

City of Memphis Public Art Program

Guidelines

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Approved: October 15, 2002

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INTRODUCTION

Public Art Guidelines and a funding vehicle for public art projects are provided for in an ordinance approved by the City Council on March 5, 2002. The Guidelines outline the policies the UrbanArt Commission will follow to administer a public art program on behalf of the City of Memphis. These Guidelines apply to public art acquired through the City of Memphis's percent for art program and to public art acquired after the document's adoption.

An ordinance creating the public art program was introduced by City Council Chairman Rickey Peete on February 19, 2002 and adopted by the City Council on March 5, 2002 as Ordinance No. 4934. The ordinance dedicates an Art Percentage of one percent (1%) of the total general obligation bond amount included in the CIP budget for construction costs each fiscal year, not to exceed \$1 million per fiscal year, which shall be allocated to the Public Art Fund for use in the development of Artwork.

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 and fostering a positive community identity. Historically, artists have helped shape the great public projects of other eras, from the federal monuments of our capital to the community treasures of the Works Projects Administration. The creation of the City of Memphis Public Art Program integrates the skills of artists into capital improvement and major development projects, enhancing Memphis for those who live here now and contributing to the creation of a legacy for generations to come.

GOALS AND OBJECTIVES

The City of Memphis's public art program is committed to the highest artistic standards in form and content and to the broadest involvement of artists. Specifically, the Public Art Program seeks:

- To enhance the quality of life of the residents of the City of Memphis through the creation of an improved physical and cultural environment;
- To enhance the visibility and stature of Memphis in local, regional, national and international arenas;
- To provide leadership in the development of high quality public spaces;
- To expand the economic vitality of the City through increased property values and new cultural tourism opportunities;
- To provide access to artistic experiences of the highest caliber for the residents of and visitors to the City of Memphis;
- To acknowledge the skills and creativity of artists which are the key to the success of such a program;
- To enhance the quality of selected City capital improvement projects through the incorporation of the skills of artists;
- To encourage innovative approaches to public art;
- To integrate artists into the planning and design process at the earliest possible opportunity;
- To engage citizens in the public art process in meaningful and responsive ways;

- To stimulate public dialogue about issues raised by public art;
- To ensure that public artwork is accessible to all individuals including those with special needs; and
- To ensure access and the equitable distribution of commissions among artists of diverse cultural backgrounds who are representative of the residents of the City of Memphis.

DEFINITIONS

Accessioning means the procedure used to accept and record an artwork as part of the City's public art collection.

Acquisition means the accession of an artwork into the City's public art collection, whether by commission, purchase, gift or other means.

Artist means a person who has established a reputation of artistic excellence in the visual, design, performing or literary arts, as judged by peers, through a record of exhibitions, public commissions, sale of works and/or educational attainment.

Artist team means two or more artists working collaboratively on a public art project.

Artwork means all forms of original creations or works designed by a professional artist, team of artists, or design team, using a variety of media; can be free standing, integrated into architecture, functional, non-functional, temporary or permanent.

Arts Professional means an arts administrator, art historian, curator, writer, or other professional who works in the visual, design, performing or literary arts.

City means the City of Memphis or any other public entity for which the City Council is the governing body.

Capital Improvement Project (CIP) means any new building or facility and any expansion or upgrade of the capacity of an existing facility or system.

Commission means the UrbanArt Commission.

Consultant means an individual or firm hired for advice or to undertake a specific task.

Council means the City Council of the City of Memphis, acting by and on behalf of the City of Memphis and/or any other public entity for which the City Council is the governing body.

Deaccession means the procedure followed to remove an artwork from the public art collection.

Design team means the collaborative team that includes, but is not limited to, an artist and at least one other design professional, such as architect, landscape architect, or engineer.

Local Artist means an artist who has lived or worked within the Memphis Metropolitan Statistical Area for five (5) or more years of such artist's career.

Maquette means a scale model of a proposed public artwork.

Minority means those persons, citizens of the United States and lawfully admitted resident aliens who are African American (persons whose origins are in one of the Black regional groups of Africa).

Participating Bureau means a department of the City that either constructs or funds a CIP Project in which Artwork is to be installed and Public Art Funds are to be expended.

Percent for Art Ordinance means the ordinance enacted by the City Council which provided a vehicle for funding of public art and creation of Public Art Guidelines (See Appendix A).

Project manager means a City representative who manages a construction project to which public art funds are allocated.

Public art means artwork that is accessible to the public and created through a public process that considers the social and physical context of the site and addresses the goals of the public art program.

Public Art Allocation means that percent defined in Section 2-88 (A) of the Percent for Art Ordinance to be allocated to the Public Art Fund out of eligible general fund

capital improvement project (“CIP”) funds (excluding Public Works project, PW 156) and used to enhance public buildings with Artwork.

Public Art Budget means the amounts budgeted for the development, fabrication, delivery, and installation of public art in City capital or renovation projects. Such budgeted amounts do not include administrative or maintenance costs which are reflected in other City budgets.

