



CITY OF COSTA MESA

ARTS COMMISSION

Agenda

Thursday, October 5, 2023

6:00 PM

**City Council Chambers
77 Fair Drive**

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- During the Public Comment Period, use the “raise hand” feature located in the participants’ window and wait for city staff to announce your name and unmute your line when it is your turn to speak. Comments are limited to 3 minutes, or as otherwise directed.

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4. Additionally, members of the public who wish to make a written comment on a specific agenda item, may submit a written comment via email to the paccomments@costamesaca.gov. Comments received by 12:00 p.m. on the date of the meeting will be provided to the Commission, made available to the public, and will be part of the meeting record.

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ARTS COMMISSION REGULAR MEETING

OCTOBER 5, 2023 – 6:00 P.M.

CHARLENE ASHENDORF
Chair

FISHER DERDERIAN
Commissioner

DEBORA WONDERCHECK
Vice Chair

ERICA LUCIA
Commissioner

ALLISON MANN
Commissioner

ALISA OCHOA
Commissioner

HEIDI ZUCKERMAN
Commissioner

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENTATION:

- 1. [ARTS GRANT PROGRAM AWARDEE: PACIFIC CHORALE](#) [23-1395](#)

PUBLIC COMMENTS – MATTERS NOT LISTED ON THE AGENDA
Comments are limited to three (3) minutes, or as otherwise directed.

COMMISSIONER COMMENTS AND SUGGESTIONS
Comments are limited to three (3) minutes, or as otherwise directed.

OLD BUSINESS:

- 1. [MINUTES](#) [23-1392](#)

RECOMMENDATION:

Approval of the minutes of the September 7, 2023 Arts Commission meeting.

Attachments: [09/07/23 Arts Draft Minutes](#)

NEW BUSINESS:

1. **[MURALS ON PUBLIC PROPERTY REVIEW](#)** **[23-1393](#)**

RECOMMENDATION:

It is staff recommendation that the Arts Commission review the new commissioning process for Murals on Public Property (Attachment 1).

Attachments: [Agenda Report](#)

- [1. Murals on Public Property](#)
- [2. Costa Mesa Art in Public Places](#)
- [3. Culver City Public Art Ordinances](#)
- [4. City of Laguna Beach Public Art Ordinances](#)

MONTHLY REPORTS

1. **[ARTS AND CULTURE STAFF REPORT](#)** **[23-1394](#)**

Attachments: [Arts and Culture Staff Report - October 2023](#)

ADDITIONAL COMMISSION MEMBER & STAFF COMMENTS**ADJOURNMENT**

Next Regularly Scheduled Meeting: Thursday, November 2, 2023



CITY OF COSTA MESA

Agenda Report

77 Fair Drive
Costa Mesa, CA 92626

File #: 23-1395

Meeting Date: 10/5/2023

TITLE:

ARTS GRANT PROGRAM AWARDEE: PACIFIC CHORALE

DEPARTMENT: PARKS AND COMMUNITY SERVICES



CITY OF COSTA MESA

Agenda Report

77 Fair Drive
Costa Mesa, CA 92626

File #: 23-1392

Meeting Date: 10/5/2023

TITLE:

MINUTES

DEPARTMENT: PARKS AND COMMUNITY SERVICES

RECOMMENDATION:

Approval of the minutes of the September 7, 2023 Arts Commission meeting.

THE COSTA MESA ARTS COMMISSION

SEPTEMBER 7, 2023
6:00 P.M. – UNOFFICIAL MINUTES

CALL TO ORDER by Chair Ashendorf at 6:00 P.M.

PLEDGE OF ALLEGIANCE by Commissioner Lucia.

ROLL CALL

= Present = Absent

Commissioners

- Charlene Ashendorf, Chair
- Fisher Derderian
- Erica Lucia
- Alisa Ochoa
- Allison Mann
- Debora Wondercheck, Vice Chair
- Heidi Zuckerman

City Staff

- Alma Reyes, Deputy City Manager
- Monique Villasenor, Recreation Manager
- Ashley Thomas, Sr. Recreation Supervisor
- Laurette Garner, Arts Specialist
- Laura Fautua, Executive Assistant
- Kathia Viteri, Office Specialist II

Chair Ashendorf welcomed Deputy City Manager to the Arts Commission.

PUBLIC COMMENTS - None

COMMISSIONER COMMENTS AND SUGGESTIONS

Commissioner Derderian: No comments.

Commissioner Ochoa: Spoke about her recent art experience at Orange County Museum of Art (OCMA) and highlighted consolation in a painting.

Commissioner Zuckerman: Offered condolences to Commissioner Ochoa. Happy to see Fall art season kick off and see other exhibits happening around the world.

Vice Chair Wondercheck: No comments.

Commissioner Lucia: Is looking forward to the upcoming Art Crawl in October and thanked staff on their work for the event.

Commissioner Mann: Offered condolences to Commissioner Ochoa and spoke about her experience with a painting. Highlighted the museum experience with her teenage kids as a good experience. Spoke about Costa Mesa art murals, OC Fair art exhibit fair music entertainment, and looks forward to the Art Crawl.

Chair Ashendorf: Highlighted the Costa Mesa Spotlight Magazine and events available this Fall, such as: ARTventure, *Symphony on the Go!*, and the current Senior Center exhibit artist, Madi Su. Encouraged the public to checkout Orange County Public Libraries events and guest authors who come out especially the Donald Dungan Library as they also have a list of events available.

OLD BUSINESS

1. MINUTES

06/01/2023 Arts Commission Draft Minutes

MOTION/SECOND: Chair Ashendorf made a motion to approve the June 1, 2023 minutes /Seconded by Vice Chair Wondercheck.

The motion carried by the following roll call vote:

Ayes: Commissioner Derderian, Commissioner Lucia, Commissioner Mann, Commissioner Ochoa, Commissioner Zuckerman, Vice Chair Wondercheck, Chair Ashendorf

Nays: None

Absent: None

Motion Carried: 7-0

NEW BUSINESS:

1. 2023/24 BUDGET UPDATE REPORT

Ms. Garner presented.

Commissioners inquired about the cannabis tax, project timelines, butterfly installation and show mobile.

Chair Ashendorf asked if the budget can be brought back in December or January for a midway review and prepare for the new Fiscal Year.

Commission received and filed report.

2. ART MURAL APPLICATION AT 2300-C HARBOR BOULEVARD

Mr. Christopher Aldana, Assistant Planner with the Economic Development Services Department presented.

Commissioner Ochoa inquired about protective coating for the mural.

Commissioners are looking forward to the opening of North Gate Market.

North Gate representative, Alexandra, and Lead Project Artist, Levi Ponce presented to the Commission.

No Public Comments.

MOTION/SECOND: Commissioner Zuckerman made a motion to receive and file/Seconded by Commissioner Ochoa.

The motion carried by the following roll call vote:

Ayes: Commissioner Derderian, Commissioner Lucia, Commissioner Mann, Commissioner Ochoa, Commissioner Zuckerman, Vice Chair Wondercheck, Chair Ashendorf

Nays: None

Absent: None

Motion Carried: 7-0

3. ART MURAL APPLICATION AT 1721 WHITTIER AVENUE

Ms. Sheryl Whitecotton spoke about the art mural application.

Commissioner Mann commended artist on the mural.

Commissioner Zuckerman thanked the artist for coming and is in support of private property owners who install murals and support artists.

MOTION/SECOND: Commissioner Zuckerman made a motion to receive and file/Seconded by Commissioner Mann.

The motion carried by the following roll call vote:

Ayes: Commissioner Derderian, Commissioner Lucia, Commissioner Mann, Commissioner Ochoa, Commissioner Zuckerman, Vice Chair Wondercheck, Chair Ashendorf

Nays: None

Absent: None

Motion Carried: 7-0

MONTHLY REPORTS

1. ARTS & CULTURE STAFF REPORT

Ms. Laurette Garner, Arts Specialist, presented.

ADDITIONAL COMMISSIONER MEMBER & STAFF COMMENTS

ADJOURNMENT Chair Ashendorf adjourned at 6:58 P.M.

NEXT REGULAR ARTS COMMISSION MEETING: Thursday, October 5, 2023 at 6:00 P.M.



CITY OF COSTA MESA

Agenda Report

77 Fair Drive
Costa Mesa, CA 92626

File #: 23-1393

Meeting Date: 10/5/2023

TITLE:

MURALS ON PUBLIC PROPERTY REVIEW

DEPARTMENT: PARKS AND COMMUNITY SERVICES

PRESENTED BY: LAURETTE GARNER, ARTS SPECIALIST

CONTACT INFORMATION: LAURETTE GARNER, ARTS SPECIALIST, (714) 754-5322

RECOMMENDATION:

It is staff recommendation that the Arts Commission review the new commissioning process for Murals on Public Property (Attachment 1).



City of Costa Mesa

Agenda Report

77 Fair Drive Costa
Mesa, CA 92626

Arts Commission

File #: 23-1393

Meeting Date: 10/5/2023

TITLE: MURALS ON PUBLIC PROPERTY REVIEW
DEPARTMENT: PARKS AND COMMUNITY SERVICES
PRESENTED BY: LAURETTE GARNER, ARTS SPECIALIST
CONTACT INFORMATION: LAURETTE GARNER, ARTS SPECIALIST, (714) 754-5322

RECOMMENDATION:

It is staff recommendation that the Arts Commission review the new commissioning process for Murals on Public Property (Attachment 1).

BACKGROUND:

The Art in Public Places Report created by consultant, Arts Orange County was approved by the Arts Commission on April 6, 2023, to address aspects of the Arts and Culture Master Plan's Goal #2: Expand Public Art throughout the City. The following initiatives were recommended as follows:

Action 2.1: Continue the City-operated program of temporary utility box art, which affords opportunities to local artists, established and emerging, to create images that offer the community beautification. Review additional sites that are suitable for such installations, including wayfinding signage.

Action 2.2: Develop a plan for more ambitious temporary and permanent public art, including the identification of potential locations around the City, creation of policies with respect to selection and acquisition of artworks, and determination of the funding sources to be used.

Action 2.3: Temporary art programs are very popular with the public because they are constantly refreshed with new works, offering a variety of themes, styles, shapes, colors, and scale to the cityscape. Create a new program of temporary installations of large-scale sculptures. We recommend two-year loans, placed at sites inclusive of all the City's districts. This can be ramped up gradually by installing three works in Year 1 (one in each of three districts), adding three (3) in Year 2 (in the remaining districts), and then continuing to rotate the works on expiring loans annually.

Action 2.4: City may consider adopting a policy mandating fees for public art from new development projects.

Action 2.5: Create a new program of permanent public art and implement the process of selecting and installing a first work.

Action 2.6: Incorporate imaginative design in all the City's functional elements and fixtures. There are artists and existing companies that specialize in the custom fabrication of creatively designed elements such as street lights, playground equipment, fitness stations, bus shelters, benches. After a period of research, the City should conduct a call for artists to submit designs, which would be selected by the City through a process involving the Arts Commission, Planning Commission, City staff and Council. Based on budget, the City can choose to transform the chosen elements over a short period of time or phase them in as replacement of older elements.

The new commissioning process for Murals on Public Property is part of Action 2.2: to develop a plan for more ambitious temporary and permanent public art. Murals and the commissioning process can also be found within the Art in Public Places Report beginning on page 29 (Attachment 2).

ANALYSIS:

The Art in Public Places Report is a comprehensive report of recommendations for programs and policies and provides detailed specifics as to how the six (6) initiatives from the Arts and Culture Master Plan may be executed in the next three (3) years. Each of the components below detailed in the Art in Public Places Report, will be crucial to assisting City staff in creating new policies and processes:

1. Public Art Commissioning Process
2. Public Art Collection Management
3. Murals and the Commissioning Process
4. Public Art Donations and the Criteria
5. Public Art inclusion in City Public Works Development Projects
6. Public Art inclusion in Private Development Projects

The newly drafted commissioning process for Murals on Public Property will address numbers three (3) and five (5) from the Arts & Culture Master Plan initiatives, and will also be part of a larger Public Art Policy document created by City staff in the coming months.

The first step of Action 2.2 was to establish Public Art Criteria and Guidelines to assist with new temporary and permanent public art projects in the future, which was brought to the Arts Commission in May of 2023. The Murals on Private Property permit application and process was brought to the Arts Commission in June of 2023. Murals on Public Property is one of the next steps in this process.

Two (2) other city examples have been added for comparison and for general information on how different cities implement and address murals on public property (Attachment 4 and 5).

FISCAL REVIEW:

There are currently no costs associated with this process.

LEGAL REVIEW:

There is no legal review required for this report.

CONCLUSION:

As mentioned above and brought forward in the Arts in Public Places Report brought to the Arts Commission on April 6, 2023, City staff will be working on the individual public art initiatives from the Arts & Culture Master Plan, and implementing them one by one. Once reviewed, staff will begin work to create sustainable processes and procedures for the City moving forward. Review and discuss the commissioning process for Murals on Public Property for citywide implementation.



MURALS ON PUBLIC PROPERTY

TEMPORARY PUBLIC ART PROGRAMS

The purpose of the Temporary Public Art programs is to encourage the creative uses of public art throughout the community through the promotion of opportunities, establishment of guidelines, and minimum maintenance requirements.

Developing Temporary Public Art Program Parameters

1. Developing Program Parameters. To help guide program location and artist(s) selection. Based on knowledge of the site and the project's design possibilities, a number of possible locations and general types of art that would work for the project should be identified. Feedback should be sought on these ideas from other staff and or the City of Costa Mesa Arts Commission.
2. Duration. Temporary Public Art should be limited in display for approximately five (5) years. Display of public art beyond five (5) years should require Council's approval to convert a temporary public art to a regular ongoing program/permanent art exhibition.

METHODS FOR SELECTING PUBLIC ART MURALS

Since murals are often such a prominent visual feature, it is important that each artwork be thought through carefully. Early public participation is a key part of the process. Another key aspect is involving the artist in the overall project design phase early on so that the work of art is well integrated with the site and/or buildings.

1. Developing Artwork Parameters. Before hiring an artist, some general parameters should be set to help guide artist selection. Based on knowledge of the site and the project's design possibilities, a number of possible locations and general types of art that would work for the project should be identified. Feedback should be sought on these ideas from other staff, or the City of Costa Mesa Arts Commission.
2. Selection Strategies. Typically, an artist is selected in one of the following manners:
 - a) Request for Qualifications. A Request for Qualifications (RFQ) followed by a Request for Proposals (RFP) is the most common method used for selecting an artist. The Arts Specialist will notify a current list of potential artists and art organizations regarding the Call for Artists.
 - b) Sole Source. This approach reflects the fact that public art is fundamentally different from most other types of public work projects. With art, we are looking for an individual expression or unique idea -- not price comparisons for one plan or idea. In some cases, the City Council or Arts Specialist may have a specific artist or type of art in mind, and may choose to request a proposal from an individual artist without going through competitive selection. This approach depends on the total cost of the project. See Finance Department and Public Works Department.

c) Acquisition. Acquisition of an art piece that has already been completed by an artist may be appropriate in some very rare circumstances. The purchase price and the cost of installation comes from the percent-for-art budget. Arts Commission approval is recommended.

EVALUATING AND SELECTING PUBLIC ART

In cities throughout the U.S. there has been growing support for public art. However, some projects have been widely criticized for placement in areas without consulting the communities the artwork resides in. Understanding what to look for and integrating artists in the early stages of a project can help to avoid any controversy.

1. Public Works Department Review. Prior to beginning the panel/jury review, the Arts Specialist arranges for the project to be reviewed by appropriate staff in the Public Works Department. The purpose of this review is to uncover any significant engineering or maintenance issues that may arise out of the placement of art or the choice of materials for the artwork for the particular site. If the artwork is part of a larger construction project, it may be valuable to have the project contractor present, as well. This information will be presented to the panel to help guide their decisions when selecting a piece.

2. Selecting a Public Art Panel. The majority of City public art projects will use the Request for Qualifications (RFQ) selection method. Public art panels help staff evaluate the qualifications received and make a final selection to proceed through the remainder of the approval process. The preferred approach is to create a five/seven-member panel for a project. In some cases, a slightly larger panel may be necessary to accommodate all the parties impacted by the artwork. The panel composition will vary depending on the type of art project but should include a selection of the following, as appropriate:

- An Arts Commissioner
- As least two (2) professional artists
- A neighbor or representative of a neighborhood association when a neighborhood will be impacted by the project
- A for-profit or non-profit business representative, preferably one whose business will be impacted by the project
- An educator/historian, or someone aware of the historical implications of the artwork in the community
- City staff, as appropriate

3. The Selection Process

Stage 1. Applications submitted in response to this Request for Qualifications (RFQ) will be reviewed by the Arts Specialist and the Parks & Community Services staff. Upon evaluating the qualifications provided in the applications, staff will shortlist three to five semi-finalists to be invited to participate in an RFP (Request for Proposals) process as well as an interview and discussion of project concepts. **NO PROPOSAL FOR ARTWORK IS REQUIRED DURING THE STAGE 1 SELECTION PROCESS.**

Stage 2. Only semi-finalists will be able to participate in Stage 2. Those artists selected will each receive a \$700-\$1,500 honorarium (depending on the total cost of the project) for travel expenses and the development of specific concepts (up to three concepts per artist/team). As part of the process, prior to creating a concept design(s), each semi-finalist/team will travel to the City of Costa Mesa for a site visit and meeting with the public art panel and City staff to understand the opportunities and limitations within the site and to witness the local environment. As a part of the Stage 2 Proposal, each semi-finalist/team shall provide a detailed, all-inclusive estimated budget including costs associated with the fabrication and installation of the work including engineering, lighting and landscaping. Semi-finalists/teams will be given four (4) weeks to adequately undertake the Concept Proposal(s) and estimated costs. The proposals may be publicly displayed for community viewing and response.

Project concepts will be evaluated on the following criteria:

- Understanding of the work required by the City
- Evaluation of artistic excellence
- Appropriateness of scale, form material, content and design relative to the site
- Relationship to the social, cultural and/or historical identity of the site
- Appropriateness of proposed materials in regards to structural and surface integrity, public safety, weathering and its protection against theft and vandalism
- Appropriateness of proposed method of installation of artwork, and the safety and structural factor involved in installation
- Ease of maintenance
- Evaluation of proposed budget and the artist's ability to successfully complete the project within the proposed budget
- Experience in working on comparable projects

Stage 3: Final Selection. The public art panel will conduct artist interviews, review the designs of the top proposals and select a final design that then proceeds forward for review by the Arts Commission and any other Commissions and or City Council as needed.



Art in Public Places

Program and Policy Recommendations



Prepared by



Table of Contents

04 Executive Summary

05 Public Art Goals and Objectives

06 Public Art Recommendations

- 08 Criteria for the Siting of Public Art
- 11 Temporary vs. Permanent Public Art, Definitions and Distinctions
- 14 Public Art Commissioning Process
- 20 Public Art Collection Management
- 22 Contracting
- 28 Murals
- 36 Public Art Donations
- 42 Criteria for Acceptance of Public Art Donations
- 44 De-accession of Public Art
- 46 Public Art and Development Mandates in Orange County
- 48 Inclusion of Public Art in Public Works Development Projects
- 50 Inclusion of Public Art in Private Development Projects
- 60 Budgeting for Public Art Projects
- 62 Funding Mechanisms for Public Art Projects
- 66 Imaginative Design in Functional Elements

78 About the Consultant

Appendix

- 80 Orange County Cities with Public Art Requirements & Programs
- 81 Orange County Public Artworks by City
- 82 Inventory of Public Artworks in the City of Costa Mesa
- 91 Sample Public Art in private development definitions and eligibilities from other Municipalities
 - 91 Sample Public Art Contracts
 - 92 County of Los Angeles Artist Services Agreement
 - 93 City of Los Angeles Personal Services Agreement



The Ram by Charles O. Perry

EXECUTIVE SUMMARY

INTRODUCTION

In 2017, the Costa Mesa City Council approved unanimously the development of the City's first Arts & Culture Master Plan. This initiative signaled the Council's belief that the time had come to appraise the value of the City's cultural resources, to identify what strengths and weaknesses those who live, work or visit here feel exist in the local cultural landscape, and to envision ways that the City can support and advance arts and culture in Costa Mesa. Arts Orange County, the County's nonprofit arts agency, was engaged as consultant for the project. On March 16, 2021, the City Council approved the Arts & Culture Master Plan.



The Vision of the Plan stated:

The City of Costa Mesa rededicates itself to the distinction of being a "City of the Arts," a place where:

- Creativity and creative people can flourish
- Imagination, inspiration and innovation are held in high regard
- The arts are agreed to be essential to everyone's education
- Arts and culture enrich lives and uplift the human spirit
- Arts and culture promote civic pride

In 2022, the City implemented two important recommendations from the Arts & Culture Master Plan:

- Hiring an Arts Specialist
- Creating an Arts Commission

Also in 2022, the City determined that it wished to take steps toward fulfilling Goal #2 of the Plan:

- Expand Public Art throughout the City, both indoor and outdoor, through donation, loan and purchase

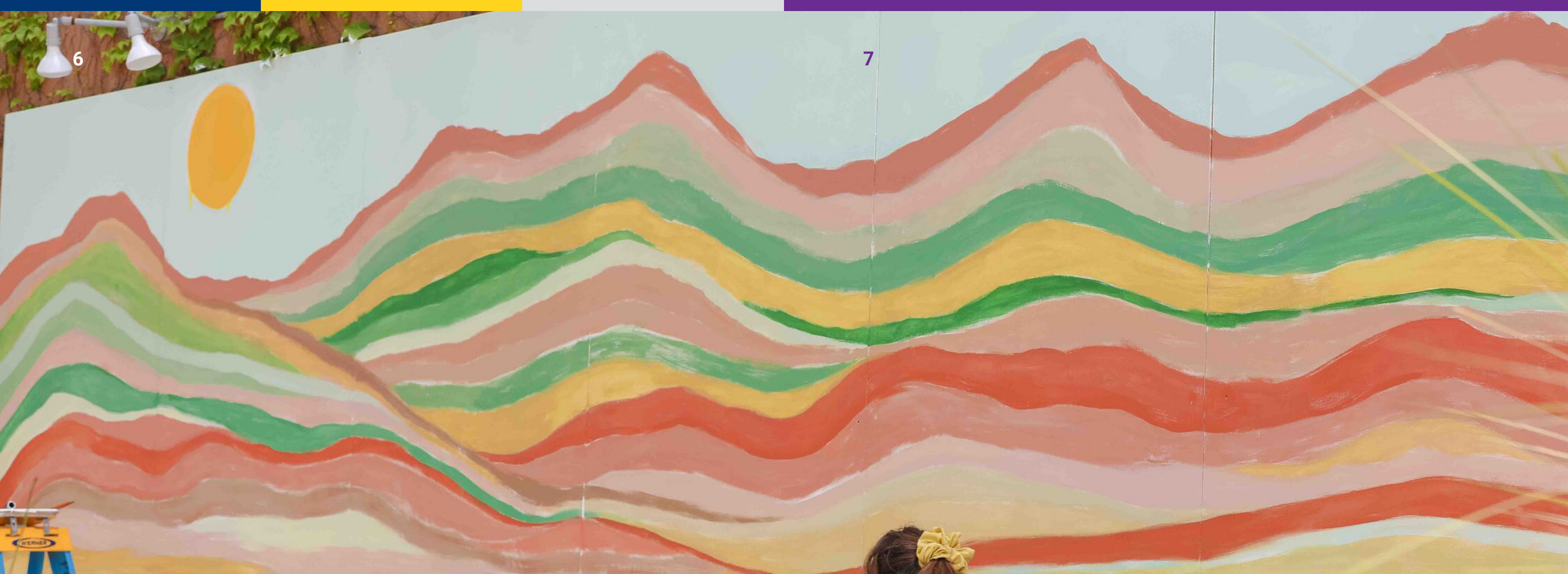
Because the City has no policy or procedure for acquiring and displaying Public Art, it engaged Arts Orange County in June 2022 to prepare and present its recommendations.

THIS REPORT

The purpose of the consultancy was to recommend formal policy guidelines and procedures for the Art in Public Places program based on industry best practices that incorporate existing policies and any recommended policy updates and cover the following elements:

- Establish purpose, goals and objectives for citywide Public Art Policy that ties into and utilizes data from relevant stakeholders collected from the Arts & Culture Master Plan;
- Criteria for the siting of Public Art projects;
- Definitions and distinctions between Temporary and Permanent Public Art projects;
- Distinctive policies and procedures between Temporary and Permanent Public Art projects which should include the current Utility Art Box Program, permit processes for murals on private property as part of temporary Public Art processes and a general process by which artists are commissioned and selected for temporary and permanent Public Art;
- Guidelines for inclusion of Public Art in public and private development projects;
- Policies for the management of commissioned art projects including, but not limited to, City/artist/stakeholder roles and responsibilities, contracting requirements, and any applicable regulatory requirements;
- Standards for maintenance plan and managing Public Art inventory;
- Develop funding considerations and or plan;
- Policies for acceptance of donated/gifted artwork;
- Policies and procedures for deaccession of artwork;
- Process for incorporating imaginative design in all of the City's functional elements and fixtures: streetlights, playground equipment, fitness stations, bus shelters and benches;
- Comparison and or case study of comparable Public Art polices in other Orange County cities.

In 2022, the City's newly-appointed Arts Specialist immediately sought to address the lack of a written policy for the City's existing temporary Public Art program (established in 2015) by preparing a Draft Utility Art Box Program Handbook. The consultant's scope of work included reviewing that Draft Handbook and recommending revisions.



City of Costa Mesa Public Art Recommendations

The information and recommendations in this report are offered to support a program offering opportunities for artists and serve the community through varied approaches and perspectives. The adoption of any and all recommendations are at the City's sole discretion, and any modifications to current ordinances, policies and procedures should only be made under further guidance from the City Attorney and are subject to final approval of the Costa Mesa Arts Commission and the City Council.




