

AN ORDINANCE 2011-09-08-0743

AMENDING THE PUBLIC ART SAN ANTONIO POLICIES AND PROCEDURES BY CHANGING THE APPROPRIATION AMOUNT FOR PUBLIC ART FROM "UP TO ONE PERCENT" TO "ONE PERCENT" OF ELIGIBLE APPROPRIATIONS AND REQUIRING THAT FUTURE PUBLIC ART PROJECTS AND DONATIONS MEET THE REQUIREMENTS FOR CONSERVATION AND MAINTENANCE.

* * * * *

WHEREAS, in 2001 the City Council established policies and procedures for the Public Art and Design Enhancement Program and these policies and procedures have been revised to include the creation of Public Art San Antonio ("PASA"), the establishment of the Public Art Board ("Board"), and to the pooling of public art funds; and

WHEREAS, the Board reviews public art projects and City public art policies and together with staff recommends further revisions including a change in the amount of funding for public art services from "up to one percent" to "one percent" of eligible appropriations and require that future public art projects and donations meet the requirements for conservation and maintenance;
NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. City Council adopts the Public Art San Antonio policies and guidelines attached to this Ordinance as Exhibit I and deletes Article VI, Division V of Chapter 35 of the City Code of San Antonio, Texas in its entirety.

SECTION 2. This Ordinance shall take effect immediately upon the receipt of eight affirmative votes; otherwise it shall be effective ten days after its passage.

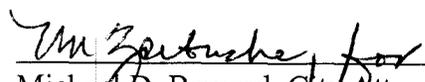
PASSED AND APPROVED this 8th day of September, 2011.


M A Y O R
 Julián Castro

ATTEST:


Leticia M. Vacc, City Clerk

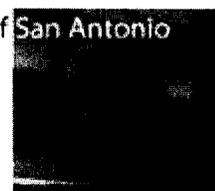
APPROVED AS TO FORM:


Michael D. Bernard, City Attorney



Request for
COUNCIL
ACTION

City of San Antonio



Agenda Voting Results - 17

Name:	17						
Date:	09/08/2011						
Time:	11:57:38 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance amending the Public Art San Antonio policies and procedures by changing the appropriation amount for public art from "up to one percent" to "one percent" of eligible capital projects and requiring that future public art projects and donations meet the requirements for conservation and maintenance. [Pat DiGiovanni, Deputy City Manager; Felix Padron, Director, Cultural Affairs]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Diego Bernal	District 1		x			x	
Ivy R. Taylor	District 2		x				
Jennifer V. Ramos	District 3	x					
Rey Saldaña	District 4		x				
David Medina Jr.	District 5		x				
Ray Lopez	District 6		x				
Cris Medina	District 7		x				
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				x
Carlton Soules	District 10			x			

EXHIBIT I

PUBLIC ART SAN ANTONIO (PASA)

Statement of Purpose

The purpose of Public Art San Antonio (PASA) is to support a public process for incorporating artist services and artworks in the design of civic spaces and capital projects and to define the City of San Antonio's policies and guidelines for acquiring and commissioning art of the highest standards which shall enrich the quality of life for all residents and visitors of San Antonio. The goals of Public Art San Antonio (PASA) are to create a better visual environment for the residents and visitors of San Antonio, to integrate the design work of artists into the development of City eligible capital improvement projects, and to promote tourism and the economic vitality of the City through the enhancement of public spaces. Public Art San Antonio (PASA) serves the entire City of San Antonio as the public art program for all City departments, capital projects and public art initiatives, and is a division of the Office of Cultural Affairs (OCA). Public Art San Antonio (PASA) specifically seeks:

- To encourage the selection of artists at the beginning stages of each project who can work successfully as members of the project design team, and to encourage collaboration among all arts and building disciplines;*
- To foster quality design and the creation of an array of artwork in all media, materials and disciplines that best respond to the distinctive characteristics of each project site and the community that it serves;*
- To select experienced artists who represent the diverse cultural landscape of San Antonio;*
- To encourage the selection of design enhancements that are accessible to the public and respects the historical resources and mobility of the citizenry;*
- To encourage artists, design enhancements and programs for open spaces, parks, infrastructure and facilities that contribute to neighborhood revitalization and enhance the quality and pride of neighborhoods in the City;*
- To encourage participation by citizens in the process of acquiring and commissioning of design enhancements;*
- To encourage the role of public art and design enhancements in enhancing economic development and cultural tourism;*
- To encourage the role of artists in the functional design of eligible capital improvement projects;*
- To exhibit art in designated City facilities for the enjoyment of the public and to heighten awareness and appreciation for local artists; and*
- To maintain and provide stewardship of the City public art and design enhancements collection.*

Section 1. Definitions.

- (a) ANNUAL PUBLIC ART PLAN means a prioritized list, to be recommended by the Public Art Board and approved by the City Council, of visual projects, including budgets and recommended design approaches, developed through a process using planning recommendations and selection criteria administered by Public Art San Antonio in consultation with City departments anticipating capital improvement projects.

