

## Attachment A: Public Art Policies and Procedures



*"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  
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Updated July 16, 2021 to reflect change in meeting times and fix spacing on Exhibit A

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## I. BACKGROUND AND PURPOSE

The City of Richmond's Public Art Program aims to enliven and beautify the City environment and create community pride for City residents by encouraging and promoting awareness of the City's rich racial, ethnic, social, and cultural diversity as expressed through visual, literary, performing, and design arts. Moreover, the intent of the City's Public Art Program is 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. In addition, the Public Art Program aims to increase public access to works of art in Richmond by imposing certain requirements on Private Development Projects.

In recognition of the value of Public Art, Richmond's City Council adopted Chapter 6.50 of the Richmond Municipal Code, "Public Art Program" (hereinafter referred to as the Public Art Program Ordinance). The abbreviations, phrases, terms and words used in these Public Art Policies and Procedures will have the same meanings assigned to them in Chapter 6.50 of the Municipal Code.

The purpose of this Public Art Policies and Procedures document is to establish requirements, policies, procedures and standards for Public Art in the City consistent and in furtherance of the underlying Public Art Program Ordinance.

## II. PUBLIC ART IN PRIVATE DEVELOPMENT PROJECTS

As required by Section 6.50.030 of the Public Art Program Ordinance, Private Developers subject to the requirements of the Chapter are required to provide 1% of the Building Development Costs as a public art contribution in one of three ways:

- (1) by including On-Site Publicly Accessible Art as further provided in RMC Section 6.50.030 (C);
- (2) by paying an in-lieu contribution fee as set forth in RMC Section 6.50.030 (D); or
- (3) by dedicating a Designated Public Art Space by special process as set forth in RMC Section 6.50.030 (E).

The following section shall provide details into the application and review process for meeting these requirements.

### A. Application Submittal

Private Developer applicants shall use the Public Art in Private Development Application Form, attached hereto in Exhibit A. The applicant will have to indicate whether they choose to provide On-Site Publicly Accessible Art, pay the in-lieu contribution fee to the Public Art Projects Account, or if they are interested in completing the special process and review for providing a Designated Public Art Space. Private Developer submits the Application Form to Arts and Culture Manager within 60 days of submitting the Planning Application. Public Art approvals for Private Development Projects shall be obtained as early as possible in the project application process.

## B. Administrative Costs Fee

Regardless of which of the three options the Private Developer chooses to satisfy the 1% Private Development art contribution requirement (i.e. On-Site Art, in-lieu contribution fee, or Designated Public Art Space), five percent (5%) of the required Private Development art contribution amount (i.e. 5% of 1% of the Building Development Costs) shall be paid to the City as an administrative costs fee. The administrative costs fee shall be divided up and used by the Community Development Department (2%) and the Arts and Culture Division (3%) for administrative costs associated with the Private Development art contribution.

For On-Site Art and Designated Public Art Space, the 5% administrative costs fee payment shall be submitted alongside all other fees due at building permit issuance. For the in-lieu contribution option, the administrative costs fee will be paid as part of the total in-lieu contribution alongside all other fees due at building permit issuance.

## C. On-Site Art Project Management Options

A Private Developer may choose from the following On-Site Art project management methods to assist in the selection, installation and project management process:

1. Delegate On-Site Art project management process to the City of Richmond Arts and Culture Staff. If the Private Developer chooses this option, they shall pay the City an additional project management fee of fifteen percent (15%) of the required Private Development art contribution amount (i.e. an additional 15% of the 1% of the Building Development Costs). The Private Developer shall pay five percent (5%) of the required 1% art contribution amount to the Arts and Culture Staff and Community Development staff to cover the administrative costs fee described above in Subsection (B). The Private Developer shall pay the City the full 1% art contribution amount and the additional 15% project management fee to an escrow account within 30 days of signing a project management agreement between the City and the Private Developer. This payment shall initiate the City's project management of all phases of the project on behalf of the Private Developer. The City will be responsible for all aspects of the projects, including negotiating and entering into contracts with the Artists.
2. Employ a private art consultant whose services would be used to solicit or identify Artists that meet the City's criteria for Public Art. The art consultant may also manage the On-Site Art selection and installation process from start to finish. The fee for the use of an art consultant may not be included in the City's required 1% art contribution amount. The Private Developer shall pay five percent (5%) of the required 1% art contribution amount to the Arts and Culture Staff and Community Development staff to cover the administrative costs fee described above in Subsection (B). The Private Developer shall have separate contracts with the art consultant and Artists.
3. Although not recommended, the Private Developer may directly propose an Artist or On-Site Art. The Private Developer shall pay five percent (5%) of the required 1% art contribution amount to the Arts and Culture Staff and Community Development staff to cover the administrative costs fee described above in Subsection (B). The Private Developer shall have contracts with Artists.

## D. Review Process and Material Checklists for On-Site Publicly Accessible Art

### 1. Meeting with Arts and Culture Manager

Private Developer applicants must first meet with the Arts and Culture Manager within 60 days of submitting an application to the Planning Department for the Private Development Project, and submit a Public Art in Private Development Application Form (in compliance with Subsection (A) above) prior to the preliminary review by the Public Art Advisory Committee (PAAC). At this meeting, the Private Developer will get more detailed information on the process, resources available, and discuss the possible types of Artwork that the Private Developer is interested in commissioning.

### 2. Selection of On-Site Art Project Management Option

The Private Developer shall select one of the On-Site Art Project Management Options as noted in Section II.C above as soon as possible and inform the Arts and Culture Manager.

### 3. PAAC Preliminary Review

A preliminary review meeting with PAAC is required and will take place within 90 days of the City's receipt of the Public Art in Private Development Application. The Private Developer applicant shall submit all required application materials, as further provided below, for the preliminary review meeting with PAAC. PAAC meets on the 2nd Thursday 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. Meetings may resume in this room after the COVID-19 pandemic.

Applicants must submit the following materials electronically one week prior to the PAAC preliminary review meeting to the Arts and Culture Manager:

1. A written summary of the On-Site Art 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.

Items 1-3 above will be distributed to PAAC in advance of the preliminary review meeting. The Private Developer applicant will have 15 minutes to present the project to PAAC. PAAC will then have the opportunity to ask questions and make recommendations regarding the possible placement of Artwork, 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 the applicant to get input that will help make the final Artwork more successful.

### 4. Additional PAAC Meetings

The Private Developer applicant may return to PAAC additional times before PAAC's Final Review if PAAC input would be beneficial for the project, however it is not required. It is highly recommended that the Private Developer applicant's art consultant stay in close contact with the City's Arts and Culture staff or that the applicant utilizes the City's Arts and Culture staff to manage the process.

## 5. PAAC Final Review

Once the Private Developer applicant has met with the Arts and Culture Manager, submitted a Public Art in Private Development Application Form, and completed a Preliminary Review with PAAC, the applicant may submit all required materials for the Final Review by PAAC. Private Developer applicants must submit the following materials electronically one week prior to the Final Review PAAC meeting to the Arts and Culture Manager:

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 for installation of the On-Site Art and an itemized budget, including installation, Artist fees, art consultant fees.
7. A maintenance plan for the On-Site Art in compliance with Section II. J below, detailing how often and in what manner the Private Developer plans to conserve and maintain the On-Site Art in good condition. If feasible, the Private Developer shall include any specific maintenance instructions from the Artist.
8. A VARA/CAPA waiver signed by the Artist. (See Exhibit B). Artist shall maintain copyright.

