

PUBLIC ART POLICY

Approved by Martinez City Council on July 6, 2022 (Reso 123-22)

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A. Purpose

The purpose of this policy is to establish uniform guidelines and procedures through which the City of Martinez can commission, consider, approve, or reject publicly accessible visual art on public property and also accept or reject gifted artwork. All Public Art on City Owned or Controlled Property is Government Speech/Property and it is the policy of the City of Martinez to commission, accept, reject, maintain, and remove Public Art on City Owned or Controlled Property consistent with the procedures outlined below.

Public Art should reflect one or more of the following: represent the diverse social, cultural, and historical values of the City; contribute to quality of life and economic vitality; be thought-provoking, memorable, and enduring; provide opportunities for education and learning; and encourage civic pride, add value to the community and represent the City, as determined by the City Council.

The City endeavors to utilize its local network of non-profits affiliated with or involved in the arts when soliciting artists for City Planned, Initiated, or Commissioned Public Art programs or projects. Additionally, the City will utilize its connections with local schools and colleges when launching planned Public Art to engage the diverse local youth population and generate interest.

B. Scope

This Policy provides procedures for City responsibilities including the promotion, commission, submission, evaluation, acceptance, or rejection of Public Art, and the installation, maintenance, and if necessary, removal or deaccession of Public Art.

C. Applicability

This policy applies when Public Art is proposed to be located on City owned or controlled property that is viewable from the public right-of-way or other public property.

D. Definitions

1. Agreement, Art Commissioning/Purchase – An agreement between the City and an artist providing for, among other things, the terms and conditions of payment or purchase and installation of Public Art.
2. Agreement, Public Art – An agreement between the City and a Public Art donor, property owner, or artist to establish terms and conditions of donation, acceptance, and other terms for donated Public Art on public or private property.
3. Community Member, Group, or Artist Initiation of Public Art – Public Art proposed by any person or group other than the City of Martinez. May include Public Art proposed as Donated Public Art or Public Art proposed to be paid for in whole or in part with City funds.
4. City Owned or Controlled Property – includes all real property owned in fee or easement by the City (including City streets/rights of way), all property leased by the City and all private property subject to a Public Art Agreement with the City.
5. City Planned, Initiated, or Commissioned Public Art – Permanent or Temporary Public Art that is either solicited by the City (such as through a Request for Proposals/Call for Artists or contest) as part of a Council-approved Public Art program or project initiative or planned as part of a

City Public Works Project, and is paid for in whole or in part by City funds or City-obtained grant funding.

6. Cultural and Arts Subcommittee – The Subcommittee of the PRMCC tasked with providing recommendations on matters pertaining to culture and arts.
7. Donated Public Art – Privately initiated Permanent or Temporary Public Art, which is paid for by sources other than the City. Does not include Public Art paid for in whole or in part by City funds including City-obtained grant funding.
8. Murals – Singular works of art or expression in which all text, graphics, and design elements are related to the artistic design and/or expression.
9. Parks, Recreation, Marina and Cultural Commission (PRMCC) – A City Commission that acts as an advisory body to the City Council, City Manager, and City Departments on, among other things, policies and procedures pertaining to Public Art and the coordination, operation, funding and advancement of the arts.
10. Permanent Public Art – Installations for which there is no established date or timeframe by when the art is to be removed and for which the installation has a long-term complementary relationship with the surrounding environment and constructed or composed of a material shown to be durable against vandalism, theft, and weather which requires a low level of on-going maintenance.
11. Public Art – Any visual work of art or expression of any type, including, but not limited to, murals, paintings, sculptures, monuments, mosaics, memorials, works or designs in any medium commissioned or approved/ accepted by the City and displayed in a publicly visible and/or accessible location on or within City Owned or Controlled Property. All Public Art is Government Speech/Property.

Public Art is the creative result of an individual or group effort and is typically either original or of limited-issue in nature as opposed to mass-produced or intended primarily for a commercial market. Public Art includes works of a permanent or temporary nature.