- (b) CAPITAL IMPROVEMENT PROGRAM means any permanent public improvement project paid for wholly or in part by monies appropriated by the City to design, construct, improve, or renovate a building, including its appurtenant facilities, a decorative or commemorative structure, a park, a street, a sidewalk, a parking facility, a utility, or any portion thereof, within the City limits or under the jurisdiction of the City.
- (c) ELIGIBLE APPROPRIATIONS means any capital improvement project contained in a bond proposition approved by the voters, or any non-bond program capital improvement project with a total project cost of greater than \$500,000, excluding certain identified capital projects designated solely for real property acquisition, demolition, equipment, normal major maintenance, financing, below-grade water or wastewater improvements, and costs of repairing existing streets, sidewalks, and drainage facilities.
- (d) PUBLIC ART ACCOUNT means a separate account established within each capital improvement project fund by the City to receive monies appropriated to the public art program; provided that:
 - 1. City bond proceeds to be used for the public art program must be maintained in the respective bond funds established in accordance with the City ordinance authorizing the issuance of the bonds; and
 - 2. Monies from non-bond sources that are eligible and appropriated from a City fund to be used for the public art program must be maintained in a separate account within that fund.

Section 2. Funding.

- (a) Public Art and Design Enhancement Allowances
 - 1. Appropriation Procedures.
 - a. Standard appropriations for City capital improvement projects, whether financed with City bond proceeds or City monies from any other source, shall include one percent of Eligible Appropriations to be used for design services of artists, for the selection, acquisition, fabrication, installation, conservation, and display of artworks, and for PASA administration of the public art projects. Monies appropriated as part of one project, but not deemed necessary by the City Council in total or in part for the project, may be expended on other projects approved under the annual public art projects plan; provided that proceeds from bonds issued and authorized for a particular use or purpose shall not be used or diverted for a different use or purpose.
 - b. Special appropriations for capital improvement projects that prioritizes public art and design enhancement within their planning and/or scope of work shall include a budgeted amount within corresponding capital improvement project appropriation that is commensurate with estimated costs relating the artwork to the design and scale of each project or site.

2. Grants and contributions from non-City sources.
 - a. City departments shall include in every application to a granting authority for a capital improvement project grant an amount for artists' services and artworks. The public art appropriation shall apply to all capital improvement projects financed with grants or contributions from private persons or governmental or public agencies, subject to conditions of the granting or contributing person or agency. If the public art appropriation is not allowed as a reimbursable expense, only the City-funded portion of the project is subject to the public art appropriation.
 - b. Contributions to PASA from private sources shall be deposited into a separate PASA account, subject to any donor's conditions within the instrument of conveyance. Disbursements must be made in accordance with the annual projects plan and this article.
3. Accounting. Amounts appropriated pursuant to this article shall be established by the City of San Antonio as separate budget items designated within the capital improvement program for public art and design enhancements.
4. City bond financed projects.
 - a. This article shall apply to a City capital improvement project financed with proceeds from:
 - i. General obligation bonds authorized and approved by the voters on or after January 1, 2011; or
 - ii. Revenue bonds, certificates, notes, or other obligations authorized and approved by the City Council on or after January 1, 2011.
 - b. This article shall not apply to any refunding bond proceeds.
5. In developing the capital improvement program for bond-financed capital improvement projects, the City Manager may recommend that the City Council exempt certain bond-financed capital improvement projects from the application of this article. The City Manager's recommendations shall govern unless the City Council provides otherwise.
6. If a City capital improvement project is financed with City bond proceeds, the use of any amounts appropriated for artists' services and works of art in accordance with this article must be consistent with any voted proposition approved by the voters of the City, any resolution or ordinance adopted by the City Council authorizing issuance of the bonds, and applicable state or federal law.
7. Uses of public art and design enhancement appropriated funds.

- a. Monies appropriated under this article may be used for artists' design concepts and for the selection, acquisition, purchase, fabrication, placement, installation, exhibition, conservation, and display of artworks.
- b. A percentage of the total annual public art appropriations may be used for Public Art San Antonio (PASA) administration and may be used to pay the costs incurred in the administration of the program, including project administration, artist-selection-related costs, outside design fees where collaboration is involved, design, drawing, sculptural models, community education, insurance, curatorial services, identifying plaques, documentation, publicity, and such other purposes as may be deemed appropriate for the administration of the P ASA public art program.

(b) Development of Annual Public Art Plan.

