



Late Backup

31

Economic
Development

MEMORANDUM

TO: Mayor and Council

FROM: Kevin Johns, Director
Economic Development Department 

DATE: December 11, 2014

SUBJECT: Item #31 from Council – Resolution No. 20140925-85

Council Resolution No. 20140925-085 directed the City Manager to provide review and updates to the Artwork Donation and Loan Policy process. The Arts Commission approved the policy as recommended except for the section to allow staff to administratively approve short-term loans (less than 3 months). The Arts Commission will continue to review and take action on all proposed donations and loans.

The Austin Arts Commission reviewed the recommended changes to the policy on Monday, December 8, 2014. The Arts Commission approved a motion to separate out language related to short term loans and consider that language separately from the rest of the policy. The motion to approve the policy with amendments to language as discussed by the Commission was made by Commissioner Willenzik and seconded by Wong Mok. Vote called: passed, 7-0. The motion to approve the language related to short term loans was made by Commissioner Auerbach and seconded by Commissioner Wong Mok. Vote called: failed, 0-7.

The attached City of Austin Artwork Donation and Loan Policy reflects the revised policy as approved by the Austin Arts Commission.

If there are additional questions or information needed please contact me at 512-974-7802 or Megan Crigger, Cultural Arts Program Manager at 512-974-9312.

xc: Marc A. Ott, City Manager
Sue Edwards, Assistant City Manager
Sylvia Holt-Rabb, Assistant Director, EDD
Megan Crigger, Cultural Arts Program Manager, EDD

#31
Economic
Development



City of Austin

**ARTWORK DONATION AND LOAN POLICY
AND APPLICATION**

Originally adopted by City Council on March 21, 2013

CITY OF AUSTIN ARTWORK DONATION & LOAN POLICY

I. STATEMENT OF PURPOSE

The City of Austin is committed to building a collection of high-quality public art for the enjoyment and enrichment of citizens and visitors. That commitment includes providing a means by which individual citizens or organizations may propose artwork donations to be included in the City's artwork collection. This policy outlines the process through which artwork proposals are reviewed and accepted or rejected by the City of Austin. The objectives of this policy are to

- Provide uniform procedures for the review and acceptance of gifts and loans of works of art for the City of Austin;
- Establish consistent review criteria that strike an appropriate balance between high aesthetic standards and city business use;
- Maintain high artistic standards in works of art displayed by the City of Austin; and
- Encourage or facilitate recognition of the artistic community.

II. DEFINITION OF TERMS

Aesthetics: Artistic merit of the work of art, including consideration of its artistic, social, and/or historical significance.

Appraisal: A professional, certified evaluation of an artwork—its authenticity, condition and provenance—to determine its monetary value.

Art in Public Places (AIPP) Panel: Seven-member panel of visual arts professionals appointed by Arts Commission to review AIPP projects and make recommendations to the Arts Commission regarding appropriations for art and placement of art.

Arts Commission: A board of arts professionals appointed by members of City Council in order to foster and assist the development of the arts in the city, the Arts Commission serves as an advisory body to the City Council in all arts-related matters, including long-range planning, allocations, and coordination with the comprehensive plan.

Artwork (or Work of Art): Original art in various mediums, including but not limited to any portable or permanently fixed sculpture, mural, painting, drawing, earthwork, mixed media work, or time-based work (moving images or sound-based art), created by a professional artist, artists, or collaborative team. The artwork or identifying plaque cannot contain advertising or promotional content relating to living persons or to organizations, institutions, or businesses currently operating. (A plaque accompanying the artwork, which provides the name of donor, artist, or artwork, shall not be considered advertising.)

Cultural Arts Division (CAD): A division of the Economic Development Department of the City of Austin, CAD provides leadership and management for the City's cultural arts programs and for the development of arts and cultural industries as an economic

development strategy on behalf of the City. CAD guides the Citywide Artwork Donation and Loan Review process.

Department Review Committee (DRC): A committee of relevant City department staff and/or external stakeholders identified by the Department Director or his/her designee who manages the City property upon which the artwork is proposed to be sited. This committee evaluates proposals of donations based upon stated criteria, including Site, Installation, Maintenance, Financial, Liability, Timeliness, and Special Conditions.

