

AN ORDINANCE OF THE COUNCIL OF THE CITY OF RICHMOND, CALIFORNIA AMENDING  
CHAPTER 3.59, ARTS AND CULTURE COMMISSION

The Council of the City of Richmond does ordain as follows:

**SECTION I. Findings and Declarations.**

1. Public art fosters economic development, enhances community vitality and enriches the quality of life through the City.

2. Since 1997, the City of Richmond has had a policy requiring City capital improvement projects to devote 1.5 percent of the project's construction budget to public art, and in 2017 extended this requirement to private developments.

3. In 1999, the City of Richmond adopted the City of Richmond Arts and Culture Commission Public Art Program Policies and Procedures, which established the Public Art Advisory Committee. Through this amendment, the Public Art Advisory Committee shall be amended to serve as a subcommittee of the Richmond Arts and Culture Commission.

**SECTION II. Amendment of Article III.**

Article III of the Municipal Code of the City of Richmond is hereby amended by amending Chapter 3.59 to read as follows:

CHAPTER 3.59

ARTS AND CULTURE COMMISSION

Sections:

<del>3.59.010</del>	Creation of Commission
<del>3.59.020</del>	Definitions
<del>3.59.020</del> <del>3.59.030</del>	Commission purpose and duties
<del>3.59.030</del> <del>3.59.040</del>	Appointment and qualifications of members
<del>3.59.040</del> <del>3.59.050</del>	Terms of office
<del>3.59.050</del> <del>3.59.060</del>	Officer
<del>3.59.060</del> <del>3.59.070</del>	Meetings.
<del>3.59.070</del> <del>3.59.080</del>	Rules and records.
<del>3.59.080</del> <del>3.59.090</del>	Absence from meetings
<del>3.59.100</del>	Public Art Advisory Committee
<del>3.59.090</del> <del>3.59.110</del>	Relations with city departments and agencies.

3.59.010 - Creation of Commission.

There is created an Arts and Culture Commission.

(Amended by Ordinance No. 43-90 N.S.)

<sup>1</sup> This document is pending legal review.

3.59.020

- (a) "Artist" means an individual generally recognized by critics and peers as a professional practitioner of the visual, performing, or literary arts, as judged by the quality of that professional practitioner's body of work, educational background, experience, performances, commissions, exhibition record, publications, and production of Artwork.
- (b) "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, within any city-owned facility in areas designated as public area, lobbies, or public assembly areas, or on non-city property if the work of art is installed or financed, either wholly or in part, with city funds or grants procured by the city
- (c) "Artwork" that may be used to satisfy the requirements of this Chapter includes, but is not limited to, the following:
  - (1) Sculpture: Of any material or combination of materials; freestanding, wall-supported, suspended, mounted, installed, kinetic, electronic, or mechanical.
  - (2) Murals or paintings: Made of any material or variety of materials including traditional or non-traditional materials and means.
  - (3) Earthworks, neon, glass, organic materials (i.e., fiber, clay, wood, etc.), mosaics, photographs, prints, books, literary and performing arts, calligraphy, found objects, any combination of media, including audio, video, film, CD-ROM, DVD, holographic or computer-generated technologies, or other genres currently known or which may come to be known.
  - (4) Artwork may be permanent, temporary, fixed, or portable; may be an integral part of a building, facility, or structure; and may be integrated with the work of other design professionals.
  - (5) For the purposes of this policy, the following, unless specified or designed by an Artist, are not considered Artworks:
    - (i) Reproductions, by mechanical or other means, of original Artworks; however, limited editions controlled by the Artist, or original prints, cast sculpture, or photographs, may be included.
    - (ii) Decorative, ornamental, or functional elements that are not designed by an Artist.
    - (iii) Elements generally considered to be components of architecture or landscape design, such as vegetative materials, pools, paths, benches, receptacles, fixtures, planters, etc., which are not designed by an Artist.
    - (iv) Art objects that are mass-produced, ordered from a catalog, or of standard design (such as benches or fountains), directional items or other functional elements such as graphics, signage, or maps.
    - (v) Corporate logos.
- (d) "City Capital Improvement Projects" includes any capital improvement project with a budget or anticipated costs of \$300,00 or more, including any acquisition, leasing,

rental, construction or remodeling of any building, structure, park, utility, street, sidewalk, or parking facility, or any other type of capital project or any portion thereof within the geographical limits of the city, paid for wholly or in part by the City of by any board, commission, agency or department the City (including without limitation the Richmond Redevelopment Agency, the Richmond Housing Authority, the Port of Richmond and the Richmond Surplus Property Authority)

- (e) "Private Development" means a building project that is funded by private funds, except where the Private Developer is in partnership with the City.
- (f) "Public Art" means any Work or Art integrated into the design of or places in, or about the site of the City Capital Improvement Project in a place accessible to the general public

### ~~3.59-0293.59.030-~~ Commission purpose and duties.

The purpose of the Commission is to promote and encourage the development of and interest in the fine and performing arts, and to act in an advisory capacity to the City concerning its artistic and cultural development and the preservation of Richmond's heritage. The duties of the Commission shall be as follows:

- (a) Advise the City Council on all art-related issues;
- (b) Evaluate the resources and needs of local arts organizations;
- (c) Facilitate communication and cooperation among art groups;
- (d) Pursue ways to increase funding and resources for the arts in the City of Richmond;
- (e) Cooperate with existing public and private agencies to develop programs to further the development and public awareness of the fine and performing arts reflecting the cultural diversity and historical resources of the City of Richmond;
- (f) Disseminate information concerning arts and cultural programs in the City of Richmond;
- (g) Recommend policies and advise the City concerning the receipt or purchase of art work to be placed on municipal property;
- (h) Recommend needed changes in laws, legislation, and policies needed to promote the aesthetic, cultural development and historical preservation of the City;
- (i) Be available to city departments, when appropriate, to advise on arts, cultural and historical issues.
- (j) To advise the city in matters pertaining to the quality, quantity, scope, and style of art in public places;
- (k) To periodically review the capital improvement program with the Arts and Culture Director and such other members of the city staff as may be appropriate for inclusion of works of art in various projects;
- (l) To devise methods of selecting and commissioning artists with respect to the design, execution, and placement of art in public places and, pursuant to such methods, to advise the Arts and Culture Director on the selection and commissioning of artists for such purposes;
- (m) To advise the city regarding the amounts to be expended on art in public places;
- (n) To review and approve plans for the installation of art in public places, specifically for City Capital Improvements Projects and private developments ;
- (o) To review the inventory of art in public places and to advise the city in matters pertaining to the maintenance, placement, alteration, sale, transfer, ownership, and acceptance or refusal of donations of, and other matters pertaining to, art in public places;

(p) To advise and assist private property owners who desire such advice and assistance regarding the selection and installation of works of art to be located on their property in the public view;

(q) To act as a liaison between local artists and private property owners desiring to install works of art on their private property in public view;

(r) To give recognition to, and to maintain, an inventory of meritorious works of art in the public view;

(s) To endeavor to preserve works of art in the public view deemed to be meritorious by the Richmond Arts and Culture Commission through agreements with the property owner and/or the artist.

(t) Additional Duties. The Arts and Culture Commission shall perform such other duties and undertake such other responsibilities as the city council may direct from time to time.

~~3-59-0303.59.040~~ - Appointment and qualifications of members.

The Commission shall consist of ~~sixteen (16)~~ ~~eleven (11)~~ members who shall reflect the demographic and cultural diversity of the City and who shall not be officers or employees of the City of Richmond and who shall be appointed by the Mayor with the concurrence of the City Council. Any vacancies on the Commission shall be filled by appointment by the Mayor with the concurrence of the City Council for the unexpired portion of the term of the appointee's predecessor. A majority of the appointees shall be residents of the City of Richmond, to maintain a balance of all the arts disciplines, a majority of the members shall be professional artists, arts educators or arts administrators, and one local historian, with a commitment to public accessibility to the arts.

(Amended by Ordinance Nos. 1-88 N.S. and 41-05 N.S.)

~~3-59-0403.59.050~~ - Terms of office.

The term of each member of the Commission shall be for four years; provided, however, that of the members first appointed, four shall serve for a term of two years; four shall serve for a term of three years, and three shall serve for a term of four years. No member shall serve for more than two consecutive full terms.

~~3-59-0503.59.060~~ - Officers.

The Commission shall meet within thirty days after their appointment by the Mayor and the City Council and from their own number elect a chairperson and vice-chairperson. Said officers shall serve for a period of one year. In the case of a vacancy in the position of the chairperson or vice-chairperson, the Commission shall elect a successor who shall serve for the balance of the predecessor's term. The Commission shall appoint a secretary who may be, but need not be, a member of the Commission.

~~3-59-0603.59.070~~ - Meetings.

The Commission shall fix the time and place of regular meetings of the Commission which shall be not less frequent than once each month. All meetings of the Commission shall be open to the public. A majority of the currently serving members of the Commission shall constitute a quorum for the conduct of business, provided however that a quorum shall never be fewer than three (3) members. If a quorum is present, a majority of the votes cast is sufficient for the adoption of any motion, provided however that no fewer than three (3) affirmative votes shall be required for the adoption of a motion.

~~3-59-0703.59.080~~ - Rules and records.

The Commission shall adopt rules for the transaction of the business of the Commission, which rules shall, among other things, include the term of the secretary of the commission, the manner of calling and giving notices of special meetings and hearings, and the appointment and powers of standing

committees. The commission shall keep records which shall be open to the public of its resolutions, transactions, motions, orders, findings and determinations.

3.59.0803.59.090- Absence from meetings.

The absence of any member of the commission from more than three regularly scheduled meetings of the commission within any twelve-consecutive- month period shall constitute an automatic resignation from the commission. Such a resignation shall not, however, disqualify an individual from subsequently being appointed to the same or any other city commission or board. In the event of any such resignations, the vacancy shall be filled by appointment for the unexpired portion of the term of the appointee's predecessor in the manner prescribed in Section 3.59.030.

3.59.100 Public Art Advisory Committee

The Public Art Advisory Committee shall be established as a sub-committee of the Richmond Arts and Culture Commission.

The Public Art Advisory Committee (PAAC) shall be composed of a maximum of seven members. Volunteers may be added to assist as needed. Terms shall be staggered to ensure a degree of continuity. The Commission shall strive for ethnic, social, and professional diversity in the PAAC's membership.

The Public Art Advisory Committee shall:

- a. Recommend program policies and procedures to the Arts and Culture Commission.
- b. Recommend public art projects and budgets, in the form of a Public Art Annual Plan, to the Arts and Culture 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 Arts and Culture Commission.
- d. Review and recommend to the Arts and Culture 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 in all of Richmond's neighborhoods
- f. 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 Arts and Culture Commission

3.59.0903.59.120- Relations with city departments and agencies.

So far as practicable and subject to the approval of the city manager, the services of all other city departments and agencies shall be made available by their respective heads to the commission for the purpose of carrying out the responsibilities of said commission. The city attorney may assign legal counsel to assist the commission in the conduct of its business.

(Source: Ordinance No. 41-87 N.S.)

**SECTION III. Severability.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby

declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance irrespective of the unconstitutionality or invalidity of any section, subsection, subdivision, paragraph, sentence, clause or phrase.

**SECTION IV. CEQA.** The Council finds that this project is exempt from the provisions of the California Environmental Quality Act ("CEQA"), pursuant to Section 15061 of the CEQA Guidelines, because it can be seen with certainty that there is no possibility that the ordinance will have a significant effect on the environment.

**SECTION V. Effective Date.** This ordinance becomes effective thirty (30) days after its final passage and adoption.

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DRAFT

First read at a meeting of the Council of the City of Richmond, California, held  
, and finally passed and adopted at a meeting thereof held  
, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

CLERK OF THE CITY OF RICHMOND

(SEAL)

Approved:

Mayor

Approved as to form:

City Attorney

AN ORDINANCE OF THE COUNCIL OF THE CITY OF RICHMOND, CALIFORNIA AMENDING CHAPTER 12.62, ONE-PERCENT FOR PUBLIC ART ON PRIVATE PROJECTS PROGRAM, TO THE RICHMOND MUNICIPAL CODE

The Council of the City of Richmond does ordain as follows:

**SECTION I. Amendment of Article XII.**

Article XII of the Municipal Code of the City of Richmond is hereby amended by adding Chapter 12.62 to read as follows:

CHAPTER 12.62

ONE-PERCENT FOR PUBLIC ART ON PRIVATE PROJECTS PROGRAM

Sections:

12.62.010	Purpose
12.62.020	Applicability
12.62.030	Definitions
12.62.040	Contribution Requirements
<u>12.62.050</u>	<u>On-Site Public Art</u>
<u>12.62.060</u>	<u>Eligible Expenditures for On-Site Public Art Project</u>
<u>12.62.070</u>	<u>Ineligible Expenditures for On-Site Public Art Projects</u>
<u>12.62.080</u>	<u>Process for Planning and Approval of On-Site Public Art</u>
<u>12.62.090</u>	<u>Additional Requirements for On-Site Public Art</u>
<del>42.62.050</del> 12.62.100	In-Lieu Contribution
<u>12.62.110</u>	<u>Inspection and Final Approval</u>
<u>12.62.120</u>	<u>Public Art Fund</u>
<u>12.62.130</u>	<u>Regulations</u>
<del>42.62.060</del> 12.62.140	Compliance
<del>42.62.070</del> 12.62.150	Waiver of Conditions
<del>42.62.080</del> 12.62.160	Penalties
<del>42.62.090</del> 12.62.170	Implementing Body

12.62.010 Purpose

The purpose of this Chapter is to establish a public art requirement for private developments in order to provide the following benefits to the community:

Further enhance a diverse and stimulating cultural environment for residents of, and visitors to, the City of Richmond;

Create a unique sense of place throughout the City of Richmond; Increase the economic sustainability of artists and arts organizations as a key to the vitality of the City of Richmond; and

Promote greater economic vitality through the aesthetic enhancement of the City's public spaces, thereby making Richmond a more attractive environment for regional and local businesses.

12.62.020 Applicability

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<sup>1</sup> This document is pending legal review.

- (a) This Chapter applies in all zoning districts in the City.
- (b) This Chapter applies to:
  - (1) New Commercial structures;
  - (2) New Industrial structures;
  - (3) New Multifamily residential projects of ten (10) or more Dwelling Units.
- (c) This Chapter applies to all construction of building additions and/or renovations exceeding \$500,000 in Building Costs.

Costs incurred and/or attributed to compliance with the identification and/or mitigation of seismic hazards, environmental conditions, including hazardous or toxic materials, or retrofitting for solar energy or other energy-saving facilities relating to existing structures shall not be included in calculating a project's Building Development Cost.