- 1. PASA shall review with City departments all planned capital improvement projects to determine if they are eligible for public art and design enhancement treatment in order to develop the Annual Public Art Plan. The following selection criteria will be utilized to develop the annual plan.
 - a. Coordination and collaboration with existing/planned infrastructure improvement projects, including partnership projects.
 - b. Connectivity between neighborhoods, community facilities, cultural landmarks, and economic/development centers.
 - c. Leverage existing improvements and funding, both public and private.
 - d. Complete and/or sustain significance of previously established projects.
 - e. Support transportation and/or pedestrian connectivity and areas of density.
 - f. Support improvements within established boundaries, such as special districts or focal areas in need of revitalization and upgrade.
 - g. Achieve an overall balance of public art projects throughout the City based upon planning recommendations.
 - h. Improve value of public and private property and overall quality of life.
 - i. Support identified needs or projects within adopted strategic plans.
- 2. PASA will consider the feasibility, budget size, scope, and community impact as criteria for identifying and recommending capital projects suitable for public art and design enhancement treatment.
- 3. PASA shall discuss each eligible project with the assigned departmental staff and stakeholders to develop a project description, allowance, and timeline.

- (c) Eligible Public Art and Design Enhancements. It is the policy of the City of San Antonio that all public art and design enhancements commissioned or acquired through PASA are designed by an artist, craftsman or an artist or craftsman in collaboration with the project architect, landscape architect or engineer. Such artworks may include, but are not limited to the following:
1. The incremental costs of infrastructure elements, such as sound-walls, utility structures, roadway elements and other items if designed by an artist or design team that includes an artist co-designer.
 2. Artistic or aesthetic elements of the overall architecture or landscape design if created by a professional artist or a design team that includes a professional visual artist.
 3. Earthworks, neon, glass, mosaics, photographs, prints, calligraphy, any combination of forms of media including sound, literary elements, film, holographic images, and video systems; hybrids of any media and new genres.
 4. Murals or portable paintings in any material or variety of materials.
 5. Sculpture: freestanding, wall supported, or suspended; kinetic and electronic in any material or combination of materials.
 6. Temporary artworks or installations, if such artworks serve the purpose of providing community and educational outreach purposes.
 7. Public art and design enhancements that are an integral part of architecture, landscape architecture, and landscape design.

Section 3. Responsibilities.

- (a) Public Art San Antonio (PASA).
1. Administer the public art and design enhancement allowances, artists' registry, and the artist selection panels;
 2. Implement policies and procedures relative to applying for and accepting gifts and grants, and disposition, relocation, maintenance, repair, and alteration of the City art collection;
 3. Manage artist selection panels, the Public Art Board, public art services of City departments, artists, design and building professionals and the public;
 4. Develop a public art and design enhancement plan linked to eligible City capital improvement projects;

5. Coordinate and implement public art education and community outreach programs.
6. Present to City Council for acceptance all cash gifts given for the purpose of purchasing or commissioning artworks;
7. Coordinate with all City departments and project designers the possibility of their acceptance and placement of a gift or loan of an artwork to the City at specific sites;
8. Coordinate with City departments regarding eligible sites for the placement of a gift or loan of an artwork the cost of care and maintenance of said artwork; and
9. OCA, through P ASA, shall staff the seven (7) member at large Public Art Board who shall be nominated by the Mayor and confirmed by Council for appointment, advisory to City Council, and serve as an adjunct public art review board to the Historic and Design Review Commission.

(b) Other City Departments.

1. Plan, develop and coordinate with PASA regarding existing and future projects opportunities for the incorporation of artworks and artist services.
2. Develop and implement artwork projects at specific sites.
3. Assess information and coordinate with P ASA on proposals for gifts or loans of artworks and monies.
4. Inform P ASA regarding any and all departmental activity related to the development and implementation of artwork and artist services.
5. Assist PASA in allocating funds, monitoring project budgets and educating the public.
6. Inform PASA on planning for capital improvement projects, which could potentially incorporate an art project.
7. Utilize PASA as the primary professional public art resource for the City of San Antonio.

(c) Public Art Board.

1. Be composed a seven member at-large council advisory board, nominated by Mayor and confirmed by City Council, consisting of three (3) visual arts representatives (artist, professional, and patron), one (1) architect, landscape architect, or design professional, one (1) visual arts professor from local college or university, one (1) local art and architecture historian or conservationist, and one (1) community and/or neighborhoods representative. Public Art Board

members shall follow the term limits and appointment procedures set forth in the City's general rules and procedures for City Council Boards and Commissions set forth in Chapter 2, Article IX of the City Code.

2. Have a chairperson and shall be initially selected by the Mayor, and shall have a term of one (1) year. Subsequent chairpersons shall be elected by the Public Art Board for one-year terms to manage the functions of the Board; and
3. Develop and approve an annual public art plan
4. Develop policies and goals for the selection, placement, and maintenance of artwork in the City's collection.
5. Review and make recommendations on artist selection panelists, artist selections, and all final public art and design enhancement projects and following the criteria set forth in Section 7; and
6. Review and make recommendations on all proposed public art gifts, loans and memorials following the criteria set forth in section 4(g); and
7. Review and make recommendations on the disposition of artworks following the criteria set forth in Section 7 (h); and
8. Review and make recommendations on the conservation, maintenance, repair, or alteration of artworks in the City art collection; and
9. Review and make recommendations on the inventory of artworks in the City art collection, which shall be periodically inspected; and
10. Develop, promote, educate and preserve aesthetic excellence in public spaces for San Antonio residents and visitors.
11. Actively promote PASA's call for artist opportunities for the purposes of recruiting a diverse group of talented artists for City of San Antonio projects.
12. The Public Art Board shall not bind the City of San Antonio by contract or otherwise. In order to avoid conflicts of interest, no member of the Public Art Board shall vote or participate as a member in any matter that materially affects the property, income, or business interest of that member or in which the member holds a substantial interest. Such member shall give notice of abstention form voting prior to the taking of a vote.