Donation: An artwork or a series of artworks gifted to the City for public display with intent to transfer title of ownership to the City.

Gifts of State: Items officially given from one country to another as a sign of goodwill.

Impervious Cover: A surface that blocks water from going into the soil (e.g., highways, streets, parking lots, sidewalks, large paved areas).

Loan: An artwork of which ownership is retained by the donor during period of display on City property.

Parks and Recreation Department (PARC): City of Austin department that oversees City parkland and recreation facilities.

Public Art Fund: A fund designated by the Art in Public Places Ordinance for the purposes of new project construction, repairs, and conservation of artworks, and managed by the Cultural Arts Division.

Professional Artist: A person who has established a reputation of artistic excellence, as judged by peers and through a record of exhibitions, public commissions, sale of works, or educational attainment.

Prominent Location: An exterior location that is accessible to the public, enjoys high visibility, and is used or visited by a large number of visitors and/or city residents.

Provenance: The history of an artwork and its creation and ownership, which is used to help establish its authenticity. Documents used for provenance include sales receipts, auction and exhibition catalogs, gallery labels, letters from the artist, and statements from people who knew the artist or the circumstances of creation of the artwork.

Roy C. and Ann Butler Hike and Bike Trail: The 10-mile trail encircling Lady Bird Lake intended for non-motorized traffic. For the purposes of this policy, Butler Hike and Bike Trail shall also include bridges along the trail, including Crenshaw Pedestrian Bridge, Pfluger Pedestrian Bridge, First Street (Drake) Bridge, Congress Avenue (Ann Richards) Bridge, I-35 Bridge, and Longhorn Dam.

Town Lake Park: The parkland area bordered by Lady Bird Lake to the north, the First Street (Drake) Bridge to the east, Barton Springs Road to the south, and Lamar Boulevard to the west, as defined by *Approaches to Public Art for Town Lake Park*, a conceptual master plan for the development of the area.

User Department: The department within the City of Austin deemed responsible for long-term care and maintenance of artworks that are sited within its physical boundaries or determined by operations/business use.

Working Group: A body established by a board or commission and consisting of less than a quorum of the board, to which the board delegates a defined matter or matters for consideration and recommendation to the board. A working group is automatically dissolved after it reports its recommendations. The board may appoint a non-member or non-members to serve on a working group.

III. GUIDELINES FOR ARTWORK DONATIONS AND LOANS

When artwork donations and loans are proposed for placement with any City of Austin agency or department, such proposals shall be reviewed by entities that may include but are not limited to City employees, community stakeholders (individuals or groups), and a Working Group. The process outlined below assumes that the Donor has an artwork proposal in the form of drawings or photos and/or a maquette or model, *or* has a finished work of art to donate.

Review Process (Step-By-Step) for Permanent Artwork Donation and Loans:

STEP 1: The potential Donor submits a completed Artwork Donation Application or Artwork Loan Application with required attachments to the Cultural Arts Division (CAD). CAD staff shall assemble the appropriate City Department Review Committee (DRC). It is recommended that the Donor discuss the proposal with CAD staff prior to completing the form, as this may be helpful and time-saving and will ensure that the application is complete.

STEP 2: CAD staff facilitates a presentation by the Donor to the DRC, which then evaluates the application based upon all of the criteria listed below (see **Review Criteria**). The purpose of this review is to determine the feasibility of the artwork.

The User Department has the discretion to consult with a professional art conservator or other qualified professional to review the proposal and provide recommendations. The User Department also has the discretion to present to any of its respective boards and commissions prior to Arts Commission action. Departments have the ability to conduct additional internal or external reviews or presentations if increased public dialogue warrants, or to postpone review and recommendations if a proposed site is currently involved in master planning.

STEP 3: The application and the DRC recommendation are presented to the Arts Commission. The Arts Commission may form a Working Group and appoint a Chair for further review and recommendation or refer to the AIPP Panel for review and recommendation. The Arts Commission shall consult the DRC to determine the appropriate boards, commissions, and other associations that may be considered for inclusion in the Working Group.

