



# **DENVER PUBLIC ART POLICY**

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## I. DENVER PUBLIC ART PROGRAM OVERVIEW AND HISTORY

Since 1988, the City of Denver has invested more than \$40 million in public art for its residents. Established by Mayor Federico Peña through an executive order and later enacted into law by Denver City Council in 1991, Denver's Public Art Program sets aside 1% of budgeted construction costs on new capital improvement projects with budgets equal or more than \$1 million for the inclusion of new public art. Since Mayor Peña established the program, more than 300 works of art have been installed throughout Denver County including Denver International Airport. These artworks, along with approximately 100 historic and donated pieces make up Denver's Public Art Collection.

Mayor Peña asked Denver residents to "*imagine a great city*" when he ran for, and became, mayor in 1983. In 1989, he appointed a 48-member committee of Denver residents under the direction of the Denver Commission on Cultural Affairs to research and draft an action plan for the growth and development of Denver's creative future. *Cultural Denver* was released in August 1989, and among the 32 recommendations was a call to develop a public art master plan for the city and to integrate art into daily life to "*create a vital, lively, serendipitous quality to the streets and public spaces of Denver.*"

Twenty-five years later, under the leadership of Mayor Michael B. Hancock, Denver Arts & Venues and the Denver Commission on Cultural Affairs launched *IMAGINE 2020: Denver's Cultural Plan* in 2014. With seven vision elements as guiding principles, *IMAGINE 2020* renews the commitment to accessibility to the arts, lifelong learning, and integrating art, culture, and creativity into the daily life of Denver residents. It also calls for collective leadership, economic vitality, supporting local talent, and amplifying Denver's creative profile nationally and globally. Denver's Public Art Program has been a cornerstone of the city's steady creative growth for more than 30 years and an important thread through Denver's cultural identity.

Denver Arts & Venues and the Denver Commission on Cultural Affairs are committed to the ongoing presence and integrity of public art and the sites for which public art is created, to preserving the vision of the artists who create public art, and to assuring continued access to the artworks in the city's collection by the public.

### **ADMINISTRATION**

Denver Arts & Venues (A&V) is the city agency which directs the implementation of the Public Art Program. This responsibility is defined by city ordinance, [DRMC] 20-88; 20-89. Denver Public Art staff (DPA) is responsible for the administration of the specific activities outlined in this policy document with oversight from A&V Division of Cultural Affairs, and its Mayor-appointed advisory board, the Denver Commission on Cultural Affairs.

Denver Arts & Venues works collaboratively with other city agencies that use, occupy, and manage the capital improvements which trigger the 1% for public art requirement including the Capital Projects & Programming (CPP) Division of the Department of Finance, Denver International Airport, Denver Parks & Recreation, Denver Public Works, and the Department of General Services. Supplemental documents for

some of these separate agencies may be used to further clarify public art procedures but may not supersede this policy document.

Artworks acquired through the Public Art Program are selected through a public process that engages residents, civic leaders, artists and arts professionals. Each public art project is specific to its location and each selection panel is unique. Panelists are charged with identifying thought-provoking artworks that speak to a place, represent Denver's diverse communities, and add vitality to the city's built environment.

#### **PUBLIC ART POLICY DOCUMENT**

The framework for Denver's Public Art Program is outlined in Denver Revised Municipal Code [DRMC] 20-85, et seq. This policy document serves to describe the guidelines that govern the program. The features may be updated by Denver Arts & Venues as needed from year-to-year. The policy shall be reviewed in its entirety by Denver Arts & Venues with input from the Denver Commission on Cultural Affairs every five years.



## **II. IDENTIFYING QUALIFYING PROJECTS**

The following guidelines are intended to assist City Project Managers and Department Heads in complying with the Public Art Program ordinance and ensuring that the public art process is integrated into the initial planning, design and construction work of all capital improvement projects. This unified approach allows for the sharing of resources, potential reduction of costs, and the creation of artwork that is fully integrated and appropriate for the site.

### **GUIDELINES TO IDENTIFY 1% PERCENT FOR PUBLIC ART PROJECTS**

In accordance with the Public Art Ordinance, or Denver Revised Municipal Code [DRMC] 20-85, et seq. (text available in Appendix.), the Public Art Program applies to all City Capital Improvement Projects (CIPs) whose budgeted cost of construction and design for a single project or for the total of such multiphase projects is equal to or greater than \$1 million.

These Projects include those which have multiple funding sources in addition to appropriated city funds, such as the sale of general obligation bonds, private grants or cooperative agreements by which private funds are made available for use by the city, and by appropriate grants or cooperative agreements with the State of Colorado, the United States government, or other governmental agencies, or by any combination of the above sources of funding. For such projects, the 1% budget is derived from the *total* budgeted construction costs, not just the appropriated city funds.

### **PUBLIC ART CALCULATION**

To calculate whether a project qualifies for inclusion in the Public Art Program, an analysis of the CIP budget is conducted by the Capital Projects & Programming (CPP) division of the Department of Finance. Items to include in the calculation are the following: costs allocated for design services (including design contingency in the budget), costs allocated for construction services (including preconstruction services, construction management services, construction supervision and administration) and all hard costs associated with construction, materials testing, inspection and construction contingency.

