

## COUNCIL POLICY MANUAL

### **Policy 6.4.4      Art in Public Places**

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#### **POLICY PURPOSE**

The purpose of this policy is to ensure uniform guidelines and procedures for the inclusion of publicly accessible art on public properties, and to establish uniformity between the requirement for art in municipal construction projects with the requirement for art in private development projects. Additionally, this policy will also provide uniform procedures and guidelines for the permanent removal or deaccession of a city-owned public art piece.

#### **POLICY STATEMENT**

In 2002, the City Council reviewed the status, intent and effectiveness of public art policy in Sunnyvale and approved a policy to require art in public construction projects under certain circumstances.

In 2012, the Council again reviewed the effectiveness of existing public art policy and voted to amend the current policies to include a deaccessioning policy for the City's Permanent Art Collection, as well as to further define project eligibility for subsidies from the City's Public Art Fund.

#### **DEFINITIONS**

1.      Art: The conscious use of skill and creative imagination in the production of aesthetic objects.
2.      Public Art: Artwork that is publicly accessible and that allows an unobstructed view of the artwork. The artwork can be located on either public properties or private properties.
3.      Public Areas: Any public gathering place including, but not limited to; public plazas, the library, parks and park buildings, police and fire stations, community, neighborhood and senior centers, public transportation centers, and civic centers.
4.      Publicly Funded Projects: All construction funded by public or taxpayer funds.
5.      Public Art Fund: A fund established to create community art projects or to purchase artwork for installation on the interior or exterior of public buildings, or other such public property, such as parks, the grounds of public facilities, or community gateways. The Public Art Fund is administered by the Department of Library and Community Services and receives funding through in-lieu fees for art. Public Art Funds may be used to support eligible projects:
  - A.      Create community art projects for installation on public property.
  - B.      Install public art on public property such as parks or the grounds of public facilities such as the Community Center and Civic Center.
  - C.      Install public art in the interior of public buildings that are deemed to be areas of concentrated public activity such as the lobbies and public areas of the Library, City Hall buildings and Community Center buildings.

## COUNCIL POLICY MANUAL

- D. Install public art at City gateways and focal points or other high profile locations identified in the Master Plan for Public Art.
  - E. Install temporary or rotating art exhibits on public property.
  - F. Subsidize public art projects required through municipal construction projects and located on public property.
6. Project Valuation: The City's building permit valuation formula as set forth in Title 16 of the Municipal Code will be used as the basis for calculating the required expenditure for public art. The formula is based on the building standards published by the International Conference of Building Officials. In the case of park and open space projects, the one percent (1%) requirement will be calculated based on the total project budget, excluding administrative costs.
7. Required Expenditure Valuation: When determining whether or not the 1% required expenditure has been met, the following costs can be included:
- A. The purchase price of the artwork
  - B. Art consultant fees
  - C. Travel costs for the artist
  - D. Transportation of the artwork to the site
  - E. Installation of the artwork
  - F. Site preparation costs directly associated with installation of the artwork
  - G. Landscaping that is integral to the artwork
  - H. Pedestals or display costs
  - I. Lighting for the artwork and utility fees associated with installation and/or operation of the artwork
  - J. Identification plaque
- Ineligible costs include:
- A. Land acquisition
  - B. Site preparation
  - C. Architect fees
  - D. Fees associated with dedication ceremonies, publicity, or educational components
  - E. Maintenance fees and repairs
8. Public Art Collection: The collection of artwork either donated to the City, or purchased through public funds, which is owned and maintained, in trust for the public, by the City of Sunnyvale.
9. Deaccession: The process to permanently remove an artwork from the City's Public Art Collection.
10. Disposal: Any method used to transfer ownership of the deaccessioned piece to another entity, either through sale, donation, trade or destruction.

## COUNCIL POLICY MANUAL

11. Conservation: The broad concept of care necessary to maintain an artwork in good condition.
12. Preservation: Actions taken to prevent deterioration of damage in artworks.
13. Restoration: The treatment of deteriorated or damaged artwork to approximate as nearly as possible its original (or artist-intended) form, design, color and function.

### **ART IN MUNICIPAL CONSTRUCTION PROJECTS**

Eligible municipal construction projects are required to integrate public art. The artwork shall be located in publicly visible areas either inside a public building or on public property. The artwork shall be valued at an amount equal to 1% of the project valuation within a variance of ten percent.

