

## INTRODUCTION

The Mayor's June Budget Message contained several recommendations concerning the City of San José's arts funding, the public art program, and the City's cultural facilities. In order to fulfill its legal obligation to advise the Council on these matters<sup>1</sup>, the Arts Commission appointed an ad hoc Task Force comprised of Arts Commissioners and representatives of San José arts and cultural organizations, including the San José Arts Roundtable, the San José Arts Alliance, the Silicon Valley Arts Coalition and Festivals, Parades and Celebrations grantees.<sup>2</sup> The Task Force met five times between July 9 and August 6. It also conducted a July 30 public hearing on its proposed recommendations.

The Task Force's recommendations, adopted unanimously, are contained in this report. Although each recommendation is tied to a specific portion of the Budget Message, several underlying themes emerged during the Task Force's work:

- The task force reaffirms the critical interdependence and interrelationship between the arts community and the City. The arts community provides residents and visitors with important cultural, educational and leisure choices and contributes to the economic vitality of the City. The City provides partial funding and infrastructure to make those offerings possible.
- The task force recognizes the considerable budgetary challenges facing the City and reaffirmed the commitment of the arts community to working with the City to meet those challenges.
- Although stability in funding is important to arts organizations, it should not come at the expense of diluting the Transient Occupancy Tax (TOT) as a dedicated source of arts support.
- The City's arts and cultural organizations and the Arts Commission should be active participants in any City initiative related to arts funding or cultural facilities scheduling and operation.
- When the time is appropriate, the City should consider other revenue sources to supplement the Transient Occupancy Tax to provide more funding stability for arts and cultural programs.
- In any reorganization of the Conventions, Arts and Entertainment Department, administration of the City's arts and cultural programs, including its public art program, should be centralized at a high level within the City management structure.

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<sup>1</sup> "The [arts] commission shall have the following nonexclusive functions, powers, and duties: ...D. Advise the council on appropriate policies and procedures for the distribution of city funding for the arts and make recommendations to the council respecting grants and other funding to arts organizations. E. Advise the council in coordination with appropriate boards and commissions on all matters related to public art...." San José Municipal Code section 2.08.850

<sup>2</sup> Task force members included Connie Martinez (executive director, Children's Discovery Museum) and Alexandra Urbanowski (managing director, San Jose Repertory Theatre) as representatives of the San José Arts Roundtable, with Stewart Slater (executive producer, American Musical Theatre) as an alternate; Cathy Kimball (executive director, San Jose Institute of Contemporary Art) and Steve Saperstein (executive director, San Jose Jazz Society) as representatives of the San José Arts Alliance; Herb Gellis (National Association of Composers USA, San Francisco Bay Area Chapter) and Colleen McCarthy (Tabard Theater) as representatives of the Silicon Valley Arts Coalition; Blage Zelalich (San Jose Downtown Association) and Linda Bronson (Almaden Valley Women's Club), as representatives of City Festival, Parade, and Celebration grantees; and Arts Commissioners Richard Ajluni, Natalie Hala, Stephen McCray, and Ben Miyaji. The Task Force was chaired by Ben Miyaji, Arts Commission Chair.

## Multi-year Grant Scoring

*“The Manager is directed to work with our arts community during the coming year to develop a multi-year grants scoring system that reduces the frequency of applications and streamlines review procedures for funding arts organizations. The goal of this effort would be to eliminate the need for annual applications and to allow City staff to apply annual Transient Occupancy Tax revenue projections to already-approved organizational ratings.”*

### Context

The Arts Commission and City staff began a process of revising the core arts grant programs in 2000, when the Commission formed an ad hoc committee to take constituent input on the state of the grant programs. The committee’s work culminated in a number of administrative changes to the grant programs for the FY2001-02 grant cycle, and a commitment to focus subsequently on policy changes. In 2002, the Office of Cultural Affairs (OCA), in conjunction with the Arts Commission, commissioned an independent assessment of all the “arts programs” — the grant programs, as well as the Incubation Program and the arts education programs — as a final preparation for an overall revision of the arts programs, including granting. The assessment, conducted by Bay Consulting Group, incorporated the input collected by the ad hoc committee.