#### 12.62.030 Definitions

For purposes of this article, the following definitions shall apply:

- (a) "Artist" means an individual generally recognized by critics and peers as a professional practitioner of the visual, performing, or literary arts, as judged by the quality of that professional practitioner's body of work, educational background, experience, performances, commissions, exhibition record, publications, and production of Artwork.
- (b) "Artwork" that may be used to satisfy the requirements of this Chapter includes, but is not limited to, the following:
  - (1) Sculpture: Of any material or combination of materials; freestanding, wall-supported, suspended, mounted, installed, kinetic, electronic, or mechanical.
  - (2) Murals or paintings: Made of any material or variety of materials including traditional or non-traditional materials and means.
  - (3) Earthworks, neon, glass, organic materials (i.e., fiber, clay, wood, etc.), mosaics, photographs, prints, books, literary and performing arts, calligraphy, found objects, any combination of media, including audio, video, film, CD-ROM, DVD, holographic or computer-generated technologies, or other genres currently known or which may come to be known.
  - (4) Artwork may be permanent, temporary, fixed, or portable; may be an integral part of a building, facility, or structure; and may be integrated with the work of other design professionals.
  - (5) For the purposes of this policy, the following, unless specified or designed by an Artist, are not considered Artworks:
    - (i) Reproductions, by mechanical or other means, of original Artworks; however, limited editions controlled by the Artist, or original prints, cast sculpture, or photographs, may be included.
    - (ii) Decorative, ornamental, or functional elements that are not designed by an Artist.
    - (iii) Elements generally considered to be components of architecture or landscape design, such as vegetative materials, pools, paths, benches, receptacles, fixtures, planters, etc., which are not designed by an Artist.
    - (iv) Art objects that are mass-produced, ordered from a catalog, or of

standard design (such as benches or fountains), directional items or other functional elements such as graphics, signage, or maps.

(v) Corporate logos.

- (c) "Building Development Costs" represent the construction costs as declared on all private development building permit applications, and as accepted by the Building Official, but shall not include costs solely attributable to tenant improvements, design fees, land acquisition costs or the cost of off-site improvements required as a condition of approval. "Building permit applications" includes, but is not limited to, all grading, building, landscaping, plumbing, mechanical, and electrical permit applications for the project. In the case of phased projects, the Building Development Costs of the project for purposes of this ordinance shall be determined based upon the total projected costs for all phases combined, but will be payable only as each phase is permitted.
- (d) "Commission" means the City of Richmond Arts and Culture Commission (and by extension the Public Art Advisory Committee, a subcommittee of the Richmond Arts and Culture Commission), which was established in 1997 to serve in an advisory capacity to the Mayor, City Council, and City Manager to promote, encourage, and increase support for arts and culture.
- (e) "In-lieu Contribution" means the Public Art funds generated by a Private Development that are deposited directly in the Public Art Projects Account (defined in subsection (i) herein) instead of being used for On- Site Publicly Accessible Art.
- (f) "On-Site Publicly Accessible Art" means an original Artwork by an Artist that is in a location that is accessible to and available for use by the general public during normal hours of business operation consistent with the operation and use of the premises.
- (g) "Private Developer" means any person or entity that is financially and legally responsible for the planning, development and construction, or maintenance and operation of any project subject to this Chapter.
- (h) "Private Development" means a building project that is funded by private funds, except where the Private Developer is in partnership with the City.
- (i) "Public Art Projects Account" means a separate account established in the City Treasury (formerly called the Public Art Fund) into which money acquired through the Percent for Art Resolution No. 70-97 (as may be amended) is deposited for the exclusive use of the Public Art Program.
- (j) "Structure" means a building designed and constructed for human occupancy.

#### 12.62.040 Contribution Requirements

Private Developers subject to this Chapter shall either:

- a) Include On-Site Publicly Accessible Art valued at One Percent (1%) of the Building Development Cost.
- b) Pay an In-Lieu Contribution of One Percent (1%) of the Building Development Cost to the City's Public Art Projects Account as set forth in Section 12.62.050.

#### 12.62.050 On-Site Public Art

- a) A developer may satisfy the requirements of this Chapter by constructing or installing on-site public art valued at 1% of the construction valuation, adjusted as described in

subsection (b) below. For purposes of budgeting and planning for on-site art, an initial estimate of the art contribution shall be calculated based on estimated construction valuation at the time of application for entitlements. The arts contribution shall be finally determined based on the construction valuation determined at the time the building permit is issued.

- b) If the market value of the on-site public art is greater than the art contribution provided in Subsection 12.62.050(a), the City shall have no obligation to refund the excess amount. If expenditures do not utilize the entire amount provided in 12.62.050(a), the remainder shall be deposited into the Public Art Fund.

#### 12.62.060 Eligible Expenditures for On-Site Public Art Projects

The public art contribution for on-site installation may be expended only on costs associated with the selection, acquisition, purchase, commissioning, design, fabrication, placement, installation or exhibition of the public art, and project management and administrative costs not to exceed 20% of the total budget. Eligible expenditures include:

- c) Artist fees;
- d) Labor of assistants, materials, and contracted services required for design, fabrication, engineering and installation of the public art;
- e) Any required permit or certificate fees and reasonable business and legal costs directly related to the public art;
- f) Reasonable art consultant fees, as established in regulations or guidelines approved by the City Manager to implement this Section;
- g) Communication, utilities, insurance and other indirect costs associated with the creation but not the operation of the public art;
- h) Transportation of the public art to the site;
- i) Preparation of the site specifically required for the public art, such as fabrication of platforms or pedestals;
- j) Installation of the public art;
- k) Mountings, anchorages, containments or other materials necessary for installation of the public art;
- l) Public art project management and administration, in an amount not to exceed 20% of the total art contribution; and
- m) A plaque or plaques identifying the public art.

#### 12.62.070 Ineligible Expenditures for On-Site Public Art Projects

Expenditures that are ineligible to be counted toward the on-site public art contribution include:

- a) Labor of assistants, materials, and contracted services not required for design, fabrication, engineering and installation of the public art;
- b) Promotional materials or activities for the artist, the public art, the development project, the developer or other parties involved in the development project;
- c) Opening, dedication or other costs of events for the public art, artist, developer or development;
- d) Services, materials, utilities or other expenses association with the ongoing operation or maintenance of the public art; and
- e) Land costs or any other costs associated with the development that are not part of and solely attributable to the public art.

#### 12.62.080 Process for Planning and Approval of On-Site Public Art

- a) Application and Planning. Within 60 days of initial application for permitting or other discretionary approval, the developer shall consult with the Public Art

program staff regarding a plan for meeting the requirements of this Chapter. This consultation must be complete before the development project is calendared for consideration by a public body, including the Design Review Board, Planning Commission or City Council, and before the **Community Development Director** issues any approvals with respect to the project.

- b) Public Art Advisory Committee Review and Richmond Arts and Culture Commission Approval. If the developer elects to comply with this Chapter by providing on-site art, the developer's public art plan must be presented to the Public Art Advisory Committee. The plan should include the process by which the art and artist will be selected while ensuring that no single artist be commissioned for more than 3 public art in private development projects within Richmond, the type of art proposed, a plan to integrate the art into the site, and a proposed budget and schedule of payments. The Public Art Advisory Committee shall render a recommendation whether the proposed public art plan conforms to the requirements and intent of this Chapter within 90 days of submission of a complete application, as determined by the **Community Development Director**, in consultation with the Arts and Culture staff. This recommendation will be sent by the committee to the Richmond Arts and Culture Commission for approval within 90 days of submission as well. The developer shall not enter into contracts or make expenditures until the Richmond Arts and Culture Commission approves the on-site art plan. In addition, before initiating fabrication and installation of the on-site art, the developer shall return to the Public Art Advisory Commission for final approval of the artist and the proposed public art. The Public Art Advisory Committee shall render a recommendation within 60 days of submission of a complete proposal, as as determined by the **Community Development Director**, in consultation with the Arts and Culture staff. This recommendation will be sent by the committee to the Richmond Arts and Culture Commission for approval within 60 days of submission as well. **No building permit may issue until the Richmond Arts and Culture Commission issues the approvals required under this subsection.**

#### 12.62.090 Additional Requirements for On-Site Public Art

- a) Plaque. The public art shall be identified by a plaque that meets the standards in use by the City at the time of installation of the public art.
- b) Ownership and Maintenance. All on-site public art shall remain the property of the property owner or the property owner's successor in interest. The property owner shall retain the obligation to provide all necessary maintenance to preserve the public art in good condition. Immediately upon installation and continuously thereafter, the developer and the property owner shall maintain the public art and shall promptly perform all necessary repairs and maintenance to the satisfaction of the City. The obligation to maintain and preserve the public art includes the obligation to take reasonable steps to protect the public art against destruction, damage or modification.
- c) Location and Relocation of Public Art. Except as provided herein, the public art must remain at the development in the location approved by the Richmond Arts and Culture Commission. A property owner may petition the Richmond Arts and Culture Commission to relocate the public art within the development project. When and if the development project is sold, the public art must remain at the development and may not be claimed as the property of the seller or removed from the site. If the development is to be demolished, the owner must relocate the public art to another publicly accessible permanent location approved in advance by the Richmond Arts and Culture Commission.
- d) Removal and Replacement of Public Art. If the owner desires to deaccession, sell or remove the art from the site, the owner shall give prior notice to the City by providing written notice to the Public Art program staff no less than 90 days before the intended action. The owner must receive prior approval from the Richmond Arts and Culture Commission. The developer will be required to replace the sold or deaccessioned artwork with an alternative work of equivalent or greater value, as determined by the Richmond Arts and Culture Commission, in current

dollars. In the alternative, the developer may elect to pay fees in lieu of replacing on-site art, at a reasonable rate equivalent to the cost of replacing the art in current dollars, as determined by the Richmond Arts and Culture Commission.

- e) Statutory and Contractual Rights of Artists. The owner is solely responsible for complying with all statutory and contractual rights of the artist, including rights under the California Preservation of Works of Art Act, the federal Visual Artists' Rights Act, and any other applicable law.
- f) Covenant; Recordation. The property owner shall record against the property a declaration of covenants, conditions and restrictions, in favor of the City, and in a form approved by the City Attorney. The declaration shall include (i) the owner's obligation to provide all necessary maintenance of the public art, including preservation and restoration of the public art, in good condition, to the reasonable satisfaction of the City, and to protect the public art against destruction or damage; (ii) the owner's obligation to ensure that the public art is accessible to the public as required by this Chapter; and (iii) any other terms reasonably necessary to implement this Chapter.
- g) Inspection; Remedies. The City shall have the right to inspect the public art, on reasonable notice, to ensure compliance with this Chapter. Failure to maintain the public art as required by this Section is hereby declared to be a public nuisance. The City may remedy the public nuisance and may pursue additional remedies to obtain compliance with this Chapter. In addition to all other remedies provided by law, in the event the owner fails to maintain the public art, on reasonable notice the City may perform all necessary repairs and maintenance, or may secure insurance or other needed services, and the costs thereof shall become a lien against the real property.

#### 12.62.05012.62.100 In-Lieu Contribution

- a) Applicability. As an alternative to providing On-Site Publicly Accessible Art, the Private Developer may elect to pay an In-Lieu Contribution to the City as set forth in this Section.
- b) Purpose. Any In-Lieu Contributions paid to the City pursuant to this Chapter shall be used for art and cultural services as set forth in the Public Art Program Policies and Procedures.
- c) Amount of Contribution. The In-Lieu Contribution shall be One Percent (1%) of the Building Development Cost.
- d) Time of Payment of Contribution. The In-Lieu Contribution shall be paid at the same time as other building permit fees.

#### 12.62.110 Inspection and Final Approval.

Before a Certificate of Occupancy is issued for the development project, the City shall inspect and confirm that either: (i) public art has been installed as required by the Richmond Arts and Culture Commission approvals and to the satisfaction of the Director of Planning and Community Environment, in consultation with the Arts and Culture program staff, or (ii) in-lieu contributions have been paid in full. In addition, before a Certificate of Occupancy is issued, the City shall confirm that the developer has executed and recorded a covenant as required by Section 16.61.080(f).

#### 12.62.120 Public Art Fund

There shall be a fund entitled "Public Art Project Account" to account for in-lieu contributions made under Section 12.62.100. This fund and the interest thereon shall be maintained by the Finance Director according to standard governmental accounting requirements. The Public Art Project Account shall be reserved for the design, acquisition, commission and installation of new works of art and art experiences in Richmond, or for such other equivalent artistic purposes approved by the Richmond Arts and Culture Commission. Funds may be used for project management and administration costs associated with acquisition of new

works, not to exceed 20% of the project budget, and for the repair, maintenance, conservation and insurance of those works. Art works acquired through the Public Art Project Account shall be owned by the City of Richmond and generally made accessible to the public.

The Arts and Culture Director shall be required to seek approval on spending from the Public Art Project Account for amounts greater than \$\_\_\_\_\_.

#### 12.62.130 Regulations

The City Manager, or his or her designee, is authorized to adopt administrative regulations, procedures or guidelines that are consistent with and that further the terms and requirements of this Chapter.

#### ~~12.62.060~~ 12.62.140 Compliance

On-Site Publicly Accessible Art is subject to, and shall comply with, all applicable City ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Community Development Department Planning and Building Divisions, Public Works Planning and Building Services Department, Infrastructure & Maintenance Operations (DIMO) and other affected City divisions and departments. The process for identifying and securing required permits shall be set forth in the approved Public Art on Private Projects Program Policies and Procedures.

#### ~~12.62.070~~ 12.62.150 Waiver of Conditions

Any portion of the provisions of this article may be waived by majority vote of the City Council or otherwise pursuant to waiver provisions established in the approved Public Art on Private Development Program Policies and Procedures.

#### ~~12.62.080~~ 12.62.160 Penalties

In addition to other fines or penalties provided by State or municipal law, the City may revoke or suspend any discretionary permit granted to any owner or developer who violates the provisions of this Chapter, or may, by legal action, seek recovery of the applicable In-Lieu Contribution.

#### ~~12.62.090~~ 12.62.170 Implementing Body

- a) The Richmond Arts and Culture Commission (RACC), or its designee, shall implement the provisions of this Chapter according to the Public Art Program Policies and Procedures, subject to the review of the City Council. The Public Art Advisory Committee, a subcommittee of the RACC, will provide recommendations on actions for the Richmond Arts and Culture Commission.
- b) The Richmond Arts and Culture Commission (RACC), or its designee, shall be responsible for determining if On-Site Publicly Accessible Art complies with the Public Art on Private Projects Program Policies and Procedures. The Public Art Advisory Committee, a subcommittee of the RACC, will provide recommendations on actions for the Richmond Arts and Culture Commission.

**SECTION II. Severability.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance irrespective of the unconstitutionality or invalidity of any section, subsection, subdivision, paragraph, sentence, clause or phrase.

**SECTION III. CEQA.** The Council finds that this project is exempt from the provisions of the California Environmental Quality Act ("CEQA"), pursuant to Section 15061 of the CEQA

Guidelines, because it can be seen with certainty that there is no possibility that the ordinance will have a significant effect on the environment.

**SECTION IV. Effective Date.** This ordinance becomes effective thirty (30) days after its final passage and adoption.

\*\*\*\*\*

DRAFT

First read at a meeting of the Council of the City of Richmond, California, held  
held , and finally passed and adopted at a meeting thereof  
, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

CLERK OF THE CITY OF RICHMOND

(SEAL)

Approved:

Mayor

Approved as to form:

City Attorney

## Public Art in Private Development Policies and Procedures<sup>1</sup>



*"Richmond at Dusk" by Rob Badger. Color Photograph, Archival Ink on Paper 19 x 58"*

Richmond, CA  
City Manager's Office, Economic Development  
Arts and Culture Division  
February 10, 2021

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<sup>1</sup> This document is pending legal review.



