



Office of the City Manager

CONSENT CALENDAR
April 30, 2019

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Jordan Klein, Economic Development Manager
Subject: Public Art Guidelines Revisions

RECOMMENDATION

Adopt a Resolution revising the City of Berkeley's Public Art Guidelines, modifying the Artwork Gifts and Loans Policy and adding an Artwork Deaccession Policy and a Memorial Artwork Policy.

FISCAL IMPACTS OF RECOMMENDATION

The recommended revisions to the Public Art Guidelines will save staff time by adding clarity for the Civic Arts Program and the Civic Arts Commission related to the evaluation of proposed artwork gifts, the management of artworks owned by the City, and the evaluation of proposed memorial artworks. Therefore the recommendation will free up a small amount of staff time for other Civic Arts projects.

CURRENT SITUATION AND ITS EFFECTS

There are several proposed artwork gifts, possible artwork deaccessions, and memorial artworks on hold pending updates to the Public Art Guidelines. While the Civic Art Program staff, working with the Civic Arts Commission, is planning additional revisions to the Public Art Guidelines later in 2019, staff has prioritized updating and creating these three Public Art Guidelines sections in order to provide a framework allowing a variety of proposals that have been received from the community and some artwork collection related concerns to be properly evaluated in a timely manner by the Civic Arts Commission.

Revising the City of Berkeley's Public Art Guidelines advances the City's strategic plan goal of providing an efficient and financially-healthy City government and supports City's strategic plan goal of providing state-of-the-art, well-maintained infrastructure, amenities, and facilities.

BACKGROUND

The City of Berkeley has a number of existing policies for the implementation of Public Art that were adopted in parts over time by City Council including: the 1985 Ordinance

on Visual Art in Public Places; the 1991 Ordinance establishing the Civic Arts Commission; and the 1999 Resolution establishing percent-for-art funding on municipal capital projects. Additionally, Civic Arts Program staff in cooperation with the Civic Arts Commission and the Public Art Committee created the Guidelines for Public Art for the City of Berkeley Public Art Program, which was revised and updated in 2001. These policies are all compiled into the Public Art Process Guide (Attachment 1). Because these policies were last updated in 2001, they no longer reflect current best practices in the field of public art. The proposed revisions to the Public Art Guidelines will help to ensure that the policies are current and the City of Berkeley is well-served by its public art process and associated outcomes.

The new Public Art Guidelines sections are more comprehensive than the existing policies. Their contents vary slightly from one policy to the other, but generally they all include a policy overview, definitions, evaluation criteria, detailed procedures, and references to related policies. Once the Public Art Guidelines revisions are approved by Council, staff will update the Public Art Process Guide document to reflect these changes. The updated guide will be posted to the City's website in the Civic Art Program information section, providing community members access to the fully documented process and criteria for anyone wishing to donate an artwork to the City or create a memorial artwork on City property. Having an accessible and fully documented policy will provide more transparency to the process for the community and ensure that there is an agreed upon framework informing the City's decisions on matters related to public art.

These policy revision were developed by staff in consultation with a legal consultant who specializes in art law. In the process of developing these guidelines, staff referenced the public art guidelines from a number of cities including San Jose, San Francisco, New York, Toronto, Baltimore, Chapel Hill, Palo Alto, and Portland. Staff also consulted with the Parks, Recreation & Waterfront Department on sections of the new guidelines that would interface with that department.

Berkeley Municipal Code Section 3.12.060(J) grants authority to the Civic Arts Commission to "develop guidelines and procedures to be submitted to the City Council for approval for a visual arts in public places program." Accordingly, the draft guidelines were reviewed and further revised by the Civic Arts Commission's Public Art Committee and Policy Committee before being presented to the Civic Arts Commission for approval. The proposed revisions to the Guidelines for Public Art for the City of Berkeley Public Art Program (Exhibit A) were approved by the Civic Arts Commission at its March 25, 2019 meeting. (Motion/Second: Covarrubias/Blecher; Ayes: Anno, Blecher, Bullwinkel, Covarrubias, Ozol, Passmore, Ross, Slattery, Tamano; Nays: None; Abstain: None; Absent: None).

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the content of this report.

RATIONALE FOR RECOMMENDATION

Revisions to the City of Berkeley's Public Art Guidelines will provide a framework for the review of a variety of proposed artwork gifts, possible artwork deaccessions, and memorial artworks which have been on-hold pending the development of these policies.

ALTERNATIVE ACTIONS CONSIDERED

There were no alternatives considered.

CONTACT PERSON

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Attachments:

1: Resolution

Exhibit A: Public Art Guidelines

2: Public Art Process Guide

RESOLUTION NO. ##,###-N.S.

PUBLIC ART GUIDELINES REVISIONS

WHEREAS, the City of Berkeley has a number of existing policies for the implementation of Public Art that were adopted in parts over time and were last updated in 2001; and

WHEREAS, the Civic Art Program staff, working with the Civic Arts Commission, is planning to comprehensively update the Public Art Guidelines to reflect current best practices in the field of public art to ensure that the City of Berkeley is well-served by its public art process and associated outcomes; and

WHEREAS, there are several proposed artwork gifts, possible artwork deaccessions, and memorial artworks that are on hold pending updates to the Public Art Guidelines; and

WHEREAS, staff has prioritized updating and creating these three Public Art Guidelines sections in order to provide a framework allowing a variety of proposals that have been received from the community and some artwork collection related concerns to be properly evaluated by the Civic Arts Commission in a timely manner; and

WHEREAS, Berkeley Municipal Code Section 3.12.060(J) grants authority to the Civic Arts Commission to “develop guidelines and procedures to be submitted to the City Council for approval for a visual arts in public places program;” and

WHEREAS, the proposed revisions to the Guidelines for Public Art for the City of Berkeley Public Art Program (Exhibit A) were reviewed and approved by the Civic Arts Commission at its March 25, 2019 meeting; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Public Art Guidelines (Exhibit A) are revised to include a modified Artwork Gifts and Loans Policy, and new policies for Artwork Deaccession and Memorial Artwork.

Exhibits

A: Public Art Guidelines

PUBLIC ART FOR THE CITY OF BERKELEY



The City and Its People

Mural by Romare Bearden

A GUIDE TO The Public Art Process The Civic Arts Commission The Percent for Art Program Guidelines for Public Art

THE CITY AND ITS PEOPLE

COVER IMAGE

The City and Its People was one of the first public art commissions of the renowned African-American artist, the late Romare Bearden. The Civic Arts Commission of the City of Berkeley commissioned this mural in 1973 to be created and placed in the City Council Chambers as an active and accessible part of the city's civic life. In addition to the placement of the mural in an open and well-used civic area, the logo of the City of Berkeley contains a multicultural design derived from a segment of this mural's imagery. The National Gallery of Art in Washington, D.C. has prepared a retrospective of Romare Bearden's life work. The exhibition has been on national tour following the opening in September of 2003 in Washington, D.C. The San Francisco Museum of Modern Art is featuring the retrospective in February of 2004. The exhibition will then move on to the Dallas Museum of Art in June of 2004, to the Whitney Museum of American Art in October of 2004, and will conclude at the High Museum of Art in Atlanta, in January 2005. *The City and Its People* is of great importance to this exhibition due to its size, the fact that the artist, himself, worked on all aspects of this artwork and because the City of Berkeley has incorporated this mural into the fabric of its civic life.

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Please see additional publication:
“City of Berkeley Public Art Registry”, 2002

**Visit the City of Berkeley Public Art Website for the most
up to date information about the City’s Public Art Program.**

<http://www.ci.berkeley.ca.us/civicarts/publicart.htm>

WELCOME

Hello and Welcome to the Public Art Program for the City of Berkeley. As the Civic Arts Coordinator, I am very happy to be here in the midst of such exciting times for the arts in the City. In 1999 the Public Art Resolution was passed by City Council. This Resolution provides a funding source for the 1985 Visual Art Ordinance, which defines the process for the commissioning and selection of public artwork. The Measure S Bond Fund, which was specifically marked for use in the downtown area, enabled us to produce the Library Gates, two major sculptures on Shattuck Avenue, and both the sidewalk art inserts and the poetry panels on Addison Street. The Downtown Arts District is near completion and has been receiving extensive publicity on the local and national scale. As we begin our next round of Public Art projects, we are turning our focus to two different regions of Berkeley: South Berkeley and the West Berkeley/ Interstate-80 areas. All of us look forward to working with you to make Berkeley an even more beautiful and attractive place to live, work, shop and recreate. *January, 2004.*

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Jos Sances, *Chair*, The Berkeley Public Art Committee

HISTORY OF THE PUBLIC ART PROGRAM

In 1985 the City of Berkeley passed a Visual Art Ordinance that established a process for the selection of Public Art in the City. In 1999 the Public Art Resolution was passed to begin the 1.5% Funding for the Public Art Program.

In January of 1998, the vacant Civic Arts Coordinator position was filled with one of the primary objectives being to research, write and present to the Civic Arts Commission and the City Council a Resolution for Funding a Public Art Program for the City of Berkeley. In order to bring the best current practices in the field to Berkeley, the Civic Arts Coordinator attended four professional conferences and a half-day California Arts Council consultation*. The Civic Arts Coordinator with the assistance of the then director of the UC Berkeley Art Museum formed the beginnings of the Berkeley Cultural Trust, one of its purposes being to serve as a community advisory group to the public art effort.

The Downtown Measure S projects were the first phase of the Public Art Program. These projects were funded by a voter bond issue passed for Downtown improvements. Through the Measure S Bond Fund, the Addison Streetscape improvements were initiated and completed. These projects included the sidewalk poetry and artworks on Addison Street, the hard-carved Library Gates in the Central Public Library, and the two large downtown sculptures located at the entrance of the Arts District.

The Public Art Program contains both functional and stand alone fine art, both of which are demonstrated by the Public Art projects completed through Measure S. Functional public art serves two purposes. It is specifically designed for the site and fulfills a utilitarian purpose. Excellent examples of functional public art are the hand-carved Library Gates in the Central Public Library and the sidewalk artworks that adorn both sides of Addison Street in the Downtown Arts District. Stand-alone fine art is independent and not usually incorporated into the structure or use of a project or building component, serving instead as a source of inspiration and beauty. The two downtown sculptures, *s'herbogenbosch* and *Earthsong for Berkeley* by artists John Toki and Wang PoShu, are both examples of stand-alone fine art. Whenever possible an artist or team of artists will work with the architects at the beginning of the design process so that the artwork can become an integral part of the built environment. All public artworks become part of the built environment and a "value added" benefit to capital improvement projects.

The process of Public Art is very challenging and the staff as well as the Civic Arts Commission have included the community in this ongoing dialogue. As part of this process, a Public Art Committee of the Civic Arts Commission was formed to assist with the selection of public art sites as well as development of the program as a whole. With assistance from the Public Art Committee, City staff develops and announces a Call for Entries for each project. The selection of each artwork is assigned

* Individual Consultation on Public Art, California Arts Council, Sacramento, CA, March 1998.
California Arts Council State/Local Retreat, Asilomar, February 1998.
Public Art 101, City of Seattle, May 1998.
California League of Cities, Art and Economic Development, Monterey, August 1998.
Governor's Conference on the Arts, December 1998.

to a Selection Panel specific to each project. Selection Panels are chosen with input from the Civic Arts Commission, City staff, the community, and the project architect. All entries are judged for merit and appropriateness by the Selection Panel. The selected finalist is submitted to the Civic Arts Commission for final approval and the artwork is then commissioned.

Public workshops on how to apply and become a public artist are part of our program, as well as open meetings and community participation. An open, regional workshop is held for each round of public art projects.

Some competitions are international, some regional, and some open to entry by Berkeley artists only. Each Call for Entries clearly states the site, the eligibility of artists, the time line for the project, the process for evaluation, the funds involved, etc. and are widely distributed through appropriate mail, the world wide web, art journals and newspaper announcements. The goal is an open and balanced program that will enhance the City of Berkeley and strengthen Berkeley artists. By keeping part of our competitive Call for Entries open to other cities, we will encourage other cities to allow Berkeley artists to compete for commissions in their cities as well. The Public Art process follows the visual art ordinances in place and the Arts Commission will continue to operate in accordance with all open and public meeting laws.

The passage of the Percent for Art Fund (Resolution No. 60,048-N.S.)** in May of 1999 enables the Public Art Program to live beyond the limited Measure S bond fund, which by law could only be used for Downtown improvements. Each year, 1.5% of the City of Berkeley eligible Capital Improvement funds are put into a Public Art Fund. The annual Public Art Plan will continue to enrich the architectural and cultural environment of the City.

We look forward to a positive, inclusive, and respectful process.

**

A copy of this resolution is included in this booklet

EXAMPLES OF PUBLIC ART



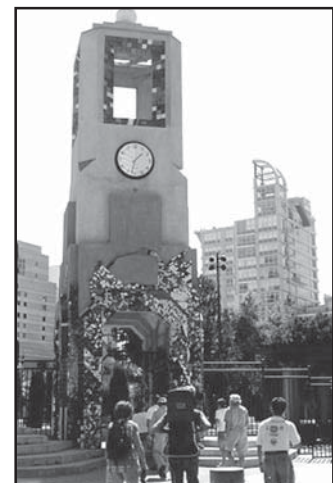
Hammering Man, Jonathan Borofsky, 1991.
Public Art for the City of Seattle, WA.