Items 1-7 will be distributed to PAAC in advance of the meeting. The Private Developer applicant will have 20 minutes to present the art plan to PAAC. PAAC will then have the opportunity to ask questions and make recommendations regarding the On-Site Art and point out areas of concern. Final review is an action item requiring PAAC to either approve or deny the Public Art in Private Development proposal, and provide a recommendation to the Richmond Arts and Culture Commission.

## 6. Richmond Arts and Culture Commission Approval

Once a Private Developer applicant has the recommendation from PAAC, the applicant must then obtain approval of the Artwork proposal from the Richmond Arts and Culture Commission. No presentation is required for Arts and Culture Commission approval.

The Arts and Culture Commission meets on the 4th Thursday of every month at 7:00 p.m. The meetings are held on Zoom. Prior to the COVID-19 pandemic, meetings were held at 450 Civic Center Plaza, Richmond Conference Room. Meetings may resume in this room after the COVID-19 pandemic.

In general, the Commission 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 limited to if the Commission determines and substantiates that the Artwork or design proposal: (i) constitutes a public safety threat; (ii) presents long-term maintenance problems; or (iii) creates a negative image or depiction of Richmond's residents, visitors, or neighborhoods.

## 7. City Council Information Item and/or Approval of Contracts

All approved On-Site Art projects will go to City Council as an information item.

City Council shall approve any contracts over \$10,000 related to Public Art on Private Development, and shall authorize the City Manager to enter into such contracts on behalf of the City. This may be the case if a Private Developer chooses to use the City as the project manager for the On-Site Art, as the City would be responsible for contracting directly with the Artist.

In general, the City Council shall reject the Commission'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 limited to if the City Council determines and substantiates that the Artwork or design proposal: (i) constitutes a public safety threat; (ii) presents long-term maintenance problems; or (iii) creates a negative image or depiction of Richmond's residents, visitors, or neighborhoods.

## 8. Final Steps

At the City's sole discretion, physical artwork may require stamped engineering drawings and permits and have specific insurance requirements, environmental review and a plan to obtain permits.

Once the Artwork application has been approved by the Arts and Culture Commission, the Private Developer may submit the building permit for the Private Development project.

Prior to construction or installation of the Public Art, the Private Developer applicant shall identify and secure all applicable permits from affected City divisions and departments.

The Artwork and required identification plaque must be installed as approved by the PAAC and Arts and Culture Commission, and verified by the Arts and Culture Manager prior to the issuance of any Certificate of Occupancy or Final Inspection for the Private Development project.

### E. Special Delayed Option for On-Site Art Contribution and Designated Public Art Space

Private Developers who are interested in commissioning On-Site Art but are not able to complete the process in the required timeline described in Section II.D, may request permission from the Arts and Culture Manager to place the non-refundable public art contribution (1% of Building Development Costs of the Private Development) in an escrow account pursuant to special instructions from the Arts and Culture Manager. This will satisfy the 1% for Public Art in Private Development requirement contingent on the commissioning of On-Site Art within a reasonable time frame. Developers who place their money in an escrow account are able to acquire building permits prior to receiving approval from the Public Art Advisory Committee and Commission for Public Art in Private Development proposal. Affordable housing developments are more likely to be granted permission to place the Public Art contribution in an escrow account. By placing the money in the escrow account after selection of the On-Site Art option, the Private Developer will also have automatically selected the On-Site Art Project Management Option Section II.C.1 to delegate the project management process to the City of Richmond Arts and Culture Staff. In this case, the Private Developer shall pay the City the full 1% art contribution amount and the additional 15% project management fee to an escrow account within 30 days of signing a project management agreement between the City and the Private Developer.

Private Developers who are interested in pursuing Designated Public Art Space at a later date and under a separate building permit may request permission from the Arts and Culture Manager to develop

Designated Public Art Space in a delayed, yet still reasonable, timeline. In the case that permission is granted, an agreement must be signed between the City and the Private Developer detailing the specific condition(s) and requirements for the development of the Designated Public Art Space.

#### F. Eligible and Ineligible Expenditures for On-Site Publicly Accessible Art

Eligible Expenditures. For On-Site Publicly Accessible Art, a Private Developer may only expend costs associated with the selection, acquisition, purchase, commissioning, design, fabrication, placement, installation or exhibition of the On-Site Art. At the City's sole discretion, eligible expenditures may include:

1. Artist fees;
2. Labor costs for assistants, materials, and contracted services required for design, fabrication, engineering and installation of the On-Site Art;
3. Any required permit or certificate fees and reasonable business and legal costs directly related to the On-Site Art;
4. Communication, utilities, insurance and other indirect costs associated with the creation but not the operation of the On-Site Art;
5. Transportation of any On-Site Art to the Private Development site;
6. Preparation of the Private Development site specifically required for the On-Site Art, such as fabrication of platforms or pedestals;
7. Costs associated with the installation of the On-Site Art;
8. Mountings, anchorages, containments or other materials necessary for installation of the On-Site Art;
9. Five percent (5%) administrative costs fee paid to the City;
10. A plaque or plaques identifying the On-Site Art; and
11. Contingency fund for unplanned expenses; no more than 10% of the total art contribution amount.

Ineligible Expenditures. Expenditures that are ineligible to be counted toward the On-Site Publicly Accessible Art contribution include:

1. Labor of assistants, materials, and contracted services not required for design, fabrication, engineering and installation of the On-Site Art;
2. Promotional materials or activities for any Artist, the On-Site Art, the Private Development project, the Private Developer or other parties involved in the Private Development project;
3. Opening, dedication or other costs of events for the On-Site Art, Artist, Private Developer or Private Development;
4. Services, materials, utilities or other expenses associated with the ongoing operation or maintenance of the On-Site Art;
5. Land costs or any other costs associated with the Private Development that are not part of and solely attributable to the On-Site Art; and
6. Any art consultant fees if a Private Developer chooses to employ a private art consultant for project management.

## G. Criteria for PAAC Review of On-Site Art

The Public Art Advisory Committee will evaluate the submitted On-Site Art project proposal based on the following criteria:

1. Context. Artwork 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 proposed site;
2. Artistic Quality. Quality shall include excellence in the Artwork's craftsmanship, originality in conception and integrity of materials used;
3. Media. All forms of media may be considered. Artwork may be portable, permanently affixed, or incorporated in the design and/or function of a public space;
4. Permanence. For permanent Artwork, due consideration shall be given to the Artwork's structural and surface soundness, and to inherent resistance to theft, vandalism, weathering, and excessive maintenance or repair costs;
5. Public Safety. All Artwork or design elements shall be evaluated to ensure their compliance with public safety laws, regulations or requirements;
6. Diversity. The Public Art Program recognizes the cultural, racial, 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. PAAC may realize this goal as follows:
  - Achieving an equitable distribution of commissions and acquisitions from Artists who represent Richmond's multi- ethnic, multi-cultural population.
  - Commissioning Artwork throughout Richmond's various neighborhoods.
  - Emphasizing and encouraging the acquisition of Artwork which include a wide variety of styles, scale, and media.
  - Encouraging community participation in the Public Art process, when appropriate.
  - Encouraging the exploration and understanding of new and experimental art forms as well as established and traditional art forms.
7. Feasibility. Before a Public Art proposal is given final approval, it shall be evaluated for its feasibility relative to:
  - The project budget and its estimated timeline.
  - Convincing evidence that the Artist can complete the Public Art project on time and within the proposed budget.
  - Approval of the project by the appropriate City agencies, relative to safety, maintenance, and code requirements.
9. Visibility and accessibility of On-Site Art:
  - Compliance with any American Disabilities Act (ADA) requirements.
10. Engagement or interactive elements.

