



**PUBLIC ART IN PRIVATE DEVELOPMENT  
POLICIES AND PROCEDURES**

**Approved September 15, 2021 by the Board of Supervisors**

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## **I. INTRODUCTION**

Pursuant to Ordinance 2021-0047, Los Angeles County Board of Supervisors (“Board”) voted to institute a Public Art in Private Development Requirement which authorized the establishment of Policies and Procedures for a Public Art in Private Development Program that will apply to Eligible Projects in the unincorporated areas of Los Angeles (“LA”) County. This document containing the Public Art in Private Development Policies and Procedures will be reviewed and updated by the Director of the Department of Arts and Culture (“Arts and Culture”) on an as-needed basis, but at least every five years. Each update will be posted on Arts and Culture’s website and will be included as part of the Public Art in Private Development Report to the Board.

Arts and Culture is committed to supporting the inclusion of art in all development within the jurisdiction of unincorporated LA County. A guiding principle is to ensure that everyone in LA County has equitable access to arts and culture, and to improve inclusion in the wider arts ecology for all residents in every community. One way of facilitating this goal is to require the inclusion of Public Art in private development. In so doing, LA County strives to improve the quality of life for all those who live and work here. Art not only indicates the character and nature of a location, but it also commemorates identity, history and local values; it brings communities together, creates economic vitality, and improves neighborhood safety; and generally, contributes positively to the health, safety and welfare experienced by those who live with art in their communities.

Making art publicly accessible is not only an opportunity to enrich the community; it is also a crucial aspect of creating productive, collaborative relationships between community and development. Including Public Art in private development is a tangible and appreciated way for Developers to not only interact with the communities in which they are developing projects, but to give back something of lasting value that has a clear and positive impact on the population as well as the space in which the Public Art lives.

## II. DEFINITIONS

The definitions below restate those definitions found in Section 22.246.090 (Public Art in Private Development Program) of the LA County Code and incorporate supplemental definitions. If there is any inconsistency in definitions, those found in the Public Art in Private Development Ordinance control.

**Addition.** An expansion, extension or increase in the gross floor area or height of a building or facility.

**Alteration.** Any construction or renovation to an existing structure other than repair or addition. A change, addition or modification in construction, change in occupancy or use, or structural repair to an existing building or facility. Alterations include, but are not limited to, remodeling, renovation, rehabilitation, reconstruction, historic restoration, resurfacing of circulation paths or vehicular ways, changes or rearrangement of the structural parts or elements, and changes or rearrangement in the plan configuration of walls and full-height partitions. Normal maintenance, reroofing, painting or wallpapering, or changes to mechanical and electrical systems are not alterations unless they affect the usability of the building or facility.

**Art Consultant.** An organization or individual working as a professional administrator of the arts who realizes income through the provision of services relating to the arts such as, but not limited to, facilitating artistic and cultural programs and services, contracting Artists and arts media for venues with public audiences or providing oversight of on-site logistics, and who demonstrates previous success in project management and provides leadership in completion of Public Art. This organization or individual works with a Developer to ensure satisfaction of the Public Art in Private Development Requirement.

**Artist.** A person who engages in the creation of artistic and/or cultural works as a vocation, including but not limited to visual, performing or literary arts, and has established a reputation of artistic excellence in the arts, as judged by peers and experts in the field, through exhibitions, performances, commissions, sale of works, recognition and/or educational attainment.

**Building valuation.** The total value of all construction work for which a building permit is issued, including, but not limited to, value of outside improvements, all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire-extinguishing systems and any other permanently installed work or permanently installed equipment. For

projects consisting solely of repair, addition and alteration of existing buildings, the building valuation shall be calculated as the total value of all design and construction costs for the project.

**Certificate of Agreement.** A certificate stating that the Public Art in Private Development Plan meets and satisfies the Public Art in Private Development Requirement.

**Certificate of Occupancy.** A document issued by the Department of Public Works which certifies that a commercial space or newly constructed residential building has been inspected for compliance with the California Building Standards Code and local ordinances which govern construction and occupancy.

**Cultural Facility.** Any facility that is open to the public and dedicated to publicly accessible artistic or cultural uses, including but not limited to theaters, performance space(s), art galleries, exhibition spaces, Artist studio spaces, arts education facilities, or other similar facilities as determined appropriate by Arts and Culture. This definition does not include churches, schools, commercial movie theaters, gymnasiums or other sports facilities, bookstores, or buildings dedicated primarily to housing or administrative activities.

**Deaccession.** The formal process of removing Public Art from the subject Development project through the Public Art in Private Development Policies and Procedures.

