



## **PUBLIC ART DONATION POLICY**

***Please read the following information before applying to donate artwork to the City of Costa Mesa:***

### **1. POLICY STATEMENT OF PURPOSE & OBJECTIVES**

The City of Costa Mesa is committed to developing a plan for more ambitious temporary and permanent public art, including the identification of potential locations around the City, creation of policies with respect to selection and acquisition of artworks, and determination of the funding sources to be used.

As part of this policy, the City of Costa Mesa will continue to promote community involvement and provide opportunities for the community to participate in the public display of art on City property, parks and rights of way, as the City determines appropriate, on a case-by-case basis. To accomplish these objectives, and provide guidelines and procedures for governing the acquisition, display, maintenance, potential deaccessioning and lending of Public Art for public display, the City has developed this policy. The objectives of this policy are to:

- Set out technical, aesthetic and thematic criteria for donation proposals, while maintaining high artistic standards in works of art displayed in the City of Costa Mesa;
- Establish clarity on the responsibilities of the donor and the overall conditions of approval.
- Provide uniform procedures for the review and acceptance of donations and loans of works of art for the City of Costa Mesa;
- Establish consistent review criteria that strike an appropriate balance between high aesthetic standards and city business use;
- Encourage or facilitate recognition of the artistic community.

*This policy applies to property owned or managed by the City or its agencies. This policy does not apply to donations situated on private property.*

### **2. DEFINITIONS**

**Aesthetics:** Artistic merit of the work of art, including consideration of its artistic and/or historical significance.

**Applicant:** The person or group of people that make a formal application to donate a work of public art to the City of Costa Mesa.

**Appraisal:** A professional, certified evaluation of an artwork—its authenticity, condition and provenance—to determine its monetary value.

**Artist:** A person who has established a reputation of artistic excellence in the fine arts, including but not limited to visual, or performing arts, as judged by peers and experts in the field, through a record of public exhibitions, performances, commissions, sale of works, recognition and/or educational attainment. The qualified artist shall work primarily in the production of unique fine art.

**Artwork (or Work of Art):** Original art in various mediums, including but not limited to any portable or permanently fixed sculpture, mural, painting, drawing, earthwork, mixed media work, or time-based work (moving images or sound-based art), created by a professional artist, artists, or collaborative team. The artwork or identifying plaque cannot contain advertising or promotional content relating to living persons or to organizations, institutions, or businesses currently operating. (A plaque accompanying the artwork, which provides the name of donor, artist, or artwork, shall not be considered advertising.)

**City Property:** City owned or managed real property or related assets.

**Collection Management Policy:** A policy to establish procedures governing selection, commission, acquisition, design, fabrication, installation, accession, maintenance, repair, long-term care and deaccession of the owned and loaned artworks of a City entity.

**Donation:** An artwork or a series of artworks gifted to the City for long-term public display with intent to transfer title of ownership to the City.

**Gifts of State:** Items officially given from one country to another as a sign of goodwill.

**Prominent Location:** An exterior location that is accessible to the public, enjoys high visibility, and is used or visited by a large number of visitors and/or City residents.

**Provenance:** The history of an artwork and its creation and ownership, which is used to help establish its authenticity. Documents used for provenance include sales receipts, auction and exhibition catalogs, gallery labels, letters from the artist, and statements from people who knew the artist or the circumstances of creation of the artwork.

**Public Art:** An enduring work of art installed in the public realm. It may be site specific and/or integrated into public space in the form of sculptural work, building fabric, landscape forms, audio or visual works, and may commemorate an event, person, or place of historical importance.

### **3. DONATION CRITERIA**

The following are recommended criteria to utilize as applicable in assessing the acceptance of an art donation:

A. The artwork supports the goals of the art collection and would contribute positively to the City's Public Art, meeting the standards and criteria for the siting of Permanent Public Art on Public Property, commissioned by the City. The artwork is of high quality and aesthetic excellence.

B. The City will not accept artworks valued above fifty thousand dollars (\$50,000) due to insurance and maintenance costs.

C. The City shall determine the location for a donation. The City may, from time to time, deem certain public spaces unsuitable for any new public art elements. Reasons for unsuitability may include, but are not limited to, ecological sensitivity, existing or ongoing site Master Plans, Official Plans, site saturation, and appropriateness. The City may consult the donor on potential locations for the donation but will ultimately make the final determination on the chosen location for the donation. The City reserves the right to relocate or remove a donation for operational or other requirements.

Donation applicants may choose to propose a specific site or sites, which will be evaluated against the following criteria:

- Relationship of the donation to the history, geography or any other specific cultural aspect of the site and its surroundings;
- Consistency with the design of the site including any heritage aspects;
- Relevance and compatibility with existing structures on the site;
- Usage of space surrounding the donation;
- The donation will not negatively encroach on the other landscape, natural or architectural elements in or surrounding the site; and
- Suitability of the design and scale of the proposed donation to the site.

D. All costs of the project including, but not limited to cost of design, fabrication, plaques, transportation, installation, site preparation work, foundation, lighting, electrical, and permits must be financed by the requesting party and or donor. All-inclusive costs should be stated clearly in the application form. Any party hired or employed by the requesting party must provide proof of insurance that may include and is not limited to: general liability, professional liability insurance, performance insurance bonds, workman's compensation coverage and others as required by the City.

