

ARTWORK GIFT REVIEW POLICY

CITY OF OAKLAND PUBLIC ART PROGRAM and CULTURAL AFFAIRS COMMISSION

1.0 PURPOSE

The purpose of the Artwork Gift Review Policy is to ensure that only public artwork of the highest quality and enduring value is accepted into the City's collection.

2.0 ENABLING LEGISLATION

Ordinance No. 11086 C.M.S. establishes the Cultural Affairs Commission's responsibility to "recommend acceptance of proposed gifts, exhibitions, and loans based on the Public Art Advisory Committee's review."

3.0 DEFINITIONS

3.1 Public Art: Works of visual art intended for installation or placement at indoor or outdoor sites in the public view under the City of Oakland's jurisdiction.

3.2 Public Art Advisory Committee (PAAC): A professionally qualified, nine-member citizen committee appointed by City Council to oversee quality control of the City's public art program and collection.

3.3 Cultural Affairs Commission (CAC): A standing committee of 15 members, appointed by the Mayor with City Council approval, established to advise the Mayor, Council and the City Administrator on all matters affecting cultural development in Oakland.

3.4 Gift: An existing or proposed work of art offered as a donation to the City for placement at a public site under the City's jurisdiction; alternatively, a monetary gift for the purpose of acquiring artwork for the City.

3.5 Donor: An individual, group, organization or business that proposes a work of art for placement or installation on a City-owned site, and/or, when applicable, the artist(s) who created the proposed gift.

4.0 REVIEW PANEL AND PROCESS

The Artwork Gift Review Policy provides a process for the review of proposed gifts of art to the City of Oakland and for the placement, care, and preservation of artwork acquired through this process.

4.1 Review Panel

The Public Art Advisory Committee will appoint a Gifts Review Panel. The Panel will be composed of three regional arts professionals with expertise in relevant fields. Panelists will serve for three-year terms.

4.2 Panel Meetings

The Panel will meet in public session twice a year, in March and September, or in special circumstances at the direction of the PAAC within 30 days of notification.

4.3 Review Procedure

All proposed gifts of artwork to the City will be referred to the Gifts Review Panel. The Public Art Program will staff meetings of the Panel. The Panel's written recommendations on the acceptance or rejection of proposed gifts of artwork shall be referred to the PAAC for review. Before PAAC review of a proposed gift, the item will be noticed for the benefit of interested public. The PAAC's motions on Panel recommendations will be referred to the Cultural Affairs Commission for approval.

4.4 Community Involvement, Departmental Approval and Public Safety

Once a proposed site has been identified by a donor, Public Art Program staff will review the proposal with the surrounding community and consult with the appropriate City official(s) regarding the selection, fabrication, and/or placement of the proposed artwork on the site. Department heads must approve proposals for sites over which their department has jurisdiction. Proposals must also address issues of public safety and will be reviewed by the offices of the City Attorney and Risk Management as needed.

4.5 Recommendations

- A.** If the panel recommends against accepting the proposed gift, Public Art Program staff will (a) report the panel's recommendation to the PAAC, and (b) notify the donor and inform them of the option to appeal.
- B.** If the panel recommends acceptance of the proposed gift, and the recommendation is approved by the PAAC, CAC, and City Council (if appropriate), a formal agreement will be executed between the City and the donor or artist. This agreement will include the costs, responsibilities and schedule of all aspects of the project, including project funding, fabrication, site preparation, installation, maintenance needs, maintenance endowment [see Sec. 5.2], transfer of title, artist's rights, public education costs, project supervision and donor's administrative costs, documentation, an identification plaque, the donor's/artist's rights, the City's rights (including policy on deaccessioning), and other requirements established by the PAAC and Public Art staff.

5.0 CONDITIONS FOR REVIEW

5.1 *Proposals Considered*

The City will consider the following types of proposals for works of public art on City-owned sites:

- A. A donor's offer of an existing work of art.
- B. A donor's offer to commission an artwork by a specific artist or artists.
- C. A donor's offer to commission an artwork through a competitive public process.

However, a donor's offer of a gift cannot be contingent upon guarantee of a specific site where the work of art will be placed.

5.2 *Maintenance Endowment*

The City will consider proposed gifts of art with the understanding that no City funds will be required for fabrication, siting or installation of the work. In addition, donors will be required to deposit funds equivalent to at least 15% of the commission cost of the artwork to the City's Artwork Maintenance Fund. A maintenance audit will be conducted as part of the proposal review if, in the opinion of Public Art Program staff, the proposed gift is likely to incur high maintenance costs and requires a larger contribution to the Artwork Maintenance Fund. Exorbitant maintenance costs may be grounds for rejection.

