

Agenda Report

TO: CITY COUNCIL

DATE: October 11, 2004

FROM: CITY MANAGER

SUBJECT: ADDITION OF "CONSERVATION CLAUSE" TO CAPITAL
IMPROVEMENT PROGRAM PUBLIC ART GUIDELINES

RECOMMENDATION

It is recommended that City Council approve the addition of a "conservation clause" to the Capital Improvement Program (CIP) Public Art Guidelines to allow the funds generated for public art through the seismic renovation of City Hall building project to be credited to fund architecture and design conservation at City Hall.

RECOMMENDATION OF ARTS COMMISSION

On July 20, 2004 the Arts Commission reviewed staff's recommendation and the committee recommends City Council approve the staff recommendations.

BACKGROUND

The Current CIP Public Art Program guidelines state that the one percent public art mandate be applied to renovation or new construction valued at \$250,000 or more at City-owned structures. The monies generated by this mandate are placed in the CIP Public Art Fund and may fund public art projects throughout the City. There is no increase to the budget; funding for this program has been anticipated in the budget.

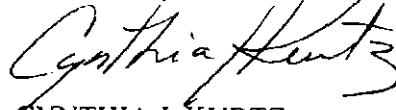
It is recommended that the public art monies generated by the City Hall seismic retrofit be credited to conservation, restoration and replacement of historical art and design elements within the project scope. The funds would not be used for structural, plumbing or mechanical work, unless directly related to conservation of unique historic features designed or created by an artist, artisan, craftsperson, landscape designer or architect. The addition of a conservation clause is necessary to allow the funds to be used in this manner.

A similar credit is included in the Los Angeles Community Redevelopment Agency and the City of Los Angeles public art guidelines. The City of New York Cultural Affairs Department has expanded its interpretation of its existing guidelines to include conservation. A recent example is the restoration of the main gates at the Brooklyn Central Library, which was accomplished with public art funds.

FISCAL IMPACT:

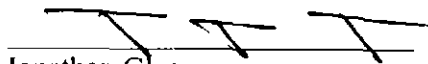
It is estimated that \$572,000, which is one percent of the construction cost of the seismic retrofit at City Hall, will be credited to conservation of unique historic features within the project.

Respectfully Submitted,



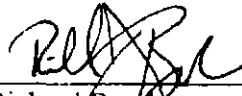
CYNTHIA J. KURTZ
City Manager

Prepared by:



Jonathon Glus
Executive Director for the Arts

Concurrence:



Richard Brusker
Director, Planning and Development

Attachments:

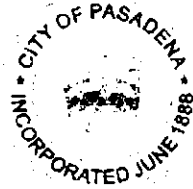
Revised CIP City Construction Public Art Guidelines

Concurrence:



Martin Pastucha
Director, Public Works

CITY OF PASADENA PUBLIC ART PROGRAM



GUIDELINES FOR CITY CONSTRUCTION (CIP) PROJECTS

Cultural Affairs is the City of Pasadena's facilitator for art, design, film, and cultural initiatives. A division of the City of Pasadena Planning and Development Department, Cultural Affairs supports the arts, culture, cultural heritage, design and film in Pasadena. It also promotes Pasadena in Southern California and nationally as a center of American cultural history as well as a vibrant arena for the creation of new art, design and film. Other programs managed by Cultural Affairs include "Cultural Pasadena" (a cultural tourism initiative), Cultural Grants, and international initiatives.

PURPOSE

The purpose of these guidelines is to record the goals for the City of Pasadena Capitol Improvement Program (CIP) Public Art Program, and identify a process, including a method for funding, location, installation and maintenance for public art in City construction projects determined appropriate for public art.