If the total of these combined costs is equal to or greater than \$1 million, the project will be identified by the Capital Projects & Programming (CPP) division of the Department of Finance. The CPP division team sets aside the funds and notifies the project manager and the Public Art staff when the budget for the CIP is set and prior to the bidding process.

### **GUIDELINES ON IDENTIFYING AND CREATING BUDGETS**

Once the CPP division determines that a new project qualifies for inclusion in the Public Art Program, they set aside one percent of the "total budgeted construction cost of the Capital Improvement Project for the planning, design, and construction of public art and for the repair of public art." As previously stated, the one percent calculation is based on the total costs allocated for construction services and materials, plus any construction contingency within the budget.

The 1% allocation should occur as soon as the CIP budget is established and no later than the time of construction contracting, to ensure that artists can collaborate with the capital improvement project team and the artwork is incorporated into the design and construction process.

If a project "materially" increases in scope leading to an increase in the total construction budget, the one percent funding to the Public Art Program should increase proportionally. Such a situation could be analogous to a "multiphase project."

### **INCLUSIONS & EXCLUSIONS**

The Public Art Ordinance states that the Public Art Program must be applied to any project which meets the threshold criteria described above and involves improvements to, or new construction of, a "building or structure, road, streetscape, pedestrian mall or plaza or park" or any other project which includes "finished space for human occupancy" and will be "available for public view."

The Public Art Program will not be applied to temporary improvements, ordinary repair and maintenance projects, mechanical and electrical projects or other projects not available for public view or for human occupancy.

Ultimately if a question remains as to whether a project qualifies for inclusion in the Public Art Program, the project may be reviewed by Denver Arts & Venues, the Capital Projects & Programming (CPP) division of the Department of Finance, and the City Attorney's Office.

### **PUBLIC ART SITES**

The Public Art Ordinance states that "works of public art are to be located at a Capital Improvement Project site or in a facility or other complex of buildings adjacent to such a project site." It is important that public art be sited where it can best be appreciated and experienced by the site users or residents of the neighborhood in which it is situated. If a more suitable location for artwork (e.g., a neighborhood park close to a street construction site) is located within a one-mile radius of the capital improvement site, the artwork may be installed here, if Denver Arts & Venues deems it appropriate. Additionally, funding from qualified projects within a one-mile radius of each other can be combined to better take advantage of public art funds and suitable locations for public art.

Public art sites may also include any city-affiliated institutions such as Denver Health, Denver Art Museum, Denver Museum of Nature & Science, Denver Zoo, Denver Botanic Gardens, and Denver Center for the Performing Arts, if public funds greater than \$1 million are contributed for capital improvements at these sites.

### **TIMING AND WAIVERS**

The public art process and installation of artwork can begin at any time following the allocation of funds for the project. There is no time limit for spending these funds.

By ordinance, if a CIP qualifies for inclusion in the Public Art Program, those funds cannot be waived for any reason.



### III. PUBLIC ART SELECTION AND APPROVAL

A new and unique selection panel is established with every new public art project. The role of the selection panel is to select and recommend an artist or artist team to the Denver Commission on Cultural Affairs, and ultimately the Mayor, for a site-specific public art commission.

This panel consists of a carefully selected and diverse group of individuals who each bring a crucial perspective to the process, whether it be from the specific community in which the project takes place, art expertise, or logistical insight to help the group make the best decisions.

Denver Arts & Venues (A&V) is committed to creating an inclusive and transparent selection process that reflects Denver's diversity of communities. A&V is intentional and dedicated to bringing together panels with strong participation of representatives from historically marginalized or under resourced communities based on age, gender, gender identity, sexual orientation, race, ethnicity, and disability. As 1% for Public Art projects are tied to a specific geographic location, the composition of the panels may vary depending on the neighborhood where the project is located.

Each Selection Panel is comprised of a *minimum* of eight voting members with additional members added depending on the scope of the project. It is the role of the voting panelists to make decisions as a group concerning eligibility, selection method, how the project relates to the specific site, identifying art opportunities, choosing the number of finalists to be interviewed, criteria to be included in the prospectus, as well as the aesthetic decisions regarding the final selection of the artist(s) for the project.

**Three Community Representatives** – Individuals who live or work near the project site and have a unique, first-hand perspective to offer the panel.

**Artist** – Someone who practices a specific artistic discipline. It is not required that an artist earns his or her primary income as an artist to be considered for an art selection panel.

**Arts Professional** – Someone who has expertise in an arts-related field who can offer additional insight into the process and outcome of public art installations. Some areas of expertise may include curatorial, arts administration, public art fabrication, or arts education.

**Public Art Committee (PAC)** – An individual representing the PAC who can speak to a proposed project's feasibility as it pertains to budget, durability, materials, safety and accessibility per the Americans with Disabilities Act (ADA), and any possible maintenance and conservation concerns.

**Denver Commission on Cultural Affairs** – An individual representing the Denver Commission on Cultural Affairs, an advisory board appointed by the Mayor.

**Denver City Council** - The City Councilperson for the district in which the project is located.

Additional Selection Panel members can be included as voting or non-voting members for the technical expertise or unique perspective they provide. These members may include community representatives, project architects, city project managers, site agency representatives, technical experts, artists, advisors and community liaisons. Voting or non-voting status of additional panelists is at the discretion of A&V.

Select members of Public Art selection panels may be compensated with an honorarium, as determined by A&V.

