuation of the expansion to an existing development (i.e. adding a new story to a building, of which the valuation will be limited to construction of the new story). For example, if a new building or an expansion on an existing building is valued at $500,000, the developer will pay a minimum of $5,000 to the Civic Art Fund.
The Civic Art Fund will comprise of five separate accounts, one for each Supervisoral District, which will be managed by the County Treasurer and Tax Collector. A developer that elects to pay an in-lieu fee will pay into the account for the Supervisoral District where the development project is located, and all funds collected in that account will be distributed for civic art projects within that Supervisoral District. Civic art projects using money from the Civic Art Fund will belong to the County and will be managed and maintained by the Arts Commission. Expenditures made from the Civic Art Fund is subject to approval by the Board of Supervisors, and must be used in accordance with the County Civic Art Policy. The Arts Commission will report annually on the use of the Civic Art Fund to the Board.

Alternative Method
If the developer of a project is subject to the Percent for Art requirement and is unable to provide an on-site civic art project or pay an in-lieu fee, or prefers another means to satisfy the requirement, the Arts Commission is authorized to negotiate with the developer on alternative methods that will satisfy the objectives of the Percent for Art requirement.

GENERAL PLAN CONSISTENCY

The following goals/policies of the Los Angeles County General Plan are applicable to the proposed ordinance:

- Policy LU 2.6: Consider the role of arts and culture in community-based planning efforts to celebrate and enhance community character.
- Policy LU 10.5: Encourage the use of distinctive landscaping, signage and other features to define the unique character of districts, neighborhoods or communities, and engender community identity, pride and community interaction.
- Policy LU 10.8: Promote public art and cultural amenities that support community values and enhance community context.

COUNTY DEPARTMENT COMMENTS AND RECOMMENDATIONS

Department of Public Works
Public Works reviewed the draft through the eReview consultation process, and was in general agreement with the ordinance.

Beaches and Harbors
Beaches and Harbors reviewed the draft ordinance and received feedback from the Marina Del Rey Lessees Association, and both suggested that any development project that includes “hard art” onsite or in the immediate vicinity should be referred to Marina Del Rey Design Control Board during the beginning stages of a civic art plan to ensure compatibility with the goals and policies of the Marina Del Rey Specific Plan. Both had concerns about subjecting private recreational facilities, such as yacht anchorages, docks, and yacht clubs to the Percent for Art requirements, and suggested to exempt those facilities. The Association also suggested that all in-lieu fees contributed by
development projects within Marina Del Rey to remain within that area to support programs to enhance the Marina as a premiere visitor-serving area, rather than to distribute civic funds Countywide. Their concerns have been addressed and clarified in the draft ordinance.

LEGAL NOTIFICATION AND PUBLIC ENGAGEMENT

Legal Notification
An one page legal advertisement was published in a newspaper of general circulation, the Los Angeles Times, on July 1, 2018. Case related materials were sent on June 21, 2018 to at least one County Library in each Supervisorial District, as follows: East Los Angeles in the First District, A.C. Bilbrew in the Second District, Topanga in the Third District, Hacienda Heights in the Fourth District, Lancaster Regional in the Fifth District-northern portion, and La Crescenta in the Fifth District-southern portion.

Staff posted case information on the Department of Regional Planning’s website (http://planning.lacounty.gov/art).

Public Engagement
The Arts Commission consulted with numerous stakeholders in the form of one-on-one conversations, roundtable discussions, presentations and written correspondence. The companies, groups and associations include NBC Universal Studios, Valley Industry and Commerce Association, Majestic Realty, the Empowerment Congress, City of Los Angeles Chamber of Commerce, Association of Rural Town Councils, Hacienda Heights Improvement Association, Biz-Fed, Marina del Rey Lessees Association, Florence Firestone, Las Virgenes Homeowners Federation, and Building Industry Association – Los Angeles Chapter. The Arts Commission also consulted with the Department of Beaches and Harbor regarding private development in the Marina Del Rey community, the Department of Business and Consumer Affairs and the Development Advisory Group as well as independent artists, architects, developers, lawyers, art consultants, realtors and policy managers.

PUBLIC COMMENTS

A letter was submitted by the Marina Del Rey Lessees Association with comments on the ordinance, which is included as an attachment to this letter.

ENVIRONMENTAL DETERMINATION

County Staff recommends that Project No. 2017-000213 is exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3) of the CEQA Guidelines, because it can be seen with certainty that there is no possibility that the Project will have a significant effect on the environment and therefore not subject to CEQA, and pursuant to Section 15183 ("Projects Consistent with a General Plan,"
Community Plan, or Zoning") as this Project is consistent with the policies of the County General Plan to include art in community planning.