(d) Artist Selection Panels.

1. Be composed of active members of the prequalified artist selection panel pool. (See Section 7 (a))

2. Make recommendations to PASA and the Public Art Board on design, execution, and placement and of public art and design enhancement projects in connection with specific capital projects.
3. Make recommendations to PASA on appropriate methods of artist selection, commissioning, placement and execution of artworks related to the design of each appropriate project.
4. Review submitted artist materials and any additional sources deemed appropriate or necessary to make final recommendations to PASA and on the artist(s) applying for the specific projects.
5. Review and select artists taking into consideration the recommendations of the client and/or department and the criteria established by PASA.
6. Cease to exist once the artist(s) is selected and approved.
7. Shall not bind the City of San Antonio by contract or otherwise.
8. Conflicts of Interest - No member of the artist selection panel shall vote or participate as a member in any matter that materially affects the property, income, or business interest of that member or in which the member holds a substantial interest. Such member shall give notice of abstention form voting prior to the taking of a vote.

(e) Artist(s).

1. Submit credentials, visuals, proposals and/or project materials as directed for consideration by the artist selection panel.
2. Conduct necessary research, including attending project orientations and touring project sites, when possible.
3. Design, execute, complete and transfer title of the artwork in a timely and professional manner.
4. Work closely with the project manager and/or other design professionals associated with the project.
5. Submit to PASA, City staff, the Public Art Board, and whenever applicable to the Historic and Design Review Commission any significant changes in the scope of the project, color, material, or design of the approved artwork.
6. Make public presentations, conduct community education workshops or a residency, as required by the contract with the City of San Antonio.
7. Provide a maintenance plan that includes a list of materials, diagrams, and names of fabricators describing processes used in fabricating the artwork, and the

descriptions and drawings of installations, specifications and details of connecting methods.

(f) Outside Agencies and Organizations.

1. Coordinate with PASA and the Public Art Board regarding the planning and implementation of existing and future public art projects located within the public right of way, and/or that use public funding, and/or are installed on private property that is highly visible to the general public.
2. Submit to PASA, City staff, and the Public Art Board, any significant changes in the scope of the project, color, material, or design of the approved artwork.

Section 4. Conservation.

- (a) All routine maintenance and repairs of permanent public art and design enhancements, including cleaning, shall be the responsibility of the City department housing the artwork, in consultation with PASA. Each department that houses public art and design enhancements shall notify PASA whenever it believes an artwork requires attention. City departments may request from PASA guidance in maintenance, cleaning and curatorial services for the City art collection.
- (b) Maintenance and conservation of artworks in the public art collection shall follow the specific instructions and specifications listed under artist's maintenance and conservation plan.
- (c) Donations of artworks to the City must include monetary donation of at least 5% of the value of the artwork to be deposited into the City's PASA Fund for long-term maintenance of the public art collection.
- (d) Whenever applicable, City departments will consider maintenance of artworks through the annual budget process.

Section 5. Temporary Exhibits.

- (a) PASA has the joint responsibility with other City departments in implementing and administering exhibitions of art in City facilities such as libraries, the airport, and City Hall. PASA shall design appropriate selection processes and panels to review and select proposals.
- (b) All final approvals of artworks and exhibitions will be the responsibility of PASA and the participating department exhibition space staff. Contracts will be negotiated between the representative of the proposed exhibit, PASA, and the participating department and/or agency.

Section 6. Education and Community Outreach.

- (a) Purpose. Public participation is a key aspect of PASA. PASA will make significant efforts to involve the public in community outreach and public education programs. These efforts can create a context in which citizens can better understand and appreciate the artworks and the design contributions of the artists.
- (b) Policy. PASA will make significant community outreach and public education efforts on each public art and design enhancement project. Possible activities may include:
 - 1. Efforts to raise the level of general awareness about public art and design enhancement, such as slide lectures or presentations to various community groups and service organizations, a regular program of media coverage, and periodic "town hall" meetings in City Council districts.
 - 2. Community involvement, including appropriate community meetings before the project is defined, community representation on the artist selection panels, community co-sponsorship of public art and design enhancement projects, and public "unveilings" or dedications.
 - 3. More formal public education programs, including design competitions and design awards, sponsorship of public art and design enhancement lectures by local museums and galleries, guided tours of public art and design enhancement in the City, and periodic symposia on public art and design enhancement.
 - 4. A program for school children that includes the development of curriculum guides for public art and design enhancement, sponsorship of artist residencies in the public schools, and a speaker's bureau on public art and design enhancement for the school system.
 - 5. Media relations efforts that target the local print and broadcast outlets, participation by the Public Art Board and staff members on local media talk shows, and regular press development activities in the form of press releases and media packages.
 - 6. A publication program that includes catalogs and guides to the City art collection, a newsletter to interested citizens, and the creation of posters to accompany the unveiling of new artworks.