### **DENVER COMMISSION ON CULTURAL AFFAIRS (DCCA)**

The Denver Commission on Cultural Affairs was established in 1991 to support Denver's Mayor and oversee the 1% for Public Art Program. Commissioners are appointed by the Mayor and are dynamic and accomplished Denver leaders in the arts, business, and education. They are strong advocates for arts, culture and creativity and are committed to the mission and goals of Denver Arts & Venues.

The DCCA serves four major roles for Denver Arts & Venues: oversee the 1% for Public Art Program, serve as trustees of Denver's cultural plan, IMAGINE 2020, advise A&V Division on Cultural Affairs on arts and cultural issues, and act as ambassadors to the community.

### **PUBLIC ART COMMITTEE (PAC)**

The Public Art Committee is a technical advisory committee with expertise in the many disciplines involved in the creation of public art. The primary responsibility of the PAC is to review proposed public art projects for feasibility and other material concerns that might arise as the project is realized. This includes: choice of materials, durability, engineering, safety, accessibility per the ADA (Americans with Disabilities Act), and budget.

The Public Art Committee is comprised of a minimum of 14, but no more than 16 members, and includes artists, art professionals, project managers, architects, art conservators, engineers, art installation experts, art educators and community leaders. Public Art Committee members, who also serve on the DCCA, will serve as advisors and liaisons for both groups. It is important that, whenever possible, the PAC incorporates members from other city agencies which "host" public art projects such as Denver Parks & Recreation, Denver Public Works, and Denver International Airport.

New members of the Public Art Committee are selected by Denver Public Art staff with input from existing PAC members.

Duties of the Public Art Committee include:

- reviewing proposals recommended by the art selection panels and providing feedback regarding materials, engineering, conservation, budget, safety and accessibility per Americans with Disabilities Act (ADA) standards,
- serving on art selection panels,
- reviewing and making recommendations on donated artwork proposals,

- reviewing and making recommendations on proposals for mural projects or any other projects that fall under a decision-making responsibility of Denver Arts & Venues;
- assisting A&V and the DCCA with public outreach, education, marketing and maintenance of the public art collection; and
- advising DPA staff on issues of collection maintenance, conservation, and management.

*Public Art Committee members will:*

- serve a term of two years, up to three consecutive terms for a maximum of six years;
- serve on art selection panels; and
- attend Public Art Committee meetings, scheduled on a monthly basis, or, as needed.

### **STAFF AND OBSERVERS**

Selection Panel meetings are open to members of the public who wish to observe the proceedings. Observers are not allowed to vote or interrupt meetings unless approved by staff. Denver Public Art staff leads the selection panel meetings but does not vote on selected artists.

### **CONFLICT OF INTEREST**

It is expected that members of the DCCA, PAC, and members of subcommittees, panels or any other ad hoc groups working with A&V may be aware of the work of some artists and arts organizations who submit their work for consideration for public art projects and grant programs. Such awareness alone does not constitute a conflict of interest, nor does owning a piece of work by a submitting artist. A conflict of interest is deemed to exist if a panelist is related to an artist, either through family, marriage or domestic partnership, any other relationship of economic interdependence, a business relationship such as representing the work of an artist as a gallery owner, or if a panelist stands to gain direct benefit, whether financial or otherwise, from the selection of an artist. If a committee member or panelist is related to an artist under consideration in one of the ways mentioned above, he/she shall state that they have a conflict of interest and shall recuse him/herself from voting or further discussion on the project in question.

Members of the DCCA and PAC may apply for public art opportunities but must recuse themselves from any role or discussion during the selection process.

### **ART SELECTION AND APPROVAL**

#### **PROJECT BUDGET DETERMINATION**

Denver's Capital Projects & Planning Division, through the Department of Finance, identifies applicable bond and capital improvement projects which qualify for a 1% for public art allocation. (See section III on Identifying Public Art Projects)

#### **SELECTION PANEL APPOINTED**

Denver Public Art staff identifies potential selection panelists with recommendations from City Council representatives and project and facility managers. Each selection panel is unique and must represent Denver's diversity of communities with strong participation of representatives from historically

marginalized or under resourced communities based on age, gender, gender identity, sexual orientation, race, ethnicity, and disability.

### **SELECTION PANEL APPROVAL**

Denver Public Art staff presents the recommended selection panel to the DCCA for approval prior to a first meeting with the panel. A quorum of 50% or more of the DCCA must vote to approve the panel.

### **SELECTION PANEL ORIENTATION**

Denver Public Art (DPA) staff initiates each new project with an orientation meeting. Selection panelists are given written documents and an orientation regarding the public art process, their role as panelists to ensure an equitable process, voting or non-voting responsibilities, and protocols regarding conflicts of interest. During this first meeting, DPA staff guides the panel through the specifics of the project.

Discussion items at a project orientation meeting include:

- explanation of the public art process
- parameters and criteria for the project
- eligibility to apply
- project site considerations and opportunities
- art selection method
- timeline of project
- dialogue about bias and determination of merit

DPA staff documents the recommendations of the selection panel to be included in the call for entries. Once a call is drafted, it is provided to the selection panel for feedback, and ultimately posted.