GOALS AND OBJECTIVES

Art is both the permanent and changing record of what we hold important. Pasadena's CIP Public Art Program will reflect and communicate our values and enhance life in our community. It is the stated intent of the CIP Public Art Program to include art and provide space for the creation and presentation of art in CIP projects to create a more livable city, engage a wide spectrum of our citizens, stimulate the vitality and economy of the City of Pasadena and enhance the urban environment. These goals shall be realized through:

1. The commissioning of artists at a variety of points in their careers, but whose work is of the highest artistic merit, and who bring innovative artwork of all media and disciplines into the public realm.
2. The commissioning of artists and artwork which are reflective of cultural diversity and the city's international populations, recognize the values and contributions of various cultures to the community, and contribute to the characteristics, aspirations and unique expressions of Pasadena's values;

3. The encouragement of local artistic endeavors and support of local artists;
4. The encouragement of public dialogue and interaction with art in public places, through appropriate education forums, public meetings, citizen task forces and programs;
5. The commissioning of works of art varying in style, scale, medium, form and intent representative of the arts on a local, regional, national and international level;
6. The broad distribution of commissions among artists. To ensure this objective, no more than one City of Pasadena public art commission per artist/team shall be awarded in a three-year period. An artist may not apply for a subsequent commission until the aforementioned has been completed and has received final approval.
7. The geographic distribution of artworks throughout the City of Pasadena;
8. The inclusion of the artist and design team at the inception of the project.

APPLICABILITY

These guidelines do not apply to private development projects or donated works of art.

SOURCE OF FUNDING: THE CIP PUBLIC ART FUND

The CIP Public Art Fund is a standing account, which holds monies generated by CIP projects, identified to fund public art projects.

The CIP Public Art Program applies to all projects identified and implemented through the City of Pasadena's CIP planning process as well as those planned at the departmental level. One percent of each construction project is designated to fund public art. The Program is assessed against the actual construction cost, excluding architectural, engineering and administrative costs, costs for fees and permits, and indirect costs, such as interest during construction, advertising and legal fees. The minimum public art amount is the total City-funded portion of the construction cost divided by 100.

The assessment is not applied to those sources of capital funds restricted by law or regulation not to fund public art. Restricted funds include, but are not limited to, Residential Development Fees, Gas Tax, Sewer Fund, Commercial Development Impact Fees, Federal Urban Aid, Street Occupancy Fees, State Park Bonds and Underground Surtax.

The policy extends to the following: new construction and renovation or remodeling of structures costing \$250,000 or more, irrespective of their function; municipal buildings and facilities (including but not limited to recycling facilities, parking structures, access ramps and fire stations); street improvements; street lighting; traffic control and transit

facilities; sewers and storm drains; the Arroyo Seco Improvements Program; parks and landscaping; electric and water systems and Pasadena Center Improvements. The policy does not extend to exclusively internal projects (such as turbine overhauls) not accessible to the public, or staff.

PROJECT IDENTIFICATION

The General Plan, district plans, park plans and specific plans have been developed for much of the City. (In addition, it is anticipated that in 2002 a community-wide cultural plan will be drafted and include a Public Art Priorities section.) These plans, in conjunction with the CIP Plan, provide a framework of short- and long-term identified CIP projects. The annual report submitted each year to City Council by Arts Commission will include an annual list of priority public art projects.

APPROPRIATE USE OF PUBLIC ART FUNDS AT A CIP SITE

CIP Public Art monies may be used at any site, which is identified as a CIP site or a site, which is a public/private partnership. Monies may fund permanent site-specific artwork (as listed below), pre-existing original artwork (as listed below), an art site, or an integrated art component. An art site may include a sculpture or art garden, exhibition or auditorium space or facility for non-profit arts organizations. A public art project site may include streetscape or surface, sidewalks, lighting, signage, neighborhood identification, street furniture, etc. An integrated art component may include a bas relief, mural, etc. Monies may be used for one-time construction/purchase costs as well as conservation needs (in conjunction with the CIP Public Art Conservation Fund). Monies may not be used for routine maintenance, utilities or site staff (in the case of an auditorium, for example).

Each CIP art budget is developed and managed by the Public Art Coordinator. Public Art staff time and supplies is billable up to 25% of the project budget. Additional staff time from elsewhere in the City is billable against the project budget only if pre-approved by the Public Art Coordinator.

PLACEMENT AND INTEGRATION OF ARTWORK

It is important that identification of the use of CIP Public Art monies at a site be identified early in the planning of a construction project. It is strongly recommended that the artist or team be selected before the architectural design work begins, so that the artist or team and the architect can work together toward a totally integrated design solution.

When a CIP project is identified to include visual artwork, the artwork shall be located on, in, or in the vicinity of the construction project. If the public art element is located in the interior of a structure, it should be located in an area, which is open and accessible to the public during normal business hours.