E. The City may consider maintenance of approved donated artwork, if they meet City standards for construction and materials. However, complex or large artworks that require significant and costly maintenance may require

insurance, a bond or an endowment fund, and a maintenance schedule by the donor to ensure the project's condition is satisfactory to the City, as well as the donor. The posted insurance or bond should cover costs of installation and/or removal. If an adequate level of maintenance is not continued, the City reserves the right to remove or modify the project or a portion of the project. If the City commits to maintaining a particular artwork and is unable to maintain the project at a level satisfactory to the donor, the donor shall have the opportunity to supplement maintenance as approved by the City in a written agreement. The future maintenance and conservation need of the artwork is understood and the City has identified the resources to attend to these requirements.

F. The legal considerations of ownership, copyright, liabilities, maintenance, provenance and deaccessioning are understood and acceptable to the City. The Donor agrees to enter into a legal agreement with the City to establish ownership of the artwork.

G. The artwork supports an equitable collection inventory, allowing for a diverse range of artists from different social and ethnic backgrounds to be represented, considering if there are already multiple donations of the same artist's work, and by placing artworks evenly throughout the City of Costa Mesa's six (6) distinct districts.

#### **4. DONATION REVIEW AND APPROVAL PROCESS**

**STEP 1:** The Donor submits a completed Artwork Donation Application with required attachments (*Current Written Appraisal, Bill of Sale, Condition Reports, History of Conservation Report and or Conservator's Report, as applicable*) to the Parks and Community Services (PCS) Department. It is recommended that the Donor discuss the proposal with PCS staff prior to completing the form, as this may be helpful and time-saving and will ensure that the application is complete.

**STEP 2:** The Donor or the Donor's representative will present the application to the Arts Commission, at a regular meeting time in City Council Chambers. The Arts Commission will review the application based upon the Donation Criteria. The purpose of this review is to determine the feasibility of the artwork. The Arts Commission may approve the Artwork Donation Application, may approve the Artwork Donation Application with comments, or may decline to approve the Artwork Donation Application.

**STEP 3:** If the Artwork Donation Application is approved, the Parks and Community Services staff will forward Arts Commission's recommendation to the City Manager's Office for information. The City Manager will forward a memo to City Council regarding recommendations for accepted donations to be sited in a Prominent Location.

**STEP 4:** The Donor will enter into an Agreement with the City of Costa Mesa for the Donation of Artwork that contains the terms of acceptance, once the artwork donation approval process has been successfully completed and the artwork is accepted. The agreement spelling out all requirements for the artwork shall be executed prior to the City's formal acceptance of the artwork.

**STEP 5:** As part of the Agreement, the Donor will complete the installation of the donated artwork within two (2) years from the date of Arts Commission approval. If the installation is not complete within this time frame, approval of the donation or loan is automatically rescinded. The Donor may request an extension from the Arts Commission before the two (2) year window for installation of the artwork is closed. Once the deadline passes, the Donor may submit another application if interested. Donors are limited to two (2) applications per artwork.

## **5. RETENTION POLICY**

Donated item(s) will be retained in the City's Public Art Collection so long as they:

- a. Continue to be relevant and useful to the purposes and activities of the City.
- b. An appropriate site for public display is available.
- c. A public safety problem is not created by the project.
- d. No adverse environmental effects are created.
- e. Project remains authentic and original.
- f. Project withstands exposure to the natural elements.
- g. Project can be properly and cost-effectively stored, maintained, preserved, and/or used.

*\*Legal agreements created by the City of Costa Mesa will stipulate specific rules and guidelines pertaining to the retention and treatment of each individual donated artwork*

## **6. DEACCESSIONING POLICY**

The following represent acknowledged criteria for de-accession and are recommended for Costa Mesa's consideration:

- The artwork's present condition poses a safety hazard to the public.
- The artwork has been damaged or has deteriorated to the point that it can no longer be represented to be the original artwork.

- The restoration of the artwork's structural or aesthetic integrity is technically not feasible, or the expense of restoring it exceeds the resources of the City.
- The architectural support (building, wall, plaza) is to be destroyed and the artwork cannot be removed intact for relocation.
- The use of this particular public space may have changed, and/or the artwork may have lost its contextual meaning and it cannot be re-sited, or re-siting the artwork would be inappropriate.
- The artwork requires excessive and inappropriate conservation and/or maintenance or has faults of design or workmanship which can be termed inherent vice.
- An artwork is not, or is rarely, on display because of lack of a suitable site.
- The condition or security of the artwork cannot be reasonably guaranteed in its present location.
- The artwork was not installed or fabricated as proposed, is incomplete, or does not meet the requirements of the commission.
- The artwork does not meet the goals of the collection. Removal has been requested by the artist in writing and it has been determined by the Arts Commission and City Council to be a reasonable request.
- The artwork has reached the end of its original anticipated lifespan (refer to legal contract, when applicable).
- The artwork is proved to be inauthentic or in violation of existing copyright laws.
- The artwork has received documented and ongoing adverse reaction from community members where the artwork is located, and the City Council has determined the artwork no longer reflects the values of the community.