Public art collection means all artwork on public land or in public facilities owned by the City of Memphis and procured under the percent for art ordinance.

Public Art Fund means the special fund established as a separate account pursuant to Section 2.88 (A) of the Percent for Art Ordinance with funds allocated to the Public Art Fund and administered by the City.

Public Art Guidelines means the guidelines for the governance of the public art program as required by Section 2.89 of the Percent for Art Ordinance. (See Appendix A.)

Public Art Maintenance Fund means the special fund established as a separate account pursuant to Section 2.88 (B) of the Percent for Art Ordinance with funds allocated to the Public Art Maintenance Fund, and administered by the City.

Public Art Oversight Committee (PAOC) means a committee that consists of seven members composed of the Chair of the UAC or his/her designee; two members nominated by the UAC and approved by the City Council (one of which must be a practicing visual artist), three members appointed by the City Mayor with the approval of the City Council, (one of which must be a practicing visual artist) and one City Councilperson appointed by the chair of the City Council. The seven members shall serve two year terms or until their successors are duly nominated and approved. The Committee shall also include as ex-officio members the UAC Executive Director and the Director or designee of any Participating Bureau.

Public Art Plan means an annual plan for the inclusion of public art into City capital improvement projects.

Public Art Program means the activities and art enhancements generated pursuant to ordinance and governed by the Public Art Guidelines.

Public Art Project means the creation of public artwork in accordance with the Public Art Guidelines.

Selection panel means the individuals appointed by the PAOC to recommend artists, propose artwork and budget expenditures for a public art project.

UAC means the Urban Art Commission, an independent 501(c)(3) organization established in 1999.

UAC staff means UrbanArt Commission employees.

Women means those persons, citizens of the United States and lawfully admitted resident aliens, who are of the female gender and not otherwise included in one of the specific ethnic minority groups.

ROLES AND RESPONSIBILITIES

The following summarizes roles and responsibilities in connection with the Public Art Program for City capital improvement projects.

The City of Memphis

The City shall contract annually with the UAC for the UAC to administer the Public Art Program, and shall provide therein for compensation to be paid to UAC for all such administrative services.

Memphis City Council

The Council shall

- Appropriate an amount equal to one percent (1%) of the total general obligation bond amount included in the CIP budget for construction costs each fiscal year, not to exceed \$1 million per fiscal year.
- Provide operating funds in an amount equal to one-tenth of one percent (0.1%) of the total general obligation bond amount included in the CIP budget for construction costs each fiscal year, which funds shall be allocated to the Public Art Maintenance Fund.
- Review and act upon recommendations regarding the Public Art Program's Annual Plan and the Public Art Guidelines.
- Approve members appointed to the Public Art Oversight Committee by the Mayor of the City of Memphis and nominated by the UAC.

UrbanArt Commission

The UAC and the Public Art Oversight Committee shall, after consultation with the City Council and participating bureaus of the City, administer the provisions of the Public Art Program relating to artwork acquisition and display, and shall :

- Nominate three members of the Public Art Oversight Committee, including the Chair of the UrbanArt Commission board, for approval by the City Council.
- Provide oversight to the administrative aspects of the Public Art Program including the development and presentation of budgetary recommendations regarding staffing costs, consultant costs, and other reasonable expenses associated with the administration of the Public Art Program.
- Set forth any other matter appropriate to the administration of the Public Art Program.

UrbanArt Commission Staff

The UrbanArt Commission staff shall

- Provide for annual meetings with Participating Bureaus, the City Council and any other appropriate representative of the City of Memphis.
- Develop and implement an annual plan for the Public Art Program, in conjunction with the PAOC and Participating Bureaus, that takes into account the views of the Participating Bureaus and is consistent with all applicable City budgets.
- Facilitate meetings of the PAOC and the ad hoc Selection Panels
- Develop and maintain a list of potential artist selection panelists to be approved by the PAOC.
- Recommend, after approval of the PAOC, to the City Engineer for his final approval the selection of Artwork to be created with Public Art Funds.

- Provide quarterly reports and reviews to the Council to account for Artwork projects funded from the Public Art Fund.
- Clarify the responsibilities for maintenance of Artwork, including any extraordinary operations or maintenance costs associated with Artwork, prior to selection.
- Facilitate the preservation of art objects, ethnic and cultural arts and crafts, and artifacts funded through the Public Art Program.
- Determine a process to accession and deaccession Artwork, as necessary.
- Negotiate and administrate contracts with artists.
- Review and approve all plans and bid documents as they pertain to the implementation of the Public Art Program.
- Convene and facilitate public meetings, in conjunction with Participating Bureaus, as needed for the implementation of the Public Art Program.
- Document and archive Public Art Projects as appropriate, including but not limited to, contracts, construction drawings, maintenance manuals and visual documentation.

Public Art Oversight Committee

The Public Art Oversight Committee shall determine a standing meeting date and time; to meet at least once a month. For all decisions made by the PAOC, a quorum must be present. A quorum shall consist of a majority of duly appointed PAOC members. The PAOC shall have the authority to remove any duly appointed PAOC member who has failed to attend three consecutive meetings. Upon such removal, the PAOC shall request nomination and approval of a new member to fill the vacancy thereby created.