Following the completion of the independent assessment, Commission and staff worked closely, in conjunction with public meetings and workshops with constituents, to develop a set of policy changes that the Arts Commission recommended to the City Council, which adopted them in November 2002, in time for the 2003-04 program cycle. These changes altered various eligibility, evaluation and funding parameters in an effort to clarify and streamline them. They did not change the basic designs of the programs.

The policy changes were intended as an interim step in overhauling the arts grant programs. (The basic design of the programs is more than a decade old.) The Commission’s Programs Committee and City staff have already begun to discuss the revision of the grant and other arts programs. In keeping with the programs assessment, both are committed to keeping as open a mind as possible about how programs might best look for the future.

As in the past, the planning work will involve many opportunities for dialogue with the constituency to ensure that its ideas and concerns are taken into account. Among the many issues already on the table is finding an appropriate role for multi-year applications and evaluations. The Budget Message’s call for development of a multi-year grants scoring system reinforces the work already underway.

### Findings

- A decision-making process that involves the evaluation of grant applications by panels of expert, experienced and accomplished arts administrators, artists, and lay persons is essential to making sound investments of public funds in the growth and sustenance of a healthy arts industry.

- Granting processes that require such evaluations provide greater assurance that public-benefit outcomes can be defined and obtained.
- Careful evaluation of grant applications by highly experienced arts peers adds value to the grant-seeking process for applicants.
- Multi-year evaluation and scoring has a high potential for reducing the grant-seeking workload for arts organizations, but too long an interval between application evaluations could lock a low-scoring applicant into a low grant.
- Granting processes that include timely reporting by grantees and reasonable oversight by the City provide greater assurance of adequate accountability for the prudent expenditure of scarce public funds.
- Multi-year evaluations and scoring lends itself best to the investment of public funds in broad organizational and programmatic support, rather than to the support of specific projects, which may be very focused and frequently changing.

### **Recommendations**

1. Ensure that multi-year scoring of grant applications is integrated in an appropriate manner wherever feasible in the grant programs;
2. Ensure that there are opportunities for public discussion and input in the process of seeking to implement multi-year scoring;
3. Consider two years as the optimal interval between applications and allow for any program that includes multi-year scoring to take into account the grant history of applicants.

## **Stabilizing and Improving Arts Funding Using TOT Funds**

*“The Manager is directed to explore with the arts community a strategy for stabilizing and improving arts funding using TOT funds. Such a strategy should include a plan for building an adequate reserve during fiscally prosperous years to be used for program stability during the economic downturns.”*

### **Context**

For more than 20 years, Transient Occupancy Tax revenues have served as the key foundational element of the City’s support for the arts. By law, approximately 1½ percentage points of the 10 percent tax is dedicated to arts support (“direct TOT”), including grants and the arts program and administrative expenses of the OCA. Over the years, the dedicated funds have gone almost exclusively for arts grants and, more recently, to Festival, Parade and Celebration (FPC) grants as well. However, in many years, the direct TOT budget has been supplemented by funds from other sources, including unspent funds from the previous year.

Over the last decade and a half, the TOT has been on a steady, moderate rise. However, reflecting the “dot-com boom,” revenues increased sharply in 2000 and 2001, and the value of grants the City awarded rose accordingly. Virtually all of the increase was spent on increasing grant awards, if not in the year collected, then in the following year as carried-over revenue.