ELIGIBILITY

CIP Public Art (visual artwork) competitions are open to any professional artist or a team led by a professional artist. Members of a review panel, any City of Pasadena

Council person or any Arts Commissioner or members of their families, including significant others, employees of the City of Pasadena or employees of any collaborating organizations shall be excluded from consideration. The Public Art Program is a public process allocating public funds. As such, it is necessary that panel and Arts Commission members do not have any real or perceived financial interest in the decisions that they make in connection with the program. Therefore, panelists and Arts Commissioners will be required to complete a Conflict of Interest Statement, listing the arts and cultural organizations and the individual artists with which they, their significant others or any member or their immediate family have had a financial, employment, professional, oversight or volunteer relationship during the last three years or have an agreement to have in the near future.

The Conflict of Interest Statement will be used by Cultural Affairs to ensure that the review panel and Arts Commission discussions are free from potential conflicts or the appearance of conflict of interest.

EXCLUSIONS TO PUBLIC ART ELEMENT REQUIREMENT

The following items are not to be considered as artwork meeting the art requirement:

1. Art objects, which are mass-produced from a standard design such as playground equipment, flags, banners or fountains;
2. Reproductions, by mechanical or other means, of original fine art works;
3. Directional elements such as supergraphics, signage or color-coding. Unique (not of mass-produced design or imagery) artist-designed directional signage or unique supergraphics, which function as artworks may be appropriate;
4. Decorative, ornamental or functional elements, which are designed by the building, architect as opposed to artist commissioned for the purpose of creating fine art works;

CONSERVATION CLAUSE

This pertains only to renovation and new construction at City Hall.

RENOVATION

Major renovation to City Hall may receive a public art credit. The credited monies will be called "conservation funds".

Conservation funds may be used for conservation, restoration and replacement of historical art and design elements. The funds may not be used for structural, plumbing or mechanical work unless this work is directly related to conservation of historic features. The intent is to provide funds for the cost of restoration of unique elements demonstrating artistry and craft. Only features designed or created by an artist, artisan, craftsperson, landscape designer or architect may be considered. Examples of appropriate use of conservation funds include:

restoration of existing artwork at the site, including paintings owned by the City and other 2-dimensional artwork, sculpture and murals; restoration of furniture (including rugs, lighting, etc.) originally designed for and unique to the facility; re-fabrication of original features removed, damaged or destroyed; creation of objects and elements originally designed and intended for the building but not executed; and historic water and garden features and exterior lighting.

Use of conservation funds: These monies may be used in three ways: 1) as matching funds to preservation and conservation funds from outside sources (US Dept. of the Interior, Getty, California Heritage Grants, etc.); 2) as sole funding source for conservation; 3) or as supplemental funds to a project construction budget to restore historic features. In the case of #3, if the funds are used for a utilitarian object, the project budget must include the base cost of fabrication or replacement, utilizing the credit to fund conservation or the additional cost of historically - appropriate fabrication.

Art or historic preservation specialist: Before final approval of a project budget and scope of work, the City shall engage a specialist to identify appropriate use of the conservation funds.

OVERSIGHT

Conservation funds will be managed by the project manager. All reporting documents will be prepared by the project manager and approved by Cultural Affairs staff and the director of Planning and Development

NEW CONSTRUCTION

In the case of new construction of \$250,000 or more as an addition to or adjacent to the historical structure, the Public Art Mandate will apply. These monies will be managed as part of the CIP Public Art Program, and may be used on site or elsewhere at the discretion of the Arts Commission.

FORMULATION OF STRATEGY TO IMPLEMENT CIP PUBLIC ART PROJECTS

Staff shall research and compile information on the background of a funded, approved project, consulting with the appropriate City staff, project contractors and community representatives. Staff shall determine the strategy to implement the project by examining the following issues:

- Overall Site Plan
- Budget Parameters
- Administrative Costs
- Facility Use
- Maintenance Assessment
- Liability Issues
- Adjacent Community Composition
- Proposed Architectural and Landscape Design

Based on this analysis, staff will determine which of the following artist/team selection procedures to follow for implementing the City Construction Public Art Project and recommend a process to the Arts Commission:

