

CITY OF SOLANA BEACH	Policy No. 17
COUNCIL POLICY	Adopted: September 19, 2007 Revised:
GENERAL SUBJECT: Public Art	
SPECIFIC SUBJECT: Master Art Policy	

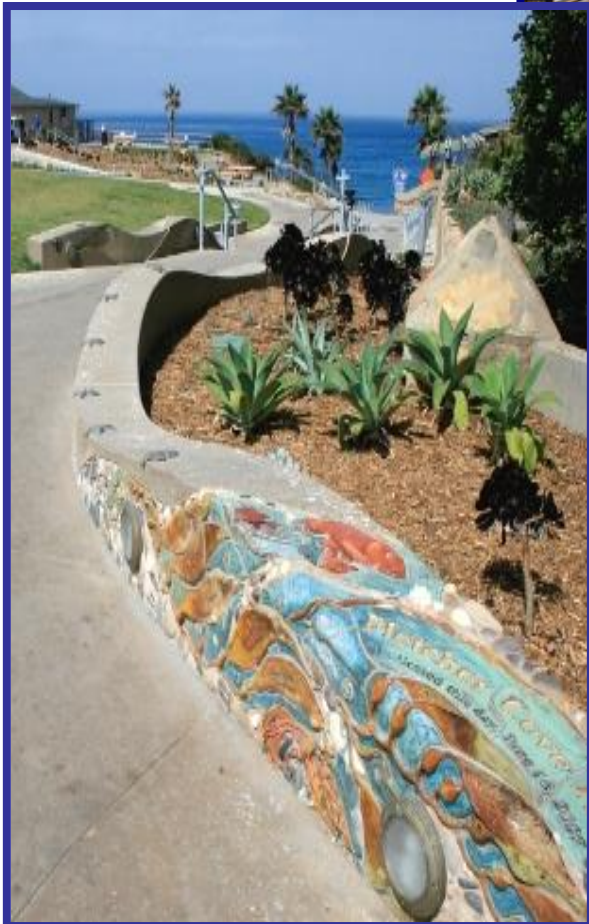
POLICY STATEMENT:

The residents of the City of Solana Beach have expressed a desire to further enhance the identity of their City as an artistic community. To ensure that the cultural experience of the City is enriching and engaging, the community, through its Public Arts Program intends to celebrate its artistic heritage and vital art community by embracing the area's cultural potential and opportunities, thus guaranteeing future generations a rich artistic legacy. By acquiring and exhibiting quality works of art, providing access to a variety of performance arts, and by offering a diverse mixture of cultural events, it is the City of Solana Beach's intent to be a destination for public art.

Public Art by its nature will always be controversial. It is essential to understand that success in this pursuit will almost always be accompanied by those who complain, just as when the City of Florence, Italy, displayed Michelangelo's *David* for the first time. There will always be those who object to the subject matter, medium, media, and location; however, as in Florence, public art is and will be an important component of a vital, diverse, and successful community.

City of Solana Beach

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CITY COUNCIL POLICY #17

Established: September 19, 2007

master art policy
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I. POLICY STATEMENT

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II. POLICY OBJECTIVE

In order to cultivate a permanent art collection and provide enriching events and opportunities for the City of Solana Beach, this Master Art Policy establishes guidelines and formalizes the process to acquire and fund public art. It establishes mechanisms to ensure new development projects incorporate public art into the cityscape and it establishes uniform administrative guidelines and procedures to follow for all new art/artistic proposals presented to City Council for review.

III. PUBLIC ART PROGRAM DESCRIPTION

A. Goals

The Public Art Program will result in a mixture of enriching opportunities, cultural events, and a visual art collection that reflects the local environment, cultural values and artistic vitality of the community. The Master Art Policy aspires to enhance the aesthetic qualities of Solana Beach while creating an atmosphere that nurtures, enhances and encourages art. The Policy aims to develop a public art program that represents a wide range of artistic styles and disciplines through a process that encourages community dialogue and involvement. All of these actions will help identify Solana Beach as a community committed to art and culture.