### **PROJECT ELIGIBILITY**

Eligible Projects:

- A. All aboveground publicly funded buildings or public open space projects within City jurisdiction with a construction valuation of \$1,000,000 or more. This includes the development or renovation of all public facilities, as well as; parks, street medians, City gateways, public plazas and any other locations identified in the Master Plan for Public Art developed in accordance with Council direction.
- B. All construction or renovation projects of \$100,000 or more in facilities such as:
  - Sunnyvale Community Center
  - Sunnyvale Civic Center complex including Library and Public Safety Building
  - Fire Stations
  - Columbia Neighborhood Center
  - Neighborhood Park Buildings
  - Water Pollution Control Plant and SMART Station
  - Focal points and gateways into the community
  - Any future City buildings that are comparable in nature

Exempt Projects: All underground projects, utility (including water) projects, streets and sidewalks, trees and landscaping, utility relocation, seismic upgrades, mechanical and electrical work, traffic improvements (such as traffic lights, crosswalks and traffic calming measures), and construction due to fire or other natural calamities.

### **ASSIGNMENT OF RESPONSIBILITIES**

The Director of Public Works and the Director of Library and Community Services, or their designees shall be responsible for identifying municipal construction and renovation projects that meet the conditions of this policy and will be required to provide public art.

## COUNCIL POLICY MANUAL

The Director of Library and Community Services, or his/her designee shall be responsible for initiating public art projects that are not required through municipal construction, but that have been designated as eligible for funding from the Public Art Fund, in accordance with the City's approved Master Plan for Art.

### 1. Review Process for Art in Public Places:

A. Project review Committee: This committee will coordinate the public art component of an eligible municipal construction project, and shall consist of staff from the Departments of Public Works, Library and Community Services, and Community Development, as appropriate.

B. Location and Artwork Review: Possible locations for the artwork and the type of artwork to be considered for the project shall be identified with input from the Project Review Committee, the Sunnyvale Arts Commission, pertinent city staff, interested citizens and project architects. Based upon this information, proposals will be solicited from qualified artists.

C. Short List of Artists: The Project Review Committee will be responsible for reviewing all art proposals and/or qualifications of artist applications. A short list of 2-5 artists and/or proposals will be established by the Committee. The short list shall have a minimum of two artists and/or proposals for consideration.

### 2. Approval Process:

A. Report to Council (RTC): A draft RTC outlining the project and the short list of artists will be forwarded to the Arts Commission for review and recommendation prior to going to City Council for action.

B. Council Approval: Following Council approval of a specific art proposal, the Director of Library and Community Services, or the Director's designee(s), shall be responsible for coordinating the integration of the public artwork into the municipal construction project.

### 3. In-Lieu Fee Alternative:

A. The in-lieu fee alternative available to private developers applies to public construction projects at the discretion of the Director of Public Works.

B. If the in-lieu option is exercised, the funds will be placed in the Public Art Fund for acquisition and installation of art on public property or in public buildings at a later date.

## **PERMANENT ART COLLECTION**

Artwork approved for purchase or commission by the City Council shall become part of the City's Permanent Art Collection. All artwork in the collection will be documented in the City's Public Art Inventory and identified with a metal plaque. Oversight and maintenance of the Public Art Collection is the responsibility of the Department of Library and Community Services.

## **DE-ACCESSIONING PLAN**

## COUNCIL POLICY MANUAL

Artworks in the City's Public Art Collection are meant to remain on public display. However, circumstances may deem it necessary to permanently remove works of art from the City's Public Art Collection.