## Table of Contents

### Contents

Public Art in Private Development Application Form	3
RE: Public Art in Private Development in Richmond	8
Process Chart	10
Public Art In Private Development Payment Schedule	11
Public Art Advisory Committee Application Checklist And Information Initial Review	12
Public Art Advisory Committee Application Checklist And Information Final Review	13
Public Art Program Frequently Asked Questions	14
Guide to Public Art Resources	19

DRAFT



## Public Art in Private Development Application Form

(to be completed by Applicant and submitted to Public Art Program staff)

Richmond's One Percent for Public Art of Private Projects Program Ordinance, adopted by the City of Richmond in 2017, establishes a requirement for developers to include on-site publicly accessible art valued at one percent (1%) of the building development cost or pay an in-lieu contribution of one percent (1%) of the building development cost to the City's Public Art Projects account as set forth in Section 12.62.050. This is applicable to new commercial structures, industrial structures, multifamily projects with 10 or more units, and all construction of building additions and or/renovations exceeding \$500,000.00 in building costs. Costs incurred and/or attributed to compliance with the identification and/or mitigation of seismic hazards, environmental conditions, including hazardous or toxic materials, or retrofitting for solar energy or other energy-saving facilities relating to existing structures shall not be included in calculating a project's building development cost.

DEVELOPMENT ADDRESS:	ESTIMATED CONSTRUCTION VALUATION (labor and materials):
	ESTIMATED DEVELOPMENT SIZE (square feet):
APPLICANT / ARCHITECT NAME:	OWNER NAME:
ADDRESS:	ADDRESS:
PHONE:	PHONE:
EMAIL:	EMAIL:

The ordinance provides an option of commissioning artwork on your site equal to the cost of 1% of the estimated construction valuation **or** paying the 1% to the Public Art Fund in-lieu of commissioning artwork.

**Final valuation to be confirmed at time of Building Permit application.** Should the final construction valuation (labor and materials) submitted for the purpose of Building Permit application indicate a higher amount, then the 1% fee will be based on the higher valuation.

1% of Estimated Construction Valuation: \$

Please choose one of the following options:

Placement of original public art on site  Payment of in-lieu fee to Public Art Fund

Applicant Signature: \_\_\_\_\_

Date: \_\_\_\_\_



RE: Public Art in Private Development in Richmond

Dear Property Owner/Developer:

On July 18, 2017, the Richmond City Council adopted an Ordinance to add chapter 12.62 to the Municipal Code establishing a requirement for public art in construction projects. Richmond's One Percent for Public Art of Private Projects Program Ordinance establishes a requirement for developers to include on-site publicly accessible art valued at one percent (1%) of the building development cost or pay an in-lieu contribution of one percent (1%) of the building development cost to the City's Public Art Projects account as set forth in Section 12.62.050. This is applicable to new commercial structures, industrial structures, multifamily projects with 10 or more units, and all construction of building additions and or/renovations exceeding \$500,000.00 in building costs.

Public art enhances the quality of life in a community, providing benefits to the developer and the public. Some of these benefits are outlined in the attached ordinance and embody the goals for the Public Art in Private Development Program:

- Further enhance a diverse and stimulating cultural environment for residents of, and visitors to, the City of Richmond
- Create a unique sense of place throughout the City of Richmond
- Increase the economic sustainability of artists and arts organizations as a key to the vitality of the City of Richmond
- Promote greater economic vitality through the aesthetic enhancement of the City's public spaces, thereby making Richmond a more attractive environment for regional and local businesses

The ordinance gives you the option of commissioning artwork on your site equal to the cost of 1% of the estimated construction valuation (labor and materials) **or** paying the 1% to the Public Art Fund in-lieu of commissioning artwork. Should you decide to make the in-lieu contribution, then those funds are due prior to issuance of building permit. No presentations to the Public Art Advisory Committee or meeting with the Arts and Culture Director will be required.

Should you decide to create original public art on site, the process is key to successful outcomes. Artwork is best integrated into a construction project when the artist is identified early enough in the project planning to become part of the design team. Artists will often see opportunities to leverage existing construction budgets and create more impactful artworks when they are brought into the process early. The ordinance allows for a very broad spectrum of types of artwork allowed to be commissioned on site; this creates opportunities for developers and artists to create engaging and diverse art experiences for the community. Should you decide to commission artwork on site, then the steps of the process are as

follows:

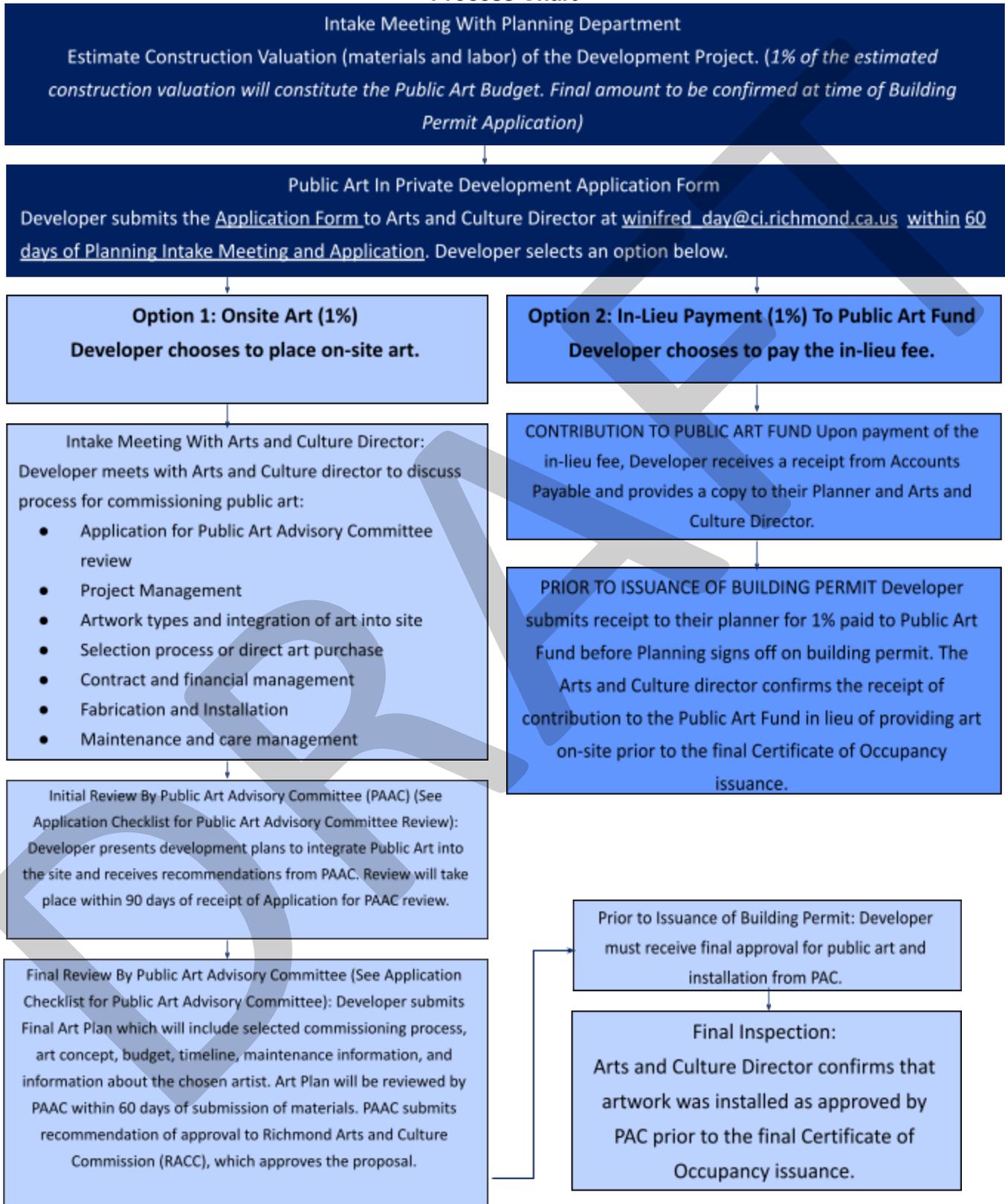
1. Meet with the Arts and Culture Director within 60 days of the initial application to the Planning Department. At this meeting, you will get more detailed information on the process, resources available, and discuss the possible types of artwork you are interested in commissioning.
2. Preliminary review with the Public Art Advisory Committee (PAAC), a subcommittee of the Richmond Arts and Culture Commission. At preliminary review, you will present your development project and your outlined plan for artist selection. You can gain input from the Committee as to types of artists or artworks that may be best suited for the development.
3. Optional: You may also present to the PAAC multiple times through the development of your proposal if PAAC input would be beneficial. These additional presentations are not required.
4. Final review with the PAAC. At the final review, the Committee will want to review the chosen artist, the final art concept proposal, a budget breakdown, and a timeline for installation. Then the PAAC provides a recommendation to the Richmond Arts and Culture Commission (RACC) to approve the proposal. **Once the application is approved by the RACC, the developer may submit the building permit.**
5. The artwork and identification signage must be installed and verified by City staff prior to the issuance of the final Certificate of Occupancy.

We look forward to working with you to make this new ordinance work for you and the City. We hope that the information presented in this packet is informative regarding the public art in private development ordinance. Please feel free to call or email the Arts and Culture Manager at 510-XXX-6952 or [Winifred\\_day@ci.richmond.ca.us](mailto:Winifred_day@ci.richmond.ca.us).

Sincerely,

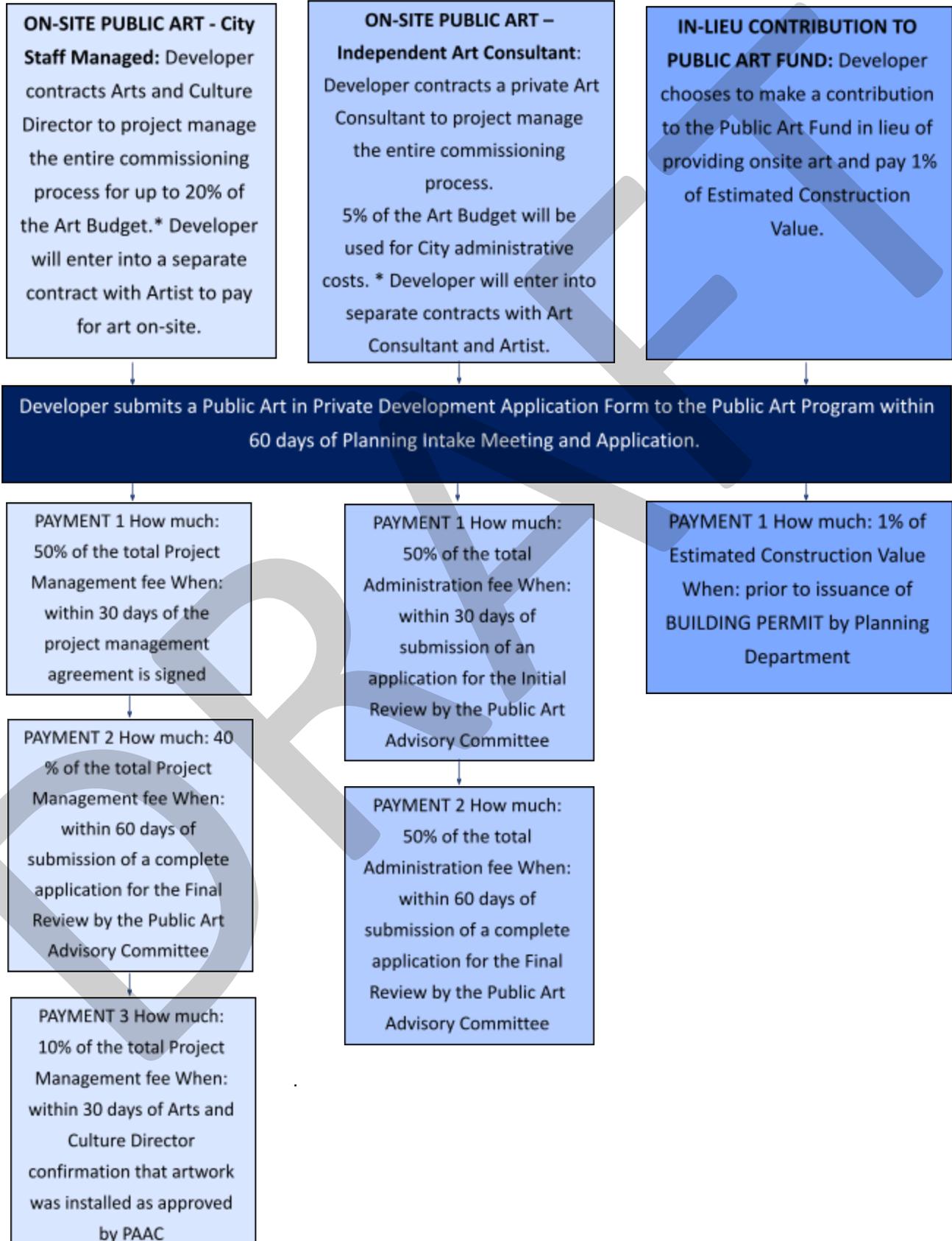
Winifred Day  
Arts and Culture Director

## Process Chart



## Public Art In Private Development Payment Schedule

1% of the estimated Construction Valuation will constitute the Public Art Budget



## Public Art Advisory Committee Application Checklist And Information Initial Review

Applicants must meet with the Arts and Culture Director and submit a Public Art in Private Development Application Form prior to submitting application materials for initial review by the Public Art Advisory Committee (PAAC). PAAC meets on the 2nd Tuesday of the month at 7:00 pm. The meetings are held on Zoom and were held at the Point Molate Conference Room, 450 Civic Center Plaza, 2nd Floor prior to the COVID-19 pandemic. Applicants must submit the following materials electronically one week prior to the meeting to [winifred\\_day@ci.richmond.ca.us](mailto:winifred_day@ci.richmond.ca.us):

1. A written summary of the project: this should include the approximate art budget, the art selection plan and consultant, timeline for the project, and an overview of the development.
2. PDF files of the overall site and existing drawings.
3. A PDF of the powerpoint presentation of the project that will be given at the meeting.
4. Name and contact information for the person who will be presenting the project to the Commission.

### What you can expect:

Items 1-3 will be distributed to the Committee in advance of the meeting. You will have 15 minutes to present the project to the Committee. The Committee will then have the opportunity to ask questions and make recommendations regarding the possible placement of artworks, types of artwork or artists that may be appropriate to the site, and point out areas of concern. Preliminary review is not an action item with an approval, but an opportunity for you to get input that will help make the final artwork more successful.

### Next Steps:

Once you have completed the selection process for an artist and proposal, then you must return to the Public Art Advisory Committee at least one more time for Final Approval before fabrication can begin on the artwork. You may present to PAAC additional times throughout this process if PAAC input would be beneficial for the project, however it is not required. It is highly recommended that your art consultant stay in close contact with public art staff or that you hire City staff to manage the process for you. Once the Final Approval is presented, the PAAC must recommend approval to the Richmond Arts and Culture Commission which officially approves the project.

### Questions:

Contact Winifred Day at [Winifred\\_day@ci.richmond.ca.us](mailto:Winifred_day@ci.richmond.ca.us) with questions.