TOT revenues peaked in FY2000-01, then began a decline that accelerated following the terrorist disasters of September 2001. However, with the carryover of actual TOT revenues from FY2000-01, FY2001-02 saw a steep increase to the highest value ever of arts grants awarded. In FY2002-03, for the first time in about a decade, the City projected that TOT revenues would fall sharply, and grant awards declined accordingly. In a surprising blow, when the City reviewed its revenue projections at mid-year, it found that initial projections had been too optimistic and instructed the OCA to reduce expenses, including grant awards. However, in order not to demand refunds from grantees, the OCA reduced program costs and the City drew on reserves to keep the FY2002-03 grant awards whole.

In keeping with the continued downturn of the economy, the City projected that TOT revenues would fall again in FY2003-04, resulting in a second year of steep declines in the value of grants awarded. The two successive years of sharp declines in grants awarded has stirred much anxiety among arts groups and event producers.

### **Findings**

- This element of the Budget Message appears to represent a desire to find a way to re-shape the infusion of TOT funds for arts support in order to moderate the impact of large swings in TOT revenues, such as the rapid increases that occurred in 2000 and 2001, and the sharp decreases of 2002 and 2003.
- There would be value to finding an appropriate strategy for reserving some of the TOT allocation in high growth years in order to provide a cushion in years in which there is a high rate of decline.

- Part of the challenge of finding such a strategy is achieving consensus on the thresholds for high growth or high rates of decline.
- Exploring a strategy for stabilizing the availability of TOT funds for arts support should include encouraging the City to not limit itself to the direct TOT allocation for arts support required by law.
- This issue raises questions beyond stabilizing the relationship between TOT funds and arts funding.

### **Recommendations**

1. The City should develop, in conjunction with the Arts Commission, an annual budgeting strategy that would allow the allocation in high-growth years of some portion of TOT revenues to be available for use in years when there is a high rate of decline in TOT revenues.
2. The Arts Commission should study the application of this recommendation to the Festivals, Parades and Celebrations grants in light of the fact that a portion of these grants are derived from sources other than the TOT.

## General Fund Base Budget Funding

*“The Manager is further directed to provide the opportunity during the coming year for City grant-funded arts organizations to shift from grants based on TOT revenues to General Fund Base Budget funding. There may be huge value for some arts groups to get completely out of the grant process and free up their staff time. This opportunity would be available to groups that have received more than three continuous years of grant funding, and allow them to enter a multi-year contract, such as for five years, for services within the City’s base budget. Base-year funding should be equal to the average three years for each group.*

*Contracts would be subject to annual adjustments using an index reflecting changes such as growth of the City’s General Fund revenues or changes to non-public safety department budgets. Funding disbursements should be at least quarterly in advance of expenditures. If an organization were found to be not performing under its contract, payments would be on a reimbursement basis for a probationary period. Additionally we should transfer a portion of TOT revenues related to a contracted arts group to the General Fund.”*

### Context

While the TOT has been an important source of City support for arts and cultural programs, it has been inconsistent in recent years. A major spike in funding several years ago has been followed by an equally precipitous fall in the past two years. While the General Fund growth and decline has been more moderate, the average annual TOT growth has exceeded that of the General Fund, over the last decade.

### Findings

- Many members of the Task Force believe that the Council intended for the constituency to have an opportunity to comment on this element of the Budget Message before a commitment to implement it is given final consideration. Members reported conversations with Council members in which they were assured that this is the case. However, staff reports that the record shows that the Council adopted the budget message as is and the direction was clearly intended to be implemented.
- It appears that this approach does not really shift the burden of a portion of arts support to the General Fund; it shifts direct TOT revenues to the General Fund in order to enable arts support to appear to be based in the General Fund. Consequently, it will reduce the amount of direct TOT funds available for arts support.
- Although clearly intended to offer a more stable, predictable funding opportunity to some arts groups, this budget direction could have the unintended consequence of reducing available funding for groups that do not choose to shift to the General Fund. This would result from a disproportionate shift of direct TOT to support General Fund grants that would be based on a three-year average grant (which includes the “peak” direct TOT year). Shifting arts funding to the General Fund would sever the close correlation between arts and cultural activities that help fuel the TOT and the benefits derived from it.
- This element overturns the long-standing practice of City arts granting based on merit (the fruit of the 20/20 cultural plan) and appears to reinforce an entitlement mentality.