**STAFF RECOMMENDATION**

The following recommendation is made prior to the public hearing and is subject to change based upon testimony and/or evidence presented at the public hearing. Staff recommends that your Commission close the public hearing, find that the Project is exempt pursuant to State and local CEQA guidelines, and adopt the attached resolution recommending APPROVAL to the County Board of Supervisors for Project No. 2017-000213, Advance Planning Case No. RPPL2013008325 – Percent for Art in Private Development Ordinance.

**SUGGESTED MOTION**

“I move that the Regional Planning Commission close the public hearing, find that the project is exempt from CEQA pursuant to State and local CEQA Guidelines, and adopt a resolution recommending approval to the Board of Supervisors of the Percent for Art in Private Development Ordinance, Project No. 2017-000213, Advance Planning Case No. RPPL2017008325.”

If you have any questions, you may contact Grace Ramirez-Gaston at gramirezgaston@arts.lacounty.gov or (213) 202-5865, or Bruce Durbin at bdurbin@planning.lacounty.gov or (213) 974-6432 Monday through Thursday.

Attachments:
- Draft Ordinance
- Draft Resolution
- Board Motion
- Public Hearing Notice

BD:GRG:as
ORDINANCE NO. DRAFT (6/19/2018)

An ordinance amending Title 3 - Advisory Commissions and Committees and Title 22 - Planning and Zoning of the Los Angeles County Code – to establish a Percent for Art in Private Development requirement for commercial and industrial development in the unincorporated areas of the County.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. The Board of Supervisors finds as follows:

A. That artistic and cultural resources enhance the quality of life for individuals living in, working in and visiting the unincorporated areas of the County;

B. That development of artistic and cultural resources preserves and improves the quality of the urban environment and increases property values;

C. That as commercial and industrial development and revitalization of the real property within the unincorporated areas of the County continue, urbanization of the community results, and the need to develop new artistic and cultural resources to enhance the environment, image and character of the community increases;

D. That the development of artistic and cultural assets should be financed by those whose commercial and industrial development and revitalization increase the community's demand for cultural resources; and, therefore,

E. That the civic art requirement is a fair and equitable method of distributing the cost of civic art among commercial and industrial development and revitalization projects.

SECTION 2. Section 22.14.160 is thereby amended to read as follows:
Pedestrian paseo. A landscaped walkway accessible to the public, located outside of a public right-of-way or private roadway, where motorized vehicles are prohibited. A pedestrian paseo shall be a minimum of five feet in width, provide amenities such as appropriate lighting, benches, and water features, and be designed to maximize visibility of the paseo from public viewpoints.

Percent for Art in Private Development. The following terms are defined solely for the purpose of Section 22.246.080 (Percent for Art in Private Development):

Art consultant. A professional organization or individual working as a professional administrator of the arts, who realizes income through the provision of services to contract artists and arts media for venues with public audiences, demonstrates previous success in project management, oversight of on-site logistics, and provides leadership to completion of the civic art.

Artist. A person who has established a reputation of artistic excellence in the arts, including but not limited to visual, performing or literary arts, as judged by peers and experts in the field, through a record of public exhibitions, performances, commissions, sale of works, recognition and/or educational attainment.

Building valuation. The total value of all construction work for which a building permit is issued, and includes, but is not limited to, outside improvements, all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire-extinguishing systems and any other permanently installed work or permanently installed equipment.
Civic art. An original, site-specific work of art, constructed of materials such as, but not limited to, paintings and murals, sculptures, mixed media, and memorials, that is placed to be freely accessible to the public on both private property and publicly-owned property. The work of art can take a wide range of forms, sizes, and scales such as, but not limited to community art, ecological art, digital media, installation, restoration or replication of original decorative ornament, performances, and festivals, all of which can be temporary or permanent. “Civic art” does not include fixtures or features such as streetlights, benches, signs, or other design enhancements, unless designed by an artist as a unique feature for the project.

Civic Art Program. The Los Angeles County Arts Commission Civic Art Program to provide artistic and cultural facilities, services and/or amenities to the residents of the County.

Commercial and industrial. Any nonresidential land use, including, but not limited to, retail, office, professional, research, manufacturing, heavy industry, hotels, motels, utilities and private recreational, but not including any use by a public entity for which the Board of Supervisors is the governing body.

Development project. Any activity which requires the issuance of at least one building permit by the County and includes all related permits contained within the same project number in the County’s master tracking system.
**Fee.** A monetary responsibility other than a tax or special assessment that is collected under the terms of Section 22.246.080 to provide funds for civic art projects.