## Public Art Advisory Committee Application Checklist And Information Final Review

Applicants must have met with the Arts and Culture Director, submitted a Public Art in Private Development Application Form, and completed an Initial review by the PAAC prior to submitting application materials for final review by the Public Art Advisory Committee. PAAC meets on the 2nd Tuesday of the month at 7:00 pm. The meetings are held on Zoom and were held at the Point Molate Conference Room, 450 Civic Center Plaza, 2nd Floor prior to the COVID-19 pandemic. Applicants must submit the following materials electronically one week prior to the meeting to [winifred\\_day@ci.richmond.ca.us](mailto:winifred_day@ci.richmond.ca.us):

1. A written summary of the art selection process (how the artwork(s)/ artist were selected).
2. Samples of the artist's previous work and a resume.
3. Description of the proposed artwork, including dimensions, materials, method of construction.
4. Detailed drawings or photographs of the proposed artwork, including a rendering in-situ.
5. A rendering showing the artwork, along with the locations for any lighting, the identification plaque, and other elements included in the proposal associated with the art installation.
6. A detailed timeline and itemized budget, including installation, artist fees, art consultant fees.
7. A statement on the maintenance requirements for the artwork(s).

What you can expect:

Items 1-7 will be distributed to the Committee in advance of the meeting. You will have 20 minutes to present the art plan to the Committee. The Committee will then have the opportunity to ask questions and make recommendations regarding the artwork and point out areas of concern. Final review is an action item requiring the recommendation of the Public Art Advisory Committee prior to final approval by the RAAC and the issuance of a building permit.

Next Steps:

Once you have the final recommendation of the Public Art Advisory Committee, the Richmond Arts and Culture Commission (RACC) must approve the proposal. No presentation is required for RACC approval. Then you may secure your building permit. Prior to the issuance of your Certificate of Occupancy, the Public Art Program staff must confirm that the artwork was installed as approved by the PAAC and RACC, including an identification plaque for the piece (standards apply – inquire with the Public Art Program staff).

Questions:

Contact Winifred Day at [Winifred\\_day@ci.richmond.ca.us](mailto:Winifred_day@ci.richmond.ca.us) with questions.

## Public Art Program Frequently Asked Questions

### OVERVIEW

#### WHY IS RICHMOND REQUIRING THAT MY DEVELOPMENT CONTRIBUTE TO PUBLIC ART?

Public art is an important element in private development that allows Richmond residents to celebrate our city's character and aspirations, enhance civic pride and a sense of place, and to reflect the creative community that lives, works, and visits here. Private development is critical to Richmond's growth. Successful public art projects have the ability to infuse new development with a strong connection to the community, giving both residents and visitors a vibrant sense of place.

#### WHAT IS A WORK OF PUBLIC ART?

Public art is artwork in the public realm, which may be situated on public or private property, and acquired through public or private funding. The most important aspect of a work of public art is that it is created by a professional working artist of recognized achievement in the field of public art. The artist may collaborate with architects, landscape architects, engineers, lighting designers and/or other professionals, but he or she must be the primary designer of the art project, and must hold the contract with the developer for the work of art.

#### HOW WOULD MY DEVELOPMENT BENEFIT FROM INCORPORATING PUBLIC ART ON SITE?

There are many benefits for Developers in commissioning public art, including gaining visibility, making their properties more attractive and memorable to both business and residential markets, and promoting good relationships within the community.

### POLICIES

#### WHAT ARE RICHMOND'S REQUIREMENTS FOR PUBLIC ART IN PRIVATE DEVELOPMENT?

Richmond's One Percent for Public Art of Private Projects Program Ordinance, adopted by the City of Richmond in 2017, establishes a requirement for developers to include on-site publicly accessible art valued at one percent (1%) of the building development cost or pay an in-lieu contribution of one percent (1%) of the building development cost to the City's Public Art Projects account as set forth in Section 12.62.050. This is applicable to new commercial structures, industrial structures, multifamily projects with 10 or more units, and all construction of building additions, renovations and/or tenant improvements exceeding \$500,000.00 in building costs. Costs incurred and/or attributed to compliance with the identification and/or mitigation of seismic hazards, environmental conditions, including hazardous or toxic materials, or retrofitting for solar energy or other energy-saving facilities relating to existing structures shall not be included in calculating a project's building development cost. More information can be found in [Chapter 12.62 of the Richmond Municipal Code](#).

## WHAT ARE THE COMPLIANCE REQUIREMENTS WITH APPLICABLE CITY ORDINANCES?

On-site publicly accessible art is subject to, and shall comply with, all applicable City ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Planning and Building Services Departments and other affected City divisions and departments. Below are links to the following departments:

- [Planning](#)
- [Building](#)
- [Public Works](#)

## WAIVER OF CONDITIONS

Any portion of the provisions of this article may be waived by majority vote of the City Council.

## PROCEDURES

### HOW AND WHEN DO I SUBMIT THE PUBLIC ART IN PRIVATE DEVELOPMENT APPLICATION FORM?

Developers are required to submit the Application Form. The applicant must provide the following information: development address, applicant/architect name and contact information, owner name and contact information, estimated construction valuation (including labor and materials), and the estimated development size (square feet). The applicant will be required to write 1% of the Estimated Construction Valuation and will have to choose between placement of original public art of site and payment of in-lieu fee to the Public Art Fund. This application must be submitted within 60 days of submission of initial application to the Planning department. Final valuations of the construction will be determined at the time of Building Permit application.

### HOW DO I PAY THE IN-LIEU CONTRIBUTION?

In lieu of an on-site project, a Developer may contribute 1% of the estimated Construction Valuation to the City's Public Art Fund. The payment can be made through this website. Upon payment of the in-lieu fee, Developer receives a receipt from Accounts Payable and provides a copy to their Planner and the Arts and Culture Director. Developer submits receipt to their planner for 1% paid to Public Art Fund before Building signs off on building permit. The Arts and Culture director confirms the receipt of contribution to the Public Art Fund in lieu of providing art on-site prior to the final Certificate of Occupancy issuance.

### HOW DOES PUBLIC ART ON SITE GET SELECTED?

First, the Developer should meet with the Public Art Program Staff within 60 days of the initial application to the Planning Department. At this meeting, the Developer will gain more details

about the process, eligible types of artwork, costs and resources available. This consultation must be complete before the development project is calendared for consideration by a public body, including the Design Review Board, Planning Commission or City Council, and before the Community Development Director issues any approvals with respect to the project. Once this initial meeting has taken place, the Developer can choose from the following methods:

- Employ a private, Public Art Consultant whose services would be used to solicit or identify public artists that meet the City's criteria for public art. Some Art Consultants also manage the process from start to finish. The fee for the use of a Consultant is included in the 1% budget allocation. A portion of the budget (X%) goes to the Public Art Staff to offset administrative costs associated with your project.
- Delegate project management and administration process to the City of Richmond Public Art Staff. The fees for the use of the Public Art Program Staff will be allocated from the overall art budget and costs will not exceed 20% of the total art budget.
- Although not recommended, the Developer can directly propose an artist or work of art and pay a portion of the budget (X%) to Public Art Staff for the administration of your project.

At the Initial PAAC Review, the Developer presents the development plan and outlines their plan for arts administration to the Committee and receives guidelines and recommendations from the PAAC. The process of selecting artwork varies based on the approach taken, but often the City or the Private Art Consultant solicits responses to a Request for Qualifications for artists. A panel of art professionals in the area (can include members of the Public Art Advisory Committee but does not need to) may review the proposals and shortlist candidates. Often times, a public forum is held where members of the public can view samples of the shortlisted artwork. Then a final artist is selected by the panel. Then a presentation must be made to the PAAC for the Final PAAC Review which will include description of artwork, detailed drawing or photographs of the proposed work, a summary of the selection process, timeline, itemized budget, maintenance requirements, and more. The PAAC must recommend the proposal for approval by the RACC.

#### AT WHAT POINT AM I REQUIRED TO PRESENT WHAT THE ARTWORK WILL LOOK LIKE?

The Developer should present their final Art Plan at the Final Review meeting with the Public Art Advisory Committee (PAAC) once the following information has been formulated by the Developer:

- The process that outlines how the artwork and artist were selected (i.e. RFQ/RFP; through an Art Consultant; Invitation / Commission; Direct Selection / Purchase)
- Images of previous work by that artist and Resume.
- Description of artwork, including overall length, width and height, materials, and method of construction;
- Detailed drawings or photographs of the proposed work;
- Detailed drawings of the specific public art site showing: location of artwork and location of plaque for artwork;

- Detailed timeline and itemized budget including installation, artist fees and any art consultant fees;
- Description of maintenance requirements.

#### WHAT CRITERIA DOES THE PUBLIC ART ADVISORY COMMITTEE APPLY TO REVIEW PROPOSALS AND PROVIDE RECOMMENDATION FOR APPROVAL TO THE RICHMOND ARTS AND CULTURE COMMISSION?

When reviewing the final Art Plan, the PAAC will evaluate the public art based on the following criteria:

- Appropriateness of the artwork to the site;
- Quality and originality of the artwork;
- Visibility of the artwork by the public;
- Engagement or Interactive Elements;
- Durability of Materials;
- Public Safety.

#### APPROVAL BODIES

The Final Art Plan is reviewed by the PAAC and an official recommendation for approval from PAAC is given to RACC. The RACC then provides approval of the Final Art Plan. However, other bodies may comment on the placement of the art as it pertains to the architecture, circulation issues, lighting concerns, or other elements. The Final Art Plan may need to be approved by City Council in special cases where the project is large. In this case, the developer will be informed of this prior to building permit submission.

#### WHEN MUST THE DEVELOPER SUBMIT THE FINAL PROPOSAL AND INSTALL PUBLIC ART ON SITE?

The Developer must submit their final art proposal for PAAC review and RACC approval before the issuance of a building permit. The artwork must be completed, installed and inspected by the City's Public Art Program staff before the final Certificate of Occupancy can be issued.

#### WHO OWNS THE ARTWORK?

The public art is owned by the property owner.

#### WHO IS RESPONSIBLE FOR MAINTENANCE OF ARTWORK?

The property owner is responsible for the maintenance and conservation of the artwork. Durable materials should be used for minimal maintenance and proven ability to withstand the specific environmental conditions of the site. Artwork shall have reasonable maintenance requirements as specified by the artist and these requirements shall be compatible with routine city maintenance procedures.

#### WHAT HAPPENS IF THE OWNER SELLS THE PROPERTY?

In case the development project is sold, the ownership of the public art will be transferred with the property. The artwork must remain at the development in the location approved by the RACC and may not be claimed as the property of the seller or removed from the site.

I WANT TO REMOVE THE ARTWORK FROM THE DEVELOPMENT SITE. WHAT SHOULD I DO?

If the development owner wishes to sell, deaccession or remove the artwork from a site, the owner must notify the City a minimum of 90 days before removing the work.\* The owner must notify the Public Art Advisory Committee (PAAC) and receive approval from the Richmond Arts and Culture Commission (RACC). The Developer will be required to replace the sold or de-accessioned artwork with an alternative work of equivalent or greater value, as determined by the PAAC. In the alternative, the Developer can choose to contribute to the Public Art Fund in lieu of replacing on-site art. \*As it pertains to public art, property owners and developers should be aware of Visual Artists Rights Act (VARA), a section of the Federal Copyright Legislation. Among other things, this law forbids the willful destruction of a work of visual art. For further information regarding VARA, see United States Code Annotated, Title 17. Copyrights, Chapter 1 – Subject Matter and Scope of Copyright, Current through P.L. 105-153, approved 12-17- 97.

## Guide to Public Art Resources

<b>General Information</b>	
<a href="http://www.cpanda.org">www.cpanda.org</a>	CPANDA, the Cultural Policy & the Arts National Data Archive, is the world's first interactive digital archive of policy-relevant data on the arts and cultural policy in the United States
<a href="http://www.artsusa.org/networks/public_art_network">www.artsusa.org/networks/public_art_network</a>	Public Art Network (PAN) develops professional services for individuals and organizations engaged in the field of public art. PAN is dedicated to advancing public art programs and projects through advocacy, policy, and information resources to further art and design in our built environment.
<a href="https://forecastpublicart.org/">https://forecastpublicart.org/</a>	Forecast Public Art was one of the country's first nonprofit organizations dedicated to advancing the field of public art.
<a href="http://www.publicartdialogue.org">www.publicartdialogue.org</a>	Public Art Dialogue (PAD), an organization devoted to public art. PAD was founded on the premise that dialogue is the essential element in all effective public art endeavors.
<b>Artists Directories and Examples of Public Art</b>	
<a href="https://www.americansforthearts.org/by-program/networks-and-councils/public-art-network/pan-year-in-review-database">https://www.americansforthearts.org/by-program/networks-and-councils/public-art-network/pan-year-in-review-database</a>	The database contains curated, categorized, and searchable examples of the best in public art projects from across the country that received PAN Year in Review recognition.
<a href="http://www.artstor.org">http://www.artstor.org</a>	The site is a photo bank that features images of architecture, public art projects, temporary commissions, and sustainable design.
<a href="http://www.publicartarchive.org">www.publicartarchive.org</a>	The Public Art Archive™ is a free, online resource for comprehensive data and rich media, employing a standardized framework to catalog public art. The Archive allows collection stewards to share their artworks with new, broader audiences; helps find information about best practices in public art.
<a href="http://www.codaworx.com">www.codaworx.com</a>	CODAworx is an online community for artists and design professionals to showcase their work, collaborate with one another, and earn recognition for their projects.
<b>Local Arts Agencies</b>	
<a href="http://www.cac.ca.gov">www.cac.ca.gov</a>	The site provides essential information about the California Arts Council, an agency that helps build strong arts organizations at the local and statewide level, directly supports arts programs for all citizens, assists with the professional development of arts leaders, supports arts education in schools in all areas of the state, and promotes awareness of the value of the Arts.
<b>Arts Organizations, Consulting Services</b>	
<a href="http://www.pps.org">www.pps.org</a>	Project for Public Spaces (PPS) is a nonprofit planning, design and educational organization dedicated to helping people create and sustain public spaces that build stronger communities.
<a href="http://www.artsourceinc.com">www.artsourceinc.com</a>	A multidisciplinary art advisory company based in San Francisco.
<a href="http://www.artconsultingservices.net">www.artconsultingservices.net</a>	A locally owned and operated consulting firm based in the Sacramento Valley.

ORDINANCE NO. \_\_\_<sup>1</sup>

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RICHMOND ADDING CHAPTER X.X, PUBLIC WORKS IMPROVEMENTS ARTS PROGRAM, TO THE RICHMOND MUNICIPAL CODE AND REPEALING RESOLUTON 70-97**

The Council of the City of Richmond does ordain as follows:

**SECTION I. Findings and Determinations.**

1. Public art fosters economic development, enhances community vitality and enriches the quality of life through the City.
2. Since 1997 Richmond has had a policy requiring City capital improvement projects to devote 1.5 percent of the project's construction budget to public *art*, and in 2017 extended this requirement to private developments.
3. The City wishes to confirm and strengthen its municipal public art program to enhance the funds available for public art and to increase flexibility to provide art experiences that are timely and relevant throughout the community.

**SECTION II. Amendment of Article X.** Article X of the Municipal Code of the City of Richmond is hereby amended by adding Chapter X.X to read as follows:

CHAPTER X.X  
PUBLIC WORKS IMPROVEMENTS ARTS PROGRAM

Sections:

- X.XX.010 Definitions.
- X.XX.020 Public Works Improvements Arts Program Funds
- X.XX.030 Standards for review.
- X.XX.040 General rules for art in public places.
- X.XX.050 City council review of artistic matters in the visual art in public places program.
- X.XX.070 Public art for municipal projects.
- X.XX.070 Ownership of Public Art
- X.XX.080 Implementation Guidelines

X.XX.010 Definitions

For purposes of this article, the following definitions shall apply:

- (a) "Artist" means an individual generally recognized by critics and peers as a professional practitioner of the visual, performing, or literary arts, as judged by the quality of that professional practitioner's body of work, educational background, experience, performances, commissions, exhibition record, publications, and production of Artwork.
- (b) "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, within any city-owned facility in areas designated as public area, lobbies, or public assembly areas, or on non-city property if the work of art is installed or financed, either wholly or in part, with city funds or grants procured by the city
- (c) "Artwork" that may be used to satisfy the requirements of this Chapter includes, but is not limited to, the following:

- (1) Sculpture: Of any material or combination of materials; freestanding, wall-supported,

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<sup>1</sup> This document is pending legal review.

suspended, mounted, installed, kinetic, electronic, or mechanical.