Section 7. Review and Approval Procedures

- (a) Qualification of Artist Selection Panelists
 - 1. Opportunities to participate as a member of the prequalified panelist pool shall be made available on an ongoing basis through an application and training process.
 - 2. The Public Art Board may propose candidates to be appointed as participants in the panelist pool based upon a candidate's special experience and/or unique qualifications.

(b) Selection Panel Composition and Procedures

1. PASA shall review information regarding each new project opportunity in order to nominate qualified Artist Selection Panelists to the Public Art Board for recommendation and approval of the panel's composition.
2. PASA shall manage the Artist Selection Panel duties and responsibilities.
3. The Artist Selection Panel shall review the Call for Artists submitted materials and proposed its recommended artist selection to the Public Art Board.
4. The Public Art Board shall consider final artist selection and provide recommendations and approvals to PASA.
5. PASA shall notify artists of selection process results.

(c) Calls for Artists.

1. PASA, in consultation with appropriate City departments, shall define the scope of work, project criteria, and budget, develop a community profile, assemble the artist selection panel and manage the artist selection process.
2. PASA shall brief the artist selection panel on the project and make appropriate modifications to the process according to the panel's recommendations.
3. The artist selection panel shall review a presentation by PASA of materials submitted by artists in response to a call for artists, invitation, or other method of selection recommended by PASA, and may choose to interview finalists.
4. Upon request, finalists may be required to submit additional qualifications and/or a concept proposal to the panel prior to being interviewed. If asked to submit a proposal, PASA shall coordinate with finalists to discuss the site and any additional project background.
5. Qualifications may include a resume and images of artists' past work. Proposals may include models, drawings, or other visual representations, and a written statement.
6. At the conclusion of presented artists' qualifications, the panel shall deliberate the materials presented, interviews, project scope of work and related criteria.
7. Artists who have completed past public art projects with the City of San Antonio shall submit an inventory of past works, and PASA shall brief the panel on artists' previous performance and past works.
8. Final recommendation of selected artist shall be decided by majority vote. A final recommendation shall be presented to the Public Art Board through PASA.

9. PASA may request a formal proposal from the final artist(s) selected specifying the time frame for project development, payment schedule, ownership and copyrights. All materials related to the proposal including models, drawings etc. will be the property of the artist, but the City shall have the right to exhibit and use them for educational and promotional purposes.
 10. Types of Call for Artists:
 - a. Open Competition. Any artist may submit qualifications or proposals subject to any requirements established by the artist selection panel or PASA. Calls for artists for open competitions shall be sufficiently detailed to permit artists to determine whether their work is appropriate to the project under consideration.
 - b. Invitational. The artist selection panel may invite a limited number of artists to submit credentials or proposal.
 - c. Direct Selection. The artist selection panel may directly select an artist(s). Generally, direct selection will not be employed except on those projects where an open or limited competition would be inappropriate or impractical, such as an urgent project timeline or very specific project requirements.
 11. Local and Non-Local Artists. PASA shall seek a balance in the awarding of contracts for the public art and design enhancement projects among San Antonio-based, Texas, national and international artists. Factors such as the size of the project, the level of visibility, the availability of funding, and other conditions, all may influence the selection of artists. PASA shall seek special opportunities to help develop a growing population of professional public artists in the San Antonio area.
- (d) Artist Selection Criteria. The artist selection process shall be managed by PASA and, whenever possible, shall begin at the conceptual stage of the project so the artist(s) will be able to integrate art concepts and artworks with the design of the specific projects. Early participation also allows for dialogue between the artist(s), the community the project serves and architect or designer to discuss the design processes and the inclusion of specifications for the artwork's site preparation that are subject to zoning, design, and construction codes. The selection of artists or artworks must meet the following criteria:
1. The design capabilities of the artist(s) and the inherent quality of the artworks.
 2. All media forms of visual arts may be considered, subject to any requirements set by the artist selection panel or PASA.
 3. Public art and design enhancements of all schools, styles, and tastes should be considered for the public art and design enhancement program.