### **WORKS OF PUBLIC ART**

Denver's Public Art Program strives to not only guide a fair and transparent art selection process, but also one which yields the most creative, inspiring, and unique artwork for the project site. The Public Art Program has a long history of innovative interpretations of what public art can be, with several award-winning installations in its collection.

Types of artwork that may be considered include, but need not be limited to (full list, [DRMC] 20-86):

- Sculpture: three-dimensional works made from durable materials
- Painting
- Graphic arts: printmaking, drawing
- Mosaics
- Photography: traditional, or digital, but must be one-of-a-kind
- Works in clay, fiber and textiles, wood, metal, plastics, stained glass, and other materials, both functional and nonfunctional
- Mixed media: any combination of forms of media, including collage
- Earth works: environmental art installations
- Decorative, ornamental, or functional elements which are designed by practicing artists or other persons submitting as artists, including but not limited to design professionals who are not participating members of the city's design team for the project

- Light or luminal art
- Sound art
- Portable art that may be displayed at locations other than its substantially permanent location at or adjacent to the project site
- \*Temporary, performance, or time-based art, provided it is documented, is tied to the project whose budget provided funding, and produces a permanent work of art (residue) that is on substantially permanent display at or adjacent to the project site

*\*For projects using Bond or Certificate funds (also known as COPs) the artworks are legally required to be tangible (e.g. sculpture, painting, etc.), and intended to be permanently located in or near the capital improvement. Non-permanent works such as dance or performance, including tangible artworks that are not intended to be permanently installed, may not be commissioned using Bond or Certificate funds.*

### **MAY NOT BE CONSIDERED PUBLIC ART**

The list of elements which *may not* be considered public art makes a few very important distinctions:

- Directional elements such as supergraphics, signage, and wayfinding
- Objects which are mass produced in a standard design, such as playground equipment, fountains, benches or bike racks
- Reproductions, by mechanical or other means, of original works of art, (e.g., enlarged, printed banners of paintings, unless the painting was created specifically for the site)
- Landscaping except where such elements are designed by an artist or artist/landscape architect and are an integral part of a work of environmental art

### **METHODS OF ART SELECTION**

Denver Public Art staff may recommend to the art selection panel a variety of methods to solicit submissions from artists, including, but not limited to:

1. Call for Entries (RFQ or RFP)
  - Issuing an RFQ (Request for Qualifications) is the most common method used to solicit submissions from artists. The selection panel outlines the parameters to be included in the RFQ. Artists are asked to submit images of previously completed artworks, a resume, and a letter of intent for the project. This is all completed through an online form.
  - If the selection panel decides to issue an RFP (Request for Proposals), they will describe those parameters and ask artists to provide a conceptual proposal for the specific location along with a resume, letter of intent, and examples of previously completed artworks.
2. Limited Call - a call may be limited based on any set of criteria set forth by the selection panel, including medium (e.g., sculpture, interactive, or murals only), or location (e.g., Colorado artists only), or other criteria (e.g., reputation, experience with similar projects, or emerging artists only). For such projects, the selection panel may choose to create a short list for an RFQ or RFP.
3. Direct Commission – on rare circumstances a specific artist(s) may be invited to create a public art piece.
4. Joint Venture - A joint venture is a public art process which combines city funds with funding from outside the public art program budgets such as private and/or corporate donations. The

selection process in these cases could vary slightly depending on the entities involved, but must be a public process approved by the DCCA and PAC.

### **DISTRIBUTION OF CALL FOR ENTRIES**

Calls for entries are always listed on the Denver Public Art website, [www.denverpublicart.org](http://www.denverpublicart.org) and on the Program's social media pages. Several additional online outlets for art opportunities are also utilized to advertise calls such as [www.callforentry.org](http://www.callforentry.org) and the Public Art Listserv through Americans for the Arts. This process is efficient and eco-friendly. However, DPA staff is available to assist those without access to a computer.

### **PROCESSING OF APPLICATIONS**

Denver Public Art staff reviews and processes applications. Applicants may be disqualified if all required materials are not submitted, or if DPA staff determines the eligibility requirements are not met. In most cases, the selection panel will be given an opportunity to pre-score applicants according to an agreed-upon set of criteria. The panelists' scores are used to determine which artists proceed to the next round of jurying.

### **SELECTION PANEL REVIEW OF APPLICATIONS**

Once DPA staff processes the applications and sorts them based on pre-scoring, the selection panel meets to review the remaining applications. Typically, the selection panel narrows the field to three to five finalists to create a site-specific proposal for the project. The number of finalists is at the discretion of the selection panel. At this step of the process, A&V may encourage the selection panel to consider including artists who have not yet received a public art commission, or who are not yet represented in Denver's Public Art Collection.

### **FINALIST INTERVIEWS AND PROPOSALS**

Finalists are paid an honorarium from the project budget to create a proposal and present it to the selection panel in person. In preparation of the artist proposals, DPA staff facilitates site visits or conference calls with the artists to answer questions regarding the project. Every effort is made to ensure the artists have as much information as possible to create his/her/their best concept proposal. If an artist is unable to present his/her/their proposal in person, arrangements will be made for the artist to present remotely.

### **FINALIST SELECTION**

The selection panel convenes to interview finalists and evaluate their conceptual proposals. DPA staff strives for consensus and hopes for a unanimous selection. However, if a panel is divided, a majority vote of selection panel members present for the artist presentations will prevail and the artist's proposed concept is advanced to the next round of approvals.