- (2) Murals or paintings: Made of any material or variety of materials including traditional or non-traditional materials and means.
  - (3) Earthworks, neon, glass, organic materials (i.e., fiber, clay, wood, etc.), mosaics, photographs, prints, books, literary and performing arts, calligraphy, found objects, any combination of media, including
    - i. audio, video, film, CD-ROM, DVD, holographic or computer-generated technologies, or other genres currently known or which may come to
    - ii. be known.
  - (4) Artwork may be permanent, temporary, fixed, or portable; may be an integral part of a building, facility, or structure; and may be integrated with the work of other design professionals.
  - (5) For the purposes of this policy, the following, unless specified or designed by an Artist, are not considered Artworks:
  - (6) Reproductions, by mechanical or other means, of original Artworks; however, limited editions controlled by the Artist, or original prints, cast sculpture, or photographs, may be included.
  - (7) Decorative, ornamental, or functional elements that are not designed by an Artist.
  - (8) Elements generally considered to be components of architecture or landscape design, such as vegetative materials, pools, paths, benches, receptacles, fixtures, planters, etc., which are not designed by an Artist.
  - (9) Art objects that are mass-produced, ordered from a catalog, or of standard design (such as benches or fountains), directional items or other functional elements such as graphics, signage, or maps.
  - (10) Corporate logos.
- (d) "City Capital Improvement Projects" includes any capital improvement project with a budget or anticipated costs of \$300,00 or more, including any acquisition, leasing, rental, construction or remodeling of any building, structure, park, utility, street, sidewalk, or parking facility, or any other type of capital project or any portion thereof within the geographical limits of the city, paid for wholly or in part by the City of by any board , commission, agency or department the City (inducing without limitation the Richmond Redevelopment Agency, the Richmond Housing Authority, the Port of Richmond and the Richmond Surplus Property Authority)
- (e) "Commission" means the City of Richmond Arts and Culture Commission (and by extension the Public Art Advisory Committee, a subcommittee of the Richmond Arts and Culture Commission), which was established in 1997 to serve in an advisory capacity to the Mayor, City Council, and City Manager to promote, encourage, and increase support for arts and culture.
- (f) "Permanent installation" means a work of art in a public place intended to remain or remaining for one year or more.
- (g) "Public Art" means any Work or Art integrated into the design of or places in, or about the site of the City Capital Improvement Project in a place accessible to the general public
- (h) "Public Art Projects Account" means a separate account established in the City Treasury (formerly called the Public Art Fund) into which money acquired through the Percent for Art Resolution No. 70-97 (as may be amended) is deposited for the exclusive use of the Public Art Program.
- (i) "Temporary installation" means a work of art in a public place intended to remain for less than one year.
- (j) "Work of art" means the work of a practitioner in the fine arts, generally recognized by peers as one who produces professional quality works of art.

X.XX.020 Public Works Improvements Arts Program Funds

(a) Establishment of Richmond Public Art Projects Account

The Director of Finance is hereby directed to establish a non-General Fund account, which shall be known as the Richmond Public Arts Projects Account, into which will be deposited funds as contemplated by Sections 2 and 3 above, together with such other funds as the Council may from time to time appropriate for expenditures related to Public Art in the City of Richmond and any gifts or grants received by the City of Richmond and its boards, agencies, commissions and departments for the purpose of acquiring, creating, installing or maintaining Public Art.

Monies to be expended for Public Art in connection with City Capital Improvement Projects may be used to pay for all expenditures related to Public Art including payment for artists' services, the acquisition, installation, maintenance and conservation of Works of Art, and the administration of Arts and Culture policies and programs. In the case of City Capital Improvement Projects where the incorporation of Public Art into the design of the project or the inclusion of Public Art on the project site are infeasible or inappropriate, the City Manager may release the 1.5% of the project budget allocated to and appropriated for Public Art to be used for other Public Art projects in under-served neighborhoods of the City. However, if the transfer of monies from one project to another is not authorized, or illegal restrictions on the source of the funds prohibit such transfers, or if funds must be restricted to a specific site, the one and one-half percent (1.5%) appropriation shall be restricted to a specific City Capital Improvement Project and shall be placed in a project fund earmarked for that project.

Monies to be expended for Public Art in connection with specific City Capital Improvement Projects shall be deposited into the Richmond Public Arts Projects Account in accordance with Section S below.

(b) Procedures and Payments into Richmond Public Arts Projects Account.

Except as provided in X.XX.020(c), no board, commission, agency or department of the City shall permit or cause work to be commenced on any City Capital Improvements Project prior to depositing the amount required by Sections 2 and 3 into the City of Richmond Public Arts Projects Account. The requirements of this section shall apply to an City Capital Improvements Projects, whether or not a final inspection or a certificate of occupancy is required for the project. Compliance with the requirements of this Section S shall be a condition precedent to design approval required by Richmond Municipal Code See. 15.04.205{D} and any successor provisions thereto and, whenever a building permit is required by applicable provisions of the Richmond Municipal Code, shall also be a condition precedent to the issuance of the permit.

Prior to hiring an architectural team for the design of any such City Capital Improvements Project, the project manager or managers shall meet with the Richmond Arts and Culture Director for the purpose of determining how Public Art shall be incorporated into the proposed project. At the request of the Richmond Arts Coordinator, the project manager(s) shall include an artist in the architectural design team for the proposed project. The Arts and Culture Director shall assist the project manager(s) in the selection of an appropriate artist or artists for the project.

(c) Annual Plan and Administration of Funds.

Within thirty (30) days after approval of the City's annual operating budget by the City Council, the Finance Director shall submit the authorized annual budget for capital improvements to the Richmond Arts Coordinator, specifying the total appropriation dedicated to the "Richmond Public Arts Projects Account" for the current fiscal year. Based upon this submission, the Richmond Arts Coordinator, with the advice of the Richmond Arts and Culture Commission and based on any meetings with project managers of City Capital improvements Projects, shall develop a one-year plan for Public Art (the "Annual Plan") and shall submit this Annual Plan to the Richmond City

Council for its approval within six (6) months of the date of approval of the City's annual operating budget.

The funds placed into the Public Arts Project Account shall be administered by the Arts and Culture Director in accordance with the Annual Plan as approved by the Richmond City Council. The Annual Plan shall reflect the policies established by this Resolution with respect to City Capital improvement Projects

- (d) Review of Disbursements. Each proposed appropriation for the Public Art program and each disbursement from the Public Arts Projects Account shall receive the prior review and advice of the Public Art Advisory Committee and Richmond Arts and Culture Commission.
- (e) Additional Funding. The director of arts and culture shall explore on a continuing basis the availability of funds for the visual art in public places program from such organizations as the National Endowment for the Arts, the California Arts Commission, and other public and private agencies.

X.XX.030 Standards for review.

- (a) In performing its duties with respect to the art in public places program, the Richmond Arts and Culture Commission shall give special attention to the following manners:
  - 1. Conceptual compatibility of the design with the immediate environment of the site;
  - 2. Appropriateness of the design to the function of the site;
  - 3. Compatibility of the design and location within a unified design character or historical character of the site;
  - 4. Creation of an internal sense of order and a desirable environment for the general community by the design and location of the work of art;
  - 5. Preservation and integration of natural features with the project;
  - 6. Appropriateness of the materials, textures, colors, and design to the expression of the design concept;
  - 7. Representation of a broad variety of tastes within the community and the provision of a balanced inventory of art in public places to insure a variety of style, design, and media throughout the community that will be representative of the eclectic tastes of the community.

X.XX.040 General rules for art in public places.

- (a) Review of Permanent and Temporary Installations. Permanent installations shall receive the prior review and advice of the Richmond Arts and Culture Commission. Temporary installations shall receive the prior review and advice of the director of arts. Extensions of time for temporary installations to remain for one year or more may be granted by the director of arts in consultation with the Richmond Arts and Culture Commission. Permanent installations shall not be removed, altered, or changed without the prior review and advice of the Richmond Arts and Culture Commission.
- (b) Private Sites for Art In Public Places. No work of art financed or installed either 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, and specifying other provisions deemed necessary or desirable by the city attorney. Additionally, such written agreements, except those for murals which shall be exempt from the requirements imposed by this sentence, shall specify that the private property owner shall assure:
  - 1. That the installation of the work of art will be done in a manner which will protect the work of art and the public;
  - 2. That the work of art will be maintained in good condition; and
  - 3. That the insurance and indemnification will be provided as is appropriate.

- (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 director of art and culture 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. The director of arts and culture shall attempt to give appropriate recognition to the artists in publicity and promotion regarding art in public places.

X.XX.050 City council review of artistic matters in the visual art in public places program.

- (a) 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:
  1. Decisions on artistic matters will be made by city staff and the Richmond Arts and Culture Commission;
  2. The city council will not exercise its independent judgment on artistic matters unless the city council requests that the matter be agendaized for its review;
  3. Unless the city council determines to exercise its independent judgment as provided above, sketches, designs, photographs, precise plans, art examples, and similar items on artistic matters will not be transmitted to the city council as a matter of course in conjunction with projects before the city council;
  4. The city council will refer questions, suggestions, requests, complaints, and similar items pertaining to the visual art in public places program to city staff and the Richmond Arts and Culture Commission for their review and response.

X.XX.060 Public Art for Municipal Projects

- (a) Percent Allocated and Applicability.  
It shall be City policy to set aside 1.5 percent (1.5%) of its annual City Capital Improvement Projects (CIP) budget, as defined in the section, for the purpose of providing for public art. All CIP projects shall be subject to this policy, including but not limited to buildings, shelters, parking garages and lots, restrooms, small structures, parks, medians, landscaping, plazas, gateways, bridges, walls, tunnels, and street and road construction. Salaries and benefits of public employees supporting CIP projects shall not be included in the CIP budget subject to this ordinance. If the project is deemed ineligible for a public art appropriation, the Finance Director and Participating Bodies must submit a letter of explanation to the Arts and Culture Commission explaining why the project has been deemed ineligible, or why funds must be restricted to a specific site.

- (b) Method of Calculation.  
The amount to be allocated for Public Art with respect to each City Capital Improvement Project shall be a portion of the total cost of the City Capital Improvement Project, including all construction costs, architectural and engineering fees and site work expenses and excluding any budgeted costs of real property acquisition, demolition and financing, equal to 1.5% of such total cost. The 1.5% portion of the total cost of a City Capital Improvements Project allocated to Public Art may include, without limitation, costs of structural elements of the project which qualify as Public Art, the cost of acquisition and installation of Works of Art on, about or near the project site, title cost of the services of artists involved in the design of the project or in the production of Works of Art related to the project and the cost of administrative services provided by the Richmond Art Coordinator in connection with the Public Art component of the Project.

If any applicable law or the source of funding (such as, for example, FEMA) with respect to any particular City Capital Improvements Project prohibits use for the arts as an object of expenditure of certain funds, such funds shall be excluded from the total project budget for the purpose of calculating the expenditure for arts.

- (c) Nothing in this Section is intended to prohibit the City Council from adopting an ordinance or resolution establishing a public art contribution for any project otherwise excluded from this policy

or setting the public art contribution for any project at greater than 1.5 percent of the CIP budget.

- (d) Funds. Funds shall be deposited into the Public Art Fund. The Arts and Culture Director, in consultation with the Richmond Arts and Culture Commission, as appropriate, shall determine public or publically-accessible sites for art funded by the 1.5 percent for art policy. Funds may be expended on public art at any appropriate site within the City. Funds from two or more CIP projects may be pooled to fund a single work of art. Funds may be used for permanent or temporary public art.
- (e) The City Manager may adopt administrative regulations to implement this Section.

X.XX.070 Ownership of Public Art.

All Works of Art, including design elements, and other objects acquired by the City of Richmond or any of its boards, commissions, agencies or departments pursuant to this Resolution shall be acquired in the name of the City of Richmond and title shall vest in the City of Richmond

X.XX.080 Implementation Guidelines.

The Arts and Culture Director shall establish procedures to administer this policy, including procedures for selecting sites, artists and art works. Procedures for the implementation of the policies adopted by this Resolution shall be developed by the Arts and Culture Director, with the advice and approval of the Richmond Arts and Culture Commission, and shall be submitted to the Richmond City Council for approval.

**SECTION II. Severability.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance irrespective of the unconstitutionality or invalidity of any section, subsection, subdivision, paragraph, sentence, clause or phrase.

**SECTION III. CEQA.** The Council finds that this project is exempt from the provisions of the California Environmental Quality Act ("CEQA"), pursuant to Section 15061 of the CEQA Guidelines, because it can be seen with certainty that there is no possibility that the ordinance will have a significant effect on the environment.

**SECTION IV. Effective Date.** This ordinance becomes effective thirty (30) days after its final passage and adoption.

\*\*\*\*\*

First read at a meeting of the Council of the City of Richmond, California, held  
held , and finally passed and adopted at a meeting thereof  
, by the following vote:

AYES: NOES:

ABSTENTIONS:

ABSENT:

CLERK OF THE CITY OF RICHMOND  
(SEAL)

Approved:

Mayor

Approved as to form:

City Attorney



*Note: This document is made up of three separate documents: (1) Public Art in City Capital Improvement Projects Information – taken from Palo Alto and adapted using language from the 1999 Richmond Public Art Program Policies and Procedures (2) Process Chart and (3) Amended Richmond 1999 Public Art Program Policies and Procedures – removed mention of redevelopment agency, made changes to PAAC description<sup>1</sup>*

## Public Works Improvements Arts Program Information

### POLICY STATEMENT

This policy implements Richmond Municipal Code Section X.XX "Public Art for Municipal Projects," which provides that the City will budget one percent (1.5%) of the annual CIP budget for eligible projects for public art.

### GOALS OF PUBLIC ART PROGRAM

It is the goal of the City's public art program to:

- Use art in public places to enhance the City's identity and the quality of public spaces.
- Increase the quantity and quality of public art in the City.
- Create integrated public art, that is, art that is designed to relate to or be incorporated with the design of public facilities.

### PROJECTS INCLUDED

All appropriations for City of Richmond capital improvement projects, including all bond projects and all other capital projects funded from other eligible sources, shall include an amount equal to one and one-half percent (1.5%) of the total capital improvement project cost to be dedicated to the City of Richmond Public Art Project Account. The 1.5% appropriation applies to all municipal property owned, leased, rented, or under construction by the City of Richmond. The 1.5% appropriation shall include, but is not limited to, the following capital improvements:

- a. All municipal capital improvement projects funded from the City's General Fund.
- b. Public Works, including, but not limited to, street and sidewalk construction, underground water and sewage lines, where eligible, electrical sub-stations, and water pump stations.
- c. All capital improvement projects funded from other county, state, and Federal sources where the source allows for a percent for arts.
- d. Off-street parking funds (limited to parking construction or rehabilitation).
- e. Gas-tax funded capital improvements.
- f. Privately funded capital projects, where eligible

The Arts and Culture staff will work with the appropriate City departments (which may include but are not limited to Community Development, Public Works, and Community Services) to implement RMC section X.X.X by identifying the projects that are subject to the 1.5 percent for public art requirement.