The PAOC shall

- Provide general oversight of the Public Art Program, scope of art projects, artworks, and artists for the projects.
- Advise and provide recommendations to the UAC on guidelines for the Public Art Program.
- Ensure equal access for project consideration to all qualified artists regardless of race, color, religion, sex, national origin, veteran status, disability, or age.
- In conjunction with Public Art Program staff, develop recommendations contained in the Annual Public Art Plan.
- Approve and update a list of potential selection panelists from which UAC staff will draw selection panelists.
- Approve the selection panel for each project.
- Review and approve the artist(s) selected by the selection panel(s) and forward a recommendation to the City Engineer and the UAC to contract with the selected artist(s).
- Serve as a board of appeals for any issues that arise in conjunction with the Public Art Program.

City Engineer

The City Engineer shall

- Oversee management and delivery of capital projects.
- Inform UAC staff of new capital or renovation projects at the earliest possible time to allow for adequate review and planning to determine projects that might benefit from the inclusion of public art.
- Coordinate the integration and delivery of public art components in capital or renovation projects with UAC staff.
- Work with UAC staff to determine the applicability of public art to proposed capital or renovation projects and in developing the Annual Public Art Plan and Public Art Budget.
- Advise UAC staff of any ordinances, resolutions, regulations or limitations on funding sources that may affect a specific project.
- Coordinate with UAC staff during the project to integrate any architectural/engineering changes that may impact the art component.

Participating Bureaus

The participating bureaus shall

- Designate a liaison to represent the Participating Bureau in the development of the Annual Public Art Plan and other Public Art Program issues.
- Work with UAC staff in developing the Annual Public Art Plan and in determining the applicability of public art to proposed capital or renovation projects.
- Coordinate with UAC staff to ensure appropriate outreach to any advisory groups, neighborhood groups or others that may be impacted by or be interested in the development of a specific project.
- Assist in the resolution of differences regarding the public art component as appropriate.
- Assist in the development of maintenance plans, and in the maintenance and/or conservation of art within the jurisdiction of the Participating Bureau.

APPROPRIATION OF FUNDS

Art Allocation

- The Public Art Ordinance mandates that one percent (1%) of the total general obligation bond amount included in the CIP budget for construction costs each fiscal year, not to exceed \$1 million per fiscal year, shall be allocated to the Public Art Fund for use in the development of Artwork, including but not limited to, artist design services, the development of design concepts and models, an Artist in Residency Program, the selection, acquisition, purchase, commissioning, placement, installation, exhibition and display of Artwork, and architectural and engineering design associated with Artwork.
- The Public Art Allocation will be calculated by the Finance Director, concurrently with the development of the City's Capital Improvement Project Budget.
- The Finance Director will notify the Division of Engineering and UAC of the final Public Art Allocations on an annual basis.

Appropriation of Public Art Allocations

- Art Allocations will be presented by the Finance Director to the Council for consideration each year as part of the Proposed Capital Improvement Budget.
- Upon approval by the Council of the recommended Public Art Allocations in the Annual Public Art Plan, the UAC staff will submit a resolution to the Council to appropriate Public Art Allocations to the Public Art Fund.
- Upon selection of an artist and artistic concept for a City capital project, and approval of an art project budget for such project by the Public Art Oversight Committee, the UAC will submit a request to the Division of Engineering to encumber funds from the Public Art Fund for each specific art project prior to start of said project.

USE OF FUNDS

Allowable Public Art Project Costs

Public Art Allocations may be used to fund the following expenditures: Artist Selection Panel expenses, travel expenses for artist finalists, purchase or design and fabrication of Artwork, fees for artist services, transportation and installation of Artwork, insurance, identification plaques, community education and other reasonable expenses associated with the initiation, development and completion of Artwork created through the Public Art Program.

The following are potential approaches to Artwork that may be considered in implementing the City's Public Art Program.

- Sculpture: Free standing, wall supported or suspended, kinetic, electronic or mechanical in material or combination of materials;
- Murals or portable paintings: In any materials or variety of materials, with or without collage or the addition of nontraditional materials and means;
- Earthworks, neon, glass, mosaics, photographs, prints, calligraphy, any combination of forms of media, including sound, film, holographic, and video systems, hybrids of any media and new genres;
- Standardized fixtures such as grates, street lights, signage, and other design enhancements, as are rendered by an artist for unique or limited editions;
- Artworks created through an Artist in Residency Programs;
- Restoration or replication of original decorative ornament and public art as part of the rehabilitation of historic, cultural and architectural landmarks; and
- Similar amenities as determined by the UAC and the PAOC.

Maintenance and Art Replacement Costs

Funds for ordinary maintenance of public art will be the responsibility of the City department. Extraordinary conservation and replacement of public art or components of a public art project should be included in the Annual Public Art Plan for consideration by the Council during the City's annual budget process. Funding approved by the Council for extraordinary conservation activities will be included in the Public Art Maintenance Fund under a separate account.