1. Eligible Circumstances for De-accessioning:

- A. Security: The security or continued good condition of an artwork cannot be reasonably guaranteed in its current location. Arts staff will attempt to relocate any artwork deemed at risk for security purposes; but in the event a suitable, secure location cannot be found, the item may be de-accessioned from the collection.
- B. Public Safety: The artwork is a danger to the general public because it is naturally deteriorating, or it has been altered through vandalism, unforeseen man-made circumstances or a natural disaster.
- C. Inauthentic: The artwork is discovered to be inauthentic or fraudulent.
- D. Stolen Art: The artwork is discovered to be stolen, and therefore, is returned to its legal owner.
- E. Theft: The artwork is illegally removed from its place of public display and cannot be located.
- F. Damage Beyond Repair: The artwork has been severely damaged and deemed "beyond repair" by a professional art conservationist, or the artist, and it cannot be restored to the artist's original intended condition for a price less than is considered prohibitive.
- G. Change in the Public Art Collection's Mission: The artwork no longer meets the mission of the Public Art Collection due to a formal change in the Collection's Mission Statement.
- H. Loss of Site (Site Alteration or Sale of Site): The artwork can no longer reside in its original location because the original location is altered due to construction, a change of site usage, or sale of the site. Arts staff will attempt to relocate the artwork to a suitable site; however, lack of a suitable site, either now or in the foreseeable future, or if there is not suitable storage until a site in the foreseeable future is available, could merit deaccessioning.

For site-specific artwork, or permanently-affixed artwork, deaccessioning may be warranted without any attempt to relocate the artwork. It is deemed that the artwork cannot be moved without causing irreparable damage or the cost of relocating the artwork is considered prohibitive.

- I. Temporary Acquisition: The artwork is intended to be a temporary display and the City's obligation to display the artwork is complete.
- J. Excessive Representation: The artwork is deemed as duplicative or excessive in representation of work of that type or of that artist.
- K. Aesthetic Value: The artwork has not withstood the test of time and has been professionally determined to lack aesthetic value to justify its continued upkeep and/or storage.
- L. Content: Once the Artwork has been accessioned into the City's Public Art Collection, it may not be de-accessioned solely on the basis of content or personal preference of any staff member, commission or board member, or member of the public.

2. Assignment of De-accessioning Responsibilities:

## COUNCIL POLICY MANUAL

- A. No city department shall remove any work of art from the site for which it was selected, nor remove it from display, without prior consent of the Director of Library and Community Services, or the Director's designees(s).
- B. The Director of Library and Community Services, or the Director's designee(s), is responsible for determining whether or not the artwork meets any of the above criteria for removal or de-accessioning.
- C. The Director of Library and Community Services, or the Director's designee(s), shall be responsible for oversight of the de-accessioning process.
- D. The Director of Library and Community Services, or the Director's designee(s), shall make every effort to contact the artist of the artwork recommended for de-accession, or the artist's heirs, using current contact information. The artist, or the artist's heirs, shall be given the opportunity to purchase the artwork, or its parts, before the disposal or destruction of the artwork.
- E. The Director of Library and Community Services, or the Director's designee(s), shall determine the purchase price of a de-accessioned artwork, based on current market value.
- F. In the event that the de-accessioned artwork is sold, the Department of Library and Community Services will deposit the proceeds of such sale into the Public Art Fund of the City.
- G. In the event that the de-accessioned artwork is sold or donated, the removal of the artwork from city property shall be the responsibility of the purchaser or recipient of the donation and shall be of no cost to the City.
- H. De-accessioning and disposal of an artwork must be conducted publicly and formally with adequate documentation. It must also comply with all applicable local, state and federal laws.
- I. No current, or former, member of the Art Commission, City Council or City staff member shall be allowed to bid and/or purchase a de-accessioned artwork.
- J. A permanent record of the artwork's inclusion in the City's Public Art Collection, and reasons for its removal, shall be maintained in a Public Art Collection database by the Department of Library and Community Services.

### 3. Process for De-accessioning Artwork:

- A. If an artwork is subject to any of the above conditions and deemed eligible for de-accessioning, the Arts staff will prepare a report for review and evaluation by the City's Arts Commission, which will prepare a formal recommendation to the City Council for action on the de-accession.
- B. The Staff Report shall include:
  - a) Reasons for the suggested de-accession
  - b) Original accession method(s) and cost of artwork
  - c) Estimated current market value of the artwork
  - d) Proposed de-accession method(s) and cost for each proposed method, including the sale price if applicable
  - e) When appropriate, photo documentation of the site conditions and/or current condition of the artwork in question
  - f) Official Police Report (if applicable)

## COUNCIL POLICY MANUAL

(Adopted: RTC 02-136 (5/7/2002); Updated for accuracy (10/28/09); Amended: RTC 12-187 (8/14/2012); Clerical update (9/30/14); Clerical update (12/3/14))

Lead Department: Department of Library and Community Services