The Working Group shall not exceed the maximum number of commissioners allowed on a Working Group (including the commissioner serving as AIPP Panel liaison) and consist of no more than three members of the AIPP Panel, as outlined by the Board and Commission Ordinance. The Working Group can include other professional experts, community representatives, or City staff, as recommended by the DRC and appointed by the Arts Commission.

STEP 3a: The Working Group reviews the DRC recommendations and the proposal based upon stated review criteria. The Working Group may recommend that the proposal be accepted, accepted with modifications, or declined. If the Working Group review results in a recommendation to accept the donation with modifications, the donor will have the option to resubmit a modified proposal to the Working Group. Recommendations for modification must be clearly defined to ensure the changes meet Working Group expectations.

STEP 3b: The final recommendation of the Working Group or the AIPP Panel is presented to the Arts Commission.

STEP 4: The Arts Commission reviews the proposal and the recommendation of the Working Group or AIPP Panel, as applicable.

The Arts Commission may not recommend proposals for artworks that require extraordinary maintenance expense or interfere with department operation without the prior approval of the Director of the department responsible for the art after installation.

The Arts Commission may not recommend proposals of artworks that are deemed unsafe.

STEP 5: The Arts Commission's recommendation is forwarded to the User Department Director and the City Manager's Office. The City Manager forwards to City Council any recommendations for accepted donations to be sited in a prominent location (as defined in this policy).

STEP 6: Once the artwork donation or loan approval process has been successfully completed and the artwork is accepted, the City of Austin and the Donor shall enter into an Agreement for the Donation of Artwork that contains the terms of acceptance. The agreement spelling out all requirements for the artwork shall be executed prior to the City's formal acceptance of the artwork. The Donor may either provide maintenance and repairs at no cost to the City or contribute 2% of the total value of the artwork or \$5000 (whichever is less) to the City's Public Art Fund. Obtaining an appraisal prior to execution of the agreement is the responsibility of the Donor, unless otherwise agreed upon by City and Donor. If the Donor is responsible for providing necessary and agreed-upon maintenance and repairs, and fails to do so, the City has the right to remove the artwork.

In general and except as provided herein, donations and loans shall be accepted without restrictions or conditions. In cases where there are restrictions or conditions attached to the proposed donation, the Donor's conditions shall be considered by the User Department and City Law Department to ensure they are consistent with City policies. The agreement shall require liability insurance and/or permits during installation and may require the Donor to provide engineer-sealed and as-built drawings.

All accepted artwork donations will be subject to the City of Austin Artwork Acquisitions and Deaccessioning Policy. All artworks shall be accessioned by the Cultural Arts Division and covered under the City's fine arts insurance policy for the stated value. It is the responsibility of the User Department to perform ongoing routine maintenance of accepted artwork donations, to share any and all maintenance records with the Cultural Arts Division to ensure comprehensive record keeping, and to alert AIPP to any damage that would require repair or restoration.

Artwork acceptance governed by other City procedures is set forth under **Exceptions to this Policy**.

Review Criteria

1. AESTHETICS

- a. Artistic merit of the work of art, including its artistic, social, and/or historical significance, as evidenced by the Artwork Donation Application or Artwork Loan Application (which includes a written description and drawings and/or maquette of the proposed artwork)
- b. Professional artist's qualifications, as evidenced by the Artwork Donation Application or Loan Application (which includes images of past work, resume, references, and published reviews)
- c. Compatibility of the work of art within the context of the proposed site and/or the mission of the User Department
- d. Warranty of originality (in the case of a pre-existing artwork; only original works or limited editions shall be considered)
- e. Provenance (in the case of a pre-existing artwork)

2. SITE

- a. Appropriateness to the proposed site with respect to its immediate and general physical environment (neighborhood) and audience
- b. Ecological impact (e.g., percentage of impervious cover or risk to tree root zones)
- c. Accessibility to the public, including persons with disabilities
- d. Text components (e.g., signage or plaques)

3. INSTALLATION

- a. Site requirements for installation (e.g., electricity, lighting, water, or other services)
- b. Method of installation
- c. Storage requirements, if any
- d. Safety standards