### **PUBLIC ART COMMITTEE (PAC) REVIEW OF PROPOSED CONCEPT**

DPA staff presents the project and selected artist concept with an emphasis on technical aspects to the Public Art Committee at its monthly meeting. The PAC member from the project selection panel is an integral part of this discussion to describe the thought process and goals of the selection panel. The PAC evaluates the proposal for its feasibility and establishes recommendations for the artist.

If the PAC collectively agrees by a majority vote of the committee that the proposed concept can be created within the budget provided with the least amount of maintenance and conservation concerns, it is advanced to the DCCA for consideration.

If the PAC does not vote to recommend the artist, it may request A&V seek additional design review, technical information, and clarifications of the proposed concept based on PAC recommendations. The level of design review is determined by A&V and may be re-presented to the PAC for further recommendations.

#### **DENVER COMMISSION ON CULTURAL AFFAIRS (DCCA) REVIEW OF ART SELECTION PROCESS**

Once a finalist is approved by the PAC, DPA staff presents the project and selected concept with an *emphasis on the selection process* to the DCCA at their monthly public meeting. The DCCA representative on the selection panel is able to attest to the fairness and transparency of the art selection process to the rest of the Commission at this stage. The DCCA votes by a majority of the Commission to approve the *process* by which the selection panel chose an artist and affirms the technical recommendations made by the PAC.

#### **MAYOR ACCEPTANCE OF RECOMMENDATION**

The Mayor is presented with a written recommendation from Denver Arts & Venues on behalf of the DCCA describing the project and artist's concept. The Mayor then affirms the commission by signing the acceptance memorandum.

#### **ARTIST CONTRACT**

Following the Mayor's approval, a contract is negotiated between the artist and the City and County of Denver. This contract outlines requirements and payment schedule for the specific project. All artist contracts are structured with project and payment milestones that must be met and approved by A&V. These include: the execution of contract, preliminary design review, final design review, mid-point of fabrication, installation, post-installation and final acceptance. For best results, at any time during the design process, an artist may be asked to make revisions and clarifications to the artwork. The City may terminate the contract at any time if the artist's services become unsatisfactory or if the project is cancelled.

Once the contract is initiated, DPA staff manages all remaining phases of design, fabrication, and installation of artwork in accordance with the contract.





#### **IV. PUBLIC ART DONATION POLICY**

The City and County of Denver may accept donations of artwork to its public art collection from individuals, groups, and corporations that wish to contribute to the vitality of Denver’s public spaces. This presents an opportunity to install public artwork in areas that may not otherwise receive it through the traditional 1% for Public Art process.

The potential donor must submit an application to Denver Arts & Venues (A&V). The application will be reviewed and approved by A&V Staff, the Public Art Committee, the Denver Commission on Cultural Affairs, and Denver City Council. Once an application is submitted, the approval process may take up to six months.

#### **CONSIDERATIONS**

Art donations will be considered based on many factors, including but not limited to, significance of the artist, aesthetic quality of the artwork, appropriateness of location, relation to existing works in collection, durability and craftsmanship, proposed location, and potential liabilities. A&V may request professional opinions from an art historian, appraiser, engineer, or another qualified professional with expertise consistent with the proposed donated artwork.

#### **APPLICATION AND REVIEW PROCESS**

##### **DONATION APPLICATION FORM**

Potential donors may obtain a Donation Application Form from the Denver Arts & Venues Public Art Staff. This form requests standard provenance information about the donated artwork, including statement from donor, appraised value, transfer and ownership topics, proposed contribution to the City and community, liability, safety and maintenance issues, aesthetic quality and artistic merit, materials and media, proposed location placement, and installation information. For specific criteria regarding monuments and memorials, refer to Section IV.A of this policy document.

##### **FUNDING**

The City will request that all gifts to its art collection include a small amount of funding (up to 10%) from the donor to be designated for future conservation of the artwork. While a donation application can be accepted without this financing in place, it will be recommended in every case.

##### **ORDINANCE GUIDELINES**

Applications are reviewed and approved by A&V based on Ordinance guidelines. Assistance is provided where needed.

##### **PRESENTATION OF APPLICATION TO PUBLIC ART COMMITTEE (PAC)**

Once an application is approved by A&V, it is presented to the Public Art Committee for review and recommendations regarding materials, engineering, conservation, safety, and ADA considerations. If the donation is approved by the PAC, those recommendations are recorded, and the application is forwarded to the Denver Commission on Cultural Affairs.

##### **PRESENTATION OF APPLICATION TO DENVER COMMISSION ON CULTURAL AFFAIRS (DCCA)**

Application is presented to the DCCA at its monthly meeting for review and a vote to approve or deny the donation.

**CONTRACT PROCESS AND DENVER CITY COUNCIL**

A&V Public Art Staff initiates a donation contract request through the City Attorney's Office. Staff presents the contract to the Mayor and the City Council Committee with oversight of public amenities. An Ordinance Request is filed, and the contract is presented to the full City Council for approval.

Once a contract is approved, delivery and installation arrangements are coordinated by Denver Public Art staff.



#### **IV.A MEMORIALS AND MONUMENTS**

Memorials and monuments are common types of artworks that are donated to or commissioned by public art programs. These commemorative works have a long history in the United States, and therefore, it is important to evaluate and consider several criteria for the future of these works within the Denver’s Public Art Collection.