Ineligible Public Art Project Costs

Public art monies may not be expended for directional elements, signage, mass produced objects, reproductions, or for architectural elements, landscape architecture or gardening except as they relate directly to an artist's design for a public art project.

SELECTION PANELS

Appointment

The UAC staff will recommend for PAOC approval a selection panel proposed by UAC staff for each project. With PAOC direction, each selection panel recommends artists or artwork for specific public art projects based on the Public Art Program goals and selection criteria as outlined in the Annual Public Art Plan.

Any selection panelist that misses more than one meeting will be removed from the panel.

Prospective Panelists

UAC staff will compile and maintain a file of prospective panelists from professional knowledge and recommendations from the PAOC, selection panel members, the Council, arts professionals and the community at large.

It is recommended that no voting panelist, with the exception of the lead design professional on a project and the designee of the Participating Bureau, serve on more than one selection panel in any given fiscal year. Under special circumstances, the PAOC may decide to reappoint a panelist to a second selection panel during the same fiscal year because his/her expertise and/or experience is necessary for the success of a project.

Composition

Each selection panel will consist of five to nine members with the number and make-up determined by the size and complexity of the project and will include members who bring diverse perspectives. Each selection panel must include at minimum the design architect or lead design professional, two arts professionals (one of which must be a visual artist), a designee of the Participating Bureau and a representative from the community in which the proposed project will be located. UAC staff and the City Project Manager serve ex-officio, non-voting members of the panel.

Some selection panels may require or benefit from professional artistic expertise from outside Memphis. Such projects may include projects with large budgets, multiple artists and/or national prominence. In such circumstances, the PAOC may elect to appoint a regionally or nationally recognized public artist, public art professional or art curator to serve on a selection panel.

Panelists will be paid, when appropriate, according to a fee schedule developed by staff. Panelists will reflect knowledge and interest in art, as well as community concerns.

In addition to the panelists, a designated PAOC member and a UAC board member may serve as ex-officio, non-voting panelists. Other advisory non-voting members may be added as necessary. UAC staff members will serve as panel facilitators.

Selection Panel Responsibilities

The selection panels shall

- Determine, according to recommendations outlined in the Public Art Plan, method for selecting artist(s), artist eligibility and project scope.
- Review call to artist or project summary produced by UAC staff.
- Review artist submissions for the project, according to criteria outlined in the Public Art Plan and in the Public Art Guidelines for artist selection.
- Identify one or more selected artists for PAOC approval.
- Review Artwork proposals, including schematic and final designs, and recommend approval to PAOC.
- Make decisions in conformance with federal and state law.

UAC Staff Responsibilities

The UAC staff shall

- Facilitate communication between the PAOC and selection panels;
- Compile a pool of potential selection panelists and recommend a selection panel for each project;
- Provide public art program overview and project summary to selection panel;
- Facilitate selection panel meetings;
- Present finalist selection to PAOC for approval;
- Present recommendations for approval by PAOC of artist schematic and final designs.

Public Art Oversight Committee Responsibilities

The Public Art Oversight Committee will be informed of and take action on the following:

- The annual public art plan and budget.
- Artist selection panels.
- Selected Artists
- Artist's Schematic Design.
- Artist's Final Design.
- Overall design plans for projects in which artists serve as members of the design team.

The Public Art Oversight Committee shall approval all recommendations made by the selection panels unless the Artist or Artwork is deemed inappropriate for the following reasons:

- Artist does not meet eligibility requirements
- Artist has a conflict of interest
- Artwork cannot be maintained
- Artist or Artwork is deemed unsuitable for the project

SELECTION METHODS

The following selection methods may be used to select artists.

Open Competition (Request for Qualifications or Request for Proposals)

An open competition is a "Call To Artists" for a specific project in which artists are asked to submit evidence of their past work. Any artist may submit credentials and/or proposals, subject to any limitations established by the PAOC. Calls for entries for open competitions will be sufficiently detailed to permit artists to determine whether their work is appropriate to the project under consideration.

Limited Competition

A limited number of artists shall be invited by the PAOC to submit credentials and/or proposals for a specific project. Artists shall be invited based on their past work and exhibited abilities to meet situations posed by particular project requirements or based on other non-aesthetic, public art program goals.

Invitational Competition

In an invitational competition, a very small number of artists (usually between three and six) are invited to submit credentials and/or proposals for a specific project. Invited artists shall be selected directly by staff or identified by the PAOC through an initial slide review process. Artists shall be included in the slide review process based on their ability to meet situations presented by the given project.

Direct Selection

At times, the PAOC may elect to make a direct selection in which they contact a specific artist for a particular project. Such an election may occur for any reason, but will generally occur when circumstances surrounding the project warrant either an open or invitational competition unfeasible (for example: project timeline, community or social considerations, client demand, etc.). Over time an ongoing list of eligible artists will be developed and approved by the PAOC for use in direct selection projects.

Mixed Process

A mixed process includes any combination of the above approaches.