 Costa Mesa
City of the Arts

Thalo Sun by Gabriella Kohr

Criteria for the Siting of Public Art

The commissioning of Public Art can have a significant effect on a location as an environmental enhancement, source of pride, and place maker. Public Art can reflect and highlight the culture, history, goals, and/or values of a community.

In order to ensure the artwork achieves the highest level of positive impact, care must be taken in the selection of locations. This should include consideration of thematic and aesthetic appropriateness, audience, community and cultural equity, and public access. Conditions affecting ongoing maintenance and use of materials are also important in ensuring the long life of an artwork for the enjoyment of the community.

The following are questions to consider when contemplating a location and the overall commissioning of Public Art. The questions and criteria offered are intended to be flexible and allow for individual case by case commissions to be established using best practices in the field.

Costa Mesa City Hall and other public locations with high pedestrian traffic, such as the Costa Mesa Donald Dungan Library and Lions Park, are visible and natural sites for Public Art placement. Public Art in these locations can become iconic markers reflecting the importance of the work of the government or community amenities in these locations.

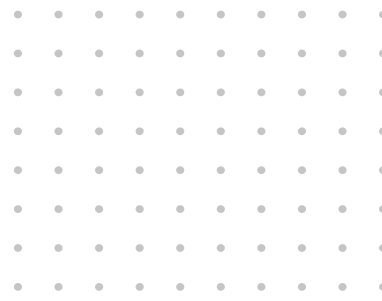
That being said, when considering the development of a Public Art collection, it is recommended that the City also look at smaller community gathering, or pedestrian centers spread throughout the municipality to ensure an equitable distribution of cultural assets across the City. Varying the size and types of projects within a City collection will result in balancing a range of large highly visible artworks with equally impactful intimate and midsize artworks that can enliven smaller parks or facilities.

Before settling on a specific location and format for an artwork, the commissioning body should establish the goals and concepts the work should encompass. While the following are not mutually exclusive, within a project one aspect may form the overriding purpose in the establishment of a Public Art project. Questions to consider and possibilities include:

- Are there high levels of pedestrian traffic? Is there a specific purpose for the artwork in relation to celebrating the community's history, services, culture, or heroes? If so, will a specific location (or locations) resonate more than others with this purpose?
- Is the artwork intended to enhance the aesthetics of a location and bring a moment of visual respite to a viewer's day? Are there locations that can particularly benefit from this intervention?
- Is the goal to bring an arts experience to a site for the sake of establishing an uplifting cultural moment? Are there locations with many pedestrians that can benefit from this intercession?
- Is there an equitable distribution of artwork in the community? How will an artwork location balance the entirety of the Public Art offerings in the city?

While it is tempting to consider free-standing sculpture as the norm when evaluating the placement and commissioning of Public Art, artwork can take many forms from artist designed functional objects or artwork integrated into architecture, to stand-alone artistic expressions enhancing single or multiple areas within a project site.

On-site locations for Public Art projects include, but are not limited to, walls, floors, ceilings, windows, exterior facades, stairways, rooftops and patios. Locations can encompass parks, plazas, civic centers, roadway medians, traffic islands, and bridges among other possibilities.



If funding for the artwork is attached to a particular site relating to a capital improvement development or other Public Works opportunity, site considerations within the development should include public access hours and visibility. If the site has a history of vandalism, the height or accessibility of the artwork siting if placed on the building structure or monitored locations such as lobbies or interior welcome areas should be contemplated.

Other considerations after a general location such as a specific park or municipal facility are selected, and the opportunity is under discussion include:

- Is the artwork placement in a well-traveled area visible during regular working hours?
- Will the artwork block windows or entryways?
- Is the placement accessible for required maintenance?
- Will normal pedestrian pathways remain unobstructed?
- Will the scale of the artwork be appropriate to the environment (surrounding architecture, signage etc.)?

Because of the almost unlimited options for placement and the form Public Art can take, the City should invite artists to visit the selected location if it is a preexisting site, or view plans in an early stage of development to allow the artist to bring their creativity and concepts to bear. This can result in fresh and unique perspectives in site placement within the location and the formation of the artwork project.

TEMPORARY VS. PERMANENT PUBLIC ART, DEFINITIONS AND DISTINCTIONS

There are many commonalities to the commissioning and placement of both temporary and permanent Public Art, such as the need for the work to be appropriate the audience, reflect the community's values, be fabricated with safe, appropriate materials and methods, be commissioned in an equitable fashion, be site-specific, be maintainable for the expected life of the project, be visible and contribute to the site as a place-making enhancement, etc.

Permanent Public Art

Within the field, municipalities commonly designate that permanent artwork has a lifespan expectation of a minimum of 25 to 30 years. This expectation leads to materials and methods that have a track record of longevity such as metal, glass, concrete, terrazzo, stone, mosaic, tile or other similar products. Because of the permanent nature of the work, artwork themes and concepts have an expectation of being broader or more universal, so as to not become dated in 10 or 15 years.

There are many reasons to pursue permanent Public Art projects. Permanent Public Art programs commonly have funding tied to a percentage of the cost of construction for public works projects. It is normal for a percentage or all the funding for these projects to be grants from entities requiring the use of the funds to be restricted to capital improvements. Permanent Public Art projects are generally eligible costs in this regard.

Permanent Public Art projects result in an artwork that will serve the community for many years and will become a City asset that may increase in value through the years.

Temporary Public Art

Temporary Public Art can range from an expected lifespan of a day for event connected work, to months, to a limited number of years. Because of the transitory nature of the work, edgier concepts, current affairs, and contemporary themes can be explored and experimental materials and methods can be employed. Because of the flexibility of temporary artwork, smaller budgets are generally needed, and sites can be activated with art to see how it is received prior to consideration of a more expensive permanent piece being commissioned at the location.

Materials such as vinyl, paper, canvas, wood, found objects, etc. can be employed, leaving a wide array of options for artists to consider. A temporary art program can also be a great way to bring artists inexperienced with Public Art to the table to learn how to work within the public sphere, complete contract milestones, and stay within time and budget. This is ideal as a stepping stone for artists to break into Public Art, and encourages diversity and equity in the field.

Advantages to temporary art include minimal or no required maintenance. When a Public Art program cannot commit to the cost of maintenance for an artwork for the foreseeable future, works of temporary art are an attractive choice. Temporary art also works well as a series of art elements activating several locations along a pedestrian path within civic spaces or areas.

Temporary art projects often give communities a chance to become involved in Public Art making, as they are often suitable to artist/community collaborations. This allows communities to become actively involved in their creative environment. Local artists can be engaged, and they can then gain experience and pursue other opportunities with larger budgets and greater complexities.

Definitions

There can be some fluidity in the practice of commissioning permanent vs. temporary Public Art, but as municipalities often have need for definitions to inform policies and practices, the following are offered as recommendations:

Permanent Public Art:

Art in public spaces, created by an Artist and fabricated with materials and methods with an expected lifespan of twenty-five years or more.

Temporary Public Art:

Art in public spaces, created by an Artist which is designed to be exhibited for a limited, articulated period of time, typically 5 years or less.

Artist:

A person who has established a reputation of artistic excellence in the fine arts, including but not limited to visual, or performing arts, as judged by peers and experts in the field, through a record of public exhibitions, performances, commissions, sale of works, recognition and/or educational attainment. The qualified artist shall work primarily in the production of unique fine art.



Food for the Soul by Brian Peterson and Damir Lujan

Public Art Commissioning Process

The commissioning of Public Art is an exciting endeavor and can be the final step in a long planning process involving numerous stakeholders and location, budget, and other scoping considerations.

This report will break down the commissioning process into distinct steps with a discussion and recommendations for each component. However, there is flexibility to each process and variations are possible.

Scoping and Planning

Prior to the advertisement of a Public Art opportunity, there should be a process for stakeholders to provide input as to the type of opportunity, goals, and potential themes of the artwork. A discussion of the types of questions to be considered have been offered in the “Criteria for the Siting of Public Art” above.

Stakeholder groups and the type of advance engagement will change depending on the type of project and the site under consideration. Stakeholders can include representatives of departmental staff working in the facility, local community members, special “friends” groups, Commissioners, or other invested parties. Engagement can encompass a public meeting letting the community know of the opportunity and soliciting feedback on the type of themes that they find important to convey in the artwork. However, this should not be construed as an opportunity to dictate the imagery, design, or specific concept for the artwork. Other ways to obtain feedback are through surveys or interactive activities at City events.

This type of community engagement can be solidified once an artist is selected by requiring the artist, as part of their scope of work, to incorporate an engagement process at an appropriate level of interaction as fits their artistic process and the needs of the project. Community engagement with the artist can involve feedback, identifying actual design elements for incorporation into the final artwork, or simply engaging with community through a workshop to engender appreciation for the artwork and offer a chance to meet the artist.



Artist Selection

The identification of an artist should be conducted in an open transparent process. Best practices as articulated by the Americans for the Arts and exhibited by the practices of established programs at other municipalities recommend a two-step process of artist selection. This process starts with the advertisement and issuance of a Request for Qualifications (RFQ) wherein the project's budget, parameters, artwork priorities and goals are articulated along with the artist selection criteria, scoring breakdown, and expectations regarding the selected artist's experience, interest, and past work images.

The following is an example of the types of materials that may be requested from artists responding to the RFQ:

1. Work Samples. Ten (10) images of artwork. Work samples should include the date of completion, project budget, artist, client/agency (if applicable), medium, location (if applicable), brief description of the project.
2. Artist Statement/Description of Work. 500 words (maximum) describing the themes, inspiration and questions explored throughout your work, as well as the materials, methods and techniques you use to create your work.
3. Resume/CV. 1-2 pages (maximum) outlining your professional art qualifications, which may include previous projects, experience, education/training and other related credentials.
4. Questions. Response to the following questions through written response:
 - a. Why are you interested in completing a project for XXXX (department/location/etc./name of project)? 500 words (maximum).
 - b. How do you see your artistic practice or existing work aligning with the XXXX (department/location/etc./name of project) artwork priorities and diverse audiences? 500 words (maximum).

The following is an example of the types of selection criteria and scoring.
(Should be listed in the RFQ.)

Artists' applications will be evaluated according to the following criteria listed below and scored up to 100 points.

Criterion 1: Technical and Aesthetic Quality of Past Work (50% - Max 50 Points)

The applicant's past works and creative practice as expressed through their images, artist statement/description of work and resume/CV demonstrate a high level of aesthetic quality and technical execution. The concepts reflect originality and evoke a response.

Criterion 2: Suitability For This Project (50% - Max 50 Points)

The applicant's images, artist statement/description of work, resume/CV and answers to the application questions demonstrate the applicant's suitability for the artwork priorities outlined in the RFQ.

The selection panel is key to the process. Other municipalities and the Americans for the Arts recommend as best practice site- or project-specific selection panels with a diverse perspective including experts in Public Art, site end-users, community, and professional project design participation. In this configuration there is Arts Commission participation by 1 or 2 members (who rotate among projects). A sample of the panel composition is as follows:

- 1 or 2 Arts Commissioners
- 1 or 2 Public Art professionals (can be curators, arts administrators, or experienced peer Public Artists)
- The Architect of the project (if applicable)
- A representative of the City Department with oversight of the Public Art location (i.e. Police Department or Parks & Community Services)
- 1 or 2 Community members at large with a link to the art location, such as "friends" or other support group members

In this manner the artist selection has professional design expertise as well as provides a voice to the groups that will experience the artwork daily. The inclusion of Public Art professionals ensures a high design aesthetic and fabrication proficiency. In this configuration, there is a stipend provided to the non-city employee (or non-Arts Commission) panelists for their service ranging from \$150-\$300 per day.

The selection panel selects 3-4 Finalists from the review of the RFQ applicants based on the stated criteria and submission materials.

The next step is the second Request for Proposals (RFP) stage. Proposals are requested only from the 3-4 Finalists. The artists should be provided with a list of expectations for the proposal including a narrative of the concept, design sketches and drawings (in-situ if possible), with dimensions and materials. The proposal should also include a preliminary budget, the fabrication timeline and any installation considerations. Additionally, the proposals should include any type of public engagement anticipated to be provided in tandem with the project. Artists should be provided with the criteria for evaluation of the proposals with an indication of the scoring breakdown based the stated criteria.

Artists are generally given 4-6 weeks to develop their proposal. In order to ensure all the Finalists are provided with the same information, there should be a proposal meeting with all the Finalists wherein the department staff from the relevant location will describe the activity, services provided, and constituents using the site, as well as the goals of the project. If the project is tied to a public works construction project, someone from the design team should provide information regarding the site and any technical considerations. This is an opportunity for all of the artists to hear the same information and ask questions.

It is important to note that it is a basic tenet within Public Art programs that professional artists are paid for the development of proposals. Professional practices require that artists be paid for their work, and the development of a proposal requires considerable research, time, and effort. The amount of the proposal fee per artist finalist in large part is dependent on the project budget and can range from \$1,000 for a project budget of \$100,000 or less, to \$5,000 or more for a project with a \$1M budget or higher.

The selection panel meets a second time to review the proposals as presented by each artist one-after-another, in an in-person meeting, wherein the selection panel can ask questions directly. After all the artists have presented, the panel will deliberate, score the proposals, and select the recommended artist and work.

Many municipalities allow for the selection panel (with its range of perspectives) to make the final recommendation, with the full Arts Commission providing the final review of the recommended work and issuing the final approval to ensure the selection is in accordance with the safety, durability, and programmatic requirements. In this instance, the Arts Commission reviews the final recommendation only and they do not compare it to other submissions.

If Costa Mesa decides the City Council has the final review and approval, as with the Arts Commission they would review the panel recommended proposal only and not every final submission. In this manner the panel's wide range of perspectives are acknowledged. As the full Arts Commission or City Council are not privy to the artist presentations and discussions, it respects the panel process.

A variation to the above process is possible when community engagement is so vital to the artwork design and development, that the City requires the design to be developed through an intensive community process. In this scenario, it is not feasible for the design proposal to be developed in advance of contracting with the Artist. This process would have a similar RFQ process, but an important submission requirement to the RFQ would be a narrative about the type of engagement process they envision to develop the design, their approach to design, with an indication of their interest in the project, and a listing of previous projects they completed wherein the community engagement was paramount to the artwork design process. Instead of the second step incorporating a proposal review, the panel would interview the Finalists with open ended questions to ascertain the community appropriateness of the artist's process to select the most appropriate artist for the commission. The contract with the artist in this case includes design development and approval milestones.



Podemos by Alicia Rojas, Camilo Romero and Santa Ana Community Artists



Public Art Collection Management

Costa Mesa already has begun to build a collection of Public Artworks through commissions and donations. As the permanent works are now City assets, management of these works is paramount to ensure they are well maintained and remain in good condition for future enjoyment and to retain their value.

Roles and Responsibilities

Management of the works would ideally be the responsibility of a designated Arts staff member and includes the oversight of a database to track the artworks. The database should include artists information including a biography, narrative from the artists describing the concepts behind the work, artwork dimensions, budget, materials, methods of fabrication, maintenance requirements and artist contact information, and photos of the artwork. A digital file on the commissioning process should be retained including proposal files, correspondence, budget and final records, the selection panel, dedication event documentation a copy of the agreement with the artist and any other applicable information reflecting the commission process.

Additionally, a plaque should be placed at the site of the work with the artist's name, the title of the work, date, materials, and the department to contact in case of maintenance needs.



Artist contact information should be retained, should there be need for unanticipated maintenance or repair, artwork removal, or alteration.

The City should consider sharing their collection on the City website with images of the works and their location. Some cities include a map of the City showing the artwork locations with artist and artwork information.

Maintenance

The City of Costa Mesa is in the early stages of developing a Public Art collection. The single most important aspect in ensuring the value of this asset is the regular maintenance of the artworks. Regular maintenance will help avoid costly future repairs. As part of the artist's contracting process the city should require the artist to provide a professional art conservator's assessment of the materials and methods with recommendations for maintenance.

It is recommended that staff work with art conservators to monitor the condition of the artwork in the collection and assess Public Art maintenance requirements and costs. The costs should be allocated as part of the city budget process on an annual basis for this purpose.





Contracting

When developing contracts with artists, it is important to keep in mind that art making and standards within the art industry require unique considerations and understandings regarding the scope of work, artist's rights, copyright/use of image, milestones, payments, etc. within the agreement. Standard municipal contracts for services rendered rarely have the needed clauses, and sometimes contain clauses that are not recommended or applicable to art making and artists' practices.

This report is not intended to be interpreted as legal advice, but as a point of discussion to advise the City of Costa Mesa on issues and concerns unique to artists' contracting and to offer examples of ways others address these concerns. Any decisions regarding the language to be incorporated into contract templates should be made in tandem and with the approval of the City of Costa Mesa City Attorney.

A copy of the agreement template for Artist Services used by the Los Angeles County Department of Arts and Culture is provided as an example for consideration.

The following areas of contracting reflect where the City's standard contract language is recommended to reflect artwork specific standards and best practices.



Taco Mesa mural

Artist's Rights

Commissioning artwork for the City's collection will result in the City obtaining ownership of the artwork as an object, with all the associated rights and responsibilities. However, there is more than one type of ownership to consider. While the City as the commissioning agent will have ownership of a work of art as an object, this does not necessarily extend to ownership of the image and copyrights as articulated in the federal Visual Artists Rights Act (VARA) or the California Arts Preservation Act (CAPA).

These laws provide for a series of artists rights including the rights of authorship and rights surrounding the removal, alteration, or destruction of artwork. There is a range of ways in which municipalities address these rights.

Because of the risk of litigation associated with incorrectly destroying artwork in violation of these laws, the handling of artist's rights varies among agencies. For example, the Los Angeles County Department of Arts and Culture expressly acknowledges and accepts artists' copyright by incorporating it into their Public Art policy, referencing it in artist agreements, and requiring artists to register their works with the U.S. Copyright Office. Agencies such as the L.A. County Metropolitan Transportation Agency (Metro) and the City of Los Angeles Department of Cultural Affairs both require that artists waive their rights under CAPA and VARA while simultaneously reinstating specific rights back into artists contracts.

The VARA and CAPA laws require that 90 days written notice be provided to an artist prior to the removal, alteration, or destruction of an artist's work. It is also understandable that an agency would want the ability to remove an artwork immediately if issues of safety arise. As such, a clause waiving the VARA and CAPA 90 day requirement can be considered. However, even when the 90 day notice requirement is contractually waived, it is common for policies to be put into place to provide good faith advance notice to artists where possible should this need occur. While it is generally accepted in artist agreements that the agencies can freely depict artworks for non-commercial educational or program promotional activity, activities resulting in commercial gain from the depiction of an artist's work (such as t-shirts, posters, or mugs) should be negotiated with an artist independently.

Performance Bonds and Payment Milestones

It is common practice for municipalities to put a requirement for a Performance Bond in place for construction projects in the unlikely occurrence that a contractor defaults on a project. While this may be a practice that is tempting for use in artist's contracts, it is unadvisable. The performance bond industry is not tailored for artworks, the cost would be unwieldy to the budget, and it is unlikely that a performance bond company would insure this type of project.



Untitled by Joshua Madrid

The Americans for the Arts puts it this way:

“Performance bonds are intended to guarantee the satisfactory completion of work. If a contractor is unable to finish a project, then a performance bond ensures that the work will be finished, usually by hiring a third party to complete any missing or unsatisfactory work. These bonds are commonly used in the construction industry and many cities’ public works departments require city contractors to hold them.

However, performance bonds have little applicability to the commissioning of fine art. For one, most commissions can only be completed by the artist who made the initial proposal, making the hiring of a third-party a nonstarter. More over, most performance bonds are prohibitively expensive for individual artists, and the desired objective (ensuring a satisfactory final project) is better achieved through alternative actions, like withholding final payment on a contract.

The best practice is for the use of project milestones to be incorporated into the agreement with a final payment left for the completion of services. A sample of this construction is as follows:

1. 10 percent (\$_____) upon Execution of the Contract.
2. 30 percent (\$_____) upon Acceptance of Final Design Drawings and Issuance of the Notice to Proceed.
3. 20 percent (\$_____) upon Completion of 50% of Fabrication.
4. 20 percent (\$_____) upon Completion of 100% of Fabrication.
5. 10 percent (\$_____) upon Completion of Installation and Issuance of Artwork Acceptance Notice.
6. 10 percent (\$_____) upon Completion of Project Close-out including documents, photography etc.

Scope of Work

It is to the City’s advantage to provide a clear list of expectations in the contract through the scope of work. The more specifically this is articulated, the less confusion there will be as to the responsibilities of the City and Artist.

Areas to describe include the overall responsibilities of the City and Artist, and Artist specific responsibilities related to design development, approvals, permitting, schedule, community engagement, budget, fabrication, installation, and any closing documents required such as final photography, artist narrative and biography, maintenance plan, etc.



Murals

Murals have been embraced as a valued art form by a diverse array of cultures and communities, providing an enlivening way to interject art to the street life of cities nationwide. They can celebrate the culture, heroes, and history through abstract or figurative imagery or any number of approaches conceivable. The possibilities are unlimited.

Painted murals are an art form with a rich history and deep appreciation. The expected vs. actual lifespan is dependent on several factors, and realities can be vastly different from project plans. Murals expected to remain intact for generations can come up against conditions requiring their removal after a limited lifespan, and murals developed with a limited expectation of longevity can become community icons intact for many years. The following is intended to provide guidelines to maintain a collection of mural works in good condition for their lifespan.

Welcome Home by Shepard Fairey



Murals Commissioning Process

Murals on City Property

Murals to be placed on City property can be commissioned through a process similar to the commissioning of Public Art projects as described in the section on Public Art commissioning in this report. However, because of the unique needs of murals regarding their maintenance and the unfortunate proclivity for them to be targets for graffiti vandalism, it is recommended that murals commissioned for placement on City property be required to have an anti-graffiti coating applied that is maintainable by the City, and the mural is fabricated/painted on a well prepared wall that has been assessed in advance by an art conservator with murals expertise to confirm the suitability for the murals' longevity, and so they can provide recommendations for wall preparation and materials.

The mural should be evaluated every five years to assess the condition to evaluate if the artwork should be maintained or removed. If the mural is in poor condition and the City does not have the resources for a restoration, the applicable artist's rights laws (VARA and CAPA) require that artist be provided with 90 days advance notice of its removal. The five-year review process and expected lifespan should be articulated in the City's agreement with the artist.

Generally, murals on public property are considered government speech and, as a result, are not subject to the Free Speech Clause of the First Amendment. Municipalities may regulate murals on City-owned property to control the time, place and manner of its placement as well as regulate the design and content of the mural itself.



Murals on Private Property

While it may be tempting for a municipality to regulate the design and content of murals on private property, First Amendment rights of the property owner limit the oversight of mural approval processes to regulations such as the mural lifespan, placement, size, materials and methods, and process of permitting. These areas of oversight can still ensure that mural projects are developed with the full awareness of the community, with technical and legal considerations in relation to materials, maintenance, and artist's rights, adhered to and understood.

Murals have also been the subject of controversies and legal battles in relation to First Amendment rights and clashes over the ways in which fine art murals are sometimes treated differently than commercial mural-sized signs or general signage.

As a result of these issues, which have now found resolution in cities such as the City of Los Angeles and Portland, Oregon, guidelines can be recommended in relation to the development of a murals ordinance for the City of Costa Mesa in consideration of these concerns.

The following are guidelines recommended to use in the development of an ordinance for the placement of murals on private property. This assumes that the murals will be funded by the property owner without city support.

It is important to note that as the mural permit requirements are design and content neutral, the process of review and approval can be completed in a "counter permit" process by city staff by qualified to confirm that the materials, manner, and processes follow requirements.

DEFINITIONS

An essential first step is the establishment of a mural definition to ensure that murals are original, artistic expressions that are not confused with advertising or signage which is regulated separately.

The following is recommended as a definition for this purpose:

Mural:

A one-of-a-kind original artwork created by a Mural Artist, or through a community engagement process led by a Mural Artist that is fabricated directly upon an exterior wall of a building, that is hand-painted or hand-tiled and does not contain commercial messaging. For definition purposes, a commercial message is any text, image, logo, or other visual communication that advertises or references a business conducted, services rendered, commercial enterprise, or goods produced or sold on or off the premises.

Mural Artist:

A person who has established a reputation of artistic excellence in the visual arts, as judged by peers and/or experts in the field, through a record of public exhibitions, performances, commissions, sale of works, recognition and/or educational attainment. The qualified artist's creative output shall primarily consist of the production of unique fine art.

Requirements and Process:

The following are technical requirements designed to address the placement, scale, materials, and maintenance needs of the mural. Maintenance is of the utmost importance to ensure that murals do not deteriorate, become graffiti magnets, or cause blighted conditions. They are offered as a manner to allow murals within the face of a building, within commercial or business districts.

It is recommended that the City consider if the requirements for numbers 1-5 are in accordance with Costa Mesa's vision and if not, adjustments can be made as appropriate. Recommendations for numbers 6-8 will ensure maintenance, artists rights and each artwork design are reviewed and addressed.

Recommended Requirements

1. No part of a mural shall exceed the height or width of the structure to which it is tiled, painted or affixed.
2. No part of a mural shall extend more than six (6) inches from the plane of the wall upon which it is tiled, painted or affixed.
3. No mural shall be placed over the exterior surface of any building opening, including, but not limited to, windows, doors, and vents.
4. Murals shall be placed on non-residential commercial or industrial property only.
5. Only one mural will be permitted per business location or structure.
6. A specialized anti-graffiti coating must be applied to the mural and maintained for the life of the mural. Varnish, other coatings or finishes that are not specifically designed as graffiti abatement products as part of a graffiti removal system do not comply with this requirement.
7. The property owner is required to maintain the mural in good condition and free of vandalism. If the property owner is negligent in this regard after sufficient warning, they can be issued a 120-day order to remove the artwork at their own cost. If removal is ordered, the property owner is responsible for the proper 90-days written advance notification to the artist as applicable by the federal Visual Artists Rights Act (VARA) and the California Art Preservation Act (CAPA) laws.
8. Mural permits are valid for one image at a time. Property owners wishing to change the mural design or replace it with another artwork must apply for a new permit.