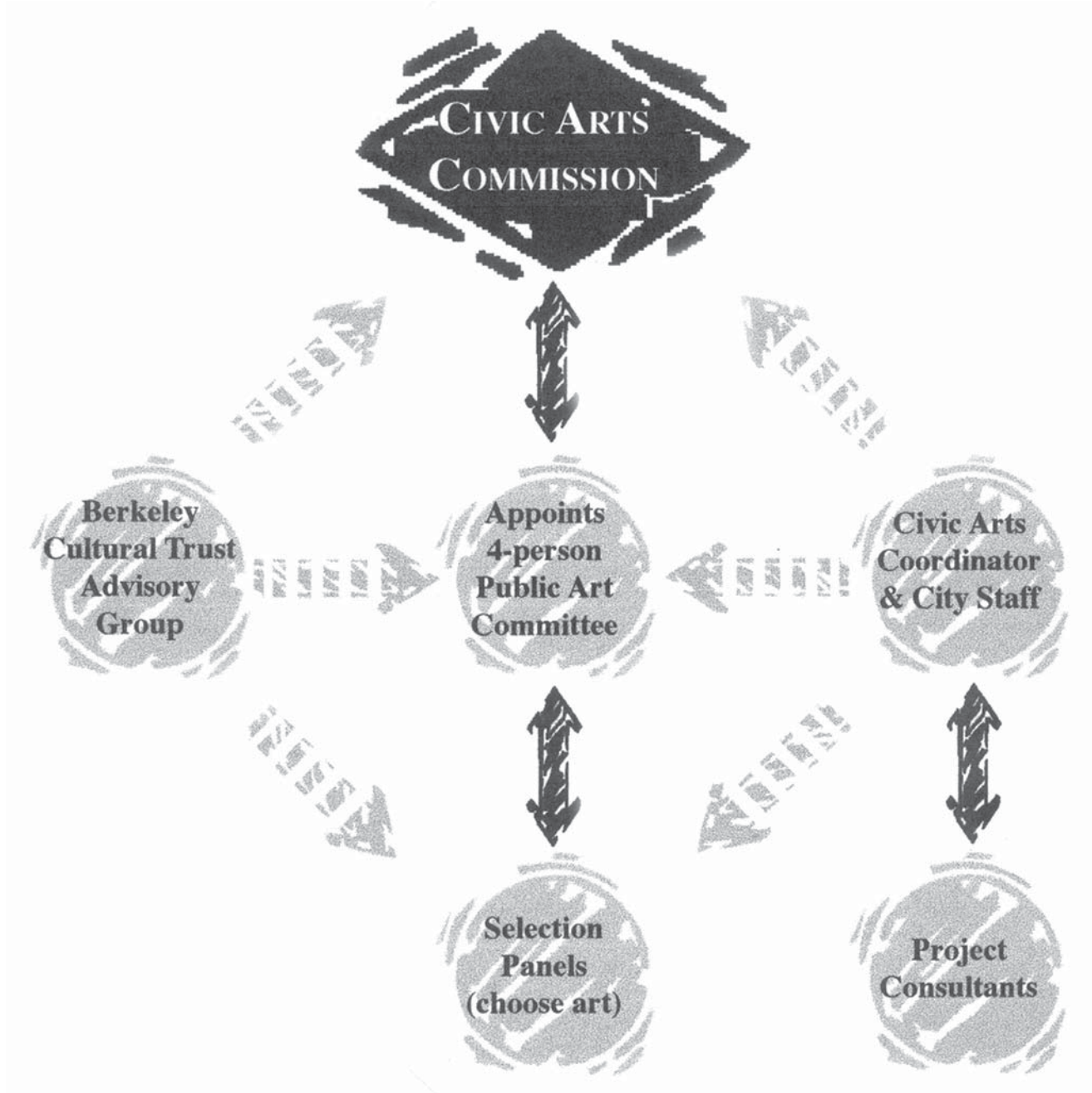
Untitled (Three Dancing Figures), Keith Haring, 2001 (1989)
Public Art for the City of San Francisco, CA.



Library Gates, Miles Karpilow, 2002, (2000)
Public Art for the Central Public Library, Berkeley, CA.

Clock Tower, Lawrence Halprin, 1993.
Public Art for the Grand Hope Park, Los Angeles, CA.





THE PUBLIC ART SELECTION PROCESS

1985 City Ordinance on Visual Art

The Selection Process (follows 1985 City Ordinance on Visual Art in Public Places)

1. The Civic Arts Commission has oversight responsibility for the Public Art Program in cooperation with the Civic Art Coordinator and City staff. The Civic Arts Commission appoints a four person Public Art Committee from its members that has direct oversight of the Public Art Program and which reports back to the full Commission.
2. This Public Art Committee, along with the Civic Arts Coordinator, City staff and an experienced project consultant, appoints the selection panels, based on consideration of each site and project and determined by the candidates' experience and training.
3. Selection Panels, consisting of three to seven members, will serve only for the period needed to choose the work or works of art for one identified area and then disband. Selection Panels may work with a number of art pieces identified for one project area such as Downtown or the Library. To insure a representative community body, the Selection Panels will be made up of:

Three consultants* and when appropriate additional members consisting of:

- A representative of the neighborhood
- A representative of the Civic Arts Commission
- A representative of other City boards and Commissions
- A project architect

4. The recommendation of the selection panels will be passed on to the Public Art Committee of the Civic Arts Commission. The committee's recommendation is then passed on to the whole Civic Arts Commission, which in turn will inform the City Council of the work or works to be commissioned in accordance with the 1985 Ordinance. The decision of the Art Commission is final. An informal community advisory group consisting of Berkeley's nonprofit arts agencies call the Berkeley Cultural Trust, has agreed to act as a partner to the whole process for support and guidance.

Public Art for the City of Berkeley

All the above is based on existing ordinances and reflects a fair, open and respectful process used throughout the United States. All open call for entry will be widely distributed and a series of educational workshops will be held for artists wishing to participate in the process. Please call the Civic Arts Coordinator if you have any questions (510) 981-7533.

* "Qualified consultant" means professional visual artists, educators, scholars, historians, collectors, and environmental designers and planners, whose authorities and skills are known and respected in the community and, whenever feasible, who have demonstrated an interest in, and have participated in, the arts of the city. (Ord. 5630-NS1 (part), 1985)

Chapter 6.14

VISUAL ART IN PUBLIC PLACES

Sections:

- 6.14.010 Definitions.
- 6.14.020 Visual arts Panel.
- 6.14.030 Standards for review.
- 6.14.040 General rules for art in public places.
- 6.14.050 Review of artistic materials.

Section 6.14.010 Definitions.

For purposes of this chapter the terms listed in this section shall be defined as follows:

- A. “Visual art in public places” means any visual work of art displayed for two weeks or more in an open City-owned area, on the exterior of any City-owned facility, in areas designated as public areas, lobbies, or public assembly areas, or on non-city property if the work of art is installed or financed, whether wholly or in part, with city funds or grants procured by the City.
- B. “Work of art” includes, but is not limited to, functional art integrated into public improvements, a sculpture, monument, mural, painting, fountain, banner, mosaic, weaving, stained glass, multimedia, computer-generated art, and earth art.
- C. “Permanent installation” means a work of art in a public place intended to remain or remaining for one year or more.
- D. “Temporary installation” means a work of art in a public place intended to remain for less than one year.
- E. “Qualified consultant” means professional visual artists, educators, scholars, historians, collectors, and environmental designers and planners, whose authorities and skills are known and respected in the community and, whenever feasible, who have demonstrated an interest in, and have participated in, the arts of the City. (Ord. 6487-NS § 1, 1999; Ord. 5630-NS § 1 (part), 1985)

Section 6.14.020 Visual arts panel.

A visual arts panel shall be convened by the Civic Arts Commission as a temporary subcommittee of the Civic Arts Commission for each art in public places project. A different visual arts panel shall serve for each art in public places project and shall dissolve after placement of the work of art. The visual arts panel shall include three qualified consultants appointed by the Civic Arts Commission and, when appropriate as determined by the Civic Arts Commission, a representative of affected neighborhoods, the Civic Arts Commission, other appropriate City boards and commissions, and project architects.

The duties of a visual arts panel with respect to specific art in public places projects shall be as follows:

- A. To devise methods of selecting and commissioning artists with respect to the design, execution, and placement of specific art in public places projects, and pursuant to such methods, to advise the Civic Arts Commission on the selection and commissioning of artists for such projects;
- B. To advise the Civic Arts Commission regarding the amounts to be spent on specific art in public places projects;
- C. To advise and assist the Civic Arts Commission in obtaining financial assistance for art in public places projects from private, corporate, and governmental sources. (Ord. 5630-NS § 1 (part), 1985)

Section 6.14.030 Standards for review.

In performing its duties with respect to art in public places, a visual arts panel shall give special attention to the following matters:

- A. Appropriateness of the design to the functions of the site;
- B. Representation of a broad variety of tastes within the community and the provisions of a balanced inventory of art in public places to insure a variety of style, design, and media throughout the community that also will be representative of the eclectic tastes of the community. (Ord. 5630-NS § 1 (part), 1985)

Section 6.14.040 General rules for art in public places.

- A. Review of permanent and temporary installations: Permanent and temporary installations shall receive the prior review and advice of a visual arts panel. Extensions of time for temporary installations to remain for one year or more may be granted by a visual arts panel. Permanent installations shall not be removed, altered, or changed without the prior review and advice of a visual arts panel and the artist, whenever feasible.
- B. Private sites for art in public places: No work of art financed or installed whether wholly or in part with City funds or with grants procured by the City shall be permanently installed on privately owned property without a written agreement between the City and the owner specifying the proprietary interests in the work of art, binding the owner to the general rules for art in public places, specifying that the owner shall assure installation of the work of art in a manner which will protect the work of art and the public and that the work of art will be maintained in good condition, and providing for appropriate insurance and indemnification, as well as any other provisions deemed necessary or desirable by the City Attorney.
- C. Consultation with the artist: Installation, maintenance, alteration, refinishing, and moving of art in public places shall be done in consultation with the artist whenever feasible.

D. Inventory of art in public places: The Civic Arts Commission shall maintain a detailed record of all art in public places, including site drawings, photographs, designs, names of artists, and names of architects whenever feasible. (Ord. 5630-NS § 1 (part), 1985).

Section 6.14.050 Review of artistic matters.

Recognizing that professional expertise is necessary and desirable in artistic matters, such as the selection of artists for a project, the selection of particular works of art, and the approval of designs and plans for works of art under the visual art in public places program, it is a policy that:

- A. Decisions on artistic matters will be made by a visual arts panel;
- B. The City Council will not exercise its independent judgment on artistic matters;
- C. The City Council will refer questions, suggestions, requests, complaints and similar items pertaining to visual art in public places to the Civic Arts Commission for review and response. (Ord. 5630-NS § 1 (part), 1985)

(Berkeley 6-30-85)

THE CMC ARTS COMMISSION AS THE DELEGATED OVERSIGHT BODY

1991 City Ordinance on the Civic Arts Commission

Chapter 3.12

CIVIC ARTS COMMISSION

Sections:

- 3.12.010 Established—Membership—Appointment.
- 3.12.020 Appointment automatically terminated when—Procedures.
- 3.12.030 Liaison representatives to other city entities.
- 3.12.040 Organization, meetings, rules and procedures.
- 3.12.050 Reserved.
- 3.12.060 Duties and functions.

Section 3.12.010 Established—Membership—Appointment.

A. Civic Arts Commission is established. The commission shall consist of nine members. Appointments to the commission shall be made by councilmembers, and vacancies on the commission shall be filled by councilmembers in accordance with the provisions of Section 2.04.030 through 2.04.130 of this code enacted as Ordinance No. 4780-NS by the voters of the City. (Ord. 6032-NS § 1, 1991; Ord. 5253-NS § 1 (part), 1980)

Section 3.12.020 Appointment automatically terminated when—Procedures.

A. The appointment of any member of the commission who has been absent from three consecutive regular meetings shall automatically terminate as hereinafter set forth.

B. The secretary of the commission shall report the attendance record of each member of the commission to the City Clerk at the end of each six-month period, the first report to be made in July, 1980.

C. The appointment of any member who was absent from three consecutive regular meetings, as shown on the report shall be terminated on the date the report is filed with the City Clerk.

D. The City Clerk shall notify any member whose appointment has automatically terminated and report to the appointing City Councilmember that a vacancy exists on the commission and that an appointment should be made for the unexpired term. (Ord. 5880-NS § 1, 1988; Ord. 5253-NS § 1 (part), 1980)

Section 3.12.030 Liaison representatives to other City entities.

Subject to the approval of the council in each case, the commission may designate one of its members to act as a liaison representative to any other board, commission or committee of the City. The functions of such liaison representatives are:

- A. To attend the meetings of such other board, commission or committee;
- B. Advise this commission on the background, attitudes, and reasons behind the actions of such other board, commission or committee; and
- C. On request of any member of such other board, commission, or committee, to advise such other board, commission or committee of policy, procedures and decisions of this commission that may bear upon matters under discussion by such other board, commission or committee. Such liaison representative shall have no power to vote. (Ord. 5253-NS § 1 (part), 1980)

Section 3.12.040 Organization, meetings, rules and procedures.

- A. The commission shall organize by electing from its members one president, one vice-president and such other officers as may be necessary, who shall hold office for one year and until their successors are elected unless their terms as members of the commission sooner expire. An officer or employee of the City designated by the City Manager shall serve as secretary of the commission.
- B. The commission shall establish a regular time and place of meeting and shall hold at least one regular meeting each month. Special meetings may be called by the president or by a majority of the members of the commission upon written notice being delivered personally or received by each member at least twenty-four hours prior to each meeting.
- C. The commission may make and alter rules governing its organization and procedures which are not inconsistent with this chapter or any other applicable ordinance of the City.
- D. A majority of the members appointed to the commission shall constitute a quorum for the transaction of business and the affirmative vote of a majority of the members is required to take any action. The City Manager shall appoint a staff liaison to the commission.
- E. The commission shall keep an accurate record of its proceedings and transactions and shall submit an annual report to the City Council with a copy to the City Manager. (Ord. 5880-NS § 1, 1988: Ord. 5366-NS § 1, 1981: Ord. 5253-NS § 1 (part), 1980)

Section 3.12.050 Reserved.

Section 3.12.060 Duties and functions.

- A. Encourage programs for the cultural enrichment of the City and help make City resources available to cultural groups.
- B. Provide assistance to groups and individuals wishing to sponsor neighborhood events, such as block parties, small business celebrations, and community holidays.

- C. Provide support for art groups in their search for funding from county, state, federal and private sources and pursue projects which would provide funding for the arts.
- D. Coordinate and strengthen existing organizations in the arts and develop cooperation with regional organizations.
- E. Develop ongoing data on the economic impact of the arts on the community.
- F. Review and make recommendations upon all works of art to be acquired by the City, either by purchase, gift, or otherwise, and exterior works of art installed in the civic center district which are visible to the public.
- G. Encourage the beautification of the City.
- H. Advise the council on all matters affecting the beauty and culture of the City.
- I. Render advice and assistance in the fields of art, esthetics and beautification to other City boards and commissions.
- J. Develop guidelines and procedures to be submitted to the City Council for approval for a visual arts in public places program.
- K. Appoint a temporary subcommittee known as the visual arts panel, consisting of four commission members to carry out the visual arts in public places programs.
- L. Report to the council the final action of each visual arts panel in selecting and installing each art in public places project.
- M. Provide recognition and increased opportunities for artists through art in public places project and maintain an inventory of meritorious works of art in the public view.
- N. Provide assistance to local artists and private property owners on matters relating to installation of works of art on private property in the public view.
- O. Advise the council on all matters pertaining to the quality, quantity, scope, and style of art in public places.
- P. Develop recommendations for distribution of City arts funding in accordance with established criteria. (Ord. 5880-NS §§ 1, 2, 1988: Ord. 5631-NS § 1, 1985: Ord. 5253-NS § 1 (part), 1980)

(Berkeley 6-30-91)

1999 PERCENT FOR ART RESOLUTION

RESOLUTION NO. 60,048-N.S.

