



COMMUNITY SERVICES POLICY

Public Arts Program Policy

City Council Resolution Number: 23-77

City Council Approved: 07-25-2023

Director of Community Services

1.0 POLICY STATEMENT

The City of Irvine's (City) Community Services Department administers the City's Public Arts Program (Program) bringing works of art into public spaces owned and/or operated by the City. The purpose of this Policy is to provide guidelines for review and acceptance of donations, loans, and murals. This Policy also provides guidelines and selection process for exhibitions.

2.0 MISSION

The Program's mission is to offer public art within the City that are broad and diverse in their appeal, inspirational to viewers, and foster creativity and appreciation for artistic expression. The Program presents opportunities at City facilities created by local, regional, national, and international creative and cultural professionals and youth to benefit the community and provide accessibility to visual, literary, and performing arts. Goals of the Program include:

- Promoting spaces and places for the community to collaborate and pursue creative endeavors.
- Engaging residents and visitors to experience works of art and creative programming.
- Sharing the City's heritage and culture.
- Providing ongoing opportunities for individuals and groups to develop their creative and cultural practices.
- Evaluating works for quality, safety, durability, maintainability, suitability of proposed site, and available funding sources.

3.0 DEFINITIONS

Accession

The formal process used to accept permanent artwork into the City's collection.

Artist

A person who has established a reputation of artistic excellence in the fine arts, including but not limited to visual, literary, or performing arts, as judged by peers and experts in

the field, through a record of public exhibitions, performances, commissions, sale of works, recognition and/or educational attainment.

Calendar

Production schedule of temporary and rotating exhibits managed by Program staff. The calendar is maintained up to 24 months in advance.

Deaccession

The formal process of permanently removing artwork from City's collection.

Donation

Original artwork (not applicable to mass produced or decorative works) gifted from its last documented owner to the City with supporting documentation that attests to its provenance and estimated market value.

Exhibitions

Temporary display of works of art or items supporting the works of art for which there is an established date or timeframe by when the art is to be displayed and removed.

Mural

A one-of-a-kind, hand-painted, hand-tiled, or digitally produced artwork on an interior or exterior wall of a building owned and/or operated by the City that does not contain commercial messaging of any kind.

Loan

Works of art under a loan agreement between owner and City for any period of time, with or without restrictions on where it is publicly displayed.

Public Art

Any visual work of art or expression of any type, including, but not limited to, murals, paintings, sculptures, monuments, mosaics, memorials, exhibits, works, or designs in any medium commissioned or approved by the City and displayed in a publicly visible and/or accessible location on or within City Owned or Controlled Property. Public Art is the creative result of an individual or group effort and is typically either original or of limited issue in nature as opposed to mass-produced or intended primarily for a commercial market. Public Art includes works of a permanent or temporary nature.

4.0 PUBLIC ART AND DONATIONS

4.1 Evaluation and Approval Process

A. Selection Process

Program staff shall present to the Public Arts Committee on recommended artist eligibility requirements, selection methods as appropriate, and artist stipends for evaluation of proposals for Public Art projects and/or donations. Artists are selected on the basis of qualifications as demonstrated by their past work experience and education, and the appropriateness of their proposal for the specified project.

B. Selection Methods

Varying methods shall be used to select artists or artist teams for eligible Public Art projects. Selection methods will vary and may be inclusive of the following: Direct and Invitational (Focused or Open). All selection methods will require individuals or groups to submit relevant application and supporting documentation for evaluation.

1. Direct Selection

Requires recommendation of Public Arts Committee in order to purchase any artwork or commission any artist to create an artwork that has been directly selected without a competitive selection process.

2. Invitational (Focused)

Artists are considered for a commission by invitation only. The Public Arts Committee generates names of artists to be invited in coordination with professional art organizations and subject matter experts. Selected artists are encouraged to submit proposals through the City's evaluation process. A finalist may be asked to submit a proposal in the form of a drawing and/or attend an interview with the selection panel. This method generally applies when a certain type of artwork or certain qualifications and experience are required, such as site-specific works and works requiring design team expertise.

3. Invitational (Open)

This process is open to all qualified artists with possible limitations based on geographical or other eligibility criteria. Some projects may also be open to other design professionals. Projects are advertised and guidelines are published. A single artist may be selected, or a limited number of finalists may be paid an honorarium to prepare a specific site proposal and/or attend an interview with the selection panel.