**Landmark.** A property, including, any structure, site, place, object, tree, landscape, or natural feature, that is designated as a landmark by the Board of Supervisors pursuant to Chapter 22.124 (Historic Preservation).

**Publicly accessible.** Any place or property within the County which is open to the general public for its use, or which is in public view. If the civic art is located in an interior location it must be publicly accessible during normal business hours.

**Private recreation facilities.** Recreation facilities established and operated by a private entity or an association of persons who are bona fide members, to be used exclusively by its members. Such term may also include private recreation clubs, as defined in Section 22.08.180.

**SECTION 3.** Section 22.246.080 is hereby added to Title 22 of the Los Angeles County Code to read as follows:

**22.246.080 Percent for Art in Private Development**

A. **Purpose.** The purpose of this Section is to promote the general welfare and enhance livable communities by requiring the use and incorporation of works of public accessible art in private development. By doing so, the County preserves and enriches the character and environment of its unincorporated communities, improves the quality of life for those who visit, live, or work in the County, mitigate potential adverse impacts of construction, fosters the economic vitality of the
communities, and engages its residents, neighborhoods, businesses, and community organizations in creative partnerships with artists. This Section sets forth requirements for the provision of civic art, in connection with conditions for the design of commercial and industrial development projects.

B. **Applicability.** The provisions of this Section shall apply only to commercial and industrial development projects with a building valuation of $500,000 or more for which a building permit has not been issued as of the effective date of this Ordinance. The provisions shall also apply to repair and renovation with a building valuation of $500,000 or more on existing commercial or industrial development, in which one percent of design and construction costs instead of total project valuation shall be allocated to commission civic art.

C. **Definitions.** Specific terms used in this Section are defined in Division 2 (Definitions), under “Percent for Art in Private Development.”

D. **Administration.** In accordance with Section 3.38.010 in Title 3 (Advisory Commissions and Committees) of the County Code, the Los Angeles County Arts Commission shall:

1. Promulgate civic art program policies and implementation procedures for adoption by the Board;

2. Maintain records of civic work created and supported pursuant to this Section.

3. Prepare the annual civic art program budget for approval by the Board;
4. Report annually to the Board as required by Subsection K (Use of Fees Collected), below.

E. Establishment of Civic Art Requirement. When a development project is subject to the requirements of this Section, the applicant shall comply with the provisions of Subsection E.1 or E.2, or a combination of both, as defined below.

1. On and Off-Site Civic Art Option.

   a. For new projects, the applicant shall provide and maintain civic art in a publicly accessible place pursuant to this Section. The civic art may be of, but not limited to the following four types of programs:

   i. Newly commissioned work of hard art. The hard art may be created in any permanent media approved by the Arts Commission, presented on the subject property in a publicly accessible place on and/or within 250 feet of the project site.

   ii. Cultural Facilities. The construction, repair, and funding to support cultural facilities that are onsite or within a five-mile radius.

   iii. Conservation. Restoration, conservation or preservation of existing private and County-owned publicly accessible artworks that are onsite or within a five-mile radius. This may include, but is not limited to, the restoration or replication of original decorative ornament or artwork as part of the rehabilitation of historic, cultural, and architectural landmarks; and
iv. **Artistic and cultural services.** Artistic and cultural services that are onsite or within a five-mile radius including:

1. Performing arts: theatre, dance, music and performance art;
2. Literary art: poetry readings and storytelling;
3. Media art: film and video, screenings and installations;
4. Arts education: lectures, programs, presentations and training in and about arts and culture;
5. Special events: parades, festivals and celebrations provided that they are cultural in nature;
6. Temporary artworks: ecological, environmental, lighting, aerial, water, sound, participatory, exhibition; and
7. Similar arts services as approved by the Arts Commission.

b. For repair and renovation projects not listed under Subsection F, below, with a building valuation of $500,000 or more, one percent of design and construction costs instead of total project valuation shall be allocated to commission civic art.

c. For the creation of civic art pursuant to this Section, applicants shall hire a professional art consultant to assist with all phases of the project development and project oversight from inception to completion. The art consultant may be selected by the developer or from an optional
prequalified list provided by the Arts Commission. The applicant may utilize Arts Commission Civic Art staff as the art consultant for a fee equal to fifteen percent of the one percent requirement.

2. **Civic Art In-lieu Fee Option.** In lieu of providing civic art, the applicant may pay a fee to be deposited in the Civic Art Fund equal to one percent of building valuation.

