

# ART IN PUBLIC PLACES PROGRAM ORDINANCE GUIDELINES

(Revised 3/15/21)

## I. PURPOSE

The purpose of these guidelines is to establish a process for the selection, purchase, commission, placement, and maintenance of works of art via the expenditure of the monies generated through Ordinance #850926-0, generally referred to as the Art in Public Places Ordinance, originally signed into law on September 26, 1985, and amended by Ordinance #970904-B on October 31, 2002. This ordinance is understood to apply to only those projects which received approved funding after the effective date. These guidelines shall not be understood to apply to donated works of art, as those instances are covered by a separate donations policy.

## II. INTENT

- A. It is the stated intent of the Art in Public Places (AIPP) Ordinance to direct the inclusion of works of art in City construction projects in order to expand the citizens' of Austin experience with visual art and enable them to better understand their communities and their individual lives. In addition, it is the stated intent of the AIPP Ordinance to commission local artists to increase the affordability of artists to live in Austin and to support the growth of their public art careers, with an emphasis on equity. By commissioning artists capable of creating works of art in public places, the AIPP Program shall strive to stimulate the vitality and economy of the City and enhance Austin's standing as a leader in the arts. Thus, it is the goal of the Art in Public Places Program to expend the percent-for-art funds on works of art and art projects of redeeming quality which advance public understanding of visual art and enhance the quality of public places. This goal shall be realized through:
1. Commissioning artists and works of art, which represent an expression of our time, our community, and contribute to a sense of the City's culture and identity;
  2. Embracing cultural equity to ensure as many people as possible have access to viewing, experiencing, and creating public artwork; expressly including artists of color and members of historically underrepresented communities;
  3. Nurturing the vitality of the City of Austin by expanding opportunities for as many people as possible to have meaningful engagements with public art and access to viewing, experiencing, and creating public art;
  4. Integrate public art into a project by encouraging collaboration between artists and design professionals, including but not limited to architects, engineers, and landscape architects; and by encouraging collaboration between artists and other visual arts

professionals, including but not limited to curators, performers, set designers, cinematographers, etc.;

5. Encourage public understanding and enjoyment of visual art through community engagement, programming and/or events;
6. Encouraging more interaction with public places via the placement of accessible works of art;
7. Commissioning a broad range of works of art, contributing to the current dialogue in the field of visual art;
8. Broadly distributing commissions among local, state and national artists, with an emphasis on local artists; and encouraging new and emerging local artists through AIPP developed programs, art opportunities and public art training; and
9. Broadly distributing works of art geographically in the City of Austin.

### **III. DEFINITIONS**

- A. "ARTS COMMISSION" - The Arts Commission is made up of community volunteers as appointed by the Austin City Council to advise the council in all arts-related matters. For more information, see [austintexas.gov/department/boards-and-commissions](http://austintexas.gov/department/boards-and-commissions)
- B. "ART IN PUBLIC PLACES PANEL" - A standing committee of subject matter experts appointed by the Arts Commission, responsible for advising the Commission on matters relating to the implementation of the Art in Public Places Ordinance. (See Section V.)
- C. "AIPP PROGRAM MANAGER" - The Art in Public Places Program Manager hired by the Director of Economic Development Department to coordinate and facilitate the implementation of the Art in Public Places Ordinance as adopted by the City Council of the City of Austin.
- D. "ARTIST" - A practitioner in the visual and interdisciplinary arts at any stage in their career whose work is recognized to demonstrate serious intent and ability; who has made art creation a focus of their practice; and who is not a member of the Project Consultant's firm or employed thereby.
- E. "CAPITAL IMPROVEMENT PROJECT (CIP)" - A capital improvement project is any major improvement to City facilities and infrastructure.
- F. "CONSTRUCTION COST" - As defined in the Ordinance to mean the total City-funded portion of a City construction project as originally estimated, excluding demolition,

equipment, and land acquisition costs, costs for fees and permits as well as those costs associated with debt issuance.