- Although the City can enter into multi-year contracts, a Council cannot bind future Councils to the expenditure of funds. Thus, any multi-year contract would need to contain language that the funding under the contract is subject to annual City Council appropriation. Funds may be committed to a contractor for a multi-year period if the funds are appropriated in their entirety in conjunction with the contract. If the funds are appropriated each year, then the Council must decide each year if funds will be appropriated and, if so, in what amount.
- Eliminating the review and assessment inherent in the grants process and moving to long-term contracts for services could encourage mediocrity and discourage the development of new works and initiatives on the part of the cultural institutions.
- Any move away from a regular grants process conducted by the Arts Commission will also lessen the opportunity for public participation in the City's cultural support system.
- Without an annual or biannual grant review, the City will have less oversight of the management and operations of cultural institutions.
- Task Force members representing large, mid-sized and small arts groups, as well as FPC grant recipients, report no known support for this direction.
- This proposal would seem to have more applicability for arts groups receiving operating support than for groups receiving project support, since projects tend to change materially from year to year. In addition, for many cultural groups, the program planning horizon is only one to two years, making it difficult to identify specific multi-year contractual services in advance.
- This element weakens the link between City arts support and a dedicated revenue stream, and threatens the stability and viability of the dedicated revenue stream.
- Over the years, the City has supplemented TOT funding with money from the General Fund.
- There are many details that would need to be resolved in order to implement this budget direction.

## **Recommendations**

1. The Task Force recommends that this direction not be implemented.
2. The City should consider augmenting the direct TOT arts funding with General Fund support in those years that permit increases.

## Redirecting Public Art Funds

*“The Manager is directed to evaluate redirecting half of the 2% Public Art Funds, to the extent legally allowable, to be used for cultural facility capital projects and a fine arts endowment fund that can assist with stabilizing funding over the long-term.”*

### Context

The City of San José adopted a 1% for art ordinance in 1984, mandating that at least 1% of the budgets of City and Redevelopment Agency-supported capital construction projects be allocated for the acquisition and commissioning of artworks to be integrated into the projects. In 1992, the ordinance was amended to increase the percentage to 2%, in recognition that 1% of the budgets often did not yield sufficient funds to commission artwork of an appropriate scale to the underlying capital projects. In 1999, the City Council adopted a public art master plan that also mandated a 1% setaside for art in private developments that are supported by the Redevelopment Agency.

### Findings

- This is a complicated issue, with 2% public art funds being derived from many sources. Detailed analysis will be required to determine which funds may be eligible for this purpose.
- Preliminary analysis by the City Attorney’s Office suggests that there are three categories of funding sources:
  - Category 1. Funding that may be redirected: General Fund-supported projects: TOT-funded projects.
  - Category 2. Funding that would require case-by-case analysis: Redevelopment Agency/Private Developer projects, Transit Mall project, Agency-funded construction projects.
  - Category 3. Funding that may not be redirected: Tax-exempt bond-funded projects, C&C tax-funded projects, Parkland dedication ordinance/Parkland impact fee-funded projects, Park trust fund projects, Airport projects.
- Projects in Category 1 above are relatively modest, amounting to less than \$60,000 in the current year.
- Projects in Category 2 above are larger, but the majority of that money is contractually committed.
- There may be an opportunity to augment the available funding from category 2 in the future by increasing the percentage levied on private developers from 1% to 2% to match the City’s funding level. If this requirement were in place today, about \$1.25 million additional would be available, primarily from the Adobe project (\$1 million) and the Paseo Villa Condominiums project (\$243,000).
- Future planned projects such as the proposed CIM developments could raise \$2 million or more in private developer fees.
- Concern has been expressed about whether an increased 2% assessment would put San José at a competitive disadvantage in attracting new private development to the city.