Recommended Process

The following processes allow for the mural designs to be reviewed by the community in advance of its placement. This review cannot be considered an opportunity for the community to veto the mural's content or design, but it does allow for community input and dialog.

As a rule, business owners wish to establish and maintain good relations with the community, so it is to their advantage to install a mural that will be welcomed by the neighborhood.

It is also essential that property owners are aware of the federal Visual Artists Rights Act (VARA) and the California Art Preservation Act (CAPA). Property owners will be responsible for compliance with all aspects of these laws (including requirements for 90-day advance written notice prior to the removal, destruction, or alteration of the mural) or negotiating waivers of any aspects of these laws through advance written agreements with artists.



Home Sweet Home by Brian Peterson

The following are recommendations for the process requirements:

1. Applicants must hold a meeting at a publicly accessible location at least 30 days prior to the start of the mural fabrication. This meeting is to allow for the public to see the design, ask questions, and provide comments. Should an in-person meeting not be feasible due to public health mandates, a well-advertised virtual meeting can be substituted in a manner as approved in advance by City staff.
2. Applicants for mural approval must post notice of the public meeting 15 calendar days in advance of the meeting on the proposed mural site. This notice must include the intended mural size and location with a color depiction of the proposed mural design, in full and easy view of the community. The notice must also be mailed, or hand delivered to properties located within a half-mile radius of the proposed mural location.
3. No mural shall be permitted until the applicant certifies that he or she has completed this neighborhood involvement requirement. Certification shall include photo documentation of the posted notices and documentation of the meeting through a sign-in sheet, or other confirmation the meeting was held as indicated.
4. Property owners must sign a declaration that they are aware of the federal Visual Artists Rights Act (VARA) and the California Art Preservation Act (CAPA) artist rights laws, acknowledging they, and not the city, are responsible for compliance with these laws.
5. Should the property be sold, property owners must provide subsequent owners with maintenance information, anti-graffiti requirements, and artist rights information.

Public Art Donations

How exciting it can seem for a municipality to be offered artwork as a donation. While it can be tempting to accept all art donations, there are considerations that should be understood to ensure donated artwork fits within the city's goals and environment and will not become a burden to the city's resources.

The following will discuss areas and issues to consider in the acceptance of artwork and areas in which background information and assurances should be considered prior to the acceptance of a donation.

There are many sometimes complex reasons that a donor will be motivated to gift artwork to a city. Reasons can range from a sincere desire to share a work with the community, the understanding that a work of art has a special connection to a site or part of the city's history, to the desire for a tax deduction, the need to find a home for a large or unwieldy work that the owner no longer can store or no longer has the resources to provide upkeep. Regardless of the motivation, any offer has the potential to be a welcome and uplifting addition to a city's collection. There may also be valid reasons to deny acceptance of a Public Art donation.

Art Collection Goals

Of fundamental importance to the development of an art collection and the subsequent acceptance of donations is the understanding and establishment of the goals of the collection. For example, the donation of a 19th century European religious painting may have high monetary value, but does it relate to the City and is there an appropriate place for its display? The following are questions to guide the establishment of art collection goals.

What is important to the city regarding the art it owns and maintains? For example, is it important for artwork to relate to the city's location, history, and interests inherent in the cultural context of Costa Mesa? Should it represent the City in an interesting and expanded manner? Can the collection be used as a mechanism to support and uplift artists that reside in Costa Mesa? What is the storage or physical capacity to keep portable artworks? Are there limitations that restrict the number of donated items?

In addition to permanent Public Artwork installations, are there programs and opportunities to display portable paintings, drawings, photography, textiles or other art mediums?

Some municipalities have internal loan programs allowing departments and civic offices to borrow portable artworks for a designated time period to enhance their surroundings for the benefit of staff and visitors. Costa Mesa may want to consider this as a mechanism to accept donations of artwork into the collection with a purpose and display opportunity.



Donation Process

An application process should be established up front to capture the relevant information for an informed decision and to identify any additional considerations to the donation offer. The following identifies main areas in which information should be captured.

Object Ownership and Valuation

As has been discussed, there is more than one type of ownership as related to art, and this needs to be considered in the acceptance of an artwork. While a donor may have ownership of a work of art as an object, this does not necessarily extend to the donor having ownership of the image and copyrights as articulated in the federal Visual Artists Rights Act (VARA) or the California Arts Preservation Act (CAPA).

To establish the donor's ownership of the artwork as an object, a donation application needs to be developed with a requirement for information about the provenance and procurement of the object, including documentation such as a receipt or other proof of ownership. Copies of any agreements the owner has with the artist or gallery should be included if applicable.

The value of the object should be established as part of the consideration of acceptance. This value can be established through:

- a. Appraisal Report: An appraisal report including, but not limited to, dollar amount value, description, disclaimers, and additional support for valuation conclusions by a certified third-party appraiser affiliated with at least one of the four appraisal organizations: Appraisers Association of America, the American Society for Appraisers, Appraisal Foundation, or the International Society of Appraisers.
- b. A receipt for the purchase of the artwork
- c. Other documentation establishing the value of similar artworks by the same artist

This valuation is essential as the artwork will become a physical asset for the city, and as such, a documented value is needed for asset accounting. Also, donors commonly request a letter from the city acknowledging the donation with the value indicated for their use as a tax donation. The city should have confirmation of the value for this purpose.

Copyright Ownership

As indicated, while a donor may have ownership of the artwork as an object, the artist may have retained the copyright ownership as established by the VARA and CAPA laws. The application should include artist information including contact, resume or bio, birth/death dates, and any known copyright information as available. This is particularly important if the donation is a work to be installed as a permanent Public Artwork as the artist should be notified of the donation and location of the installation.

The application should indicate the copyright owner of the object. If the donor is the copyright owner, the application should include documentation of this and should ask if the donor intends to transfer the copyright to the City of Costa Mesa should the donation be accepted by the city.

The City Attorney should identify if and how the acceptance of the artwork and installation will make the city subject to any applicable VARA and CAPA notifications or copyright requirements in the future. It is recommended that the City Attorney weigh in regarding these considerations and requirements prior to the acceptance of the donation.



Floyd's 99 Barbershop by Jonas Never



Materials, Maintenance, Conservation

The application should identify the materials and any known maintenance or conservation needs. A condition report should be provided by the donor or obtained by the city to identify any issues and immediate or future costs associated with keeping the artwork in good condition.

Transportation and Installation

If the artwork is a large sculpture or other Public Artwork, it is important for the city to understand the costs to transport the artwork and install it at the desired location. Questions to consider are the need for any footings or special attachment systems, permits, insurance, storage, installation, and any conservation and maintenance needed in the immediate future. It should be established if these costs and the responsibility for this activity will be borne by the donor or if the city is expected to handle these costs and the scope of work to see to the full completion the installation.

Other Information

In addition to the above information the application should request any exhibition history, edition certifications or other pertinent information about the artwork as applicable and available.



Pablo Universal by David Flores

Criteria for Acceptance of Public Art Donations

The identification of collection goals and the information above will greatly aid in evaluation of the donation application. It is recommended that the Arts Commission evaluate the donation based on the criteria for an acceptance recommendation to City Council. The City Council should maintain final approval, considering the Arts Commission recommendation.



Reclining Figure by Henry Moore

The following are recommended criteria to utilize as applicable in assessing the acceptance of an art donation:

1. The artwork supports the goals of the art collection and would contribute positively to the City's Public Art, meeting the standards for Public Art commissioned by the city.
2. The artwork is of high quality and aesthetic excellence.
3. There is an identified location to site the artwork if it requires a public installation, or there is a program or mechanism to display the artwork if it is a portable piece.
4. The scale, form, context, and design of the artwork are appropriate for the setting and audience.
5. The donor has committed to cover all applicable costs associated with permits, bonding, insurance, transportation and installation of the artwork or the city has committed the resources to cover these applicable items.
6. The future maintenance and conservation need of the artwork is understood and the city has identified the resources to attend to these requirements.
7. The legal considerations of ownership, copyright, liabilities, maintenance, and de-accessioning are understood and acceptable to the city.
8. The artwork supports an equitable collection inventory, allowing for a diverse range of artists to be represented, considering if there are already multiple donations of the same artist's work.

De-accession of Public Art

There are numerous reasons that a city may wish to de-accession an artwork. These considerations can include safety, condition, change in the physical location of the artwork so it is no longer supported physically, community complaints, or other controversies.

As city owned artwork is a civic asset, the process should require a staff report addressing the applicable issues related to the de-accession criteria including the review of any restrictions which may apply to the artwork based on legal or contractual requirements. The report should include an analysis of the reasons for de-accessioning, options for storage or disposition of the artwork, and the appraised value of the artwork, if obtainable.

If the de-accession is the result of the destruction of the supporting structure (such as the wall, building, or plaza to which the artwork is attached), consideration should be made regarding the appropriateness and feasibility of relocating the artwork to another location.

Any considerations or requirements associated with VARA and CAPA laws, including notice to the artist, if applicable, should be carefully followed in accord with the City Attorney's direction.

The following represent acknowledged criteria for de-accession and are recommended for Costa Mesa's consideration.

1. The artwork's present condition poses a safety hazard to the public.
2. The artwork has been damaged or has deteriorated to the point that it can no longer be represented to be the original artwork.
3. The restoration of the artwork's structural or aesthetic integrity is technically not feasible, or the expense of restoring it exceeds the resources of the city.
4. The architectural support (building, wall, plaza) is to be destroyed and the artwork cannot be removed intact for relocation.
5. The use of this particular public space may have changed, and/or the artwork may have lost its contextual meaning and it cannot be re-sited, or re-siting the artwork would be inappropriate.
6. The artwork requires excessive and inappropriate conservation and/or maintenance or has faults of design or workmanship which can be termed inherent vice.
7. An artwork is not, or is rarely, on display because of lack of a suitable site.
8. The condition or security of the artwork cannot be reasonably guaranteed in its present location.
9. The artwork was not installed or fabricated as proposed, is incomplete, or does not meet the requirements of the commission.
10. The artwork does not meet the goals of the collection.
11. Removal has been requested by the artist in writing and it has been determined by the Arts Commission to be a reasonable request.
12. The artwork has reached the end of its original anticipated lifespan.
13. The artwork is proved to be inauthentic or in violation of existing copyright laws.
14. The artwork has received documented and ongoing adverse reaction from community members where the artwork is located, and the City Council has determined the artwork no longer reflects the values of the community.



Public Art and Development Mandates in Orange County

Among Orange County's 34 cities, there are currently four that mandate Public Art within their communities: Brea, Buena Park, Dana Point, and Laguna Beach. Two more cities are expected to join that list upon approval of Public Art Plans they are completing: Anaheim and Huntington Beach. Four cities currently have programs encouraging Public Art in development without a binding mandate: Anaheim, Huntington Beach, Newport Beach and Santa Ana. The mechanism used most frequently is the assessment of a fee ranging from 0.5% to 1.25% on the total cost of new construction or renovations on projects valued at or above a baseline amount. Fees may apply to City capital improvements, private development, or both. Policies vary, with private developers, in some cities, permitted to acquire and install art on their property to fulfill the requirement (with City review and approval), or instead to pay into an in-lieu fund managed by the City to acquire and install Public Art on City-owned property.

See p. 80-81 for more information about other Orange County cities' Public Art policies and programs.



Inclusion of Public Art in Public Works Development Projects

The inclusion of Arts and Culture into public spaces is known to enhance the livability or civic life and is a contributor to the quality of the environment while engendering community pride. Incorporation of Public Art into Public Works projects are a natural way to uplift the quality of these spaces for the enjoyment of the community.

Many Public Works projects are funded by grants or other sources requiring that the use of monies is restricted to capital improvements. Permanent Public Art incorporated into the project is generally acknowledged as a capital improvement for this purpose.

With other internal sources incorporated, facility funding can be less restrictive, allowing for a wide array of arts programming on the site of the development. Municipalities have allocated between 1-2% of the cost of construction for these projects as part of the regular budgeting process.

A mandate by City Council for Public Art inclusion into Public Works construction projects declares the importance and value the City places on arts and culture in civic life. Should the City decide to mandate a Public Art requirement for private development, it would be a reasonable expectation that the City has a policy in place for Public Art within its own public works projects.

It is recommended that policies framing the approach to projects and the commissioning of artists are put in place to ensure that there is an equitable distribution of funds to diverse artists.

49

The City of Pasadena's Public Art Program guidelines can serve as model of how goals and values can be realized. The following from the City of Pasadena is offered as an example for consideration for the City of Costa Mesa:

1. The commissioning of artists at a variety of points in their careers, but whose work is of the highest artistic merit, and who bring innovative artwork of all media and disciplines into the public realm;
2. The commissioning of artists and artwork which are reflective of cultural diversity and the city's international populations, recognize the values and contributions of various cultures to the community, and contribute to the characteristics, aspirations and unique expressions of Pasadena's values;
3. The encouragement of local artistic endeavors and support of local artists;
4. The encouragement of public dialogue and interaction with art in public places, through appropriate education forums, public meetings, citizen task forces and programs;
5. The commissioning of works of art varying in style, scale, medium, form and intent representative of the arts on a local, regional, national and international level;
6. The broad distribution of commissions among artists. To ensure this objective, no more than one City of Pasadena Public Art commission per artist/team shall be awarded in a three-year period. An artist may not apply for a subsequent commission until the aforementioned has been completed and has received final approval;
7. The geographic distribution of artworks throughout the City of Pasadena;
8. The inclusion of the artist and design team at the inception of the project.

Local Artists

A healthy arts ecosystem should include opportunities for local artist participation and will provide opportunities for professional growth. Recommended opportunities for artists new to Public Art include temporary Public Art projects. These projects can be singular, as a series along a path or walkway or grouped together in a park or other venues in a multi-artist festival or "happening" atmosphere to build excitement and space activation.

Similarly, a purchase program geared toward local artists that are new to Public Art can build a collection of artworks for offices and other public interior spaces. It is a great opportunity for participation and community engagement.

Inclusion of Public Art in Private Development Projects

As indicated above, there are two paths cities have taken regarding the inclusion of Public Art in private development, encouragement for voluntary participation or mandates through ordinances. There are basic concepts applicable to either effort that warrant discussion.

DEFINITIONS

So that all parties understand what types of projects are to be considered when referring to Public Art, basic definitions are needed to define who is an artist in this context and what is to be considered as Public Art.

It is essential that the eligibility of Public Art projects as falling within the program requirements include the definition of an artist to ensure that the project is truly unique, can be considered within a contemporary fine art dialog, and encourages a diversity of artistic approaches. The following are examples of this type of definition:

“

City of **San Diego**:

“Artist means an individual generally recognized by critics and peers as a professional practitioner of the visual, performing, or literary arts, as judged by the quality of that professional practitioner’s body of work, educational background, experience, public performances, past public commissions, exhibition record, publications, and production of artwork.”

“

Los Angeles County:

“Artist. A person who has established a reputation of artistic excellence in the arts, including but not limited to visual, performing or literary arts, as judged by peers and experts in the field, through a record of public exhibitions, performances, commissions, sale of works, recognition and/or educational attainment.”

The purpose in establishing this definition is to ensure that the artwork is created by an artist and not the result of commercial design or product development.

While the first step is the definition of an artist, there is also a basic need to define Public Art for the context of approving artwork integrated into private developments. A comprehensive definition will allow for an objective review of a developer’s proposal for artwork.



Welcome to Costa Mesa by Brian Peterson and Damin Lujan

For the City of Costa Mesa, the following definitions are recommended for consideration:

Artist:

A person who has established a reputation of artistic excellence in the fine arts, including but not limited to visual or performing arts, as judged by peers and experts in the field, through a record of public exhibitions, performances, commissions, sale of works, recognition and/or educational attainment. The qualified artist shall work primarily in the production of unique fine art.

Public Art:

Artistic and cultural facilities, objects, and amenities created as original works by an Artist that do not contain a commercial message, text, logo, trademark, or other product, business, or service messaging, and are not mass produced or reproductions. Qualifying projects include:

- Sculpture: Free standing, wall supported or suspended, kinetic, electronic or mechanical in material or combination of materials.
- Murals or portable paintings: In any materials or variety of materials, with or without the addition of nontraditional materials and means.
- Works on paper: Photographs, prints, watercolors, drawings of any media and other paper works.
- Textiles: Tapestries, quilts, embroideries and other forms of woven or non-woven fiber art.
- New media: Including but not limited to new technologies in light, sound, film, holograms, virtual reality, digital media, and any hybrids of media and new genres.
- Other media: Neon, glass, earthworks, mosaics, tile, ceramics, printmaking, collage, mixed media, assemblage.
- Standardized fixtures or enhanced functional architectural elements: If rendered by an Artist as unique features, including but not limited to, grates, facade enhancements, stairways, fencing, and other design elements.

- Cultural Facilities: Public gallery, exhibition space, public performance spaces, theaters, Public Artistic studio spaces, and Public Art education facilities; and
- Performing Arts: Theatre, dance, music and performance art.
- Literary Art: Poetry readings, storytelling and creative writing.
- Media Art: Film, video, or digital media.
- Education: Lectures, presentations, and training in and about arts and culture.
- Special events: Parades, festivals, and celebrations; and
- Similar arts services, facilities and amenities as approved by the City of Costa Mesa.

Similarly, as the oversight of artist selection, fabrication, and installation requires expertise of a specialized nature, it is recommended that developers are able to obtain the services of an Art Consultant as a legitimate line-item cost for their project. The Art Consultant can assist them with services related to the identification of an Artist, arts opportunity, facilitation and oversight of artwork fabrication and installation, or performing as the liaison to the city regarding providing reports, application materials, and other information related to the review and approval of the artwork. Indeed, the utilization of an Art Consultant who will have a network of artists and contacts can go far in aiding the developer in identifying a qualified artist and art project that is integrated into the development in exciting and innovative ways for the enjoyment of the visitors to the site. Typically, municipalities allow for Art Consultant services as 10-20% of the project budget depending on the specific services rendered.



California Scenario by Isamu Noguchi

The following is offered for consideration as a definition of an Art Consultant:

Art Consultant:

An organization or individual working as a professional administrator of the arts, who realizes income through the provision of services relating to the arts such as, but not limited to, identifying artists and on-site art opportunities, and contracting with artists for venues with public audiences, or providing oversight of on-site logistics, demonstrates previous success in project management, and provides leadership in completion of Public Art projects.

As a further aid to developers, the City of Costa Mesa may want to pursue a call for Arts Consultants to be pre-qualified and placed on a roster that can be shared with developers looking for Art Consultant services.

Voluntary Participation Program

As indicated, four Orange County cities have a voluntary Public Art in private development program. As this type of effort relies on the developer to embrace the benefits of integrating Public Art into their development, it is recommended that the City of Costa Mesa offer guidance where possible to developers to assist them in this endeavor. Further, it is recommended that the City of Costa Mesa identify what incentives can be offered to developers during the zoning and development planning processes to encourage Public Art participation. Without incentives, it is difficult to imagine developers participating in the processes required, and to subject artwork they will own to the City's approval.

Ownership and Maintenance

Artwork created through a Public Art program for placement on private property, and funded by the developer, is the property of the developer, who will be required to maintain the artwork for the life of the piece. However, development owners should be made aware of the same artists' rights and the differences between object and image ownership discussed elsewhere, as they will hold the responsibility for following the mandates of these laws.

Public Art mandated and receiving credit for compliance is commonly considered long term/permanent in nature. An expectation of 25 years or more is commonly anticipated. For the artwork to be well maintained by the current and future property owners, a notarized Covenant and Agreement registered with the Orange County Clerk-Recorder describing the artwork and requiring that current and subsequent owners maintain the work for the expected lifetime is recommended as being required. The document should indicate the term of the maintenance requirement, and that an earlier termination of the agreement is possible with the City's approval through a written release by the City.

Approval of Public Art Projects

City approval for Public Art proposed by developers for credit in the case of a mandated ordinance being in place, or for voluntary compliance if incentives have been offered in exchange for Public Art participation is required. With a robust criterion defining Public Art, agencies address approval in one of two ways: Either the review and approval is considered as an objective review based on the criteria and performed by the arts program city staff (such as the City of Los Angeles, Los Angeles County, or San Diego), or the staff performs a preliminary review and the Arts Commission performs the final review and approval based on the criteria (such as the City of Brea or Culver City).

Criteria, Artwork Identification and Artist Selection

In addition to the requirement that the Public Artwork fit within the definition, the proposed art should uplift the development environment and be accessible for the community's enjoyment. As with Public Art that the City commissions, care should be taken to select a location with high visibility, work that is in harmony with the surroundings, and is accessible by the community during regular business hours. The artwork should be complimentary to the built environment, and constructed of appropriate long-term materials such as metal, stone, glass, tile, etc.

As they are the owners of the work, the identification of the specific project and artist are under the purview of the developer. However, the developer bringing an Art Consultant on board can greatly aid in the quality of the project as a wide range of artists with diverse styles and new ideas can be brought in for consideration.

Process

Developers should be made aware of the Public Art mandate if an ordinance is in place or the possibility of gaining incentives if participation is voluntary as early as possible in the project planning stage. It is at this early juncture that the developer can discuss the options and possibilities with City staff.

Preliminary Approval

Prior to the developer obtaining their building permit, they would file a preliminary Art Plan Application indicating the type of project being pursued, the preliminary budget schedule, and the process for artist identification.

The Parks and Community Services Director or their designee should review the preliminary Art Plan Application, and if it is found complete and in compliance with the ordinance or voluntary participation requirements, approve the preliminary plan. This approval will be deemed sufficient for the issuance of a Building Permit.

Within 60 days of the applicant obtaining a Building Permit, a final Art Plan Application for placement of artwork on private property should be submitted to the department with information including, but not limited to:

- Final sketches, photographs, or other documentation of sufficient descriptive clarity to indicate the nature of the proposed artwork and its compliance with the ordinance requirements.
- An appraisal or other evidence of the value of the proposed artwork, including acquisition and installation costs.
- Preliminary plans containing such detailed information as may be required by the department to adequately evaluate the site location of the artwork in relation to the proposed development and its compatibility with the neighborhood in which it is located. A narrative statement indicating how the artwork will be displayed in a public place freely available to the public at least ten (10) hours each day, or equivalent alternatives acceptable to the city.

Final Approval

The Parks and Community Services Director or their designee shall review the final application, and if it is found complete and in compliance with the requirements of the ordinance, prepare a recommendation to the Arts Commission.

The commission shall be responsible for review and approval of the proposed artwork for its compliance with the ordinance requirements, aesthetic quality, and the proposed location of and public accessibility to the artwork.

An applicant may appeal the decision of the commission to the City Council. Action by the City Council is final.

Project Completion

At the completion of the project the developer should provide a copy of the registration receipt for the Covenant and Agreement, photos of the completed artwork, final expenditure report, information about the artist and artwork, etc. City staff should perform a site visit to confirm the work is completed and satisfactory. A plaque identifying the artist, title of the work and crediting the program should be placed by the artwork by the developer as part of the project.

Financial Securities and Project Completion Guarantees

Municipalities handle the process of ensuring the satisfactory completion of the project in different ways. Developers receive compliance credit for their project in the form of an Approved Art Plan prior to a Building Permit being issued. Once the Developer has the Building Permit in hand, the City will require a way to ensure the project is completed satisfactorily as approved in advance.

If the project will be guaranteed to be completed in tandem with the building construction, then the Certificate of Occupancy can be tied to the satisfactory completion of the Art Plan and receipt of all closing documents such as the registration of the Covenant and Agreement, project documentation etc.

However, the completion of the art project may not coincide with the completion of the building and the City may not wish to withhold the Certificate of Occupancy waiting for the artwork.

In this instance, the best practice is to allow the developer to provide a Certificate of Deposit or a Letter of Credit to the benefit of the City that can be held and cashed in should the developer default on the project. This financial security would be automatically renewing to remain viable past the building completion date. Once the project is complete the Director of the Parks and Community Services Department can sign a release of the document back to the developer.

It may be tempting to utilize the Performance Bond process to guarantee the project, but this form of security is not recommended and is not appropriate for Public Art as discussed earlier.



The Storyteller by Jason Meadows

Budgeting for Public Art Projects

Utility Box Program

“The City of Costa Mesa owns over 120 utility boxes at signalized intersections throughout the city and is dedicated to incorporating art into public spaces. A Utility Box Art Program was launched in early 2015 to spotlight a handful of utility boxes as beautiful art pieces. The city currently has over 40 utility art boxes that display artwork from local artists.” From City of Costa Mesa 2022 Utility Box Program Handbook (see Appendix). Current budget is \$12,500 which covers up to 10 new artworks per year, including maintenance expenses. The artist honorarium for creating a work to be placed on a utility box is \$300. The City invites sponsorships of utility boxes (\$1,500 to \$2,500) and permits up to 20% of the space for sponsor branding. Complete details may be found in the Handbook.

Temporary Public Art Programs

Sculpture Program: Annual program costs can range from \$100,000 to \$500,000 (not including City Staff time), depending upon the number of sculptures to be displayed each year and the length of the exhibition for each work. Costs include project management consultant, artists fees, site preparation, installation, and de-installation. Site preparation costs will vary based on the number of concrete pads needed each year—more in the beginning, diminishing in subsequent years because the program reuses existing pads for replacement sculptures. The Sculpture Exhibition in Newport Beach Civic Center Park, now entering its eighth phase, has an annual budget of approximately \$175,000. It exhibits twenty works concurrently, with ten works rotated in and out each year. For more information, visit: <https://www.newportbeachca.gov/government/departments/library-services/cultural-arts/sculpture-in-civic-center-park-exhibition>.