ESTABLISHING A PROGRAM TO FUND THE DEVELOPMENT OF VISUAL ART IN PUBLIC PLACES, INCLUDING ART DEVELOPED IN CONJUNCTION WITH CITY CONSTRUCTION PROJECTS

WHEREAS, the cultivation and development of a livable community is enhanced by the presence of works of art and creative expression available for the enjoyment of all citizens; and

WHEREAS, in 1985, the City Council adopted Ordinance No. 5603-N.S., Berkeley Municipal Code Chapter 6.14, to promote the cultivation and creation of works of visual art in public places; and

WHEREAS, in 1980, the City Council adopted Ordinance No. 5253-N.S., Berkeley Municipal Code Chapter 3.12, establishing the Civic Arts Commission, and charged it with a variety of duties related to fostering programs for the cultural enrichment of the City; and

WHEREAS, the development of the physical infrastructure of the City provides numerous opportunities for creative expression by integrating artistic features into said infrastructure; and

WHEREAS, developing works of art in conjunction with City construction projects can contribute elements of beauty and creativity to all neighborhoods of the City; and

WHEREAS, a successful City-wide program to foster the development of works of art requires the collaboration of various City departments which are commonly involved in the construction of public improvements, the City Manager, the Civic Arts Commission and members of the community; and

WHEREAS, in those circumstances in which it is not feasible to incorporate artistic features into a particular public improvement, the public interest will be served by allocating sufficient funding to develop works of art separate from the public improvement; and

WHEREAS, the terms of this Resolution should be applied in a manner consistent with the requirements of Chapters 3.12 and 6.14 of the Berkeley Municipal Code.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley as follows:

Section 1. DEFINITIONS

“Administrative Costs” shall mean the expenditures necessary for implementation of the requirements of this Resolution, including, but not limited to, project management, soliciting proposals, public education, promotion, maintenance and risk management.

“Annual City Public Art Plan” shall mean the annual planning document which sets forth goals and objectives for development of works of art, including, art developed in conjunction with City construction projects during that Fiscal Year and any expenditures from the City’s Public Art Fund.

“Artist” shall mean a person who has completed works of art which meet contemporary artistic standards prevailing in major metropolitan areas.

“City Manager” shall mean the City Manager or his, or her, designee.

“Eligible Capital Project” shall mean any improvement to public property which the City Manager has approved for application of the requirements of this Resolution. This term shall not be interpreted to include any improvement for which the source of funding, or any applicable law or regulation, prohibits or restricts the use of funds for the purposes of this Resolution.

“Public Art Element” shall mean that component, feature, characteristic, or portion of a public improvement incorporated for artistic purposes.

“Public Art Fund” shall mean the budget account established by the City for receipt of funds derived from Eligible Capital Projects which may be expended for the purpose of incorporating artistic elements into public improvements or acquiring, creating, installing, presenting or displaying Off-Site Works of Art.

“Project Budget” shall mean the costs attributable to constructing a public improvement subject to the terms of this Resolution, including, construction, hazardous materials abatement, and procurement of goods intended for incorporation into the improvement. Project Budget shall not be interpreted to include costs associated with land use planning consultants, feasibility studies, environmental review, land acquisition costs, legal fees, architecture/engineering costs, construction management, geotechnical surveys, and historical surveys.

“Off-Site Work of Art” shall mean Works of Art as defined in Chapter 6.14 of the Berkeley Municipal Code which are acquired, created, installed, presented or displayed at a location other than the site of the Eligible Capital Project from which funds were derived under Section III of this Resolution.

Section 2. ANNUAL PLANNING

A. As part of the City’s budget process, the City Manager shall submit to the Civic Arts Commission a report identifying all public improvements which satisfy both of the following criteria:

1. expenditures will be made from the Project Budget during the following budget cycle, and
2. designation as an Eligible Capital Project would not result in detriment to the project.

B. Pursuant to Chapter 6.14 of the Berkeley Municipal Code, the Civic Arts Commission shall thereafter assign a different rank to each public improvement identified pursuant to Section A above based on the potential benefits to the community of designating the improvement as an Eligible Capital Project.

C. Pursuant to Chapter 6.14 of the Berkeley Municipal Code, the Civic Art Commission shall issue to the City Manager an Annual City Public Art Plan presenting its recommendations: 1) for public improvement projects which should be designated as Eligible Capital Projects, and 2) any expenditures from the Public Art Fund for the acquisition, creation, installation, presentation or display of Off-Site Works of Art during that Fiscal Year. The Annual City Public Art Plan shall include an explanation of the benefits and detriments, if any, associated with each proposal.

Section 3. FUNDING

- A. A sum equal to one percent (1%) of the Project Budget for each Eligible Capital Project shall be transferred to the Public Art Fund and utilized solely to develop and install a work of art integrated into the completed improvement, regardless of whether it contributes to the purpose and function of the improvement, including, but not limited to, color, shape, design, texture, general appearance, or decoration which is designed and constructed integrally with the public improvement itself.
- B. In addition to the amount specified in Section III(A), above, a sum equal to one half percent (0.5%) of the Project Budget for each Eligible Capital Project shall be transferred to the Public Art Fund and utilized solely for Administrative Costs.
- C. Funds designated for the Public Art Fund shall be transferred not later than the date on which funds for the Project Budget have been encumbered.
- D. In the event that the final cost of designing and constructing the Public Art Element is less than one and one half percent (1.5%) of the Project Budget, the unused funds will be retained in the Public Art Fund and utilized for the creation of Off-Site Works of Art.
- E. In the event that the Eligible Capital Project will result in a public improvement which is inaccessible to the public, such as an underground structure, or for which it is not feasible to incorporate the Public Art Element, the funds designated for the Public Art Element shall be transferred to the Public Art Fund and may be used for the creation of Off-Site Works of Art.

Section 4. MANAGEMENT OF PUBLIC ART ELEMENT

The City Manager is authorized to manage the development and implementation of the Public Art Element in accordance with Chapter 6.14 of the Berkeley Municipal Code governing Visual Art in Public Places. The City Manager may use any reasonably efficient means and methods to design a Public Art Element, including, but not limited to, the following:

- A. Retain an artist to design the Public Art Element independently of the architects/engineers who are responsible for designing the public improvement.
- B. Require as part of the selection process that the architects/engineers who are responsible for designing the public improvement retain an artist as a functioning member of the design team to design the Public Art Element concurrently with the design of the public improvement.
- C. Require as part of the competitive solicitation process that the contractor responsible for building the public improvement retain an artist to design the Public Art Element.

Section 5. PUBLIC ART FUND

- A. The City Manager shall establish budget accounts to receive funds transferred pursuant to Sections III (A) and (B), above. Monies in the Public Art Fund, if not expended in any particular Fiscal Year, shall be carried over to the next Fiscal Year, unless the source of the funds, or applicable laws or regulations, prohibit such action. Generally accepted accounting principles will be utilized to ensure that the funds are utilized in a manner consistent with this Resolution.
- B. Nothing herein shall be interpreted to prohibit the City from soliciting and receiving grants, donations, bequests, or gifts from any source, public or private, for deposit in the Public Art Fund to be expended in a manner consistent with this Resolution.

C. Monies in the Public Art Fund shall not be expended for the purposes of awarding grants to artists or arts organizations under City Council Resolution No. 55,832-N.S.

Section 6. OFF-SITE WORKS OF ART

A. Pursuant to Section 3.12.060(F) of the Berkeley Municipal Code, the Civic Arts Commission shall review and make recommendations for expenditures from the Public Art Fund for the acquisition, creation, installation, presentation or display of Off-Site Works of Art.

B. The City Manager shall manage the acquisition, creation, installation, presentation and display of Off-Site Works of Art.

Section 7. GRANTS

All City departments shall include in any application for grant funds for an Eligible Capital Project an amount sufficient for the Public Art Element, unless said inclusion would be detrimental to the City.

Section 8. RULES AND REGULATIONS

It is the intent of the City Council to allow the City Manager flexibility in attaining the goals of this Resolution; therefore, the City Manager is authorized to establish rules and regulations consistent with the intent of this Resolution and the Berkeley Municipal Code for the purposes of implementing this Resolution.

Section 9. EFFECTIVE DATE

This resolution shall become effective June 1, 1999.

The foregoing Resolution was adopted by the Berkeley City Council on May 25, 1999 by the following vote:

Ayes: Councilmembers Armstrong, Breland, Maio, Olds, Shirek, Spring, Woolley, Worthington and Mayor Dean.

Noes: None.

Absent: None.

Attest: Shirley Dean, Mayor , Sherry M. Kelly, City Clerk.

GUIDELINES FOR PUBLIC ART

CITY OF BERKELEY PUBLIC ART PROGRAM

Revised and Updated November 1, 2001

INTRODUCTION

Welcome to the *Guidelines for Public Art* for the City of Berkeley Public Art Program, developed by Civic Arts Staff in cooperation with the Civic Arts Commission and the Public Art Committee. The following guidelines are meant to support, not override, legislation and staff responsibilities.

A. MISSION STATEMENT

The City of Berkeley Public Art Program will enliven and beautify the City's environment. The program will encourage and promote awareness of the City's rich ethnic, social, and cultural diversity as expressed through visual and design arts. The Public Art Program will enhance the visual environment for the citizens of Berkeley, integrate the design work of artists into the development of City public works projects, and promote tourism and economic vitality of the City through the enhancement of public spaces.

B. PERCENT FOR ART PROGRAM FUNDING

Funding for public art shall be generated primarily from capital projects as outlined in the Percent for Art Resolution No. 60,048-N.S. adopted by City Council on June 1, 1999, which reads as follows.

SECTION III

FUNDING

- A. A sum equal to one percent (1%) of the project budget for each Eligible Capital Project shall be transferred to the Public Art Fund and utilized solely to develop and install a work of art integrated into the completed improvement, regardless of whether it contributes to the purpose and function of the improvement, including, but not limited to, color, shape, design, texture, general appearance, or decoration which is designed and constructed integrally with the public improvement itself.
- B. In addition to the amount specified in Section III. (A), above, a sum equal to one half percent (0.5%) of the project budget for each Eligible Capital Project shall be transferred to the Public Art Fund and utilized solely for administrative costs.
- C. Funds designated for the Public Art Fund shall be transferred no later than the date on which funds for the Project Budget have been encumbered.

- D. In the event that the final cost of designing and constructing the Public Art Element is less than one and one half percent (1.5%) of the project budget, the unused funds will be retained in the Public Art Fund and utilized for the creation of other works of art.
- E. In the event that the eligible capital project should result in a public improvement which is inaccessible to the public, such as an underground structure, or for which it is not feasible to incorporate the public art element, the funds designated for the public art element shall be transferred to the Public Art Fund and may be used for the creation of off-site works of art.

1. Funding Aggregations

Use of public art money depends on the funding source and the site. Certain capital improvement funding may require that public art money be restricted for use at a specific project site, or the Public Art Annual Plan may designate such a restriction. Other funds may be “pooled” and allocated for a work of art “off-site”. “Pooling” allows for small amounts to be aggregated toward one viable project.

Funds deemed not necessary or appropriate for public art at a project site by the Berkeley Civic Arts Commission and the Capital Improvement Project Manager(s), may be pooled and expended on other projects approved under the Public Art Annual Plan when such funds are eligible to be so used.

2. Method Of Calculation

The minimum amount to be appropriated to the Public Art Fund shall be the total capital project appropriation, including all construction costs, architectural and engineering fees, and site work expenses, excluding amounts budgeted for real property acquisition, demolition, equipment, facility maintenance and operations, multiplied by 0.015.

3. Ineligible Uses

Monies appropriated according to Resolution No. 60,048-N.S. may not be used for the following:

- a. Art objects that are mass produced and of standard design, such as playground equipment or fountains.
- b. Reproduction, by mechanical or other means, of original works of art, except in cases of film, video, photography, printmaking or other media arts.
- c. Those items that contribute to the asset base and normal operating expenses of a resident agency, such as a city museum or gallery, or a private cultural institution.
- d. Artwork acquired through third-party owners, such as private collectors or auction houses.

- e. Architects' fees, except in such cases where the public art component significantly changes a project architect's scope of services.
- f. Operating expenses related to the work, including water, electricity or mechanical devices.

C. ANNUAL PUBLIC ART PLAN

In order to successfully implement a city-wide Public Art Program, a collaborative effort must be made by various City departments.

Each fiscal year the Civic Arts Coordinator and representatives from the Civic Arts Commission, the City Manager's Office, Planning and Development, the Office of Economic Development, Parks and Marina and Public Works shall meet to identify appropriate capital projects. The Civic Arts Coordinator and the Public Art Committee of the Civic Arts Commission shall use this information to write an Annual Public Art Plan. The Annual Plan shall identify eligible capital improvement budgets and projects, determine funding and select sites. "Pooling" of small, non-site-specific funding sources shall be a part of this process. Site-specific and city-wide projects shall be determined. A consultant with expertise in master plan development and public art may facilitate this process. The Annual Public Art Plan shall be presented by staff to the Civic Arts Commission for approval and then forwarded to the City Council for their information.

D. ADMINISTRATION

1. Berkeley City Council

The Berkeley City Council shall:

Approve acceptance of gifts of artwork to the City valued at \$1,000 or more, and approve loans of City-owned artwork to other organizations or institutions.

2. Berkeley Redevelopment Agency

The Berkeley Redevelopment Agency shall:

- a. Review and approve Public Art Program Policies and Procedures as they may relate to Agency Policies.
- b. Assist in the coordination of public art projects on Agency properties.

3. Civic Arts Commission

The Civic Arts Commission and the Civic Arts Coordinator shall administer the Public Art Program and shall be responsible for reporting Public Art Program activities to the Berkeley City Council and Redevelopment Agency. The Commission shall:

- a. Recommend Public Art Program policies and procedures to the City Council.

- b. Make all aesthetic decisions as outlined in the 1985 Visual Art/Public Art Ordinance, including final selection of public art sites and artwork.
- c. Approve the Annual Public Art Plan and submit it to the City Council and/or Agency for information.
- d. Approve loans of artwork to the City.
- e. Review and recommend to the City Council the acceptance or rejection of all proposed gifts of artwork to the City valued at \$1,000 or more, approve gifts of artwork valued under \$1,000, and make recommendations for the lending of City-owned artwork to other organizations or institutions.
- f. Revise Public Art Program policies and procedures as necessary.
- g. Review and recommend extensions of time for temporary projects.

4. Public Art Committee of the Berkeley Civic Arts Commission

The Public Art Committee (PAC) shall be comprised of four members of the Civic Arts Commission as stated in the 1985 Ordinance. The commission shall strive for ethnic, social, and professional diversity in the PAC's membership. Members of the PAC will be selected for their expertise in public art, urban design and community participation.