## H. Designated Public Art Space by Special Process

Private Developers interested in creating a Designated Public Art Space, as described in RMC 6.50.030.E Designated Public Art Space by Special Process, must follow the following process after submitting the application described in Section II.A above.

Private Developers shall meet with the Arts and Culture Manager within 60 days of submission of the Planning Application with a preliminary proposal of the Designated Public Art Space. If the Arts and Culture Manager determines the proposal meets the requirements of the Public Art Program (RMC

6.50.030.E), the Private Developer will receive instructions on documentation and requirements for next steps.

### I. Compliance with City laws and ordinances

On-Site Art and Designated Public Art Space is subject to, and shall comply with, all applicable City ordinances and laws and regulations of other governmental agencies. Prior to installation or construction of the On-Site Art or the Designated Public Art Space, the Private Developer shall identify and secure all applicable permits from affected City divisions and departments. Below are links to some applicable departments:

- [Planning](#) (Community Development Department)
- [Building](#) (Community Development Department)
- [Public Works](#)

### J. Maintenance of On-Site Art and Designated Public Art Space

The Private Developer and/or property owner of the Private Development project site, shall be responsible for the ongoing and regular maintenance to preserve the On-Site Art or Designated Public Art Space in good condition. As provided in Section 6.50.030 (G) of the Municipal Code, the Private Developer shall ensure that a declaration of covenants, conditions and restrictions is recorded against the Private Development project property site, in favor of the City, and it shall include the property owner's maintenance obligations as required herein. If and when the Private Development Project site is sold, the maintenance obligations shall be transferred to the new property owner.

The Private Developer and/or the property owner, shall maintain the On-Site Art following any special instructions provided by the Artist, and shall promptly perform any and all necessary repairs to the satisfaction of the City. The obligation to maintain and preserve the On-Site Art or a Designated Public Art Space includes the obligation to take reasonable steps to protect the On-Site Art or Designated Public Art Space against destruction, damage or modification.

The City shall not be responsible for any maintenance of the On-Site Art or a Designated Public Art Space.

If the Private Developer and/or property owner fails to maintain the On-Site Art or Designated Public Art Space within 90 days of notice from the City, the City may perform all necessary repairs and maintenance, and the Private Developer and/or property owner shall be responsible for reimbursing the City for such costs. If the Private Developer and/or property owner fails to reimburse the City, the City may impose a lien against the real property.

### K. Relocation of On-Site Art or Designated Public Art Space

The Private Developer and/or property owner of the Private Development project site shall maintain the On-Site Art and/or Designated Public Art Space in the location approved by the Arts and Culture Commission. The Private Developer and/or property owner may submit a written request to the Arts and Culture Commission to relocate the On-Site Art and/or Designated Public Art Space within the Private Development project site.

If the Private Development project or the Private Development project site where the On-Site Art and/or Designated Public Art Space is located is sold, the On-Site Art and/or Designated Public Art Space must remain at the location approved by the Arts and Culture Commission. The Private Developer and/or property owner may not remove the On-Site Art and/or Designated Public Art Space from the site.

In the case where the Private Development project is to be demolished, the Private Developer and/or the property owner must relocate the On-Site Art and/or Designated Public Art Space to another publicly accessible permanent location approved in advance by the Arts and Culture Commission.

#### L. Ownership of On-Site Art or Designated Public Art Space

The On-Site Art or a Designated Public Art Space shall become the property of the Private Developer and/or the property owner, and successor(s) in interest. On-Site Art or a Designated Public Art Space shall not be sold or transferred other than to a subsequent successor in interest of the property. As such, the ownership of the On-Site Art, along with any maintenance obligations, will be transferred with the property.

#### M. Modification to or Removal of On-Site Art or Designated Public Art Space

If the Private Developer and/or property owner wishes to sell, deaccession, modify or remove the On-Site Art or Designated Public Art Space from the project site approved by the Arts and Culture Commission, the Private Developer and/or property owner must notify the Arts and Culture Manager a minimum of 90 days before the intended date to remove the On-Site Art or Designated Public Art Space. They must receive prior approval from Public Art Advisory Committee and the Richmond Arts and Culture Commission before doing so. The Private Developer and/or property owner will be required to replace any sold or deaccessioned On-Site Art with an alternative Artwork of equivalent or greater value, as determined in the sole discretion of PAAC and the Commission. In the alternative, and with prior approval of the City, the Private Developer can choose to pay an in-lieu contribution fee in accordance with the Public Art Program Ordinance.

Private Developers and/or property owners shall be solely responsible for complying with all requirements of the Visual Artists Rights Act (VARA), and the California Art Preservation Act (CAPA). As provided in Section II. D (5) above, the Private Developer shall obtain a signed copy of a VARA/CAPA waiver from the selected Artist prior to the installation or creation of the On-Site Art, as provided in Exhibit B.

Private Developers and/or property owners agree that the City has an absolute right to require the Private Developer, Artist, and/or property owner to change, modify, remove, relocate, repair, or restore the On-Site Art, or portions of the On-Site Art, where it is in the public's best interest.

#### N. City Inspection of On-Site Art or Designated Public Art Space

On reasonable advance notice, City staff shall have the right to inspect the On-Site Art or Designated Public Art Space to ensure compliance with all City requirements.

## O. In-Lieu Contribution

In-lieu of On-Site Art or Designated Public Art Space, a Private Developer may pay an in-lieu contribution of 1% of the estimated Building Development Costs to the City's Public Art Projects Account. Private Developers submit the payment alongside all other fees due at building permit issuance. No presentations to the Public Art Advisory Committee or meeting with the Arts and Culture Manager will be required. To verify that it has been paid, the Arts and Culture Manager shall sign the building permit card. The Arts and Culture Manager confirms the receipt of contribution to the Public Art Projects Account in-lieu of providing On-Site Art or Designated Public Art Space prior to the final Certificate of Occupancy issuance or Final Inspection approval.

## P. Public Art In Private Development Process Chart and Payment Schedule – On-Site Art, In-Lieu Contribution, Designated Public Art Space

The Public Art in Private Development Process Chart can be seen in Exhibit C and the Public Art in Private Development Payment Schedule chart can be seen in Exhibit D.

## III. PUBLIC ART ON CITY PROPERTY

The procedures, requirements, and policies in this section apply to Public Art purchased or commissioned to be placed on City Property with resources from the Public Art Projects Account.

### A. Ownership of Artwork on City Property

All Artwork, including design elements, and other objects acquired for or by the City, and/or funded by the City, pursuant to this section, shall be acquired in the name of the City of Richmond and title shall vest in the City of Richmond. All Public Art placed on or in City Property, either by gift, donation, or City funds, shall be owned by the City. Copyright shall be maintained by the Artist.