4. Public art and design enhancements should be appropriate in scale, materials, form and content for the immediate social and physical environments with which they relate.
5. Consideration should be given to structural and surface integrity, permanence and protection of the artwork against theft, vandalism, weathering, and excessive maintenance and repair costs.
6. Consideration should be given to the fact that public art and design enhancement, as defined by the program, is a genre that is created in a public context and that must be judged by standards that embrace factors other than the aesthetic, including public participation, social and political attitudes, and functional considerations. Public art and design enhancement may also serve to establish focal points, terminate areas, modify, enhance or define specific spaces, establish identity, or address specific issues of urban design.
7. Public art and design enhancements should be examined for unsafe conditions or factors that may bear on public liability.
8. PASA should strive for diversity of style, scale and media, and will also strive for an equitable distribution of artworks throughout the City, subject to sources of project funding.
9. Consideration should be given to budget suitability and/or constraints for each specific project.
10. The artist selection process shall ensure that the interests of all concerned parties are represented, including the public, the art community and the City departments.

(e) Final Artist Approvals Recommendations.

1. The Public Art Board shall have the responsibility of reviewing and approving the artwork for a project and providing recommendations to City Council, as well as other boards and commissions whenever necessary.
2. The Historic and Design Review Commission shall have the responsibility of reviewing and approving public art memorials requiring a certificate of appropriateness for their placement within the City, including those that affect a designated historical landmark, property within a designated historic district, a state archaeological landmark, a recorded Texas historical landmark, property within a National Register Historic District, property listed on the National Register of Historic Places, a National Historic Landmark, or property within the river improvement overlay (RIO) district.

(f) Artist Contracts

1. Design teams selected for projects eligible for public art and design enhancement treatment will be contracted to provide architects/engineering and unique public

art and design enhancement features. The artist may be asked to prepare a budget that includes costs for fabrications, materials, labor, transportation, site preparation and installation, insurance, artist fee and a contingency fund. Contracts will require the artist to develop a maintenance plan for the artwork, which must be submitted to PASA and appropriate City departments before final acceptance of artwork by City is issued.

2. Fabrication of the artwork will be by the artist or under the artist's direct supervision.
3. Installations shall be coordinated between PASA and the appropriate representatives of each department having jurisdiction over the site and/or construction. Whenever possible, the installation of artworks will become part of the final project's construction contract, and will be executed by the contractor under the artist's supervision.

(g) Public Art Gifts and Loans Acceptance Policy.

1. These guidelines set forth below for public art gifts and loans outline the process PASA follows in regard to donations of artwork gifts, extended artwork loans, and memorial artworks (including art monuments, art plaques, property for placement of artwork, and funds for the acquisition of artwork) that may be proposed for donation to the City of San Antonio for placement on City property. Due to limited funds for maintenance and conservation of public art and the limited number of suitable sites on City property for the placement of donated artwork, a review process has been established. The Guidelines for Public Art Gifts, Loans, and Memorials outline a procedure and criteria for the Public Art Board to review proposed public art gifts, loans, and memorials. The intent of the guidelines is to ensure that the same standards of excellence applied to City's public art and design enhancements are also applied to public art gifts, loans, and memorials and to the placement of such on City property.
2. PASA shall:
 - a. Serve as liaison between the Donor and the City and its designated authority, the Public Art Board.
 - b. Convene and facilitate the Public Art Board and its Public Art Gifts, Loans, and Memorials Committee (GLMC, defined below) to review possible donations.
 - c. Oversee the fabrication (when applicable), site preparation (including, but not limited to foundations and lighting), and the installation of all accepted artworks/memorials and related materials such as donor plaques.
3. The Public Art Board shall:
 - a. Appoint a Public Art Gifts, Loans, and Memorials Committee (GLMC). Committee members shall be appointed for a term of two or three years

(staggered terms) and may serve a maximum of two terms. Additional adjunct members will be appointed as needed for each proposal. Standing committee members (five in total), will include three arts and/or design professionals -- a curator, a or art maintenance and conservation specialist, an architect, a landscape architect, a graphic designer, etc., one of whom must be an artist; a historian familiar with the City; and a neighborhood representative who will be assigned depending on the proposal/so A member of the Public Art Board, who serves as a non-voting facilitator, will chair the GLMC. Other non-voting advisors to the review process may include representatives of the City Departments of CIMS, Risk Management, Development Services, or Legal, as deemed appropriate by the Public Art Board. The GLMC shall convene once every six months on average or on an as-needed basis, as determined by the Public Art Board and depending on when a gift, loan, or memorial is offered.

- b. Serve as a board of appeals for any issues that arise in conjunction with the artwork/memorial donations.
4. The Gifts, Loans, and Memorials Committee (GLMC) is a committee of the Public Art Board, facilitated by P ASA staff, and responsible for reviewing and making recommendations on proposed public artwork gifts, loans, or memorials to the Public Art Board. GLMC shall follow the procedures for review of gifts, loans, and memorials (described below.)
5. Works of Public Art are all forms of original creations of visual art or art services, including but not limited to:
 - a. Painting of all media, including both portable and permanently affixed works such as murals;
 - b. Sculpture which may be in the round, bas-relief, high-relief, mobile, fountain, kinetic, electronic, etc. in any material or combination of materials;
 - c. Other visual media including, but not limited to prints, drawings, stained glass, calligraphy, mosaics, photography, clay, fiber, textiles, wood, metals, plastics, or other materials or combination of materials, or crafts or artifacts;
 - d. Media-based artwork (i.e. electronic, video, Internet reliant);
 - e. Art that incorporates the use of sound; and
 - f. Artist design services.
6. Artist is a practitioner in the visual arts generally recognized by critics and peers as a professional of serious intent and recognized ability who produces works of art.