The Public Art Committee shall:

- a. Recommend program policies and procedures to the Civic Arts Commission.
- b. Recommend public art projects and budgets, in the form of an Annual Public Art Plan, to the Civic Arts Commission.
- c. Review for acceptance or rejection, proposals for public art acquisitions, as recommended by selection panels, and forward a recommendation for acceptance or rejection to the Civic Arts Commission.
- d. Review and recommend to the Civic Arts Commission the acceptance or rejection of all proposed gifts or loans of artwork to the City, and make recommendations for the lending of City-owned artwork to other organizations or institutions.
- e. Serve as community liaisons and provide advocacy for the Public Art Program and its activities.
- f. Select its Chairperson for the same term as the Chair of the Commission.

5. The Public Art Advisory Committee

For certain projects, staff and/or the Public Art Committee may elect to establish a project “advisory” committee. An advisory committee is an ad hoc group which provides the Arts Commission, staff and artists with information regarding policy issues in public art, the physical parameters of the site, the site’s users or audience, the social, historical, or cultural history of the neighborhood where the artwork will occur, and other types of information that may assist the Arts Commission in public art decisions.

A Public Art Advisory Committee (PAAC) shall augment the four-person Public Art Committee by providing professional advice. This will allow a greater area of expertise to assist the Arts Commission in its selections and policy decisions. The PAAC can choose to sit with and advise the Public Art Committee. The PAAC can also choose to meet quarterly and serve to help settle issues in the public art process. Staff and/or the Public Art Committee shall recommend putting such a panel in place according to the complexity of the projects and sites, with people whose expertise is relevant to the specific project. The Public Art Advisory Committee will not have a vote but its recommendations shall be taken into consideration by the Public Art Committee.

The Advisory Committee is not limited to, but may consist of one or more of the following persons:

- i. The design architect. When the project calls for an artist or artists to participate on a design team, the project architect may be asked to serve as a voting member of the selection panel as well.
- ii. The project manager or designee from the City department collaborating on the project.

6. Public Art Program Staff

The Civic Arts Coordinator shall be responsible for the overall management and administration of the public art program and public art projects from inception to completion. The Civic Arts Coordinator’s responsibilities shall include, but are not limited to, the following:

- a. Review, evaluate and allocate the City/Agency Annual Capital Improvement Projects list and identify potential art projects to be implemented in conjunction with projects described therein.
- b. Review other planned or existing City/Agency projects to determine other appropriate public art project opportunities.
- c. Prepare the Annual Public Art Plan with the Public Art Committee.
- d. With assistance from the PAC, develop project parameters, budgets, and schedules for each adopted project.
- e. Develop and implement an artist recruitment plan, including writing and disseminating Requests For Proposals/Qualifications or Calls for Artists, and identify appropriate methods for the artist selection process.

- f. For selection processes involving a selection panel, identify and recommend to the PAC qualified panelists.
- g. Assemble Public Art Advisory Committee members as appropriate.
- h. Review artists' application materials and pre-screen the applicant pool to select a slate of qualified candidates for review by the selection panel.
- i. Prepare artists' materials for presentation to the panel.
- j. Schedule, facilitate, and oversee the artist selection process.
- k. Submit panel's recommendations to the PAC and Civic Arts Commission.
- l. Solicit review, comments, and/or approvals for works of art from appropriate City departments, relative to safety and maintenance, and if required, for resolution.
- m. Convene and facilitate any public meetings related to the project.
- n. Negotiate and administer contracts; review and approve general contractor bid documents as they pertain to the implementation of the public art project.
- o. Collaborate with other city departments to coordinate the roles and responsibilities of the artist, architect, engineer, general contractor, and other professionals involved in the project.
- p. Prepare and distribute press and publicity materials related to the Public Art Program.
- q. Prepare and maintain project files.
- r. Prepare grant requests from outside funding sources, as appropriate.
- s. Review the Public Art collection to evaluate and make recommendations for maintenance or conservation needs.
- t. Solicit funds from foundations, corporations, public agencies, and other appropriate sources.

7. City Departments/Client Agencies

All City agencies and departments collaborating on public art projects with the Civic Arts Commission and the Civic Arts Coordinator shall:

- a. Deposit public art allocations in the City's Public Art Fund.

- b. Provide information to the Civic Arts Coordinator, which identifies existing or planned sites under the Department's jurisdiction which May 28, 2003 be appropriate for public art projects.
- c. Include the cost of architectural services related to the coordination and implementation of the Public Art Program in the total construction budget. Incorporate into bid packages and contracts, language describing the architect's scope of services relative to the public art project.
- d. Direct the project architect to work within the intent of the program as described in the Percent for Art Resolution and in these guidelines.
- e. Assist staff in the development and implementation of public art projects.
- f. Inform staff of the relationship of any advisory groups, neighborhood groups, or other groups which may be impacted by or be interested in the development of a public art project.
- g. Inform staff of any proposed or planned project involving construction, renovation, or further development of a site or facility soon enough to allow for adequate review of the project's potential for incorporation of artwork, and for planning of an appropriate artwork project or design team effort.
- h. Advise staff of any municipal, division, or departmental ordinances, resolutions, or regulations, which may affect or be affected by proposed public art projects.
- i. Inform staff of planning projects for neighborhood improvement, redevelopment area projects, private or public planning studies and/or long-range policy recommendations, which have the potential to incorporate public art.

8. Consultants

Consultants may be needed to advise and/or assist the Commission with specific projects. Consultant/Project Manager fees may be taken out of the .5% described in Section B, and as a general rule the fee shall range from 10-15% of the cost of the artwork. The consultant shall report to the Civic Arts Coordinator who shall keep the Arts Commission apprised of the work involved.

9. Selection Panel

Selection panels are ad-hoc, assembled for specific projects, to assist the Public Art Program in identifying qualified artists for a project. The number of panelists and the composition of the panel appointed for projects depend upon the size, location, and complexity of each project. Selection panels should be assembled with racial, cultural and gender diversity as a guide. The panel composition shall comply with the 1985 City Ordinance on Visual Art/Public Art and may include:

a. Three consultants. A qualified consultant means a professional visual artist, educator, scholar, historian, collector, environmental designer, or planner, whose authorities and skills are known and respected in the community and, whenever feasible, who has demonstrated an interest in, and has participated in, the arts of the city. {Ord. 5630-NS1 {part}. 1985}

And when appropriate:

- b. A representative of the neighborhood
- c. A representative of the Civic Arts Commission
- d. A representative of other City boards and Commissions
- e. A project architect
- f. Nonvoting Advisory Members

E. ACQUISITION OF PUBLIC ARTWORK

1. Criteria For The Acquisition Of Artwork

Criteria to be used in the acquisition of public artwork or design elements shall include, but not be limited to, the following:

- a. Artistic Quality: Excellence of the artworks' craftsmanship, originality and appropriateness of concept, and integrity of materials used.
- b. Media: All forms of media shall be considered. Works may be portable, permanently affixed, or incorporated in the design and/or function of a public space. Temporary exhibits and installations may also be considered for commissions except when excluded by funding source with specific restrictions.
- c. Permanence: For permanent works of art or design elements, due consideration shall be given to the work's structural soundness, surface integrity, and to inherent resistance to theft, vandalism, weathering, public safety, and maintenance or repair costs, sufficient to endure 30 years.
- d. Public Safety: All works of art, design elements, or temporary installations shall be evaluated to ensure their compliance with public safety requirements.
- e. Diversity: The Public Art Program recognizes the cultural, ethnic, and social diversity of the Berkeley population, as well as that of the greater Bay Area, and shall incorporate diversity in every aspect of the program. Means by which the Program may realize the goal of cultural and aesthetic diversity shall include, but is not limited to:
 - (i) Artist ethnicity,
 - (ii) Geographic distribution throughout Berkeley,

- (iii) Style, scale and media,
- (iv) Community participation in the public art process, and
- (v) Experimental and traditional forms of art.

2. Compatibility

Before a proposal for a public art project is given final approval, it shall be evaluated for its compatibility relative to:

- a. Visibility and public access.
- b. Public safety.
- c. Traffic patterns.
- d. The relationship of the proposed public art project to the site's existing or future architectural features, its natural features, its historical, geographic and social/cultural context.
- e. The function and uses of the facility or site.
- f. The nature of the site's surrounding neighborhood and potential impact of the public art project on residents, businesses, existing works of art or design elements within the site's vicinity.
- g. Future development plans for the area which may affect the public art project.
- h. The feasibility of the budget and material list relative to the available funding.

F. SELECTION OF ARTISTS

Selecting the artist, whether to create a discrete artwork or to participate in a design or community collaboration, is the single most important decision in the public art process. Special care must be taken in all aspects of selecting the artist in order to ensure the best possible public art project, taking into account the goals of the project, the community served, the nature of the site, and the other members of the design team.

1. Methods Of Selection

Artists (or artwork) may be selected for public art projects by one of the following methods:

- a. Direct selection: artist(s) or completed artwork(s) chosen directly by the Public Art Committee or by a Selection Panel.

- b. Invitational selection: a limited number of artists are invited to submit proposals, a completed art work, or otherwise participate in a public art project selection process.

The Public Art Program may utilize direct recruitment methods to solicit qualified artists for a project by means of direct mailings of the RFQ/RFP, or through phone contact with artists, arts organizations, galleries or other sources.

- c. Open competition: any professional artist is eligible to participate, subject to limitations established by the Public Art Committee in a Call for Artists.

For competitive projects described in b and c above, staff shall develop a Request for Qualifications (“RFQ”), a Request for Proposals (“RFP), or a Call for Artists.

- (i) A description of the project, including its goals; work scope, including the site’s physical description; potential approaches to the project; and any physical or legal restrictions which may apply to the project.
- (ii) Application procedures, including materials requested, eligibility and timelines.
- (iii) Selection procedures (if appropriate).
- (iv) Criteria for the selection of artist(s) and artwork(s).
- (v) Project budget.

2. Artist Selection Procedures

- a. Screening

Public Art staff may screen applications, and evaluate them relative to the minimum candidate criteria and qualifications outlined in the RFQ/ RFP/ Call for Artists. Staff shall then present the slate of qualified candidates to the selection panel. Along with the candidates recommended for review, the panel will receive a list of all project applicants.

- b. Selection Panel

Staff shall develop a list of qualified panelists. The panelist’s list shall be reviewed and approved by the PAC.

Public Art Program staff shall recommend panelists for each project and shall submit these recommendations to the PAC for approval. Selection of panelists by the PAC shall be made based on the following: experience in implementing or administering public art projects; knowledge of current trends, interest in working with Berkeley’s multi-cultural community; ability to assess the creativity, design skills, and problem-solving abilities of artists under review; knowledge of materials and methods of fabric-

ation used in public art projects and an ability to assess their appropriateness to a particular site; ability to represent a particular neighborhood or area of Berkeley in which the artwork will be sited; and ability to work cooperatively and effectively in a panel process.

The Selection Panel reviews proposals submitted by artists and makes recommendations to the Public Art Committee.

c. **Public Art Advisory Committees**

Advisory Committee members shall be identified through existing community organizations and by referrals from other agencies, public or private. Members should have public art expertise and be familiar with the neighborhood in which the art project will occur. The Advisory Committee shall provide the Arts Commission with useful information in the development of Public Art projects. Decisions or questions by the Public Art Committee can be brought to the Public Art Advisory Committee for clarification and decision making advice. One or more Advisory Committee members may serve on the selection panel if requested by the PAC to do so.

3. Artist Eligibility Criteria

Specific eligibility requirements will be established at the initiation of each project and will be described on the RFQ/RFP. In general:

- a. Artists shall be considered for commission on the basis of their qualifications, as demonstrated by past work, relevant experience, the appropriateness of a specific proposal to the project goals, and the likelihood that the artist can successfully complete the project.
- b. Excluded from consideration are works of art or proposals submitted by the project architect and/or members of the design team, and artists who are members of or immediate family of the Public Art Program staff, the PAC, Commission, or the City Council.

4. Artist Selection Criteria

The Panelists shall select artists based on the appropriateness of their proposal to the particular project and the probability of its successful completion, as indicated by the artist's past work or by his/her ability to work within the funding framework to ensure successful completion of the project. In evaluating proposals for public art projects, panelists shall consider criteria in Section E.1 above and:

- a. An evaluation of the artist's proposed budget and the artist's ability to successfully complete the project within the proposed budget.
- b. An analysis of the artist's proposed method of installation of the artwork and an evaluation of safety and structural factors involved in the installation.

5. Selection Process

- a. All meetings of selection panels shall be open to the public and will be publicly noticed.
- b. Staff shall issue written instructions to panelists detailing the duties and responsibilities related to the project before the first panel meeting.
- c. The Panel shall review credentials, proposals, and/or materials submitted by artists.
- d. The Panel shall recommend to the Public Art Committee an artist or artists to be commissioned for the project; to develop design proposals for the project, or whose existing work is to be selected for the project. In the case when an artist or artists have been asked to prepare a specific design proposal, the Panel shall reconvene to review the proposal.
- e. A vote shall be taken, with the majority carrying the decision. Panelists shall each have one vote.
- f. The Panel shall have the option of making no selection. In that event, the PAC shall determine whether to initiate a new selection process, revise the project, or abandon the project.
- g. The Panel's decision shall be recorded by Public Art staff in the form of a written record to the Public Art Committee.
- h. The PAC shall forward a recommendation to the Civic Arts Commission. The Commission shall review and approve or reject the PAC's recommendation.
- i. If the Commission approves the PAC's recommendation and the dollar amount exceeds staff's approval of authority, the Commission shall forward the proposed contract recommendation to the City Council for acceptance. Otherwise, the Civic Arts Commission's selection is final.
- j. If the Commission rejects the PAC's recommendation, it shall provide a report to the PAC with the reasons for the rejection. The PAC shall then determine whether to 1) revise or modify the project; 2) initiate a new review and selection process; or 3) abandon the project.

6. Conflict of Interest

- a. Any artist selected to serve on the Selection Panel is precluded from having his/her work considered for inclusion in any Percent for Art Project during the term of service.
- b. Persons who would directly benefit from the selection of a particular artist or artworks are ineligible as panelists (gallery owners, brokers, artists' representatives, etc.).

- c. A member of the Arts Commission is not eligible for city public art commissions. Members of the project architect's firm are not eligible for consideration as artists.
- d. An artist who is currently under consideration for selection for another Civic Arts Commission public art project (i.e. is an applicant or finalist), may not serve as a panelist.

G. PUBLIC PARTICIPATION

Public participation is a crucial element of any public art program. As a city whose residents pride themselves on their commitment to local affairs, Berkeley makes public participation an important and creative part of its public art program. Public participation can be achieved in a variety of ways—from lectures and workshops that encourage public awareness of the public art program to the involvement of interested residents in the actual planning, design, installation and maintenance of public art projects. Public Art program staff and the PAC shall outline approaches for public participation for each project. Public participation in the public art program shall include, but not be limited to, the strategies listed below.

1. Education and Outreach

In order to stimulate and encourage public awareness of the arts, the Civic Arts Commission will initiate events and activities designed to provide a greater understanding of public art. These may include:

- a. Conferences, symposia, workshops, artist's lectures, presentations, community meetings, and public art tours.
- b. Development of cooperative programs with educational and arts institutions and community organizations.
- c. Regular distribution of promotional and publicity packets, including press releases and public service announcements.