### B. Criteria for selecting or acquiring of Public Art on City Property

Criteria to be used by PAAC and Selection Panels (as defined below) for the acquisition of Public Art, shall include, but not be limited to, the following:

1. Context. Artwork 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 proposed site;
2. Artistic Quality. Quality shall include excellence in the Artwork's craftsmanship, originality in conception and integrity of materials used;
3. Media. All forms of media may be considered. Artwork 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;
4. Permanence. For permanent Artwork, due consideration shall be given to the Artwork's structural and surface soundness, and to inherent resistance to theft, vandalism, weathering, and excessive maintenance or repair costs;
5. Public Safety. All Artwork, design elements, or temporary installations shall be evaluated to ensure their compliance with public safety laws, regulations or requirements;

6. Diversity. The Public Art Program recognizes the cultural, racial, 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. PAAC and the Commission may realize this goal as follows:
  - Achieving an equitable distribution of commissions, acquisitions, and temporary exhibitions from Artists who represent Richmond's multi- ethnic, multi-cultural population.
  - Commissioning Artwork throughout Richmond's various neighborhoods.
  - Emphasizing and encouraging the acquisition of Artwork which include a wide variety of styles, scale, and media.
  - Encouraging community participation in the Public Art process, when appropriate.
  - Encouraging the exploration and understanding of new and experimental art forms as well as established and traditional art forms.
7. Feasibility. Before a Public Art proposal is given final approval, it shall be evaluated for its feasibility relative to:
  - The project budget and its estimated timeline.
  - Convincing evidence that the Artist can complete the Public Art project on time and within the proposed budget.
  - Approval of the project by the appropriate City agencies, relative to safety, maintenance, and code requirements.
8. Visibility and accessibility of Artwork:
  - Compliance with any American Disabilities Act (ADA) requirements.
9. Engagement or interactive elements;

### C. Criteria for the Site Location of Public Art

Prior to recommending a site for a Public Art project, the Arts and Culture Manager, in collaboration with appropriate City agencies, the Public Art Advisory Committee, and the Commission, shall evaluate the proposed Public Art site using the following factors:

1. Visibility and public access.
2. Public safety.
3. Interior and exterior traffic patterns.
4. The relationship of the proposed Public Art project to the site's existing or future architectural features and to its natural features.
5. The function and uses of the facility or site.
6. The nature of the site's surrounding neighborhood and potential impact of the Public Art project on residences or businesses.
7. Future development plans for the area which may affect the Public Art project.
8. The relationship of the proposed Public Art project to existing works of art or design elements within the site's vicinity.
9. The proposed Public Art project's impact on the surrounding environment.
10. The social or cultural context of the proposed Public Art or design element relative to the site and its surrounding environment.

#### D. Public Art Reviewing Bodies (Selection Panels, etc.)

In addition to PAAC and the Arts and Culture Commission, Selection Panels and/or Ad-hoc Advisory Committees may be assembled to review certain projects, as further provided below.

1. **Selection Panels:** Selection panels are ad-hoc panels assembled for specific projects. The role of the selection panel is to assist the City in identifying qualified Artists to be considered for a Public Art 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 comprise a minimum of three persons from the categories listed below. There shall be an odd number of voting members on the panel to remove the possibility of a tie.
  - a) **Voting Members**
    - (1) At least one Artist or arts professional (curator, educator, etc.)
    - (2). At least one representative of the neighborhood in which the artwork will occur.
  - b). **Non-voting advisors.**
    - (1). Includes members of the design team, such as the project architect

The Arts and Culture Manager shall recommend panelists 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 to assess the creativity, design skills, and problem-solving abilities of Artists under review;
- Knowledge of materials and methods of fabrication used in Public Art projects and an ability to assess their appropriateness to a particular site;
- Ability to represent a particular neighborhood or area of Richmond in which the Public Art will be sited;
- Ability to work cooperatively and effectively in a panel process.

To expedite the recruitment and approval of panelists, City staff may develop a list of qualified panelists.

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. Previous PAAC or Commission members who have served in the past two years may not serve on a Selection Panel.

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.

2. **Ad-hoc Advisory Committees:** For certain Public Art projects, PAAC may elect, in its sole discretion, to establish an ad-hoc “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 Public Art will occur, and other types of information which may assist the Artist 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 Public Art project will occur. The Advisory Committee will represent residents or facility or site users who will be most affected by the Public Art project and who can provide the Artist with useful information in the development of their 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 a Selection Panel if requested by the PAAC to do so, if eligible as described in Section III.D.1 above. The Advisory Committee may consist of one or more of the following persons:

1. The design architect, if selected.
2. The project manager or designee from the City agency collaborating on the project.
3. Other design team members, if appropriate.
4. A member of the Public Art Advisory Committee.

## E. Selecting Artists and Artwork for Public Art for City Property

### 1. Methods of Selecting Artists and Artwork

Artists may be selected for Public Art projects by one of the following methods as determined by the Arts and Culture Manager:

1. Direct selection: Artist(s) or completed Artwork(s) chosen directly by the Public Art Advisory Committee or by a Selection Panel.
2. 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.
3. Open competition: any Artist is eligible to participate, subject to limitations established by the Public Art Advisory Committee.

### 2. Artist Recruitment Methods

1. Direct Recruitment: The City may utilize direct recruitment methods to solicit qualified Artists 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 Artists to be considered for a project.

2. Competitive Processes: For competitive projects, the City 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.
  - A description of the Public Art 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 Request for Proposals shall include an honorarium for the Artists to further develop the art concept design proposal.

### 3. Artist Selection Criteria

In general, any Artist may be considered for a Public Art purchase or commission. Specific eligibility requirements will be established by the Arts and Culture Manager at the initiation of each project and will be described on the RFQ/RFP. In general:

1. 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 can successfully complete the project given the proposed timeline or budget. Artwork or proposals submitted by the Private Development Project architect and/or members of the design team, and Artists who are members of or family members of the Arts and Culture staff, the PAAC, Commission, or the City Council, shall not be accepted. If a past member of PAAC, the Commission, or City Council wishes to propose Artwork, there must be at least a minimum of two years between serving on such governing bodies and consideration of Artwork or proposals.
2. 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.
3. Artists may be selected on a regional or national 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.

### 4. Artist and Artwork Selection Procedures

1. Pre-Screening: The Arts and Culture Manager, and designated City staff, shall pre-screen Artist applications, and evaluate them relative to the minimum candidate criteria and qualifications outlined in the RFQ or RFP. City staff shall then present the slate of qualified candidates for review to a Selection Panel, as described below.

