

ORDINANCE 2988; COUNCIL BILL 22-010

AN ORDINANCE ADDING A NEW DIVISION AND CORRESPONDING SECTIONS TO THE LAS CRUCES MUNICIPAL CODE (LCMC), 1997, AS AMENDED, CHAPTER 2 ADMINISTRATION, ARTICLE V, FINANCE, DIVISION 4, TWO PERCENT FOR PUBLIC ART FOR THE CITY OF LAS CRUCES.

The City Council is informed that:

WHEREAS, the City of Las Cruces desires to appreciate, foster, and promote the civic, educational, and cultural value of the arts in the lives of its citizens; and

WHEREAS, on January 7, 2013, per Ordinance 2674, City Council established the City Art Board to advise City Council on matters related to public art; and

WHEREAS, pursuant to Resolution No. 18-142, adopting the FY2018 City Budget, funds were allocated to commission a Public Art Master Plan; and

WHEREAS, the City of Las Cruces' Public Art Master Plan was commissioned to provide guidance that will ensure sustainable funding sources for public art, make the most of the City's resources, and ensure that the City's public art activities make an impact on Las Cruces and respond to the community's needs; and

WHEREAS, per the master planning consultants, percent for Art is a common funding mechanism for public art in peer cities across the United States, as well as in communities throughout New Mexico; and

WHEREAS, the advice from the master planning consultants is that the City of Las Cruces should immediately adopt, by ordinance, a Percent for Art policy to support public art related to new capital projects.

NOW, THEREFORE, Be it Ordained by the Governing Body of the City of Las Cruces:

(I)

THAT the Las Cruces Municipal Code (LCMC), 1997, as amended, is hereby amended to include a New Division 4, Two Percent for Public Art, along with corresponding sections within Article V. Finance, of Chapter 2. Administration, as shown in Exhibit "A", attached hereto and made part of this Ordinance.

(II)

THAT the City staff are hereby authorized to do all deeds necessary in the accomplishment of the herein above.


DONE AND APPROVED this 15 day of November 2021

APPROVED



Mayor

ATTEST:


Christine Rivera
City Clerk

Moved by: Gill Sorg

Seconded by: Tessa Abeyta-Stuve

AYES Kasandra Gandara, Gabe Vasquez, Gill Sorg, Ken Miyagishima, Yvonne Flores, Tessa Abeyta-Stuve, Johana Bencomo

NAYS



**2988; Council
Bill 22-010**

City Council Action and Executive Summary

Type of Action:

☐ Resolution

☒ Ordinance

☐ TIDD Resolution

District:	<input checked="" type="checkbox"/> 1 <input checked="" type="checkbox"/> 2 <input checked="" type="checkbox"/> 3 <input checked="" type="checkbox"/> 4 <input checked="" type="checkbox"/> 5 <input checked="" type="checkbox"/> 6 <input type="checkbox"/> N/A		
1st Reading:	November 1, 2021	Adopted:	November 15, 2021
Drafter:	Ceci Vasconcellos	Department:	Quality of Life
Program:	Las Cruces Public Art	Line of Business:	Director's Office

Title: AN ORDINANCE ADDING A NEW DIVISION AND CORRESPONDING SECTIONS TO THE LAS CRUCES MUNICIPAL CODE (LCMC), 1997, AS AMENDED, CHAPTER 2 ADMINISTRATION, ARTICLE V, FINANCE, DIVISION 4, TWO PERCENT FOR PUBLIC ART FOR THE CITY OF LAS CRUCES.

TYPE OF ACTION: ☐ Administrative ☒ Legislative ☐ Quasi-Judicial

PURPOSE(S) OF ACTION:

Approve ordinance for Public Art funding.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The City of Las Cruces desires to appreciate, foster, and promote the civic, educational, and cultural value of the arts in the lives of its citizens. On January 7, 2013, per Ordinance 2674, City Council established the City Art Board to advise City Council on matters related to public art. Furthermore, in pursuance to Resolution No. 18-142, adopting the FY2018 City Budget, funds were allocated to create a Public Art Master Plan. The City of Las Cruces' Public Art Master Plan, which established the Las Cruces Public Art Program (LCPA), was commissioned to provide guidance that will ensure sustainable funding sources for public art, make the most of the City's resources, and ensure that the City's public art activities make an impact on Las Cruces and respond to the community's needs.

Per the master planning consultants, percent for art is a common funding mechanism for public art in peer cities across the United States, as well as in communities throughout New Mexico. The advice from the master planning consultants is that funding for public art should come from a diversity of sources, one of the most important being a *Percent for Art* policy. The proposed ordinance establishes a two percent apportionment from the issuance of General Obligation (GO) Bonds to be allocated for public art. The City can adopt, by ordinance, the *Percent for Art* policy to support public art related to new capital projects.