**Deposit of Security.** A financial security that can either be an automatically renewing certificate of deposit with LA County or an automatically renewing irrevocable standby Letter of Credit payable to LA County, in such format as specified by LA County, in an amount equivalent to one percent of the building valuation. The County, in its sole discretion, may provide additional forms of deposit for Developers to satisfy the Public Art in Private Development Requirement.

**Developer.** The person or entity that is financially and legally responsible for the planning, development and construction of any Development project covered by the Public Art in Private Development Policies and Procedures, and who may, or may not, be the owner of the subject property.

**Development project.** Any activity that requires the issuance of at least one building permit by LA County and includes all related permits contained within the same project number in LA County's master tracking system.

**Eligible Project.** As defined in the Public Art in Private Development Ordinance.

**Final Documents.** Project closing materials confirming the completion of the Arts and Culture -approved Public Art in Private Development Plan. Depending on the type of project,

this may include but is not limited to photographic documentation, final itemized project expenditures, or a covenant agreement insuring ongoing maintenance of newly commissioned artwork by future owners.

**In-Lieu Fee.** An amount equal to the one percent (1%) of building valuation paid into the Public Art in Private Development Fund rather than providing Public Art pursuant to the Public Art in Private Development Ordinance. If the Developer chooses to provide Public Art, and the value of such Public Art is less than one percent of the building valuation, then the In-Lieu Fee shall be the difference between the one percent of building valuation and the value of Public Art to be deposited into the Public Art in Private Development Fund.

**Landmark.** A property, including any structure, site, place, object, tree, landscape or natural feature, that is designated as a landmark by the Board of Supervisors pursuant to Chapter 22.124 (Historic Preservation).

**Noncommercial Message.** A message or image that does not include any branded, registered or trademarked words, icons or logos and is not used to advertise a business, service or product offered for sale, or to create a revenue stream as a result of its visible placement to the public.

**Owner.** The Developer or subsequent owners of the subject property who are responsible for the ongoing maintenance of the Public Art and any continuing obligations pursuant to the Public Art in Private Development Ordinance.

**Program Manager.** The person at Arts and Culture who manages the Public Art in Private Development Program.

**Public Art.** Public Art, for the purposes of satisfying the Public Art in Private Development Requirement, consists of any publicly accessible artistic or cultural amenities as further defined in the Public Art for Private Development Ordinance and approved by Arts and Culture. Public Art that satisfies the Public Art in Private Development Requirement in compliance with the Public Art for Private Development Ordinance may include but is not limited to the following:

1. Sculpture: Free-standing, wall-supported or suspended, kinetic, electronic or mechanical in a material or combination of materials;
2. Murals or portable paintings: In any materials or variety of materials, with or without collage or the addition of nontraditional materials and means;

3. Standardized fixtures: If rendered by an Artist for unique or limited editions, standardized fixtures including but not limited to: grates, street lights, signage or other design enhancements;
4. Cultural Facilities: Public gallery or exhibition space, performance space, theaters, artistic studio space or art education facilities;
5. Conservation of County-owned artworks, or restoration or replication of original decorative ornamentation or Public Art as part of the rehabilitation of the County's historic, cultural and architectural Landmarks;
6. Performing arts: Theatre, dance, music or performance art;
7. Literary art: Poetry readings, storytelling or creative writing;
8. Media art: Film, video, or digital media;
9. New media: Including but not limited to earthworks, light work, sound works, holographic work, and any hybrids of media and new genres;
10. Education: Lectures, presentations, instruction or training in and about arts and culture;
11. Special events: Parades, festivals or celebrations relating to arts and culture; or
12. Similar arts services as approved by the Department of Arts and Culture.

Public Art in Private Development Fund. A special fund established to support arts and culture programs in LA County. Revenue is collected from In-Lieu Fees paid by Developers.

Public Art in Private Development Plan ("Art Plan"). A plan submitted to Arts and Culture for approval pursuant to the parameters set out in the Policies and Procedures detailing how a Developer will comply with the Public Art for Private Development Ordinance.

Public Art in Private Development Policies and Procedures ("Policies and Procedures"). Guidelines and parameters setting out how the Public Art in Private Development Ordinance shall be observed, and compliance achieved by those, subject to its terms.

Public Art in Private Development Program. A program administered by Arts and Culture to provide artistic and cultural amenities for the benefit of the residents of LA County.

Public Art in Private Development Report. A report issued to the Board annually which describes activity of the Public Art in Private Development Program in the previous fiscal year.