2. Community Representation

Community representatives may be appointed to serve on selection panels for public art projects, and on Public Art Advisory Committees, when such committees are warranted.

3. Creative Interactions Between Artists and Community

Involvement of community representatives may include participation in the planning, design and installation of public art projects. Staff shall facilitate creative collaborations between project artists and organizations that represent community stakeholders and have expressed interest in public art collaboration. These organizations might include, but not be limited to, community organizations, educational institutions, arts organizations, and nonprofit agencies.

H. PROJECT MANAGEMENT

1. Inter-Agency Procedures

- a. The Civic Arts Coordinator shall negotiate the contract with the artist and with other consultants as necessary for the purchase or design, fabrication, installation of and payment for the artwork.
- b. Installation of artwork shall be coordinated between Public Art Program staff and the appropriate City official (s) within the Department having jurisdiction over the site or construction.
- c. Unless otherwise agreed, routine maintenance of the artwork shall be the responsibility of the Department of Public Works. Routine maintenance shall include such tasks as dusting, sweeping, and other such activities. Extraordinary maintenance and/or conservation of the artwork shall be the responsibility of the Civic Arts Coordinator and Commission. No other City Agency or Department shall be responsible for the conservation of artwork, and no conservation or repair work shall be performed without the prior written approval of the Civic Arts Commission.
- e. Public Art program staff, in consultation with other City agencies, shall develop an annual maintenance schedule for the public art collection and, shall determine appropriate budgets and procedures for the care and maintenance of the collection.

2. Project Files And Records

Public Art Program staff shall maintain a registry of all City public art that is owned borrowed and loaned, including title, artist, value, location, date of purchase, installation, loan, receipt, deinstallation, and other relevant information. Staff shall also maintain records of each project, which shall include, but not be limited to, the following:

- a. Contract(s) with the artist(s) and consultants participating in the project.
- b. Records of City Council, Commission, PAC and Public Art Advisory Committee actions bearing on the project.
- c. Interdepartmental agreements relating to the siting or implementation of the project.
- d. Correspondence, announcements, memoranda, press clippings and publicity information relating to the project.
- e. Records of all billings made in connection with the project.
- f. All proposals submitted and other visual or written materials relating to the artist's design or method of execution as they are submitted or become available.

- g. Photo documentation in the form of black and white photographs, color slides, videos and/or transparencies of the completed project.

3. Artist Fee Policy

The following guidelines for fee structures are based on professional standards established by the public art field, and on the fees paid to other design professionals in the related fields of architecture and landscape architecture. The following should be seen as guidelines only.

In general, the Commission shall consider the following factors in determining the artist fees awarded for each project.

- a. The scope of work and degree of artist involvement.
- b. The project budget.
- c. The artist's experience and professional standing.
- d. The fee scale for similar scopes of work on comparable projects.

I. GIFTS AND LOANS

The Gifts and Loans Policy provides a process for the review of proposed gifts and loans of artwork or other artistic objects to the City of Berkeley, and for the placement, care, and preservation of artwork acquired through this process.

1. Conditions Governing the Donation of Artwork to the City of Berkeley

Potential donors of artwork shall submit information to the Public Art program staff. Staff shall review the materials and if the information is complete, will forward it to the Public Art Committee for review. The PAC shall determine the feasibility of the proposed donation and shall forward a recommendation to the Civic Arts Commission for review. If the Commission recommends acceptance of the proposed artwork, a recommendation shall be made to the City Council or Redevelopment Agency for final approval and acceptance of artwork valued at \$1,000 or more. If valued under \$1,000, the Commission's determination is final.

2. Materials to be Submitted by Donor

Materials may include but are not limited to:

- a. Photographs and/or slides of the work of art that depict it from all sides.
- b. A written description of the artwork, including dimensions (height, width, depth and weight), materials used, and any frames, backings, mounts or anchoring systems to be used in the installation of the artwork.
- c. A site plan that identifies and describes the proposed site for the artwork and that accurately depicts the artwork in relationship to the surrounding environment.

- d. A written description and/or drawing of the proposed method of installation and a schedule for the transportation and installation of the artwork.
- e. Estimated costs for transporting and installing the artwork (to be done at donor's expense, unless otherwise agreed to by the City).
- f. Written authorization from the City agency with jurisdiction over the site, approving the installation of the artwork.

3. Conditions of Acceptance

The Public Art Committee and the Civic Arts Commission encourage unrestricted gifts to the City of Berkeley. Any conditions or restrictions attached to a gift or loan must be presented to the Public Art Committee, the Civic Arts Commission, and City Council if valued at \$1,000 or more, for approval.

4. Conditions Governing the Exhibition of Loaned Artwork on City Property

Persons or organizations requesting to temporarily exhibit a work of art in or on City-owned property must submit the following:

- a. Photographs and/or slides of the work(s) of art to be exhibited.
- b. A description of the location where the artwork will be exhibited and a written authorization from the City agency with jurisdiction over the site that approves the proposed loan of the artwork in the location and a time period for the artwork.
- c. A written description and/or drawing of the proposed method of installation and a schedule for the transportation, installation, and removal of the artwork.

5. Lender's Agreements

When exhibiting a work of art on City property, the lender must agree in writing to the following:

- a. Unless otherwise agreed to in writing by the City, the lender shall be responsible for all costs associated with the transportation, installation, deinstallation, and insuring of the artwork.
- b. Upon removal of the artwork, the lender must return the site to its original condition and remove any debris caused by or resulting from the exhibition the artwork.

- c. Unless otherwise agreed to in writing by the City, the lender must agree to exhibit the artwork at his/her own risk and to bear the expenses of any losses or damages to the artwork. The lender must agree in writing to hold the City harmless from any and all liabilities and for any damages or losses to the artwork.
- d. The lender shall produce and display a descriptive label for display next to or near the loaned artwork.
- e. If the artwork becomes damaged, destroyed, or becomes a danger to the public, the lender shall remove the artwork within three days notice from the City.

6. Acceptance of Monetary Gifts for the Acquisition of Artwork

Proposed monetary gifts to the City for the purpose of acquiring artwork shall be referred to the Arts Commission for review and approval. All recommendations on the acceptance or rejection of proposed gifts of money of \$1,000 or more shall be referred to the City Council for final approval and acceptance.

CITY OF BERKELEY

MAYOR AND COUNCIL

<i>Mayor</i>	<i>Tom Bates</i>
District 1	Linda Maio
District 2	Margaret Breland
District 3	Maudelle Shirek
District 4	Dona Spring
District 5	Miriam Hawley
District 6	Betty Olds
District 7	Kriss Worthington
District 8	Gordon Wozniak

CIVIC ARTS COMMISSION

The following is a list of Commission members and their respective districts and represented councilmember. To obtain additional contact information, please call the Civic Arts Program Office at (510) 981-7533.

Mayor Bates		Karen McKie
Maio	District 1	Jos Sances
Breland	District 2	Adam David Miller
Shirek	District 3	Barbara Coleman
Spring	District 4	Amanda Bornstein
Hawley	District 5	David Snippen (Chair)
Olds	District 6	Sherry Smith
Worthington	District 7	Bonnie Hughes
Wozniak	District 8	Suzy Thompson

VOLUNTEER MEMBERS OF BERKELEY CULTURAL TRUST ADVISORY GROUP FOR PUBLIC ART

ACCI Gallery (Arts and Crafts Cooperative)	Central Works Theater Ensemble
Alameda County Art Commission	Community Rhythms
Aurora Theatre Company	Freight and Salvage Coffee House
Berkeley Architectural Heritage Association	Habitot Children's Museum
UC Berkeley Art Museum and Pacific Film Archive	Jewish Music Festival
Berkeley Arts Center	John Northmore Roberts and Associates
Berkeley Arts Festival	Judah L. Magnes Museum
Berkeley Broadway Singers	Julia Morgan Center for the Arts
Berkeley City Ballet	Kala Art Institute
Berkeley Community Theater /BUSD	La Pena Cultural Center
Berkeley Convention & Visitors Bureau	Luna Kids Dance
Berkeley Opera	Economic Development, City of Berkeley
Berkeley Public Library	Resources for Community Development
Berkeley Repertory Theatre	Shotgun Players
Berkeley Symphony Orchestra	Solano Avenue Association
CAL Performances	Speakeasy Theatre
Cal Shakes	Transparent Theater
California Shakespeare Festival	Woman's Will
Center Stage	Young Artists Workspace

The Berkeley Cultural Trust is a volunteer affiliation of the directors of Berkeley nonprofit arts organizations. The BCT meets regularly throughout the year in different cultural sites and provides a forum for discussion and advocacy. The Berkeley Civic Arts Commission and City Staff are invited to participate. For more information about the BCT please contact the Civic Arts Coordinator.

GUIDELINES FOR PUBLIC ART

CITY OF BERKELEY PUBLIC ART PROGRAM

Revised and Updated March 19, 2019

INTRODUCTION

Welcome to the Guidelines for Public Art for the City of Berkeley Public Art Program. Please read our companion publication, Public Art for the City of Berkeley for city legislation governing the selection process, the role of the Civic Arts Commission and the funding mechanism (1985 City Ordinance No. 5603 N.S. on Visual Art in Public Places, 1991 City Ordinance No. 5253 on the Civic Arts Commission, 1999 Resolution No. 60,048-N.S. on 1.5% funding).

The following guidelines are meant to support, not override, legislation and staff responsibilities.

A. MISSION STATEMENT

The City of Berkeley Public Art Program will enliven and beautify the City's environment. The program will encourage and promote awareness of the City's rich ethnic, social, and cultural diversity as expressed through visual and design arts. The Public Art Program will enhance the visual environment for the citizens of Berkeley, integrate the design work of artists into the development of City public works projects, and promote tourism and economic vitality of the City through the enhancement of public spaces.

B. PERCENT FOR ART PROGRAM FUNDING

Funding for public art shall be generated primarily from capital projects as outlined in the Percent for Art Resolution No. 60,048-N.S. adopted by City Council on June 1, 1999, which reads as follows:

SECTION III FUNDING

A. A sum equal to one percent (1%) of the project budget for each Eligible Capital Project shall be transferred to the Public Art Fund and utilized solely to develop and install a work of art

integrated into the completed improvement, regardless of whether it contributes to the purpose and function of the improvement, including, but not limited to, color, shape, design, texture, general appearance, or decoration which is designed and constructed integrally with the public improvement itself.

B. In addition to the amount specified in Section III. (A), above, a sum equal to one half percent (0.5%) of the project budget for each Eligible Capital Project shall be transferred to the Public Art Fund and utilized solely for administrative costs.

C. Funds designated for the Public Art Fund shall be transferred no later than the date on which funds for the Project Budget have been encumbered.

D. In the event that the final cost of designing and constructing the Public Art Element is less than one and one half percent (1.5%) of the project budget, the unused funds will be retained in the Public Art Fund and utilized for the creation of other works of art.

E. In the event that the eligible capital project should result in a public improvement which is inaccessible to the public, such as an underground structure, or for which it is not feasible to incorporate the public art element, the funds designated for the public art element shall be transferred to the Public Art Fund and may be used for the creation of off-site works of art.

1. Funding Aggregations

Use of public art money depends on the funding source and the site. Certain capital improvement funding may require that public art money be restricted for use at a specific project site, or the Public Art Annual Plan may designate such a restriction. Other funds may be “pooled” and allocated for a work of art “off-site”. “Pooling” allows for small amounts to be aggregated toward one viable project.

Funds deemed not necessary or appropriate for public art at a project site by the Berkeley Civic Arts Commission and the Capital Improvement Project Manager(s), may be pooled and expended on other projects approved under the Public Art Annual Plan when such funds are eligible to be so used.

2. Method Of Calculation

The minimum amount to be appropriated to the Public Art Fund shall be the total capital project appropriation, including all construction costs, architectural and engineering fees, and site work expenses, excluding amounts budgeted for real property acquisition, demolition, equipment, facility maintenance and operations, multiplied by 0.015.

3. Ineligible Uses

Monies appropriated according to Resolution No. 60,048-N.S. may not be used for the following:

- a. Art objects that are mass produced and of standard design, such as playground equipment or fountains.
- b. Reproduction, by mechanical or other means, of original works of art, except in cases of film, video, photography, printmaking or other media arts.
- c. Those items that contribute to the asset base and normal operating expenses of a resident agency, such as a city museum or gallery, or a private cultural institution.
- d. Artwork acquired through third-party owners, such as private collectors or auction houses.
- e. Architects' fees, except in such cases where the public art component significantly changes a project architect's scope of services.
- f. Operating expenses related to the work, including water, electricity or mechanical devices.

C. ANNUAL PUBLIC ART PLAN

In order to successfully implement a citywide Public Art Program, a collaborative effort must be made by various City departments.

Each fiscal year the Civic Arts Coordinator and representatives from the Civic Arts Commission, the City Manager's Office, Planning and Development, the Office of Economic Development, Parks and Marina and Public Works shall meet to identify appropriate capital projects. The Civic Arts Coordinator and the Public Art Committee of the Civic Arts Commission shall use this information to write an Annual Public Art Plan. The Annual Plan shall identify eligible capital improvement budgets and projects, determine funding and select sites. "Pooling" of small, non-site-specific funding sources shall be a part of this process. Site-specific and citywide projects shall be determined. A consultant with expertise in master plan development and public art may facilitate this process. The Annual Public Art Plan shall be presented by staff to the Civic Arts Commission for approval and then forwarded to the City Council for their information.

D. ADMINISTRATION

1. Berkeley City Council

The Berkeley City Council shall approve acceptance of gifts of artwork to the City valued at \$1,000 or more, and approve loans of City-owned artwork to other organizations or institutions.

2. Berkeley Redevelopment Agency

The Berkeley Redevelopment Agency shall:

- a. Review and approve Public Art Program Policies and Procedures as they may relate to Agency Policies.
- b. Assist in the coordination of public art projects on Agency properties.

3. Civic Arts Commission

The Civic Arts Commission and the Civic Arts Coordinator shall administer the Public Art Program and shall be responsible for reporting Public Art Program activities to the Berkeley City Council and Redevelopment Agency. The Commission shall:

- a. Recommend Public Art Program policies and procedures to the City Council.
- b. Make all aesthetic decisions as outlined in the 1985 Visual Art/Public Art Ordinance, including final selection of public art sites and artwork.
- c. Approve the Annual Public Art Plan and submit it to the City Council and/or Agency for information.
- d. Approve loans of artwork to the City.
- e. Review and recommend to the City Council the acceptance or rejection of all proposed gifts of artwork to the City valued at \$1,000 or more, approve gifts of artwork valued under \$1,000, and make recommendations for the lending of City-owned artwork to other organizations or institutions.
- f. Revise Public Art Program policies and procedures as necessary.
- g. Review and recommend extensions of time for temporary projects.