5.3 *Acquisition Procedures*

Public Art Program staff will inform the donor of the review procedures, criteria and standards governing the acceptance of gifts of public art. In all cases, the donor will be asked to submit the following materials to staff prior to Panel review of the proposed gift:

- A. A brief statement of intent from the artist;
- B. Adequate visual representation of the proposed work in drawing(s) and/or photographs and/or model(s), with scale and materials indicated;
- C. A scale drawing showing the proposed work as it will be sited;
- D. A comprehensive budget, with projected costs for the project, funds committed to date, and proposed source(s) of funds; and
- E. Artist's resume and any additional supporting material relevant to the artist's experience.

6.0 REVIEW CRITERIA AND STANDARDS FOR ACCEPTANCE

Proposed gifts of artwork will be evaluated in alignment with criteria established in the Public Art Procedures for artwork acquired through the Percent for Art Ordinance. The selection panel's criteria for evaluation shall include:

6.1 *Aesthetic Quality*

The foremost consideration will be the inherent quality of the proposed work of art as assessed by the critical review of the Panel. The history, reputation and/or promise of the artist may also be key considerations.

6.2 *Relationship to Collection and to City*

The proposed artwork will be analyzed for its potential relationship to the present collection and to the policies and goals of the Public Art Program, and whether it will enhance the aesthetic quality of the City.

6.3 *Compatibility*

Conceptual compatibility and appropriateness of the proposed artwork to the surrounding neighborhood or environment will be factors for consideration, and will include scale, form, content and design.

6.4 *Budget*

Consideration will include an evaluation of the donor's proposed budget and the artist's ability to successfully complete the project within the proposed budget, and review to assess realistic estimates and comprehensiveness of the budget as it addresses all costs of the proposal [see Sec. 4.5.B].

6.5 *Materials, Fabrication and Installation*

The panel will evaluate the artist's proposed materials and method(s) of fabrication, and their appropriateness to the project as regards structural and surface integrity, protection against theft, vandalism, public safety and weathering, and an analysis of long-term maintenance needs. The panel will also analyze the artist's proposed method of installation of the artwork and evaluate the safety and structural factors involved in the installation.

6.6 *Unrestricted Gifts*

Proposed gifts to the City should be clear and unrestricted.

6.7 Site-Specific Works

This policy is for the review of site-specific works of art only. Other artwork may be referred to the Oakland Museum of California, African-American Museum and Library or other public institutions for consideration.

6.8 Project Costs

Acceptance is contingent upon receipt by Public Art Program staff of payment from the donor for all costs associated with the gift that are not being covered by the donor directly, e.g. transportation, installation, and maintenance endowment [see Sec. 4.5.B].

7.0 ALTERATIONS TO PROPOSED DESIGN

Any significant change to the design or concept made by the artist or donor after approval of the gift proposal must be reviewed and accepted by the Gifts Review Panel and the PAAC, and may be grounds for rejection of the gift.

8.0 REVIEW OF FABRICATION AND INSTALLATION

Works of art accepted from maquettes or drawings will be subject to staff and PAAC review throughout fabrication and installation. Specific plans for site design, installation, maintenance and protection must be submitted for approvals and accepted by staff and PAAC.

9.0 APPEAL POLICY

All donors who believe that the Panel's consideration of their proposal was procedurally unfair, unreasonable or inadequate may appeal the Panel's recommendation rejecting the proposed gift. However, no appeals will be considered on the grounds of the panel's aesthetic evaluation of an existing or proposed work.

9.1 Appeal Procedure

- A. Before pursuing a formal appeal, the donor should seek an informal resolution by first re-examining the Review Criteria and the list of panelists who have evaluated the proposed gift, then informally reviewing the panel procedure with Public Art Program staff within six weeks of the date of written notification of the original panel decision.
- B. Should no resolution be reached, the donor may submit a formal appeal by way of a written request to the PAAC, specifying the date on which informal review of the original panel decision was completed, and the factual basis on which the donor claims that the procedures utilized by the panel in reaching its decision were unfair, unreasonable, or inadequate.

- C. The PAAC will provide the donor and each member of the panel with at least 14 days advance notice in writing of the date, time, and place of the appeal, to enable each of the aforementioned individuals to file written submissions for consideration and to arrange to appear to give a verbal presentation if desired. In addition, the PAAC has the right to invite any individual whom it believes may contribute to the adjudication of the appeal, to appear before it.
- D. All decisions on appeals to PAAC are final and definitive.

10.0 DEACCESSIONING

In accepting a gift of artwork, the PAAC and CAC will not be bound by any agreement with the donor that restricts their ability to act in the City's best interests. Nothing in the acceptance of a gift of artwork shall prevent the PAAC and CAC from approving subsequent disposal (removal, relocation, sale and/or or deaccessioning) of such gift if it serves the City's best interest to do so. The CAC will deaccession and sell or otherwise dispose of works of art in its collection in accordance with the Public Art Program's Deaccessioning policies, the requirements of the City's administrative code, and the limitations of the California Art Preservation Act (Civil Code 987) and the Visual Artists Rights Act of 1990 (17 U.S.C. 106A and 113(d)).