Public Art in Private Development Requirement. A responsibility other than a tax or special assessment that is required under the terms of the Public Art for Private Development Ordinance, where one percent (1%) of the building valuation for Eligible Projects in the unincorporated areas of LA County shall be expended on approved Public Art or paid as an In-Lieu Fee.

Publicly accessible. Any site within LA County which is open to the general public or is in public view. If the Public Art is in an interior location, it must be visibly accessible during regular business hours. If the Public Art is a cultural activity, program or service, it must be available and open to the general public.

Private recreation facilities. Recreation facilities established and operated by a private entity or an association of persons who are bona fide members, to be used exclusively by its members. Such term may also include private recreation clubs, as defined in Section 22.08.180 (R) in Title 22 (Planning and Zoning) of the LA County Code.

Repair. The reconstruction or renewal of any part of an existing building for the purpose of its maintenance or to correct damage.

### **III. PURPOSE**

Artistic and cultural resources are key to the overall quality of life of a community. Public Art contributes significantly to the economic vitality of a region by improving the quality of the environment, improving neighborhood safety, and fostering a positive community identity.

### **IV. GOALS AND OBJECTIVES**

The Public Art in Private Development Program is intended to enhance the quality of life for everyone living and working in LA County through the creation of an improved physical and cultural environment. It is the stated intent of the Public Art in Private Development Program to create a more distinctive and human city, engage our citizens and visitors, enhance our built environments, and to transform people, places and communities. These goals shall be realized through Public Art that supports:

1. The encouragement of a broad range of works of art, reflective of the overall diversity of the field of visual and performing arts and the diversity of LA County;
2. The commissioning of high-quality artwork and art experiences that reflect innovative and inclusive approaches to Public Art;
3. The encouragement of local artistic endeavors and support of local Artists;
4. The encouragement of public dialogue and engagement with art in public places, through appropriate education forums, public meetings and programs;
5. The commissioning of works of art varying in genre, style, scale, medium, form and intent, and reflective of trends and artistic disciplines on a local, regional, national and international level;
6. The creation of site-specific artwork and art experiences that encourage cultural equity and



inclusion, community participation and public engagement.

## V. COMPLIANCE

In order to satisfy the Public Art in Private Development Requirement, the Developer may elect to comply with one of the four Public Art options, as stated below, and/or pay an In-Lieu Fee.

1. **Newly Commissioned Work of Art.** The Developer may elect to fulfill the Public Art in Private Development Requirement by installing the Public Art on-site or within the vicinity of the site. If the Developer chooses this option, it must meet the following standards:
  - a. The Public Art is to be privately owned and maintained by all future owners or occupants of the Development through a covenant or other written provision approved by Arts and Culture depending on the type of Public Art chosen;
  - b. The Public Art must be an original or limited edition work of an Artist, not a reproduction, mass-produced or of standard design, consisting of Noncommercial Messages, and may be created in any permanent media approved by Arts and Culture;
  - c. The Public Art must be presented in a publicly accessible location on and/or within 250 feet of a Development project site that is openly and freely accessible by the general public for at least eight hours a day, five days a week, unless otherwise approved by Arts and Culture;
  - d. The Public Art must comply with the criteria set forth in these Policies and Procedures;
  - e. All required approvals, permits and agreements in compliance with this Section, including whether the Developer chooses to place artwork on public property or private property within 250 feet of the Development project site, shall be the responsibility of the Developer to obtain, and shall be presented to Arts and Culture prior to its approval of the Art Plan.
2. **Cultural Facilities.** The Developer may elect to fulfill the Public Art in Private Development Requirement by constructing, repairing and/or funding improvements to Cultural Facilities. Such facilities must be on the Development project site or within a five-mile radius thereof, or on another site located within a reasonable radius as approved by Arts and Culture. Funds paid to repair and/or support existing Cultural Facilities may be paid only to nonprofits and/or public entities.
3. **Conservation.** The Developer may elect to fulfill the Public Art in Private Development Requirement through the restoration, conservation or preservation of existing publicly

accessible Public Art that is on the Development project site or within a five-mile radius thereof, or another site located within a reasonable radius as approved by Arts and Culture. This may include, but is not limited to, the restoration or replication of original decorative ornament or artwork deemed historically or culturally significant as part of the rehabilitation of historic, cultural or architectural Landmarks.

4. **Artistic and Cultural Programs and/or Services.** The Developer may elect to fulfill the Public Art in Private Development Requirement through the provision of publicly accessible artistic and cultural activities and/or services provided by an Artist or nonprofit cultural organization on the Development project site, or within a five-mile radius thereof, or other site located within a reasonable radius as approved by Arts and Culture.