12. Public Art Review Committee (PARC) – Committee comprised of City staff appointed by the City Manager or his/her designee and tasked with the initial intake and administrative review of proposed public art installations to evaluate and determine consistency of the proposal with Public Art Selection Criteria as set forth herein.
13. Public Art Selection Criteria – The established set of criteria to be considered for City Planned, Initiated or Commissioned Public Art or Donated Public Art as set forth in Section E hereof.
14. Temporary Public Art – installations with an established date or timeframe by when the art is to be removed, often including ease of removal among the primary considerations.

E. Procedures

The following procedures apply to the initiation and review of either City-initiated or privately initiated Public Art; and the selection criteria, process for approval/acceptance and process for removal/deaccessioning of Public Art.

1. Process for City Planned, Initiated, or Commissioned Public Art:
 - a. Develop planned or commissioned Public Arts programs/projects through collaboration between City staff/Public Art Review Committee (PARC) and PRMCC, considering Public Art Selection Criteria contained herein.
 - b. Include consideration for planned or commissioned Public Arts programs/projects within City budgetary cycles to serve as framework for launching new, funded artwork projects.

- c. Manage public process involving artist/artwork commissioning, solicitation, review, and recommended selection(s) through PRMCC and its Cultural and Arts Subcommittee.
 - i. Specific parameters for commissioning/soliciting artists and artwork shall be determined and established at the time the program/project is developed.
 - d. Public Art which is paid in whole or in part with City funds (including grants) shall be subject to an Art Commissioning/Purchase Agreement between the City and the artist.
2. Process for Community Member, Group, or Artist initiation of Public Art – unsolicited proposals for permanent or temporary Public Art
- a. Individual proposals for permanent or temporary Public Art not initiated by the City shall first be submitted to the PARC for initial review for consistency with the Public Art Selection Criteria set forth in Section 3, below. Proposals shall include the following details:
 - i. Depiction of Artwork (Drawing/Picture)
 - ii. Description of Artwork/Media
 - iii. Artist biography
 - iv. If proposed for donation, statement of reason for donation, approximate value of donation, and conditions attached to donation
 - v. If proposed for artist commission/payment, proposed compensation to artist and identification of any non-City funding source(s); not applicable to volunteer projects
 - vi. Specifications and dimensions
 - vii. Materials and finishes
 - viii. Colors
 - ix. Electrical/Plumbing requirements (if applicable)
 - x. Construction/Installation/Removal methods
 - xi. Ongoing maintenance plan
 - xii. Total budget
 - xiii. Proposed Location/Site Plan, which shall include provisions for the following:

1. Visibility
 2. Lighting
 3. Public safety
 4. Impact to facility and programs
 5. Traffic and traffic control
 6. Relationship to facility, architecture, or natural setting, as applicable
 7. Identification of known future development plans of facility and area
 8. Anticipated impact on community and neighborhood
- xiv. If a donation or on private property, a separate Public Art Agreement will be required
 - xv. Indicate whether installation is permanent or temporary and proposed timelines for installation. If installation is temporary, also provide proposed timeline for removal.
 - xvi. Description of any applicable deadlines or time constraints (e.g.: grant deadline, event date, etc.)
 - xvii. Ongoing maintenance plan
 - xviii. Other information as set forth in the proposal form
- b. Qualifying proposals as determined by the PARC based on completeness of application details as outlined in Section 2 a above, and the Public Art Selection Criteria as set forth in Section 3 below, will be forwarded to the PRMCC for further consideration. The PARC will notify the proposer in writing of the PARC's decision to either move the proposal forward in the process or to reject the proposal.
 - c. Qualifying proposals determined by the PARC to warrant expedited review will be forwarded to the PRMCC with that distinction and considered by the PRMCC as soon as reasonably possible (e.g.: special meeting) for a recommendation prior to submission to the City Council for action.