2. Selection Panel Review: The Selection Panel shall meet under the following process:
  - (a) The Selection Panel (and Ad-hoc Advisory Committee, where applicable) shall review the pre-screened lists of Artist applications. Along with the candidates recommended for review by the Arts and Culture Manager, the Selection Panel will receive a list of all project applicants. Panelists may request to review any Artist previously eliminated by the staff if they believe that the Artists on the pre-screened list do not meet the stated minimum qualifications.
  - (b) City staff shall issue written instructions to panelists detailing the duties and responsibilities related to the project before the first panel meeting.
  - (c) The Selection Panel shall review credentials, proposals, and/or materials submitted by Artists.
  - (d) The Selection Panel shall recommend to the Public Art Advisory Committee: an Artist or Artists to be commissioned for the Public Art project; an Artist or Artists to develop a design proposal for the Public Art project; or recommend an Artist or Artists whose existing work is to be selected for the Public Art project. In the case where an Artist or Artists have been asked to prepare a specific design proposal, the Selection Panel shall re-convene to review the proposals and shall select the Artwork following the same procedures as outlined in steps (a)-(c) above. If a consensus cannot be reached by the Selection Panel, 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.
  - (e) The Selection Panel shall have the option of making no selection. In the event that no selection is made, the PAAC shall determine whether to: (1) initiate a new selection process; (2) revise the Public Art project; or (3) abandon the project.
  - (f) The Selection Panel's recommendation shall be recorded by the Arts and Culture Manager in the form of a written record to the Public Art Advisory Committee. If PAAC approves of the Selection Panel's recommendation, then the selected Artist's application will be given formal approval by resolution of the PAAC. If PAAC rejects the Selection Panel's recommendation, then an alternative process for project development will be determined.
  - (g) If PAAC approves of the Selection Panel's recommended Artist application, PAAC shall forward a recommendation to the Arts and Culture Commission for final approval. The Commission shall review and approve or reject the PAAC's recommendation. If the Commission rejects PAAC's recommendation, the Commission will provide a written report to the PAAC with the reasons for the rejection. 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.
  - (h) For Public Art projects over \$10,000, the Commission shall forward approved Artist applications to City Council for final approval. If the City Council accepts the Commission's recommendation, City Council shall approve the selected Artist's proposal by means of a formal resolution authorizing the City to enter into contract with the selected Artist(s). 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.
3. Commission and City Council's Review: 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: (i) constitutes a public safety threat; (ii) presents long-term maintenance problems; or (iii) creates a negative image or depiction of Richmond's residents, visitors, or neighborhoods.

4. Modified Panel Review: 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:
  - (a) Selecting one or more Artists to work on the project through direct invitation.
  - (b) 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 Public Art project.

## F. Public Art Project Management

### 1. Inter-Agency Procedures

1. The Arts and Culture Commission will negotiate a contract with the selected Artist and with other consultants as necessary, for the purchase or design, fabrication, and installation of the Public Art. Contracts will be executed by the City Manager, or their designee. The contract between the City and the Artist may include, but is not limited to: scope of services, insurance, Artist's rights, indemnifications, the Artist as an independent contractor, removal or modification of the Public Art, risk of loss, and title.
2. Disbursements from the Public Art Projects Account shall be made only after authorization from the Arts and Culture Commission.
3. On-site activity related to the installation of the Public Art will be coordinated between the Arts and Culture Manager and the appropriate City official(s) within the Department having jurisdiction over the site and/or construction.
4. In the case of sites under development, the appropriate City official(s) within the applicable Department will coordinate the concurrent site development and the Public Art installation in the most efficient manner possible.
5. In the case of existing sites, staff and the appropriate City official(s) shall oversee and facilitate the installation of the Public Art. 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).
6. Unless otherwise agreed, routine maintenance of the Public Art shall be the responsibility of the Department having jurisdiction over the site where the Public Art is located. Routine maintenance shall include such tasks as dusting, sweeping, and other such activities. Extraordinary maintenance and/or conservation of the Public Art shall be the responsibility of the Arts and Culture Manager on behalf of the Arts and Culture Commission. No City agency or Department shall be responsible for the conservation of Public Art, and no conservation or repair work shall be performed by the applicable department without the prior written consent of the Arts and Culture Commission.
7. Any proposed Public Art, which is deemed by the Commission and the applicable Department head to require extraordinary operations or maintenance on the part of the host Department, shall be subject to review by the applicable Department head. The Arts and Culture Manager, in consultation with other City agencies, shall develop a maintenance needs survey of the

Public Art collection and shall determine appropriate budgets and procedures for the care and maintenance of the collection.

8. In general, the applicable Department staff and consultants hired by the Department in connection with a development project which includes a Public Art project shall not receive additional compensation for time spent in connection with the implementation of Public Art projects. However, where a specific technical or professional task is performed by such staff or consultant(s), solely in connection with the Public Art, and where the task is necessary to the execution or installation of the Public Art, 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.

#### G. Maintenance, Removal, and Deaccession of Public Art on City Property

The City of Richmond is responsible for the maintenance and conservation of Public Art on City Property, unless otherwise agreed to with the Artist. When reasonable, the City may consult with the Artist(s) on how to properly maintain and conserve the Public Art.

The City of Richmond reserves the right to remove, relocate, deaccession, or replace any of the Public Art on City Property. The City may remove or replace Public Art if the Public Art: no longer retains its physical integrity or authenticity; the Public Art is damaged or of no value; the Public Art is no longer relevant or appropriate; the City can no longer properly preserve and maintain the Public Art; or for any other reason in the City's sole discretion.

All Artists selected to create and install Public Art on City Property shall be required to sign the VARA/CAPA waiver provided in Exhibit B of this document. Artist shall maintain copyright.

### IV. PUBLIC ART GIFTS AND LOANS

The following section provides a process for the review of proposed gifts and loans of Artwork to the City of Richmond, and for the placement, care, and preservation of such Artwork.

#### A. Conditions Governing the Donation of Artwork to the City of Richmond

Potential donors of Artwork must submit the following information and materials to the City prior to gifting or donating Artwork:

1. Digital images of the Artwork which depict it from all sides;
2. 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;
3. 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;
4. A written description and/or drawing of the proposed method of installation and a timeline for the transportation and installation of the Artwork;
5. An estimated cost for transporting and installing the Artwork (to be done at donor's expense, unless otherwise agreed to by the City);
6. Written authorization from the City agency with jurisdiction over the site, approving the

- installation of the Artwork;
7. A VARA/CAPA waiver signed by the Artist. (See Exhibit B).

The Arts and Culture Manager 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.

#### B. Review and Acceptance Criteria for Donated or Gifted Artwork

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

1. An analysis of the relationship of the proposed Artwork to its proposed location, and its relevance to its primary audience;
2. An evaluation of the Artwork's aesthetic quality, relative to its form, materials and craftsmanship;
3. The availability and appropriateness of an acceptable site for the Artwork;
4. 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;
5. 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 of Gifted or Donated Artwork

1. 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 Artwork will be accepted with conditions deemed unacceptable by the Public Art Advisory Committee, Commission, or the City Council, nor will any Artwork be accepted with an attribution or circumstance guaranteed in perpetuity.
2. 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.
3. The City of Richmond requires the donor to obtain a signed copy of the VARA/CAPA waiver (attached hereto in Exhibit B) from the Artist of the donated Artwork.

#### D. Conditions Governing the Exhibition of Artwork on City Property

This section applies to Public Art that has been provided or loaned to the City free of charge for the City to exhibit temporarily on City Property.

##### 1. Materials to be submitted by Artwork Lender:

Persons or organizations requesting to temporarily exhibit Artwork in or on City-owned property must submit the following to the Arts and Culture Manager:

1. Photographs, digital images, and/or slides of the Artwork to be exhibited.
2. 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.

3. A written description and/or drawing of the proposed method of installation and a timeline for the transportation and installation of the Artwork.
4. A VARA/CAPA waiver signed by all Artist(s) of the exhibited work. (See Exhibit B).