SUPPORT INFORMATION:

[Exhibit-A Public Art Funding Ordinance](#)

[Attachment-A 07-08-21 CAB Minutes](#)

[Attachment-B QOL PRC Meeting Draft Minutes.08.25.21](#)

[Attachment-C QOL FY22 Strategic Business Plan](#)

[Attachment-D Las Cruces Public Art Master Plan](#)

PLAN(S):

Other, Department Strategic Business Plan

COMMITTEE/BOARD REVIEW:

City Art Board, Quality of Life PRC

ANNUAL BUDGET APPROVAL:

☐ Yes

☐ No

☒ N/A

Does this action amend the Capital Improvement Plan (CIP)?

☒ Yes

☐ No

☐ N/A

Does this action align with Elevate Las Cruces?

☐ Yes

☐ No

☒ N/A

OPTIONS / ALTERNATIVES:

1. Vote yes; this will approve a percent for art policy in support of public art related to new capital projects.
2. Vote no; this will not approve a percent for art policy in support of public art related to new capital projects.
3. Vote to amend; this would modify and could postpone funding for public art through a percent for art policy based on direction from City Council.
4. Vote to table; this would postpone funding for public art through a percent for art policy.

EXHIBIT A**DRAFT****Public Art Funding Sources:****Chapter 2 - Administration****Article V: Finance****Division 4: Two Percent for Public Art****Section 2-1276. Purpose.**

The intent of this article is to establish a dedicated funding source for acquisition of artworks, as defined in the Las Cruces Public Art Master Plan, and for the maintenance of current and future public art assets by adopting a Percent for Art policy to support public art related to new capital projects.

Section 2-1277. Definitions.

Capital Project. A project that helps maintain or improve a City asset, the cost of which the City normally capitalizes in its financial accounting system, and which (if funded with the proceeds of tax-exempt GO Bonds) is considered a capital cost under applicable federal tax law.

Capital Improvement Program. All capital projects of the City identified in the City's rolling capital improvement plan.

City Budget. The fiscal roadmap to providing services and programs to the community based on the goals and objectives of City Council.

General Obligation Bond (GO Bonds). A municipal bond backed solely by the credit and *ad valorem* taxing power of the issuing jurisdiction rather than the revenue from a given project or special fund. Typically used to raise funds for projects that will serve the entire community.

Public Art. Art in City-owned or -leased, publicly accessible buildings and other City-owned public spaces that meets the criteria specified by the Las Cruces Public Art Master Plan.

Public Art Master Plan. Provides guidance that ensures sustainable funding sources for public art, makes the most of the City's resources, and ensures that the City's public

art activities make an impact on Las Cruces and respond to the community's needs. Adopted by City Council in March 2020 under Resolution 20-111. Expected to be reviewed and revised as needed, but at least once every five years.

Same Purpose Projects. Any public art project that satisfies the criterion set for the original purpose for funds acquired through Percent for Art and is consistent with voter approved purpose or purposes of the GO Bonds from which the funds are derived.

Section 2-1278. Percent for Art.

- (A) Two percent (the "Percent for Art") of the total net proceeds, after payment of costs of issuance allocated to each project funded through the issuance of General Obligation (GO) Bonds is allocated for public art, excluding GO Bonds issued to fund utility or flood-related Capital Projects.
- (B) Subject to the restrictions under federal tax law, the public art program shall expend no less than 0.25 percent, but no more than 0.50 percent of the total amount allocated to the public art program to restore and conserve public works of art to protect public investment.
- (C) Private funds received for public art may be added and budgeted in a similar manner consistent with the Public Art Master Plan and/or donor restrictions but will not be subject to the same federal tax restrictions as tax-exempt GO Bond proceeds.
- (D) Percent for Art funds shall be tracked separately.
- (E) Percent for Art funds derived from the net proceeds of GO Bonds must be expended to acquire public art, for the purpose for which the GO Bond proceeds funding the two percent are intended and must also satisfy the Public Art Master Plan.
- (F) Percent for Art funded with tax-exempt GO Bond proceeds shall have an expected useful life such that the weighted average maturity of the bonds does not exceed 120% of the weighted average useful life of all of the purposes financed by the GO Bonds including the art purpose.
- (G) When Percent for Art funding exceeds the amount that, in the City's discretion, should reasonably be expended for art to be incorporated in a bond-financed facility, construction or other capital project, funding should be distributed to same purpose facilities or capital projects not directly related to originating Percent for Art purpose but where there is need for public art funding; provided, that the application of such funds in same purpose facilities shall be consistent with voter approved purpose or purposes of the GO Bonds from which the funds are derived.
- (H) Percent for Art shall not apply where the bond ordinance, other applicable laws or regulations, or official guidance from a federal or state regulatory

authority concerning allowable uses of GO Bond funds provided for a Capital Project precludes the expenditure of funds for works of art.

- (l) Nothing contained herein shall preclude funding the acquisition of art for municipal property in other ways.

Section 2-1279. General Operational Funding

General Operations funds of the Las Cruces Public Art program outside the Percent for Art acquisition process are not eligible for funding from Percent for Art under Section 2-1278. These items include, but are not limited to, operational and administrative support for the activities, programs, and work of Las Cruces Public Art, and Special Project funding for public art projects recommended by the City Art Board that support the vision and goals for public art as outlined in the approved Public Art Master Plan and the departmental strategic plan.

Rev 11/09/21