

**COUNCIL POLICY**

SUBJECT: INCLUSION OF PUBLIC ART IN SELECTED CAPITAL  
IMPROVEMENTS PROGRAM AND REDEVELOPMENT AGENCY  
PROJECTS

POLICY NO.: 900-11

EFFECTIVE DATE: April 27, 2004

**BACKGROUND:**

The mission of the City of San Diego Commission for Arts and Culture (Commission) is to vitalize the City of San Diego (City) by integrating arts and culture into community life while supporting the region's cultural assets and showcasing San Diego as an international cultural destination. It is the Commission's responsibility to make all recommendations pertaining to arts and culture for City funding to the City Council. It is also the Commission's responsibility to advise on projects and programs designed to promote public art throughout the neighborhoods of the City, develop policies to include public art in selected Capital Improvements Program (CIP) and Redevelopment Agency projects, and to encourage the private sector to include opportunities for cultural and artistic expression in private development.

The Commission received funds from the National Endowment for the Arts (Resolution Number R-275373, adopted on March 26, 1990) and the California Arts Council (Resolution Number R-272959, adopted on February 27, 1989) to develop the Public Art Master Plan (PAMP). A city-wide pilot program was established to involve communities and artists in the development and creation of site-specific artwork. PAMP was established to better serve the City residents by providing an opportunity to build community identity and a source of pride, to enhance the existing environment of San Diego's neighborhoods, and to foster artistic expression and cultural diversity.

To further enhance the goals of the PAMP and to implement the duties of the Commission, the San Diego Municipal Code was amended (San Diego Municipal Code sections 26.0701 et seq. by ordinance O-17757 adopted on April 20, 1992). Beginning in 2002, Commission staff and consultants working on its behalf met with over 150 individuals representing the City's diverse population; held numerous focus groups; conducted a series of charettes for local artists, architects, engineers, project managers, landscape architects, and other interested citizens; and submitted many drafts of the PAMP for extensive comment and input from planning participants. The PAMP was subsequently updated and revised (Resolution Number R-299147, adopted on April 26, 2004).

The policy set forth below parallels the standard established by other municipal and state public art ordinances which mandate inclusion of artists in the design process and/or the commissioning of public art.

PURPOSE:

This policy is intended to promote the cultural heritage and artistic development of the City to enhance its character and identity, to contribute to economic development and tourism, to add warmth, dignity, beauty, and accessibility to public places and to increase opportunities for City residents to experience and participate in the visual, performing, and literary arts by directing the inclusion of public art in Capital Improvements Program projects initiated by the City and other public improvement projects undertaken by the Redevelopment Agency.

DEFINITIONS:

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

Artist means an individual generally recognized by critics and peers as a professional practitioner of the visual, performing, or literary arts, as judged by the quality of that professional practitioner's body of work, educational background, experience, public performances, past public commissions, exhibition record, publications, and production of artwork.

Artwork includes:

Sculpture: may be made of any material or combination of materials; may be free standing, wall-supported or suspended, kinetic, electronic or mechanical.

Murals or paintings: may be made of any material or variety of materials with or without collage; may be made with traditional or non-traditional materials and means.

Earthworks, neon, glass, organic materials (i.e., fiber, clay, wood, etc.), mosaics, photographs, prints, literary arts, calligraphy, any combination of forms of media, including audio, video, film, CD-ROM, DVD, holographic or computer generated technologies, or new genres.

Artwork may be permanent, fixed, temporary or portable, may be an integral part of a building, facility, or structure, and may be integrated with the work of other design professionals.

City Manager means the City Manager, Assistant City Manager, Deputy City Manager, or any public officer designated by the City Manager.

Eligible Construction Project means any CIP project paid for wholly by the City, or other public improvement project paid for wholly by the Redevelopment Agency, for the construction of any building, park, median, bridge, transit or aviation facility, trail, parking facility, or above-grade utility, to which the public has access or which is visible from a public right-of-way.

Eligible Project Funds means the total amount appropriated for all CIP projects or Redevelopment Agency projects in excess of \$250,000. Costs for pre-design, design, construction, and contingency are included, while costs for land acquisition, furniture, fixtures, equipment, and library books are excluded. Funds from grants, loans, bonds, enterprise funds, or other funding sources which by the terms of their applicable covenants and conditions prohibit their expenditure on artwork are not eligible.

Enterprise Funds means revenues derived from an enterprise which are placed in designated funds that are used to pay for the construction, maintenance, or operation costs of the enterprise, or for any other lawful purpose.

Extraordinary Maintenance means any non-routine repair or restoration to sound condition of public art that requires specialized professional services.

Ordinary Maintenance means any routine cleaning of public art undertaken on a regular basis.

Public Art means artwork that is created with public funds and is located in public places.

Public Art Collection means the works of public art owned by the City.

Public Art Fund means a separate fund established in the City Treasury into which all monies allocated under this policy shall be deposited.

Public Art Program includes all responsibilities and activities of the Commission under Chapter 2, Article 6, Division 7 of the San Diego Municipal Code.

Public Places means land and buildings owned by the City of San Diego.