3. The provision of civic art pursuant to this Section shall be subject to the approval of the Arts Commission in accordance with the County Civic Art Program policies and implementation procedures.

F. **Exemptions from Civic Art Requirement.** The following shall be exempt from the provisions of this Section:

1. Commercial and industrial development projects with a cumulative building valuation of less than $500,000;

2. Commercial and industrial development projects owned or operated by religious facilities under Internal Revenue Code section 501(c)3 used exclusively for religious activities;

3. Commercial and industrial development projects with additions or modifications to existing buildings when such work has a cumulative building valuation of less than $500,000;

4. Commercial and industrial development consisting exclusively of rehabilitation work required for seismic safety or to comply with
governmental mandates, including the Americans with Disabilities Act of 1990 regardless of valuation;

5. Repair, renovation or rehabilitation intended to upgrade an existing building or structure that does not change the purpose or character of use and does not alter the size or occupancy load of the building;

6. Replacement, repair, renovation, or rehabilitation to an existing building, including replacement of on-site civic art, that has been partially or completely destroyed by a fire or natural disaster up to the original building valuation. Improvements in excess of the original building valuation shall not be exempt;

7. All housing developments;

8. Residential components of a mixed use development project;

9. Facilities which are owned or leased solely by a non-profit organization, as defined in Section 22.14.140 (N), provided the premises are used in furtherance of the owner’s or lessee’s non-profit purpose; and

10. Commercial and industrial development projects, or portion(s) thereof, that are designed and dedicated to performing arts or museum spaces, as long as the performing arts or museum spaces are maintained within the building, provided the premises continue to be dedicated as such. Acceptable facilities include museums, theaters, performance arts centers, and other similar facilities as determined appropriate by the Arts Commission. Excluded facilities include schools, commercial movie
theaters, banquet halls, gymnasiums or other sports facilities, and buildings dedicated primarily to administrative activities.

G. Compliance with Civic Art Requirement.

1. When an applicant has elected to fulfill the civic art requirement by means other than paying the in-lieu fee, no building permit shall be issued until the County has received and accepted a civic art proposal committing the applicant to complying with this requirement by a pre-determined date, and a certificate of occupancy may be issued with clearance by the Arts Commission when the civic art project is determined to be in compliance with this Section and with the County’s Civic Art Program policies and implementation procedures. The applicant shall post a certificate of deposit in an amount equivalent to one percent of the building’s valuation with the County, and the County may hold the deposit until a certificate of occupancy is issued for the development project, and then return the deposit to the applicant. If the requirement is not met, the Arts Commission shall put the deposit into the Civic Art In-lieu Fund.

2. When an applicant has elected to pay a civic art in-lieu fee, no building permit shall be issued until such fee has been paid.

H. Civic Art Compliance with Zoning Requirements

1. The proposed civic art shall comply with all zoning regulations prescribed by this Title 22, including permitted uses for the zone, applicable entitlements for the use, and development standards, including height,
parking and setbacks, in addition to the zoning requirements for the proposed commercial or industrial development. Entitlements for the proposed civic art, if required, shall be submitted concurrently with site plans and any required entitlements for the commercial or industrial development.

2. All on and off-site civic art proposals in conjunction with a development project located within the geographic area governed by the Marina Del Rey Specific Plan shall be submitted to the Design Control Board for review, any recommendations, including a written report and/or marked plans, to illustrate its conclusions relating to the project’s architectural design and site planning shall be submitted by the Design Control Board to the Commission or Hearing Officer within 120 days of the filing of a Coastal Development Permit application in compliance with Section 22.46.1110.D (Design Control Board).

I. Civic Art Standards

1. The proposed civic art shall comply with the following standards:

a. The civic art satisfies the artistic and cultural needs of the development project so as to reduce the need for public artistic and cultural facilities, services and community amenities to serve the patrons, occupants and owners of the development project and is responsive to the needs of the community in which the development project and/or civic art will be located;
b. The civic art is to be privately owned and maintained by the applicant and future occupants or owners subject property. Maintenance shall be adequately provided for by a covenant for a minimum of 25 years, which shall run with the land, or other appropriate provisions will be made based on the characteristics of the civic art. Any civic art removed from the subject property shall be relocated to a County facility or donated to a cultural institution, at the owner’s expense, as approved by the Arts Commission.