Permanent Public Art Projects

Murals: Cost is projected at \$50,000 to \$300,000, depending upon the mural size and the number of murals commissioned – budget includes project management consultant, artists fees, installation, and annual maintenance costs based upon artist’s maintenance manual, but not City staff time.

Sculptures: Costs range from \$100,000 to \$1,000,000, including project management consultant and artist fees, site preparation, installation, and annual maintenance costs based upon the artist’s maintenance manual, but not City staff time.



Funding Mechanisms for Public Art Projects

Municipalities commonly use the following sources to fund art endeavors in general and Public Art specifically, aside from the allocation of these endeavors through usage of the General Fund.

Transit Occupancy Tax

As arts and culture offerings enhance the desirability of a community and support the appeal of a City as a destination, cities will commonly provide a percentage of the Transit Occupancy Tax as a line-item revenue stream. For example, the City of Los Angeles identifies 1% of the tax for (1) acquisition or placement of publicly accessible works of art; (2) acquisition or construction of arts and cultural facilities; (3) the providing of arts and cultural services; (4) restoration or preservation of existing works of art; (5) the City's costs of administering the Public Works Improvement Arts Program; and, (6) support to programs and operations of the Cultural Affairs Department.

Using a slightly different approach, the City of Laguna Beach established more than 20 years ago a Business Improvement District comprised of its hotels, which added a 2% fee per night on hotel room stays. The program mandated that half of the proceeds are distributed to the arts in a formula that supports its three mainstay institutions (Laguna Art Museum, Laguna College of Art + Design, Laguna Playhouse), its Arts Commission's Public Art Program, and more than a dozen small community arts organizations. More than \$1 million is generated for the arts annually from this mechanism. The rationale for funding the arts through this program was that it supports year-round arts activities that contribute to filling hotel rooms during the off-season.

Public Works and/or Private Development Percent for Art Policies

A natural enhancement to public works development is the integration of Public Art into the construction and improvement of City facilities. As permanent Public Art is considered a capital improvement, it is generally eligible as an expense in tandem with grants or other outside funding for these projects. Depending on the source, facility funding can be less restrictive, allowing for a wide array of arts programming on the site of the development.

Municipalities have allocated between 1-2% of the cost of construction for these projects as part of the regular budgeting process. Among Orange County's 34 cities, there are currently 7 that mandate Public Art within their communities: Brea, Buena Park, Dana Point, Laguna Beach, Santa Ana, Tustin, and Westminster. Two more cities are expected to join that list upon approval of Public Art Plans they are completing: Anaheim and Huntington Beach. (See Appendix for more details.)

The mechanism used most frequently is the assessment of a fee ranging from 0.5% to 1.25% on the total cost of new construction or renovations on projects valued at or above a baseline amount. Fees may apply to City capital improvements, private development, or both. Policies vary, with private developers, in some cities, permitted to acquire and install art on their property to fulfill the requirement (with City review and approval), or instead to pay into an in-lieu fund managed by the City to acquire and install Public Art on City-owned property.

Quimby Funds

Restricted to parks, there are instances where the integration of Public Art into park enhancements can be eligible and a great use of the fund. This is a consideration that merits exploration on a case-by-case basis.



New State of California Funding

In June 2022, the Legislature approved and the Governor signed a State budget that includes a \$25 million one-time General Fund appropriation for the California Department of Parks and Recreation to create a new California Cultural and Art Installations in the Parks program for state and local parks, in partnership with the California Arts Council. Installations will reflect local cultural heritages, connect the public to natural resources of state and local parks, and provide contemporary experiences to visitors. Details are forthcoming.

Private Funds

The success of most robust municipal art in public places programs is due to the investment of public funds, regarding the value of Public Art as similar to libraries, community centers and parks. Nevertheless, opportunities exist for raising private support to augment public dollars for such programs, ranging from “crowdfunding” small contributions (often used for commemorative monuments) to major gifts enabling a municipality to acquire an especially costly work of art by an internationally-renowned artist. An example of this was the \$1 million gift by a donor toward the cost of commissioning art to be installed at the Golden 1 Center (a new sports arena) in Sacramento.



Fire Bird by Richard Lippold

Under the Public Art Goal #2:

Imaginative Design in Functional Elements



As described in the Arts & Culture Master Plan:

Action 2.6: Incorporate imaginative design in all the City's functional elements and fixtures.

"There are artists and existing companies that specialize in the custom fabrication of creatively designed elements such as streetlights, playground equipment, fitness stations, bus shelters, benches. After a period of research, the City should conduct a call for artists to submit designs, which would be selected by the City through a process involving the Cultural Arts Committee, Planning Commission, City staff and Council. Based on budget, the City can choose to transform the chosen elements over a short period of time or phase them in as replacement of older elements."

Streetlights

Streetlights comprise a prolific functional element in the urban environment that require routine replacement over the years and addition to the cityscape when new land use developments take place.

Some cities have embellished their appearance in subtle or dramatic ways. Historic "old town" districts of cities are often emphasized through the use of "Gaslamp"-style fixtures. Contemporary developments have gravitated to more geometrical designs for their exterior lighting needs on pathways and sometimes adjacent streets.

Many decorative designs for streetlights are commercially available through a wide variety of sources and meet the latest eco-friendly standards by using LED lamps and solar or wind energy.

But "off the shelf" products don't precisely fulfill the vision of the Arts & Culture Master Plan, which indicates a desire for uniqueness and authenticity.



Imaginative Design in Functional Elements

Mission Viejo

When the planned community (now city of) Mission Viejo was developed in the 1960s, the Mission Viejo Company designed a distinctive streetlight modeled on the El Camino Real bells along the historic highway and the bells at nearby Mission San Juan Capistrano. At that time, experts said it could not be created, but representatives from General Electric and Edison worked together to transform the concept into reality and today thousands of the “Mission Bell Luminaire” streetlights illuminate the city. It is a hallmark of that community, reflecting its self-defined character.



Los Angeles

Other cities have held open competitions for such designs, and a recent example was “LA Lights the Way,” a 2019 call for designers in architecture, design, and engineering by the City of Los Angeles to submit concepts for a new design to replace its streetlights. LA has over 210,000 streetlights in over 400 different designs citywide.

Three competitions were conducted: one open to professional designers, one for students in professional design programs, and one for all other students. Guidelines included adherence to the City’s strict public works specifications required for safe, efficient and durable streetlights. Juries for each program included representation from designers, architects, engineers, and City staff. Full program details may be found here: <https://www.lalightstheaway.org/>

The winning design was announced by Los Angeles Mayor Eric Garcetti in front of the famous Chris Burden “Urban Light” installation at the Los Angeles County Museum of Art in 2020.





Imaginative Design in Functional Elements

Benches

Benches provide another opportunity to beautify functional elements in a City. The City of Laguna Beach includes an Artist-Designed Bench program among its Public Art programs. The selection follows their normal Public Art processes, though guidelines for the benches, as functional elements on which people may sit or lie down, are more specific as to materials and design.



The following are a few examples of **Laguna Beach** artist-designed benches:



Bus Shelters

The City of Athens, Georgia, is widely known for artist-designed bus shelters, selected to open competitions similar to those described above. In their words, “The unique installations have sparked conversations, prompted explorations and brought the uniqueness of being an Athenian to our well-regarded Transit System. These shelters serve a practical need as well as connect with people who might not ordinarily seek out Public Art.”



Street Calming, Pedestrian Crosswalks, Bike Lanes

“Asphalt art had a strong positive correlation with improved safety benefits across aggregated and most individual study sites,” researchers wrote in the study. “Road user behavior clearly improved across the observed study sites in the after analysis periods.” This was reported by Bloomberg Philanthropies about their Asphalt Art Initiative, which they define as “visual interventions on roadways (intersections and crosswalks), pedestrian spaces (plazas and sidewalks), and vertical infrastructure (utility boxes, traffic barriers, and underpasses).”

<https://asphaltart.bloomberg.org/>



The City of Portland, Oregon has more than 100 street art paintings. A recent article by BikePortland cited the following statistics from the Bloomberg Philanthropies report: “a 50% decrease in the rate of crashes involving pedestrians or other vulnerable road users, a 37% decrease in the rate of crashes leading to injuries, and a 17% decrease in the total crash rate. The user behavior assessment yielded similar results; a 25% decrease in pedestrian crossings involving a conflict with drivers, a 27% increase in frequency of drivers immediately yielding to pedestrians with the right of way, and a 38% decrease in pedestrians crossing against the walk signal.” They did so in order to rebut “For years, the official stance from the Portland Bureau of Transportation has been that intersection paintings have no traffic safety impacts and are simply a tool to build community and bring people together around a shared neighborhood identity.”



In September 2020, with support from the nonprofit Costa Mesa Alliance for Better Streets, Costa Mesa installed traffic calming street art on a temporary basis to test the concept and the public’s response. The artwork was created by Costa Mesa artist Salina Mendoza.



Monrovia & 19th Streets, Costa Mesa



Wallace & Center Streets, Costa Mesa



Imaginative Design in
Functional Elements

Playgrounds and Fitness Stations

Playgrounds worldwide for decades have showcased artist-designed equipment and whimsical experiences for children. While off-the-shelf playground themes are readily available, this is another opportunity for a city to demonstrate its uniqueness by commission artists in the creation of playground equipment.

Interestingly, just a few years ago, the National Fitness Campaign partnered with the Keith Haring Foundation (administrator of the famous artist's estate) to offer communities a number of options to license stock outdoor fitness courts with Haring's easily recognizable art emblazoned on their walls. However, in response to many communities' requests, the National Fitness Campaign also opened up the opportunity for its fitness courts to be designed by artists chosen by local communities through commissions and competitions.



A playground depicting the literary character of Gulliver in Portugal

National Fitness Campaign's fitness court using licensed art by the late Keith Haring can instead feature the work of artists chosen by local communities



Example of a National Fitness Campaign fitness court with art by a locally-chosen artist.



Utility Boxes

Costa Mesa already has a successful and growing Utility Box Art Program. See p. 94 and following for its June 2022 Handbook.

Costa Mesa

Utility Art Box Program Handbook (draft 6/2022). The Handbook outlines the process:

- Use of vinyl wraps
- Maintenance & Repair – City responsible
- Submission for Artists – Artist Honorarium (\$300)
- Submission for Sponsorships – can use name & logo on box plus artwork (\$1,500 to \$2,000 for private, for-profit businesses and \$600 to \$1,000 for public and non-profit organizations.)
- Review & evaluation by staff and Costa Mesa Cultural Arts Committee (which was converted to Commission status in 2022)

Orange County cities with Utility Box Art Programs Include:

Buena Park

New Art in Public Places Program specifically for city public locations. Program does utility boxes (vinyl wrap) and murals (public pool).

Dana Point

Dana Point just completed Phase 3 of the Utility Box Public Art Program. Priority is given to local artists for the vinyl wrap boxes. Artwork is selected by the City of Dana Point Arts & Culture Commission. Each selected artist receives a \$250 honorarium.

San Clemente

The City of San Clemente and the San Clemente Art Association created this pilot beautification project, “Street Art” in 2012. Each artist selected received a \$500 honorarium and a supply voucher up to \$200.

The boxes are painted with the predominant themes of nature and the surf culture.

Santa Ana

In 2020, the City of Santa Ana Arts & Culture Office did a Call for Art for their Utility Box Art Program. This was for artists who live, work, or study in Santa Ana. Artists painted the boxes and received an honorarium of \$400.

Tustin

Creative Signals, Traffic Signal Cabinet Public Art Program. This was established in 2018 working with the Public Art Committee. Individuals, organizations, and businesses are invited to donate a Public Art project to the City of Tustin by having an original vinyl wrap designed and



Utility Box 39 by Jason Maloney

Functionality and Cost

Adding imaginative design or artistic treatments to functional elements in the cityscape requires adherence to specifications for safety, energy efficiency, durability, ease of maintenance, and other concerns. This can sometimes add to the cost of acquisition, which should be taken into account when planning such projects. But the costs should also be weighed against the value to the City in terms of beautification, community engagement, and contribution to the image and “brand” of Costa Mesa as “City of the Arts.”

About the Consultant

Arts Orange County (ArtsOC) is the leader in building appreciation of, participation in, and support for the arts and arts education in Orange County, California. A countywide nonprofit arts council, Arts Orange County is designated by the County's Board of Supervisors as its official Local Arts Agency and State-Local Partner. Founded in 1995, ArtsOC offers a broad range of traditional arts council programs and services that are augmented by an innovative portfolio of consulting and project management services for government, education and nonprofit organizations.

ARTS ORANGE COUNTY CONSULTING TEAM

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Appendix

Historic
COSTA MESA

Historic Costa Mesa by Allyson Jones Wong

Mandatory Public Art – 4 Cities

These cities have ordinances requiring the acquisition and installation of art as part of public and/or private development.

Brea

Development projects with a total project valuation of between \$1,500,000 and \$3,999,999 have the option of contributing sculpture allocation funds to Brea's Art Fund in lieu of installing sculpture at the project site. Development projects with a total project building valuation of \$4,000,000 or more must install sculpture at the project site. 1% of total project valuation. Program has been in place since 1975 with more than 180 artworks on display citywide.

Buena Park

New public parks and City capital improvements must include Public Art component (enacted 2019)

Dana Point

0.5% on private and public development projects (except County of Orange Dana Point Harbor)

Laguna Beach

All new commercial and industrial development, residential development (including subdivisions) of more than four lots or units, remodeling, repair, or reconstruction of buildings in the above two categories when the value exceeds \$225,000.00, and certain City public works projects when the value exceeds \$225,000.00.

Acquire and install an artwork on the project site which is of at least 1% of the total project valuation, or pay an in-lieu fee which is a contribution to the Art In-Lieu fund and will be equal to 1.25% of the total project valuation.

In 2020, Temporary Public Art Installations were developed with funding from the Arts Commission Special Program Budget. Arts Commission budget generated from revenues from the Business Improvement District, Transient Occupancy Tax (TOT), and donations.

Non-Mandatory Programs – 4 Cities

These cities encourage private developers to incorporate Public Art into their projects and provide guidelines with varying degrees of detail.

Anaheim

Anaheim is at beginning stages in preparing a Public Art Plan. They are doing research on all the different communities in the city, looking at both cultural and historical aspects.

Huntington Beach

There is a draft Public Art Master Plan (2020) that has not been approved. The purpose of the Plan is to guide the process for Public Art within the City. Plan proposes to form an ad hoc Art In Public Places Committee to develop policies and procedures for the use of currently available Public Art in Parks funds.

Newport Beach

Newport Beach recognizes the importance of Public Art to enhance and beautify the city under an Art in Public Places Council Policy. For the past 10 years, emphasis has been on the temporary Sculpture Exhibition in Civic Center Park, where 10 pieces are loaned for a 2-year period (20 works on display simultaneously). Phase VII was just installed and will be up through June 2024. The City has utilized various sources to pay for it over the years, including proceeds from a development fee, General Fund, contribution from a hotel fee (Business Improvement District), a State of California grant, and supplemental funds from a fundraising auxiliary to the City's Arts Commission.

Santa Ana

Santa Ana just developed Public Art Guidelines, Chapter 15, as part of the Citywide Design Guidelines. In that, Public Art associated with commercial development is encouraged. Public Art projects such as fitness court murals, utility boxes, and a beautification project (Willits and Sullivan) have been implemented recently primarily as special projects directed by the City Council.

Inventory of Public Artworks in the City of Costa Mesa

Permanent Artworks (58)

California Scenario (Award Winning, 1994) / stone, water, metal, plantings / 1980-1982
Artist: Isamu Noguchi
Location: Pacific Arts Plaza, 611 Anton Boulevard

Connector (Award Winning, 2006) / weatherproofed steel sculpture / 2006
Artist: Richard Serra
Location: Segerstrom Center for the Arts, 600 Town Center Drive

Costa Mesa Bloom / mural / 2019
Artist: Aaron Glasson
Location: Triangle Square, Harbor Boulevard and 19th Street

Cytocast / ultra-high performance concrete and micro-rebar sculpture / 2018
Artist: Joseph Sarafian and Orange Coast College Architecture students
Location: The LAB Anti-Mall, 2930 Bristol Street

Dick Church's Restaurant Mural / mural / date unknown
Artist: Jennifer Bloomfield
Location: Dick Church's Restaurant, 2698 Newport Boulevard

Dolly Parton Mural / mural / 2021
Artist: David Gilmore
Location: The Strut Bar and Club, 719 West 19th Street

Electric Bike Company Mural / mural / 2021
Artist: Jennifer Bloomfield
Location: Electric Bike Company, 1945 Placentia Avenue

Fermi / marble modular sculpture / 1975
Artist: Tony Smith
Location: 650 Town Center Drive

Fire Bird / gold, silver, and red stainless steel sculpture / 1986
Artist: Richard Lippold
Location: Segerstrom Center for the Arts, 600 Town Center Drive

Floyd's 99 Barbershop Mural / spray paint mural / 2017
Artist: Jonas Never
Location: Former Floyd's 99 Barbershop, 124 East 17th Street

Floyd's 99 Barbershop Mural / spray paint mural / 2017
Artist: Jonas Never
Location: Former Floyd's 99 Barbershop, 124 East 17th Street

Food for the Soul / spray paint mural / 2021
Artist: Brian Peterson and Damin Lujan
Location: Someone Cares Soup Kitchen, 720 West 19th Street



Four Lines Oblique Gyrotory-Square IV / kinetic steel sculpture / 1973
Artist: George Rickey
Location: 650 Town Center Drive

Friends of Brentwood Park / wall mural / 2017
Artist: Becky Feltman
Location: Brentwood Park, 260 Brentwood Street

Historic Costa Mesa / painted mural / 2012
Artist: Allyson Jones Wong
Location: Sparks Enterprises, 1500 Adams Avenue

Hombre and Mujer / 2 sculptures / 2001
Artist: Vladimir Cora
Location: Mesa Art and Framing, 789 West 19th Street

Home Sweet Home / wall mural / 2019
Artist: Brian Peterson
Location: First United Methodist Church, 420 West 19th Street

Jonah and the Whale / bronze sculpture in pool / 1918
Artist: Carl Milles
Location: 650 Town Center Drive

Kobe and Gianna Bryant Tribute Mural / mural / 2020
Artist: Tyke Witnes
Location: 739 West 19th Street

Kobe Bryant Mural / mural / 2020
Artist: Efren Andaluz
Location: SOCIAL Costa Mesa, 512 West 19th Street

Las Poderosas Mural / mural / 2020
Artists: Alicia Rojas, Camilo Romero, and the Santa Ana Community Artist(a) Coalition
Location: Baker Street and Killybrooke Lane

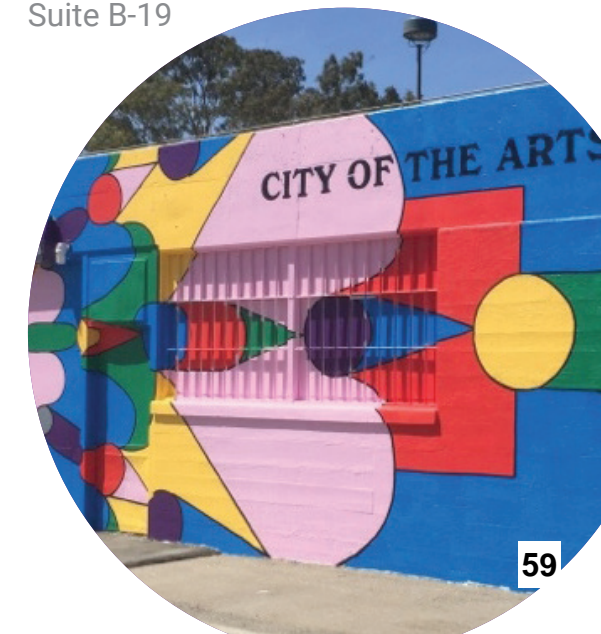
Mustang Legacy Wall Project / brick wall mural / 2017
Artist: Costa Mesa High School Foundation
Location: Costa Mesa High School, 2650 Fairview Road

Neptune Water Spouts / ceramic fountain heads and fountain / 1975
Artist: Betty Davenport Ford
Location: 686 Anton Boulevard

Night Shift / Sierra white granite and stainless steel sculpture / 1982
Artist: Jim Huntington
Location: 686 Anton Boulevard

Oiseau / bronze sculpture / 1981
Artist: Joan Miro
Location: 650 Town Center Drive

Orange County Graffiti Mural / mural / date unknown
Artist: Graffiti LA
Location: Former Rollin Deep Ice Cream, 891 Baker Street, Suite B-19



Pablo Universal / painted mural on building / 2013
Artist: David Flores
Location: Former DAX Gallery, 2951 Randolph Street

Reclining Figure / bronze sculpture / 1981
Artist: Henry Moore
Location: 600 Town Center Drive

Sun Glitter / bronze sculpture / 1932
Artist: Henry Moore
Location: 650 Town Center Drive

Sun Ribbon / glass and metal windscreen sculpture / 1980
Artist: Claire Falkenstein
Location: 686 Anton Boulevard

Table of Dignity / installation and murals / 2017
Artists: Ricardo Mendoza, Josh Sarantitis, and Emigdio Vasquez Jr.
Location: 88 Fair Drive

Taco Mesa Mural / mural on exterior wall / date unknown
Artist: Unknown
Location: Taco Mesa, 647 West 19th Street

The Artist's Vision / metal sculpture / 2004
Artist: James McDeamas
Location: 77 Fair Drive

The Free Britney Mural / mural / 2021
Artist: David Gilmore
Location: Donkey D's, 820 West 19th Street

The Ram / painted steel sculpture / 1979
Artist: Charles O. Perry
Location: 686 Anton Boulevard

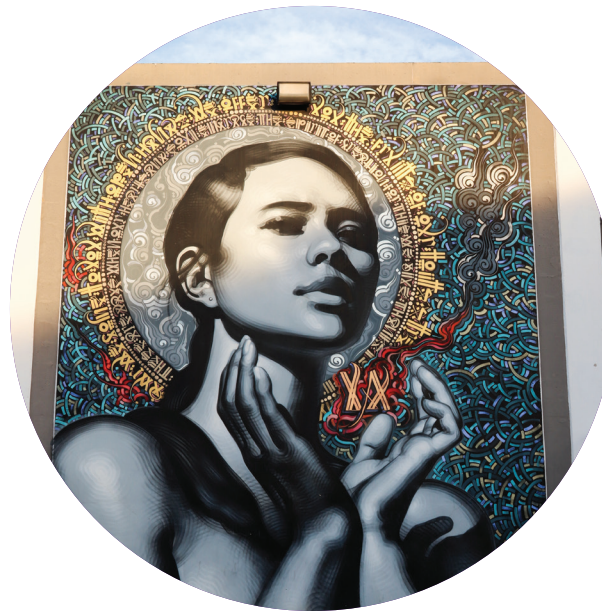
The Storyteller, Upstage / Downstage, The Herald (Spatio Virtuo Teatro) / 3 painted steel sculptures / 2006
Artist: Jason Meadows
Location: Terrace at South Coast Repertory, 655 Town Center Drive

Thalo Sun / paint on wood mural / 2021
Artist: Gabriella Kohr
Location: The LAB Anti-Mall, 2930 Bristol Street

Tour Aux Jambes / polystyrene, polyester, and epoxy sculpture / 1973-1980
Artist: Jean Dubuffet
Location: 695 Town Center Drive

Untitled – B-24 Mural / mural / 2021
Artist: Nancy Hadley
Location: 17th Street

Untitled – Bootleggers Brewery Mural / mural / date unknown
Artist: Unknown
Location: The LAB Anti-Mall, 2930 Bristol Street



Untitled – Crack Shack Mural / mural / date unknown
Artist: Unknown
Location: The Crack Shack, 196 East 17th Street

Untitled / acrylic, spray paint mural / 2009
Artists: El Mac and Retna
Location: RVCA Headquarters, 960 West 16th Street

Untitled / exterior color primer paint mural on building / 2018
Artist: Joshua Madrid
Location: Volcom Skate Park, 900 Arlington Drive

Untitled / 7 paint on wall-mounted canvas panels / 2018
Artist: Joshua Madrid
Location: The LAB Anti-Mall, 2930 Bristol Street

Untitled CD Tunnel / compact discs installation / unknown date
Artist: Unknown
Location: The LAB Anti-Mall, 2930 Bristol Street

Untitled Gazebo / sculpture / unknown date
Artist: Unknown
Location: The LAB Anti-Mall, 2930 Bristol Street

Untitled – Faces Mural / mural / unknown date
Artist: Unknown
Location: The LAB Anti-Mall, 2930 Bristol Street

Untitled – Industrious Costa Mesa Mural / mural / unknown date
Artist: Unknown
Location: Industrious Costa Mesa, 3090 Bristol Street

Untitled – Parking Lot Mural / mural / unknown date
Artist: Unknown
Location: Industrious Costa Mesa, 3090 Bristol Street

Untitled – Parking Lot Mural 2 / mural / unknown date
Artist: Unknown
Location: Industrious Costa Mesa, 3090 Bristol Street



Untitled / spray paint mural / unknown date
Artist: Barry McGee
Location: RVCA Headquarters, 960 West 16th Street

Untitled – Save Our Youth Mural / mural / unknown date
Artist: Save Our Youth
Location: Save Our Youth Foundation, 2045 Meyer Place

Untitled – Social Costa Mesa Mural / mural / unknown date
Artist: Unknown
Location: SOCIAL Costa Mesa, 512 West 19th Street



Mural / mural painted on exterior wall / unknown date
Artist: Unknown
Location: Tewinkle Intermediate School, 3224 California Street

Untitled – RVCA Headquarters Mural / spray paint mural / unknown date
Artist: Unknown
Location: RVCA Headquarters, 960 West 16th Street



Utsurohi 91 – Costa Mesa / chromium-plated steel and ceramic tile sculpture / 1991
Artist: Aiko Miyawaki
Location: 695 Town Center Drive

Welcome Home / acrylic spray paint mural / 2017
Artist: Shepard Fairey
Location: 125 Baker Street

Welcome to Costa Mesa / spray paint mural / date unknown

Artists: Brian Peterson and Damin Lujan
Location: 21st Street

Wilson Elementary Mural / mural / 2022
Artist: Jennifer Bloomfield
Location: 801 West Wilson Street

Yes, No, Maybe (Neon Art) / neon art / date unknown
Artist: Unknown
Location: The LAB Anti-Mall, 2930 Bristol Street

Utility Box Art Program
Current: 51
Former: 11
 (“Former” refers to previous artworks that have been removed.)