#### **DEFINITIONS**

**Memorial:** A work of art, item, functional object, or designed space created to preserve the memory of a significant person, entity, or event that occurred or existed in the past.

**Monument:** An object such as a plaque, work of art, or designated space established to commemorate a significant person, event, entity or abstract concept (e.g. civil rights, shared history).

#### **CRITERIA FOR ACCEPTANCE OF DONATION OR COMMISSION OF A MEMORIAL OR MONUMENT**

The following considerations should be evaluated before accepting a donation of, or initiating a commission of, a memorial or monument:

- Memorials or monuments commemorating specific events or individuals will only be considered five years after the event has occurred or after the passing of the individual.
- The memorial or monument has a timeless quality, makes a significant statement to future generations and is appropriate to the subject matter and site.
- The proposed memorial or monument adds meaning and important historic context to a visitor’s experience at the site.
- The materials, scale, and placement of the memorial or monument are appropriate for the event, person, or concepts to be honored and the proposed site.
- The memorial or monument must be consistent with the mission of the City and County of Denver and Denver Arts & Venues, as well as any applicable neighborhood or district plans.
- Any donation of a memorial or monument to the Denver Public Art Collection must include funds for the installation and maintenance of the work, including a plaque, fabricated according to Denver Arts & Venues requirements.
- Appropriate agency approval must be obtained before any donated memorial or monument is installed on City property (e.g. Denver Parks & Recreation, Denver Public Works, Denver International Airport, Department of General Services).





## **V. COLLECTION MANAGEMENT**

The collection of art commissioned by and belonging to the City and County of Denver includes artwork commissioned by Public Art Program funds, donated artworks, and historic works of art installed on City property. These works are considered assets of the City and County of Denver and it is the goal of the Public Art Program to ensure the care and conservation of its assets through regular maintenance, inventory, condition assessment and conservation.

### **DEFINITIONS**

**Maintenance:** The regularly required effort to keep a work of public art in its intended condition.

**Conservation:** Also referred to as restoration and repair – the rectification of significant or material damage to a work of public art.

### **COLLECTION DATABASE**

An electronic database, with coordinating files of each artwork owned by the City and County of Denver will be maintained and updated regularly throughout each year as artworks are added to the collection and maintenance procedures are completed. This database contains the following information:

- unique accession number for the artwork;
- curatorial information: title of the artwork, year of completion and dedication (if known), name of the artist (if known), cost of commission (if known), description of artwork, location of artwork and other information, as needed;
- conservation information: materials of artwork, fabrication details, installation specifications, maintenance handbook and recommendations;
- administrative information: artist's contract, payment and budget information, permits, subcontractor information, insurance information, dedication materials, press and biographical information; and
- photographic documentation: digital or photographic files on artist, fabrication, installation, engineering drawings, artist's sketches, proposals, press shots, and documentation for maintenance and conservation purposes.

### **ANNUAL CONDITION SURVEY**

Each year, in preparation for annual budget submissions, the Denver Arts & Venues (A&V) Public Art staff oversees a condition review of approximately half of the public art collection. Each artwork is reviewed every other year. This serves as an important resource for the Public Art staff to determine its annual budgetary needs and priorities, and better maintain the Public Art Collection for generations to come.

### **FUNDING FOR MAINTENANCE AND CONSERVATION**

Maintenance and conservation efforts are funded separately from the 1% Percent for Public Art project budgets. On a yearly basis, Denver Arts & Venues will propose its desired budget for maintenance needs. This budget proposal will be considered and funded each year according to need and availability

of funds. The funding is drawn from sources determined by the Capital Projects & Programming Division of the Department of Finance and expected to vary from year to year according to these factors. The Public Art Program is open to receive private or granted conservation and maintenance funds to supplement its annual budget.



## **VI. PUBLIC ART DEACCESSION AND RELOCATION**

### **REQUEST FOR REVIEW**

A request for review may only be submitted by Denver Arts & Venues (A&V), the artist, a host agency, or an outside party with a direct interest in the disposition or relocation of a public artwork.

A request for review for deaccession or relocation of a public artwork may be submitted to A&V if a minimum of criteria is met per the Public Art Policy guidelines. A&V will review the request and may present to the Denver Commission on Cultural Affairs (DCCA), or ask the requestor to do so at its discretion.

### **DEFINITIONS**

Deaccession: The permanent removal of a public artwork from the City's collection.

Relocation: The permanent relocation of a public artwork to a more suitable site.

### **CRITERIA FOR DEACCESSION**

The following reasons may be cause for deaccession of a public artwork from the City's collection:

- the artwork endangers public safety;
- the security of the artwork cannot be reasonably guaranteed;
- the artwork requires excessive maintenance due to faults of design or workmanship, and remedy is impractical or unfeasible;
- the artwork has been damaged or has deteriorated beyond the point where repair is practical or feasible;
- significant changes in the use, character or design of the site have occurred, which affect the integrity of the artwork; or
- if otherwise required by contract.

### **CRITERIA FOR RELOCATION**

The following reasons may be cause for relocation of a public artwork from the City's collection:

- the artwork endangers public safety in its current location;
- the security of the artwork cannot be reasonably guaranteed in its current location;
- significant changes in the ownership, use, character or design of the site have occurred which affect the integrity of the work; or
- if otherwise required by contract.