Salaries and benefits of public employees supporting these CIP projects shall not be considered part of the CIP budget subject to the public art program. The 1.5% percent requirement will be based on the initial CIP budget and adjusted if the CIP budget is later increased through the annual budget process. If the CIP budget is later decreased, the art contract shall be adjusted as much as allowed depending upon the status of the art design and/or fabrication.

### EXEMPTIONS TO POLICY

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<sup>1</sup> This document is pending legal review.



If the project is deemed ineligible for a public art appropriation, the Finance Director and Participating Bodies must submit a letter of explanation to the Arts and Culture Commission explaining

- (i) why the project has been deemed ineligible, or why funds must be restricted to a specific site.

#### TRANSFER OF FUNDS

Within 30 days after approval of the City's annual operating budget, the Finance Director shall submit the authorized annual budget for capital improvements to the Richmond Arts and Culture Commission, specifying the total appropriation to be made to the City's "Public Art Project Account." The minimal amount to be appropriated for art shall be based upon a 1.5% appropriation of the total City-funded portion of the construction costs, including architectural and engineering fees, and site work expenses.

#### PROCEDURE FOR IDENTIFYING AND SELECTING PUBLIC ART PROJECT SITES

- A. Public Art Staff shall have the authority to pool funds, and may propose funds for use at a current CIP site or any other public or publicly-accessible site.
- B. The City Manager or designee, in consultation with the Public Art Advisory Committee, shall identify sites for public art funded by this program. CIP or other sites that merit further consideration for integration of artwork will be presented to the Public Art Advisory Commission. Consideration will include, but not be limited to:
  - Visibility and public access
  - Public safety
  - Interior and exterior traffic patterns.
  - The relationship of the proposed public art project to the site's existing or future architectural features and to its natural features.
  - The function and uses of the facility or site.
  - The nature of the site's surrounding neighborhood and potential impact of the public art project on residences or businesses.
  - Future development plans for the area which may affect the public art project.
  - The relationship of the proposed public art project to existing works of art or design elements within the site's vicinity.
  - The proposed public art project's impact on the surrounding environment.
  - The social or cultural context of the proposed artwork or design element relative to the site and its surrounding environment.
- C. Identification of project sites and establishment of an art budget early in the process allows the artist to be hired at an early stage of design so that the art can be better incorporated with the design. For projects in which art will be integrated on site, the project manager, in consultation with the Arts and Culture Director, will determine the final public art plan for the site.
- D. For projects in which it is determined that artwork will not be incorporated on site, the Arts and Culture staff will coordinate with the Public Art Advisory Commission to determine the allocation of those funds to another municipal public art site or publicly-accessible site.
- E. Every effort should be made to identify and select projects in a timely manner.
- F. Some projects may not have a public art requirement but may voluntarily choose to include a public art element.



## PROCEDURE FOR IDENTIFYING AND SELECTING ART WORKS

Artworks may include permanent or temporary art, including performance-based and experiential art.

The Arts and Culture staff will develop the RFP or RFQ for the artwork, with input from the Commission, Project Manager and designer/architect. The 1.5% percent will be subject to change during the design phase with the determination of final cost estimates for construction. The RFP/RFQ will include, but not be limited to:

- A description of the project, including its goals; the project parameters, including the site's physical description, potential approaches to the project, and any physical or legal restrictions which may apply to the project.
  - The artist's potential scope of work.
  - Application procedures, including materials requested eligibility factors, and timelines.
  - Selection procedures (if appropriate).
  - Criteria for the selection of artist(s) and artwork(s)
  - Project budget.
- A. Selection of the artist and artworks will fall into one of three processes:
- Direction selection: artist(s) or completed artwork(s) chosen directly by the Public Art Advisory Committee or by a Selection Panel.
  - Limited competition or invitational: artists are invited by the Public Art Advisory Committee or by a Selection Panel to submit proposals, a completed artwork, or otherwise participate in a public art project.
  - Open competition: any professional artist is eligible to participate, subject to limitations established by the Public Art Advisory Committee.
- B. Selection of the artists and artworks will be made through submittals reviewed by a selection panel composed of representatives of the Public Art Advisory Commission, arts professionals, community representatives and appropriate City department representatives or architect/designer. Considerations in selecting the artist and/or proposed work of art will include:
- Context
  - Artistic quality
  - Media
  - Permanence
  - Public Safety
  - Diversity of artists represented in Richmond
- C. The Public Art Advisory Commission will recommend the selected artist and artist's proposal to the Richmond Arts and Culture Committee, who will then decide on approval.
- D. The selected artist will work with the appropriate department(s) and project manager as noted in the RFP/RFQ and contract.
- E. Every effort should be made to conduct the artist selection and contract process in a timely manner to optimize coordination during the construction phase.
- F. The Arts and Culture Director will work closely with the Project Manager to coordinate efforts and ensure smooth management of the art installation.

## OWNERSHIP AND MAINTENANCE

The City of Richmond owns and maintains all art in City projects and has sole fiscal and legal responsibility for the artworks and the maintenance of the works. Project managers with existing art,



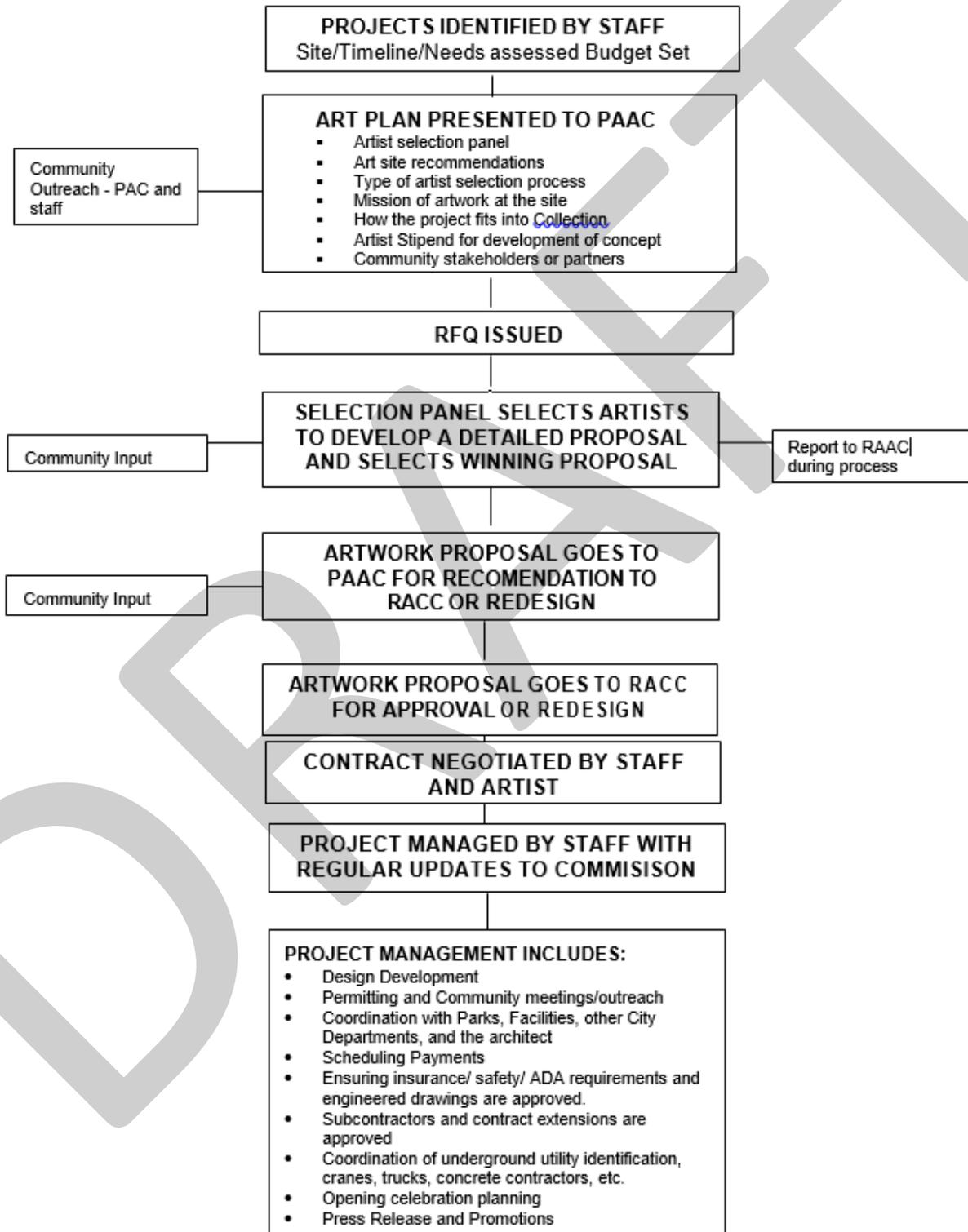
including murals, sculpture or land art, within their project site or within 100 feet of their project site must contact the Arts and Culture staff to ensure the proper precautions are taken for the care and protection of the artwork. A comprehensive inventory of all art shall be maintained and updated by the City and made available for review.

NOTE: Questions and/or clarification of this policy should be directed to the Arts and Culture Director. The Public Art Program is a program of the City Manager's Office, Arts and Culture Division.

DRAFT

# PUBLIC ART SELECTION AND APPROVAL PROCESS

## Percent for Art in Municipal Projects





## **CITY OF RICHMOND, ARTS AND CULTURE COMMISSION PUBLIC ART PROGRAM POLICIES AND PROCEDURES**

**Amended March 23, 2021**

### **SECTION ONE: ENABLING LEGISLATION**

On May 13, 1997 the City of Richmond adopted a "Percent for Art" Resolution authorizing the allocation of 1.5% of the City's capital improvement project costs for the commissioning of public artworks and artists' services in the construction of public works; establishing a method for calculating public art appropriations for capital improvement projects; establishing a Public Art Projects Account; establishing methods of administering the ordinance; and establishing general guidelines for the administration of a Public Art Program.

The intent of the Public Art Resolution is to establish a Public Art Program in order to create a diverse and stimulating cultural environment for citizens of, and visitors to, the City of Richmond, and to promote greater economic vitality through the aesthetic enhancement of the City's public spaces, thereby making Richmond a more attractive environment for regional and local businesses. The purpose of this Resolution is to increase public access to such works of art in Richmond by the imposition of a requirement that certain public development projects within the City of Richmond include or provide such works of art in areas on public property that are accessible and visible to the general public.

### **SECTION TWO: MISSION STATEMENT**

Mission Statement: The City of Richmond Public Art Program will enliven and beautify the City environment, creating community pride for city residents. The program will encourage and promote awareness of the City's rich ethnic, social, and cultural diversity as expressed through visual, literary, performing, and design arts.

### **SECTION THREE: FUNDING SOURCES**

#### **3.1 APPROPRIATIONS**

All appropriations for City of Richmond capital improvement projects, including all bond projects and all other capital projects funded from other eligible sources, shall include an amount equal to one and one-half percent (1.5%) of the total capital improvement project cost to be dedicated to the City of Richmond Public Art Project Account. The 1.5% appropriation applies to all municipal property owned, leased, rented, or under construction by the City of Richmond. The 1.5% appropriation shall include, but is not limited to, the following capital improvements:

- a. All municipal capital improvement projects funded from the City's General Fund.
- b. Public Works, including, but not limited to, street and sidewalk construction, underground water and sewage lines, where eligible, electrical sub-stations, and water pump stations.
- c. All capital improvement projects funded from other county, state, and Federal sources where the source allows for a percent for arts.
- d. Off-street parking funds (limited to parking construction or rehabilitation).
- e. Gas-tax funded capital improvements.
- f. Privately funded capital projects, where eligible

### 3.2 METHOD OF CALCULATION

- a. The minimum amount to be appropriated to the Public Art Project Account to fund artists' services and/or artworks, maintenance, conservation, education, and program administration, shall be the total capital project appropriation, including all construction costs, architectural and engineering fees, and site work expenses, multiplied by .015, excluding amounts budgeted for real property acquisition, demolition, and financing costs.

## **SECTION FOUR: BUDGETING PROCEDURES**

### 4.1 FUNDING DESIGNATIONS

- a. City of Richmond Public Art Projects Account

Within 30 days after approval of the City's annual operating budget, the Finance Director shall submit the authorized annual budget for capital improvements to the Richmond Arts and Culture Commission, specifying the total appropriation to be made to the City's "Public Art Project Account." The minimal amount to be appropriated for art shall be based upon a 1.5% appropriation of the total City-funded portion of the construction costs, including architectural and engineering fees, and site work expenses as defined herein.

- (i) Concurrent with the appropriation to fund eligible City construction projects, the City shall deposit the one and one-half percent (1.5%) appropriation in the Public Art Project Account. If the transfer of monies from one project to another is not authorized, or if legal restrictions on the source of the fund prohibit such transfers, the one and one-half percent (1.5%) appropriation shall be restricted to a specific City project and the monies shall be placed in a project fund so designated for that project.

(ii) On an annual basis, the Public Art Advisory Committee and the Richmond Arts and Culture Commission shall develop a PUBLIC ART ANNUAL PLAN that will identify specific public art projects to be implemented with the City's public art allocations.

(iii) Exemptions: If the project is deemed ineligible for a public art appropriation, the Finance Director and Participating Bodies must submit a letter of explanation to the Arts and Culture Commission explaining

- i. why the project has been deemed ineligible, or why funds must be restricted to a specific site.

#### 4.2 FUNDING AGGREGATIONS

Funds appropriated as part of any project, including City projects, but deemed not necessary or appropriate in total or in part for public art at said project site, by the Richmond Arts and Culture Commission in consultation with the Public Art Advisory Committee (PAAC) and the capital improvement project manager(s), may be expended on other projects approved under the Public Art Annual Plan when such funds are eligible to be so used.

#### 4.3 EXCLUSIONS

If any applicable laws or regulations with respect to any particular capital improvement project or portion thereof prohibits or restricts the use of the 1.5% dedication of such funds for public art, this resolution shall not apply to the project expenses so prohibited or restricted.

#### 4.4 USE OF FUNDS

It is the intent of the Public Art Resolution that the Public Art Project Accounts will be appropriated in the annual budget of the City to purchase or commission works of art or design elements created by artists to enhance Richmond's public spaces; to maintain, repair, or relocate public art or design elements; to fund staffing and administrative costs for the implementation of the Public Art Program, and to defray such other expenses which are, or may become, an integral part of the Public Art Program, including community education and outreach.

#### 4.5 ELIGIBLE COSTS

In general, after administrative expenses have been appropriated, public art allocations may be used for the following:

- a. Approximately one percent (1%) of eligible funds shall be earmarked for artist(s) fees and costs directly related to the selection of artists or artwork,

for the fabrication and installation of artwork, and for costs associated with displaying and identifying the artwork. Public Art funds in this category may be expended on, but are not limited to use for, the following:

- (i) the development of artist's design concepts
  - (ii) the purchase or commissioning of artwork
  - (iii) costs associated with the placement, installation, and display of artwork
  - (iv) costs related to the selection of artists or artwork
- b. Approximately .5% of eligible funds shall be earmarked for maintenance and conservation of the City's public artwork, community outreach and education, and documentation, publicity, and promotion.