SELECTION CRITERIA FOR ARTISTS AND ARTWORK

General Criteria

Projects undertaken by artists or acquisitions of artwork whether by commission, purchase, gift, or other means should further the purpose and goals of the public art program. The PAOC will determine the appropriate recruitment strategy to establish a pool of artists for each project based on standard methods described above. The selection panel will apply the following criteria when selecting artists, considering acquisitions or siting artwork:

Artistic Merit

The inherent quality and excellence of a proposed artwork together with the strength of the artist's concept and design capabilities are the program's highest priorities. Other artistic credentials to consider include training and critical or other professional recognition.

Context

Artwork must be compatible in scale, material, form, and content with its surroundings. When serving a functional purpose, artworks may establish focal points; modify, enhance or define specific spaces; establish identity or address specific issues of civic design. Consideration should also be given to the architectural, historical, geographical and social/cultural context of the site or community, as well as the way people may interact with the artwork. They must be able to respond to the specific contextual issues and considerations of the particular project, its community and users.

Relevant Experience

Experience and professional record of artist/s should provide convincing evidence of ability to successfully complete the project as proposed. Particularly on collaborative or design team projects artists should demonstrate ability to:

- Communicate effectively and elicit the ideas of team members;
- Exhibit flexibility and problem-solving skills;
- Work with architectural drawings and construction documents;
- Engage community representatives in a project.
- Successfully manage all aspects of the project including budgets, committees, sub-contractors, installers and other construction and administrative logistics.

Permanence/Maintenance

Due consideration will be given to the structural and surface soundness, operational costs and inherent resistance to theft, vandalism, weathering and excessive maintenance. Artist should include recommended method and schedule for maintenance.

Technical Feasibility

An artist must exhibit a successful track record of construction and installation of artwork or show that an appropriate professional has examined the proposed artwork and confirmed feasibility of construction and installation.

Budget

An artist's proposal should provide a budget adequate to cover all costs for the design, fabrication, insurance, transportation, storage, and installation of the proposed artwork, plus reasonable unforeseen circumstances. Artists should have a history of completing projects within budget.

Diversity

Artwork will be sought from artists of diverse ethnic and cultural identities and from local, regional, national, and international artists. The PAOC encourages applications from artists working in both established and experimental art forms.

Fabrication and Installation Schedules

The artist proposal should include a project timeline that incorporates design review, fabrication, delivery and installation in accordance with project schedule. The artist should have a history of completing projects on time.

The PAOC and selection panel may recommend rejection of all submissions if none are considered satisfactory and a new pool of artists may be established.

ARTIST RESTRICTIONS

General Restrictions

Artists or members of their immediate families who serve on the UrbanArt Commission or the Public Art Oversight Committee will not be commissioned or receive any direct financial benefit from the Public Art Program during their tenure on either of those bodies. This restriction shall extend for the period of one-year following the end of service and indefinitely for projects that were developed or acted upon during the artist's tenure on the Commission or Committee.

No artist may receive more than two art enhancement commissions under any five-year period. No artist may be selected for the moveable collection more than once during any five-year period.

Local Artist Participation Requirements

One of the goals of the Public Art Program is to foster and celebrate the talents of local artists. Therefore, sixty percent (60%) of the artwork created with percent for art funds during any five-year period shall be accomplished by local artists. A local artist means an artist who has lived or worked within the Memphis Metropolitan Statistical Area for five (5) or more years during such artist's career.

Diversity Goals

In an effort to promote equality and diversity, the Public Art Program should include significant participation by Minorities and Women. The PAOC will set and review diversity goals on an annual basis.

Inappropriate Communication with Selection Panel

The UAC staff shall be responsible for all correspondence and communication by and between artists applying for percent for art projects and members of selection panels. Discussion by and between any applicant artist and any member of a selection panel outside of regularly scheduled meetings for such purpose during the selection process may be grounds for the disqualification of the artist. Such determination shall be in the sole discretion of the PAOC.

PROJECT IMPLEMENTATION

Coordination between UAC Staff, City Engineer, Participating Bureaus and the Selected Artist(s)

- UAC staff will work with the City Engineer to establish a meeting schedule for the artist.
- The UAC staff, City Engineer and the Participating Bureau representative will brief the artist on the project's goals, opportunities and constraints. At later stages, these same entities will review designs for feasibility and potential risk management issues.
- UAC staff and the City Engineer will establish a timeline for the development of the public art component that is consistent with the capital improvement project's timeline. The timeline will identify specific milestones for review and set the requirements for completion of the successive stages of Schematic design, final design, fabrication and installation.
- UAC staff will coordinate with City Engineer and the Participating Bureau representative to ensure reviews occur in a timely manner. UAC staff will transmit comments to the artist for refinement.

Schematic Design Review and Approvals

The City Engineer and the Participating Bureau representative will be involved throughout the public art design process. Once the Selection Panel has reviewed the Schematic design, the City Engineer and the Participating Bureau representative will review and comment upon the artist's work at the Schematic Design stage prior to presentation to the Public Art Oversight Committee.