#### POLICY:

It is the intent of this policy to utilize existing procedures within each sponsoring City department and the Redevelopment Agency to include public art in CIP projects and Redevelopment Agency projects. Further, this policy will be implemented and monitored without adding significant time or expense to the pertinent selection and contract procedures.

1. The City Manager shall recommend annually that the City's public art program be funded by 2% of eligible construction projects with eligible project funds in excess of \$250,000. The City Council may, in its sole discretion, allocate an amount equal to, less than, or in excess of the City Manager's recommendation to the City's public art program.
2. If the City Manager determines that anticipated revenues in the current or upcoming fiscal year will be insufficient to maintain the current level of City services, the City Manager may recommend to the City Council that compliance with this policy be temporarily suspended for the current or upcoming fiscal year. A majority vote of the City Council may temporarily suspend compliance with this policy.

3. Prior to the time that the City Council considers the annual CIP budget, the City Manager shall consult with the Redevelopment Agency, Directors or designees of the Engineering and Capital Projects Department, the Park and Recreation Department, the Metropolitan Wastewater Department, the Water Department and any other appropriate department in order to identify eligible construction projects as well as any applicable restrictions to the funds which are used to finance those projects.
4. At the time that the City Council considers the annual CIP budget, the Commission and City Manager shall submit a public art work plan to the City Council which shall propose public art projects for the next fiscal year. The work plan shall also provide the City Council with a status report on current public art projects and projects which were completed during the previous year.
5. For those eligible construction projects which have been identified in the public art work plan, the City Manager shall ensure that artists are involved in the early stages of project design so that they may become an integral part of the design process.
6. Where a CIP project is financed by an unrestricted funding source, the public art program allocation authorized by the City Council may be transferred by the City Council to the public art fund and may be used to design, fabricate, and install a work of public art at any location within the City.
7. Where a CIP project is financed in whole or in part by restricted funding sources such as enterprise funds, loans, or grants, the public art program allocation which is authorized by the City Council shall be expended only on works of public art placed at the project site. Revenues which are derived from bonds, loans, grants, or other restricted funding sources shall be segregated from other City revenues and expended in accordance with their applicable restrictions, covenants, or conditions.
8. The Redevelopment Agency shall retain eligible project funds in a separate account. Those eligible project funds may be used only for the costs of design, fabrication, and installation of a work of public art within the Redevelopment Project Area, and shall not be used to maintain works of public art within the Redevelopment Project Area.
9. The City shall be deemed the owner of any work of public art which is installed in a Redevelopment Project Area.
10. The award of all artist contracts shall be authorized by the City Council; however, artist contracts with a contract price of \$250,000 or less shall be authorized by the City Manager. The Commission, through the City Manager, shall be the contract administrator for all artist contracts awarded by the City.

11. All costs related to extraordinary maintenance of a work of public art shall be the responsibility of the Commission. All costs related to ordinary maintenance of a work of public art shall be the responsibility of the operating department for the eligible construction project. The Commission shall be responsible for the costs of all maintenance of any work of public art which is located in a Redevelopment Project Area.
12. The City Manager shall conduct a maintenance survey of the City's public art collection every five years, at a minimum. The maintenance survey shall include a condition report on each work of public art; prioritized recommendations for the restoration, repair, or maintenance of existing works of public art; and the estimated costs of those recommendations.
13. A work of public art shall not be located at or near any publicly owned facility to which the public is denied access due to security concerns or for any other reason.
14. The City Manager shall monitor the compliance with this policy.

POLICY APPLICABILITY:

This policy shall apply to all projects as described in this policy, except for:

1. A CIP project or a Redevelopment Agency project for which the City Council or the Redevelopment Agency has authorized expenditures prior to Fiscal Year 2006.
2. A CIP project which is funded by an Annual Allocation.
3. A CIP project or a Redevelopment Agency project which authorizes construction of a street, slurry sealing, or restriping.
4. A CIP project or a Redevelopment Agency project which is for affordable housing, housing for senior citizens, residential care facilities, and accessibility improvements for persons with disabilities.
5. A CIP project or a Redevelopment Agency project which is authorized as an improvement to a designated historical resource.
6. A CIP project which is limited to play areas or comfort stations.
7. A CIP project or a Redevelopment Agency project limited to the construction of underground utilities, including but not limited to water, sewer, and storm drains. Should an identified CIP project or Redevelopment Agency project provide for the construction of both underground and above ground appurtenances, then the requirements of this policy shall apply only to the eligible project funds for that portion of the project which will be constructed above ground.

8. A CIP project, a Redevelopment Agency project, or City agreement of any kind involving a reimbursement of funds, or participation in funding for the construction of a public improvement.
9. A CIP project or a Redevelopment Agency project for a maintenance assessment district or any other special assessment district.

HISTORY:

“Artist(s) Involvement in

Selected Capital Improvement Projects”

Adopted by Resolution R-279659 - 03/30/1992

Amended by Resolution R-299147 - 04/27/2004

Temporarily Suspended by Resolution R-306792 - 05/16/2011,

and Suspension Automatically Sunsets at the End of Fiscal Year 2012