Utility Box 1 (Former) / sticker wrapped utility box / 2015
Artist: Al McCoy
Location: Formerly 19th Street and Placentia Avenue

Utility Box 2 / sticker wrapped utility box / 2015
Artist: Michael Ward
Location: Placentia Avenue and Wilson Street

Utility Box 3 (Former) / sticker wrapped utility box / 2015
Artist: Scott Kennedy
Location: Formerly Placentia Avenue and 16th Street

Utility Box 4 (Former) / sticker wrapped utility box / 2015
Artist: Gina Clark
Location: Formerly Fair Drive and Civic Center

Utility Box 5 / sticker wrapped utility box / unknown date
Artist: City of Costa Mesa – City Manager’s Office
Location: Park Avenue and 19th Street

Utility Box 6 (Former) / sticker wrapped utility box / 2015
Artist: Abby Garcia
Location: Formerly Placentia Avenue and 17th Street

Utility Box 7 / painted utility box / 2015
Artist: Estancia High School Artists
Location: 2323 Placentia Avenue

Utility Box 8 / sticker wrapped utility box / 2015
Artist: Segerstrom Center for the Arts Graphic Design Team
Location: Bristol Street and Town Center Drive

Utility Box 9 / sticker wrapped utility box / 2016
Artist: Thomas Griffithe
Location: Newport Boulevard and Victoria Street

Utility Box 11 / sticker wrapped utility box / 2016
Artist: Marie Lavallee
Location: 17th Street and Westminster Avenue

Utility Box 12 / sticker wrapped utility box / date unknown
Artist: Julie Bird Mattson
Location: East 17th Street and Tustin Avenue

Utility Box 12 (Former) / sticker wrapped utility box / 2017
Artist: Papa Murphy’s Graphic Design Team
Location: Formerly Wilson Street and Harbor Boulevard

Utility Box 13 / sticker wrapped utility box / 2017
Artist: David Levy
Location: Mesa Drive and Santa Ana Street

Utility Box 14 / painted utility box / 2017
Artist: Senior Center Artists
Location: 19th Street and Pomona Avenue

Utility Box 15 / sticker wrapped utility box / 2017
Artist: Ben Brough
Location: 17th Street and Santa Ana Avenue

Utility Box 16 / sticker wrapped utility box / 2017
Artist: Marie Lavallee
Location: 19th Street and Anaheim Avenue

Utility Box 17 / sticker wrapped utility box / 2017
Artist: Craig Barker
Location: Adams Avenue and Mesa Verde East

Utility Box 18 / sticker wrapped utility box / 2017
Artist: Bill Anderson
Location: Bristol Street and Anton Boulevard

Utility Box 19 / sticker wrapped utility box / 2017
Artist: Segerstrom Center for the Arts
Location: Bristol Street and Sunflower Avenue

Utility Box 20 / sticker
wrapped utility box / 2018
Artist: The Costa Mesa
Historical Society
Location: Harbor Boulevard
and 19th Street

Utility Box 21 / sticker
wrapped utility box / 2018
Artist: The Costa Mesa
Historical Society
Location: Harbor Boulevard
and Mesa Verde Drive

Utility Box 22 / sticker
wrapped utility box / 2017
Artist: Sharon Hurd
Location: Placentia Avenue
and Goat Hill Junction

Utility Box 23 (Former) /
sticker wrapped utility box /
2018
Artist: Jason Carrougher
Location: Formerly Placentia
Avenue and 18th Street

Utility Box 24 / sticker
wrapped utility box / 2018
Artist: Orange Coast College
Location: Fairview Road and
Arlington Drive

Utility Box 25 / sticker
wrapped utility box / 2018
Artist: Orange Coast College
Location: Fairview Road and
Monitor Way

Utility Box 26 / sticker
wrapped utility box / 2018
Artist: Orange Coast College
Location: Fairview Road and
Merrimac Way

Utility Box 27 / sticker
wrapped utility box / date
unknown

Artist: Victor Briseno
Location: Hamilton Street
and Harbor Boulevard

Utility Box 29 / sticker
wrapped utility box / date
unknown

Artist: Orange County
Fairgrounds
Location: Wilson Street and
Harbor Boulevard

Utility Box 30 / sticker
wrapped utility box / date
unknown
Artist: Orange County
Fairgrounds
Location: Fair Drive

Utility Box 31 / sticker
wrapped utility box / date
unknown
Artist: Maria Reverberi
Location: Adams Avenue and
Pinecreek Drive

Utility Box 32 / sticker
wrapped utility box / date
unknown
Artist: Barbara Owens
Location: Milbro Street and
Baker Street

Utility Box 33 / sticker
wrapped utility box / date
unknown
Artist: Iriet Peshkess
Location: Baker Street and
Fairview Road

Utility Box 34 / sticker
wrapped utility box / date
unknown
Artist: Wade McDonald
Location: Paularino Avenue
and Bristol Street

Utility Box 35 / sticker
wrapped utility box / date
unknown
Artist: Al McCoy
Location: West 19th Street
and Placentia Avenue

Utility Box 36 / sticker
wrapped utility box / date
unknown
Artist: Frank Gutierrez
Location: Bristol Street and
Randolph Avenue

Utility Box 37 / sticker
wrapped utility box / date
unknown
Artist: Bill Anderson
Location: SOBECA Way and
Bristol Street

Utility Box 38 / sticker
wrapped utility box / date
unknown
Artist: Scott Kennedy
Location: West 16th Street
and Placentia Avenue

Utility Box 39 / sticker
wrapped utility box / date
unknown
Artist: Jason Maloney
Location: Bristol Street and
Baker Street

Utility Box 40 / sticker
wrapped utility box / date
unknown
Artist: Costa Mesa Historical
Preservation Society
Location: Placentia Avenue
and Fairview Park

Utility Box 41 / sticker
wrapped utility box / date
unknown
Artist: Julie Bird Mattson
Location: National Avenue
and Victoria Street

Utility Box 42 / sticker
wrapped utility box / date
unknown
Artist: Rebekah Corum
Location: Newport Boulevard
and 22nd Street

Utility Box 43 / sticker
wrapped utility box / date
unknown
Artist: Tanya Lozano
Location: Bear Street and
South Coast Drive

Utility Box 44 / sticker
wrapped utility box / date
unknown
Artist: Jeff Gillette
Location: Harbor Boulevard
and Fair Drive

Utility Box 46 / sticker
wrapped utility box / date
unknown
Artist: Bob Hogue
Location: South Coast Drive
and Harbor Boulevard

Utility Box 47 / sticker
wrapped utility box / date
unknown
Artist: Costa Mesa Historical
Preservation Society
Location: Harbor Boulevard
and Merrimac Way
Utility Box 48 / sticker
wrapped utility box / date
unknown
Artist: Marco de Jesus Nino
Location: Mesa Drive and
Newport Avenue



Utility Box 49 / sticker
wrapped utility box / 2021
Artist: Jennifer Bloomfield
Location: Newport Boulevard
and Del Mar Avenue
Utility Box 50 / sticker
wrapped utility box / date
unknown
Artist: Richard Walsh
Location: Red Hill Avenue and
Baker Street East

Utility Box 51 / sticker
wrapped utility box / date
unknown
Artist: Costa Mesa Historical
Preservation Society
Location: Newport Boulevard
and Bay Street

Utility Box 52 / sticker
wrapped utility box / date
unknown
Artist: Jeff Lee
Location: West Sunflower
Avenue and Susan Street

Utility Box 53 / sticker
wrapped utility box / date
unknown
Artist: Johnathan Schiesel
Location: American Avenue
and Victoria Street

Utility Box 54 / sticker
wrapped utility box / date
unknown
Artist: Ronald Chee
Location: Adams Avenue and
Royal Palm Drive

Utility Box 55 / sticker
wrapped utility box / date
unknown
Artist: Sonya Teymourian
Location: Superior Avenue
and Industrial Way

Utility Box 56 / sticker
wrapped utility box / date
unknown
Artist: Ana Paula Lima
Location: East 17th Street
and Newport Boulevard

Utility Box 57 / sticker
wrapped utility box / date
unknown
Artist: Britt Bastedo
Location: Harbor Boulevard
and West Bay Street

Utility Box 58 / sticker
wrapped utility box / date
unknown
Artist: Sonya Teymourian
Location: Fairview Road and
Fair Drive

Utility Box 59 / sticker
wrapped utility box / date
unknown
Artist: Bob Hogue
Location: West 19th Street
and Meyer Place

**Utility Box (Former -
Unnumbered)** / sticker
wrapped utility box / 2020
Artist: Bonnie Matthews
Location: Formerly Bear
Street and Baker Street

**Utility Box (Former -
Unnumbered)** / sticker
wrapped utility box / 2015
Artist: Bridget Bourgon
Location: Formerly 19th
Street and Harbor Boulevard

**Utility Box (Former -
Unnumbered)** / sticker
wrapped utility box / 2018
Artist: Chris Simmons
Location: Formerly Fairview
Road and Fair Drive

**Utility Box (Former -
Unnumbered)** / painted utility
box / 2015
Artist: Marilyn Scott-Waters
Location: Placentia Avenue
and 18th Street

**Utility Box (Former -
Unnumbered)** / sticker
wrapped utility box / date
unknown
Artist: Raising Canes
Location: Harbor Boulevard
and Baker Street

SAMPLE PUBLIC ART IN PRIVATE DEVELOPMENT Definitions and Eligibilities from Other Municipalities



City of **San Diego**:

“Artwork – An artwork may be in any style, expression, genre or media, provided that it is designed by an artist as defined herein. Artworks may be stand-alone, functional, or integrated into the architecture or landscaping and should encompass the broadest range of expression, media and materials.

Artwork includes:

Sculpture: may be made of any material or combination of materials; may be free standing, wall supported or suspended, kinetic, electronic or mechanical.
Murals or paintings: may be made of any material or variety of materials with or without collage; may be made with traditional or non-traditional materials and means.

Earthworks, neon, glass, organic materials (i.e., fiber, clay, wood, etc.), mosaics, photographs, prints, literary expression, calligraphy, any combination of media, including audio, video, film, CD-ROM, DVD, holographic or computer-generated technologies, or new genres.

Artwork as defined herein may be permanent, fixed, or portable, may be an integral part of a building, facility, or structure, and may be integrated with the work of other design professionals.”

The City of Los Angeles listing of projects eligible for their Arts Development Fee Credit, please note that the City of Los Angeles has a broader range of cultural services eligible for compliance:

“

“Credits.

(b) Cultural and artistic facilities are defined as follows:

(i) Exhibit/Performance Space: Public gallery/exhibition space, public performance spaces, Public Artistic studio spaces, Public Arts education facilities.

(ii) Sculpture: Free standing, wall supported or suspended, kinetic, electronic or mechanical in material or combination of materials.

(iii) Murals or portable paintings: In any materials or variety of materials, with or without collage or the addition of non-traditional materials and means.

(iv) Earthworks, fireworks, neon, glass, mosaics, photographs, prints, calligraphy, any combination of forms of media, including sound, film, holographic, and video systems, hybrids of any media and new genres.

(v) Standardized fixtures such as grates, streetlights, signage, and other design enhancements, as are rendered by an artist for unique or limited editions.

(vi) Similar facilities on culture and the arts as determined by the Cultural Affairs Department.

(c) Cultural and artistic services are defined as follows:

(i) Performing arts: Theatre, dance, music, and performance art.

(ii) Literary arts: Poetry readings and story telling.

(iii) Media arts: Film and video, screenings, and installations.

(iv) Education: Lectures, presentations, and training in and about arts and culture.

(v) Special events: Parades, festivals, and celebrations.

(vi) Similar services on culture and the arts as determined approved by the Cultural Affairs Department.”

Equally important is the listing of works not eligible for compliance. The following are examples of this aspect:

“

City of Los Angeles:

“The following facilities, services and community amenities are ineligible costs for a credit provided herein:

(i) Directional elements such as supergraphics, signage, or color coding except where these elements are integral parts of the original work of art.

(ii) Art objects which are mass produced of standard design such as playground equipment, fountains, or statuary objects.

(iii) Reproductions, by mechanical or other means, of original works of art, except in cases of film, video, photography, printmaking or other media arts.

(iv) Decorative, ornamental, or functional elements which are designed by the building architect as opposed to an artist commissioned for this design enhancement purpose.

(v) Landscape architecture and landscape gardening except where these elements are designed by the artist and/or are an integral part of the work of art by the artist.

(vi) Services or utilities necessary to operate or maintain the artwork over time.”

Los Angeles County includes the following as an ineligible project to ensure the artwork does not contain a commercial message:

“

“Artworks that contain a commercial message by referencing, presenting, or promoting a product or service that is available on or off site of the subject property through text, image, logo, trademark, or other mechanism”



ORDINANCE NO. 2013 003

1
2
3 AN ORDINANCE OF THE CITY OF CULVER CITY, CALIFORNIA,
4 AMENDING CHAPTER 15.06, NEW DEVELOPMENT FEES, OF
5 THE CULVER CITY MUNICIPAL CODE, BY REPEALING AND
6 REPLACING SECTIONS 15.06.100 THROUGH 15.06.175 WITH
7 NEW SECTIONS 15.06.100 THROUGH 15.06.180, RELATING TO
8 THE ART IN PUBLIC PLACES PROGRAM.

9 **WHEREAS**, on August 29, 1988, the City Council adopted Ordinance No. 88-019,
10 which established the Art in Public Places Program ("APPP"); and

11 **WHEREAS**, on February 14, 1994, the City Council adopted Ordinance No. 94-004
12 which created a City Art Fund, limited the type of art on private property to art in a physical
13 hard media, and authorized expenditures from the City Art Fund for the performing arts;
14 and

15 **WHEREAS**, on November 13, 1995, the City Council adopted Ordinance No. 95-
16 016 establishing the criteria and the procedures for approving Architecture as Art; and

17 **WHEREAS**, by Ordinance Nos. 2001-013 and 2001-015, the City Council
18 established the Cultural Affairs Commission ("CAC") and directed that the Art in Public
19 Places Program be implemented by the CAC; and,
20

21 **WHEREAS**, the City Council adopted Ordinance No. 2002-007 which incorporated
22 changes made necessary by the establishment of the CAC and the transfer of the Art in
23 Public Places and other Cultural Affairs programs from the Community Development
24 Department to the Parks, Recreation & Community Services Department; and
25

26 **WHEREAS**, in July 2003, the CAC and the programs under its purview were
27 transferred to the Community Development Department from the Parks, Recreation &
28

1 Community Services Department because of the direct effect upon development projects
2 and the need to better coordinate implementation of the APPP and the development
3 process; and

4 **WHEREAS**, on February 9, 2004, the City Council adopted Ordinance No. 2004-004
5 to address certain omissions and the change in City departments; and

6 **WHEREAS**, with the dissolution of the Culver City Redevelopment Agency on
7 February 1, 2012, the CAC, the performing arts and certain other Cultural Affairs programs
8 were transferred to the Parks, Recreation & Community Services Department while the Art
9 in Public Places Program remained within the Community Development Department; and

10 **WHEREAS**, the arts have increasingly become an important component in Culver
11 City's identity, both regionally and nationally; and

12 **WHEREAS**, the Los Angeles County Economic Development Corporation's annual
13 Otis Report on the Creative Economy consistently demonstrates that the arts have a
14 significant positive economic impact to overall tourism revenues in the region and is one of
15 the largest employment clusters in Los Angeles County; and

16 **WHEREAS**, periodic review and certain amendments are necessary to ensure that
17 Culver City's Art in Public Places Program, Performing Arts Grant Program, and related
18 cultural initiatives remain competitive with current national standards and continue to build
19 upon what has been established to date.

20 **NOW, THEREFORE**, the City Council of the City of Culver City, California, **DOES**
21 **HEREBY ORDAIN**, as follows:

22 **SECTION 1.** Sections 15.06.100 through 15.06.175 of the Culver City Municipal
23 Code are hereby repealed and replaced with new Sections 15.06.100 through 15.06.180
24 as follows:

ART IN PUBLIC PLACES

- 1 § 15.06.100 Purpose
- 2 § 15.06.105 Implementation by Cultural Affairs Commission
- 3 § 15.06.110 Definitions
- 4 § 15.06.115 Cultural Trust Fund Created
- 5 § 15.06.120 Developments Subject to Provisions of Subchapter
- 6 § 15.06.125 Art in Public Places Program Allocations
- 7 § 15.06.130 Administrative and Design Fees
- 8 § 15.06.135 Application and Approval Procedures for Placing Artwork on Private Property
- 9 § 15.06.140 Approval Procedures for Fulfillment of the Art in Public Places Program Requirement for City Development Projects
- 10 § 15.06.145 Procedure for Acceptance of Artwork Donated to the City to Fulfill the Art in Public Places Program Requirement
- 11 § 15.06.150 Ownership and Maintenance of Artwork
- 12 § 15.06.155 Final City Approval
- 13 § 15.06.160 Artwork on Public Property, Performing Arts and Purchase of Real Property for Public Art
- 14 § 15.06.165 Criteria for Approving Architecture as Art
- 15 § 15.06.170 Procedure for Approving Architecture as Art
- 16 § 15.06.175 De-Accessioning of Artwork
- 17 § 15.06.180 Appeal

§ 15.06.100. PURPOSE.

The City Council finds and declares:

- 18 A. Cultural and artistic resources, that include visual artwork, the performing arts, and architectural resources, enhance the quality of life for individuals living in, working in and visiting the City.
- 19
- 20 B. Balanced development of cultural and artistic resources preserves and improves the quality of the urban environment, increases real property values, and has a positive economic impact.
- 21
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- 23
- 24 C. As development and revitalization of real property within the City continues, the opportunity for creation of cultural and artistic resources is diminished. As these opportunities are diminished and urbanization occurs, the need to develop alternative sources for cultural and artistic outlets to
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1 improve the environment, image and character of the community is
2 increased.

3 D. The Culver City Art in Public Places Program ("APPP") was
4 created in 1988 so that development of cultural and artistic assets are
5 financed by those whose development and revitalization diminishes the
6 availability of the community's resources for those opportunities and
7 contributes to community urbanization.
8

9
10 § 15.06.105. IMPLEMENTATION BY CULTURAL AFFAIRS COMMISSION.

11 The Cultural Affairs Commission ("CAC"), as established by Section
12 3.03.400 of the Culver City Municipal Code, was created in 2001 and shall
13 implement the duties established in this subchapter. The City Council may
14 prescribe, by resolution, other duties and the appointment process for the
15 members of the CAC.
16

17
18 § 15.06.110. DEFINITIONS.

19 As used in this subchapter, the following definitions shall apply:

20 A. "Administrative Fees" include art consultant, conservator, legal
21 fees, travel and out-of-pocket expenses.
22

23 B. "Art in Public Places Program Allocation" (also referred to as
24 "APPP allocation") is the percentage of the construction costs which are set
25 aside for the City's Art in Public Places Program.

26 C. "Artwork" includes but is not limited to paintings, drawings,
27 murals in any media, stained glass, statues, bas relief or other sculptures,
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1 and any creation under "new genres" as defined herein; environmental
2 artworks or public spaces; monuments, fountains, arches or other structures
3 of a permanent or temporary character intended for ornament or
4 commemoration; integrated and functional architectural, video and other
5 media-based elements designed by a qualified artist. For projects which
6 involve no structures, artwork may include a combination of landscape
7 design, natural and manufactured materials including but not limited to rocks,
8 fountains, reflecting pools, sculptures, screens, benches, and other types of
9 street furniture, provided they have been designed by a qualified artist.
10

11 D. "Community Development Director" shall mean the Community
12 Development Director of the City or his/her designee.

13 E. "Conservation" encompasses actions taken toward the long-
14 term preservation of cultural property and includes examination,
15 documentation, treatment and preventative care, supported by research and
16 education. Restoration is a type of conservation treatment and specifically
17 refers to an attempt to bring cultural property closer to its original
18 appearance. Stabilization, also a type of conservation, refers to an attempt to
19 maintain the integrity of cultural property and to only minimize deterioration.
20

21 F. "Cultural Affairs Commission" shall be the Commission
22 established in 2001 pursuant to Section 3.03.400 of this Code. Unless
23 otherwise specified, any reference to "Commission" in this subchapter shall
24 mean the Cultural Affairs Commission.
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1 G. "De-accession" refers to the process of permanently removing
2 artwork acquired through the Art in Public Places Program as outlined in this
3 subchapter.

4 H. "Design Fees" include, but are not limited to, those fees which
5 are paid to an artist, architect, structural engineer or an appropriate party for
6 the development of a design concept and the preparation of construction
7 drawings. Design fees are separate and apart from the cost of the fabrication
8 and installation of an artwork.

9 I. "Freely Accessible" is defined to mean the artwork is accessible
10 to the public for viewing, in its entirety and in a direct line of sight without
11 hindrances or obstacles, for a period of ten (10) hours per day, seven (7)
12 days per week.

13 J. "New Genres" include, but are not limited to, sculpture, sound
14 installation, video, film, audio, digital, hybrid and emerging art forms. These
15 works may be temporary or permanent in nature.

16 K. "Non-Profit" shall mean those entities deemed to be exempt
17 under Section 501(c)(3) of the Internal Revenue Service Code.

18 L. "Performing Arts" is defined as performances presented by
19 professional or amateur performers including, theatre performance (any form
20 of dramatic presentation, spoken or silent); musical theatre/opera (any
21 dramatic performance of which music is an integral part); dance (any form of
22 rhythmical movement); music or concert (any musical performance with live
23 musicians and/or singers).

1 M. "Permanent Installation" is defined as artwork designed and
2 fabricated to remain installed for 20 or more years.

3 N. "Project" (also referred herein as "Development Project") is
4 defined as consisting of all physical changes and improvements necessary to
5 complete a development. Such physical changes shall include the
6 construction of new structures or the remodeling of existing structures.

7 O. "Real Property" shall mean that which consists of land, and of
8 all rights and profits arising from and annexed to land, of a permanent,
9 immovable nature.
10

11 P. "Qualified Artist" (also referred herein as "Artist") shall be
12 defined as a practicing artist who has demonstrated a high level of
13 accomplishment through a body of work, exhibitions, presentations, or
14 performances. The qualified artist shall have a history of strong conceptual
15 development, as well as possess the ability for skillful execution of tools,
16 materials, and craft. This includes programs rooted in innovative uses of
17 technology, collaborative work, or interdisciplinary projects. The qualified
18 artist shall have a BFA, MFA or other comprehensive advanced training in the
19 visual arts and work primarily in the production of art in unique or limited
20 editions and not for purposes of marketing, mass production or advertising.
21

22 Q. "Temporary Installation" is defined as artwork intended to
23 remain installed for 3 years or less.
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1 § 15.06.115. CULTURAL TRUST FUND CREATED.

2 A. There is hereby created a fund to be known as the "Culver City
3 Cultural Trust Fund" (hereinafter "Cultural Trust Fund") to account for fees
4 paid pursuant to this subchapter. This fund, maintained by the Chief
5 Financial Officer, and subject to Sections 15.06.040 and 15.06.050, shall be
6 used solely:

7
8 1. For the design, acquisition, commission, installation,
9 improvement, relocation, conservation, utility charges and insurance of
10 artwork acquired by the City through the APPP;

11 2. For preventative care, maintenance and utility charges
12 related to the artwork and real property purchased pursuant to
13 Subsection 15.06.115.A.1; provided, that the total amount of the
14 appropriation made in any year from the Cultural Trust Fund for the
15 purpose set forth in this Subsection 15.06.115.A.2 shall not exceed
16 fifteen percent (15%) of the total fees deposited into the Cultural Trust
17 Fund, pursuant to this subchapter, during the fiscal year immediately
18 preceding that appropriation. The City Council, with a
19 recommendation by the Cultural Affairs Commission, may appropriate
20 additional funds from the Cultural Trust Fund for the purpose of
21 completing larger conservation efforts, including restoration projects,
22 for one or more artworks;

23
24 3. To sponsor or support the performing arts;

1 4. For the acquisition and improvement of real property for
2 the purpose of displaying artwork, which has been or may be
3 subsequently approved by the City;

4 5. For costs associated with administering The Art in Public
5 Places Program and associated cultural programs, in an amount not to
6 exceed fifteen percent (15%) of the total fees deposited into the
7 Cultural Trust Fund, pursuant to this subchapter, during the fiscal year
8 immediately preceding that appropriation; however, in the event the
9 City Council determines that a special circumstance exists, the City
10 Council may set a higher amount by a majority vote; and
11

12 6. Other City-produced cultural programs pursuant to the
13 requirements of this subchapter.

14 B. If real property purchased with monies from the Cultural Trust
15 Fund is subsequently sold, the proceeds from the sale shall be returned to
16 the Cultural Trust Fund.
17

18
19 § 15.06.120. DEVELOPMENTS SUBJECT TO PROVISIONS OF
20 SUBCHAPTER.