- d. Proposed permanent or temporary donations, if approved and/or accepted by the City Council and installed on City property pursuant to a Public Art Agreement, are understood to be the property of the City. A Public Art Agreement shall include a waiver of the artist's rights arising under the federal Visual Artists Rights Act (17 U.S.C. §§106A and 113(d)), the California Art Preservation Act (Cal. Civil Code §§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., or any other type of moral right protecting the integrity of works of art. Installation, location, timeline, ongoing maintenance, removal and insurance specifications (among other things) shall be included in the Public Art Agreement.
 - e. Public Art which is paid in whole or in part with City funds (including grants) shall be subject to an Art Commissioning/Purchase Agreement between the City and the artist.
 - f. Public Art which is proposed to be donated shall be subject to a Public Art Agreement with the City.
3. Public Art Selection Criteria – When considering planned or proposed Public Art, the following selection criteria shall be considered:
- a. Accessibility and Visibility – is the proposed site visible and accessible to the general public?
 - b. Aesthetics – is the proposed Public Art deemed to be of aesthetic value?
 - c. Cost – what fiscal resources will be required to secure, install, complete and, if necessary, remove the proposed Public Art? What funding sources are available? (e.g. the City's General Fund, donation, grant funding, other sources)?
 - d. Cultural/Historic/Social Theme and Relevance – does the proposed Public Art reflect the diverse cultural, historic, or social values of the Martinez community?

- e. Durability – will the proposed Public Art be reasonably resistant to weather, damage, degradation, vandalism, or theft?
- f. Environmental Impacts – will the proposed Public Art result in any adverse environmental impacts?
- g. Maintenance/Operational Impacts – will the proposed Public Art require ongoing maintenance and departmental oversight (i.e. Public Works, Police, Recreation resources)? If so, what funding is available for ongoing maintenance and oversight?
- h. Public Safety and City Liability – will the proposed Public Art be free of unsafe conditions or factors when properly secured and/or installed to ensure public safety and limit factors which may relate to City liability exposure?
- i. Quality – is there inherent quality in the proposed Public Art?
- j. Style – is the proposed Public Art compatible with the planned site (physical dimensions, social dynamics, local character, and surrounding context) and appropriate in terms of scale, form, content, and the environment?
- k. Technical Feasibility – is there confidence in the artist’s ability to successfully complete the proposed Public Art?

Notwithstanding the preceding, the City retains the sole and absolute right to approve or reject any and all proposed Public Art in the City Council’s sole and absolute discretion.

- 4. Process to Approve or Accept Public Art – Public Art proposals will be approved through a public process. Following review by the PRMCC, all Public Art shall be forwarded to the City Council for review and possible approval and/or acceptance.
- 5. Public Art Removal/Deaccessioning – The City reserves the right to remove Public Art at its sole and absolute discretion.
 - a. The following may be grounds for the City to remove Public Art from City-owned or controlled property:
 - i. The physical or structural condition of the Public Art presents a threat to public safety.

- ii. The Public Art requires or is anticipated to require excessive maintenance as determined by the Public Works Director or his/her designee.
 - iii. The Public Art has faulty design or workmanship, and repair or remedy is impractical or unfeasible.
 - iv. The Public Art has been damaged or the quality of the Public Art has eroded over time and repair or remedy is impractical or unfeasible.
 - v. A piece of the Public Art was stolen from its location and cannot be retrieved.
 - vi. The condition or security of the Public Art cannot be reasonably guaranteed.
 - vii. Significant changes in the use, character or design of the site have occurred which affects the integrity of the Public Art.
 - viii. Significant, adverse public reaction to the Public Art has continued unabated over an extended period of time.
 - ix. Removal is requested by the artist or donor.
 - x. The City Council has determined that it is in the best interest of the City to remove the Public Art.
- b. Disposition of any deaccessioned Public Art shall be handled in accordance with the requirements of Civil Code Section 987 and where applicable, the City's procedures governing the disposition of surplus property.