- After comments are received from the City Engineer and Participating Bureau representative, if required, the artist will refine the Schematic Design proposal.
- If the artist is not in agreement with City Engineer or Participating Bureau representative comments, UAC staff will mediate discussions to arrive at a consensus among all parties.
- The artist's Schematic Design will then be presented to the Public Art Oversight Committee. The Public Art Oversight Committee may reject a Schematic Design for which it deems unsuitable.

Final Construction Documents Approval

After approval of the Schematic Design by the Public Art Oversight Committee, the artist shall be authorized to proceed with Final Construction Documents.

- After the Selection Panel reviews the Final Construction Documents, the City Engineer and the Participating Bureau representative will review and comment upon the artist's Final Design prior to presentation to the Public Art Oversight Committee.
- After comments are received from the City Engineer and Participating Bureau representative, the artist will refine the Final Construction Documents for presentation to the Public Art Oversight Committee. The Public Art Oversight Committee shall review the Final Design Documents for compliance with the approved Schematic Design.
- If the artist is not in agreement with City Engineer or Participating Bureau representative comments, UAC staff will mediate discussions to arrive at a consensus among all parties.

- The artist's Final Construction Documents submittal shall include a detailed budget for all public art elements under the artist's contract. UAC staff may require the artist to include bona fide bids from suppliers or subcontractors. UAC staff may require that up to ten (10%) of the budget be reserved as a project contingency.

MANAGEMENT OF CITY PUBLIC ART

Conservation and Maintenance

Routine Maintenance

- It will be the policy of the Public Art Program to encourage the design of public art that will require limited maintenance.
- Any public art requiring unusual operation or maintenance costs will require approval by the Participating Bureau representative and the City Engineer prior to the review by the Public Art Oversight Committee of the Final Design.
- Routine maintenance of public art will be the responsibility of the Participating Bureau that owns and maintains the facility and/or site where the art is located.
- All maintenance will be performed with reference to the maintenance guidelines established by the artist as part of their contractual agreement to produce the work.

Conservation

- UAC staff will be responsible for updating the survey of the condition of all public art located on City property at least every five (5) years.
- The survey will include a condition report for each work, prioritized recommendations for the restoration or repair of the art, and estimated costs.
- UAC staff will review the survey as part of the development of the annual Public Art Plan and recommend priority conservation projects for inclusion in the plan to be funded from monies in the Public Art Curatorial Fund or from other sources.
- It will be the policy of the Public Art Program to contact the artist for recommendations prior to engaging in any repair or conservation efforts.

De-accessioning

Policy

- The City will retain the right to de-accession any public art on City property.
- The Public Art Oversight Committee will recommend to the UrbanArt Commission review procedures that:
 - Insulate the de-accessioning process from fluctuations in taste — whether on the part of the City, the Public Art Oversight Committee or the public.
 - Insure that de-accessioning will be employed infrequently and that the process will operate with a strong presumption against removing art from City property.
- Public art projects may be considered for review toward de-accessioning if one or more of the following conditions apply:
 - The art has received consistent adverse public reaction for a period of five or more years.
 - The site for the 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.
 - The art is found to be fraudulent.
 - The art possesses demonstrated faults of design or workmanship.
 - The art requires excessive or unreasonable maintenance.

- The art is damaged irreparably, or to an extent where repair is unreasonable or impractical.
 - The art represents a physical threat to public safety.
 - The art is rarely displayed.
 - A written request for de-accessioning has been received from the artist.
- Unless there is a significant issue of public safety, the site for a work of public art has been lost, or the art has been proven fraudulent, no art will be considered for de-accessioning unless it has been in the City collection for a minimum of ten years.

Procedure

- Should the City choose to de-accession a work, the artist will first be given the opportunity to purchase the art at its current appraised value.
- Alternate methods include:
 - the art may be appraised and advertised for sale.
 - the City may seek competitive bids for the artwork.

CONFLICT OF INTEREST

UrbanArt Commission Staff

Employees of the UAC are ineligible for public art commissions or projects as long as they are employed by UAC. Family and household members also are ineligible for public art commissions or projects over which the UAC has approval authority or administrative responsibility.

UrbanArt Commission Board and Public Art Oversight Committee

Members of the UAC Board or the PAOC are ineligible for public art commissions or projects during their tenure and for one year following their term of service. Family and household members also are ineligible for public art commissions or projects over which the UAC has approval authority or administrative responsibility. These restrictions will extend indefinitely for any specific commission or projects that were reviewed or otherwise acted upon during membership on the UAC or PAOC.

Members of UAC or PAOC must declare any potential conflict of interest, including personal or business relationships, and withdraw from participating or voting on any competition, commission, or project with which they are involved that come before the UAC, PAOC, or selection panels.

Selection Panelists

Selection panels will exclude family or household members or those who have personal or business relationships with an artist or artwork under consideration for a public art project by that panel. Business relationships include but are not limited to gallery owners, brokers, artist representatives, agents, fabricators, suppliers and employers.

Artists

Artists who were previously involved in the development of a public art project or public artwork plan may be eligible for consideration for that particular project or plan provided there is disclosure of the prior involvement and approval of the PAOC.