C. Review Guidelines for Proposed Public Art Projects and Donations

City shall review donations and project proposals using criteria such as:

- *Artistic Merit:* Relevant to the City's mission, goals and values and appropriate for the community it serves. Artwork reflects diversity in style, scale, media, and artistic sources as well as diverse cultural communities and perspectives.
- *Placement:* Relationship of the proposed artwork to site. Works of art must be compatible in scale, material, form, and content with their surroundings. Consideration should be given to the architectural, historical, geographical, and social/cultural context of the site.
- *Fabrication and Installation:* Any obstacles to installation, projected costs realistic, cost professionally assessed by qualified technical support and fabrication contractors.
- *Maintenance:* Suitable for outdoor/indoor environments, durable materials, lifespan limits, protection from vandalism, and cost to maintain.
- *Liability and safety:* Project address potential safety hazards, complies with building code requirements, provides stamped and signed plans by professional engineers, and implements appropriate security measures.
- *Financially Feasible:* Project is financially supported and/or self-funded to protect, maintain, and conserve works of art on public property.

D. Approvals and Contractual Agreements

Upon completing the review and/or selection process, staff shall bring the recommendation of the Public Arts Committee to the Community Services Commission to review final recommendation(s) and provide input for City Council review and possible approval and/or acceptance of final proposals and applicable donations.

Upon approval, the owner of the artwork shall execute a Public Arts agreement with the City outlining terms and conditions such as maintenance and conservation requirements, project budget and timeline, and insurance. Contracts shall be signed and executed in accordance with existing City Purchasing Policies and Procedures. If the selected artist proposal requires a phased approach, a design contract may be separate from the fabrication and installation contract. Construction and installation shall be monitored collaboratively by the Program staff and city staff from departments having oversight authority for construction projects on city-owned property (e.g., plan checks, permits, and inspections).

4.2 Murals

Proposed mural projects shall be required to meet a minimum lifespan of five years and abide by city's requirements such as standards for surface preparation and materials, conservation protocols, application of protective coatings, and regular condition assessments to maximize lifespan of all murals approved by the City.

Proposals shall be reviewed and selected based on guidelines established in Section 4.1 of the Policy. The City may grant contract renewals up to five-year increments if the installation meets the City's requirements and standards. If a renewal is not granted or the mural installation is unable to meet city requirements and standards, the City shall have the right to deaccession the artwork. The standard assignment of intellectual property rights, VARA (Visual Artists Rights Act of 1990 (17 U.S.C. § 106A) Waiver, and CAPA (California Art Preservation Act (Cal. Civil Code § 987) Waiver by the artist(s) are required.

4.3 Alterations or Destruction of Public Art

If the City finds it necessary to pursue plans that would modify, remove, destroy or in any way alter an artwork, the Public Arts Committee will provide recommendations to the Community Services Commission to approve such action. Program staff shall make reasonable effort to notify the artist by registered mail of the City's intent and outline possible options, which include, but are not limited to the following:

- The artist will be given the first option of taking back ownership of the Public Art. If the artist elects to take back ownership, he/she is responsible for the item's removal and all associated costs.
- In the case where the City contemplates action which would compromise the integrity of the artwork, the artist shall be given the opportunity to disclaim authorship and request that his/her name not be used in connection with the given work.

The following circumstances shall be cause for disposal, destruction, alteration, or modification of artwork:

- The work has faults of design or workmanship or is damaged so that repair or remedy is impractical, unfeasible or an unjustifiable allocation of resources.
- The work poses a threat to public safety, or in some other way poses a potential liability for the City.
- The Community Services Commission deems it necessary in order for the City to exercise its responsibilities in regard to public works and improvements, or in furtherance of the City's operations, or for any other good cause.

If alteration, modification, or destruction of an artwork is prohibited under the California Art Preservation Act (CAPA) or the Visual Artists Rights Act of 1990 (VARA), the City must secure a written waiver of the artist's rights before proceeding with alteration, modification, or destruction. In the case of an emergency, for any alteration, modification, destruction, or removal that may violate an artist's rights under CAPA or VARA, Community Services Director will act in accordance with the advice of the City Attorney.

4.4 Deaccession or Relocation of Public Artwork

Deaccessioning or relocation of public art shall be considered by the Public Arts Committee on a case-by-case basis. Recommendations would be brought forward to the Community Services Commission for final approval.

As public art is a City asset, a staff report addressing the applicable issue(s) related to the potential deaccession or relocation will be prepared and will include the review of any restrictions which may apply to the artwork based on legal or contractual requirements, options for storage or disposition of the artwork, and feasibility of relocating the artwork to another location.

Requirements associated with artist's rights laws will be identified and followed in accordance with the direction of the City Attorney.