### **REQUIREMENTS FOR REVIEW FOR DEACCESSION OR RELOCATION OF ARTWORK**

A request for review for deaccession or relocation must include:

- a brief narrative explaining why the artwork is being recommended for deaccession or relocation per the Public Art Policy listed criteria, as well as the following information:
  - Artist's name
  - Title of the artwork
  - Date of creation
  - Current location

- Current value of artwork (If artwork is valued at more than \$500,000, additional approval from Denver City Council may be required for deaccession)
- written evaluation from a disinterested and qualified professional in a discipline consistent with the criteria for deaccession or relocation including, but not limited to, an engineer, conservator, architect, safety expert, or art historian;
- photographs indicating the status of the work;
- written recommendations of other concerned parties including A&V, the host agency, the artist or artist representative, or an outside party with a direct interest in the disposition or relocation of the artwork.

Additional information including, but not limited to, acquisition method, condition reports, or contract with the artist, may be requested by A&V or the DCCA depending on the rationale given for deaccession or relocation, which may help determine an outcome.

#### **PROCESS FOR REVIEW**

- The review request packet for deaccession or relocation containing all required materials shall be submitted to A&V.
- If A&V determines that the request for review is valid per the Public Art Policy criteria for deaccession or relocation, and decides that it should be presented to the DCCA, A&V will either present the request or ask the requestor to do so at the DCCA monthly meeting.
- If the request for review is presented to the DCCA, the DCCA shall discuss and vote on whether or not it recommends to deaccess or relocate the public artwork. The DCCA Co-Chairs shall present the recommendation in writing to the Executive Director of A&V for final determination. This recommendation shall also be recorded in the DCCA monthly minutes.

#### **DETERMINATION**

Final determination will be made by the Executive Director of A&V. The reasons for the final determination shall be recorded by the Executive Director of A&V in the deaccession or relocation documents.

*The following courses of action in order of priority should be followed if a work of art from the City's collection is removed or relocated:*

- Relocation for public display. If the work was created for a specific site, relocation should be to a new site consistent with the artist's intention. If the artist is still living, the artist's assistance and consent will be requested in making this determination. If the artist is deceased, the terms of the contract, if any, will control relocation. For those few works in the collection where an artist is deceased and there is no contract, A&V will contact the City Attorney's Office to determine if applicable copyright law limits relocation.
- Consider a more appropriate work of art by the same artist to be installed in original or similar location.
- Removal from the collection will be by sale, extended loan, trade or donation. The artist should be given first option to purchase.
- If none of the preceding options are feasible, the work will be removed and destroyed at the expense of the City.

#### **PUBLIC NOTICE**

Public notice shall be made no fewer than 14 days prior to the determination for implementation of any action recommended by DCCA in order to allow interested members of the public to have an opportunity for input in writing to the Executive Director before he/she reaches a final determination.



## VII. APPENDIX

DENVER REVISED MUNICIPAL CODE [DRMC] 20-85, et seq.

### DIVISION 4. - PUBLIC ART PROGRAM

Sec. 20-85. - Purpose.

The purpose of this division 4 is to establish and implement a public art program for the city. This includes the requirement that all capital improvements as defined in section 20-86 include funding for a work or works of public art and the repair of such public art. Works of public art are to be located at a capital improvement project site or in a facility or other complex of buildings adjacent to such a project site.

(Ord. No. 717-91, § 1, 10-15-91; Ord. No. 650-96, § 1, 7-29-96)

Sec. 20-86. - Definitions.

(a) *Works of public art.*

- (1) For the purposes of the public art program works of public art may include, but need not be limited to, the following examples:
  - a. Sculpture: in the round, bas relief, mobile, fountain, kinetic, and electronic, in any approved material or combination of materials.
  - b. Painting: all media, including portable and permanently affixed works, such as murals.
  - c. Graphic arts: printmaking, drawing, and banners.
  - d. Mosaics.
  - e. Photography.
  - f. Crafts: in clay, fiber and textiles, wood, metal, plastics, stained glass, and other materials, both functional and nonfunctional.
  - g. Mixed media: any combination of forms of media, including collage.
  - h. Earth works, environmental installations, and environmental art.
  - i. Decorative, ornamental, or functional elements which are designed by practicing artists or other persons submitting as artists, including but not limited to design professionals who are not participating members of the city's design team for the project (includes repetitive or serial art by an artist).
  - j. Light or luminal art, lighting.