- An artist is ineligible to serve as a selection panelist while under consideration for a public art commission or project.
- An artist is precluded from having his/her work considered for a public art commission or project once selected for or while serving on a selection panel.

Other Participants

Members of the project management, project architect or consulting firms and employees of UAC and the City of Memphis are ineligible to receive public art funds for design services or public art commissions.

APPENDIX A

ORDINANCE NO. 4934

**AN ORDINANCE TO AMEND THE CITY CODE OF ORDINANCES
BY ADDING TO VOLUME 1, PART I, CHAPTER 2, ARTICLE III,
A NEW DIVISION 4 - PUBLIC ART, ESTABLISHING THE PUBLIC ART
PROGRAM FOR THE CITY OF MEMPHIS**

WHEREAS, It is acknowledged that the application of functional art to public spaces in the city can enhance the city’s image by improving the quality of the public environment and increasing the value of public assets; and

WHEREAS, Including art features in public spaces and buildings can heighten a sense of community heritage and reduce graffiti, vandalism and misuses of public spaces, and thereby build neighborhood identity and civic pride; and

WHEREAS, A public art program is necessary to assure that public resources are invested in both the physical and cultural infrastructure of the city; and

WHEREAS, A public art program recognizes the importance of the “artist” as a cultural asset for the city and is another means for the city to encourage artists to live and work in Memphis.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, That a new Division 4, Public Art, is hereby added to Volume I, Part I, Chapter 2, Article III of the City Code of Ordinances to read as follows:

Section 2-86. Purpose. The purpose of the Public Art Program, as defined herein, is to provide a dedicated funding source for art enhancements to be implemented in selected city capital improvement projects constructed by the city or with city funds, and to provide, through the Urban Art Commission’s Public Art Oversight Committee, guidance and support to the city in implementing such art enhancements and to thereby foster public projects of art in city buildings and landscapes with a minimal impact on existing procedures, practices and capital improvement project budgets.

Section 2-87. Definitions. The following words, terms, and phrases, when used in this ordinance shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

“Art Percentage” shall mean that percent defined in Section 3 (A) hereof, to be allocated to the Public Art Fund out of eligible general fund capital improvement project (“CIP”) funds (excluding Public Works project, PW 156) and used hereunder to enhance public buildings with Artwork.

“Artwork” shall mean all forms of original creations or works designed by a professional artist, team of artists, or design team.

“Local Artist” shall mean an artist who has lived or worked within the Memphis Metropolitan Statistical Area for five (5) or more years of such artist’s career.

“Minority” shall mean those persons, citizens of the United States and lawfully admitted resident aliens who are African American (persons whose origins are in one of the Black regional groups of Africa).

“Participating Bureaus” shall mean departments of the city that either construct or fund CIP Projects in which Artwork is to be installed and Public Art Funds are to be expended hereunder.

“Public Art Oversight Committee” shall consist of seven members composed of the Chair of the UAC or his/her designee; two members nominated by the UAC and approved by the city council (one of which must be a practicing visual artist), three members appointed by the City Mayor with the approval of the city council, (one of which must be a practicing visual artist) and one city councilperson appointed by the chair of the city council. The seven members shall serve two year terms or until their successors are duly nominated and approved. The Committee shall also include as ex-officio members the UAC Executive Director and the Director or designee of any Participating Bureau.

“Public Art Fund” shall mean the special fund established as a separate account pursuant to Section 3(A) hereof with funds allocated to the Public Art Fund and administered by the city. All interest and investment earnings attributable to the Public Art Fund shall accrue therein. The city shall establish procedures for reporting activity of the Public Art Fund. The city shall periodically provide the city council with reports reflecting all amounts allocated to the Public Art Fund, encumbered to specific projects, and expended from the Public Art Fund for Artwork.

“Public Art Maintenance Fund” shall mean the special fund established as a separate account pursuant to Section 3(B) hereof with funds allocated to the Public Art Maintenance Fund, and administered by the city. All interest and investment earnings attributable to the Public Art Maintenance Fund shall accrue therein. The city shall establish procedures for reporting activity of the Public Art Maintenance Fund.

“Public Art Program” shall mean the activities and art enhancements generated pursuant to this ordinance.

“UAC” is the Urban Art Commission, an independent 501(c)(3) organization established in 1999.

“Women” shall mean those persons, citizens of the United States and lawfully admitted resident aliens, who are of the female gender and not otherwise included in one of the specific ethnic minority groups.

Section 2-88. Funding Source, Use and Disbursement of the Public Art Program.

(A) An Art Percentage of one percent (1%) of the total general obligation bond amount included in the CIP budget for construction costs each fiscal year, not to exceed \$1 million per fiscal year, shall be allocated to the Public Art Fund for use in the development of Artwork hereunder, including but not limited to artist design services, the development of design concepts and models, an Artist in Residency Program, the selection, acquisition, purchase, commissioning, placement, installation, exhibition and display of Artwork, and architectural and engineering design associated with Artwork.