7. Public Art San Antonio Manager is an employee of the City responsible for the operation of the public art program.
8. San Antonio Public Art Collection refers to all works on the accession records/inventory of the City.
9. Gift of Art is a work of art donated free and clear to the City for inclusion in the City art collection.
10. Loaned Art, for these purposes, is a work of art given without charge for use over a period of time exceeding 90 days, to be returned to the owner at the end of the use period; Artworks loaned for less than one year will be reviewed by the PASA Manager and staff.
11. Public Art Memorial is a work of art designed to artistically memorialize or create an artwork monument to an event, person, group, or other entity on public property. Public Art Memorials must conform to the criteria outlined within the City of San Antonio's policies regarding Markers, Memorials, and Plaques.
12. Procedures. All persons interested in donating or gifting works of art to the City will be required to submit the following information in writing to P ASA at least six months prior to the anticipated installation date of the project.
 - a. Review Process. PASA staff will convene the GLMC and present an agenda and schedule for the public art proposals to be considered. The donation information will have been sent to the GLMC for review prior to the meeting. Acceptance or rejection of proposals will be recommended by the GLMC based on the following criteria.
 - b. Criteria for Eligibility. Public Art Memorials must conform to the criteria outlined within the City of San Antonio's policies regarding Markers, Memorials, and Plaques.
 - c. Final Recommendations and Acceptance. Final recommendations and approvals of donated public art memorial will be made by the Public Art Board upon recommendation of its GLMC and acknowledged through a written statement to the donor or donor's agent. The Public Art Board has the responsibility of reviewing and approving the aesthetic appropriateness of a public art memorial and making recommendations whenever necessary to the Historic and Design Review Commission. The Historic and Design Review Commission shall have the responsibility of reviewing and approving public art memorials requiring a certificate of appropriateness for their placement within the City, including those that affect a designated historical landmark, property within a designated historic district, a state archaeological landmark, a recorded Texas historical landmark, property within a National Register Historic District, property listed on the National Register of Historic Places, a National

Historic Landmark, or property within the river improvement overlay (RIO) district. Final acceptance will require an Acceptance Agreement approved by City Council.

(h). Disposition of Art.

1. Policy. The PASA Manager shall initiate a disposition review for a public artwork placed on City property, upon the existence of one (1) or more of the following conditions:
 - a. The condition or security of the artwork cannot be ably guaranteed.
 - b. The artwork requires excessive maintenance or has faults of design or workmanship and repair or remedy is impractical or unfeasible.
 - c. The artwork has been damaged and repair is impractical or unfeasible.
 - d. The artwork endangers public safety.
 - e. No suitable site is available, or significant changes in the use of character or design of the site have occurred, which affect the integrity of the work.
 - f. Significant adverse public reaction over an extended period of time.
 - g. The quality of the artwork is called into question.
 - h. Written request from the artist has been received.
 - i. The Public Art Board wishes to replace the artwork with a more appropriate work by the same artist.
2. Review Procedures. The following steps are required:
 - a. Review of the artist's contract and other agreements that may pertain.
 - b. Discussion with the artist of the circumstances prompting the review.
 - c. Gathering of opinions of more than one (1) independent professional qualified to recommend on the concern prompting review (conservators, engineers, architects, critics, art historians, safety experts, etc.).
 - d. Review of written correspondence, press and other evidence of public debate, if applicable
 - e. Review the artwork's historic significance and if placed within a City designated historic or RIO district adhere to Historic and Design Review Commission guidelines, if applicable.

3. Recommendations.
 - a. A recommendation of reasonable measures is formulated to address the concerns that prompted the review and forwarded to the Public Art Board by the PASA Manager.
 - b. The recommendation shall be reviewed at an open public meeting of the Public Art Board and upon its acceptance by the Public Art Board; the PASA Manager shall take necessary steps to implement the recommended action short of "removal."
 - c. If the recommendation is removal, or if Public Art Board determines that reasonable efforts to resolve the concern(s) which prompted the review have been made but have failed to resolve the situation, then the Public Art Board shall appoint a mediating organization or consultant to designate a panel of impartial persons qualified to carry out steps in considering the removal of the artwork. The Public Art Board shall consider the varying needs of the parties to the dispute in selecting the mediating organization or consultant.
 - d. The mediating organization/consultant may draw panel members from groups such as preservationists, art historians, museum curators, artists, urban planners, arts or public interest lawyers, social psychologists, policy analysts, and community improvement activists. The panel shall:
 - i. Review the Public Art Board's determination that reasonable efforts to resolve the concern have been made, yet have failed to resolve it.
 - ii. The panel may recommend any specific measures to resolve the concern including relocation or removal. This recommendation shall provide a reasonable timeframe in which to carry out the recommended measures.
 - iii. Upon the panel's determination that the Public Art Board's decision was correct, or that recommendations referred to in (1a) above have not resolved all concerns, the panel shall then consider the following, in the following order of priority:
 - a. Relocation of public display (if the work was designed for a specific site, best efforts should be made to relocate it to a new site consistent with the artist's intention. As a courtesy, the artist(s) should be consulted in this determination. In the event of death or incapacitation of the artist, best efforts should be made to consult and/or notify the executor of the artist's estate as to the proposed disposition of the work of art in question.