4. Public Art Committee of the Berkeley Civic Arts Commission

The Public Art Committee (PAC) shall be comprised of four members of the Civic Arts Commission as stated in the 1985 Ordinance. The commission shall strive for ethnic, social, and professional diversity in the PAC's membership. Members of the PAC will be selected for their expertise in public art, urban design and community participation.

The Public Art Committee shall:

- a. Recommend program policies and procedures to the Civic Arts Commission.
- b. Recommend public art projects and budgets, in the form of an Annual Public Art Plan, to the Civic Arts Commission.
- c. Review for acceptance or rejection, proposals for public art acquisitions, as recommended by selection panels, and forward a recommendation for acceptance or rejection to the Civic Arts Commission.

- d. Review and recommend to the Civic Arts Commission the acceptance or rejection of all proposed gifts or loans of artwork to the City, and make recommendations for the lending of City-owned artwork to other organizations or institutions.
- e. Serve as community liaisons and provide advocacy for the Public Art Program and its activities.
- f. Select its Chairperson for the same term as the Chair of the Commission.

5. The Public Art Advisory Committee

For certain projects, staff and/or the Public Art Committee may elect to establish a project “advisory” committee. An advisory committee is an ad hoc group which provides the Arts Commission, staff and artists with information regarding policy issues in public art, the physical parameters of the site, the site’s users or audience, the social, historical, or cultural history of the neighborhood where the artwork will occur, and other types of information that may assist the Arts Commission in public art decisions.

A Public Art Advisory Committee (PAAC) shall augment the four-person Public Art Committee by providing professional advice. This will allow a greater area of expertise to assist the Arts Commission in its selections and policy decisions. The PAAC can choose to sit with and advise the Public Art Committee. The PAAC can also choose to meet quarterly and serve to help settle issues in the public art process. Staff and/or the Public Art Committee shall recommend putting such a panel in place according to the complexity of the projects and sites, with people whose expertise is relevant to the specific project. The Public Art Advisory Committee will not have a vote but its recommendations shall be taken into consideration by the Public Art Committee.

The Advisory Committee is not limited to, but may consist of one or more of the following persons.

- i. The design architect. When the project calls for an artist or artists to participate on a design team, the project architect may be asked to serve as a voting member of the selection panel as well.

- ii. The project manager or designee from the City department collaborating on the project.

6. Public Art Program Staff

The Civic Arts Coordinator shall be responsible for the overall management and administration of the public art program and public art projects from inception to completion. The Civic Arts Coordinator's responsibilities shall include, but are not limited to, the following.

- a. Review, evaluate and allocate the City/Agency Annual Capital Improvement Projects list and identify potential art projects to be implemented in conjunction with projects described therein.
- b. Review other planned or existing City/Agency projects to determine other appropriate public art project opportunities.
- c. Prepare the Annual Public Art Plan with the Public Art Committee.
- d. With assistance from the PAC, develop project parameters, budgets, and schedules for each adopted project.
- e. Develop and implement an artist recruitment plan, including writing and disseminating Requests For Proposals/Qualifications or Calls for Artists, and identify appropriate methods for the artist selection process.
- f. For selection processes involving a selection panel, identify and recommend to the PAC qualified panelists.
- g. Assemble Public Art Advisory Committee members as appropriate.
- h. Review artists' application materials and pre-screen the applicant pool to select a slate of qualified candidates for review by the selection panel.
- i. Prepare artists' materials for presentation to the panel.
- j. Schedule, facilitate, and oversee the artist selection process.

- k. Submit panel's recommendations to the PAC and Civic Arts Commission.
- l. Solicit review, comments, and/or approvals for works of art from appropriate City departments, relative to safety and maintenance, and if required, for resolution.
- m. Convene and facilitate any public meetings related to the project.
- n. Negotiate and administer contracts; review and approve general contractor bid documents as they pertain to the implementation of the public art project.
- o. Collaborate with other city departments to coordinate the roles and responsibilities of the artist, architect, engineer, general contractor, and other professionals involved in the project.
- p. Prepare and distribute press and publicity materials related to the Public Art Program.
- q. Prepare and maintain project files.
- r. Prepare grant requests from outside funding sources, as appropriate.
- s. Review the Public Art collection to evaluate and make recommendations for maintenance or conservation needs.
- t. Solicit funds from foundations, corporations, public agencies, and other appropriate sources.

7. City Departments/Client Agencies

All City agencies and departments collaborating on public art projects with the Civic Arts Commission and the Civic Arts Coordinator shall:

- a. Deposit public art allocations in the City's Public Art Fund.

- b. Provide information to the Civic Arts Coordinator, which identifies existing or planned sites under the Department's jurisdiction which may be appropriate for public art projects.
- c. Include the cost of architectural services related to the coordination and implementation of the Public Art Program in the total construction budget. Incorporate into bid packages and contracts, language describing the architect's scope of services relative to the public art project.
- d. Direct the project architect to work within the intent of the program as described in the Percent for Art Resolution and in these guidelines.
- e. Assist staff in the development and implementation of public art projects.
- f. Inform staff of the relationship of any advisory groups, neighborhood groups, or other groups which may be impacted by or be interested in the development of a public art project.
- g. Inform staff of any proposed or planned project involving construction, renovation, or further development of a site or facility soon enough to allow for adequate review of the project's potential for incorporation of artwork, and for planning of an appropriate artwork project or design team effort.
- h. Advise staff of any municipal, division, or departmental ordinances, resolutions, or regulations, which may affect or be affected by proposed public art projects.
- i. Inform staff of planning projects for neighborhood improvement, redevelopment area projects, private or public planning studies and/or long-range policy recommendations, which have the potential to incorporate public art.

8. Consultants

Consultants may be needed to advise and/or assist the Commission with specific projects.

Consultant/Project Manager fees may be taken out of the .5% described in Section B, and as a

general rule the fee shall range from 10-15% of the cost of the artwork. The consultant shall report to the Civic Arts Coordinator who shall keep the Arts Commission apprised of the work involved.

9. Selection Panel

Selection panels are ad-hoc, assembled for specific projects, to assist the Public Art Program in identifying qualified artists for a project. The number of panelists and the composition of the panel appointed for projects depend upon the size, location, and complexity of each project. Selection panels should be assembled with racial, cultural and gender diversity as a guide. The panel composition shall comply with the 1985 City Ordinance on Visual Art/Public Art and may include:

- a. Three consultants. A qualified consultant means a professional visual artist, educator, scholar, historian, collector, environmental designer, or planner, whose authorities and skills are known and respected in the community and, whenever feasible, who has demonstrated an interest in, and has participated in, the arts of the city. {Ord. 5630-NS1 {part}. 1985}

And when appropriate:

- b. A representative of the neighborhood
- c. A representative of the Civic Arts Commission
- d. A representative of other City boards and Commissions
- e. A project architect
- f. Non-voting Advisory Members

E. ACQUISITION OF PUBLIC ARTWORK

1. Criteria For The Acquisition Of Artwork

Criteria to be used in the acquisition of public artwork or design elements shall include, but not be limited to, the following:

- a. Artistic Quality: Excellence of the artworks' craftsmanship, originality and appropriateness of concept, and integrity of materials used.
- b. Media: All forms of media shall be considered. Works may be portable, permanently affixed, or incorporated in the design and/or function of a public space. Temporary exhibits and installations may also be considered for commissions except when excluded by funding sources with specific restrictions.
- c. Permanence: For permanent works of art or design elements, due consideration shall be given to the work's structural soundness, surface integrity, and to inherent resistance to theft, vandalism, weathering, public safety, and maintenance or repair costs, sufficient to endure 30 years.
- d. Public Safety: All works of art, design elements, or temporary installations shall be evaluated to ensure their compliance with public safety requirements.
- e. Diversity: The Public Art Program recognizes the cultural, ethnic, and social diversity of the Berkeley population, as well as that of the greater Bay Area, and shall incorporate diversity in every aspect of the program. Means by which the Program may realize the goal of cultural and aesthetic diversity shall include, but is not limited to:
 - (i) Artist ethnicity,
 - (ii) Geographic distribution throughout Berkeley,
 - (iii) Style, scale and media,
 - (iv) Community participation in the public art process, and
 - (v) Experimental and traditional forms of art.

2. Compatibility

Before a proposal for a public art project is given final approval, it shall be evaluated for its compatibility relative to:

- a. Visibility and public access.
- b. Public safety.
- c. Traffic patterns.
- d. The relationship of the proposed public art project to the site's existing or future architectural features, its natural features, its historical, geographic and social/cultural context.
- e. The function and uses of the facility or site.
- f. The nature of the site's surrounding neighborhood and potential impact of the public art project on residents, businesses, existing works of art or design elements within the site's vicinity.
- g. Future development plans for the area which may affect the public art project.
- h. The feasibility of the budget and material list relative to the available funding.

F. SELECTION OF ARTISTS

Selecting the artist, whether to create a discrete artwork or to participate in a design or community collaboration, is the single most important decision in the public art process. Special care must be taken in all aspects of selecting the artist in order to ensure the best possible public art project, taking into account the goals of the project, the community served, the nature of the site, and the other members of the design team.

1. Methods Of Selection

Artists (or artwork) may be selected for public art projects by one of the following methods:

- a. Direct selection: artist(s) or completed artwork(s) chosen directly by the Public Art Committee or by a Selection Panel.
- b. Invitational selection: a limited number of artists are invited to submit proposals, a completed art work, or otherwise participate in a public art project selection process. The Public Art Program may utilize direct recruitment methods to solicit qualified artists for a project by means of direct mailings of the RFQ/RFP, or through phone contact with artists, arts organizations, galleries or other sources.
- c. Open competition: any professional artist is eligible to participate, subject to limitations established by the Public Art Committee in a Call for Artists.

For competitive projects described in b and c above, staff shall develop a Request for Qualifications (“RFQ”), a Request for Proposals (“RFP), or a Call for Artists.

- (i) A description of the project, including its goals; work scope, including the site’s physical description; potential approaches to the project; and any physical or legal restrictions which may apply to the project.
- (ii) Application procedures, including materials requested, eligibility and timelines.
- (iii) Selection procedures (if appropriate).
- (iv) Criteria for the selection of artist(s) and artwork(s).
- (v) Project budget.

2. Artist Selection Procedures

a. Screening

Public Art staff may screen applications, and evaluate them relative to the minimum candidate criteria and qualifications outlined in the RFQ/ RRP/Call for Artists. Staff shall then present the slate of qualified candidates to the selection panel. Along with the

candidates recommended for review, the panel will receive a list of all project applicants.

b. Selection Panel

Staff shall develop a list of qualified panelists. The panelist's list shall be reviewed and approved by the PAC.

Public Art Program staff shall recommend panelists for each project and shall submit these recommendations to the PAC for approval. Selection of panelists by the PAC shall be made based on the following: experience in implementing or administering public art projects; knowledge of current trends, interest in working with Berkeley's multi-cultural community; ability to assess the creativity, design skills, and problem-solving abilities of artists under review; knowledge of materials and methods of fabrication used in public art projects and an ability to assess their appropriateness to a particular site; ability to represent a particular neighborhood or area of Berkeley in which the artwork will be sited; and ability to work cooperatively and effectively in a panel process.

The Selection Panel reviews proposals submitted by artists and makes recommendations to the Public Art Committee.

c. Public Art Advisory Committees

Advisory Committee members shall be identified through existing community organizations and by referrals from other agencies, public or private. Members should have public art expertise and be familiar with the neighborhood in which the art project will occur. The Advisory Committee shall provide the Arts Commission with useful information in the development of Public Art projects. Decisions or questions by the Public Art Committee can be brought to the Public Art Advisory Committee for clarification and decision making advice. One or more Advisory Committee members may serve on the selection panel if requested by the PAC to do so.

3. Artist Eligibility Criteria

Specific eligibility requirements will be established at the initiation of each project and will be described on the RFQ/RFP. In general:

- a. Artists shall be considered for commission on the basis of their qualifications, as demonstrated by past work, relevant experience, the appropriateness of a specific proposal to the project goals, and the likelihood that the artist can successfully complete the project.
- b. Excluded from consideration are works of art or proposals submitted by the project architect and/or members of the design team, and artists who are members of or immediate family of the Public Art Program staff, the PAC, Commission, or the City Council.

4. Artist Selection Criteria

The Panelists shall select artists based on the appropriateness of their proposal to the particular project and the probability of its successful completion, as indicated by the artist's past work or by his/her ability to work within the funding framework to ensure successful completion of the project. In evaluating proposals for public art projects, panelists shall consider criteria in Section E.1 above and:

- a. An evaluation of the artist's proposed budget and the artist's ability to successfully complete the project within the proposed budget.
- b. An analysis of the artist's proposed method of installation of the artwork and an evaluation of safety and structural factors involved in the installation.

5. Selection Process

- a. All meetings of selection panels shall be open to the public and will be publicly noticed.

- b. Staff shall issue written instructions to panelists detailing the duties and responsibilities related to the project before the first panel meeting.
- c. The Panel shall review credentials, proposals, and/or materials submitted by artists.
- d. The Panel shall recommend to the Public Art Committee an artist or artists to be commissioned for the project; to develop design proposals for the project, or whose existing work is to be selected for the project. In the case when an artist or artists have been asked to prepare a specific design proposal, the Panel shall reconvene to review the proposal.
- e. A vote shall be taken, with the majority carrying the decision. Panelists shall each have one vote.
- f. The Panel shall have the option of making no selection. In that event, the PAC shall determine whether to initiate a new selection process, revise the project, or abandon the project.
- g. The Panel's decision shall be recorded by Public Art staff in the form of a written record to the Public Art Committee.
- h. The PAC shall forward a recommendation to the Civic Arts Commission. The Commission shall review and approve or reject the PAC's recommendation.
- i. If the Commission approves the PAC's recommendation and the dollar amount exceeds staff's approval of authority, the Commission shall forward the proposed contract recommendation to the City Council for acceptance. Otherwise, the Civic Arts Commission's selection is final.
- j. If the Commission rejects the PAC's recommendation, it shall provide a report to the PAC with the reasons for the rejection. The PAC shall then determine whether to 1) revise or modify the project; 2) initiate a new review and selection process; or 3) abandon the project.

6. Conflict of Interest

- a. Any artist selected to serve on the Selection Panel is precluded from having his/her work considered for inclusion in any Percent for Art Project during the term of service.
- b. Persons who would directly benefit from the selection of a particular artist or artworks are ineligible as panelists (gallery owners, brokers, artists' representatives, etc.).
- c. A member of the Arts Commission is not eligible for city public art commissions. Members of the project architect's firm are not eligible for consideration as artists.
- d. An artist who is currently under consideration for selection for another Civic Arts Commission public art project (i.e. is an applicant or finalist), may not serve as a panelist.