(B) Each fiscal year, the city shall provide operating funds in an amount equal to one-tenth of one percent (0.1%) of the total general obligation bond amount included in the CIP budget for construction costs each fiscal year, which funds shall be allocated to the Public Art Maintenance Fund for use for maintenance, curatorial and conservation care for Artwork developed pursuant to the Public Art Program.

(C) Funds in the Public Art Fund and the Public Art Maintenance Fund not expended by the end of the close of any fiscal year shall be carried forward to the next succeeding fiscal year, to the extent that such carried forward funds, when added to the Art Percentage funds for the succeeding fiscal year, do not exceed \$1.5 million dollars.

(D) All Participating Bureaus shall include in their applications for funding for CIP Projects to unrelated governmental agencies and other funding sources that allow for art enhancements in capital improvement projects, amounts up to the limit set by any such agency or other funding source, for artist design services and Artwork. Any grant amounts received by Participating Bureaus for Artwork or art enhancements to capital improvement projects shall be directed to the Public Art Fund and shall not be included for purposes of computing the maximum funding amounts set out in paragraph 2-88(A) or (B) hereof.

(E) Public Art Funds shall be used for the creation of Artwork, in, upon, adjacent to or in close proximity to CIP Projects.

(F) Disbursements from the Public Art Fund and the Public Art Maintenance Fund shall be made only after authorization by the city, through its City Engineer. Disbursements shall be made according to the terms of this ordinance and any guidelines adopted by the city hereunder.

(G) Sixty percent (60%) of the Artwork created hereunder during any five year period ("Participation Period") shall be accomplished by Local Artists. The first Participation Period shall commence upon the effective date of this ordinance and shall end five (5) years from that date, at which time the next Participation Period shall begin.

(H) In an effort to promote equality and diversity in all Artwork undertaken pursuant to this ordinance, the Public Art Program funded hereunder should include significant Minority and Women participation.

Section 2-89. Administration. The City shall contract annually with the UAC for the UAC to administer the Public Art Program, and shall provide therein for compensation to be paid to UAC for all such administrative services. The UAC and the Public Art Oversight Committee shall, after consultation with the city counsel and

participating departments of city, administer the provisions of this ordinance relating to artwork acquisition and display, and shall adopt guidelines to:

1. Provide for annual meetings with Participating Bureaus.
2. Develop an annual plan for the Public Art Program that takes into account the views of the Participating Bureaus and is consistent with all applicable city budgets.
3. Recommend to the City Engineer for his approval the selection of Artwork to be created with Public Art Funds.
4. Provide a method for the appointment of representatives to ad hoc selection committees, created solely for the purpose of selecting artists and reviewing Artwork proposals.
5. Determine a method or methods of selecting artists for the design, execution and siting of artwork.
6. Provide quarterly reports and reviews to the city council to account for Artwork projects funded from the Public Art Fund.
7. Clarify the responsibilities for maintenance of Artwork, including any extraordinary operations or maintenance costs associated with Artwork, prior to selection.
8. Facilitate the preservation of art objects, ethnic and cultural arts and crafts, and artifacts funded through this ordinance.
9. Determine a process to accession and deaccession Artwork, as necessary.
10. Set forth any other matter appropriate to the administration of this ordinance.

Section 2-90. Ownership. All Artwork acquired pursuant to this ordinance shall be acquired in the name of the city. Insurance coverage for Artwork acquired hereunder shall be provided and maintained by the city.

BE IT FURTHER ORDAINED, That the existing Division 4 of Volume I, Part I, Chapter 2, Article III of the City Code of Ordinances shall be renumbered to be Division 5.

BE IT FURTHER ORDAINED, That this ordinance shall take effect from and after the date it shall have been passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of the Mayor in writing by the Comptroller and become effective as otherwise provided by law.

APPENDIX B

Approval Process for Public Art Projects Funded Through the City of Memphis Percent for Art Program

Annual Public Art Plan

November - January	UAC staff works with City of Memphis Engineer to Identify Eligible Projects for Upcoming Fiscal Year
January – March	Annual Public Art Plan Drafted. The Plan includes budget and description of each eligible project. The Plan will be used by the UAC Staff and the Ad Hoc Artist Selection Panels for the selection of artists and approval of projects (see Artists and Public Artwork on following pages).
March – June	Public Art Oversight Committee Approves Annual Public Art Plan . The Public Art Oversight Committee consists of seven members composed of the Chair of the UAC or his/her designee; two members nominated by the UAC and approved by the city council (one of which must be a practicing visual artist), three members appointed by the City Mayor with the approval of the city council, (one of which must be a practicing visual artist) and one city councilperson appointed by the chair of the city council. The Committee shall also include as ex-officio members the UAC Executive Director and the Director or designee of any Participating Bureau. The Committee shall review the plan drafted by the UAC Staff and Participating Bureaus and make additional recommendations.
April – May	City Council CIP Committee approves Public Art Allocation
May – June	City Council approves Public Art Allocation as part of the CIP Budget (Council Action Required)
July	City Council Approves Annual Public Art Plan and Resolution for Appropriation of Public Art Funds