#### 4.6 INELIGIBLE COSTS

Monies appropriated under this ordinance may not be used for the following:

- a. Directional elements such as supergraphics, signage, or color coding except where these elements are integral parts of a public art project or are executed by artists in unique or limited editions.
- b. Art objects which are mass produced and of standard design, such as playground equipment or fountains.
- c. Reproduction, by mechanical or other means, of original works of art, except in cases of film, video, photography, printmaking or other media arts.
- d. Decorative or functional elements that are designed by the building architect or landscape architect.
- e. Landscape architecture, except when deemed to be an integral part of an artist's work and relevant to a project under consideration.
- f. Those items which 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.
- g. Artwork acquired through third party owners, such as private collectors or auction houses.
- h. Architects' fees, except in such cases where the public art component significantly changes a project architect's scope of services.

### **SECTION FIVE: ADMINISTRATION**

#### 5.1 RICHMOND CITY COUNCIL

The Richmond City Council shall:

- a. Appropriate 1.5% of all eligible capital improvement project costs to the

- Public Art Project Account on an annual basis.
- b. Review and approve the Public Art Program Policies and Procedures.
- c. Review and approve the Public Art Annual Plan.
- d. Approve contracts over \$10,000.
- e. Approve acceptance of gifts or loans of artwork to the City, and approve loans of City-owned artwork to other organizations or institutions.

### 5.3 ARTS AND CULTURE COMMISSION

The Arts and Culture Commission shall administer the Public Art Program and shall be responsible for reporting Public Art Program activities to the Richmond City Council. The Commission shall:

- a. Recommend Public Art Program policies and procedures to the City Council.
- b. Submit the Public Art Annual Plan to the City Council after review and approval of the plan as submitted by the Public Art Advisory Committee.
- c. Administer all aspects of the Public Art Program.
- d. Review and accept (or reject) proposals for public art acquisitions, as recommended by the Public Art Advisory Committee, and forward a recommendation to the City Council.
- e. Review and recommend to the City Council 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.
- f. Solicit funds from foundations, corporations, public agencies, and other appropriate sources.
- g. Revise Public Art Program policies and procedures as necessary.

### 5.4 PUBLIC ART ADVISORY COMMITTEE

The Public Art Advisory Committee (PAAC) shall be a subcommittee of the Richmond Arts and Culture Committee composed of a maximum of seven members. Volunteers may be added to assist as needed. Terms shall be staggered to ensure a degree of continuity. The Commission shall strive for ethnic, social, and professional diversity in the PAAC's membership.

The Public Art Advisory Committee shall:

- a. Recommend program policies and procedures to the Arts and Culture Commission.
- b. Recommend public art projects and budgets, in the form of a Public Art Annual Plan, to the Arts and Culture 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 Arts and Culture Commission.
- d. Review and recommend to the Arts and Culture 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 in all of Richmond's neighborhoods.
  - f. Review for acceptance (or rejection) proposals for public art in private development, as recommended by selection panels, and forward a recommendation for acceptance or rejection to the Arts and Culture Commission

## 5.5 ARTS AND CULTURE STAFF

Arts and Culture staff shall be responsible for the overall management and administration of the public art program. The Arts and Culture Director shall be responsible for managing, or overseeing the management of, public art projects from inception to completion. The Arts and Culture Director's responsibilities shall include, but are not limited to, the following:

- a. Review and evaluate the City Annual Capital Improvement Projects list and identify potential projects to be implemented in conjunction with projects described therein. Maintain ongoing contact with, and if possible attend meetings of, all City Agencies that may have projects generating Public Art funds.
- b. Review other planned or existing City projects to determine other appropriate public art project opportunities.
- c. Prepare and submit, with the Public Art Advisory Committee, a Public Art Annual Plan to the Arts and Culture Commission, and the City Council.
- d. Develop project parameters, budgets, and timelines for each adopted project.
- e. Develop and implement an artist recruitment plan, including writing and disseminating Requests for Proposals/Qualifications, and identify appropriate methods for the artist selection process.
- f. For selection processes involving a selection panel, identify and recommend to the PAAC qualified panelists, drawing from City agencies and organizations such as the Richmond Neighborhood Coordinating Council, Chamber of Commerce, City Council, PAAC, and the community at large.
- g. Review artists' application materials and pre-screen the applicant pool to select a slate of qualified candidates for review by the selection panel.
- h. Maintain an artists' pool of qualified and interested artists
- 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 PAAC and Commission.
- l. Solicit review, comment, and/or approvals for works of art from appropriate City agencies, relative to safety and maintenance.
- m. Solicit and submit appropriate comments or recommendations made by other City agencies to the PAAC for review, and, if required, for resolution.
- n. Convene and facilitate any public meetings related to the project.
- o. Negotiate and administer contracts; review and approve general contractor

- bid documents as they pertain to the implementation of the public art project.
- p. Collaborate with the Client Agency and other City departments to coordinate the roles and responsibilities of the artist, architect, engineers, general contractor, and other professionals involved in the project.
  - q. Prepare and distribute press and publicity materials related to the Public Art Program.
  - r. Prepare and maintain project files. This includes a comprehensive inventory, as well as ongoing records of maintenance.
  - s. Prepare grant requests to outside funding sources, as appropriate.
  - t. Review the Public Art collection to evaluate and make recommendations for maintenance or conservation needs. Work with appropriate City personnel to identify and refurbish murals as needed.

## 5.6 CITY DEPARTMENTS/CLIENT AGENCIES

All City Agencies and Departments collaborating on public art projects with the Arts and Culture Commission and the Public Art Program shall:

- a. Deposit public art allocations in the City Public Art Project Account.
- b. Provide information to the Arts and Culture staff ("staff") identifying existing or planned sites under the Department's jurisdiction that 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, closely coordinated with the artist's design.
- d. Direct the Project Architect to work within the intent of the program as described in the Percent for Art Ordinance and in these guidelines.
- e. Assist staff in the development and implementation of public art projects at departmental sites, attending and/or requesting meetings as necessary.
- 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. Collaborate with staff to develop and ensure collegial relationships for each project.
- g. Inform staff of any proposed or planned project involving construction, renovation, or further development of a site or facility at the earliest possible point, in order 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. Ensure open lines of communication regarding all projects.
- 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 that have the potential to incorporate public art.

## **SECTION SIX: ACQUISITION OF PUBLIC ARTWORK**

### **6.1 CRITERIA FOR THE ACQUISITION OF ARTWORK**

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

- a. Context. Works of art must be compatible in scale, materials, form and content with their surroundings. Consideration shall be given to the architectural, historical, geographical, and social/cultural context of the site.
- b. Artistic Quality. Quality shall include excellence in the artwork's craftsmanship, originality in conception and integrity of materials used.
- c. Media. All forms of media may be considered. Works may be portable, permanently affixed, or incorporated in the design and/or function of a public space. Temporary exhibits or installations may also be considered for commissions.
- d. Permanence. For permanent works of art or design elements, due consideration shall be given to the work's structural and surface soundness, and to inherent resistance to theft, vandalism, weathering, and excessive maintenance or repair costs.
- e. Public Safety. All works of art, design elements, or temporary installations shall be evaluated to ensure their compliance with public safety requirements
- f. Diversity. The Public Art Program recognizes the cultural, ethnic, and social diversity of Richmond's 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) Achieving an equitable distribution of commissions, acquisitions, and temporary exhibitions from artists who represent Richmond's multi- ethnic, multi-cultural population.
  - (ii) Commissioning artworks, design elements, and temporary exhibitions throughout Richmond's various neighborhoods.
  - (iii) Emphasizing and encouraging the acquisition of artwork and design elements which include a wide variety of styles, scale, and media.
  - (iv) Encouraging community participation in the public art process, when appropriate.
  - (v) Encouraging the exploration and understanding of new and

experimental art forms as well as established and traditional art forms.

## 6.2 FEASIBILITY

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

- a. The project budget and its estimated time line.
- b. Convincing evidence that the artist can complete the project on time and within budget.
- c. Approval of the project by the appropriate city agencies, relative to safety, maintenance, and code requirements.

## 6.3 SITE CRITERIA

Prior to recommending a site for a public art project, Arts and Culture staff, in collaboration with appropriate city agencies and the Public Art Advisory Committee, shall evaluate the site for the following factors:

- a. Visibility and public access
- b. Public safety
- c. Interior and exterior traffic patterns.
- d. The relationship of the proposed public art project to the site's existing or future architectural features and to its natural features.
- 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 residences or businesses.
- g. Future development plans for the area which may affect the public art project.
- h. The relationship of the proposed public art project to existing works of art or
- i. design elements within the site's vicinity.
- j. The proposed public art project's impact on the surrounding environment.
- k. The social or cultural context of the proposed artwork or design element relative to the site and its surrounding environment.

# **SECTION SEVEN: SELECTION PROCESSES**

## 7.1 METHODS OF SELECTION

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

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

- b. Limited competition or invitational: artists are invited by the Public Art Advisory Committee or by a Selection Panel to submit proposals, a completed artwork, or otherwise participate in a public art project.
- c. Open competition: any professional artist is eligible to participate, subject to limitations established by the Public Art Advisory Committee.

## 7.2 ARTIST RECRUITMENT METHODS

### a. Competitive Processes

For competitive projects, staff shall develop a Request for Qualifications (“RFQ”) or a Request for Proposals (“RFP”). The RFQ or RFP shall be disseminated as widely as possible through local media, the arts media, and through direct mailings to artists and arts organizations. The RFQ or RFP shall include the following information.

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

### b. Direct Recruitment

The Public Art Program may utilize Direct Recruitment methods to solicit qualified arts for a project. Direct Recruitment shall be defined as the direct solicitation of qualified candidates by means of direct mailings of the RFQ or RFP, or through phone contact with artists, arts organizations, galleries or other sources for the purpose of soliciting names of artist to be considered for a project.

## 7.3 ARTIST SELECTION PROCEDURES

### a. Pre-Screening

Arts and Culture staff shall pre-screen applications, and evaluate them relative to the minimum candidate criteria and qualifications outlined in the RFQ or RFP. Staff shall then present the slate of qualified candidates for review to the selection panel. Along with the candidates recommended for review, the panel will receive a list of all project applicants. Panelists may request the inclusion for review any artist previously eliminated by the staff if they believe that the

artist does meet  
the stated minimum qualifications.

b. Selection Panel

Selection panels are ad-hoc panels assembled for specific projects. The role of the selection panel is to assist the Public Art Program in identifying qualified artists to be considered for a project. The number of panelists and the composition of the panel appointed for projects will depend upon the size, location, and complexity of each project. In general panels shall be comprised of a minimum of three persons from the following categories:

1. Voting Members

- a. At least one artist or arts professional (curator, educator, etc.)
- b. At least one representative of the neighborhood in which the artwork will occur.
- c. Non-voting advisors.

c. Project Advisory Committees

For certain projects, the PAAC may elect to establish a project “advisory” committee. An advisory committee is an ad hoc group which provides staff and artists with information regarding 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 which may assist the art in preparing a design proposal.

Advisory Committee members shall be identified through existing community organizations and by referrals from other agencies, public or private, which are familiar with the neighborhood in which the art project will occur. The Advisory Committee will represent residents or facility or site users who will be most affected by the art project and who can provide the artist with useful information in the development of his or her project. The Advisory Committee, as a whole, does not retain the right to vote, and should neither advise nor influence the selection panel during their deliberations. However, one or more Advisory Committee members may serve on the selection panel if requested by the PAAC to do so. The Advisory Committee may consist of one or more of the following persons:

- (i) The design architect, if selected. (Note: when the projects calls for an artist or artists to participate on a design team, the project architect may be asked to serve as voting member of the selection panel).
- (ii) The project manager or designee from the City agency collaborating on the project.
- (iii) Other design team members, if appropriate.
- (iv) A member of the Public Art Advisory Committee.

d. Selection of Panelists

Arts and Culture staff shall recommend panelists for each project and shall submit these recommendations to the PAAC for review. Selection of panelists shall be made based on an analysis of the following: experience in implementing or administering public art projects; knowledge of current trends and issues in public art; knowledge of local, regional and national arts; experience and interest in working with Richmond's multi-cultural community; ability assess the creativity, design skills, and problem-solving abilities of artist 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 Richmond in which the artwork will be sited, ability to work cooperatively and effectively in a panel process.

- (i) To expedite the recruitment and approval of panelists, staff shall develop a list of qualified panelists. The panelists list shall be reviewed and approved by the PAAC. Or projects under \$50,000, staff shall be authorized to convene a panel based on this list. Panelists representing the client agency or community representatives shall be included on the panel at the staff's discretion.
- (ii) Any persons who would receive financial gain from the selection of artists or artworks are ineligible to serve on a Selection Panel. Any artist selected to serve on the Selection Panel is precluded from having his/her work considered for any Public Art project during his/her time of service.

e. Modified Panel Process

For some projects, such as those with budgets of \$50,000 or less, or where time is of the essence in recruiting, selecting, and commissioning an artist, the PAAC shall retain the option of:

- (i) Selecting one or more artists to work on the project through direct invitation.
- (ii) Developing a short list of qualified artists to present to a selection panel and/or convening a selection panel comprised of a staff representative, a representative of the client agency or facility, and one guest panelist. This panel will review the short list of qualified artists and select one or more artists for the project.

f. Eligibility Criteria

In general, any professional artist may be considered for a public art purchase or commission. Specific eligibility requirements will be established at the initiation of each project and will be described on the RFQ/RFP. In general:

- (i) Artists will be considered for commission on the basis of their professional qualifications, as demonstrated by past work, relevant professional experience, the appropriateness of a specific proposal to the project goals and parameters, and the probability that the artist will successfully complete the project.
- (ii) Excluded from consideration are the works of art or proposals submitted by the project architect and/or members of the design team, and artists who are members of or related to the Arts and Culture staff, the PAAC, Commission, or the City Council.
- (iii) Artists shall not receive more than two commissions from the City of Richmond in any five-year period, nor shall artists receive more than one commission in consecutive years. These restrictions shall apply to individual artists, artists who are commissioned as part of a team, and/or any artists who will receive credit for any commissioned project.
- (iv) Artists may be selected on a national or international basis. Though preference may be given to Richmond-based artists for any given project, the Public Art Program shall encourage a wide diversity in style, scale and media in public art, and encourages the exchange of ideas and creative talent from all artists.

#### 7.4 Selection Process

When formal selection panels are convened, the Selection Process will be facilitated under the following processes:

- a. The Selection Panel shall meet in open session.
- 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 Advisory Committee an artist or artists to be commissioned for the project; an artist or artists to develop design proposal for the project; or recommend an artist or artists whose existing work is to be selected for the project. In the case where an artist or artists have been asked to prepare a specific design proposal, the Panel shall re-convene to review the proposals and shall select the artwork following the same procedures as outlined in steps A, B, and C above.
- e. If a consensus cannot be reached, then a vote shall be taken, with the majority carrying the decision. Panelists shall each have one vote, and no Panelist shall have the right of veto.
- f. The Panel shall have the option of making no selection. In the event that no selection is made, the PAAC shall determine whether to:
  - (i) initiate a new selection process
  - (ii) revise the project

- (iii) abandon the project
- g. The panel's decision shall be recorded by the Arts and Culture Director in the form of a written record to the Public Art Advisory committee. If approved, the Panel's decision will be given formal approval by resolution of the Committee. If rejected, the decision to reject the Panel's decision will be voted on by the Public Art Advisory Committee and an alternative process for project development will be determined.
- h. Upon approval of the panel's recommendation by the PAAC, the PAAC shall forward a recommendation to the Arts and culture Commission. The Commission shall review and approve or reject the PAAC's recommendation.
- i. If the Commission approves the PAAC's recommendation, it shall forward a recommendation to the City Council (for acceptance of projects over \$10,000).
- j. If the Commission rejects the PAAC's recommendation, it will provide a written report to the PAAC with the reasons for the rejection. The PAAC shall then determine whether to 1) revise or modify the project; 2) initiate a new review and selection process; or 3) abandon the project.
- k. If the City Council accepts the Commission's recommendation, it shall approve the proposals by means of a formal resolution authorizing staff to enter into contract with the selected artist(s).
- l. If the City Council rejects the Commission's recommendation, the PAAC shall determine whether to 1) revise or modify the project; 2) initiate a new review and selection process; or 3) abandon the project.