G. PUBLIC PARTICIPATION

Public participation is a crucial element of any public art program. As a city whose residents pride themselves on their commitment to local affairs, Berkeley makes public participation an important and creative part of its public art program. Public participation can be achieved in a variety of ways--from lectures and workshops that encourage public awareness of the public art program to the involvement of interested residents in the actual planning, design, installation and maintenance of public art projects. Public Art program staff and the PAC shall outline approaches for public participation for each project.

Public participation in the public art program shall include, but not be limited to, the strategies listed below.

1. Education and Outreach

In order to stimulate and encourage public awareness of the arts, the Civic Arts Commission will initiate events and activities designed to provide a greater understanding of public art. These may include:

- a. Conferences, symposia, workshops, artist's lectures, presentations, community meetings, and public art tours.
- b. Development of cooperative programs with educational and arts institutions and community organizations.
- c. Regular distribution of promotional and publicity packets, including press releases and public service announcements.

2. Community Representation

Community representatives may be appointed to serve on selection panels for public art projects, and on Public Art Advisory Committees, when such committees are warranted.

3. Creative Interactions Between Artists and Community

Involvement of community representatives may include participation in the planning, design and installation of public art projects. Staff shall facilitate creative collaborations between project artists and organizations that represent community stakeholders and have expressed interest in public art collaboration. These organizations might include, but not be limited to, community organizations, educational institutions, arts organizations, and non-profit agencies.

H. PROJECT MANAGEMENT

1. Inter-Agency Procedures

- a. The Civic Arts Coordinator shall negotiate the contract with the artist and with other consultants as necessary for the purchase or design, fabrication, installation of and payment for the artwork.

b. Installation of artwork shall be coordinated between Public Art Program staff and the appropriate City official (s) within the Department having jurisdiction over the site or construction.

c. Unless otherwise agreed, routine maintenance of the artwork shall be the responsibility of the Department of Public Works. Routine maintenance shall include such tasks as dusting, sweeping, and other such activities. Extraordinary maintenance and/or conservation of the artwork shall be the responsibility of the Civic Arts Coordinator and Commission. No other City Agency or Department shall be responsible for the conservation of artwork, and no conservation or repair work shall be performed without the prior written approval of the Civic Arts Commission.

d. Public Art program staff, in consultation with other City agencies, shall develop an annual maintenance schedule for the public art collection and, shall determine appropriate budgets and procedures for the care and maintenance of the collection.

2. Project Files And Records

Public Art Program staff shall maintain a registry of all City public art that is owned, borrowed and loaned, including title, artist, value, location, date of purchase, installation, loan, receipt, deinstallation, and other relevant information. Staff shall also maintain records of each project, which shall include, but not be limited to, the following:

a. Contract(s) with the artist(s) and consultants participating in the project.

b. Records of City Council, Commission, PAC and Public Art Advisory Committee actions bearing on the project.

c. Interdepartmental agreements relating to the siting or implementation of the project.

d. Correspondence, announcements, memoranda, press clippings and publicity information relating to the project.

e. Records of all billings made in connection with the project.

- f. All proposals submitted and other visual or written materials relating to the artist's design or method of execution as they are submitted or become available.
- g. Photo documentation in the form of black and white photographs, color slides, videos and/or transparencies of the completed project.

3. Artist Fee Policy

The following guidelines for fee structures are based on professional standards established by the public art field, and on the fees paid to other design professionals in the related fields of architecture and landscape architecture. The following should be seen as guidelines only.

In general, the Commission shall consider the following factors in determining the artist fees awarded for each project.

- a. The scope of work and degree of artist involvement.
- b. The project budget.
- c. The artist's experience and professional standing.
- d. The fee scale for similar scopes of work on comparable projects.

I. ~~GIFTS AND~~ LOANS

The ~~Gifts and~~ Loans Policy provides a process for the review of proposed ~~gifts and~~ loans of artwork or other artistic objects to the City of Berkeley, and for the placement, ~~care, and preservation~~ of artwork acquired through this process.

~~1. ——— Conditions Governing the Donation of Artwork to the City of Berkeley~~

~~Potential donors of artwork shall submit information to the Public Art program staff. Staff shall review the materials and if the information is complete, will forward it to the Public Art Committee for review. The PAC shall determine the feasibility of the proposed donation and shall forward a recommendation to the Civic Arts Commission for review. If the Commission~~

~~recommends acceptance of the proposed artwork, a recommendation shall be made to the City Council or Redevelopment Agency for final approval and acceptance of artwork valued at \$1,000 or more. If valued under \$1,000, the Commission's determination is final.~~

~~2. Materials to be Submitted by Donor~~

~~Materials may include but are not limited to:~~

- ~~a. Photographs and/or slides of the work of art that depict it from all sides.~~
- ~~b. A written description of the artwork, including dimensions (height, width, depth and weight), materials used, and any frames, backings, mounts or anchoring systems to be used in the installation of the artwork.~~
- ~~c. A site plan that identifies and describes the proposed site for the artwork and that accurately depicts the artwork in relationship to the surrounding environment.~~
- ~~d. A written description and/or drawing of the proposed method of installation and a schedule for the transportation and installation of the artwork.~~
- ~~e. Estimated costs for transporting and installing the artwork (to be done at donor's expense, unless otherwise agreed to by the City).~~
- ~~f. Written authorization from the City agency with jurisdiction over the site, approving the installation of the artwork.~~

~~3. Conditions of Acceptance~~

~~The Public Art Committee and the Civic Arts Commission encourage unrestricted gifts to the City of Berkeley. Any conditions or restrictions attached to a gift or loan must be presented to the Public Art Committee, the Civic Arts Commission, and City Council if valued at \$1,000 or more, for approval.~~

41. Conditions Governing the Exhibition of Loaned Artwork on City Property

Persons or organizations requesting to temporarily exhibit a work of art in or on City-owned property must submit the following:

- a. Photographs and/or slides of the work(s) of art to be exhibited.
- b. A description of the location where the artwork will be exhibited and a written authorization from the City agency with jurisdiction over the site that approves the proposed loan of the artwork in the location and a time period for the artwork.
- c. A written description and/or drawing of the proposed method of installation and a schedule for the transportation, installation, and removal of the artwork.

52. Lender's Agreements

When exhibiting a work of art on City property, the lender must agree in writing to the following:

- a. Unless otherwise agreed to in writing by the City, the lender shall be responsible for all costs associated with the transportation, installation, deinstallation, and insuring of the artwork.
- b. Upon removal of the artwork, the lender must return the site to its original condition and remove any debris caused by or resulting from the exhibition the artwork.
- c. Unless otherwise agreed to in writing by the City, the lender must agree to exhibit the artwork at his/her own risk and to bear the expenses of any losses or damages to the artwork. The lender must agree in writing to hold the City harmless from any and all liabilities and for any damages or losses to the artwork.
- d. The lender shall produce and display a descriptive label for display next to or near the loaned artwork.

- e. If the artwork becomes damaged, destroyed, or becomes a danger to the public, the lender shall remove the artwork within three days notice from the City.

~~6. Acceptance of Monetary Gifts for the Acquisition of Artwork~~

~~Proposed monetary gifts to the City for the purpose of acquiring artwork shall be referred to the Arts Commission for review and approval. All recommendations on the acceptance or rejection of proposed gifts of money of \$1,000 or more shall be referred to the City Council for final approval and acceptance.~~

J. ARTWORK GIFTS POLICY

1. INTRODUCTION

The Artwork Gifts Policy provides the process for reviewing proposed gifts of artwork, or donated funds for the specific purpose of purchasing or commissioning artwork for the City of Berkeley; guidelines for prospective donors regarding their responsibilities; and procedures for the placement, care, and disposition of artwork acquired through this process. This policy aims to ensure that all donated artworks that are accepted into the City’s Civic Art Collection and installed in Berkeley’s public realm demonstrate outstanding aesthetic values, meet technical criteria that ensure safety and sustainability, convey clear relationships to the City of Berkeley or to the region, and are appropriate to the surroundings in which the work will be located. While the City appreciates all offers of donations of artwork, it is not able to accept every proposed gift due to the economic and administrative obligations inherent in responsible art collection management and ownership.

The City’s acceptance of gifts of Artwork is a four step process that requires review and approval by: 1. The Civic Arts Commission’s Public Art Committee; 2. The Civic Arts Commission; 3. For permanently installed artworks, approval of artwork installation location by the City department or Commission with jurisdiction over the installation site; and 4. For gifts valued at more than \$1,000, approval by City Council. The process to obtain these approvals is detailed within this Artwork Gifts Policy.

2. DEFINITIONS

For the purposes of this policy, the following definitions apply:

- Artist: as defined in the Berkeley Municipal Code, Section 23C.23.040 “means an individual independent professional practitioner of the visual, performing, or literary arts, as judged by educational qualifications, a history of creating a body of public or publicly-displayed artwork, critical recognition in publications or online, a record of exhibitions and/or artwork sales.”
- Artwork: Per the Berkeley Municipal Code, Section 6.14.101, Artwork is an original work by an artist and includes, but is not limited to, functional art integrated into public improvements, a sculpture, monument, mural, painting, drawing, photography, fountain, banner, mosaic, weaving, stained art glass, multi-media, computer-generated art, electronic and media art, video, and earth art, installation art, performance and time based works of visual art, and social practice art.
- Civic Art Collection: The Civic Art Collection is comprised of artworks that have been approved and accessioned by the Civic Arts Commission and for artworks valued at more than \$1,000, approved by City Council, or are otherwise under the jurisdiction of the City.
- Civic Art Collection Maintenance Endowment: An endowment fund to ensure the continued care of the City’s artworks.
- Civic Arts Commission: Per the Berkeley Municipal Code Chapter 3.12, the Civic Arts Commission consists of nine members appointed to by council members and charged with a variety of duties related to fostering programs for the cultural enrichment of the City and advising the City Council on all matters affecting the beauty and culture of the City of Berkeley, including recommendations regarding the approval of artwork gifts valued at more than \$1,000. Artwork gifts valued at less than \$1,000 are approved by the Civic Arts Commission. The Civic Arts Commission appoints the four person Public Art Committee from its members which reports back to the full Commission.
- Civic Arts Program: The Civic Arts Program consists of City staff who administer and develop projects which accomplish the mission of the Civic Arts Commission.

- Memorial Artwork: Three-dimensional artwork, two-dimensional artwork or other artwork created by a professional practicing Artist to commemorate a person, event, or topic.
- Public Art Committee: The Public Art Committee (PAC) is comprised of four members of the Civic Arts Commission selected by the Civic Arts Commission for their expertise. The Public Art Committee is responsible for reviewing and recommending to the Civic Arts Commission the acceptance or rejection of all proposed gifts of artwork to the City.

3. CRITERIA

The criteria for the City's final acceptance of gifts of Artwork are as follows:

- Project Costs: Acceptance of a gift is contingent upon receipt of payment from the donor for all costs associated with the gift.
- Quality: The overall aesthetic quality and craftsmanship of a proposed gift will be an important consideration for acceptance.
- Compatibility with Site Context: Proposed gifts must be compatible in scale, material, form, and content with their surroundings. Attention shall be given to the social context of the work and the manner in which it may interact or contribute to the use of the site.
- Media: All forms of visual art executed in permanent materials may be considered. Works may be either portable or installed in the built environment.
- Durability: Due consideration shall be given to the structural and surface soundness, and to inherent resistance to theft, vandalism, weathering, and excessive maintenance or repair costs.
- Compatibility with Collection: Proposed gifts shall be evaluated within the context of the existing Civic Art Collection.
- Public Safety: Each work shall be examined for unsafe conditions or factors that could impact potential for liability arising from danger or injury to members of the public.
- Duplication: Artworks should be unique, one-of-a-kind works of art with the noted exception of prints, photographs or a desirable high quality limited edition work of art by a renowned artist.

4. GIFT PROPOSAL REVIEW PROCESS

Proposed gifts of Artwork will be considered for acceptance into the Civic Art Collection through the following process.

4.1 Proposal: The prospective donor must submit a written proposal to the Civic Arts Program which includes:

- Information about the Artist including biographical information, history of exhibitions and/or gallery representation, other public art projects or commissions, and any other pertinent facts which highlight why this Artist should be included in the City's Civic Art Collection.
- Description of the Artwork (size, materials, etc.) and photograph or drawing of the proposed gift.
- Proposed site, if any.
- Condition assessment and information regarding maintenance requirements.

Note: Proposals for gifts of large scale artworks or public monuments require careful consideration and may require additional documentation, multiple meetings, and significant public comment before a final decision can be made.

4.2 Preliminary City Department Approval: For Artworks proposed for installation on sites under the jurisdiction of other City departments, a letter of preliminary approval from the head of the department must accompany the proposal. Donors must comply with any guidelines the department has in regard to the acceptance of Artwork. Final approval for the installation of the Artwork may be subject to additional approvals by City Departments or Commissions.

4.3 Evidence of Community Support: For Artwork proposed for installation in the public realm, the donor must provide evidence of input from stakeholders which must be submitted with the proposal. The amount and quality of the evidence of support will depend on the project nature, scope and size and may include letters of support from key stakeholders or petitions with names, addresses and signatures from neighboring residents, businesses and organizations. Other forms of documented community support will also be considered.

4.4 Consultation with Civic Arts Program: Civic Arts Program staff meets with the prospective donor to review the proposed gift prior to the proposal being submitted to the Civic

Arts Commission's Public Art Committee for action. After review of the proposed gift, staff will prepare a written report to the Public Art Committee with a recommendation to either accept or decline the gift.

4.5 Public Art Committee Approval: The gift proposal will be reviewed by the Public Art Committee. The Committee may recommend to accept or decline the proposed gift based upon the criteria. Committee recommendations are forwarded to the full Civic Arts Commission for approval.

4.6 Civic Arts Commission Approval: Upon recommendation of the Public Art Committee, the gift proposal will be reviewed by the Civic Arts Commission for approval.

4.7 Other City Department Approval: Once approved by the Civic Arts Commission, Civic Arts Staff will prepare a report for consideration by the department who has jurisdiction over the proposed site. Said department will review the proposed installation site for approval and will facilitate any additional site approvals necessary from any other entities having jurisdiction over the site such as City Commissions or other regulatory bodies.

4.8 City Council Approval: For proposed gifts valued at more than \$1,000, Civic Arts Program staff will seek approval by City Council as required per Berkeley Municipal Code Section 2.06.150.

4.9 Notwithstanding the foregoing, the City may, in its sole discretion, reject a gift proposal and/or determine the appropriate site for any and all Artwork accepted into its collection.

5. RELATED POLICIES FOR COMMEMORATIVE ELEMENTS

Proposed gifts of Memorial Artwork are subject to the Memorial Artwork Policy.

