

MEMORANDUM

Recreation and Community Services Department



DATE: November 3, 2021

TO: Mayor and Councilmembers

THROUGH: Steve McHarris, City Manager *Steve McHarris*

FROM: Renee Lorentzen, Director of Recreation and Community Services

SUBJECT: **Update on Public Art Requirements for Private Development**

This Information Memorandum provides background and status of developers' Public Art Installations and Public Art in-lieu Contributions as required by the City's Public Art Requirements for Private Development ordinance.

Background

The City of Milpitas adopted a Public Art Requirement for Private Development ordinance (38.821) in 2015. This "percent for art" ordinance is modeled after similar ordinances common throughout the Bay Area. The public art ordinance applies to 1) non-residential developments involving more than 2000 square feet of new construction and 2) residential construction of 20 or more units.

Developers are required to either install publicly accessible art (valued at one half of one percent of the building Development Cost), as determined by the City's Building Safety and Housing Department or pay that amount into the Public Art Fund. Developers have discretion to decide whether to install art, pay the Public Art in-lieu Contribution ("fee"), or a combination of the two, unless it is specified in their Site Development Review.

Milpitas allows an exemption to the Public Art Requirement for Private Development for residential developments with at least 20 percent affordable units, whose developer adequately demonstrates to the City Council that art cost would cause the project not to be economically viable.

Art in Private Development Status

Since 2015, three publicly accessible artworks have been installed in Milpitas under the requirements (one at Center Pointe, two at Summerhill). The value expended on these publicly accessible art installations is approximately \$852,000. There are two additional public art pieces (Anton Aspire and Mill on Main). in various stages of the design-approval-fabrication process - the value to be expended for these art projects is \$932,334.

There are 10 other developers that have been issued site development permits and are subject to the Public Art Requirement. These developers have elected to pay the fee instead of installing art on their property. The combined value of their contributions is expected to total more than \$1.28 million.

Ongoing Coordination

Recreation and Community Services staff continue to work with both the Planning Department and Building Safety and Housing Department on identifying eligible projects and estimated value of proposed public art or the payment of the fee.

As of June 30, 2021, the balance of Public Art Fund amounts to \$1,247,904. The balance of the Public Art Fund is reported to the Arts Commission annually as part of their work plan discussion. Monies in the Public Art Fund are used for staff costs managing the Public Art program, maintenance of City-owned public art, and public art initiatives such as the recently approved Mural Program.