## 2. Lender's Agreements:

When exhibiting Artwork on City Property, the Artwork lender (hereinafter the "Lender") shall enter into a written agreement with the City, as approved by the Arts and Culture Manager. As detailed in the agreement with the City, the Lender shall at a minimum agree to the following:

1. 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.
2. 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 not purposefully removed from the body of the Artwork.
3. 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 indemnify, defend, and hold harmless the City and its employees, volunteers, and agents, from any and all liabilities, claims, demands, actions, damages, losses, and costs, in any way arising from or related to the Artwork, or the Lender and/or Artist's acts or omissions related to the Artwork. Additionally, the Lender shall include such indemnification requirements in any agreements between the Lender and the Artists, and ensure that the Artist(s) indemnifies the City and its employees, volunteers, and agents, from any and all liabilities and/or for any damages or losses to the Artwork.
4. The Lender must agree to produce and display an educational label for display next to or near the loaned Artwork.
5. The Lender must agree to remove the Artwork within three days' notice from the City to do so if the Artwork becomes damaged or destroyed and/or becomes a danger or visual impediment to the public, and/or for any other reason in the City's sole discretion.
6. The Lender must obtain a signed VARA/CAPA waiver (as provided in Exhibit B) for any Artist(s) whose Artwork will be included in the exhibition on City Property.

## E. Acceptance of Monetary Gifts for the Acquisition of Artwork

Proposed monetary gifts or donations 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.

## V. RECORDS AND FILES FOR PUBLIC ART PROJECTS

The Arts and Culture Manager shall, to the best of their ability, maintain records of each Public Art project, whether on City owned property or on private property. The records shall include, but not be limited to, the following:

1. Contract(s) with the Artist(s) and consultants participating in the Public Art project.
2. Records of City Council, Commission, and Public Art Advisory Committee actions bearing on the project.

3. Interdepartmental agreements relating to the siting or implementation of the project.
4. Correspondence, announcements, memoranda, and publicity information relating to the project.
5. Records of all billings made in connection with the project.
6. 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.
7. Digital image(s) of the Public Art.

## VI. CITY CAPITAL IMPROVEMENT PROJECTS APPROPRIATION FOR PUBLIC ART

As required by Section 6.50.020 of the Public Art Program Ordinance, all City Capital Improvement Projects (CIPs), including all City bond measure projects and all other City capital projects funded from outside granting authorities, shall contribute an amount equal to one and one-half percent (1.5%) of the total development costs of any Capital Improvement Project, to be set aside for Public Art. CIPs subject to this requirement shall include, but are 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 CIPs may not be included in the CIP budget when calculating the City's 1.5% appropriation amount.

## VII. Neighborhood Public Art Mini-Grants

The Neighborhood Public Art Mini-Grant program ("NPA program") is administered by the Arts and Culture Commission. It is funded through the City of Richmond General Fund. An application is released each year by the Arts and Culture Commission.

### A. Background

The Neighborhood Public Art Mini grants are designated to stimulate arts and culture in the Richmond community, help emerging Artists of all ages and ethnicities, and fund local visual, literary and performing arts projects. Since 2010, the NPA program has been coordinated by the Arts and Culture Commission, and has engaged hundreds of community members in art projects all over the City of Richmond.

### B. Purpose

What an NPA Mini-Grant does:

- Provides local Artists/non-profit arts organizations/community members with funding for their art projects.
- Assists applicants with meeting deadlines, making budgets, and contract compliance.
- Builds community and enables the Artists to pass on their skills by participating in the grants.

- Helps emerging Artists to pass on their skills to others: “each one, reach one, teach one”.

### C. Eligible Art Forms

- Visual Arts: paintings, graphics, ceramics, mosaic, crafts, sculpture, murals, etc.
- Performing Arts: spoken word, music, dance, theater, etc.
- Literary Arts: Written fiction, non-fiction, poetry, prose, short stories, etc.

### D. Eligibility Criteria for Applicants

**Eligible:** Richmond residents and Richmond-based arts organizations may apply as individuals, as a team with partners, or as a non-profit arts organization. Licensed "non-profit" organizations may serve as fiscal agents for individual mini grants. If someone is already engaged in a creative project and needs additional funding, they are eligible to apply for a *NPA Mini-Grant*. If anyone has received more than two NPA grants, the City requests that they please consider partnering with an emerging Artist to apply.

**Ineligible:** "For-profit" (corporate entities) do not qualify for this NPA Mini-Grant. City of Richmond employees, and/or a relatives of a Commissioner or any appointed official, may not apply for this grant, as this relationship represents a conflict of interest.

### E. Grant Funding

Final awards will be disbursed in two parts. The first payment will be paid upon signing the contract and the second payment will be paid upon successful completion of the funded project.

### F. Selection Process

All proposals received by the deadlines, will be reviewed for completeness and adherence to proposal submission guidelines. Proposals found to be eligible will be reviewed by the Arts and Culture Commission and ranked according to an established review process, using the established review criteria. Pre-qualified candidates will then be invited to make a presentation to the Arts and Culture Commission. From that group, the Arts and Culture Commission will identify a smaller group of semi-finalists, and after a final review, a group of finalists, who will be offered mini grant awards. Incomplete applications will not be evaluated.

### G. Grant Duration

Once grantees have been selected, contracts with the City will be prepared and awarded. Projects must be concluded no later than the end of the fiscal year.

Upon completion of each project, and for their final payment, Artists will be required to report back to the Arts and Culture Commission with a written summary and photos as evidence of the process and

completion and results of their creativity. Each awarded project will be assigned a liaison from the Arts and Culture Commission to assist and support the awardee through each step that will lead to a successful project.

#### H. Additional Requirements

Any Artist who receives awarded funds, but is unable to provide evidence of completion of milestones (50% complete and 100% complete) will be asked to return the funds.

Any Artist who receives awarded NPA grant funds, shall credit the City of Richmond, and the Richmond Arts and Culture Commission as a sponsor for their public art project i.e. mural, social media, etc. A high resolution City of Richmond logo and the Richmond Arts and Culture Commission logo will be provided to each awardee to be used on all written and other published media associated with their project.

### VIII. PERFORMING ARTS AND TEMPORARY ARTWORK

The City intends to activate publicly-owned spaces in parks, plazas, streetscapes, and other City-owned property by encouraging performing arts and temporary artworks. Performing arts and temporary artworks enliven communities, provoke conversations and refresh the public realm. Performing arts may be funded by the City through the Public Arts Project Account, the City's General Fund, and/or by private individuals or organizations. The City may initiate performing arts, or individuals or community organizations may initiate or request City consideration of performing arts.

#### A. Types of Performing Arts and Temporary Artwork Considered

All approaches and media may be considered by the City, in its sole discretion. Performing arts may include, but are not limited to, vocal and instrumental music, dance and theatre, pantomime, and/or sung verse to be performed on City Property (other than in the City's right-of-way). Temporary public art is defined as any art, including visual artworks, projections, digital media, virtual reality, lights, sounds, and other artistic media, to be placed on City Property (other than the City's right-of-way), that is not intended to be permanent and is not made a part of the permanent public art collection.

#### B. City's Goals for Performing Arts in the City

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 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.

#### C. Requirements for Performing Arts and Temporary Artworks

Temporary artworks and performing arts on any City Property may only be permitted if the City Department responsible for that site is willing to allow the temporary placement of art.

Any physical Artwork included as part of the Performing Arts and/or Temporary Artwork must be constructed to withstand outdoor placement during the City-designated display period. Temporary Artworks and Performing Arts 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 as approved in advance by the City. Additionally, environmental review may be required. All Temporary Artworks must be removed by the Artist after prior notice from the City or at an agreed upon time with the City. The Artist must restore the site to its original condition upon completion of the display.

#### D. Procedures and Program Management

The City may include the commission of City-funded Performing Arts and Temporary Artwork projects in its Public Art Master Plan as discussed in the Public Art Program Ordinance.