- Research has indicated that more than 15 California cities impose a one to two percent public art setaside, or in some cases a “cultural impact fee,” on some or all private development as a means of supporting arts and cultural programming and facilities.

### **Recommendations**

1. The City should consider redirecting a portion of the eligible 2% public art monies on those projects that are legally eligible and not under contract.
2. This redirection of funds should occur for a limited duration of time, until the stabilization reserve has reached a satisfactory level.
3. In the future, when the City is growing, the City should explore the possibility of increasing the private developer public art requirement from 1% to 2%, to match the City’s funding level, with the additional 1% going to support cultural facility capital projects and the fine arts endowment.
4. With appropriate study, the City should also consider the imposition of a small “cultural impact fee” on certain commercial, industrial and/or residential private development projects that are in excess of some established dollar threshold. Careful consideration should be given to the timing of such a proposal, so as to avoid adverse impact on private development activity in the city.
5. Parameters (policy, process) for the use of redirected funds should be developed with community input prior to the redirection of the funds.

## Realignment with Economic Development Goals

*“Convention Center Competitiveness and Efficiency. The Convention Center and other City facilities are essential economic assets for the Downtown and the City. To continue to improve our efforts to market our convention center, attract diverse conventions, and establish San José as the location of choice for local, state and national groups, businesses, and associations, the Manager is directed to implement the following:*

- 1. Direct the Manager to explore opportunities to refocus Department of Conventions, Arts and Entertainment function and activities toward economic goals of the City. This review should include major restructuring of the department and/or moving most or all of its functions to other City Offices or Departments to ensure that all economic development efforts related to the Convention Center, and arts and entertainment activities are aligned with the City’s economic development goals.”*

### Context

After the Convention Center expansion measure failed a narrow margin, a consulting firm was contracted to conduct a study of the Convention Center efficiencies. Based on the draft report, a plan to consider the reorganization of the Department, including some potential privatization of activities, was recommended. The arts program, while having a long-term impact on economic development, has been seen as a cultural development tool to ensure a diverse range of offerings and to assist to strengthen, stabilize and professionalize local arts and cultural organizations, as well as artists.

### Findings

- The City is currently in the process of developing a new set of economic development goals that will be reviewed in October 2003.
- There is a need to recognize that the City’s arts programs historically have focussed on cultural development, as well as economic development.
- Having the responsibility for arts and cultural programs and funding concentrated in a single City agency has allowed for a strong public role in local cultural development.
- There is interdependence with all the arts and culture organizations, large-medium-small.
- Arts and culture go hand in hand with quality of life and with positive impacts on the economy.
- During the 1970’s, 1980’s and early 1990’s, the arts kept the downtown alive, and continue to play a major role in attracting residents and visitors to the downtown.
- Arts and cultural activities provide multiple benefits to the community that are of greater significance than economic development alone. These other intrinsic benefits need to continue to be valued, with the acknowledgement that the arts and culture:
  1. Provide service to youth and students resulting in improved academic performance and other positive behaviors.
  2. Are a means for expression by San José’s diverse peoples and cultures.
  3. Help in building a sense of community.
  4. Foster a general culture of creativity critical to innovation.

5. Promote development of cultural facilities and infrastructure.
  6. Contribute non-City investment dollars for both capital and operating support of City-owned cultural facilities.
  7. Are integral to positioning San José as a desirable place to live, work and play.
- The Arts Commission fulfills an important role in ensuring that the arts constituency has a prominent voice in the development of the City's arts policies. At the same time, the Arts Commission is a vehicle for citizen participation in the City's cultural support system.
  - There are many organizational models for municipal arts programs across the nation that should be explored with respect to structure or placement of the arts and cultural programs within the City organization.