- G. "CONSTRUCTION PROJECT" - Any capital project paid for wholly or in part by the City of Austin to construct or remodel any building, decorative or commemorative structure, park, or parking facility or any portion thereof. Also included are projects that take place on City property or through city-negotiated contracts for redevelopment of City property.
- H. "ELIGIBLE COSTS" - The original estimated construction cost as defined in the Art in Public Places Ordinance. Any costs related to the construction of the project which are not specifically excluded by said definition shall be included in the calculation of the two percent (2%) assessment.
- I. "ELIGIBLE PROJECT" - A construction or renovation project, as defined above, for which the source of funds is not restricted by law or regulation as to its use for artworks.
  - 1. The Ordinance extends to the new construction or renovation of all city-owned buildings; decorative commemorative structures; new streetscapes or street improvement project; bridges, including but not limited to the incorporation of an artistic feature into the structural design; water or wastewater treatment facilities and other appropriate project as recommended by the Art in Public Places Panel and Arts Commission and approved by the City Council on a case-by-case basis; parks (including but not limited to swimming pools, land development, playscapes, picnic structures, jogging trails, restroom facilities, and athletic courts); or parking facilities (public lots, garages, parking terminals or other structures or accommodations for the parking of motor vehicles off the street or highway, and includes equipment, entrances, exits, fencing, and other accessories necessary for the safety and convenience in the parking of vehicles), or any portion thereof. However, the Ordinance does not extend to underground water and sewage lines, street repair and street reconstruction, electrical transmission and distribution lines, electrical sub-stations, and/or water pumps stations.
  - 2. In order to be considered eligible for the Art in Public Places Program, a renovation project must provide a new use for or an addition to an existing space by making structural changes. This shall be understood to include rehabilitation projects which extend the useful life of a structure as well as restoration projects which return a structure to a previous condition.
    - a. Examples of such projects would include the construction of office space from existing storage space, the addition of a wing to an existing structure, and the restoration of a structure such as that of the Old Main Library. Because of the administrative costs associated with the transfer of funds and the selection of an artist, a project must have an original estimated construction cost of \$100,000 or more in order to be considered eligible.

3. Purely decorative renovation projects such as new carpeting, painting, or the installation of portable partitions shall not be considered eligible projects. Normal maintenance and repair to an existing structure such as the replacement of a roof, broken windows, or outdated heating/cooling systems shall not be considered eligible projects. If, however, these costs are part of a larger eligible project, then they shall be included in the total construction cost on which the 2% is assessed.
  4. The Art in Public Places Ordinance extends to construction and renovation projects planned through the City of Austin's capital improvement planning process (CIP) as well as those planned at the departmental level. CIP projects are generally funded either through bond propositions or current revenues, whereas non-CIP projects may be funded through the annual operating budgets. The Ordinance states that in no case shall the 2% dedication exceed \$300,000 for water or wastewater treatment facility. For CIP projects, a single City construction project is identified by a project or sub-project identification number, which is tracked and overseen by the Financial Service Department. Identification of non-CIP construction projects eligible under the Art in Public Places Ordinance and Guidelines must be determined on a case-by-case basis between the Program Manager, the appropriate department representative, and representative of the Financial Service Department.
  5. Pursuant to the Ordinance the Art in Public Places Panel may, through the Arts Commission, recommend that the City Council make an exception to this limitation for those City construction projects which merit or require a larger expenditure by virtue of the project scale or function; provided, however, such recommendations must be made and reviewed by City Council during the course of the normal budget process.
- J. "EQUITY" – In December 2018, the AIPP Panel and the Arts Commission approved the following AIPP Commitment to Equity as a work in progress: "Art in Public Places embraces cultural equity. It is the goal of the program to ensure as many people as possible have meaningful engagements with public art and access to viewing, experiencing, and creating artwork. AIPP actively seeks to provide members of historically underrepresented communities, which can include identities such as Black or African-American, Arab-American, Asian-American, Hispanic or Latinx, Pacific Islander, Indigenous Nations, LGBTQIA, or a person with a disability, with equitable access to public art opportunities. In support of this commitment, the program will make every effort to expand access to the collection and programmatic decision-making. For each project, every effort will be made to comprise project selection panels and finalist pools for AIPP commissions with representatives from a variety of historically underrepresented communities to better reflect the diversity of Austin."
1. In addition, the City of Austin through the Council approved Strategic Direction 2023, the Equity Strategic Anchor states: "To advance equitable outcomes, the City of Austin is leading with a lens of racial equity and healing. Race is the primary predictor of outcomes and it is time to recognize, understand, and address racism at its various



levels: personal, institutional, structural, and systemic. Equity is the condition when every member of the community has a fair opportunity to live a long, healthy, and meaningful life. Equity embedded into Austin's values system means changing hearts and minds, transforming local government from the inside out, eradicating disparities, and ensuring all Austin community members share in the benefits of community progress."