- b. Removal from the collection by sale, extended loan, or gift. Three independent professional appraisals of the fair market value of the work shall be secured on which to base decisions.
 - iv. If sale, trade, gift, extended loan, or relocation is not feasible, the work will be destroyed, subject to any moral rights retained by the artist.
 - a. If feasible, the artist should be given first option on purchase.
 - b. Sale may be through auction, gallery resale, or direct bidding by individuals.
 - c. Trade may be through artist, gallery, museum, or other institutions.
 - d. Proceeds from the sale of the work of art shall be deposited into an account to be used for future public art projects. Any pre-existing contractual agreements between the artist and the (responsible agency) regarding resale shall be honored.
 - e. Any of the options enumerated above require the prior approval by the Public Art Board, and may require review by Historic and Design Review Commission if artwork is deemed historic or located in a historic or RIO district.
- e. Project Files and Records. PASA shall maintain records on each project, which shall include, but not be limited to the following:
 - i. All materials in proposals submitted and other visual or written materials relating to the artist's design or method of execution as submitted or become available.
 - ii. Conveyance of title enumerating any donor conditions.
 - iii. Records of the Public Art Board and City action bearing on the project.
 - iv. Any agreements relating to the project.
 - v. Correspondence and memoranda relating to the project.
 - vi. Records of all billings made in connection with the project.
- f. Exceptions. These guidelines shall not apply to:

- i. Artwork loaned to the City for one (1) year or less.
 - ii. Artwork loaned for inclusion in temporary exhibitions in City facilities and City-owned and managed by the City.
 - iii. Artwork loaned or donated to City employees or appointed City officials for display in their personal offices.
 - iv. Gifts of state presented to the City by other governmental entities (municipal, state, national, foreign).
 - v. Artwork loaned or donated to the private collections of nonprofit organizations that manage City entities, or included in temporary exhibitions at those facilities.
- (i) Documentation. PASA shall document the selection process and critical stages of specific projects such as fabrication and installation. The documentation will be used for the production of City promotional material and self-guided tour brochures. A video and still photography of each project may be part of the documentation. This documentation will be used as a promotional, educational and archival resource. All records relating to all projects such as contracts, correspondence, memoranda, proposals, models, and billings will be kept by PASA.

Revising Public Art Policies and Procedures

Agenda Item # 17
September 8, 2011

1

Brief Background

Previous City Council Action:

- In 2008, establishment of the Public Art Board, which reviews public art commissions and policies.
- In 2010, UDC was updated to allow pooling of the public art allocations to improve planning and budgeting of projects.
- UDC Technical Advisory Committee also recommended to remove the public art program from UDC and be adopted as stand alone ordinance.

2

Revisions Summary

This action revises current public art policies regarding appropriations for public art, thresholds for eligibility, and sets maintenance guidelines.

- **The existing funding language of “up to 1%” revised to “1%”**
- **Maintenance and conservation of art is highlighted under new policy section.**

3

Revisions Cont'd

- **The 1% is applicable to the Capital Improvement Program including Bond issued.**
- **1% will not be applied to non-bond projects with budgets less than \$500,000**
- **It also excludes non-bond capital projects such as real estate acquisition, demolition, equipment, financing, below grade water or waste-water repair, and maintenance of existing infrastructure and facilities**

4

Revisions Cont'd

- Criteria for developing an Annual Public Art Plan have been developed including assuring an “overall balance of projects throughout the City based on planning recommendations and subject to City Council review and approval”.
- Donations of art to City must include a monetary donation of at least 5% of the artwork’s value to support long-term care of the public art collection.

5

Other Cities

- | | |
|------------------|-----------------------------------|
| ■ Austin, TX | 2% |
| ■ Dallas, TX | .75%-1.5% |
| ■ Houston, TX | 1.75% |
| ■ Fort Worth, TX | 2% |
| ■ San Diego, CA | 2% |
| ■ San Jose, CA | 1%-2% |
| ■ Phoenix, AZ | up to 1% (includes non-CIP funds) |

6

Staff and the Public Art Board
recommend approval

7