B. Process

One method to build the City's visual art collection is to acquire pieces for placement in existing locations throughout the City. In addition, the Program recognizes a significant opportunity to incorporate public art into the community when new development projects are proposed to be built in the City. Therefore, the Master Art Policy will capitalize on this opportunity by requiring new development projects to either incorporate public art into their projects or pay a fee to the City's Reserve Public Art Account (see Section VII).



C. Public Arts Advisory Commission (PAAC)

The PAAC plays an integral role in the implementation of the Master Art Policy. It serves in an advisory capacity to City Council as the review body for all public arts projects and events. City Council may rely upon PAAC to guide them through the process of presenting artistic events, selecting highly skilled and qualified artists, acquiring, and maintaining and/or de-accessioning visual art for the City.

PAAC members are appointed by City Council and include a diverse composition of Solana Beach residents some of whom will be arts professionals. PAAC members are subject to the Conflict of Interest rules set forth in the California Political Reform Act and Government Code section 1090.

IV. PROCEDURE TO ACQUIRE ARTWORK

All Solana Beach public art proposals must follow the procedures outlined in this Policy regardless if those proposals are generated by City Council, the PAAC, new development projects, potential donors, or any other source.

A. Site Selection for Public Art

All new proposals for public artwork should carefully consider the location where the art will be displayed or performed. Sites may include urban gateways, vistas, public spaces parks, streets, plazas and beaches. Particular attention will be given to displaying visual artwork at major intersections, corridors and entrances to the City of Solana Beach, with performance art at parks, the Coastal Rail Trail, and other areas deemed safe and appropriate.

If the public art is located on private property then it must be accessible to the public at all times unless otherwise approved by City Council.

In addition to a location's aesthetic possibilities, the following factors shall be considered when deciding the site and placement or presentation of the art.

- Lighting and visibility
- Public safety
- Park or area users
- Future development plans for the area
- Landscape design
- Availability of utilities
- Existing artwork within the vicinity
- Environmental concerns/impact
- Public accessibility to the work
- Social context (intended use of the work)
- Significance to the proposed site
- Site appropriateness (fitting with the scale & nature of the proposed site)
- Traffic patterns (interior and exterior)
- Relationship to existing planned architectural and natural features



B. Submit Public Art Proposal

All proposals for the display of visual art or the performing arts using City property must be submitted to the City Council. City Staff can provide a template of what the proposal should include. This Policy does not include schools with respect to their performing arts. Proposals may be submitted by the PAAC or an artist, those who wish to loan or donate art; by Applicants fulfilling the public art requirements outlined in Section VII of this policy; or by those responding to a request for proposal made by the City.

City Council may make requests for artwork proposals using the following methods:

1. Open Competition
2. Limited Invitation (a few artists)
3. Invitation (one artist)
4. Direct purchase

C. Review of Visual Artwork Proposal

Any visual art to be considered as a part of the City's public art collection will be evaluated by City Council. Council shall consult with the PAAC during this process. In addition, all proposals shall be subject to a 45-day public review period in which public comments will be considered by Council.

In general, acceptance and placement should be in accordance with adopted policy and current or historic use or master plans, City Council goals, and the Master Art Plan. The location and design of the artwork should be consistent with the character and design intentions of the proposed site. The quality, scale and character of the artwork should be at a level commensurate with the particular setting.

Proposals should also include costs to cover a plaque to identify the artwork. The artwork shall display the artist's name, artwork title, and date the artwork was dedicated.

Artwork will be evaluated considering the following criteria:

- Artistic Quality
- Style and Nature
- Location
- Context
- Public Safety and Accessibility
- Media
- Uniqueness
- Maintenance and Cost Obligation
- Insurance Costs
- Feasibility
- Permanence
- Overall submittal
- Artist Warranty



During the review process Council can request modifications to proposals before further consideration.

D. Donated & Long Term Gifts

Acceptance of artwork into the City's collection should be accompanied by a commitment to its long term care and preservation. Therefore, the acceptance of such donations must be deliberate and maintain high aesthetic standards as outlined in this Master Art Policy.