### **Recommendations**

1. Depending on the outcome of the Request for Proposals (RFP), it will be necessary for the City to study the most appropriate location in the City structure for the Department and related functions. Whatever structure is considered, it is fundamental that the arts and cultural programs should retain existing visibility or be placed higher in the City structure to ensure the arts continue to be an important function and asset.
2. In any reorganization or restructuring, the Arts Commission should continue to have an important and visible role in advising the Mayor and Council on arts and cultural issues.
3. Concentration of the arts and cultural programs and activities into a single cultural affairs agency is preferable to disbursing those functions among other agencies.

## **RFP for Management of Cultural Facilities**

*“Under the City’s competition policy, prepare a Request for Proposals for the management and operation of the Convention Center, Center for Performing Arts, Montgomery Theater, Fox Theater, Civic Auditorium, Parkside Hall, and any other facilities that are appropriate. This RFP should allow interested parties to submit proposals for the management of all or individual facilities, or combinations. It should be structured to maximize both potential efficiencies and the City’s ability to amortize any proposed improvements.”*

### **Context**

Historically, the City has treated the theaters and other arts-related facilities as cultural development tools with priority given to local non-profits in scheduling. The recently adopted Booking Guidelines (4-9-03) reflect this priority. Under current practice, local non-profit cultural organizations receive priority in booking the City-managed theaters.

### **Findings**

- The Task Force acknowledges that the efficient operation of the Convention Center and the cultural facilities is an important goal, worth pursuing.
- There is great complexity in RFP development, review and selection of candidates, and the Arts Commission and community stakeholders should participate in the process.
- The theaters have been utilized as a local cultural development tool and this aspect should not be lost if another management model is selected.
- If the facilities are privatized, there should be opportunities for recourse by local arts and cultural organizations, guaranteed performance dates, or other safeguards established. The Task Force, citing examples of Shoreline, Hayes Mansion and Concord Pavilion, expressed concerns about the effects of privatization.
- The RFP should articulate both the economic and the non-economic goals of these facilities and should develop appropriate standards by which these goals can be achieved.
- There is a need to reemphasize the mission of the theaters, which may differ by facility, in the development of an RFP and allow for the mission to be maintained or enhanced.
- There is a need for primary consideration of non-profit operators of City cultural facilities, with the expectation that a non-profit would promote local interests while operating facilities for the benefit of the local community, with a commitment to long-term performance.
- The economic impact of the theaters is important but should not be the sole consideration in their management and operation.
- The recently adopted Booking Guidelines should be a requirement for consideration in an RFP process, as well as the rental structure that has supported local non-profit arts groups.

### **Recommendations**

1. The local arts constituency should participate in the development of the Request for Proposals (RFP) for any new management model of the cultural facilities.
2. The RFP should stress the ongoing importance of the theaters and facilities as important cultural development tools and venues.

3. The RFP should preserve the existing Booking Guidelines, historic dates and favorable rate structures that the City has used to support local non-profit arts organizations.
4. The local arts constituency should have a role in the evaluation of any proposals related to the theaters and facilities used for arts.

## **Conclusion**

The Task Force welcomed the interest in, and concern about, the well being of the City's arts-provider community as demonstrated in the many elements of the budget message that touched on arts and cultural support issues. The Task Force recognizes that the City, through the Arts Commission and through City staff, has a substantial history in working in consultation with the arts community to determine the best course for the City to take in preserving a strong arts presence to serve the citizens of San Jose. Several elements of the budget message reinforce that spirit of consultation between the City and the cultural industry; others provide new opportunities for further developing a mutually beneficial relationship. However, in the direction relating to the shift from TOT grants to General Fund contracts, the Task Force believes it would be detrimental to the overall health of the City's arts and cultural community. The Task Force sincerely and unanimously encourages the Mayor and City Council to reconsider that particular element of the budget message. The Task Force appreciates the opportunity to provide comments on these proposed new directions in arts support by the City.