- K. "MANAGING DEPARTMENT" - The City Department responsible for the implementation of the design and /or construction of all City of Austin owned facilities.
- L. "PROJECT CONSULTANT" - Any firm, individual or team of firms or individuals with which the City contracts, as selected by the Council, for design consulting services related to construction projects.
- M. "PROJECT MANAGER" - The City staff person charged with the responsibility for the implementation of the design and/or construction of the City of Austin owned facility which meets the definition provided herein for an AIPP eligible project.
- N. "PROSPECTUS" – The preliminary statement or project outline that defines overall approach and selection process for each artwork project. For more information, see page 9, F., Item 1.
- O. "STREETSCAPE" - An improvement to a public right-of-way, including a sidewalk, tree, light fixture, sign, and furniture.
- P. "USER DEPARTMENT" - The City Department which will occupy or otherwise administer the use of the project upon its completion. Where more than one department is involved, the user departments shall have the authority to decide who represents them.
- Q. "VISUAL ARTS PROFESSIONAL" - An artist, arts educator, art critic, arts administrator, designer, art historian, curator, fine art collector, architect, urban planner, or landscape architect who is well respected in his/her field, knowledgeable with regards to contemporary visual art, and willing to participate effectively in a panel and jury process without conflict of interest.
- R. "WORKS OF ART or ARTWORK" - All forms of original creations of art, including but not limited to:
  - 1. Two dimensional artworks of all media, including both portable and permanently affixed works;
  - 2. Three dimensional artworks of any form and in any material or combination of materials, including but not limited to statuary, structures, reliefs, mobiles, kinetic sculpture;

3. Technology-based or digitally-based works, time-based works, works including sound and/or light;
4. Performance-based works including recording/archiving the performance for capital improvement project requirements for permanent artwork;
5. Also included are works such as inscriptions, stained glass, fiber works, carvings, mosaics, photographs, drawings, collages, textile works, and prints. Also included are crafts both decorative and utilitarian; artist-designed landscapes and earthworks, including the artistic placement of natural materials or other functional art objects.

#### **IV. APPROPRIATION AND ALLOCATION OF FUNDS**

- A. All City Department Heads and the Director of Financial Services shall, after consultation with the Art in Public Places Program Manager, include in all estimates of necessary expenditures and all requests for authorizations and appropriations for City construction projects, an amount for art equal to at least two percent (2%) of the original estimated construction cost of any eligible project.
  1. For CIP construction projects the original estimated construction cost shall be that estimated in the CIP for the year in which such funding is approved by the City Council.
  2. For non-CIP construction projects subject to the provisions of the Ordinance, the original estimated construction cost shall be that amount initially authorized in the departmental budget by the City Council. If the source of funding or appropriate law with respect to any particular project precludes art as an object of expenditure, the amount of funds so restricted shall be excluded from the total project cost in making the aforesaid calculation.
- B. The minimum amount to be appropriated for art shall be 2% of the total City-funded portion of the construction cost for the City Construction project.
- C. For those projects which are only partially funded by the City of Austin, the percent-for-art assessment (2%) shall be based on the City's portion of the original estimated construction cost.
  1. All City grant applications for federal, state, or county support of eligible construction projects shall include a request for funds for the purpose of the Art in Public Places Program.
  2. Additionally, the City of Austin shall actively seek to encourage its partners in all joint public/private ventures to participate in the Art in Public Places Program.

- D. As provided in the Ordinance, the Art in Public Places Panel, with the AIPP Program Manager, shall make periodic reviews, at least annually, of all CIP projects and other City construction projects. This review shall occur during the City of Austin's CIP process and annual operating budget process, for the purposes of making recommendations to the Financial Services Department regarding appropriations for works of art and art projects.
- E. Public Art Funds shall be established by the City of Austin for the purposes of administering the Art in Public Places Program. The funds contained in said accounts shall be used for the selection, acquisition, installation, and substantive structural repair and maintenance of art and art projects commissioned and/or purchased through the Art in Public Places Program. One account for all general fund departments shall be established within the Economic Development Department and separate fund(s) shall be established for the enterprise fund departments.

As provided in the Ordinance, the City Council shall appropriate the two percent monies to the proper Public Art Fund concurrent with the appropriation to fund the related City construction project. These Public Art Funds shall be maintained in accord with accepted governmental accounting procedures. All appropriations to and allocations from the various Public Art Funds shall occur in accord with any legal restrictions associated with the source of funds.

- F. As provided in the Ordinance, in the event that an eligible project is deemed inappropriate for the siting of public art by the Art in Public Places Panel, the 2% monies shall be appropriated to the proper Public Art Fund, for use at other more appropriate public sites, unless prohibited by any legal restrictions associated with the source of funds.
- G. The Art in Public Places Panel shall allocate funds for artwork projects subject to their legality of expenditure according to source. Given the specific use limitation on a wide variety of fund sources (general obligation bonds, revenue bonds, grants, operating budgets, etc.), eligibility of expenditure must be determined on a case-by-case basis in consultation with the appropriate City Departments.
- H. The City Manager or his or her designee shall authorize all disbursements from the Public Art Funds.