## 7.5 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 indicted by the artist's past work or by his/her ability to procure appropriate resources to ensure successful completion of the project. In evaluating proposals for public art projects, panelists shall consider:

- a. Artistic Quality. Quality shall include excellence in the artwork's craftsmanship, originality in conception, and integrity of the materials used.
- b. The Appropriateness of the artwork to the surrounding neighborhood, to include its scale, form, content and design.
- c. An evaluation of the artwork's relationship to the social and cultural identity of the neighborhood where the artwork will occur.
- d. An evaluation of the artist's proposed budget and the artist's ability to successfully complete the project within the proposed budget.
- e. An evaluation of the artist's proposed materials 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.

- f. 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.

#### 7.6 Panelist's Compensation

In general, panelists shall be compensated for their time reviewing application materials and attending panel meetings. Compensation shall be paid at the rate of \$100 per day, or \$50 per half-day. City employees and members of the PAAC and the Commission shall not be compensated for participation in the review and selection process.

#### 7.7 Conflict of Interest

Any persons who would receive financial gain from the selection of artists or artworks are ineligible to serve on a selection panel. Such persons include gallery dealers, artist's agents, brokers, etcetera; relatives of Public Art Advisory Committee members, Commission members, and the City Council are not eligible to serve on selection panel.

#### 7.8 Role of the Arts and Culture Commission and the City Council in reviewing artist's design proposals.

In general, the Commission and the City Council shall reject the PAAC's recommendation for the selection of an artist, artwork, or design proposal only if there are compelling reasons to do so. Compelling reasons shall be if the Commission or Council determines and substantiates that the artwork or design proposal:

- a. constitutes a public safety threat
- b. presents long-term maintenance problems
- c. creates a negative image or depiction of Richmond's residents, visitors, or neighborhoods

### **SECTION EIGHT: PROJECT MANAGEMENT**

#### 8.1 Inter-Agency Procedures

- a. The Arts and Culture Commission will negotiate the contract with the artist and with other consultants as necessary, for the purchase or design, fabrication, and installation of the artwork. Contracts will be executed by the City Manager, or his designee.
- b. Disbursements from the Public Art Project Account shall be made only

- after authorization from the Arts and Culture Commission.
- c. On-site activity related to the installation of the artwork will be coordinated between Arts and Culture staff and the appropriate City official(s) within the Department having jurisdiction over the site and/or construction.
  - d. In the case of sites under development, the appropriate City official(s) within the Department will coordinate the concurrent site development and the artwork installation in the most efficient manner possible.
  - e. In the case of existing sites, staff and the appropriate city official(s) shall oversee and facilitate the installation of the artwork. In such cases, the cost of necessary site alteration or restoration shall be borne by the Public Art Program unless otherwise agreed upon by the appropriate City official(s).
  - f. Unless otherwise agreed, routine maintenance of the artwork shall be the responsibility of the Department where the artwork is sited. 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 Arts and Culture Commission. No City Agency or Department shall be responsible for the conservation of artwork, and no conservation or repair work shall be performed by the user department without the prior written consent of the Arts and Culture Commission.
  - g. Any proposed work of art, which is deemed by the Commission and the Department head to require extraordinary operations or maintenance on the part of the host Department, shall be subject to review by the Department head. Arts and Culture staff, in consultation with other City agencies, shall develop an annual maintenance needs survey of the public art collection and shall determine appropriate budgets and procedures for the care and maintenance of the collection.
  - h. In general, Departmental staff and consultants hired by the Department in connection with projects where an artwork is included shall not receive additional compensation for time spent in connection with the implementation of artwork projects. However, where a specific technical or professional task is performed by such staff or consultant(s), solely in connection with the artwork, and where the task is necessary to the execution or installation of the artwork, and where it is not feasible to include it as the responsibility of the artist under the terms of the Public Art Program, such Departmental staff and/or consultants may receive compensation for work performed provided that reimbursement is requested prior to establishment of the project budget and is approved by the appropriate City departments.

## 8.2 Project files and records

Arts and Culture staff shall 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, 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, 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, and transparencies of the completed project.

## **SECTION NINE: EDUCATION AND OUTREACH**

In order to stimulate and encourage public awareness of the visual arts, the Arts and Culture Commission will, to every extent possible, initiate events and activities designed to provide a greater understanding of public art. The activities and events may include, but are not limited to, the following:

- a. Conferences, symposia, workshops, artists' lectures, public art tours
- b. Development of cooperative programs with educational and arts institutions and community organizations
- c. Regular distribution of promotional and publicity packets, to include press releases, public service announcements, and public art newsletter.

## **SECTION TEN: 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 Richmond, and for the placement, care, and preservation of artwork acquired through this process.

### **10.1 Conditions Governing the Donation of Artwork to the City of Richmond**

Potential donors of artwork must submit the following information to the Public Art Program. Staff will review the materials and, if the information is complete, will forward them to the Public Art Advisory Committee for review. The PAAC shall determine the feasibility of the proposed donation and shall forward a recommendation to the Arts and Culture Commission for review. If the Commission recommends acceptance of the proposed artwork, a recommendation will be made to the City Council for final approval and acceptance of the artwork.

a. Materials to be submitted by Donor

- (i) Photographs and/or slides of the work of art which depict it from all sides
- (ii) 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.
- (iii) A site plan which identifies and describes the proposed site for the artwork and which accurately depicts the artwork in relationship to the surrounding environment
- (iv) A written description and/or drawing of the proposed method of installation and a timeline for the transportation and installation of the artwork.
- (v) An estimated cost for transporting and installing the artwork (to be done at donor's expense, unless otherwise agreed to by the City).
- (vi) Written authorization from the City agency with jurisdiction over the site, approving the installation of the artwork.

b. Review and Acceptance Criteria

Proposed gifts of artwork shall be evaluated on the following criteria:

- (i) An analysis of the relationship of the proposed artwork to its proposed location, and its relevance to its primary audience.
- (ii) An evaluation of the work's aesthetic quality, relative to its form, materials and craftsmanship.
- (iii) The availability and appropriateness of an acceptable site for the artwork.
- (iv) An analysis of the financial impact of the proposed gift on the Public Art Program, including costs related to the insuring of the artwork and to any long-term maintenance or conservation costs.
- (v) An analysis of the impact of the proposed gift on other City departments, to include any routine operations or maintenance requirements.

c. Conditions of Acceptance

- (i) The Public Art Advisory Committee and the Arts and Culture Commission encourage clear and unrestricted gifts to the City of Richmond. Any conditions or restrictions attached to a gift or loan must be represented to the Public Art Advisory Committee for review and to the City Council for approval. No work of art will be accepted with conditions deemed unacceptable by the Public Art Advisory Committee or the City council, nor will any work of art be accepted with

- an attribution or circumstance guaranteed in perpetuity.
- (ii) A legal document of transmittal, transferring title or loan of the artwork, and defining the rights and responsibilities of all parties, must accompany all gifts of artwork.
  - (iii) The City of Richmond requires that the creator of the artwork (artist) waive any right to the preservation of the artwork under the conditions set forth in the California Art Preservation Act and the 1990 Visual Artist's Rights Act. The artist may, however, retain any right to disclaim authorship of the artwork pursuant to and these Acts. Before any gift is accepted by the City, the artist must acknowledge in writing his/her approval that the City may remove and/or destroy the artwork at its discretion. Should the City decide to remove or destroy the artwork, the City will provide the artist with 30 days' notice of its intent to do so. The artist may, upon written approval by the City and at his/her own expense, remove and retain the artwork in lieu of its being destroyed by the City.

## 10.2 Conditions Governing the Exhibition of Artwork on City Property

### a. Materials to be submitted by lender:

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

- (i) Photographs and/or slides of the works of art to be exhibited.
- (ii) A description of the location where the artwork will be exhibited and a written authorization from the City agency with jurisdiction over the site which approves the proposed loan of the artwork in that location.
- (iii) A written description and/or drawing of the proposed method of installation and a timeline for the transportation and installation of the artwork.

### b. Lender's Agreements

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

- (i) Unless otherwise agreed to in writing by the City, the lender shall be responsible for all costs associated with the transportation, installation, de-installation, and insuring of the artwork.
- (ii) 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 of the artwork. Such debris includes, but is not limited to, any parts or materials from the artwork which have been purposefully or unpurposefully removed from the body of the artwork.
- (iii) 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 to hold the City harmless from any and all liabilities and

- for any damages or losses to the artwork.
- (iv) The Lender must agree to produce and display an educational label for display next to or near the loaned artwork.
  - (v) The Lender must agree to remove the artwork within three days' notice to do so by the City if the artwork becomes damaged or destroyed and/or becomes a danger or visual impediment to the public.

c. 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 and Culture Commission for review. All recommendations on the acceptance or rejection of proposed gifts of money shall be referred to the City Council for final approval and acceptance.



## City of Richmond Public Art Program Temporary Artwork Policy<sup>1</sup>

### Purpose

The City of Richmond's Temporary Artwork Program is intended to activate publicly-owned spaces in parks, plazas, streetscapes, and other City-owned property. Temporary artworks enliven communities, provoke conversations and refresh the public realm. The City of Richmond commissions temporary artworks through its Public Art Program.

Temporary artworks may be funded by the City or by private individuals or organizations. The City may initiate temporary artworks, or individuals or community organizations may initiate or request City consideration of temporary art projects.

The Temporary Artwork Policy establishes criteria and guidelines for the consideration and installation of temporary artworks in parks, plazas, streetscapes and similar City property. These policies and procedures are intended to complement Municipal Code Section X.XX, Public Works Improvement Arts Program, in order to ensure a consistent approach to placing art in the public realm.

### Goals

1. To encourage the temporary placement of thought-provoking, innovative works of high artistic merit that connect people to place;
2. To contribute to Richmond's sense of identity and pride;
3. To build on Richmond's identity as a diverse community and a global center for innovation;
4. To engage artists in projects that stimulate and encourage community interaction;
5. To create pilot projects in potential locations for permanent artworks;
6. To provide opportunities for emerging and established artists.

### Scope

This policy applies wherever temporary art works is proposed for placement on property owned or controlled by the City of Richmond. Temporary public art is defined as any art, including visual artworks, performances, projections, digital media, virtual reality, and other artistic media, that is not intended to be permanent and is not made a part of the permanent public art collection. Temporary public art is generally displayed for twelve months or less.

### Public Art Project Types and Artwork Considerations

Temporary artworks are allowed on any City-owned property provided that the City Department responsible for that site is willing to allow the temporary placement of art. Temporary art may include display of existing works of art as well as artworks and art experiences that are created specifically for the site.

All approaches and media for public art will be considered. These include, but are not limited to artworks that consist of or include sculpture, light, social practice/community art, performance,

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<sup>1</sup> This document is pending legal review.

sound, projection art and other artistic media.

Physical artworks must be constructed to withstand outdoor placement during the City-designated display period. Temporary artworks and experiences must not create a nuisance in the community where the artwork is proposed, especially when employing light or sound. Artwork must not present any public safety hazards or violate City laws or codes. Physical artwork selected for temporary placement may require stamped engineering drawings and permits and have specific insurance requirements, and environmental review may be required. All temporary artworks must be removed by the artist, who must restore the site to its original condition upon completion of the display.

#### Procedures and Program Management

The Public Art Program will include the commission of City-funded temporary artwork projects in its Annual Public Art Work Plan. A project description may be developed that includes the proposed location/s and goal of the commission and artist selection methods. The Public Art Program may issue an RFP to solicit artists to develop original project proposals or submit artworks to be placed on loan and may enter into a contract with the artist that includes the artist's cost for design, fabrication, installation, maintenance and de-installation of commissioned temporary artwork created for the Program; or a fee for the loan and maintenance of pre-existing artworks.

The City may contract for the services of guest curators or non-profit arts organizations to select and curate temporary artworks. When a contracted arts organization or curator is chosen by the City to implement the temporary artworks, the City's Arts and Culture staff must be represented in the artist selection process as well as on the project team that reviews design development and implementation. Projects implemented by the Public Art Program or by a partner organization may be selected through an open Request for Proposal (RFP) process, limited invitation or by a curatorial process that invites artist proposals. The City will employ its list of available sites for soliciting proposals. The RFP or invitation typically will indicate the available sites for art placement, the duration of the display, and the City's requirements for insurance, liability, safety, etc.

At its discretion, the Arts and Culture staff may convene a panel to review proposals.

Projects proposed by individuals or arts organizations will be evaluated by Arts and Culture staff for compliance with City standards and requirements and consistency with the Public Art Master Plan and overall program goals. Where appropriate, Arts and Culture staff may convene a review panel and/or forward the proposal to the Public Art Advisory Committee for recommendation and Richmond Arts and Culture Commission for approval.

Artists or commissioning organizations submitting artwork for consideration shall submit the following information:

- Artist's resume
- A minimum of two photographs of the work
- A written narrative describing the artwork
- In the case of physical artworks, a description of the construction materials and methods of



fabrication and anchoring details

Selection criteria will be defined in advance by the Public Art Program based on the goals articulated in the annual Public Art Work Plan. In general, selection criteria will include:

- Artistic merit
- Appropriateness to site and goals articulated for the project
- Community engagement
- Feasibility and durability
- Compliance with City codes

The Richmond Arts and Culture Commission will review and approve, deny, or suggest revisions to temporary artwork proposals. Temporary and Performance based projects of less than 24-hour duration may be reviewed and approved at staff level.

#### Acceptance Conditions

1. The City reserves the right to manage its own property including the removal of the artwork, for reasons that include but are not limited to artwork that poses a public safety risk, has been left on City property beyond the agreed terms, or is damaged beyond repair.
2. If an artwork is not completed within the timeline originally approved by the Richmond Arts and Culture Commission, or if changes in content, materials, form, presentation, or financing of the artwork occur, the artwork must be reviewed again by the Arts and Culture Director and Richmond Arts and Culture Commission
3. In accepting a temporary artwork, the City of Richmond requires that the responsible parties enter into an agreement for the duration of the display that outlines the maintenance responsibilities and agreement to remove the work at the agreed upon conclusion of the display, leaving the site in its original condition or better.
4. Neither the Richmond Arts and Culture Commission, nor the City of Richmond, nor any of its agents, will be held liable for any damage or state of disrepair of a temporary artwork.

#### Documentation

Artists shall assist Arts and Culture staff to collect or create documentation that includes the following information:

- Photographs or other documentation of the installed work
- Mention and/or reviews of the artwork in local press

X \_\_\_\_\_  
Winifred Day  
Arts and Culture Director

X \_\_\_\_\_  
Laura Snideman  
City Manager