When a donation or long-term loan of art is proposed, the PAAC shall review the proposal, contact the prospective donor to inform them of the information required in the proposal, notify them of the City's donation policy, and gather information about the artwork. The PAAC shall review the donation proposal and determine whether to advise the City Council to accept or reject the donation. The PAAC shall consider the following criteria when making their recommendations:

- Aesthetics of the Art
- Maintenance & Financial Responsibilities
- Legal & Liability Considerations
- Appropriateness of the Art for the Selected Site

If the donation is approved and accepted by the City Council, and the art becomes part of the City's collection, the City shall coordinate the installation and maintenance of the piece. The PAAC shall work with the City to provide for the appropriate recognition of the donor's contribution to the City.

E. Memorial Donations of Artwork

Memorial donations shall be judged on a case-by-case basis, taking into consideration the request of the proposed donor, the donation, and the person being commemorated. The following criteria are to be considered to determine appropriateness of a memorial:

- Significance: If a person or event is being memorialized they/it must be deemed significant enough to merit such an honor.
- The memorial must represent broad community values.
- The memorial must have timeless qualities and make a statement of significance to future generations.
- The location under consideration must be an appropriate setting for the memorial; in general, there should be a specific geographic justification for the memorial being located in a specific site.

F. Accept Artwork Proposal and Install Artwork

Once an artwork proposal is accepted by City Council then installation may proceed.

Additional review during the fabrication and installation of the piece shall be required of projects that are accepted from a maquette or drawing. The artwork may not deviate from the City Council approved proposal, unless such change is approved by Council.

Accepted artwork shall be a permanent, fixed asset to the property. Each artwork shall be identified by a plaque stating the artist's name, artwork title, and date the artwork was dedicated. The plaque shall be placed in an appropriate location near the artwork that can be easily accessed by pedestrians and in accordance with the design.

Artwork located on private property shall remain the property of the owner for the life of the Certificate of Occupancy. Ownership of the work will transfer to any successive owner of the property. Once the artwork has been accepted by the City and installed, it cannot be removed or altered without specific written approval of the City Council and as outlined in this Master Art Policy.

V. PUBLIC ART COLLECTION MAINTENANCE REQUIREMENTS

- A. If located on public property, artwork shall become the property of the City of Solana Beach.
- B. Unless otherwise provided, the City shall provide all maintenance necessary to preserve the work in good condition.
- C. If located on private property, the owner of the artwork shall provide all maintenance necessary to preserve the work in good condition. In addition, the owner of the artwork shall maintain fire and extended insurance coverage, including but not limited to vandalism coverage, in a minimum amount of the purchase price of said artwork. Failure to maintain the artwork will make the owner subject to possible fines and/or liens against the real property.
- D. Stolen or vandalized art shall be replaced or repaired in a manner that conforms to the originally approved art. In the event of repair the responsible artist(s) shall be notified and given the opportunity to perform the repair work.

VI. PROCEDURE TO DE-ACCESSION ART

De-accession is the process by which the City, acting in accordance with City policies and procedures, approves and effectuates the disposal of a work of art from the City of Solana Beach collection.

The City of Solana Beach retains the right to convey the artwork to another site or to storage or for conservation. The City may also elect to remove the artwork from the inventory of the City collection by sale or other appropriate means, including discard. If the City decides to remove artwork from its inventory then the procedures outlined in this section must be followed before removal can occur.

Notwithstanding any other provision in this Policy, if, in the judgment of a super majority of the City Council an artwork is deemed to be detrimental to the public interest due to content, controversy or deteriorated condition, it may be removed immediately from public display.

A. Submit De-Accession Proposal

City Council, City Staff, or the PAAC may recommend artwork for de-accessioning. The proposal shall contain the following:

1. Title, artist medium, dimensions, and present location of the work;
2. Provenance;
3. Slide(s), high resolution photos and/or digital imagery of the work;
4. Report on the condition of the work;
5. Estimated fair market value (In the case of certain objects of high monetary value, independent consultants may be asked to provide opinions);
6. Copy of ownership documents (title) for the work;
7. Justification for disposal, conforming to the provisions herein; and
8. Recommended method of disposal.