Public Art should strive to reflect the goals and objectives of the Public Art in Private Development Program as set forth in Section IV above.

**In-Lieu Fee.** Alternatively, the Developer may choose to fulfill the Public Art in Private Development Requirement by paying an In-Lieu Fee to the Public Art in Private Development Fund in an amount equal to one percent (1%) of the building valuation. The Fund shall be administered by Arts and Culture and used exclusively for the provision of Public Art and any similar arts or cultural services as approved by Arts and Culture as detailed in Section XI of the Policies and Procedures.

**Cost Exemptions.** The following cannot be considered as part of compliance for the Public Art in Private Development Requirement, or factor into calculating the one percent (1%) building valuation threshold:

1. Services or utilities required to operate or maintain the Public Art over time;
2. Directional elements, such as supergraphics, signage, or color coding;
3. Artworks that contain a commercial message by referencing, presenting, or promoting a product or service that is available on- or off-site of the subject property through text, image, logo, trademark, or other mechanism;
4. Reproductions, by mechanical or other means, of original works of art, except in cases of film, video, photography, traditional fine art printmaking, or other media arts;
5. Fixtures or features such as streetlights, benches, signs or other design enhancements, unless rendered by an Artist as a unique or limited edition feature for the Project;
6. Building architecture or ornamentation, except if specially commissioned by an Artist but considerations will be made for restoration of architectural Landmarks; and

7. Landscape architecture and landscape gardening, except if specially commissioned by an Artist and approved in the Art Plan.

## **VI. ROLES AND RESPONSIBILITIES**

This section is intended to serve as a guide for Arts and Culture and the Developer in the administration of the Public Art in Private Development Program. These roles and responsibilities will foster clear communication and effective implementation of the program.

### **Arts and Culture:**

1. Maintain and update the Public Art in Private Development Program Policies and Procedures.
2. Maintain records of public artwork created and supported through the Public Art in Private Development Program.
3. Provide a Public Art in Private Development Report annually to the Board as required by Section 22.246.090.K (Use of Fees Collected) of the Public Art in Private Development Ordinance.
4. Ensure adherence of the Public Art in Private Development Program and its projects in conjunction with the Department of Regional Planning and the Department of Public Works.
5. Administer the expenditures of the Public Art in Private Development Fund and make recommendations to the Board for expenditures in accordance with LA County budgetary procedures and adopted Public Art in Private Development Policies and Procedures.

### **Developer:**

1. Elect to fulfill the Public Art in Private Development Requirement.
2. Work with Arts and Culture to establish a Public Art in Private Development budget.
3. If electing to fulfill the Public Art in Private Development Requirement through one of the four Public Art options, the Developer may hire an Art Consultant, work with Arts and Culture, or identify an in-house representative for purposes of selecting and commissioning the artwork.
4. Developer is responsible for project management, including but not limited to fabrication and installation of commissioned Public Art.
5. Developer is expected to maintain appropriate liability and workers' compensation insurance.
6. Developer is expected to understand ongoing obligations regarding any Public Art placed on-site and ensure that such obligations are communicated to and agreed to by subsequent

owners of the property through a covenant or other process agreed to by the Department of Arts and Culture.

## **VII. PROCESS FOR COMPLETING A PUBLIC ART PROJECT**

Developers will be notified of the Public Art in Private Development Requirement as part of the Department of Regional Planning entitlement process and/or the Department of Public Works permit process. At such time, it is the responsibility of the Developer to contact the Department of Arts and Culture's Public Art in Private Development Program to discuss eligibility and options for compliance at the earliest opportunity.

If Arts and Culture determines that a Development project is not eligible for the Public Art in Private Development Requirement, Arts and Culture will document the determination on a Certificate of Agreement which will be provided to the Developer. The Certificate of Agreement must be presented by the Developer to the Department of Public Works in order to obtain a building permit.

If Arts and Culture determines that a Development project is eligible for the Public Art in Private Development Requirement, the Developer must identify and select an option for compliance in consultation with Arts and Culture. The steps are as follows:

1. **Select an Option.** Developer must select an option that will satisfy the Public Art in Private Development Requirement. Developer may either:
  - a. Pay the In-Lieu Fee or
  - b. Choose one of the approved categories of Public Art as set forth in Section V.
2. **Pay the In-Lieu Fee.** If the Developer chooses to pay the In-Lieu Fee, the Developer must contact Arts and Culture to arrange for payment. The In-Lieu Fee will be deposited in the Public Art in Private Development Art Fund. If the Developer pays the entirety of the In-Lieu Fee, the Public Art in Private Development Requirement is satisfied, and no other action is required by the Developer. If the Developer chooses to provide the option of Public Art, and the value of such Public Art is less than one percent of the building valuation, then the In-lieu Fee shall be the difference between one percent of the building valuation and the value of the Public Art to be deposited in the Public Art in Private Development Fund. If a Developer does not pay an In-Lieu Fee covering the entirety of the Public Art in Private Development Requirement, then the Developer will have to formulate an Art Plan to comply with any remaining amounts outstanding.

