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CALIFORNIA



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November 30, 2016

Honorable Mitch O'Farrell, Chair
Arts, Parks, and River Committee
Los Angeles City Council
C/o City Clerk's Office
City Hall, Room 395
Los Angeles, CA 90012

Attention: Mr. Eric Villanueva, Office of the City Clerk

**ARTS, PARKS, AND RIVER COMMITTEE:
REQUEST FOR REVIEW AND APPROVAL OF THE DEPARTMENT OF CULTURAL
AFFAIRS UPDATED ANNUAL EXPENDITURE PLAN & FEE STATUS REPORT FOR THE
ARTS DEVELOPMENT FEE (ADF) PROGRAM FOR FISCAL YEAR 2016-2017**

This report and its attachments are submitted in compliance with the Arts Development Fee (ADF) Program Administrative Guidelines adopted by the City Council in December 2014, by motion (CF# 13-0933).

Pursuant to the established ADF Program guidelines, the Department of Cultural Affairs is required to develop an annual Expenditure Plan and Fee Status Report for the ADF Program, submitted herein. This report identifies and commits **\$815,182.48**, comprised of "Priority Fees" in arts development fees toward eligible public art projects throughout the City. Due to the date of collection of the majority of these fees, Los Angeles Municipal Code Section 5.346, et al., which is based on the State Mitigation Fee Act, requires the Department and City Council approve a set of findings for these priority fees before December 31, 2016. A finding identifies the purpose to which the fee is to be put and demonstrates a reasonable relationship between the fee and the purpose for which it is charged. DCA has prioritized the commitment of these "Priority Fees" in this report.

The Arts Development Fee (ADF) Program aims to work within the Department's mission to strengthen the city's investment in the creation and support of high quality, publicly accessible art and cultural activities that make our communities more livable, enhance the quality of life of



our residents, attract new visitors to our region and generate local economic activity. This is achieved through vibrant and engaging art and cultural experiences and services while establishing a multi-disciplinary, innovative approach to broadening and enlivening the public sphere.

RECOMMENDATIONS

That the Council, subject to the approval of the Mayor:

1. **APPROVE** the public art project commitments and associated findings relative to a total of **\$815,182.48**, comprised of “Priority Fees” in arts development fees identified in the FY2016-2017 ADF Expenditure Plan & Fee Status Report (Attachment A).
2. **INSTRUCT** the Department of Cultural Affairs to update the accrued interest to each of the appropriation accounts, within Fund 516, to be used in tandem with the original ADF fee collected.
3. **AUTHORIZE** the City Controller to approve the interest appropriations, within Fund 516, recommended by the Department of Cultural Affairs.

BACKGROUND

The Arts Development Fee (ADF) Program was established by ordinance in 1988, revised in 1991, and codified in Los Angeles Municipal Code Section 91.107.4.6 and the Los Angeles Administrative Code Section 5.346. The ADF Program complies with the California Mitigation Fee Act and adheres to the tenets of a Nexus Study and a Cultural Master Plan adopted in 1992 by City Council.

The ordinance requires private developers of non-residential development projects, valued over \$500,000, to pay an arts fee or complete an arts project equivalent to the value of the arts fee. If the developer chooses to pay the arts fee, the amount is based on square foot rate calculation or one percent of the valuation of the project designated on the permit, or whichever is lower, as determined by the Department of Building and Safety.

From 1991 to 2007, arts development fees were used by the Department of Cultural Affairs to support a variety of arts and cultural activities. In 2007, a restriction was placed on the use of arts development fees that limited the expenditure of the fee to a one-block geographic radius of the related private development project that generated the fee. This restriction severely limited the Department’s ability to effectively deploy these resources and resulted in the accumulation of a large cash balance in the Arts Development Fee Trust Fund.

On July 23, 2013 Councilmember's Huizar and O’Farrell co-presented a motion (CF# 13-0933), which was further modified by Committee, instructing the Chief Legislative Analyst (CLA) and DCA, with the assistance of the City Attorney, to report back regarding updates to the Arts Development Fee Program, including changes to the amounts collected and the process for collecting and disbursing funds, as well as recommendations for expanding the types of projects generating arts development fees and expanding the allowable use of fees collected.

On April 11, 2014 City Controller Ron Galperin released an audit of the City’s Percent for Art Programs. The audit identified significant issues related to “paid-in” arts development fees, most

notably the accumulation of a large cash balance in the ADF Trust Fund.

In response to the City Council motion and the City Controller’s audit, from May 2014 to November 2014, the Department of Cultural Affairs participated in working group meetings with the Mayor’s Office, City Attorney, CLA, CAO and other relevant City agencies to address the instructions and recommendations referenced above. As a result of these meetings, it was determined that DCA would develop new administrative guidelines for the purpose of clarifying the goals, allowable uses, geographic parameters, expenditure and artist selection procedures, and other administrative matters associated with the ADF Program.

Through the adopted ADF Program Administrative Guidelines, now in its third cycle, DCA has supported a variety of public art projects that range from mural conservation, art walks, to music festivals. DCA has collaborated with individual artists, art organizations, and festival producers to create temporary and permanent public art projects and programs. Projects are identified by the Council Offices in conjunction with DCA as part of the ADF Expenditure Plan development phase. Additionally, as per the Department’s charge with creating art and cultural opportunities and experiences, DCA has developed the first citywide Public Art Biennial that is funded in part with ADF monies. This initiative’s framework is based on a two-three year cycle with the next iteration slated for Fiscal Year 2018/19. Lastly, as a response to the increased volume of projects, DCA has hired new staff to support the ADF public art projects identified in past expenditure plans as well as the newly identified projects in this report.