Methods to de-accession artwork may include sale, trade or exchange. If selling, the City may sell the artwork through a dealer, public auction or competitive bid process.

B. Review De-Accession Proposal

Any artwork with a value of less than \$1,500.00 will be handled administratively by staff. City Council approval must be obtained for any work with a value of more than \$1,500.

City Council shall consult with PAAC before deciding to approve de-accession. De-accessioning may be approved if the artwork meets at least one of the following criteria:

1. The City cannot properly maintain or store the artwork.
2. If the work is a duplicate (e.g., prints, sculptures, multiples) of works already in the collection.
3. If the City identifies a work of art as a copy or imitation, a fake or forgery, without significant value.
4. An artwork requires restoration in gross excess of its aesthetic value or an artwork in such a deteriorated state that restoration would prove either unfeasible or misleading.

Subsequent to approval by City Council, staff shall make every reasonable effort to locate the artist or donor/heir advising them in writing of the City's intention to de-accession the artwork. Every effort shall be made to honor the wishes of the artist or donors/heirs concerning the de-accessioning. Written concurrence of donors/heirs will be solicited.

C. Accept De-Accession Proposal and Remove Artwork

The artist/donor shall be given the right of first refusal to reacquire the work at fair market value, original price, or gratis, depending on City Council approval. The cost of removal of the work may be reflected in the amount set.

In keeping with the California Resale Royalties Act, if a de-accessioned work of art is sold, traded, or exchanged, five percent (5%) of the sale price of any work valued over \$1,000 will be given to the artist who created the work or the artist's heirs as governed by law, provided that the artist can be located by reasonable means. If the artist cannot be found, the 5% Resale Royalty shall revert to the California State Arts Council as required by law. It is the obligation of the artist to inform the City of a current address.

All undistributed revenue from artwork sales shall be designated for the Reserve Public Art Account (See Section VII).

In acquiring an object through trade or through monies raised from the sale of de-accessioned objects, the City will acknowledge, in the credits of the acquired object, the donor(s) of the original object or objects.

If authorization to remove a work of art is approved by City Council, the original art shall be replaced in accordance with the City Master Art Policy and shall be of comparable or greater value to the original artwork. Said value will be determined through a "qualified appraisal" such as the Art Advisory Panel (used by the IRS) to substantiate the value or by the original building valuation, or approved budget for the prior artwork, plus an inflation factor for construction and material costs based on the Engineering News Record.

D. Penalties for Removing Public Art without Council Approval

Public art installed on or integrated into a private development project shall not be removed or altered without City Council approval. If the art is knowingly removed or altered without approval, the property owner shall contribute funds equal to the current value of the art, pay the Public Art Fee, or replace the work with one of equal value as approved by City Council.

VII. PUBLIC ART PROGRAM FUNDING

The Public Art Program will be funded in part by the City's Reserve Public Art Account. Money in this fund may only be used for various public art expenditures including, but not limited to:

- Purchase or commission of new works of art
- Presentation of a cultural event
- Performance art
- Insurance
- Lighting and plaques
- Structures to display art
- Maintenance of artwork
- Staff



Funds shall not be used to purchase:

- Directional elements such as super-graphics, signage, or color-coding except where these elements are integral parts of the art.
- "Art objects" which are mass-produced of standard design such as playground equipment, fountains, or statuary objects.
- Reproductions, by mechanical or other means, of original works of art, except in cases of film, video, photography, printmaking or other media arts.
- Landscape architecture and landscape gardening except where these elements are designed by an artist and are an integral part of the work of art by the artist.

