

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