c. The civic art shall be in an area open and freely accessible to the general public at least eight hours each day of at least five days per week;

d. A cultural facility that is being improved pursuant to this Section shall be freely accessible to the general public;

e. The cost of services or utilities necessary to operate or maintain the civic art project over time is not included in calculating the value of a civic art project for the purpose of satisfying the one percent of building valuation requirement; and

f. The civic art shall be in substantial compliance with any arts and cultural master plan, policies and implementation procedures adopted by the Board.
2. For purposes of compliance with Subsection I.1, above, the cost of a civic art project shall not include any of the following in satisfaction of the civic art requirement:

   a. Directional elements such as supergraphics, signage, or color coding;

   b. Art objects that are mass produced or of standard design;

   c. Reproductions, by mechanical or other means, of original works of art, except in cases of film, video, photography, printmaking or other media arts;

   d. The architecture of the building or facility, or any portion thereof, including decorative, ornamental or functional elements, unless designed by an artist specifically commissioned for this design enhancement purpose;

   e. Landscape architecture and landscape gardening, except where these elements are designed by an artist specifically commissioned for this design enhancement purpose; or

   f. Services or utilities necessary to operate or maintain the civic art over time.

J. Civic Art Fund.

1. A Civic Art Fund shall be established and shall continue from year to year. The fund shall consist of five separate accounts, one for each Supervisorial district, established by the Auditor-Controller in accordance with Section 27100.1 of the California Government Code Section and administered by
1. The County Treasurer and Tax Collector apart from the general revenue funds and accounts of the County. All interest and investment earnings in said accounts shall accrue to the use and benefit of the applicable account.

2. All civic art in-lieu fees received by the County pursuant to this Section shall be deposited in the applicable account in the Civic Art Fund and shall be accounted for and expended consistent with Section 66006 of the California Government Code. The fund is authorized to accept gifts, grants and donations made to the County for civic art.

3. All appropriations, gifts, grants and awards of money or property received for civic art from either public or private donors shall be placed in trust for and inure to the use and benefit of the County for civic art purposes; and said property and funds shall be expended, utilized and disbursed pursuant to the provisions of this Section. Any gifts, grants and awards received subject to a condition shall be expended strictly in accordance with such condition.

K. Use of Fees Collected.

1. The Arts Commission shall make recommendations to the Board for expenditures from the Civic Art Fund in accordance with County budgetary procedures and adopted civic art program policies and implementation procedures, which expenditures shall be exclusively for the acquisition, commissioning, installation, improvement, maintenance and insurance of civic art on County property; the restoration, conservation, or preservation
of existing County-owned civic art; the provision of civic art in any of the four
types of programs described in Subsection E, above; or any similar acts or
cultural services as approved by the Arts Commission.

2. Civic art in-lieu fees shall be expended within the Supervisorial district from
which the fees were collected, for civic art accessible to anyone in the
district, including, but not limited to, the patrons, occupants and owners of
the development projects for which the fees were collected.

3. The Arts Commission shall provide an annual report to the Board on: 1) the
provision of on or off-site art installations and arts services, restoration and
conservation, programs, facilities and amenities, and 2) the use of all civic
art in-lieu fees collected and deposited in the Civic Art Fund, including
identification of all income, expenditures, and balances of each of the
accounts in the fund during the prior fiscal year and its recommendations
for proposed expenditures for the subsequent fiscal year. Upon receipt of
such report, the Board shall authorize expenditures from the Civic Art Fund
and shall make findings with respect to any portion of the in-lieu fees
remaining unexpended or uncommitted in this fund five or more years after
deposit of the fees. These findings shall identify the purpose to which the
fee is to be put and shall demonstrate a reasonable relationship between
the fee and the purpose for which the fee was charged.

L. Alternative Method. This Section is intended to establish an alternative method
for the provision or financing of civic art, the need for which is generated directly
or indirectly by a commercial or industrial development project or projects. The provisions of this Section shall not be construed to limit the power of the County to utilize any other method for accomplishing this purpose but shall be in addition to any other fees or requirements which the Board is authorized to impose as a condition to approving new development pursuant to state and local laws.

SECTION 4. If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 5. This ordinance shall be effective 30 days after adoption.
DRAFT RESOLUTION
REGIONAL PLANNING COMMISSION
COUNTY OF LOS ANGELES

WHEREAS, the Regional Planning Commission of the County of Los Angeles has conducted a public hearing on August 1, 2018 the matter of amendments to Title 22 (Planning and Zoning) of the Los Angeles County Code establishing the civic art program requiring new commercial and industrial projects to provide or finance civic art; and

WHEREAS, the Commission finds as follows:

1. Civic art provides significant physical, economic and social benefits to individuals living in, working in, and visiting the unincorporated areas of Los Angeles County. It improves the aesthetics and visual quality of projects, thereby enhancing the built environment. This can result in increased property values, economic development opportunities and urban revitalization. Civic art also enhances community character and pride, promotes social cohesion and provides a “sense of place”;