21 A. All new residential development projects of five or more units,
22 and all commercial, industrial, and public building development projects, with
23 a building valuation of Five Hundred Thousand Dollars (\$500,000.00) or more
24 shall be subject to the provisions of this subchapter.
25

26 B. Including but not limited to exterior and interior modifications
27 and additions, all remodeling of existing residential buildings of five or more
28

1 units, and all remodeling of existing commercial, industrial and public
2 buildings, shall be subject to the provisions of this subchapter when such
3 remodeling has a valuation of Two Hundred Fifty Thousand Dollars
4 (\$250,000.00) or more, excluding earthquake rehabilitation required by this
5 Code for seismic safety.

6 C. Covenanted low- and moderate-income and senior citizen
7 housing shall be exempted from the requirements of this subchapter for as
8 long as it is used for that purpose.

9
10 1. The APPP allocation for a development project that
11 includes residential units covenanted for low- or moderate-income
12 households or for senior citizens shall be reduced by the value of the
13 square footage of the covenanted units and associated spaces (such
14 as parking).

15
16 2. Prior to the date any restrictions regarding residential
17 units covenanted for low- or moderate-income households or for senior
18 citizens terminate, the then current owner of the development shall pay
19 fees to the Cultural Trust Fund in an amount equal to the exemption
20 calculated in Subsection 15.06.120.C.1.

21 D. Buildings which are designed and dedicated primarily to non-
22 profit performing arts spaces or museum uses shall not be required to meet
23 the Art in Public Places Program Allocation requirement for as long as the
24 performing arts or museum uses are maintained within these buildings.
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1 § 15.06.125. ART IN PUBLIC PLACES PROGRAM ALLOCATIONS.

2 A. The APPP allocation, as used in this subchapter, is the
3 percentage of the construction costs which is set aside for the City's APPP
4 and shall be an amount equal to one percent (1%) of the total building permit
5 construction valuation for an applicable project, excluding land acquisition
6 costs. The total building permit construction valuation used for determining
7 the APPP allocation shall be based on the latest building construction
8 valuation data used by the Building Safety division staff, based on R.S.
9 Means Square Foot Costs, unless, in the opinion of the Building Official, a
10 different valuation methodology is more appropriate for a particular project.
11

12 B. Multiple building permits issued within a three year period for a
13 single project shall be considered in the aggregate in determining the APPP
14 allocation.
15

16 C. If the total APPP allocation for a project is less than \$75,000,
17 the applicant shall pay their APPP allocation into the Cultural Trust Fund as
18 the only option for complying with the APPP requirement.
19

20 D. Payment of any required APPP allocation shall be received prior
21 to issuance of a City building permit.
22

23 E. If the APPP allocation is \$75,000 or greater, the applicant shall
24 either:
25

26 1. Pay the APPP allocation into the Cultural Trust Fund
27 prior to issuance of a City Building Permit ("in-lieu fee"); or
28

2. Commission original, site-specific artwork for the
applicant's development project, with a valuation equal to or greater

1 than the APPP allocation, in compliance with the guidelines of this
2 subchapter; or

3 3. Donate artwork to the City with an appraised value equal
4 to or greater than the APPP allocation, in compliance with the
5 guidelines of this subchapter; or

6 4. Incorporate a Cultural Facility into the applicant's
7 development project, in compliance with the guidelines of this
8 subchapter; or

9 5. Have the building or a portion thereof designated
10 "Architecture as Art," in compliance with the guidelines of this
11 subchapter.
12

13 F. Any applicant whose APPP allocation is less than \$75,000 may
14 voluntarily increase their APPP allocation to an amount of \$75,000 or greater,
15 and thereby qualify the applicant to fulfill the APPP requirement pursuant to
16 Subsection 15.06.125.E.
17

18 G. If the APPP allocation is \$75,000 or greater, the applicant may
19 place an approved artwork, create a Cultural Facility, donate artwork, or
20 designate their building "Architecture as Art" with acquisition and installation
21 costs totaling less than the applicant's APPP allocation; provided that, such
22 costs are at least \$75,000 and that the applicant also pay the difference
23 between its APPP allocation and such costs into the Cultural Trust Fund.
24

25 H. For the commission of new on-site artwork, applicants are
26 required to use a Request for Proposal ("RFP") process for selecting an artist
27 when the APPP allocation exceeds \$100,000. The applicant shall also hire a
28

1 qualified art consultant to assist with the RFP process, proposal
2 development, and project oversight. The art consultant shall be selected from
3 a pre-qualified list provided by the City. The CAC Public Art subcommittee
4 and staff shall review the art consultant and RFP information with the
5 applicant prior to releasing the RFP.

6 The RFP will include the following components:

- 7 1. Deadline for submission of requested information;
- 8 2. Information on development project components,
9 including but not limited to goals for the development project and the
10 artwork, scope of work, physical description of project site and other
11 physical or legal restrictions which may apply;
- 12 3. Proposal review/selection schedule;
- 13 4. Scope of services;
- 14 5. Artwork budget;
- 15 6. Development project and artwork timelines; and,
- 16 7. Evaluation criteria.

17 I. If the APPP allocation is \$75,000 or greater, the applicant may
18 opt to fulfill the APPP requirement by incorporating a Cultural Facility within
19 the development project. In order to ensure integrated projects, applicants
20 shall submit plans to the Community Development Director during Preliminary
21 Project Review (PPR) or prior to receiving any discretionary review approvals.
22 The only acceptable Cultural Facilities are: indoor and outdoor performing
23 arts spaces that can accommodate a minimum audience of 50, with a
24 performance area of at least 500 square feet, or exhibition spaces designed
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1 for the visual arts. Cultural Facilities must include all amenities for supporting
2 a performance or art exhibition space, including a sound and lighting system,
3 audience seating, separately designated restrooms, and technical space.
4 Cultural Facilities shall be permanent and must be ADA-compliant. Further,
5 the facility must be made available to the recipients of the Culver City
6 Performing Arts Grant Program and Culver City-based visual and performing
7 arts organizations at rental rates no higher than other local arts venues.
8 Cultural Facilities must be specifically designated as such and cannot be
9 used for any other purpose on an on-going basis. Applicants may receive
10 credit for up to three years of operations, maintenance and programming
11 costs for Cultural Facilities, together with construction costs, toward fulfillment
12 of the minimum APPP allocation for their project. The applicant's proposal for
13 a Cultural Facility shall include a plan that identifies key staff, programming
14 goals and an associated budget for a minimum of three years. The proposal
15 shall be approved by the Cultural Affairs Commission, monitored by
16 designated City staff, and subject to all applicable federal, state and local
17 laws and regulations. Review and approval of Cultural Facilities shall include
18 review by a CAC subcommittee with a recommendation to the full CAC.
19 Cultural Facilities are required to display a permanent plaque as outlined in
20 Subsection 15.06.155.F.3 and are subject to the covenant and maintenance
21 requirements of Section 15.06.150.
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1 § 15.06.130. ADMINISTRATIVE AND DESIGN FEES.

2 In those instances covered by Subsections 15.06.125.E, 15.06.125.H
3 or 15.06.125.I, the following shall apply:

4 A. Total Administrative Fees shall not exceed 15% of the APPP
5 allocation or \$100,000, whichever is less.

6 B. Design fees must be proportionate to the overall scope of the
7 budget.
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10 § 15.06.135. APPLICATION AND APPROVAL PROCEDURES FOR
11 PLACING ARTWORK ON PRIVATE PROPERTY.

12 A. In order to ensure integrated projects, applicants choosing to
13 commission new artwork for their project shall submit plans to the Community
14 Development Director during Preliminary Project Review (PPR) or prior to
15 receiving any discretionary review approvals. At a minimum, the following
16 information shall be included:

17 1. Preliminary sketches, photographs or other
18 documentation of sufficient descriptive clarity to indicate the nature of
19 the proposed artwork;

20 2. Preliminary plans containing such detailed information as
21 may be required by the Community Development Director to
22 adequately evaluate the location of the artwork in relation to the
23 proposed development, including compatibility with the character of
24 adjacent conforming developed parcels and the existing neighborhood.
25 Applicants should be involved in the development of the preliminary
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1 plans in order to assist in the proper placement of the artwork in
2 relation to their proposed development environment, and to ensure
3 that the artist that is chosen creates an artwork that fits the needs and
4 requirements of both the applicant's project and the APPP.

5 B. Upon receipt of discretionary review approvals, applicants shall
6 prepare the following in preparation for Cultural Affairs Commission review:

7 1. A narrative proposal, with the artwork's budget and
8 timeline. Elevations, site plans, line of sight studies, renderings and
9 other descriptive materials, as deemed necessary by the Community
10 Development Director, shall be included to demonstrate that the
11 artwork will be displayed in an area open and freely accessible to the
12 general public.

13 2. Information provided by a conservator affiliated with the
14 American Institute for Conservation ("AIC") about the durability of the
15 proposed materials, recommendations for future maintenance and
16 estimated maintenance costs. In addition, the application shall include
17 information on how the future maintenance costs will be allocated and
18 identify the party responsible for ensuring that maintenance is
19 performed; and

20 3. If applicable, an appraisal or other evidence of the value
21 of the proposed artwork, including acquisition and installation costs.

22 C. The Cultural Affairs Commission shall review the completed
23 application together with the recommendation of the Community
24 Development Director and CAC Public Art subcommittee, and approve,
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1 approve with conditions, or deny the proposed artwork, and its proposed
2 location, considering the aesthetic quality and harmony with the proposed
3 project, and the public accessibility of the artwork.

4 D. Submitted artwork applications shall be assessed on:

- 5 1. Compliance with the general APPP requirements as
6 outlined in this subchapter;
- 7 2. Artistic quality;
- 8 3. Conceptual compatibility of the design with the
9 immediate environment for the site;
- 10 4. Appropriateness of the design to the function of the site;
- 11 5. Creation of a desirable environment for the general
12 community by the design and location of the artwork;
- 13 6. Preservation and integration of natural features with the
14 project;
- 15 7. Appropriateness of the materials, textures, colors, and
16 design to the expression of the design concept;
- 17 8. Ability to convey the artist's intention and underlying
18 themes;
- 19 9. Whether the artwork is representative of a broad variety
20 of tastes within the community and makes a contribution to the
21 provision of a balanced inventory of artworks commissioned through
22 the APPP;
- 23 10. Permanence of structural and surface components
24 including, but not limited to, the structural and surface soundness and
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1 inherent resistance to theft, vandalism, weathering, and excessive
2 maintenance or repair costs.

3 E. Disqualifying characteristics for artwork:

4 1. Directional elements such as super graphics, signage, or
5 color coding except where these elements are integral parts of the
6 original artwork or executed by the artist in unique or limited editions;

7 2. Artwork that incorporates logos, images, text or other
8 elements that relate directly to a specific business's or organization's
9 branding or marketing themes;

10 3. Art objects which are mass-produced and of standard
11 design such as playground equipment or fountain pieces;

12 4. Reproduction of original artworks, except in cases where
13 incorporated into an original artwork;

14 5. Decorative or functional elements which are designed by
15 the building architect as opposed to a qualified artist;

16 6. Landscape design except where it is designed by a
17 qualified artist and is an integral part of the artwork;

18 7. Architectural rehabilitation, historic preservation and
19 structural building modifications;

20 8. Temporary art exhibitions, unless included with a Cultural
21 Facility as outlined in Subsection 15.06.125.I;

22 9. Educational activities;

23 10. Artwork designed by City elected or appointed officials,
24 City staff or members of their immediate family, members of the
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1 project architect's firm or immediate family members, individuals
2 directly associated with the development team or immediate family
3 members of the property owner/applicant, or any individuals with
4 whom the property owner and/or applicant may have an interest in
5 common; and,

6 11. Artwork designed by an artist who has received a prior
7 permanent public art commission through the City's Art in Public
8 Places Program, if the contract for said commission was executed
9 within the last ten years.
10

11 F. If the applicant proposes significant revisions to the artwork, a
12 revised application shall be submitted to the Community Development
13 Director for review and recommendation to the Cultural Affairs Commission.
14 The Commission shall make a determination whether to approve, approve
15 with conditions or deny the requested revision(s).
16

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18 § 15.06.140. APPROVAL PROCEDURES FOR FULFILLMENT OF THE ART
19 IN PUBLIC PLACES PROGRAM REQUIREMENT FOR CITY
20 DEVELOPMENT PROJECTS.

21 A. All City-initiated projects subject to the requirements of this
22 subchapter shall follow the same requirements as development projects on
23 private property, with the exception of the requirement to pay an in-lieu fee
24 into the Cultural Trust Fund if the APPP allocation is less than \$75,000. The
25 APPP allocation shall be included in the development project budget and
26 appropriated from the development project funding sources. The APPP
27 allocation may be supplemented with money from the Cultural Trust Fund
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1 with a recommendation from the Cultural Affairs Commission and City
2 Council approval.

3 B. Depending on the scope of the development project and/or
4 overall budget, the City may employ a Community Advisory Committee and/or
5 Artist Selection Panel, an RFQ and/or RFP process and/or the services of a
6 qualified art or theatre consultant. Both the Community Advisory Committee
7 and Artist Selection Panel shall include a combination of professional artists,
8 arts and design professionals, community representatives or stakeholders
9 and City department representatives.
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11
12 § 15.06.145. PROCEDURE FOR ACCEPTANCE OF ARTWORK DONATED
13 TO THE CITY TO FULFILL THE ART IN PUBLIC PLACES
14 PROGRAM REQUIREMENT.

15 A. An application for acceptance of artwork to be donated to the
16 City for placement on public property shall be submitted to the Community
17 Development Director and shall include the following information, at
18 minimum:

- 19 1. Artist biography and object provenance;
- 20 2. Sketches, photographs, models, or other documentation
21 of sufficient descriptive clarity to indicate the nature of the proposed
22 artwork and installation and siting requirements;
- 23 3. Acquisition and installation costs;
- 24 4. An appraisal or other evidence of the value of the
25 proposed artwork. The value of the proposed artwork will be
26 determined by an Accredited Member or Accredited Senior Appraiser
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1 of the American Society of Appraisers, or a member of another
2 established national or international organization for appraisers;

3 5. Information provided by an American Institute for
4 Conservation ("AIC") affiliated conservator about the durability of the
5 proposed materials, recommendations for future maintenance and
6 estimated maintenance costs; and,

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8 6. If applicable, a written agreement, in a form approved by
9 the City Attorney, executed by or on behalf of the artist who created
10 the artwork which provides the City necessary protections as permitted
11 under applicable law.

12 B. Review of application:

13 1. Completed applications shall be submitted to the
14 Community Development Director who, together with the CAC Public
15 Art subcommittee, makes a recommendation to the Cultural Affairs
16 Commission.
17

18 2. The Cultural Affairs Commission shall in turn make a
19 recommendation to the City Council, which shall have the sole
20 authority to accept or reject or conditionally accept the donation.

21 C. All artwork donated to the City in fulfillment of the requirements
22 of this subchapter shall become the property of the City upon acceptance by
23 the City Council.
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1 § 15.06.150. OWNERSHIP AND MAINTENANCE OF ARTWORK.

2 A. All artwork placed on the site of an applicant's project shall
3 become the property of the property owner and his/her successor(s) in
4 interest. Artwork cannot be sold or transferred other than to a subsequent
5 successor in interest. The obligation to provide maintenance and security, as
6 necessary to preserve the artwork in good condition, shall remain with the
7 owner of the site.
8

9 B. Maintenance of artwork, as used in this section, shall include
10 without limitation: preservation of the artwork and, where applicable, of the
11 lighting and surrounding landscaping, in good condition to the satisfaction of
12 the City; protection of the artwork against physical defacement, mutilation or
13 alteration; and, securing and maintaining fire and extended insurance and
14 vandalism coverage in an amount to be determined on a case-by-case basis
15 by the City.
16

17 C. Prior to placement of an approved artwork, the applicant and
18 the owner of the site shall execute and record a covenant reflecting all the
19 owners' obligations under this subchapter, in a form approved by the City.
20

21 D. The covenant shall include a financial plan for the maintenance
22 of the artwork, a schedule of future condition checks, preventative
23 maintenance and restoration of the artwork necessary to conserve the
24 artwork at an appropriate level, and should be created with input from the
25 artist, the applicant, the Cultural Affairs Commission, and an Art Consultant, if
26 one was hired for the project.
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1 E. Applicants are required to set-aside funds for future
2 conservation and, where possible, in interest bearing accounts. Preventative
3 maintenance costs may represent from 5% to 15% annually of the total APPP
4 allocation but shall be based on conservation reports prepared by a
5 professional art conservator working with the artist and the artist's fabricator.
6 Funds for maintenance are not part of the APPP allocation.

7
8 F. The City reserves the right to inspect the artwork at any time to
9 ensure it is being maintained as required by any covenant entered into
10 pursuant to the provisions of Subsection 15.06.150.C.

11 G. Failure to maintain the artwork as provided herein is hereby
12 declared to be a public nuisance. The City may pursue remedies to obtain
13 compliance with the provisions of the APPP for maintenance of artwork,
14 including subjecting the property owner to administrative citation and/or
15 misdemeanor prosecution; placing conditions for maintenance of an artwork
16 on the owner's future development project approvals; performing all
17 necessary repairs, maintenance or securing insurance and placing a lien
18 against the involved property for the costs associated with such.

19
20 H. The artwork is to remain freely accessible, as previously
21 defined, and may not otherwise be draped or obscured.

22
23 I. The siting of the artwork, including the surrounding landscaping
24 or adjacent area, shall not be altered without approval from the City. The City
25 reserves the right to implement measures necessary to preserve the design
26 and placement of an artwork as approved by the Cultural Affairs Commission.
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1 J. Unless an artwork poses imminent danger to life or property, no
2 person or entity shall remove any artwork from the location for which it was
3 selected, and anyone needing to do so shall obtain City approval prior to
4 doing so.

5 K. The applicant, its successors, and its assigns, may not destroy,
6 permanently remove, relocate, change, alter, modify, or allow to be defaced,
7 any artwork or portion thereof without the express consent of the City. This
8 requirement will be included in the covenant to be recorded against the
9 property.
10

11 L. If any approved artwork placed on private property pursuant to
12 this subchapter is removed without City approval, the artwork must be
13 replaced with artwork of the same value as that of the removed artwork and
14 be approved by the CAC or the property owner must pay the value of the
15 removed artwork into the Cultural Trust Fund. If these requirements are not
16 met within 180 days, then the Certificate of Occupancy is revoked or a lien is
17 placed against the involved property.
18

19
20 § 15.06.155. FINAL CITY APPROVAL.

21 No final City approval or Certificate of Occupancy for any project
22 subject to this subchapter shall be granted or issued unless and until full
23 compliance with the APPP is achieved as follows:
24

25 A. In lieu art fees have been paid, if applicable;

26 B. The approved artwork has been fabricated and placed on the
27 project site in a manner consistent with the proposal approved by the
28

1 Cultural Affairs Commission and inspected by the CAC and/or Cultural
2 Affairs staff, if applicable;

3 C. Donation of an approved artwork has been accepted by the City
4 Council, if applicable;

5 D. A Cultural Facility has been incorporated into the applicant's
6 development project, if applicable;

7 E. The building or a portion thereof has been designated
8 "Architecture as Art," if applicable.

9
10 F. In cases where approved artwork is placed on private property,
11 a Cultural Facility has been incorporated into the applicant's development
12 project or a building has been designated "Architecture as Art" pursuant to
13 this subchapter, all of the following must occur prior to final City approval or
14 issuance of a Certificate of Occupancy for any project subject to this
15 subchapter:
16

17 1. A copy of the maintenance guidelines that include
18 information on materials, parts and fabricator contact information has
19 been submitted to the City;

20 2. A covenant, complying with Subsection 15.06.150.C and
21 setting forth the applicant's obligations under the APPP, has been
22 executed and recorded with the Los Angeles County Recorder;

23 3. A plaque has been installed adjacent to the artwork
24 measuring no less than 8" x 8" or a proportionate size. The plaque
25 shall be made of cast metal, stainless steel or other durable material
26 and will be placed in an appropriate location near the artwork and shall
27
28

1 include the date, title of artwork (if applicable), artist(s) or architect(s)
2 (as applicable), and should indicate that the artwork, building's
3 architecture or Cultural Facility was commissioned in conjunction with
4 the Culver City Art in Public Places Program. Staff shall review and
5 approve plaque text and layout prior to its fabrication and installation at
6 the site; and,

7
8 4. Proof of final payment to the artist and/or all members of
9 the design and fabrication/installation team has been furnished to the
10 City.

11
12 § 15.06.160. ARTWORK ON PUBLIC PROPERTY, PERFORMING ARTS
13 AND PURCHASE OF REAL PROPERTY FOR PUBLIC ART.

14 A. The Cultural Affairs Commission shall prepare a plan for the Art
15 in Public Places Program and update it annually through the budget process.

16 B. The Cultural Affairs Commission may recommend to the City
17 Council the purchase of artwork to be displayed on public property,
18 recommend support for the performing arts, and the purchase and
19 improvement of real property to be used for the display of artwork. A
20 recommendation shall include the following information:

21
22 1. The type of artwork considered, an analysis of the
23 constraints applicable to placement of the artwork on a site, the need
24 for and practicality of the maintenance of the artwork, and the costs of
25 acquisition and installation of the artwork; or

26
27 2. The type of performance and amount recommended; or
28

1 Trust Fund for capital improvements to enhance the performance area of
2 such facilities.

3
4 § 15.06.165. CRITERIA FOR APPROVING ARCHITECTURE AS ART.

5 The following criteria shall be used to determine, on a case-by-case
6 basis, whether architecture can be considered art for purposes of fulfilling the
7 City's APPP requirement:
8

9 A. The architect shall be internationally recognized and have
10 earned a respectable reputation in both the design and visual art
11 communities and have exhibited their work in major regional, national or
12 international museums.

13 B. When reviewing architecture as art, the underlying concept of
14 the architecture shall be expressive as more than mere utilitarian
15 architecture. The architecture as a whole, or certain architectural features,
16 shall express ideas or meaning and have cultural significance or conceptual
17 complexity in relation to the totality of the object.
18

19 C. The applicant must be able to demonstrate how the APPP
20 allocation enhances the design of their project.
21

22
23 § 15.06.170. PROCEDURE FOR APPROVING ARCHITECTURE AS ART.

24 The following procedure must be followed by the applicant to fulfill the
25 APPP requirement with the building's architecture:

26 A. An applicant shall make an initial presentation to the CAC
27 Public Art sub-committee and staff prior to the development application being
28

1 deemed complete. The applicant must submit a maquette and/or other
2 materials which satisfactorily illustrate the proposed conceptual development.
3 The applicant and architect must submit a conceptual statement expressing
4 why the architecture should be considered art, including an explanation of the
5 ideas, meaning, cultural significance or conceptual complexity expressed in
6 the architecture.

7
8 B. A second presentation shall be made at the completion of the
9 City's review and approval process for the project to a panel comprising two
10 commercial architects, one visual artist, one visual arts administrator, and
11 one general design professional such as a landscape architect or commercial
12 interior designer. At least one of the panel members shall be a Culver City
13 business owner or resident. The panel shall make a recommendation to the
14 CAC Public Art subcommittee whether to accept the project under
15 Architecture as Art and the subcommittee will then make a recommendation
16 to the Cultural Affairs Commission for consideration.

17
18 C. The applicant and architect shall demonstrate that high quality
19 materials and craftsmanship will be used in the execution of the construction.

20
21 D. If all of the foregoing criteria are met, the Cultural Affairs
22 Commission shall approve the Architecture as Art, only if, in its judgment, the
23 architectural work is of extremely high artistic merit and would make a
24 substantial cultural contribution to Culver City.

25 E. The applicant and/or architect shall have the responsibility to
26 demonstrate that all of the foregoing criteria are met.
27
28

1 § 15.06.175. DE-ACCESSIONING OF ARTWORK.

2 A. The City will allow the de-accessioning of artwork acquired or
3 commissioned through the Art in Public Places Program only when it is in the
4 public interest and serves as a means of improving the quality of the overall
5 APPP collection;

6 B. De-accessioning should be considered only after 5 years
7 following the acceptance of artwork donated to the City or the installation of
8 permanent art commissioned through the APPP. The need for temporary
9 removal from public display does not necessitate de-accession. In instances
10 where the artwork considered for de-accession is on private property, the
11 Cultural Affairs Commission shall make the final decision. When the artwork
12 is installed on public property or is City-owned, the Cultural Affairs
13 Commission shall make a recommendation to the City Council which will
14 make the final decision.

15 C. After de-accession has been approved by the Cultural Affairs
16 Commission or the City Council, if the artwork is sold, all proceeds from sale
17 of artwork, minus payment to the artist under California Resale Royalties Act,
18 will be used for the exclusive purpose of acquiring replacement artwork for
19 the site or be paid into the Cultural Trust Fund. If the artwork was on private
20 property, the then property owner shall replace the de-accessioned artwork
21 with an artwork of equal or greater value or pay an in-lieu fee equivalent to
22 the cost of the artwork to the Cultural Trust Fund.

23 D. Circumstances that may cause review of artwork for de-
24 accessioning:
25
26
27
28

1 1. The artwork is a threat to public safety, or the
2 condition/security of the work cannot be guaranteed;

3 2. The owner cannot properly care for the artwork, or the
4 artwork requires an excessive or unreasonable amount of
5 maintenance;

6 3. The artwork has serious or dangerous faults in design or
7 workmanship, the condition of the artwork requires restoration costs in
8 gross excess of its monetary value or is in such a deteriorated state
9 that restoration is either unfeasible, impractical, or would render the
10 artwork to be false;

11 4. A similar but superior example exists in the collection;

12 5. The artwork is a forgery;

13 6. No suitable site for the artwork is available;

14 7. A significant adverse reaction to the artwork is
15 documented over 5 years or more;

16 8. The artwork is judged to have no aesthetic, historical or
17 cultural value;

18 9. The owner wishes to replace an artwork with a more
19 appropriate work by the same artist;

20 10. The artwork can be sold to finance, or can be traded for,
21 an artwork of greater importance;

22 11. A written request from the artist to remove the artwork
23 from public display has been received and approved by the City;

24 12. The artwork is not or is rarely displayed; or
25
26
27
28

13. The artwork is incompatible with the rest of the collection.

§ 15.06.180. APPEAL.