3. **Plan for Public Art Option.** Should a Developer elect to fulfill the Public Art in Private Development Requirement in whole or part by choosing one of the approved categories of Public Art, the Developer will work with Arts and Culture to develop the Art Plan, as detailed in Section VIII of the Policies and Procedures. The Art Plan will serve as the guiding document for completing the provision of the Public Art, as well as setting out the nature and scope of the Final Documents required to complete the Public Art in Private Development Requirement. The Art Plan will be submitted to Arts and Culture for review and approval once the Developer has selected which Public Art option will be completed. Developer may also be required to submit supplemental information.
4. **Deposit of Security.** Upon acceptance of the Art Plan by Arts and Culture and pursuant to 22.246.090 F.1. of the Public Art in Private Development Ordinance, the Developer is required to provide a Deposit of Security, in an amount equivalent to one percent of the building valuation, as defined by Section 22.14.160 (P) in Title 22 (Planning and Zoning) of the LA County Code. The Deposit of Security may only be released back to the Developer upon completion of deliverables as detailed in Section IX of the Policies and Procedures. If the Developer has been found to be in default of completion of the deliverables, Arts and Culture will deposit the Deposit of Security in the Public Art in Private Development Fund.
5. **Certificate of Agreement.** Upon review and acceptance of the Art Plan and the Deposit of Security, Arts and Culture will issue a Certificate of Agreement indicating that the Developer has an acceptable Art Plan and Deposit of Security in place for the Public Art in Private Development Requirement. This Certificate of Agreement must be presented to the Department of Public Works in order to obtain the building permit. No building permit shall be issued until the Developer submits the Art Plan and posts a Deposit of Security as described herein.
6. **Engage an Art Consultant.** If the Developer chooses to complete a Public Art project, for any option other than Cultural Facilities, the Developer may engage an Art Consultant, subject to approval by Arts and Culture, to supervise the execution of the Public Art. The budget allocation for the Art Consultant shall not exceed 20 percent of the total Public Art in Private Development Requirement. Should the Developer choose to pay the Art Consultant in excess of 20 percent of the Public Art in Private Development Requirement, the Developer shall do so with funds separate and apart from the Public Art in Private Development Requirement. The Art Consultant may be:
  - a. An Art Consultant of the Developer's choice;

- b. An Art Consultant from Arts and Culture’s pre-qualified list of consultants;
- c. An in-house employee of the Developer who otherwise qualifies as an Art Consultant and is competent to effectively oversee the process of commissioning the Public Art; or
- d. Arts and Culture staff.

For the Cultural Facilities option, the Developer shall be required to engage Arts and Culture as the Art Consultant to ensure appropriate public integration, for a fee of 15 percent of the Public Art in Private Development Requirement. Arts and Culture will work with the Developer to develop and verify the Cultural Facility’s location and capacity, preliminary design concept, credentials of proposed operating entity, estimated operating budget of user(s), contract administration, and programmatic goals and objectives.

7. **Artist Selection.** Developer may work with the Art Consultant to select the Artist or Artists who will create the Public Art.

The Art Consultant shall use the following criteria in evaluating Artists’ qualifications:

- a. Visual images, portfolios, studio visits or other documentation of excellence;
- b. Ability to respond to the specific contextual issues of the site and considerations of a particular project, its community and users;
- c. Ability to successfully complete a project and manage all aspects of the project including budgets, subcontractors, installers and other construction personnel, performance, presentation and administrative logistics;
- d. Experience working with diverse stakeholders such as architects, designer, developers, and community members;
- e. Review of the Artists’ qualifications in light of the goals and objectives of the Public Art in Private Development Program as set forth in Section IV above; and
- f. Credentials, including experience, training and critical or other professional recognition.

8. **Project Completion.** Upon completion of the Public Art project, the Developer will submit Final Documentation to Arts and Culture for approval, as detailed in Section IX of the Policies and Procedures.

9. **Certificate of Occupancy.** A Certificate of Occupancy may be issued, and the Deposit of Security in the amount equal to the direct costs expended returned, when (i) Arts and Culture approves the Public Art and determines that it is delivered in compliance with the Policies and Procedures, (ii) Final Documentation has been submitted and approved by Arts and Culture

and (iii) the Developer has executed and recorded a covenant (if applicable) as required by Section 22.246.090.F.3 of the Public Art in Private Development Ordinance.