PROCEDURES FOR SELECTING AN ARTIST/TEAM FOR CIP PUBLIC ART PROJECTS

The procedures for selecting an artist/team for a CIP Public Art Project are as follows:

- A. A Call to Artists, Request for Qualifications, Request for Proposals or the City's Procurement Process geared to artists and other interested parties will be conducted;
- B. A community workshop, or advisory committee may be organized, if determined to be appropriate by staff;
- C. Proposals will be screened by staff for minimum eligibility requirements;
- D. The one-step panel focuses on recommending an artist/team or artist-oriented process, which consists of the panel being charged with the final selection of artist(s)/teams(s) to execute or purchase the submitted proposal, cultural programming or artistic services/opportunities;
- E. The two-step panel process focuses on recommending an artist/team and their project proposal and is project-oriented which consists of a first step of panel review where the panel is charged with the recommendation of semi-finalists to continue to the next phase of the competition. The second step consists of re-convening the original panel or a portion thereof, as determined by staff, to recommend the final artist/team.
- F. Departments impacted by the proposed project (Bldg, Public Works, Parks, etc.) will review the panel's selection of the finalist or semi-finalists for technical feasibility. Questions and concerns will be referred to staff or, if necessary, the panel who recommended the finalist or semi-finalists.

PANEL ASSEMBLY PROCEDURES

A panel shall select the artist/team for any City Construction Public Art Project. The panel to select the artist/team will be assembled by staff with assistance from the assigned Arts Commissioner to the project. The panel shall be composed of three to seven members including one Arts Commissioner in a non-voting, advisory capacity along with any combination of the following which reflects the diversity of Pasadena and the necessary expertise: arts professionals, City department representatives and representatives from the community in which the artwork will be placed.

Panelists shall serve on a volunteer basis, with no compensation being offered to them. No gallery owner, dealer or art agent may serve as a panelist due to the potential conflict of interest. No panelist may serve more than once in a two-year period.

Each panelist shall have one vote, with no panelist possessing the right of veto. No panelist can vote by proxy or in absentia.

If the panel needs to be reconvened for the purposes of clarification, either under the one-step or two-step panel processes, then a majority of panelists will be reconvened to consider the matter with the assigned Arts Commissioner and at least one arts professional included in the reconvened panel majority. If the original panel consisted of seven members, no fewer than five panelists must be reconvened, if there were five original panelists, no fewer than three must be reconvened and if the original panel was three members, all three panelists must be reconvened to consider the matter.

The panel shall have the option of not recommending any proposal, if there is no proposal judged to be of sufficient merit. In such instances the matter shall be referred back to staff for resolution through implementing another process or abandonment of the project.

PANEL'S CRITERIA FOR ARTIST/TEAM SELECTION

1. The quality of the concept/design/services offered, appropriateness to the project and willingness to fully participate in collaborative process;
2. The ability, capacity and skill of the artist/team to perform the project or provide the materials or services including the past experience of the artist, working in similar medium, environments or sites;
3. The artist/team's ability to successfully perform the project or provide the service promptly, or within the time specified, without delay or interference, according to the standard terms and conditions of the City contract;
4. The ability of the artist to perform the project within the budget timeline and without additional financial or in-kind resources being considered;
5. If applicable, the proposed project considers the design and its relationship to materials and construction for durability, including maintenance, security, and safety;
6. Evidence submitted by the artist of his/her commitment to comply with the City's affirmative action and other procurement ordinances;
7. Artist has not been awarded a City of Pasadena Public Art commission, exclusive of property development in the last three years, and no current public art contracts are open.

ARTS COMMISSIONS' REVIEW

The Arts Commission will review the procedures followed to determine if the process for the artist/team selection was properly implemented. The Arts Commission will ratify and confirm the panel's recommendation by taking a formal vote. The City's Procurement Procedures will be followed in awarding the commission. If required by the Procurement Procedures, the Arts Commission's recommendation will be forwarded, in the form of an Agenda Report, to the City Council for approval. In the instance that the City Council disapproves, the matter shall be referred to staff to recommend an alternative process to the Arts Commission.