2. Thirty-one jurisdictions within Los Angeles County, such as the cities of Beverly Hills, Long Beach, Los Angeles, Pasadena, and Santa Monica, have civic art programs with percent-for-art ordinances. These programs and ordinances have provided significant arts and cultural opportunities for residents and visitors and enhanced the physical, social and economic environment of these municipalities;

3. The county recognizes the importance of civic art and supports the arts through its provision of artistic opportunities of all disciplines and facilities, such as museums and concert halls, for county residents;

4. New development projects impose increased burdens on county resources. Existing arts facilities and services will be increasingly pressured to maintain quality of life and enhance the social, physical and economic environment. It is anticipated that county funding will cover only part of this need for civic art;

5. The purpose of the civic art requirement is to mitigate the added demand on the arts that will result from additional commercial, industrial and public developments;

6. Comparison with other jurisdictions and county services disclosed the need for additional arts financing that the proposed ordinance would provide. Thirty-one cities within the County have already instituted public art requirements to supplement existing general fund outlays for art. In addition, the county arts budget is far less than art allocations of other metropolitan areas;
7. The proposed ordinance provides two options for fulfilling the civic art requirement for all commercial and industrial projects except religious facilities, universities and schools: 1) Provide publicly accessible art on or near the project site equal to one percent of the building valuation, or; 2) Pay an in-lieu fee equal to one percent of the building valuation into the Civic Art Fund;

8. The proposed ordinance applies to commercial and industrial projects which have building valuations over $500,000. Small projects are excluded because it is estimated that the cost of administering the art requirement for such projects would approximate the cost of mitigating the burden. It is also a county policy to promote small business retention. The decision to exclude residential development was made in consideration of the shortage of affordable housing in the County and the objectives of the General Plan and the Board of Supervisors to reduce residential development costs;

9. The proposed amendments are compatible with and are supportive of policies of the Los Angeles General Plan to consider the role of and encourage the use of arts and culture in community-based planning efforts to enhance community character, and promote public art and cultural amenities that support community values and define community context; and

10. The proposed amendment will not foreseeably result in a significant effect on the environment pursuant to the provisions of the California Environmental Quality Act, the CEQA Guidelines and the Los Angeles County Environmental Document Reporting Procedures and Guidelines.

THEREFORE, BE IT RESOLVED THAT the Regional Planning Commission recommend to the Board of Supervisors of the County of Los Angeles as follows:

1. That the Board hold a public hearing to consider the proposed amendments to Title 22 of the Los Angeles County Code establishing the civic art program requiring new commercial and industrial projects to provide or finance civic art;

2. That the Board adopt the proposed ordinance containing modifications to Title 22, and determine that it is compatible with and supportive of the goals and policies of the Los Angeles County General Plan; and

3. That the Board find that this project is not subject to the California Environmental Quality Act, in that it can be seen with certainty that there is no possibility that the attached proposed ordinance may have a significant effect on the environment.
I hereby certify that the foregoing resolution was adopted by the Regional Planning Commission of the County of Los Angeles on August 1, 2018.

Rosie Ruiz, Secretary
Regional Planning Commission
County of Los Angeles
Establishment of a Private Developer Civic Art Requirement

Los Angeles County (County) is a global leader in all forms of visual and performing arts. The arts sector as a whole boosts the local economy by supporting jobs, cultural tourism, and by contributing to the quality of life for residents. The County established a Civic Art Policy in December 2004 requiring a one-percent requirement for civic art in County funded public building projects for the purpose of contributing to the economic vitality of our region by improving the quality of the environment, fostering a positive community identity and increasing arts services to all residents. However, there is no private developer requirement for civic art in the County, although such requirements exist in many of the cities in the County, as well as the state and nation. Because the County does not have a private developer requirement for civic art, there is no funding source through private development that creates art and arts services for the residents of the unincorporated areas.

Thirty-one municipalities within the County, including the cities of Los Angeles, Pasadena, and Santa Monica, have enacted ordinances requiring private development projects to incorporate artwork into their development or pay an in lieu fee to be used to create art and arts services for the residents.
support the creation of artwork and/or provide cultural services within the jurisdiction. All municipalities within the County that have adopted public art policies also have corresponding requirements for private development, except for the County itself.