## **VIII. PUBLIC ART IN PRIVATE DEVELOPMENT PLAN REQUIREMENTS**

1. **Minimum Contents of the Art Plan.** Must include minimum specifications as follows:
  - a. Selection. Indication of the Public Art option selected for compliance;
  - b. Schedule. Proposed schedule through completion;
  - c. Budget. Preliminary budget including Art Consultant fees (if applicable);
  - d. Other. Other information pertinent to assessment of the Art Plan as identified by the Arts and Culture Program Manager.
  
2. **Other Required Information.** Depending on the type of option the Developer elects to fulfill, the following information must be included in the Art Plan:
  - a. Newly Commissioned Work of Art:
    - i. Location and general type of artwork (i.e., Artist-designed element such as fencing or flooring, free-standing sculpture, art purchase, etc.);
    - ii. Intended Artist selection process.
  - b. Cultural Facilities:
    - i. Identification of the Cultural Facility to be constructed, repaired and/or funded;
    - ii. Arts and culture programming currently being offered at the site;
    - iii. If applicable, preliminary identification of new facility programming to be funded through Developer support;
    - iv. If applicable, preliminary identification of facility repairs or construction.
  - c. Conservation:
    - i. Identification of the Public Art to be conserved, restored or preserved;
    - ii. Images and preliminary description of the work required;
    - iii. Acknowledgment that the work is to be completed through a professional art conservator and that the Art Plan has been submitted and approved in advance by Arts and Culture.
  - d. Artistic and Cultural Programs and/or Services:
    - i. Identification of artistic and cultural programs and/or services to be supported by the Developer;

- ii. Identification of the arts organization, Artists' collective, Art Consultant or other entity to oversee the artistic and cultural services.

3. **Supplemental Information.** Arts and Culture may require supplemental Art Plan information to be provided by the Developer within ninety (90) days of obtaining the building permit. This allows the Developer additional time to identify specific details appropriate to the project that are not readily available at the time of obtaining the building permit. This period will also allow the Developer to adjust the type and scope of the project, subject to approval by Arts and Culture.

The supplemental information will be identified by Arts and Culture at the time of initial Art Plan review. Work on the Public Art may not proceed until all supplemental information is reviewed and approved by Arts and Culture. Required supplemental information as determined by Arts and Culture may include any combination of the following:

- a. Identity, qualifications and résumé reflecting similar projects or programs successfully completed by the Art Consultant, arts organization, conservation professional or other entity engaged to oversee completion of the Public Art;
- b. Artist(s)' name(s), and respective résumé(s);
- c. Identification process to select the Artist(s);
- d. Detailed description of the Public Art to be completed, with budget and timeline;
- e. Detailed description of newly commissioned artwork intended to be created, with final scaled drawings or renderings, materials required and maintenance plan;
- f. Description of conservation, restoration, preservation or repair plan, including images, materials and maintenance plan;
- g. Fabrication or facility construction plans;
- h. Engineering and installation plans;
- i. Conservator reviews;
- j. List of applicable permits and plans to obtain;
- k. Community engagement plan;
- l. Programming or performance schedule with Artists, location, outreach, target audience and expected outcomes; and
- m. Other pertinent materials identified by Arts and Culture.



## **IX. PROJECT COMPLETION**

When the Public Art in Private Development Project is determined to be in compliance with the Public Art in Private Development Ordinance and with the Public Art in Private Development Policies and Procedures, a Certificate of Occupancy shall be issued, and Deposit of Security returned with clearance by Arts and Culture's Public Art in Private Development Program. Compliance with the Public Art in Private Development Ordinance will be considered met upon Arts and Culture's approval of the Public Art and Final Documentation and once the Developer has executed and recorded a covenant (if applicable) as required by Section 22.246.090.F.3 of the Public Art in Private Development Ordinance.

If the Public Art in Private Development Requirement is not met, and the Developer has been given 90 days to comply, Arts and Culture shall collect on the value of the Deposit of Security and deposit the funds into the Public Art in Private Development Fund.

Specific Final Documents to be provided upon completion of the Public Art project will be identified by Arts and Culture at the time of review and approval of the Art Plan and any supplemental materials.