The Arts Commission supports the panel process and recognizes that individual aesthetic preferences do not play a role in reviewing the process. The Arts Commission has the duty to review the process to determine if the administrative procedures were properly implemented pursuant to the policy outlined in these Guidelines. If the Arts Commission determines that administrative procedures were not properly implemented, the following remedies shall be followed:

1. Re-convene the panel for clarification; or,
2. Refer the project back to the staff to recommend a new process.

CITY CONSTRUCTION PUBLIC ART PROJECT IMPLEMENTATION PLAN

The proposed project may be exhibited in a publicly accessible facility for a period of no less than two weeks for public exposure with a press release or other appropriate media release, distributed announcement of the project.

The City department generating the construction project shall contract with the artist/team for services or for the purchase and installation of the panel-selected project according to the City's Procurement Procedures. The artist/team must comply with the City of Pasadena's Procurement Procedures.

The artist/team may be required to provide the City evidence of insurance. If required, the coverage and amounts of such insurance are shown on the copy of the City of Pasadena Certificate of Insurance form.

The Public Art Coordinator shall work with the sponsoring City department to monitor the project and determine if the services of a professional structural or civil engineer will be required prior to construction.

On site activity in connection with the installation of artwork shall be handled by the artist and the appropriate City representative within the department(s) having jurisdiction over the site and/or construction. Staff may be asked to assist, in an advisory capacity.

Staff shall be responsible for establishing and maintaining records on each project, which shall include records of the selection process, photo or video documentation of the public art project, and all correspondence related to the project. A site plaque, brochure or other didactic information will be placed at the art site.

ELIGIBLE EXPENSES FOR CIP PUBLIC ART FUNDS

All Public Art contracts shall require the artist/team to design, produce, deliver and install an artwork for a guaranteed maximum cost. This cost may include the work itself and any associated costs, which may be required by the City of Pasadena. Therefore, the following costs are eligible expenditures included in the total project commission:

1. Art work including:
 - a. Design fee and materials;
 - b. Any additional labor and contracted services required for the production and installation of the work;
 - c. The artist/team's operating expenses related to the project;
 - d. Travel related to the project;
 - e. Transportation of the work to the site; and
 - f. Installation of the work.
2. Identification, including labels, plaques, etc.
3. Materials necessary for the installation, location or security at the site as well as restrictions of the installation area.
4. Documentation of the completed work for archival purposes.
5. Permits, insurance, engineering or legal fees necessary for the installation of the artwork.
6. Public Art project related expenses (photocopy, artist's maquette fees, etc.)
7. Staff's direct and indirect administrative expenses, not to exceed a total of 25% of the 1% requirement.

MAINTENANCE

Routine daily maintenance (such as light cleaning and operational costs such as water in the case of a fountain) is the responsibility of the host department. Maintenance as directed by the maintenance plan developed by the artist and approved by Public Art staff, however, is the responsibility of Public Works. Coordination of all conservation is the responsibility of Public Art staff in conjunction with Public Works.

The host department shall not move any artwork from the site for which it was selected, nor remove it from display, without written consent of the City Council upon recommendation from the Arts Commission and according to the provisions of the California Preservation of Works of Art Act and the Visual Artists Rights Act.

In the event an artwork requires repair, the City shall give the artist the opportunity to do that work for a reasonable fee. Disputes concerning what constitutes a reasonable fee shall be settled by a panel of three arts professionals with knowledge of curatorial concerns and an Arts Commissioner in a non-voting, advisory position, to be assembled by staff. If the artist is not available, or the artist chooses not to preserve the work, the staff shall secure the services of an appropriate party adhering to City contract services policies.

REVIEW OF PUBLIC ART GUIDELINES FOR CIP PROJECTS

These guidelines shall be periodically reviewed by the Arts Commission and revisions shall be recommended to the City Council for consideration as necessary.

4th revisions approved by Arts Commission: 7/20/04

3rd revisions approved by City Council: 7/22/02

3rd revisions approved by Arts Commission: 6/12/02

2nd revisions approved by City Council: 12/16/96

2nd revisions approved by Arts Commission: 11/14/96

1st revisions approved by City Council: 6/8/93 & 8/31/93

1st revisions approved by Arts Commission: 5/13/93

Original Guidelines approved by City Council: 1/21/92

Original Guidelines approved by Arts Commission: 1/13/92

(revised 07/20/04 SA)