A private developer civic art requirement would create additional public amenities and public access to the arts that can play a vital role in addressing issues of cultural equity and inclusion, and that otherwise would not be available in underserved unincorporated areas. To ensure that civic art, cultural facilities and arts services that reflect the diversity of our communities are present and sustained throughout the County’s unincorporated communities, it is necessary to require that private development projects in Los Angeles County include commissioned civic art or cultural facilities, or, alternatively, contribute to a Civic Art Fund for civic art and cultural resources and facilities in lieu of installation of such art.

While the revenue generated would correlate to the amount of eligible development projects in a given year, recent years’ reports indicate that a private developer requirement for civic art in the unincorporated areas could potentially generate an estimated $8.2 million in art, cultural facilities and cultural resources annually.

I THEREFORE, MOVE THAT THE BOARD OF SUPERVISORS:

Direct the Chief Executive Officer (CEO) and the Arts Commission of Los Angeles County to take the following actions:

a) As the proposed Private Developer Percent for Art is a land use requirement/development standard, prepare an amendment to Title 22 Planning and Zoning of the Los Angeles County Code, or other appropriate measure, to go before the Regional Planning Commission for review and
approval. This developer requirement for civic art shall include an ordinance and policies for a process that incorporates private developer requirements for civic art in the development and permitting process of development projects, including submittal and approval of proposed civic art, an option for an in-lieu contribution to satisfy the requirement and other elements required to administer the requirement. The CEO should determine the staffing needs to be included in the FY 2017-18 Arts Commission budget to administer the requirement;

b) prepare the draft ordinance in consultation with the Department of Public Works, Department of Regional Planning, and County Counsel;

c) provide a progress report to the Board of Supervisors in 60 days in writing, with the goal of completing all Commission and Board actions within six months.

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MOTION BY SUPERVISORS MARK RIDLEY-THOMAS AND KATHRYN BARGER

MARCH 14, 2017

Private Developer Percent for Art Community Engagement Effort

In considering new policy initiatives, the Board of Supervisors (Board) routinely seeks input from the public with particular attention given to communities that may be adversely or disproportionally impacted. On major policy matters, the Board has benefited from the input and recommendations that are derived by broad-based task forces, advisory committees and public forums, as well as from public comment that comes forth from extensive public outreach campaigns. Recent examples include the public outreach campaign for the Countywide Comprehensive Park & Recreation Needs Assessment, Arts Diversity Initiative and the Homeless Initiative.

The Board’s long-standing tradition of seeking public comment is invaluable to the process of drafting public policy that effectively achieves its intended objectives with unintended consequences or negative impacts avoided or minimized. It also ensures that new Board policies are developed in the open and with strong public support.

WE THEREFORE MOVE THAT THE BOARD OF SUPERVISORS:

Direct the Executive Director of the Arts Commission, in conjunction with the Directors of the Regional Planning Department and the Department of Consumer and Business Affairs, to solicit input from community stakeholders in the form of roundtable discussions, public meetings and written testimony on the proposed Private Sector
Percent for Art requirement including comments and recommendations on appropriate exceptions and thresholds, and to consolidate findings and conclusions in a written report to the Board of Supervisors as an attachment to the Arts Commission's and Chief Executive Officer's report which is due in 90 days from the approval of this motion.

# # # #

(DR)
July 18, 2018

Honorable Commissioners
Regional Planning Commission
300 W. Temple Street, Room 150
Los Angeles, CA 90012

RE: Percent for Art in Private Development Ordinance
    Project No. R2017-000213
    Case No. RPPL2017008325
    Hearing Date: August 1, 2018

Dear Honorable Commissioners:

The Marina del Rey Lessees Association represents the leaseholders of residential, commercial, marine and visitor-serving properties in unincorporated Marina del Rey. Under long-term leases with the County of Los Angeles, the lessees undertake expensive redevelopment and renovation of a wide array of multifamily residential and commercial projects in cooperation with our landlord, the County of Los Angeles, including the reconstruction of anchorages which fulfill the obligations of the Coastal Act to bring increased recreational boating opportunities to Marina del Rey.

The process to obtain coastal development permits to build and renovate the anchorages is lengthy and cumbersome and involves the payment of many fees that are not typically applied to commercial and residential projects elsewhere in unincorporated Los Angeles County. Additionally, leaseholders of the County-owned land in Marina del Rey, even though they do not own the land, pay property taxes on top of the ground rent paid to the County for the construction and operation of boat slips, ground rents which yield the County an average of 25% to 28% of the gross revenue generated by the anchorages.

The Association understands the objectives of the Arts Commission to generate on-site public art at commercial projects and to fund artistic and cultural facilities to benefit the residents of the County. However, while the exclusion of residential projects from the proposed ordinance is justified, we believe the proposed ordinance inappropriately includes anchorages and yacht clubs to be assessed the Civic Art Fees.