1. **Final Documents.** Arts and Culture will review and approve Final Documents submitted by the Developer. Samples of applicable documents will be provided to aid Developers in the final submittal. Final Documents may include, but are not limited to:
  - a. Final Public Art budget with itemized costs;
  - b. Completed art maintenance and conservation records;
  - c. Provide as-built documentation pertaining to the Public Art;
  - d. Declaration of covenants;
  - e. Maintenance manual or other maintenance plan;
  - f. Photographic documentation;
  - g. Plaque(s) identifying the Public Art.
2. **Final Accounting.** If the actual cost of the Public Art exceeds the Public Art in Private Development Requirement amount, the Developer will be solely responsible for the overage. The Developer may not request any compensation or other adjustment to account for any overage.

3. **Declaration of Covenants.** If a Developer chooses the option of creating a newly commissioned visual artwork, the Development Project will have recorded against it a declaration of covenants, conditions and restrictions in favor of the County and in a form approved by County Counsel. The declaration of covenants will include, but is not limited to, the following provisions:

- a. **Original Public Art and Public Accessibility.** The Public Art will remain accessible to the public as consistent with the requirements of the Public Art in Private Development Program Policies and Procedures.
- b. **Maintenance and Conservation.** Immediately upon installation and continuously thereafter, the Developer, and subsequent property owners, shall maintain the Public Art and shall promptly perform all necessary repairs and maintenance to the satisfaction of LA County. The obligation to maintain and preserve the Public Art includes the obligation to take reasonable steps to protect the Public Art against destruction, damage or modification.
- c. **Relocation or Modification.** Current and subsequent property owners shall maintain the Public Art in place on the property for a minimum of 25 years, unless a different time frame is approved by Arts and Culture. The owner shall not relocate, remove or modify nor allow the relocation, removal or modification of the Public Art without the prior consent of LA County and proper notifications to the Artist.
  - i. A property owner may petition Arts and Culture to relocate the public art within the Development project.
  - ii. When and if the Development project is sold, the Public Art must remain at the Development and may not be claimed as the personal property of the seller or removed from the site.
  - iii. If the Development is to be demolished, the owner may relocate the Public Art to another publicly accessible permanent location approved in advance by Arts and Culture after owner has complied, as applicable, with the requirements of the Visual Artists Rights Act, the California Art Preservation Act and/or any specific terms of the original commission agreement with the Artist.
- d. **Deaccession and Replacement of Permanent Public Art.** If the owner desires to deaccession, sell or remove the permanent Public Art from the site, the owner shall give written notice to Arts and Culture's Public Art in Private Development Program Manager no fewer than six months before any planned action. Arts and Culture will create

a report summarizing the issue which will be presented to the Arts Commission for approval. Included in the report will be information about the artwork and Artist, information about the current site, the reasons a person or group wants the artwork removed, any applicable restrictions or legal provisions, relevant comments and opinions from the public, and relevant information from the Artist about the artwork. Should the Arts Commission approve the deaccession and thereby remove a work, any terms pursuant to such deaccession may occur. The owner must receive prior approval from Arts and Culture before proceeding with notice processes as required and applicable by the Visual Artists Rights Act, the California Art Preservation Act and/or any specific terms of the original commission agreement with the Artist.

The Developer will be required to replace any sold or deaccessioned Public Art with a replacement work of Public Art of equal or greater value, as determined by Arts and Culture, in current dollars based on the replacement value of the Public Art. In the alternative, the owner may elect to pay an In-Lieu Fee, which will be an amount equivalent to the cost, in current dollars, of replacing the Public Art, as determined by Arts and Culture.

Public Art may be considered for review toward deaccessioning if one or more of the following conditions apply:

- i. The Public Art has received consistent adverse public reaction for a period of three or more consecutive years;
- ii. The site for the Public Art has become inappropriate because the site is no longer accessible to the public or the physical site is to be destroyed or altered in a significant way;
- iii. The Public Art is found to be fraudulent or in violation of national, state or local laws;
- iv. The Public Art possesses demonstrated faults of design or workmanship;
- v. The Public Art requires excessive or unreasonable maintenance;
- vi. The Public Art is damaged irreparably, or to an extent where repair is infeasible or impractical;
- vii. The Public Art represents a physical threat to public safety;
- viii. The Public Art reaches the end of its original anticipated life span;