Any of the following conditions can be grounds for deaccession or relocation:

- Conditions pose a safety hazard.
- Artwork is severely degraded by its present environment.
- Restoration of the artwork's structural or aesthetic integrity is technically not feasible, or the expense of restoring it exceeds available funding sources.
- Architectural support (e.g., building, wall, and plaza) is to be destroyed.
- Artworks contextual meaning is lost due to the site or building repurposed.
- Requires excessive conservation and/or maintenance or has faults in design or workmanship.
- Security can no longer be guaranteed at its present location.
- Artist provides written request to remove artwork and Community Services Commission has determined the request is reasonable.
- Artwork has reached the end of its original anticipated lifespan.
- Artwork is proved to be inauthentic or in violation of existing copyright laws.

- Artwork has received adverse reaction from community members where the artwork is located, and the City Council has determined the artwork no longer reflects the values of the community.
- No longer aligns with the City's mission, goals, and values.

5.0 **DESIGNATION OF CITY-OWNED SITES FOR EXHIBITION SPACE**

The City designates five city-owned facilities as public space for displaying temporary works of art from individuals and groups that represent the local, regional, and international artist community. Program staff may solicit, select, and approve proposals for exhibition opportunities at the five designated facilities. On a case-by-case basis, the Community Services Director may accept and approve proposals for exhibitions installations at non-designated city-owned facilities based on site factors such as visibility and public access, public safety, function and use of the facility, potential impact to residences and businesses, and the relationship to other public art projects within the same vicinity.

5.1 **Designated City-owned Exhibition Spaces**

Irvine Fine Arts Center: Program space showcases local and regional artists that design contemporary and cultural themes with artistic sensitivity that promotes community awareness, creates connections, and provides leisurely viewing for the general public.

Great Park Arts Complex: Program space showcases works of art design to engage the community with diverse themes and multi-disciplinary programming through creative partnerships. Each designated public art space has specific programs goals as outlined below:

- *Great Park Gallery:* Program space showcases nationally and internationally recognized artists with curated themes designed to attract a diverse audience.
- *Artist Studios:* Program space showcases school-based community groups, higher educational institutions, and various non-profit arts organizations.
- *Hangar 244:* Program space dedicated to site-specific art that is relevant to the city's culture and heritage.

Irvine Civic Center: Program space showcases local artists and artwork created by participants and instructors involved in the city's art programs.

5.2 **Guidelines and Selection Process for Exhibitions**

The Program employs a variety of methods and processes to review and select, temporary works of art for public display within a calendar period. The solicitation methods may be open or by invite only to artists whose work meets a pre-selected

art exhibition theme driven by the artistic intent and vision of the programmed space as outlined in Section 5.1 of the Policy. Artworks presented to the public are curated, in that it undergoes a process overseen by trained and experienced Program staff. Artist submissions and proposals are annually reviewed and approved by Program staff. Criteria used in the evaluation process includes but is not limited to the following:

- Artistic quality and integrity
- Adherence to the standards of authenticity, craftsmanship, design, and presentation
- Community and venue audience appropriateness
- Vision and/or intent of the City facility
- Scale
- Regional or national reputation of the artist
- Financial viability and scheduling opportunities
- Ability to contribute to the local, regional, national, and international contemporary or cultural dialogue
- Encouragement of community engagement and participation in the arts
- Contribution to the contemporary or cultural landscape of Orange County

6.0 APPROPRIATENESS

The City reserves the right to not display artwork or other items containing explicit sexual imagery, nudity, graphic depictions of violence, or any item that creates a hostile work environment for City employees.

7.0 PUBLICITY

The City reserves the right to photograph and reproduce photographs of loaned art for educational and publicity purposes and for use in any printed material related to the exhibit.

8.0 SALES

The sale of artwork may be permitted. Art sales are subject to the terms defined in the Loan Agreement.

9.0 LOAN AGREEMENT

Placement of loaned artwork is at the sole discretion of Program staff.

10.0 DONATIONS

All proposed artwork donations that are evaluated and recommended for approval as outlined in Section 4 of this Policy shall follow the City's Donation Policy acceptance guidelines. All accepted donations shall require an Agreement which includes a waiver of the artist's rights arising under the Visual Artists Rights Act (17 U.S.C. §106A), the California Art Preservation Act (Cal. Civil Code §987), and any other local, state, federal or international laws that convey rights of the same or similar nature as those conveyed under 17 U.S.C. §106A, Cal. Civil Code § 987, or any other type of moral right protecting the integrity of works of art. The Agreement shall also include an assignment of intellectual property rights related to the artwork.