With few exceptions, the anchorages in Marina del Rey have been developed in conjunction with the residential apartment complexes fronting on the Marina del Rey Harbor. These anchorages are occupied by Marina del Rey residents, live-aboards, and individual boaters that rent the slips for the purposes of their recreational enjoyment of the water as envisioned by the Coastal Act.

The Percent for Art in Private Development (PAPD) Ordinance defines “commercial and industrial” developments subject to the provisions of this ordinance to include, among
other things, "private recreation." The ordinance further defines "private recreation facilities" as "recreation facilities established and operated by a private entity or association of persons who are bona fide members to be used exclusively by its members." As such, the ordinance, as currently drafted, does not exempt "private recreation facilities" and this should be rectified by the Regional Planning Commission with appropriate amending language. Overall, anchorages serve a primarily non-commercial function to enhance the opportunities for water-oriented recreational activities of residents of the Marina as well as the County.

Aside from the anchorages that cater to residents of adjacent multifamily complexes and non-commercial boaters, the yacht clubs with private members and generally not to public should likewise not be subject to the provisions of the PAPD Ordinance. In answering suggestions submitted by the Association, the Arts Commission responded that yacht clubs would be subject to two options. The first option includes four programs for on-site or off-site civic art. The second option is the in-lieu fee contribution. We recommend the Regional Planning Commission should exclude yacht clubs from either of the options for requirements in the proposed ordinance.

The Marina del Rey Land Use Plan, certified by the California Coastal Commission on February 8, 2012, identifies "recreational boating" as a top priority. The Land Use Plan states that "Recreational boating shall be emphasized as a priority use throughout the planning and operation of the Marina. To help achieve this goal, the Plan shall strive to ensure that adequate support facilities are provided, including, but not limited to, the following: boat slips, a fueling dock, boat repair yards, boat dry storage yards, launch ramps, boat charters, day-use rentals, equipment rentals and on-going maintenance of the marina harbor and entrance channel, bulkhead repair, pollution control, safety and rescue operations, and sufficient parking for boaters."

The PAPD Ordinance, by the imposition of additional fees upon development, should not discourage the construction of expensive renovations or rebuilding of entire anchorages and other boating-serving facilities with the Civic Art Fee for projects that provide for increased recreational boating use of coastal waters that is encouraged by Coastal Act Policy 30224. The anchorages and yacht clubs of Marina del Rey serve the residents of the Marina and the County as well as visitors, and as such, they should be specifically excluded from the application of the Civic Art Fees.

Thank you for your consideration of the Marina del Rey Lessees Association’s desire to provide encouragement to new developments and renovations of the anchorages and yacht clubs without the additional burden of providing on-site civic art or the payment of fees.

Sincerely,

David O. Levine
President

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1 Marina del Rey Land Use Plan, page 3-5
2 Marina del Rey Land Use Plan, page 3-1
NOTICE OF PUBLIC HEARING

Project Number R2017-000213
Advance Planning Case Numbers RPPL2017008325

NOTICE IS HEREBY GIVEN that a public hearing will be held before the Regional Planning Commission to consider the following ordinance amendment on **Wednesday, August 1, 2018**, at 9:00 a.m. in Room 150, Hall of Records, 320 West Temple Street, Los Angeles, California 90012. Interested persons will be given an opportunity to testify. Room 150 will open at 8:50.

Proposal: A Countywide Ordinance amending Title 22 of the County Code (Planning and Zoning) to establish a Percent for Art in Private Development Ordinance. The proposed ordinance will require certain types of commercial and industrial development projects valued over $500,000 to provide for or pay an in-lieu fee equivalent to one percent of the building valuation for civic art.

The project is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

Case materials are available for review between 7:30 a.m. and 5:30 p.m., Monday through Thursday (closed on Fridays) in the offices of the Department of Regional Planning, Hall of Records, Room 1357, 320 West Temple Street, Los Angeles, California 90012. Selected materials are also on the Regional Planning website at [http://planning.lacounty.gov/art](http://planning.lacounty.gov/art), and beginning July 1, 2018, at all County libraries:

If you are unable to attend the public hearing but wish to submit written comments, you may send them to Ms. Alyson Stewart at ordinance@planning.lacounty.gov or to the above mailing address.

**ADA ACCOMMODATIONS:** If you require reasonable accommodations or auxiliary aids and services such as material in alternate format or a sign language interpreter, please contact the ADA (Americans with Disabilities Act) Coordinator at (213) 974-6432 (Voice) or (213) 617-2292 (TDD), with at least three business days notice.