- ix. A written request for deaccessioning has been received from the Artist.
  - x. The site for the Public Art has become inappropriate because the site's use and purpose have changed significantly.
- e. Statutory and Contractual Rights of Artists. For all Public Art, the owner is solely responsible for complying with all statutory and contractual rights of the Artist as well as copyright, trademark, patent law and any other applicable law. Public Art best practices dictate that Artists should always retain ownership of their intellectual property rights. This means that, for newly commissioned Public Art, Developers will own the Public Art itself, but not the appurtenant intellectual property rights. Further, Developers choosing the option of commissioning Public Art are advised of the existence of State of California and federal laws relating to Artists' moral rights. As such, Developers are strongly encouraged to review, at a minimum, the California Art Preservation Act (CAPA) and the Visual Artists Rights Act of 1990 (VARA). As the owners of commissioned artwork, Developers and subsequent property owners are responsible for adhering to these rights and requirements in all matters, including but not limited to the removal, alteration or destruction of an Artist's artwork; the reproduction, publication and creation of derivative works; and other uses of an artwork.
- f. Inspection and Remedies. LA County shall have the right to inspect the Public Art on reasonable notice, and to ensure compliance with the Public Art in Private Development Ordinance and the Public Art in Private Development Policies and Procedures. Failure to maintain the Public Art as required by this Section is hereby declared to be a public nuisance. LA County may remedy the public nuisance and may pursue additional remedies to obtain compliance. In addition to all other remedies provided by law, in the event the owner fails to maintain the Public Art on reasonable notice, LA County may perform all necessary repairs and maintenance, or may secure insurance or other needed services, and the costs thereof shall become a lien against the real property.
- g. Ownership of Artwork. All Public Art placed on the site of the Developer's project will become the property of the property owner and/or property owner's successor in the interest. The obligation to provide all maintenance and security necessary to preserve the artwork in good condition will remain with the property owner of the site.

## **X. PUBLIC ART IN PRIVATE DEVELOPMENT FUND**

A Public Art in Private Development Fund shall be established and shall continue from year to year as required by the Public Art in Private Development Ordinance. All Public Art in Private Development In-Lieu Fees received by LA County, pursuant to this Section, shall be deposited in the Public Art in Private Development Fund and shall be appropriately accounted for and expended. Any interest and investment earnings in the fund shall accrue to the use and benefit of the Public Art in Private Development Program.

**Fund Administration.** The fund shall consist of one account to be used in all Supervisorial Districts, to be established by the Auditor-Controller and administered by the Department of Arts and Culture apart from the general revenue funds and accounts of LA County. The fund shall include one unit for each Supervisorial District and a Countywide subaccount to be used for arts and cultural services countywide that consists of thirty (30%) percent of all In-Lieu Fees.

**Gifts, Grant, Donations.** The fund is authorized to accept gifts, grants, and donations made to the County for the Public Art in Private Development Program at the discretion of the Department of Arts and Culture. Any appropriations, gifts, grants, or awards of money or property received for the Public Art in Private Development Program from either public or private donors shall be placed in trust for and inure to the use and benefit of the County for Public Art in Private Development Program purposes, and such property or funds shall be expended, utilized, and disbursed, pursuant to the provisions of this Section. Any gifts, grants, or awards received subject to a condition shall be expended in accordance with such condition.

**Use of In-Lieu Fees.** Arts and Culture shall make recommendations to the Board for expenditures from the Public Art in Private Development Fund in accordance with County budgetary procedures and Public Art in Private Development Program Policies and Procedures, which expenditures shall be exclusively for the acquisition, commissioning, installation, improvement, maintenance and insurance of Public Art on LA County property; the restoration, conservation or preservation of existing County-owned Public Art; the provision of Public Art in any of the four types of programs described in Section V above; any similar arts or cultural services as approved by Arts and Culture; and Public Art in Private Development Program administrative costs.

## **XI. ADDITIONAL CONSIDERATIONS**

**Community Engagement.** Arts and Culture has found that newly commissioned artworks are more likely to be embraced by the community if an engagement component is built into the Public Art development process. Developers are strongly encouraged to include community engagement during the design development phase. Public engagement includes, but is not limited to, efforts that are formally scheduled and/or informally conducted, such as:

1. An activity that demonstrates art or art process (expressions, live art actions, participatory arts engagement activities);
2. A place observation and personal interactions (such as informal interviews) to glean impressions of culture, habits and community issues;
3. Formal interviews, conversations, artist presentations, and culture-focused public meetings;
4. A talk/workshop/site visit for special interest group(s) among community stakeholders.

**Exclusive License.** As included in any commission agreement, the Developer must require that the Artist grant to LA County a perpetual, nonexclusive, royalty-free, worldwide license to reproduce, distribute and/or display two-dimensional reproductions of the artwork, in its final form and as depicted in any of its design stages for any noncommercial purpose, including but not limited to advertising, brochures, posting on a County web page or in media publicity, catalogs, educational and similar uses and/or publications. Such license must be in a form acceptable to LA County, and contained in writing and signed by the Developer, the Artist and the Director of Arts and Culture, and approved as to form by County Counsel.