4. MAINTENANCE

- a. Structural integrity
- b. Durability of material
- c. Susceptibility of the artwork to accidental damage, theft, and/or vandalism and security needs

- d. Ability or capacity of User Department to provide necessary routine maintenance

5. FINANCIAL

- a. All costs associated with fabrication and installation, including site preparation, long-term preservation (i.e., conservation and repair), illumination, plaque, and unveiling/dedication event, if any. The City and the Donor must enter into an agreement that outlines responsibility for maintenance and repairs. The Donor may either provide maintenance and repairs at no cost to the City or contribute 2% of the total value of the artwork or \$5000 (whichever is less) to the City's Public Art Fund. Obtaining an appraisal prior to execution of the agreement is the responsibility of the Donor, unless otherwise agreed upon by City and Donor. If the Donor is responsible for providing necessary and agreed-upon maintenance and repairs, and fails to do so, the City has the right to remove the artwork.
- b. Source of funding and timely availability of funds and resources to meet financial requirements
- c. Estimated amount of funding for annual, routine maintenance costs to the City User Department
- d. Statement of value of artwork for insurance purposes

6. LIABILITY

- a. Susceptibility of the artwork both to normal wear and to vandalism
- b. Potential risk to the public
- c. Public access, in general, as well as compliance with ADA requirements
- d. Special insurance requirements, if any

7. TIMELINESS

- a. Allowance of sufficient time for normal review process by the DRC, the Arts Commission and its Working Group, and other boards or community groups involved
- b. Timely and appropriate response to the Arts Commission and staff requests for additional materials or information

8. SPECIAL CONDITIONS

- a. Any conditions of the gift imposed by the Donor
- b. Other conditions not listed here

IV. EXCEPTIONS TO THIS POLICY

1. Only Gifts of State may be accepted by the City Council and/or City Manager without the benefit of this review, according to the City of Austin Purchasing Policy. The Cultural Arts Division and respective department property owner shall be notified of acceptance of such donation or loan (in order to document the work, accession it to the City's collection, and insure the work) and may be consulted to recommend appropriate siting, an annual maintenance program, etc.
2. Artworks acquired or borrowed as part of a City museum or cultural facility or art program equipped with an adopted collection management policy do not require review under this policy. Objects donated to a particular facility for its collection shall follow a separate review process specific to the needs of that department.
3. Artworks proposed through the Public Works Department Neighborhood Partnering Program, which follows a separate review and approval process, do not require review under this policy.
4. The City's Parks and Recreation Department manages existing public event spaces in Austin's park system. Parkland spaces are available for rental for performance events.
5. Objects or artifacts that fit the following descriptions, except where recognized professional artists are employed in their creation, do not qualify as works of art and would not require a review under this policy:
 - o Landscape elements designed as part of landscape architectural design
 - o Objects that are not unique but are mass-produced of standard design
 - o Artifacts or objects remaining from a particular historical period
 - o Standard park amenities, such as benches, picnic tables, and lighting, as defined by the Parks and Recreation Department
 - o Dedication or commemorative plaques or markers
 - o Directional or functional elements, such as graphics, signage, and maps
 - o Artwork created by students enrolled in a City of Austin educational program
6. Donations or loans of artworks containing advertising or promotional content relating to living persons or to organizations, institutions, persons, or businesses currently operating will not be accepted. A plaque accompanying the artwork, which provides the name of donor, artist, or artwork, shall not be considered advertising.
7. Placements of artworks must adhere to City codes and ordinances. Proposals for permanent donations or temporary loans will not be accepted for City Hall (plaza, mezzanine, or interior) or other restricted areas, including sites in the process of master planning or sites where artworks would cause a negative

environmental impact (e.g., flood plains, critical water quality zone, tree critical root zones).

8. Following the guidelines put forth in *Approaches to Public Art for Town Lake Park*, Town Lake Park and Butler Hike and Bike Trail are not eligible sites for proposed artwork donations or loans.

V. REVISIONS TO THE ARTWORK DONATION AND LOAN POLICY

The Arts Commission may review and make revisions to this policy annually, and may seek input from the Art in Public Places Panel, as needed.