VIII. PROCEDURE TO ESTABLISH A RESERVE PUBLIC ART ACCOUNT

A City-controlled Reserve Public Art Account will be created as a perpetual fund for the purpose of managing and maintaining public art revenue. The primary objective of this Reserve Public Art Account will be the receiving, expending, and dispersing Public Art Fees; T.O.T. allotments; fundraising efforts; consignment fees; partnership fees; endowments; grants; and other eligible monetary contributions. All monies in the Reserve Public Art Account will be used to provide Solana Beach a rich artistic environment by acquiring and exhibiting quality works of art, providing access to a variety of the performance arts, and by offering a diverse mixture of cultural events as described in this Policy statement.

A. Master Art Plan (MAP) Funding Sources

In order to sustain annual funding for the Public Art Program and implement the Master Art Plan, the following seven (7) mechanisms/options will be pursued. A combination of funding options enables the City to coordinate a consistent and enriching public art program. Reliable funding for the MAP will be provided by using a variety of sources described below. The funds will be allocated to the City's Reserve Public Art Account to cover short-term and long-term capital, operations, and maintenance costs.

1. Transient Occupancy Tax - In 2006, Solana Beach voters approved an increase in the Transient Occupancy Tax (TOT), the tax that is charged for hotel and motel room nights, which increased TOT by one percent per year to a maximum of 13% starting January 1, 2007. One third of the increase, up to a maximum one percent, is collected in a fund entitled Coastal Area Business/Visitor Assistance and Enhancement Fund (CABVAE Fund). Annually, 30% of the revenues from the CABVAE Fund will be designated to support public art in Solana Beach. Another 20% of the revenues from the CABVAE Fund will be allocated for communications and outreach efforts to support cultural tourism and marketing of the City.

2. Public Art Fee - One-half Percent (0.5%) - A Public Art Fee program for development of public art in accordance with the MAP, sets aside a small percentage, one-half percent (0.5%), of the total construction budget of covered private development projects initiated in the City of Solana Beach. This fee can be paid into the City-controlled Reserve Public Art Account or used by the developer to incorporate or purchase City-approved public art for their project. The public artwork may be located in immediate proximity to the said project or placed at a sited MAP location.

a. Covered Private Development Projects - The Public Art Fee, equivalent to 0.5% of the total building permit valuation, shall be applied to all covered private development projects as described below. Total building valuation is computed by using the latest Building Valuation Data as set forth by the International Conference of Building Officials (ICBO) and applied by the City's Building Services Division. This fee must be paid at the start of the project and will be placed in the Reserve Public Art Account. The following types of private development projects will be required to pay the Public Art Fee:

1. Commercial and Industrial Development Projects with a building permit valuation of \$500,000 or more. This includes all new construction and all remodels/reconstruction projects.
2. Residential Projects with a building permit valuation of \$500,000 or more and five (5) or more dwelling units. Single family residential projects of four (4) dwelling units or less are exempt from the Public Art Fee regardless of building permit valuation.

b. Public Art Fee Procedures - Applicants requesting permit applications for projects subject to compliance with the Public Art Fee requirements (see section VIII) shall follow the steps outlined below:

1. Project applicants will be informed of the Public Art Fee by the Planning Department at the start of a project.

2. When applying for a building permit the project applicant shall fill out the Developer Public Art Fee Application Form (Attachment 1) and pay the assessed fee. The monies will be placed in the Reserve Public Art Account.
 3. The applicant must follow the public art proposal guidelines outlined in Section III.B. of this policy in order to satisfy the requirements necessary to receive a refund of the Public Art Fee.
 4. Upon installation of the City approved artwork, a Certificate of Occupancy will be issued and the Public Art Fee will be refunded to the Applicant.
- c. Refund Options** - The Applicant shall complete a Public Art Fee Application Form and submit to the Planning Department. The Public Art Fee (in whole or in part) may be refunded if one the following two conditions are met:
1. The Applicant incorporates public art into the proposed project. Applicants who choose to incorporate art into their own projects might include discrete objects such as sculpture; water features, or other aesthetic building treatments. The architecture of a structure in and of itself does not qualify as art; or
 2. The Applicant acquires Council approved artwork for placement by the City at a designated MAP location. Acquisition shall include all installation costs. (see page 4 of this Policy, section IV. Procedure To Acquire Artwork)

3. Sponsorships/Fundraising and Donations - Sponsorships, donations, and fundraising efforts are an integral aspect to public art throughout the world. These monies contributed for public art can be designated for a specific public art project and/or MAP location or pooled with other unrestricted contributions in the Reserve Public Art Account to be allocated as determined by the Council. Contributors can remain anonymous or be recognized appropriately depending upon the use of their donation for visual, music or the performing arts.