SUMMARY OF THE FY 2016-2017 ADF EXPENDITURE PLAN & FEE STATUS REPORT

The FY2016-2017 ADF Expenditure Plan & Fee Status Report provides an accounting of **\$10,095,598.20** in arts development fees, listed by the Council District in which the associated private development that generated the fee is located. The report identifies and commits **\$815,182.48**, within the overall trust Fund 516 balance that is comprised of “Priority Fees” in arts development fees toward eligible projects and provides associated findings required by the State Mitigation Fee Act.

The chart below provides a breakdown of arts development fees by Council District:

COUNCIL DISTRICT	BALANCE	PRIORITY FINDINGS (REQUIRE FINDINGS FY 2016-17)	FEEES LESS THAN 5 YRS	TOTAL
CD1	\$57,327.52	\$66,788.50	\$494,489.71	\$618,605.73
CD2	\$67,966.42	\$18,587.60	\$229,975.23	\$316,529.25
CD3	\$86,263.03	\$26,738.59	\$317,979.83	\$430,981.45
CD4	\$130,705.74	\$138,699.56	\$446,763.92	\$716,169.22
CD5	\$165,402.30	\$27,912.08	\$316,122.86	\$509,437.24
CD6	\$287,707.07	\$12,740.31	\$332,744.13	\$633,191.51
CD7	\$439,269.92	\$20,162.70	\$120,585.53	\$580,018.16
CD8	\$27,970.04	\$62,939.51	\$6,032.74	\$96,942.29
CD9	\$311,853.49	\$175,163.68	\$1,013,524.61	\$1,500,541.78
CD10	\$42,942.64	\$28,616.31	\$195,479.24	\$267,038.19

CD11	\$54,530.88	\$19,526.82	\$461,159.88	\$535,217.58
CD12	\$106,319.66	\$21,988.61	\$174,795.83	\$303,104.10
CD13	\$184,054.68	\$34,634.06	\$1,208,270.18	\$1,426,958.92
CD14	\$282,303.97	\$53,783.70	\$1,425,249.46	\$1,761,337.12
CD15	\$71,812.62	\$106,900.46	\$220,812.57	\$399,525.65
TOTAL	\$2,316,429.98	\$815,182.48	\$6,963,985.73	\$10,095,598.20

Consistent with the proposed administrative guidelines, the Department met with each Council Office between September and November 2016 and collaborated to develop project commitments for the **\$815,182.48** in arts development fees (labeled “Priority Fees” above) that require findings to be made. Pursuant to the ADF administrative guidelines, a Council Office or the Department may change the “proposed use” project typology identified in this expenditure report at a later time if necessary.

As part of the development of proposed ADF funded projects, DCA identified four public art project typologies for consideration, including: Permanent Public Art; Temporary Public Art; Citywide Initiatives and Open Calls for Public Art Projects. The investment of ADF funding in these areas will allow for the immediate activation of the street life of the City, creation of new public artworks in parts of the city where there is very little publicly accessible art, improvement of the visual identities of communities, and provide free, outdoor and publicly accessible arts activities to communities and the users of private development sites.

During the second quarter of this fiscal year, DCA issued several open calls as a way of strategically reaching out to emerging artists, established individual artists, arts organizations and festival producers to create site-specific work based on the public art typologies the Council Offices were interested in further pursuing. These Request for Qualifications provide the opportunity to garner a new pool of artists and arts organizations that are interested in working with the Department and Council Offices as opportunities arise, while adhering to the City’s procurement policies.

SUMMARY OF PREVIOUS ADF EXPENDITURE PLAN PROJECTS

The Department has worked directly with each council office to develop the FY2014-2015 and FY2015-2016 ADF expenditure plans, which resulted in 34 projects for consideration. The chart below provides a status summary of public art projects.

Number of Projects	Status
10	Completed in FY2014-15
5	Completed in FY2015-16
6	Completed to date in FY2016-17
31	In Progress
15 artworks and 160 discrete public art events	Citywide Public Art Biennial Completed, FY2016-17
196	Total Completed Public Art Projects/Events

IMPLEMENTATION

Following the review and approval of the ADF Expenditure Plan and Fee Status Report, DCA will initiate and administer the ADF projects and programs accordingly. Of the proposed **\$815,182.48** in project commitments, up to **\$146,732.84** or an 18% administrative fee, will be available to support staffing resources, leaving a balance of **\$668,449.64** available directly for public art projects and programs.

FISCAL IMPACT

There is no fiscal impact on the City's General Fund, as it relates to this report.


DANIELLE BRAZELL
General Manager

DB:ff

Attachments: A - FY2016-2017 ADF Expenditure Plan & Fee Status Report

Cc: Barbara Romero, Deputy Mayor, City Services
Edgar Garcia, Office of the Mayor, City Services
Kimberly Miera, Office of the City Attorney
Terry Sauer, Office of the City Administrative Officer
Elaine Owens-Sanchez, Office of the City Administrative Officer
Karen Kalfayan, Office of the Chief Legislative Analyst
Eric Villanueva, Office of the Chief Legislative Analyst