##### 1. Artwork Proposed by a Private Individual/Organization

If Performing Arts or Temporary Artwork is being proposed by a private individual or organization, such individual or organization shall submit a proposal to the Arts and Culture Manager.

The proposal shall include the following information:

- The proposed location(s) for the art;
- The Artist's resume;
- The type of artwork and a written narrative describing the artwork;
- A minimum of two photographs of the work, if applicable;
- Where applicable, a description of the construction materials and methods of fabrication and anchoring details;
- A signed VARA/CAPA waiver from any Artist participating in the proposed artwork (as provide in Exhibit B herein).

Projects proposed by private individuals or organizations will be evaluated by Arts and Culture staff for compliance with City standards and requirements and overall program goals. Where appropriate, the Arts and Culture Manager 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.

##### 2. Artwork Proposed by the City

For Performing Arts or Temporary Artwork proposed by the City, such projects may be selected through an open Request for Proposal (RFP) process, or by limited invitation, or by a curatorial process that invites Artist 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.

The City shall enter into a contract with a selected Artist that shall include, but not be limited to: the Artist's scope of services; the cost for design, fabrication, installation, maintenance and de-installation of commissioned temporary artwork or performing arts, or a fee for the loan and maintenance of pre-existing artwork; indemnification requirements; the Artist as an independent contractor; a signed VARA/CAPA waiver (as provide in Exhibit B herein).

The City may contract for the services of guest curators or non-profit arts organizations to select and curate Performing Arts and Temporary Artworks. When a contracted arts organization or curator is chosen by the City to implement the Performing Arts or Temporary Artworks, the City's Arts and Culture

Manager must be included in the Artist selection process as well as on the project team that reviews design development and implementation.

### 3. Selection Criteria for Performing Arts and Temporary Artworks

In general, the City may consider, but is not limited to, the following selection criteria when reviewing proposals for Performing Arts and Temporary Artworks:

- Artistic merit-the individual Artist or organization demonstrates high quality or promise through its artistic history and accomplishments;
- Appropriateness of the proposed artwork to site and goals articulated for the project;
- Community engagement or impact- The proposed public presentation is appropriate to the project goals and feasible in its potential to share the work with a defined Richmond audience;
- Feasibility and/or durability;
- The Artist's goals and processes for the proposed artwork are clearly defined, demonstrate originality, clarity and depth of concepts;
- Cultural Equity Impact - Demonstrated ability of the proposed artwork to support Richmond's diverse cultural traditions and values, including capacity to support the City's underserved communities;
- Visibility and accessibility of the performing art or temporary artwork, and compliance with any American Disabilities Act (ADA) requirements.
- Compliance with City codes and any all public art requirements and missions.

### 4. Review Process for all Performing Arts and Temporary Artworks

The Arts and Culture Commission will review and approve, deny, or suggest revisions to Performing Arts and Temporary Artwork proposals. City Council approval must also be obtained for any Temporary Artworks or Performing Arts projects that are funded through the Public Art Projects Account over \$10,000. In general, the City Council shall reject the Commission'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 City Council determines and substantiates that the Artwork or design proposal: (i) constitutes a public safety threat; (ii) presents long-term maintenance problems; or (iii) creates a negative image or depiction of Richmond's residents, visitors, or neighborhoods.

Temporary and Performing Arts based projects of less than 24-hour duration may be reviewed and approved by the Arts and Culture Manager.

### 5. Acceptance Conditions

1. The City reserves the right to manage City Property including the removal of the Artwork, for reasons that include but are not limited to matters of public safety, or where Temporary Artwork or Performing Arts elements have 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 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 Manager and Arts and Culture Commission.
3. In accepting a Temporary Artwork, the City of Richmond requires that the responsible parties

enter into an agreement with the City 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 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 or any Performing Arts elements or props.
5. The Artist(s) agree to indemnify, defend, and hold harmless the City of Richmond, and its employees, agents, and volunteers, from and against any and all liabilities, claims, demands, actions, damages, losses, and costs, in any way arising from or related to the approved Performing Arts or Temporary Artwork, or the Artist(s) acts or omissions related to the Performing Arts or Temporary Artwork.

## 6. Documentation

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

- Photographs or other documentation of the installed Temporary Artwork or the Performing Arts.
- Mention and/or reviews of the Performing Arts or Temporary Artwork in local press.

## IX. PUBLIC ART FUNDS

### A. Public Art Project Account

As provided in the Public Art Program Ordinance, the Public Art Project Account is established and maintained by the City for the purpose of funding public art programming consistent with the Public Art Program Ordinance and the Public Art Policies and Procedures.

### B. Sources of Public Art Project Account Funds

Public Art Project Account funds shall be comprised of the following:

1. In-lieu contribution fees for Private Development Projects (as discussed in Section II herein);
2. Appropriations collected from City Capital Improvement Projects (as discussed in Section V herein);
3. Monetary donations and gifts to the City for Public Art use;
4. Any other appropriation amounts from the City.

### C. Use of Public Art Project Account Funds

Approximately two-thirds of the funds in the Public Art Project Account shall be used for any fees and/or costs directly related to the selection of Artists or Artwork, for the fabrication and installation of Public Art, and for costs associated with displaying and identifying the Public Art. More specifically, Public Art Projects Account funds in this category may be used for, but are not limited to, the following:

1. Any honorarium fee to develop the Artist's design concepts;

2. To purchase or commission Artwork or design elements created by Artists to enhance Richmond's public spaces and to be placed on City property;
3. Any costs associated with the placement, installation, and display of Public Art;
4. Any costs related to the selection of Artists or Artwork;
5. Selection panelist fees (not including City of Richmond staff or PAAC or Commission members);
6. To establish, create, install, or maintain a designated Public Art space that is generally open to the public during regular business hours, and which may be used as a rotating art gallery, free of charge, or as a designated space to be used for the primary purpose of arts and cultural programming. This does not include 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.

Approximately one-third of the remaining Public Art Project Account funds shall be used as follows:

1. To maintain, conserve, repair, or relocate already existing and installed Public Art or design elements in the City;
2. To fund any staffing, administrative, and/or contingency costs for the implementation of the Public Art Program;
3. To defray such other expenses which are, or may become, an integral part of the Public Art Program, including community education and outreach, documentation, publicity, or promotion.

#### D. Ineligible Use of Public Art Project Account Funds

Public Art Project Account funds may not be used for the following:

1. Directional elements such as super-graphics, 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;
2. Art objects which are mass produced and of standard design, such as playground equipment or fountains;
3. Reproduction, by mechanical or other means, of original Artwork, except in cases of film, video, photography, printmaking or other media arts;
4. Decorative or functional elements that are designed by the building architect or landscape architect;
5. Landscape architecture, except when deemed to be an integral part of an Artist's work and relevant to a project under consideration;
6. 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;
7. Artwork acquired through third party owners, such as private collectors or auction houses;
8. Architects' fees, except in such cases where the public art component significantly changes a project architect's scope of services.

## X. 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 in the City. The activities and events may include, but are not limited to, the following:

1. Conferences, symposia, workshops, Artists' lectures, Public Art tours;
2. Development of cooperative programs with educational and arts institutions and community organizations;
3. Regular distribution of promotional and publicity packets, to include press releases, public service announcements, and public art newsletter;
4. Educational material written specifically for Richmond schools at appropriate levels for elementary, middle and high school students.