- k. Sound art.
  - l. Portable art that may be displayed at locations other than its substantially permanent location at or adjacent to the project site.
  - m. Temporary performance, or time-based art, provided that it is documented, is tied to the project whose budget provided funding, and produces a permanent work of art (residue) that is on substantially permanent display at or adjacent to the project site.
- (2) The following elements are not considered works of public art under the public art program:
- a. Directional elements such as supergraphics, signage, or color coding except where these elements are an integral part of the work of public art.
  - b. Objects which are mass produced in a standard design, such as playground equipment or fountains. However, prototype objects which are designed by an artist selected using the procedures of the public art program may be produced in editions and such editions shall not be considered mass produced.
  - c. Reproductions, by mechanical or other means, of original works of art, except in cases of casting, film, video, photography, printmaking or other media arts.
  - d. Landscape gardening except where such elements are designed by the artist or artist/landscape architect and are an integral part of a work of environmental art.
- (3) Works of public art as herein defined acquired by city-affiliated cultural institutions, including the Museum of Natural History, Art Museum, Botanic Gardens, or Zoological Gardens shall not be part of the public art program.
- (4) All works of public art produced hereunder shall be of a design, fabrication and material which are appropriate and durable, subject to the approval of the director, as defined herein, in his or her sole discretion.
- (b) *Capital improvement project.* Capital improvement project means the acquisition by the city of real property or any interest therein to be used by the city in conjunction with the construction or acquisition of buildings or other structures; the improvement to, construction or acquisition of buildings or other structures of a permanent nature; the permanent improvement or betterment (as distinguished from ordinary repair or other maintenance) of real property or any interest therein, or of any building or structure; the construction of or improvement to viaducts, roads and streets, streetscape projects, pedestrian malls and plazas; and construction of or improvements to designated parks. Such capital improvement project shall include the costs and expenses of planning, designing, or engineering or any combination thereof, and of any survey or study concerning or with reference to any such capital improvement project. Such capital improvement project may be funded by appropriated city funds, by the sale of general obligation bonds, by private grants or cooperative agreements by which private funds are made available for use by the city, and by appropriate grants or cooperative agreements with the State of Colorado, the United States government, or other governmental agencies, or by any combination of the above sources of funding.

Any acquisition, construction, or expenditure required for, or in connection with, local, special, or general public improvement districts or privately financed construction pursuant to chapter 49 of this Code, or expenditures for leases of non-city owned property for city offices which are improved at the city's direct or indirect expense shall not be considered capital improvement projects. Except as specified in the preceding paragraph, projects which do not include finished space for human occupancy

and will not be available to public view or use or which are of a mechanical or electrical nature only shall not be considered capital improvement projects.

- (c) *Restoration or repair.* Restoration or repair means the rectification of significant or material damage to a work of public art.
- (d) *Maintenance.* Maintenance means the regularly required effort to keep a work of public art in its intended condition.

(Ord. No. 717-91, § 1, 10-15-91; Ord. No. 650-96, § 1, 7-29-96)

Sec. 20-87. - Applicability.

- (a) The public art program shall apply to all city capital improvement projects as defined above including multiphase projects on a single project site whose budgeted cost of construction and design for a single project or for the total of such multiphase projects is equal to or greater than one million dollars (\$1,000,000.00). The public art component of a project may be directly adjacent to the project site or elsewhere in a complex of buildings in which the project is located. An amount equal to one (1) percent of the total budgeted construction cost of the capital improvement project or such multiphase projects shall be included for the planning, design and construction of public art, and for the repair of such public art.
- (b) One (1) percent of the gross amount designated for public art shall be placed in a separate funded project in each capital fund. Each such separate project shall be titled "public art repair and restoration." The monies set aside in each such "public art repair and restoration" project shall be used for the repair or restoration of any work of public art funded by the applicable capital fund.
- (c) Maintenance of an artwork, as distinguished from repair or restoration of such artwork, as determined in the sole discretion of the director, as defined herein, in coordination with the heads of affected departments or agencies or their designees, shall be the responsibility of the user agency, in coordination with and with the advice of the mayor's office of art, culture and film. At the time of acceptance by the city of a work of public art, the mayor's office of art, culture and film shall provide the user agency with maintenance instruction and schedule information, including any specific directives from the artist creating the work of public art as well as directives and information from the mayor's office of art, culture and film. Such maintenance instruction and schedule information may be updated from year to year by the mayor's office of art, culture and film. Upon receipt of such instruction and schedule information the user agency shall seek the necessary appropriation of funds to carry out the prescribed maintenance activities. Direct and indirect costs of such maintenance shall be borne by the user agency from their operating budgets, subject to the appropriation of such funds. Upon request by the director in consultation with the heads of the affected department or agencies, the agency head will initiate or continue maintenance to a work of art, the agency head shall comply unless no such funds have been appropriated or the agency head determines that it would be in the best interests of the city to do so.
- (d) Any person, otherwise qualified, submitting proposals pursuant to the city's public art program is eligible to do so without regard to color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability.

(Ord. No. 717-91, § 1, 10-15-91; Ord. No. 650-96, § 1, 7-29-96)

Sec. 20-88. - Administration.

The director of arts and venues Denver ("director") shall be responsible for the implementation of the public art program. The director shall consult with the manager of public works, manager of aviation, manager of parks and recreation, director of public office buildings, or heads of other departments or agencies of the city that will be using and occupying the capital improvement, in administering the public art program for that capital improvement.

(Ord. No. 717-91, § 1, 10-15-91; Ord. No. 650-96, § 1, 7-29-96; Ord. No. 355-11, § 10, 6-27-11)

Sec. 20-89. - Rules and regulations.

The director of arts and venues Denver shall consult with the officials described in section 20-88 above, and shall have the power and authority to adopt rules and regulations and informal internal guidelines to effectuate the purpose and operation of this division 4.

(Ord. No. 717-91, § 1, 10-15-91; Ord. No. 650-96, § 1, 7-29-96; Ord. No. 355-11, § 11, 6-27-11)

**Cross reference**— Rules and regulations, § 2-91 et seq.