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ORDINANCE NO. 2015-05-017

AN ORDINANCE ESTABLISHING BELLINGHAM MUNICIPAL CODE CHAPTER 4.92 FOR THE PURPOSE OF ESTABLISHING A ONE PERCENT FOR ART PROGRAM

WHEREAS, the Bellingham City Council has identified that providing access to quality of life amenities, including fostering the arts, is a key legacy and community commitment; and

WHEREAS, the City has demonstrated its commitment to fostering the arts through investment in and support of the Whatcom Museum, the Mount Baker Theatre, establishment of an Arts District, and other actions and financial contributions; and

WHEREAS, the inclusion of artwork in public places reinforces the City's status as a regional arts destination; and

WHEREAS, the Economic Development Chapter of the City's Comprehensive Plan recognizes that investments in quality of life amenities and services, including the arts, are an effective tool for attracting and retaining quality businesses; and

WHEREAS, the City has established the Bellingham Arts Commission ("BAC") as an advisory body to the Mayor to advise and advocate for the enhancement and integration of the arts; and

WHEREAS, the City currently manages and maintains a collection of over eighty-four (84) pieces of outdoor public artwork; and

WHEREAS, the process for the review of public artwork by the BAC is codified in Bellingham Municipal Code ("BMC") 2.36; and

WHEREAS, the BAC has adopted policies and procedures governing the selection, management, and removal of public artwork; and

WHEREAS, the construction of capital projects, such as streets, parks, and civic buildings, provides an opportunity for integration of additional artwork into public places.

NOW THEREFORE, THE CITY OF BELLINGHAM, WASHINGTON DOES ORDAIN THAT BELLINGHAM MUNICIPAL CODE SECTION 4.92 IS ADOPTED AS FOLLOWS:

4.92.010 Purpose

Establish a program requiring one percent (1%) of eligible capital improvement project costs be spent on integrating artwork into capital projects to increase the amount of artwork in the public realm.

1 **4.92.020 Definitions**

- 2
- 3 A. "Artwork" has the same meaning as "Work of Art" as defined in BMC 2.36.050 B, and
- 4 specifically includes ornamentation integrated into the various elements of a capital
- 5 improvement project as well as distinct, independent artwork located in the vicinity of
- 6 the capital improvement project.
- 7
- 8 B. "Capital Improvement Projects" means projects adopted in the City's Capital
- 9 Improvement Plan.
- 10
- 11 C. "Eligible Cost" is the cost of any Capital Improvement Project, including, without
- 12 limitation, all constructions costs, architectural and engineering fees and site work
- 13 expenses.
- 14
- 15 Eligible Cost excludes: site remediation and/or restoration costs; funds which are
- 16 explicitly ineligible to be used in conjunction with public art fund programs; budgeted
- 17 costs of real property acquisition, demolition and financing; and/or Washington State
- 18 sales tax.
- 19
- 20 D. "Eligible Expenses" for Artwork include, but are not limited to:
- 21 o Artist or design fees;
- 22 o Labor, materials, and transportation required for production, installation, and
- 23 display of Artwork;
- 24 o Travel related to the production of the Artwork;
- 25 o Permit or certificate fees;
- 26 o Plaques to identify the Artwork; and/or
- 27 o Ongoing maintenance cost of the Artwork.
- 28
- 29 E. "Maintenance" is the periodic work on Artwork required to maintain its original
- 30 functionality or appearance.
- 31

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33 **4.92.030 One Percent for Art Program Established**

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35 This hereby establishes a Percent for Art Program.

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37 The One Percent for Art Program requires that one percent (1%) of Eligible Costs of

38 Capital Improvement Projects exceeding two million dollars (\$2,000,000) be allocated

39 for Artwork. Funds shall be used for Eligible Expenses. Unspent funds designated

40 under this program may be utilized for additional Artwork or maintenance of Artwork in

41 the City's public artwork collection.

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44 **4.92.040 Procedure**

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- 46 A. The Department Head responsible for BAC oversight shall work with the Department
- 47 Head responsible for the Capital Improvement Project(s) to identify Capital
- 48 Improvement Projects subject to this ordinance and Eligible Costs associated with
- 49 such Capital Improvement Projects.

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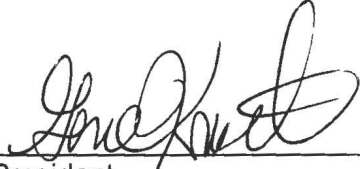
- B. The Department Head responsible for Capital Improvement Project(s) will notify the assigned project manager of the requirements of this ordinance.
- C. The assigned project manager shall work with BAC staff regarding the integration of Artwork into the Capital Improvement Project, following adopted policies and procedures.

4.92.040 Exemptions

Capital Improvement Projects meeting the following criteria are exempt from this ordinance:

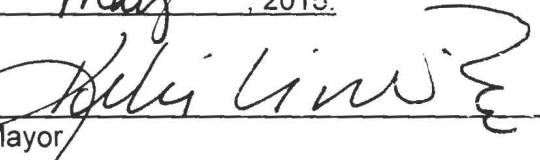
- A. The Capital Improvement Project cost is less than two million (\$2,000,000) dollars; or
- B. The Capital Improvement Project is completely underground (e.g. water and sewer mains) and/or is not visible from the right-of-way, street, park, or other public space; or
- C. The Capital Improvement Project consists of routine maintenance or repair; or
- D. The Capital Improvement Project is legally restricted from inclusion in this program; or
- E. The Capital Improvement Project is deemed by the City Attorney to fall outside of the intent of the ordinance.

PASSED by the Council this 18th day of May, 2015.



 Council President

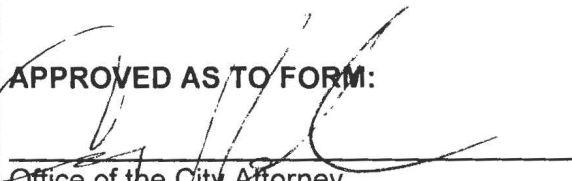
APPROVED by me this 21st day of May, 2015.



 Mayor

ATTEST: 

 Finance Director

APPROVED AS TO FORM:


 Office of the City Attorney
 Published: May 22nd, 2015