6. DONOR'S FINANCIAL RESPONSIBILITIES

All costs associated with the gift must be borne by the donor. The Civic Arts Commission has the discretion to waive or adjust the donor's contribution if the Civic Arts Commission identifies funding to cover those costs. Costs may include, but are not limited to:

- The costs associated with design, engineering, building permits, fabrication, and insurance.
- The cost of design and fabrication of a pedestal, base, or structural support, and identification plaque.
- The cost of artwork installation by the City, including (but not limited to) any alterations to the landscape or installation site that are needed to allow the artwork to appear aesthetically appropriate in its chosen location and any architectural or engineering services required for safe installation.
- The donor must provide a contribution to the Civic Art Collection Maintenance Endowment Fund equal to 10% of the value of the Artwork as determined by a qualified appraiser approved by the City or an amount as mutually agreed by the City and donor.
- For gifts of large scale Artwork, the City also requires an administrative fee to cover costs associated with staff coordination and oversight of the project.
- The City may consider on a case by case basis accepting an agreement from a donor to maintain an Artwork in perpetuity and in accordance with City standards rather than a cash contribution to the Civic Art Collection Fund; however, this will require the City to incur additional effort and cost. In any maintenance agreement, the City will require an up-front deposit to cover at least one year's maintenance of the Artwork to protect the City against future default.

7. ACCEPTANCE OF MONETARY GIFTS FOR THE ACQUISITION OF ARTWORK

The commissioning of Artwork paid for by donated private funds will be implemented according to the Public Art Guidelines. The following funding requirements apply to proposed monetary gifts to the City for the purpose of acquiring artwork:

- The amount donated must cover all project costs including site preparation and installation and an amount equal to 10% of the value of the donation to go into the Civic Art Collection Maintenance Endowment and an amount equal to 20% of the value of the donation to cover the staff cost of administering the artwork commission.
- Proposed monetary gifts shall be referred to the Public Art Committee and the Arts Commission for review and approval.

- Proposed monetary gifts of \$1,000 or more shall be referred to the City Council for final approval and acceptance.

K. ARTWORK DEACCESSION POLICY

1. INTRODUCTION

The term “deaccession” applies to the specific process by which a decision is made to remove an artwork from the City of Berkeley’s civic art collection. The City of Berkeley, through its Civic Arts Commission, reserves the right to deaccession works of art in its civic art collection in the best interest of the public and as a means of improving the overall quality of the City’s civic art collection. Removing artwork from the City’s civic art collection by deaccession should be cautiously applied only after careful and impartial evaluation of the artwork to avoid the influence and the premature removal of a work from the collection. Except in the case of an immediate threat to public safety, no artwork in the collection will be deaccessioned until the policies set forth below have been observed.

2. DEFINITIONS

For the purposes of this Policy, the following definitions apply:

- Artwork: Per the Berkeley Municipal Code, Section 6.14.101, Artwork is an original work by an artist and includes, but is not limited to, functional art integrated into public improvements, a sculpture, monument, mural, painting, drawing, photography, fountain, banner, mosaic, weaving, stained art glass, multi-media, computer-generated art, electronic and media art, video, and earth art, installation art, performance and time based works of visual art, and social practice art.
- Deaccession: The procedure for the removal of an artwork owned by the City and the determination of its future disposition.
- Deaccession Notification: A written letter to the artist or donor referencing the applicable conditions of the artwork and describing reasons why the deaccession review is being undertaken.

3. CONDITIONS FOR DEACCESSION

A work of art may be considered for deaccession if one or more of the following conditions apply:

- The work presents a threat to public safety.
- Condition or security of the work cannot be guaranteed, or the City cannot properly care for or store the work.
- The work requires excessive or unreasonable maintenance, or has faults in design or workmanship.
- The condition of the work requires restoration in gross excess of its market value, or is in such a deteriorated state that restoration is infeasible, impractical, or would be so extensive as to fundamentally transform the work from the artist's original intent.
- Significant changes in the use, character or actual design of the site require reevaluation of the artwork's relationship to the site.
- If the artwork cannot remain at its original installation site and if no suitable alternate site for the work is available.
- The work interferes with the operations of the City.
- Significant adverse public reaction over an extended period of time (5 years or more).
- The work is judged to have little or no aesthetic and/or historical or cultural value, or is judged to have negative historical or cultural value.
- The Civic Arts Commission wishes to replace a work with a more appropriate work by the same artist.
- The work can be sold to finance or be traded for a work that refines and improves the quality and appropriateness of the City's collection and better serves the Civic Arts Commission's mission.
- Written request from the artist has been received to remove the work from public display.
- The work is duplicative in a large holding of work of that type or of that artist.
- The work is fraudulent or not authentic.
- The work is rarely or never displayed.

4. PROCEDURES

The following steps shall be followed for works being considered for deaccession:

4.1 Absence of Restrictions: Before disposing of any artworks from the collections, reasonable efforts shall be made to ascertain that the City is legally free to do so.

4.2 Deaccession Notification: City staff shall comply with any applicable state or federal notice requirements and shall make every reasonable effort to contact the artist whose artwork is being considered for deaccession, and any other known parties with a vested interest in the artwork. Staff shall make reasonable effort to notify the artist of the Public Art Committee and Civic Arts Commission meetings where the issue will be discussed.

4.3 Civic Arts Program Staff Report: The Civic Arts Program staff shall prepare a report which includes a staff evaluation and recommendation along with the following information:

- Artist's name and biographical information, samples of past work and resume.
- Written description and images of artwork.
- Information about and images of the artwork's site.
- City Attorney's Opinion: The City Attorney shall be consulted regarding any restrictions that may apply to a specific work.
- Rationale: An analysis of the reasons for deaccessioning and its impact on the Collection and the artist, and an evaluation of the artwork.
- Community Opinion: If pertinent, public feedback on the dispensation of the artwork in question.
- Independent Appraisal or other documentation of the value of the artwork: Prior to deaccessioning of any artwork having a value of \$10,000 or more, Civic Arts Program staff should obtain an independent professional appraisal, or an estimate of the value of the work based on recent documentation of gallery, comparable public commissions and/or auction sales.
- Related Professional Opinions: In cases of where deaccessioning or removal is recommended due to deterioration, threat to public safety, ongoing controversy, or lack of artistic quality, it is recommended that the Commission seek the opinions of independent professionals qualified to comment on the concern prompting review (conservators, engineers, architects, critics, safety experts etc.).

- History: Provide written correspondence, press and other evidence of public debate; Original Acquisition method and purchase price; Options for Disposition; and Replacement Costs.

4.4 Considerations for Disposition of a Work of Art: Civic Art Program Staff shall research and present to the Civic Arts Commission all feasible alternatives for the disposition of the proposed artwork for deaccession. Recommendations shall adhere to the following principles:

- The manner of disposition is in the best interest of the Civic Arts Commission and the public it serves.
- Preference should be given to retaining works that are a part of the historical, cultural, or artistic heritage of Berkeley and the Bay Area.
- Consideration should be given to placing the artwork, through gift, exchange, or sale, in another tax-exempt public institution where it may be accessible to the public and thereby continue to serve the purpose for which it was acquired initially by the Civic Arts Commission.
- Artworks may not be given or sold privately to City employees, officers, members of the governing authority, or to their representatives.

5. DEACCESSION CRITERIA

The following criteria will be used by the Civic Arts Commission to evaluate whether to deaccession an artwork:

- Inherent Artistic Quality: The assessed aesthetic merit of the piece as a work of art, independent of other considerations.
- Cultural or Historical Impact: Whether the artwork has negative cultural or historical impact.
- Context of Artwork within the Civic Art Collection: Proposed artwork should be evaluated within the context of the larger collection, and whether it is judged to strengthen the collection.
- Context of Artwork with Site: Accessibility, public safety, and social, cultural, historical, ecological, physical, and functional context of the artwork in relation to the site, both existing and planned.

- Availability of City Support: The availability of necessary funding for conservation, maintenance, repair, storage or required staff support.
- Legal Considerations: Issues related to liability, insurance, copyright, moral rights, warranties, ownership, theft, vandalism, loss, indemnification, and public safety. The City Attorney shall review the recommendation of the Civic Art Program staff to determine whether there are any known legal restrictions that would prevent deaccession of the artwork. The City Attorney's approval must be obtained prior to deaccessioning an artwork.
- Timing: Timing for the deaccession of an artwork may be affected by issues such as a hazardous condition related to the artwork that would pose an immediate threat to public safety, relevant construction schedules, or the allowance of sufficient time for a normal review process.
- Acquisition process: Method by which the artwork was originally acquired and accessioned in the City's collection (i.e. by donation, loan, or commission).
- Community feedback: Community feedback about the artwork, its site, and its condition solicited via a publicly-noticed meeting or placed on the agenda of the Public Art Committee.
- Restrictions: Any recognized restrictions associated with the artwork.

6. PUBLIC HEARINGS

The proposed deaccession of an artwork will be heard at two meetings which are open to the public.

6.1 Public Art Committee: The recommendation to deaccession an artwork will be considered by the Public Art Committee as part of the Committee's regular meeting. The Committee shall make its recommendation to the full Civic Arts Commission.

6.2 Civic Arts Commission: The Commission must approve the Public Art Committee's recommendation that an artwork owned by the City should be deaccessioned.

7. DISPOSITION OF ARTWORK

7.1 Right of First Refusal: In all cases, the Artist or Artist's legally recognized representative or heir shall be given, when possible and within a reasonable time frame, the opportunity to purchase the artwork for the fair market value (as determined by a qualified appraiser), or if the artwork is determined to be of negligible value, the artist shall be given the opportunity to claim the artwork at the artist's own cost for removal and transportation.

7.2 When the artist does not purchase or claim the deaccessioned artwork, the Civic Arts Commission at its discretion, may use any of the following methods to remove the Artwork:

- Sale: Proceeds from the sale shall be deposited into the City's public art fund.
 - Sale through a dealer.
 - Sale through a public auction.
- Trade or exchange of a deaccessioned artwork for another by the same artist.
- Donation of deaccessioned artwork to a public institution or nonprofit organization.
- Destruction: for the following instances:
 - The entire artwork or the majority of the artwork has been damaged or has deteriorated and repair or remedy is impractical or infeasible, and artist is not willing to claim the remaining artwork at artist's own cost.
 - Public safety considerations support destroying the artwork.
 - Every reasonable effort to locate the artist, the artist's heirs or next of kin, or donor has failed.
 - The Civic Arts Commission determined that no other methods of disposition are feasible.

7.3 Civic Arts Program staff duties for all deaccessioned artworks:

- Update Civic Art Collection database: The artwork will stay in the database, but be noted as deaccessioned and include the years during which it was displayed.
- Coordinate the removal of identification plaques from artwork site and coordinate the artwork's physical removal from the City's collection.
- Report on the sale or exchange at the next regularly scheduled Public Art Committee and Civic Arts Commission meetings.
- Transmit a report informing City Council of the removal of the artwork from the City's collection.

- Maintain a deaccession file that includes documentation on the artwork and all associated deaccession documents.
- If the art work is in good enough condition to yield quality photographic documentation, that documentation will be kept in the deaccession file and offered to the artist.

L. MEMORIAL ARTWORKS POLICY

1. INTRODUCTION

The purpose of this policy is to establish criteria and guidelines for the consideration of memorial artworks to be permanently installed on City property. Permanent placement of a memorial artwork conveys the City's recognition of the cultural or historic significance of the person, event, or topic being commemorated. It is therefore important that the placement of commemorative artworks be limited to circumstances of the highest community-wide importance, both to maintain the significance of such commemorative artworks and to minimize conflicts with the active and variable use of public spaces.

2. DEFINITIONS

For the purposes of this policy, the following definitions apply:

- Artist: as defined in the Berkeley Municipal Code, Section 23C.23.040 "means an individual independent professional practitioner of the visual, performing, or literary arts, as judged by educational qualifications, a history of creating a body of public or publicly-displayed artwork, critical recognition in publications or online, a record of exhibitions and/or artwork sales."
- Artwork: Per the Berkeley Municipal Code, Section 6.14.101, Artwork is an original work by an artist and includes, but is not limited to, functional art integrated into public improvements, a sculpture, monument, mural, painting, drawing, photography, fountain, banner, mosaic, weaving, stained art glass, multi-media, computer-generated art, electronic and media art, video, and earth art, installation art, performance and time based works of visual art, and social practice art.
- Memorial Artwork: Three-dimensional artwork, two-dimensional artwork or other

artwork created by a professional practicing Artist to commemorate a person, event, or topic.

Commemorative elements which are not “Artwork” are not subject to this policy.

3. CRITERIA

3.1 Content Criteria. Memorial Artworks will be evaluated according to the following content criteria:

- The person, group of people, event, or topic being commemorated must have made a substantial impact upon the City of Berkeley; or must have a significant connection to Berkeley; or bear a relation to Berkeley and have made an important historic or cultural contribution beyond or outside the City of Berkeley.
- Whether the person, group of people, event, or topic being memorialized is deemed by the City to have made a significant enough contribution or impact to merit the scale, cost and visibility of the proposed Memorial Artwork.
- The proposed Memorial Artwork does not duplicate existing memorials.
- Evidence of community support gathered by the proposing group or persons through a community outreach process and evidence that the proposed Memorial Artwork is not objectionable to persons or community that it is intended to honor.

3.2 Presentation Criteria: Memorial Artworks will be evaluated according to the following criteria:

- The Memorial Artwork represents broad community values and has timeless qualities that will be meaningful to future generations.
- Memorial Artworks shall reflect the highest aesthetic standards and craftsmanship.
- The Memorial Artwork has been designed by a qualified Artist in consultation with a qualified design professional. Qualified artists must demonstrate professional recognition in the form of past public commissions or significant public installations. Qualified design professionals include registered architects, engineers, and landscape architects.

3.3 Site: The location under consideration is an appropriate setting for the Memorial Artwork and shall be evaluated according to the following criteria:

- Geographic justification for the Memorial Artwork to be located in a specific site.
- The scale and character of the Memorial Artwork are at a level commensurate with the proposed setting.
- Public accessibility and visibility.
- Prominence of installation location within architectural hierarchy of building or site.
- Compatibility with use of the site for programs and special events and proximity to existing artwork.
- Ability to ensure the safety and protection of the Memorial Artwork.
- Compatibility with historical context of site.

4. ADDITIONAL AND RELATED CONDITIONS & POLICIES

In addition to satisfying the criteria set forth in Section 3 above, any Memorial Artwork proposed for installation on City property must additionally comply with the City's Artwork Gift Policy; the requirement that any gift of funds, goods or services valued at more than \$1,000 must be approved by City Council; any Public Art Guidelines; and any other pertinent administrative guidelines or procedures. Under no circumstances is the City under any obligation to accept proposed donations of Memorial Artworks even if all required criteria are met. The City reserves the right to relocate, remove or destroy any Memorial Artworks acquired pursuant to this Policy and any applicable requirements set forth in the Deaccession Policy or required by State or Federal law.