Any person may seek review of a decision of the Cultural Affairs Commission by filing a written appeal with the City Clerk's Office within ten (10) working days of the decision by the Commission. The City Clerk's Office shall coordinate with the Community Development Director to schedule the appeal hearing before the City Council.

SECTION 2. In any case where a development project has an approved entitlement and/or been issued a City building permit prior to the effective date of this Ordinance, compliance with Subsections 15.06.125.C, 15.06.125.F, 15.06.125.G and 15.06.125.H of this Ordinance shall be voluntary.

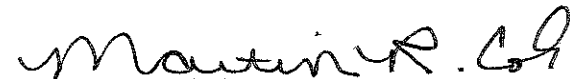
SECTION 3. Pursuant to Section 619 of the City Charter, this Ordinance shall take effect thirty (30) days after the date of its adoption. Pursuant to Sections 616 and 621 of the City Charter, prior to the expiration of fifteen days after the adoption, the City Clerk shall cause this Ordinance, or a summary thereof, to be published in the Culver City News and shall post this Ordinance or a summary thereof in at least three places within the City.

SECTION 4. The City Council hereby declares that, if any provision, section, subsection, paragraph, sentence, phrase or word of this ordinance is rendered or declared invalid or unconstitutional by any final action in a court of competent jurisdiction or by reason of any preemptive legislation, then the City Council would have independently adopted the remaining provisions, sections, subsections, paragraphs, sentences, phrases or words of this ordinance and as such they shall remain in full force and effect.


1 APPROVED AND ADOPTED this 26th day of March, 2013.

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4 
5 Andrew Weissman, Mayor

6
7
8 ATTEST:

9 
10 Martin Cole, City Clerk

APPROVED AS TO FORM:

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for Carol A. Schwab, City Attorney

CITY OF LAGUNA BEACH
PUBLIC ART ORDINANCE AND
POLICIES

Cultural Planning Group
Draft August 2022

TABLE OF CONTENTS

About This Document.....	2
Summary of Recommended Policy Changes	3
Additional Recommendations	6
Roles and Responsibilities.....	8
Laguna Beach Public Art Staff.....	8
Laguna Beach Arts Commission.....	8
Laguna Beach City Council.....	8
Laguna Beach Public Art Program Policies.....	9
Introduction.....	9
Importance of Artists and Artworks	9
Artist and Art Selection Criteria	9
Eligible Artworks	10
Ineligible Artworks.....	10
Site Selection Criteria	11
Artists’ Call Processes	11
Timeframe for Artworks	12
Deaccessioning Artworks.....	12
Artwork Donations and Loans	13
Memorials	15
Financial Contributions to Program.....	16
Murals.....	16
Public Art in Private Development and City Capital Projects.....	17
Approval Process for Public Art in Private Development	19
Maintenance and Conservation	20
Partnerships	21
Artist and Collection Diversity	21
Artist Rights	21
Conflicts of Interest	23
Appeals and Mitigation of Disagreements	23
Liability Insurance and Performance Bonds	24
Definitions	25
Appendices.....	27

ABOUT THIS DOCUMENT

Laguna Beach is a city with a vibrant, century-old history as an art colony and a robust ongoing presence of artists, public art, art festivals, art marketplaces, galleries, and many other cultural assets. A defining feature is Laguna Beach’s public art collection, which encompasses original site-specific artworks, a variety of temporary installations, and select donated works. The purpose of this report is to provide a consolidated and updated set of policies and ordinance for the Public Art Program, and to assist the Arts Commission and staff to address challenges in their management of the program. Once finalized, these policies and ordinance will become the comprehensive program guide available online for all artists, other stakeholders, and the public.

Recommended policy changes are based on interviews with program stakeholders – artists, developers, city staff, donors, architects, commissioners, and others – and refined in several work sessions with staff and the Public Art Subcommittee.

DRAFT

SUMMARY OF RECOMMENDED POLICY CHANGES

Public Art Program Name

The current program includes several components: Art in Public Places, Public Art and Murals, and Artist Designed Benches. Under the recommended policies, the program is consolidated under the term “Public Art Program” to be clearer and more transparent to the community and stakeholders, while retaining the distinct functions of each element of the program. AIPP is retitled as Public Art in Private Development and City Capital Projects.

Decision-making Authority of the Arts Commission (Page 8)

Currently, City Council reviews all Arts Commission decisions. The recommended policy places explicit and greater authority with the Arts Commission to fulfill its role and asks Council to only substitute its judgment narrowly in cases where there is evidence of a departure from or error in following Arts Commission policies and guidelines. Acknowledges and strengthens the Arts Commission’s authority and role in applying aesthetic and artistic judgments, and places their authority on a par with other City commissions and boards.

Comprehensive and Transparent Policies (Page 9)

The current public art policies and procedures are a collection of municipal code, resolutions, criteria, and unwritten procedures that have accrued over time and are not currently consolidated into one set of program policies. The recommended policies are comprehensive and can be made available online as a resource for all program stakeholders – artists, developers, property owners, city staff, and members of the public. They also provide improvements addressing challenges identified by the Arts Commission, staff, and others.

Acknowledging Importance of Artists (Page 9)

The policy now explicitly acknowledges artists and artworks as the heart of the program and contributing great value to the community. The City also acknowledges its commitment to be respectful in all artist involvement with the program. This includes providing equitable and transparent policies, paying artists for proposal development, creating a directory of artists interested in developer or City commissions, and accommodating artists’ rights in all agreements.

Selection Criteria (Page 9)

Establishes clear criteria for selecting artists, artworks, and sites. Acknowledges the Arts Commission’s authority and role in applying aesthetic and artistic judgments.

Timeframe for All Artworks (Page 12)

Current practice is to treat artworks as permanent accessions into the collection, except for specific temporary works. The recommended policy is to treat all new artworks as having a specific timeframe, as opposed to permanently accessioning them into collection (private development projects have a 20-year minimum). Create an agreement with the artist and/or developer for each artwork setting forth the

timeframe defined in relation to the nature of the work and review the work at the end of the agreement to determine the future of the work.

Deaccessioning Criteria (Page 12)

Sets stronger criteria allowing City to deaccession works, including the Arts Commission's authority and role in applying aesthetic/artistic judgments.

Artwork Donations (Page 13)

Current practice is to treat proposed donations of artwork like other artworks. The recommended policy sets clear criteria for the Arts Commission to review and refuse donated artworks. Allows the Arts Commission to set a moratorium on donations. Places responsibility for the cost of maintenance on the donor.

Memorials (Page 15)

Current practice is to treat proposed memorials like other artworks. The recommended policy sets clear criteria for the Arts Commission to review and refuse memorials and eliminates individual memorials from the program. Allows the Arts Commission to set a moratorium on memorials. Places responsibility for the cost of maintenance on the donor.

Financial Contributions to Program (Page 16)

Acknowledges and encourages financial contributions of any amount to help fund the cost of artworks. All decisions about the choice of artwork and use of donated funds are at the sole discretion of the Arts Commission under its policies and guidelines. Donors who wish to propose a specific artwork or site may meet with staff and explore a donor agreement setting forth the terms and conditions of the project based on the artwork donation policy, which will then be reviewed by the Arts Commission.

Administrative Costs of the Program (Page 17)

Under the recommended policy, a portion of developers' 1% public art obligation will be charged as an administrative fee to help cover the costs of the program. Developers' total financial obligation remains 1% (1.25% if they choose to pay the in-lieu fee) but 15% of that amount will be allocated as the administrative fee, leaving 85% of the total for other costs of the artwork.

Maintenance of Artwork (Page 20)

As stated above, maintenance costs for donated works and memorials become the responsibility of the donor (and remain the responsibility of property owners for private artworks). A collection condition survey is recommended as the basis for long-term maintenance and conservation of the overall collection.

Policy for Partnerships (Page 21)

There is currently no policy governing partnerships for public art. The recommended policy spells out the requirements for a partnership and places specific responsibilities on each partner to assure mutuality in workload and costs.

Diversity of Collection (Page 21)

Promote the diversity of collection by limiting artists to four pieces in the collection at any one time.

Appeals and Mitigation of Disagreements (Page 23)

Applicants can appeal an Arts Commission decision through specific process and criteria. Providing a well-defined appeals process can mitigate disagreements.

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ADDITIONAL RECOMMENDATIONS

The primary purpose of this document is to provide a consolidated and updated ordinance and policies for the Public Art Program. The consultants are providing additional recommendations relevant to the future of the program that can be considered by the Arts Commission and staff following adoption of this report to further assure a sustainable and high-quality program for the Laguna Beach community.

Record and broadcast Arts Commission meetings. Making the Arts Commission meetings and decision-making processes more readily available to the public increases transparency and supports community understanding and trust. This also aligns Arts Commission practices with other City Commissions.

Reestablish the Public Art Coordinator staff position. The Public Art Program has had two staff positions in the past (it now has one) and is under-staffed in relation to the size of its growing collection. Also, implementation of the policies in this report will require additional staff time.

Conduct a formal conservation survey of the collection and develop a full maintenance and conservation plan, to ensure the quality of the collection is maintained and that its appearance remains an asset to the City.

Establish an online inventory and database for the collection to support management and public education. One possibility is WESTAF's Public Art Archive and its Collection Management Software (<https://www.publicartarchive.org>).

Establish an open process for artists to register their general interest in participating in the Public Art Program and submit their qualifications outside of the RFQ/RFP process for a specific project. This list of interested artists can serve as a resource for developers and others seeking artists for projects. Platforms such as Artsopolis (<https://www.artsopolis.com>) and others may be options for this directory.

Expand the practice of temporary installations as part of the public art program. Build on the success of installations including Chakaia Booker's *Pass the Buck*, Jeffery Skarvan's *Call to Action*, and Casey Parlette's *Shark Migration*. These works have served several valuable functions, raising the public visibility of the program, focusing attention on issues and artistic craft, and transforming public criticism into support. The Arts Commission can commission additional temporary projects that tackle important topics, engage the community, and increase the public profile of the program and the Arts Commission. Such projects can also provide opportunities for partnerships with the Laguna College of Art and Design, Laguna Art Museum, and others, under the recommended new partnership policy.

Build a regular program of community education and promotion for the Public Art Program. Work to expand community awareness, understanding and “ownership” of public art through ongoing activities. The possibilities are many and may include activities in the public schools, print/broadcast media coverage, social media, special events, exhibitions, public art tours, artist-in-residence programs, publications, interpretive materials, brochures, films and videos, and artist interaction with the community.

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ROLES AND RESPONSIBILITIES

Laguna Beach Public Art Staff

- Be responsible for the day-to-day management of the public art program.
- Support the Arts Commission in fulfillment of its responsibilities.
- Propose public art project parameters for review (site, budget, artwork medium, artwork approach, etc.).
- Review all proposed public art projects and advance projects to the Arts Commission as appropriate.
- Liaise with artists and the arts community.

Laguna Beach Arts Commission

- Advise City Council on all matters related to the Public Art Program.
- Make aesthetic and artistic judgments in the application of the program policies and guidelines.
- Review and approve installation of private development projects pursuant to this policy document.
- Review and approve installation of art as part of a capital city project pursuant to this policy document.
- Review and approve proposed murals, temporary installations, and other public art projects.
- Review and approve proposed donations, loans, and memorials of artworks.
- Review and approve changes to the public art program guidelines, policies, and procedures.
- Recommend sites for location of public art in accordance with the site criteria set forth in this policy document.
- Review and approve deaccessioning, removal or replacement of public art owned by the city.

Laguna Beach City Council

- Reviews and approves all contracts and expenditures for the public art program.
- Will review Arts Commission decisions only in cases where an error or abuse of discretion in relation to its policies and procedures has occurred and is supported by substantial evidence.

LAGUNA BEACH PUBLIC ART PROGRAM POLICIES

Introduction

This section provides updated and comprehensive policies and guidelines for the public art program, responding to issues and opportunities identified by staff, the Arts Commission, and stakeholders. It is based on national best practices but adapted to the specific needs and circumstances of Laguna Beach and its public art program.

Importance of Artists and Artworks

Artists and artworks are the heart of the Laguna Beach Public Art Program, and their work contributes great value to the community. Artists' public artworks enrich Laguna Beach artistically and aesthetically, they support quality of life of residents and enhance the visitor experience, they further the city's reputation and identity as an arts community, and they stimulate community dialogue. The City seeks to reflect respect for artists and their work throughout all aspects of the program and their involvement with the Arts Commission and staff. One element of that respect is to provide clear guidance and equitable procedures for artists' interactions with the program. In addition, the program will pay artists for proposal development and provide a procedure for registering interest in being commissioned by developers and the program. All artists' rights will be acknowledged and included in artists' agreements.

Artist and Art Selection Criteria

The following criteria shall be referenced and applied by the Arts Commission throughout all selection processes.

Qualifications: Artists shall be selected based on their qualifications as demonstrated by past work and the appropriateness of their concepts to the project. Of highest priority are the artistic capabilities of the artist and the inherent quality of their artwork.

Artistic Excellence: Artists and the public art shall demonstrate excellence of creative and aesthetic ideas, a mastery of skills and techniques, communication of unique vision or perspective, and professional approaches to process and presentation.

Media and Styles: All forms of public art shall be considered, subject to any requirements set forth by the project prospectus. Artists whose artworks are representative of all schools, styles, and tastes shall be considered, as appropriate to the specific characteristics of the project and the site.

Appropriateness to Site: Artwork shall be appropriate in scale, material, form, and content for the selected site. The art must have an artistically compelling relationship to the physical character or significance of the site, and the surrounding geographic context. It shall also have or reasonably accommodate any necessary supporting infrastructure and follow applicable City Code requirements.

Durability: Durability shall be defined in relation to the intended lifespan of the project. For both short-term and long-term installations consideration shall be given to structural and surface integrity, permanence, and protection of the proposed artwork against theft, vandalism, weathering, excessive maintenance, repair costs, and extreme weather events such as floods, earthquakes, or fires.

Visual Accessibility: The proposed artwork will be readily visible to the public and meet the location requirements of the project.

Public Liability: Safety conditions or factors that may bear on public liability should be considered in selecting an artist or artwork. Examples of safety concerns may include a work that invites children to climb on it, has sharp edges, or is at risk of damage from extreme weather.

Diversity: The public art program shall strive for diversity of style, scale, media, and artists. The program shall also strive for an equitable distribution of artworks throughout the City.

Maintenance: The proposed artwork will not require extraordinary maintenance and the maintenance plan addresses vandalism, weathering, natural disasters, and the timeframe of the artwork.

Eligible Artworks

In general, all forms of artistic expression created by professional artists, in a wide variety of styles, media and genres, are eligible for inclusion in the public art program. Examples may include free-standing works, murals, or works that have been integrated into the underlying architecture or landscape. Artworks may include performance, participatory, functional and/or interactive elements.

Ineligible Artworks

Public art projects are not intended to substitute for functional elements that would normally be a part of private development or City capital projects. Unless they are specifically designed by professional artists, the following will not be considered as part of the public art program:

- Directional elements such as supergraphics, signage or color coding except where these elements are integral parts of an overall design created by a professional visual artist.
- Art objects which are mass produced or of standard manufacture, such as playground equipment, fountains or statuary elements, unless incorporated into an artwork by a project artist.
- Reproductions, by mechanical or other means, of original works of art, except in the cases of film, video, photography, printmaking or other media arts.
- Decorative, ornamental, architectural or functional elements that are existing and designed by the building architect, as opposed to elements created by an artist commissioned for that purpose.
- Landscape architecture and gardening except where these elements are designed by a professional visual artist and/or are an integral part of the artwork by the artist.
- Service or utilities necessary to operate and maintain an artwork.

Site Selection Criteria

The Arts Commission will consider the importance of each of the following site criteria for public art projects. Site selection criteria may include, but are not limited to, the following:

- The visibility of the site by the public.
- Public accessibility to the artwork.
- Public safety of the site, especially when considering interactive public art.
- Pedestrian traffic patterns and vehicular traffic patterns.
- Surrounding design including landscaping, lighting, and seating considerations.
- Proposed artwork relationship with and complement to nearby existing artworks.
- Environmental considerations such as flooding, salt, light, etc.
- Impact on any adjacent property owner's vistas, views, or other impact.
- Cost of installation and maintenance as related to the site.
- The probability of vandalism or theft.

Artists' Call Processes

Call Methods

The public art staff shall determine the selection method for individual projects. Any of the following methods may be used, depending upon the requirements of the project. Stipends are provided to the artists for public art proposals.

Open Competition (RFQ/RFP): An open competition is a call to artists for a specific project in which artists are asked to submit evidence of their past work. Any artist may submit qualifications and proposals. Calls for entries for open competitions will be sufficiently detailed to permit artists to determine whether their work is appropriate to the project under consideration.

A two-part selection process is recommended:

Step 1: Request for Qualifications (RFQ). Artists are invited to submit a resume, work samples, and a letter of intent outlining their interest in the project and their approach to the project. The Selection Panel will choose a small group of artists to move to the proposal phase.

Step 2: Request for Proposals (RFP). The selected group of artists are invited to submit proposals. The artists are given specific details and guidelines about the project to develop a conceptual proposal. The artists are paid a stipend for their time to develop the concepts for the project.

Limited or Invitational Competition: Staff and the Arts Commission invite a limited number of artists to submit credentials and/or proposals for a specific project. Invitations shall be based on evaluation of an artist's past work and demonstrated abilities to successfully respond to the conditions posed by the project (i.e., water features, light works, paintings, sound works, landscape works, design team efforts, etc.) or on other non-aesthetic public art program goals (e.g., artists who reside in a particular community or neighborhood where a project is occurring, local artists or regional artists). The artists are paid a stipend for their time to develop the concepts for the project.

Direct Selection: The Commission may choose a direct selection in which they contract with a specific artist for a commission or to purchase an existing work. This approach is rarely used and will generally occur when circumstances surrounding the project render an open or invitational competition unfeasible (e.g., project timeline, community, or aesthetic considerations). The artist is paid a stipend for their time to develop the concepts for the project.

Timeframe for Artworks

All artworks approved by the Arts Commission shall be considered installations for a set time period, with specific provisions regarding future disposition. The Commission may choose it to be a short- or long-term installation, shall determine the timeframe for the artwork to be displayed with input from the artist and/or developer, and shall create an agreement setting forth the terms of the installation. At the end of the timeframe, the artwork will be reviewed, and the timeframe extended, the work purchased, donated, removed, or moved. It is anticipated that some artworks will have a timeframe of one, five, ten or twenty years, while others may be longer-term. Artworks created under the public art in private development (1%) requirement will have a minimum timeframe of twenty years. Setting a timeframe allows for the artist, developer, property owner and the Commission to define the terms of display and to reassess the work within its larger context, such as changes to the site/location, to the artwork itself, and other factors. To assure equitable treatment of the artist and artwork, the agreement shall include provisions addressing the responsibilities and costs of removal, should the artwork be removed or moved at the end of the timeframe.

Criteria for Reviewing Artwork Upon Completion of Timeframe

When the negotiated timeframe for a work of art has expired, the Arts Commission will act in accordance with the terms of the agreement. Under the agreement it may, in its discretion, choose to extend the time period of the work; purchase, remove or move it; or accept it as a donation. The Commission will base its decision on the following criteria, which would support continuation of the artwork:

- The community supports the continued presence of the artwork.
- The artwork is of high artistic quality and/or offers alternative artistic value, such as an educational piece.
- The artwork and/or artist add to the diversity of the collection.
- Maintenance and conservation of the artwork are manageable.
- The site is and will continue to be City property or continue to belong to the developer/property owner and remain a suitable location for the artwork.
- Retaining the artwork does not prevent valuable alternative use of the site for other artwork(s).

Deaccessioning Artworks

The City of Laguna Beach is responsible for maintaining the quality and integrity of the City public art collection. While it is regrettable, occasionally it is necessary to remove an artwork from the collection if it no longer meets standards for quality or safety, or if there is an immediate weather or natural disaster

threat. The Arts Commission is responsible for review and approval of deaccessioning decisions. All deaccessioning shall be subject to artists' rights under their agreement with the City, the California Art Preservation Act, and the federal Visual Artists Rights Act.

Criteria for Deaccessioning

A work of art may be deaccessioned for one or more of the following reasons:

- In the judgment of the Arts Commission, the artwork does not meet the aesthetic or artistic standards of the collection.
- The artwork is not or is rarely on display for lack of a suitable site.
- The condition or security of the artwork cannot be reasonably guaranteed.
- The artwork is damaged and repair is infeasible or the cost of repair is disproportionate to the value of the artwork.
- The artwork requires excessive maintenance due to faults in its design.
- The artwork endangers public safety.
- The artwork needs to be removed immediately due to a pending weather event or natural disaster.
- The site of a site specific artwork is so severely altered that the artwork is no longer compatible or relevant.
- The property on which a site-specific artwork is located is no longer owned by the City.
- The property needs to undergo necessary infrastructure improvements.
- The artwork is significantly incompatible or inferior in the context of the collection.
- The City wishes to replace the artwork with a work of more significance by the same artist.
- There has been sustained and overwhelming public objection to the artwork over period of time.
- The artwork has been stolen or destroyed.

Artwork Donations and Loans

Works of art proposed for donation or long-term (six months or longer) loan to City shall be carefully reviewed by the Arts Commission under criteria which have been established to meet the following objectives:

- To provide uniform procedures for the review and acceptance of gifts or loans of artworks to City.
- To vest in a single agency the responsibility of ensuring the management and long-term care of the donated works of art.
- To facilitate planning for the placement of artworks on City-owned property.
- To maintain high artistic standards for artworks displayed in City facilities.
- To provide appropriate recognition for donors of artworks to the City.

At any time, the Arts Commission may impose a temporary moratorium on donations and loans. All artworks proposed for donation or long-term loan shall be subject to the timeframe requirements as with all other artworks.

Memorials are ineligible as proposed donations or loans of artwork. Proposed memorials are subject to specific policies (see Memorials, below).

Arts Commission Process

The Arts Commission has sole discretion to review and accept or deny, or accept with conditions, any proposed donated or loaned artwork. The Commission will consider proposals for donations and loans only during the first three months of the year. The Commission will schedule a feasibility consultation with the applicant, in advance of their making a proposal, and advise them of the content of this policy, the appropriateness of the proposed artwork donation or loan, and the necessary courses of action required for a full proposal for consideration by The Arts Commission.

Review Criteria for Artwork Donations or Loans

The Arts Commission shall evaluate proposed donations or loans and base its decision of acceptance or denial on the following criteria:

1. **Aesthetic Considerations:** To ensure artworks of the highest quality, proposed gifts or long-term loans of works of art should be accompanied by a detailed written proposal and concept drawings of the proposal, and/or photographs of an existing artwork, documentation of the artist's professional qualifications and, if needed, a current certified appraisal of the worth of the artwork. The Arts Commission shall assess the aesthetic value of the artist and the artwork to determine whether the donation or loan should be accepted and may refuse the proposed donation or loan on aesthetic grounds.
2. **Site Context:** If the donor is proposing a site for the donated or loaned artwork, the artwork must be compatible in scale, material, form, and content with its proposed site. Attention shall be given to the social context of the work and the way it may interact with or contribute to the use of the site. Significant consideration shall be given to the structural and surface soundness, and to the possibility of and resistance to theft, vandalism, weathering, and excessive maintenance or repair costs.
3. **Financial Considerations:** Funding for the project, and the estimated cost of maintenance and repair over the expected timeframe of the artwork. If the proposed donation or loan is accepted, a legal instrument of conveyance of the work of art should be executed between the City and the donor. Acceptance is contingent on receipt of payment from the owner for all costs associated with the gift, including transportation, installation, and maintenance endowment and staff time.
4. **Liability:** Susceptibility of the artwork to damage and vandalism, any potential danger to the public, and any special insurance requirements.
5. **Maintenance:** The City shall require that the donor provide an endowment for the long-term maintenance and conservation of the donated and loaned artwork, except where there are alternative funding sources for these expenses or there is a compelling reason for the City to accept financial responsibility.
6. **Uniqueness of Art:** The City will accept only unique, one of a kind works of art apart from prints, photographs, or a desirable high-quality, limited edition work of art by a renowned artist.

Proposed artwork donations and loan proposals shall be reviewed by the Arts Commission. Proposals shall be accompanied by the following information:

- Slides, photos, or a model of the proposed work.
- Biography of the artist.
- Cost of the artwork and anticipated budget for installation.
- Information for giving acknowledgement of the donor.
- Maintenance requirements for the artwork.

Artworks proposed for long-term loan (one year or more) to the City shall be subject to the same considerations outlined above. Artworks proposed for placement in private offices or in non-public areas of City facilities shall not be subject to Commission review.

Memorials

This policy addresses requests received for permission to place monuments, memorials, markers, or plaques to an organization or event on City property. Proposals for memorials honoring organizations or events are eligible for consideration. Memorials honoring individual persons are not eligible.

The City is committed to preserving the public use and enjoyment of its parks, open spaces, public buildings, and other public areas of the City while providing opportunities for appropriately designed monuments, memorials, markers, and plaques that honor an organization or event beneficial to the greater good of the community.

To preserve space for future generations of Laguna Beach, proposed memorials shall be subject to the timeframe requirements as with all other artworks.

At any time, the Arts Commission may impose a temporary moratorium on memorials.