APPLICATION (PERMANENT OR TEMPORARY LOAN)

Thank you for your interest in donating lending artwork to the City of Austin. Use this form to submit proposals for permanent artwork donations or for loans for temporary exhibition of artwork.



Please direct questions and submit application to

Cultural Arts Division, City of Austin
 201 E. 2nd Street
 Austin, TX 78701
 (512) 974-7700
 culturalarts@austintexas.gov

Please attach additional sheets. The City reserves the right to request additional information in order to process a proposal.

DONOR			
Name(s)			
Organization (if applicable):			
<i>(Please check one: <input type="checkbox"/> Individual(s) <input type="checkbox"/> Corporation <input type="checkbox"/> Not-for-Profit <input type="checkbox"/> Other (specify: _____))</i>			
Address			
City	State	Zip Code	Country
Phone	Fax	Email	
<i>(Please check one):</i> <input type="checkbox"/> Donation of artwork to be commissioned <input type="checkbox"/> Donation of existing artwork			
Conflict of Interest: Disclose whether the donor has any active contracts with the City or is involved in any stage of negotiations for a City contract.			
ARTIST			
Name		Alias (if applicable)	
Nationality		Birth Date	Death Date (if applicable)
Address			
City	State	Zip Code	Country
Phone	Fax	Email	
Website			

Artist Representation/Gallery Name (if applicable)			
Artist Representation/Gallery Address			
City	State	Zip Code	Country
Phone	Fax	Email	
Website			
For donations of commissioned artwork, please explain the method used in the selection of the artist.			
ARTWORK			
Title			
Artwork type (e.g., painting, sculpture)		Medium	
Description			
Creation Date		Dimensions and Weight	
Anticipated Life Expectancy of the Artwork			
Finishes applied to surface			
Construction technique(s)			
If this artwork is part of a series or group, what is the total number in the series or group?			
If this artwork is part of an edition, what is the edition number of this piece, and the total edition size?			
Describe frame, if any.		Describe base or pedestal, if any.	

Describe any accompanying accessories.

Current location of artwork

Proposed City-owned site for placement (if applicable)

For memorials, describe the person or event to be commemorated, and explain why this person or event deserves special recognition.

ARTWORK HISTORY

Provenance/Past Owners: List all past owners and period of ownership for each.

Exhibition History: List the exhibition history including exhibition titles, venues and dates for each.

Publications and References: List all publications about and references to the artwork.

COPYRIGHT OWNERSHIP

Name of current copyright owner		Title	
Address			
City	State	Zip Code	Country
Phone	Fax	Email	

If the donor is the current copyright owner, does the donor intend to transfer the copyright to the City of Austin should the donation be accepted by the City?

ARTWORK VALUATION (if known)

Fair Market Value \$
How was this fair market value determined and by whom?
CONDITION
Describe the current condition of the artwork noting any existing breaks, tears, scratches, abrasions, paint losses, or other insecurities or defects in the artwork.
If the artwork has been conserved, describe the conservation treatment.
Provide recommendations for routine maintenance of artwork. Indicate whether these recommendations were provided by a conservator.
(Optional) Provide recommendations for security, installation, transportation and/or storage.
For donations of commissioned artwork, please outline the installation plan.
OTHER REQUIRED MATERIALS
Please submit the following materials along with this completed form. <ul style="list-style-type: none"> • Artist's résumé and bio • Digital, color images of past artwork by artist • For commissioned artwork, color renderings or maquettes of proposed artwork • Maps or images of proposed site for artwork • Itemized list of any costs to be borne by the City for transportation, installation, exhibition, operation, maintenance, conservation, and/or security • For commissioned artwork, an itemized budget for design, fabrication, and installation • For commissioned artwork, a timeline for design, fabrication, and installation

- **Exhibition catalogs, publications and/or references, if available**
- **Formal, written appraisal for any artwork with a fair market value of \$10,000 or more**
- **Condition report, if available**
- **Conservator's report, if applicable**
- **Proof of authenticity, if available**
- **Any other information relevant to the artwork**

DONOR'S AUTHORIZATION TO INITIATE A REVIEW

Authorized signature	Title
Print name	Date

CITY OF AUSTIN STAFF ONLY

Received by	Date
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