## EXHIBIT A Public Art in Private Development Application Form

### Public Art in Private Development Application Form

*To Be Completed by Private Developer (Applicant) and Submitted to Arts and Culture Manager*

As required by the Public Art Program Ordinance in Section 6.50.030 of the Richmond Municipal Code, Private Developers subject to the requirements of the Chapter are required to provide 1% of the Building Development Costs (as defined in Chapter 6.50 of the RMC) as a public art contribution in one of three ways:

- (1) by including On-Site Publicly Accessible Art as further provided in RMC Section 6.50.030(C);
- (2) by paying an in-lieu contribution fee as set forth in RMC Section 6.50.030 (D); or
- (3) by designating a Public Art space by Special Process as set forth in RMC Section 6.50.030 (E).

<b>Development Address:</b>	<b>Estimated Building Development Costs (Labor And Materials):</b>
	<b>Estimated Development Size (Square Feet):</b>
<b>Applicant / Architect Name:</b>	<b>Owner Name:</b>
<b>Address:</b>	<b>Address:</b>
<b>Phone:</b>	<b>Phone:</b>
<b>Email:</b>	<b>Email:</b>

Final Building Development Costs will be confirmed at the time of the Private Development Building Permit application. Should the final Building Development Costs (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 Building Development Costs.

**1% of Estimated Building Development Costs: \$** \_\_\_\_\_

Please choose one of the following options:

- A. Inclusion of On-Site Publicly Accessible Art
- B. Payment of in-lieu contribution
- C. Designating a Public Art space by special process

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

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

For City of Richmond Arts and Culture Manager Use Only:

Building Permit Number: \_\_\_\_\_

Requirement Satisfied with Option A, B, or C:

Date of Building Permit Issuance: \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_



## EXHIBIT B Waiver and Release of VARA, CAPA, and other Artists’ Rights

### Waiver and Release of VARA, CAPA, & Other Artists’ Rights

In consideration for the City of Richmond (the “City”) selecting \_\_\_\_\_ (the “Artist”) to create artwork for a public art project as further described below (the “Artwork”), the Artist hereby acknowledges and agrees, on behalf of himself or herself, and his or her organization, employees, agents, and/or volunteers, to the following:

#### VARA/CAPA Release and Waiver

Artist hereby waives any and all rights Artist may have with respect to the Artwork (as further described below) under the federal Visual Artists Rights Act of 1990 (17 U.S.C. sections 106A and 113(d)), the California Art Preservation Act (Cal. Civil Code sections 987 et seq.), and any other local, state, federal or international laws that convey rights of the same nature as those conveyed under 17 U.S.C. § 106A, Cal. Civil Code § 987 et seq. The provisions of this paragraph shall apply to modify Artist’s rights of attribution and integrity as set out in the Visual Artists Rights Act, 17 U.S.C §§ 106A and 113(d) (“VARA”), the California Art Preservation Act, Cal. Civil Code §§ 987 and 989 (“CAPA”), and any rights arising under United States federal or state law or under the laws of another country that convey rights of the same nature as those conveyed under VARA and CAPA, as against the City of Richmond, its officers, officials, employees and agents. The City has the absolute right to change, modify, destroy, remove, relocate, move, replace, transport, repair or restore the images of the Artwork.

Title of Artwork or Public Art Project: \_\_\_\_\_

Location Of Artwork or Public Art Project: \_\_\_\_\_

Description of Artwork or Public Art Project:  
\_\_\_\_\_  
\_\_\_\_\_

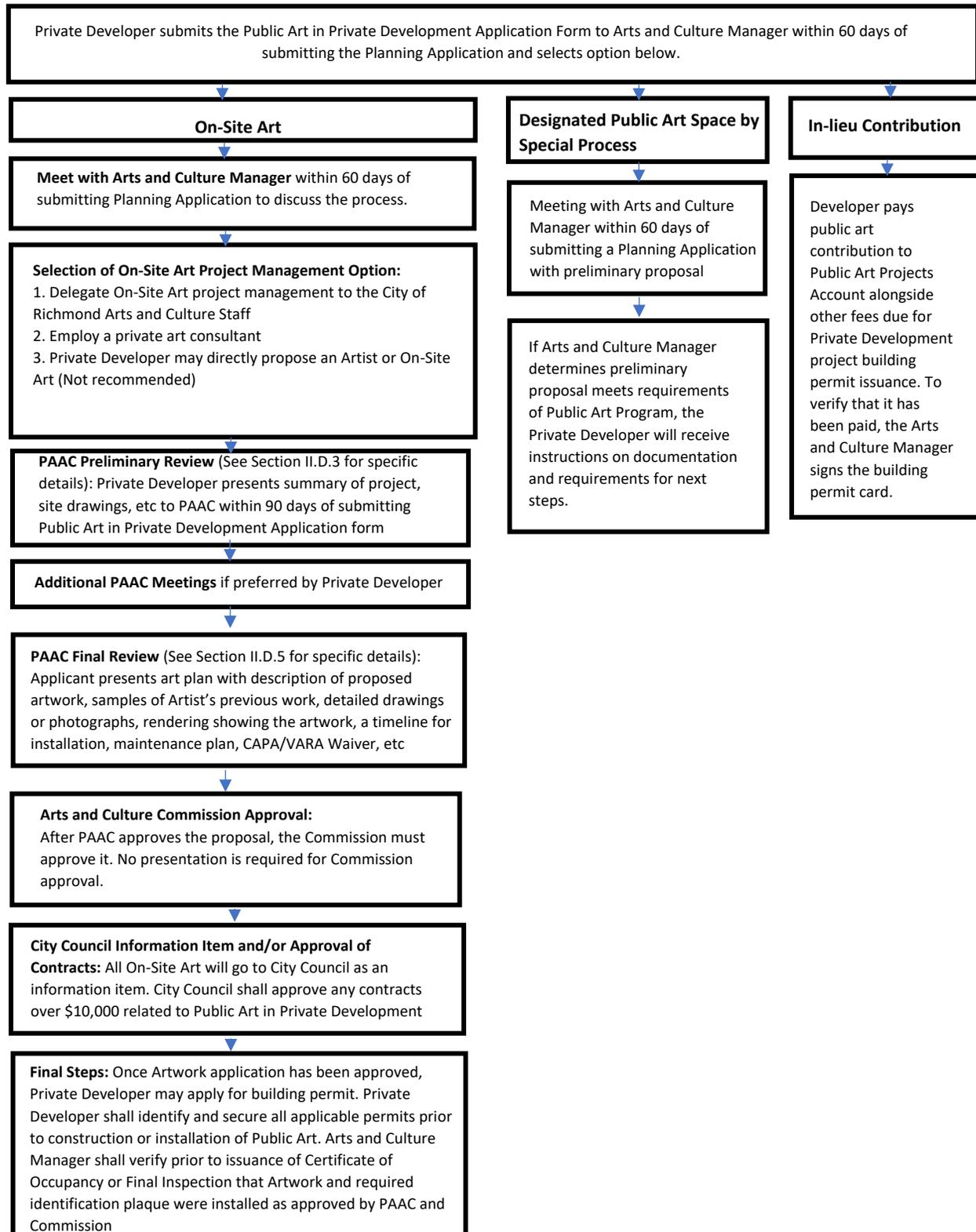
Artist Name/Organization: \_\_\_\_\_

Artist’s Address: \_\_\_\_\_

\_\_\_\_\_  
Artist Signature:

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

## Exhibit C: Public Art in Private Development Process Chart



## Exhibit D: Public Art in Private Development Payment Chart