The Arts Commission shall evaluate proposed memorials, markers or plaques and base its decision on application of criteria listed above for donations, plus the following:

- **Use of Public Space:** Consideration of the primary uses of public open space is a priority. While appropriate memorials may enrich an area, public open space is a precious commodity for Laguna Beach residents. Any memorial applications will be carefully reviewed in context of these two public benefits.
- **Timelessness:** The quality of timelessness shall be considered in the significance of the organization or event being memorialized. The memorial must represent the values and principles relevant to future generations.
- **Community Significance:** Proposed projects must serve to commemorate or to identify a particularly significant historic event or organization. Projects that seek to honor events by placing them into the public realm should appeal to the broader interests of the community.

- Location: The location must be an appropriate setting for the memorial and specific geographic justification should be stated in the application.

Financial Contributions to Program

The Public Art Program encourages and accepts financial contributions to help fund the cost of artworks. The program has a history of donors contributing amounts towards the cost of commissioning artworks. Donations of any amount, large or small, are gratefully accepted into the Public Art Fund to defray the costs of commissioning and maintaining new works for the collection. All decisions about the choice of artwork and use of donated funds are at the sole discretion of the Arts Commission under its policies and guidelines. Donors who wish to propose a specific artwork or site may meet with staff and explore a donor agreement setting forth the terms and conditions of the project based on the artwork donation policy, which will then be reviewed by the Arts Commission.

Murals

A mural is any large-scale artwork, painting, mosaic, fresco, or other artwork attached to or applied directly to the exterior of a structure. A mural is a pictorial representation or design intended to reflect a thematic or artistic expression. Murals can offer great community benefit and are a longstanding tradition in Laguna Beach. However, murals must be designed to avoid confusing drivers and/or pedestrians or causing any other negative impact on public safety or welfare.

Murals in Laguna Beach are governed by (a) location on public or private property, (b) the use of public or private monies, and (c) their duration status (temporary or long-term). Temporary murals are intended to be installed and on view for 12 months or less. Murals intended for installation and to be on view for more than 12 months are considered long-term murals. Murals on public or private property shall conform to the requirements of this chapter and require approval of the Arts Commission if they are within public view via public right of way.

Applications for new outdoor murals subject to the requirements of this chapter are approved by the Arts Commission. Murals approved through this program are exempt from the City sign code, Chapter 25.54.

Any individual or organization wishing to create an outdoor mural in the City of Laguna Beach must apply for approval through the Public Art Program, regardless of the funding source. Applicants may be: an individual artist or group of artists; a business or building owner; or a nonprofit organization, such as a neighborhood association, educational or community organization. Federal tax-exempt status 501(c)(3) is not required.

Murals on private property outside of public view via public right of way and funded with private dollars, do not need approval from the Arts Commission but are subject to all City codes and other ordinances, including Sign Regulations, Chapter 25.54.

Murals placed on public property and/or financed by City funds are the responsibility of the City, including its maintenance, conservation, and removal. Alteration or removal of murals must be approved by the Arts Commission and are subject to the provisions of the California Art Preservation Act and Visual Artists Rights Act.

Murals placed on private property shall become the responsibility of the property owner, including its maintenance, conservation, and removal. Murals not maintained properly may be subject to code compliance penalties and removal.

The following criteria shall be applied in review and approval of mural proposals to ensure aesthetic quality and design integrity, and to determine that the work is appropriate to the setting, architecture, and social context:

- Support of mural by community demonstrated through a community engagement process.
- Strength of the artist's concept and demonstrated technical skills and expertise.
- Appropriateness of theme and other relationships to the surrounding environment.
- Compatibility with the character of the surrounding area (particularly when near residential areas) in terms of its size, style, colors, materials, general appearance, and location.
- Appropriateness in scale to the location. The mural should not overwhelm nor compete with the scale of the site or adjacent architecture.
- Placement on building, including the consideration of door and window coverings.
- Budget and timeline.
- Confirmation of original work of the artist, with no violation of copyrights.
- Designation of property (no installation allowed on designated historic property).
- Appropriateness of content (e.g., no signage, names, logos, or subject matter that could be construed as advertising or as overtly political, religious, or sexual in nature). Any design considered indecent or illicit by community standards will be denied.
- Suitability of the work for outdoor display, including its maintenance and conservation requirements.

Public Art in Private Development and City Capital Projects

One percent art requirement and administrative fee: Private real estate development projects and City capital projects shall be subject to a public art requirement as defined in the ordinance. Developers and the City shall allocate a total of one percent (1.0%) of the total value of their project budget for public art. Of the one percent art requirement, they shall allocate and spend eighty-five percent (85%) to acquire and install a work of public art on the project site. In addition, they shall pay fifteen percent (15%) of the one percent art requirement as an administrative fee to offset costs of managing the program. In lieu of acquiring and installing an artwork, the developer or City may contribute funds to the Public Art Fund in the amount of one-and-one quarter percent (1.25%) of the total value of their project budget. The artwork shall include a plaque acknowledging the artwork name, the artist's name, and the date of installation.

The public art requirement shall apply to private real estate development and City capital improvement projects with valuations greater than \$225,000.

Private development projects subject to art requirement: New commercial or industrial developments; remodeling, repair, or reconstruction of existing commercial or industrial property; residential subdivision or development of more than four lots of units, whether by detached single family residential structures, condominiums, apartments, townhouses or other dwelling units, including the repair, remodeling, or renovation of same.

City capital improvement projects subject to art requirement: City parks and public works projects and renovations such as bridges, viaducts, elevated ways, gates, or other structures upon or over land owned by the City within the city. Renovation applies to any capital project that increases the square footage, expands the uses, or creates new uses of a facility. Renovation does not include capital projects that are replacement of existing systems (such as electrical or plumbing). Renovation also excludes regular maintenance of facilities, such as painting, gutter replacement, etc.

Exclusions: The public art requirement shall not apply to underground public works projects; street or sidewalk repairs; tree planting; remodeling, repair or reconstruction of structure damaged by fire, flood, wind, earthquake, or other natural disaster; low-income housing construction, remodel, repair or reconstruction projects; construction, remodel, repair or reconstruction of structures to be occupied by a nonprofit, social service agency or institution.

The developer shall be responsible for maintenance and conservation of the artwork and these future costs shall not be included in the project budget nor counted towards fulfillment of the public art requirement.

The public art must remain on the project site for a period to be negotiated but not less than twenty years from the original installation date. When and if the development project is sold within twenty years from the installation date, the public art must remain at the development for which it was created and may not be claimed as the property of the seller or removed from the development or its location as approved by the Arts Commission. If a property is to be demolished within said twenty-year period, the owner must relocate the public art to another publicly accessible, long-term location that is approved in advance by the Arts Commission. A property owner may petition the Arts Commission to relocate the public art to another publicly accessible location on the development project site. In the case of removal of the public art for any reason prior to the expiration of the twenty year period, developer or owner of the development project must notify the City at least 30 days in advance of the removal, and must replace the public art within six (6) months of its removal, meeting all of the requirements of this chapter and using the same approval process, or pay an amount equal the remaining portion of the in lieu contribution prorated over said twenty year period. Any removal, relocation, or replacement of the public art must be consistent with the California Art Preservation Act and the Federal Visual Artists Rights Act and any other relevant law. The developer or owner shall execute a restrictive covenant in a form

acceptable to the City Attorney enforceable by the City, which shall be recorded against the project site and shall run with the land for a period of twenty years from the installation date.

Artwork created to fulfill the public art requirement shall be of permanent-type materials to be durable against vandalism, theft, weather, and natural disaster, and shall be related in terms of scale, material, form and content to the immediate and adjacent buildings and landscaping so that it relates to the site and surrounding environment.

Public art shall be clearly visible and easily accessible to the public. If located on private property, the area must be open to the public and clearly visible from adjacent public property such as a street or other public thoroughfare, sidewalk, or public beach.

Permissible expenditures in fulfillment of the one percent (1.0%) private development requirement shall include artist fees; fabrication and installation services and materials; shipping and transportation of artwork to the site; site preparation; display and mounting; and permits and fees directly related to the artwork. The Arts Commission shall have discretion to include or exclude line items or portions of expenses as part of the review and approval process.

Approval Process for Public Art in Private Development

Artist Selection. Selection of the artist and public art shall be the responsibility of the developer for private development projects. City staff may, to the extent practicable, provide any public lists of potential artists or potential locations for the public art. Financial agreements regarding the public art shall be negotiated between the developer and artist and memorialized in a written agreement.

Approval. An approved and installed project is required before issuance of a certificate of occupancy. To assure the best possible artistic outcome, the developer shall initiate the planning and negotiating process for the public art project as early as practicable in the development process.

Process: The developer applies to the Community Development Department for review and approval by the Arts Commission along with payment of the fifteen percent (15%) of the one percent art requirement for administrative costs. The review and approval process continues with an initial presentation to the Arts Commission to propose concepts and plans for the public art project, and to receive feedback and direction from the Arts Commission. To the extent possible, processing of the public art application shall be concurrent and coordinated with the design review application, if any, for the development project. Following conceptual approval from the Arts Commission, the developer will submit a final application including specific plans for the public art project to the Arts Commission for review and approval. Formal or conditional approval of a final application shall be granted by the Arts Commission before the Community Development Department accepts drawings for structural plan check of the development project. In the discretion of the Arts Commission, and upon a showing of good cause by the project applicant, drawings for structural plan check may be accepted and processed prior to formal approval or conditional approval of a final application for public art. The City Council shall accept the

recommendation of the Arts Commission except in cases where a Commission decision is not supported by substantial evidence or constitutes an error or abuse of discretion in relation to its policies and guidelines.

In-Lieu Fee. When the developer has elected to make an in-lieu contribution to the Public Art Fund, the payment shall be made at or before the time the certificate of occupancy is issued.

Maintenance and Conservation

The City shall be responsible for all maintenance and conservation of artworks in its collection, during the timeframe of installation, except for works commissioned through the Public Art in Private Development requirement, which shall be the responsibility of the property owner. The City shall regularly arrange for a survey of the entire Public Art Collection to meet the following objectives:

- To provide for the regular inspection of public works of art.
- To establish a regular procedure for effecting necessary repairs to public works of art.
- To ensure regular maintenance of public works of art.
- To ensure that all maintenance of public works of art are completed with the highest standards of professional conservation.

The City shall also inventory the public art collection with information critical to maintenance and conservation of the collection. This includes artist information, materials, recommended individual maintenance schedule for the artwork, photographic documentation of the artwork, and other information deemed important and necessary.

Artist Responsibilities

- Guarantee and maintain the work of art against all defects of material or workmanship for a period of one year following installation, subject to the terms of the artist's contract.
- Provide the public art program with drawings of the installation and with detailed instructions regarding routine maintenance of the artwork.
- Be given the opportunity to comment on, and participate in, all repairs and restorations that are made during their lifetime.

City of Laguna Beach Responsibilities

- Be responsible for routine maintenance of artwork, upon the advice the Public Art Staff or Arts Commission, and shall perform all maintenance work in a manner that is consistent with conservation requirements supplied by the artist.
- Not intentionally destroy, modify, relocate or remove from display any work of art.
- Not do any non-routine maintenance or repairs to artworks without prior consultation with the Public Art Staff and/or a qualified professional.

- Be responsible for conducting a comprehensive maintenance survey of the public art collection at least once every five to seven years. This survey shall include a report on the location and condition of each work, prioritized recommendations for the restoration or repair or maintenance of works of art, and estimated costs.
- If a work is in need of attention and/or restoration staff may, at its discretion, engage a professional conservator to evaluate the condition of the work further, or effect repairs to the work. The artist should be asked to repair the work for a fair market value fee. If the work cannot be restored, the work will be considered for deaccessioning or removal from the collection.

Partnerships

Partnerships can enrich the Public Art Program and extend its relationships and impact in the community. They also require time and resources to manage the additional process and work involved in shared initiatives. In this context, partnerships will be temporary agreements to produce a public art project. To best assure success, the Public Art Program will engage in partnerships within the following guidelines:

- All partners discuss and agree in advance on a project plan, including addressing goals, desired outcomes, tasks, roles, communications, schedule and budget. They also identify a process for decision-making and resolving conflicts that arise during the project.
- Each partner assigns a lead staff person to the project.
- Each partner commits significant financial and human resources to the project.
- All partners commit to work together and strive to reach mutually beneficial results even in the face of difficulties and disagreements.

Artist and Collection Diversity

The Arts Commission desires to create a public art collection that is diverse and includes artworks of numerous styles and media. Therefore, it is important that many artists have an opportunity to participate in the program.

Artists are limited to having a maximum of four (4) artworks in the collection at any one time. Artists with the maximum number of concurrent artworks cannot be considered for another commission or purchase for three years after the date of the last signed contract or letter of agreement, unless the commission is directly related to a previous artwork completed by the artist.

The Commission shall ensure over time that the public art collection is inclusive of artists of diverse backgrounds. The Arts Commission will not discriminate against any artist or other program participant based on race, religion, gender, sexual orientation, national origin, or disability status.

Artist Rights

The City of Laguna Beach is committed to a climate wherein artists will thrive and receive the economic benefits of, and recognition for, their work. For that reason, it is important that artists retain reasonable

control of the integrity of their artworks and that artists receive equitable compensation for their creative endeavors.

The City seeks to assure the following rights to artists, which shall be embodied in artist contracts for the commissioning or purchase of works of art.

- Recognizing that successful public art is generally inseparable from the site for which it is created, the City shall endeavor to ensure that City departments or site agencies do not move or remove an artwork unless its site has been destroyed, the use of the space has changed, or compelling circumstances arise that require relocation of the work of art. Any such actions should be reviewed by the City prior to being undertaken. Should it become necessary to move or remove an artwork, the City shall make reasonable efforts to consult with the artist before effecting any removal or relocation. However, the City reserves the right to move or remove the artwork without notification in emergency situations where an immediate threat to property or public safety is present. In all instances, the City will act within the provisions of the California Art Preservation Act and federal Visual Artists Rights Act.
- Recognizing the importance of preserving the integrity of an artwork, the City shall seek to ensure that City departments or site agencies do not intentionally alter, modify or destroy an artwork. Nevertheless, if an artwork is significantly altered, modified or destroyed, whether intentionally or unintentionally, the artist shall have the right to disclaim authorship of the artwork. Should an artist choose to exercise this disclaimer, the City shall, upon request by the artist, officially request that the department or agency remove any plaques, labels or other identifying materials that associate the work with the artist.
- The integrity of an artwork depends upon regular conservation and maintenance. The City is committed to the periodic inspection of the artworks in the Collection and to make reasonable efforts to ensure that each artwork is properly and professionally maintained.
- The City agrees to make its best effort to ensure that all maintenance and repairs to works of art are accomplished in accordance with any maintenance and repair instructions the artist has provided to the City at the time of accession and that all such maintenance and repairs adhere to the highest professional standards of artwork conservation. The City shall make reasonable efforts to notify the artist before departments or site agencies undertake repairs or restorations to the artwork during the lifetime of the artist. Where practical, the City shall seek to ensure that the artist be consulted and given an opportunity to accomplish the repairs or restorations at a reasonable fee. The City reserves the right to make emergency repairs without prior notification to the artist.

The artist retains all copyrights associated with works of art accessioned by the City, including those acquired for the City. The City agrees that it will not copy or reproduce the artwork in any way, or permit third parties to do so, without prior written permission of the artist. Notwithstanding this policy, the City

reserves the right to make photographs or other two-dimensional representations of the artwork for public, noncommercial purposes such as catalogues, brochures, and guides.

Conflicts of Interest

Members of the Arts Commission, or any appointed members of a City Board or Commission, are bound by the City's Conflict of Interest provisions:

https://library.qcode.us/lib/laguna_beach_ca/pub/municipal_code/item/title_2-chapter_2_14-2_14_070

Appeals and Mitigation of Disagreements

Applicants for public art projects may appeal the recommendations of the Cultural Arts Director and the Arts Commission. Appeals will be reviewed solely based on determining if the public art process was appropriate. The appeals procedure allows for a review of the process for approval of a public art project. It is only to confirm the decision was reached in a manner consistent with the public art review policies.

The appeal will be determined at the discretion of the Cultural Arts Director, who may make a final ruling or refer the matter to the Arts Commission. In the event the Cultural Arts Director makes a final ruling, they will make a report to the Arts Commission at the earliest opportunity.

Dissatisfaction with the denial is not sufficient grounds for an appeal. Incomplete proposals or errors contained within proposals do not constitute grounds for appeal. Grounds for appeal are evidence of at least one of the following:

- The proposal was reviewed with criteria other than those appearing in the relevant public art guidelines.
- The Commission or selection process members were influenced willfully or unwilfully by members who failed to disclose conflicts of interest.
- Erroneous information was knowingly provided to the panel during its review of proposals.

The Cultural Affairs Director and/or Arts Commission will use the following procedures for appeals:

- Appeals must be sent in writing to Cultural Arts Director within 14 days of notification of the pertinent recommendation. The letter must cite evidence to support one or more of the grounds for appeal.
- The Cultural Arts Director shall consult the appropriate Arts Commission chairperson in accepting or rejecting the appeal.
- A rejection by the Cultural Arts Director is final and ends the appeal request.
- If the Cultural Arts Director accepts the appeal request, the applicant will be asked to make a presentation to the Arts Commission.
- The Arts Commission will recommend acceptance or rejection of the appeal and recommend modifications to awards as required.

- The Cultural Arts Director will notify the applicant in writing of the Commission recommendation and the date and time at which the Arts Commission will consider the appeal.

In addition to the above appeals policy, the City provides an additional appeals process:

25.05.070 Appeals and requests for review of discretionary decisions.

http://qcode.us/codes/lagunabeach/view.php?topic=25-25_05-25_05_070

Liability Insurance and Performance Bonds

The City of Laguna Beach recognizes that the cost of insurance, particularly liability insurance and performance bonds, is prohibitively expensive for professional visual artists. Inevitably, any insurance requirement to artists creating public artworks means that these costs would be passed on to the City in the form of increased fees for the artwork or a smaller portion of the project budget allocated to the art.

The City shall endeavor to seek alternatives to liability insurance and performance bonds, which are often difficult or unreasonably expensive for an artist to obtain. Whenever possible, arrangements shall be sought to cover the artist's liability under umbrella insurance programs, which generally cover all work being performed by contractors and subcontractors on the project site, or to arrange coverage for the artist and artwork under the insurance of the general contractors for projects. The artists shall be liable, in every instance, for their own negligent acts or omissions. Artists may be required to have their drawings, plans, specifications, fabrication techniques and installation methods reviewed by licensed California engineers for structural and/or mechanical integrity. The City will, if warranted by a particular project, engage engineers to verify project designs and installations.

DEFINITIONS

Accessioning: The process of adding and recording an artwork into the City's Public Art Collection, whether by commissioning, purchase, or donation.

Acquisition: The inclusion of an artwork in the City's Public Art Collection by commission, gift, or loan. Works on loan for periods of less than six months shall be considered as exhibition presentations. Works on loan for between six months and five years shall be considered temporary acquisitions and shall be included in the overall management of the City's public art collection.

Agency: Any public commission, authority, department, or corporation established or authorized to perform one or more functions on behalf of the City and funded in whole or part with City revenues or funds applied for, granted, or allocated by, to, or on behalf of the City.

Art, Work(s) of Art or Art Works: The objects resulting from the application of skill and taste to production of tangible objects, designs, and/or environments according to aesthetic principles, including, but not limited to: painting, sculptures, engravings, carvings, frescoes, murals, collages, mosaics, statues, tapestries, photographs, drawings, crafts, installations, digital and light-based works, fabric and textile works, earthworks, and conceptual works.

Artist: A person who practices any of the creative arts and who creates a body of artwork.

Capital Project or Capital Improvement Project: A government supported undertaking such as a land acquisition, construction, renovation, or demolition project of the City or of any City Agency intended to add to the long-term net worth, service capacity, or betterment of a particular government function, facility or asset.

Capital Project Budget or Construction Cost: The total cost of acquiring and constructing a Capital Project, including without limitation, legal, architectural, engineering, and other professional fees, site work, contingency allowances, and change orders.

Deaccessioning: The process of permanently removing an artwork from the Public Art Collection, whether by sale, destruction and/or removal from public display.

Functional Public Art: Combines aesthetic and artistic ideals with functional products and places, such as bus benches, bike racks, or exercise equipment.

Laguna Beach Arts Commission: A seven-to-nine member body appointed by the City Council and advisory to City Council, responsible for governance and oversight of the public art program, including public art policy, artworks, and funding for the City.

Laguna Beach Public Art Program: A City program which administers the public art policy, activities, and contracts to support the mission of the City.

Open Competition: A publicly announced invitation, to which any artist(s) may apply, subject to the parameters which have been established for creation and installation of a Work of Art or Public Art Project.

Performance Art: A nontraditional, hybrid art form that typically features a live presentation to an audience or onlookers (as on a street) and draws on such additional artforms as acting, poetry, music, dance, or painting.

Public Art: A work of visual art in a variety of media produced by a professional visual artist(s). Artworks may include painting, sculptures, engravings, carvings, frescoes, murals, collages, mosaics, statues, tapestries, photographs, prints, drawings, ceramics, crafts, installations, digital and light-based works, fabric, and textile works, earthworks, conceptual works, functional elements if designed by a professional artist, or such other visual art media as shall be deemed appropriate by the Arts Commission. Artworks may include a performance, participatory or time-based element. Public art shall not include artworks designed by the capital project designers or engineers, mass-produced artworks, reproductions of original artworks, or landscape architecture except where these elements are designed by a professional visual artist and/or are an integral part of the artwork by the artist.

Public Art Project: Projects for the creation of Public Art pursuant to these policies.

Public Places: Buildings, parks, major roads, and all spaces, indoors and outdoors, located in the City and that are accessible to the public.

Renovation: Any construction or cosmetic change of facilities, exclusive of regular maintenance. A renovated building is (a) a building undergoing alteration of the exterior envelope, heating, ventilation, and air-conditioning systems, water heating systems, or lighting systems for which the aggregate cost of alteration exceeds 10 percent of the assessed value of the building prior to such alteration, or (b) a building undergoing alteration in the physical configuration or interior space, for which the aggregate cost of alteration exceeds one-fourth of the assessed value of the building immediately prior to such alteration.

Request for Proposal: A public announcement of an upcoming public art project, inviting artists to submit a conceptual proposal for the project.

Request for Qualifications: A public announcement of an upcoming public art project, inviting artists to submit credentials for consideration for the public art project.

Site Specific Artwork: An artwork designed for a particular site and whose artistic intention is inseparable and cannot be transformed from the particulars of that given site to another location.

Temporary Art or Temporary installation: Public art within public view for less than one year.

Timeframe: The duration of time that artworks are made part of the City's collection, with specific provisions regarding future disposition.

APPENDICES

The revised public art ordinance will be attached as a separate document once the draft policies are reviewed.

DRAFT



CITY OF COSTA MESA

Agenda Report

77 Fair Drive
Costa Mesa, CA 92626

File #: 23-1394

Meeting Date: 10/5/2023

TITLE:

ARTS AND CULTURE STAFF REPORT

DEPARTMENT: PARKS AND COMMUNITY SERVICES



Agenda Report

Arts Commission

File #: 13-1394

Meeting Date: 10/5/2023

TITLE: ARTS AND CULTURE STAFF REPORT
DEPARTMENT: PARKS AND COMMUNITY SERVICES
PRESENTED BY: LAURETTE GARNER, ARTS SPECIALIST
CONTACT INFORMATION: LAURETTE GARNER, ARTS SPECIALIST, (714) 754-5322

UPDATES:

❖ Art Crawl Experience

- There are still spots available for the Art Crawl on October 21, 2023 but almost full at 28 registrations.
(Arts & Culture Master Plan: Goal 1. Action 2.1)

❖ Arts Grants

- Arts Grant Final Reports data will be presented to the Arts Commission in December. Next month, Costa Mesa Band Boosters will present on their project.
(ACMP: Goal 4. Action 1.1 and 1.2)

❖ ARTventure

- Currently, over 200 people have registered to attend the Awards Ceremony at the Orange County Museum of Art. There are about 130 artists participating and there will be over 200 works of art displayed at the Norma Hertzog Community Center. There will be multiple live performances on the Community Arts Day (free park performances) and People's Choice voting is now live on the City website.
(ACMP: Goal 1. Action 2.1)

❖ Free Park Performances

- The Hispanic Heritage Month Celebration had close to 1,000 people in attendance on September 23, 2023. The performances by INCA, the Peruvian Ensemble and Mariachi Los Santaneros were a hit with the community.
- Symphony on the Go! performance at TeWinkle Park on September 30th was another success. There were over a 100 people in attendance, even after a rainy start to the morning.
- Bob Baker Marionette Theater will be performing as part of the ARTventure Community Arts Day on October 28th, as well as a performance (TBD), by a Segerstrom Center for the Arts performer, at the Lion's Park Event Lawn.

- Martin Espino will be performing as part of a Day of the Dead celebration with Donald Dungan Library and will also be included in the ARTventure Community Arts Day program. Library will host DOD Altar, face painting, craft time and loteria from 10am-12pm.
- Joseph Yashar, classical guitarist and Velvet String Duo will perform inside the Norma Hertzog Community Center on October 28th as part of ARTventure Community Arts Day.
(ACMP: Goal 1 Action 2.4)

❖ **Public Art & Utility Box Art Program (UBAP)**

- The UBAP application is currently open for artists to apply until December of 2023. There are 10 applications and we can do about 15 wraps this year pending costs of removal for older vinyl wraps.
- Marisabel Bazan has almost completed fabricating her large butterflies for the City butterfly garden next to Marina View Park. Installation is tentatively scheduled to be complete before the end of October.
(ACMP: Goal 2 Action 2.1 to 2.6)