Artists can also propose to coordinate fundraising efforts on their own to support a specific art project or event. Fundraising proposals to support specific projects or events will be reviewed by the PAAC on a case-by-case basis and must be recommended by the PAAC and approved by Council before fundraising efforts begin.

The benefits to a sponsor or charitable donor program include the ability to make tax-deductible contributions to the City's public arts program. Contributions from private groups and individuals are an important means to implementing the MAP and providing enhanced programming for the arts.

4. Consignment Art - Another means to provide public art and funding for the public art program is by consignment. This allows an artist to display their art work for purchase at a designated MAP or other public location. An agreement between the City and the artist, in accordance with this policy, will be negotiated to accommodate this arrangement, including installation, maintenance and removal/relocation after the art is sold or the designated time period has elapsed. A minimum display period of six (6) months is required with time extensions of up to two (2) years may be granted by the PAAC. Additional public display time exceeding the two (2) year maximum must be approved by City Council.

- a.** Consignment Art must go through the PAAC selection process, as described in this MAP, and would be offered for sale with a discrete sign.

- b. A non-refundable \$100 fee will be paid to the City prior to placement of the artwork.
- c. Upon sale of the consignment art, the purchase transaction will be conducted by the City's Finance Department and a twenty five percent (25%) consignment fee will be withheld and placed in the Reserve Public Art Account.
- d. The remaining proceeds from the art sale will be sent to the artist by the Finance Department within 30 days after the sale transaction.

5. Endowment for Solana Beach Arts - The MAP Advisory Committee recommends developing an Endowment for Solana Beach Arts. The creation of an endowment program will include working with the Finance Department and City Attorney to verify the best way to provide this opportunity to the community.

6. Public/Private Partnerships - Cooperation among the City, artists, cultural organizations, other agencies, and the private sector is essential to ensure a healthy arts environment. The City's primary role is one of "**assistance or exposure to**" rather than "**responsibility for**" the provision of public art and cultural services. With this in mind, it is recommended that collaboration with private or corporate sponsors/partners be encouraged for community benefit. These joint activities, temporary exhibitions, cultural events or more permanent public art, can/will include negotiated fees that will be placed in the City's Reserve Public Art Account.

7. Grants - Grants and/or matching grants should be sought from national, state and local foundations, arts agencies and other organizations to promote and guarantee a thriving public art program for Solana Beach.





**Public Art Program
Developer Public Art Fee Application**

I. PROJECT INFORMATION

Project Name: _____

Project Address: _____

Project Applicant: _____

Applicant Address: _____

City: _____ State: _____ Zip: _____

Telephone: () _____ Fax: () _____

Architect: _____

Architect Address: _____

Telephone: () _____ Fax: () _____

Project Start Date: _____

Project Completion: _____ (Estimated)

Total Project Budget: _____

Art Fee one half percent (0.5%) of Total Budget \$ _____

Please choose one of the following options:

- 1. I elect to pay the public art fee.
- 2. I will submit a proposal for public artwork to be incorporated into the above project, with the objective of having the art fee refunded at the finish of the project.
- 3. I will submit a proposal to acquire and install artwork to be displayed at a location in Solana Beach other than at the above mentioned project site. I choose this option with the objective of having the art fee refunded at the finish of the project.

If option 2 or 3 is selected, applicants must follow the procedures for submitting artwork proposals as outlined in the Solana Beach Master Art Policy, MAP. The Public Arts Advisory Commission (PAAC) can assist applicants with this process as PAAC involvement and their recommendation is required by the MAP. For more information contact Anita Edman at 858 720-2454.