## **V. COMPOSITION AND FUNCTION OF THE ART IN PUBLIC PLACES PANEL**

- A. The Art in Public Places Panel, appointed by the Arts Commission, shall have seven (7) members and serve as a standing committee of the Arts Commission. The Art in Public Places Panel comprises one representative from the Arts Commission and others as the Commission might appoint. At a minimum the Panel's membership shall include five (5) visual art professionals, two of whom shall be representatives from the environmental design fields (included but not limited to architecture, landscape architecture, urban planning/design). Selection of the panelists shall reflect the ethnic, economic and

demographic diversity of the community. All panelists shall possess knowledge of contemporary visual art. Panelists shall serve two- year terms for no more than three consecutive terms. The Director of Economic Development Department or their designee i.e. the AIPP Program Manager shall serve ex-officio without vote. The Panel shall elect its own Officers and establish by-laws.

- B. The primary functions/responsibilities of the Art in Public Places Panel are to:
  - 1. Advise the Arts Commission in the publication of guidelines to implement the Art in Public Places Ordinance, including methods of selecting artists and commissioning works of art;
  - 2. Periodically review the Art in Public Places Ordinance and its Guidelines;
  - 3. Make recommendations regarding appropriations for works of art and art projects, to the Arts Commission, the City Council or City Manager;

## **VI. DEVELOPMENT OF AN ART IN PUBLIC PLACES PROJECT**

- A. Art in Public Places projects may occur in, at, or near public buildings, parks, and open spaces. These may be sites which are planned for development, under development or existing sites where construction is complete.
  - 1. The Art in Public Places Panel may suggest potential sites for Art in Public Places projects.
- B. Once an Art in Public Places project is developed, AIPP staff, the AIPP Panel and the Arts Commission will distribute information to artists with adequate time to prepare submissions. For sites under development, the artist should be involved in the earliest phases of the design process to ensure an integrated solution. It is also possible to engage an artist(s) to participate in the design team with project consultants.
  - 1. At the earliest time possible, all City Departments shall inform the Art in Public Place Panel, through the AIPP Program Manager, of proposed or planned eligible construction projects. This will allow the Art in Public Places Panel time to adequately review the project's potential for incorporation of artwork and to plan for an appropriate artwork project.
  - 2. The Department responsible for an eligible construction project shall inform the Program Manager apprised of Project Consultant selection. Additionally, provisions for the artwork project shall be included in the design program for the construction project.

- C. Once a project is developed, the Art in Public Places Panel with the AIPP Program Manager shall recommend to the Arts Commission, in the form of a written prospectus, the overall approach and selection process for each artwork project. This prospectus will strive for a solution that will allow for the artwork, whether purchased or commissioned, to be appropriate to the particular project site.
  
- D. The AIPP Program Manager shall research the background of each eligible project, consulting with the user department, project consultant, project manager, and community representatives. This information shall be recommended to the Art in Public Places Panel for finalization in the form of a prospectus:
  - 1. Defining the overall budget for the selection of an artist and the commission of a work of art, based on the scope of the project and the proposed method of selection. This budget shall be included in the prospectus for approval by the AIPP Panel and the Arts Commission.
  - 2. Integrating the participation of the artist into the project's design/construction process.
  - 3. Siting the artwork, which may be determined prior to the selection of an artist or proposed by the artist selected for the project. Whenever possible, the artist selected should be given the opportunity to recommend siting of the artwork. In the case of sites under development, it is preferable to allow the artist, city staff and the project consultant to coordinate the location of the artwork within the construction project. In the case of existing sites where construction is complete, the final location shall be determined by agreement between the City departments involved and the Art in Public Places Panel, with the appropriate approval of any Boards or Commissions.
  - 4. Assessment of the potential for vandalism and/or accidental damage at the project site.
  - 5. Recommended eligibility/residency requirements for artists based on the needs of the project.
  
- F. The Art in Public Places Panel shall, with the assistance of the AIPP Program Manager, determine the method of artist selection to be used for each project.
  - 1. The prospectus shall define the selection process for the artwork, whether a direct purchase of an existing work(s) of art, the selection of an artist(s) to complete a specific work(s) of art, or the selection of an artist(s) to participate in a design team approach with project consultants.
  - 2. The Art in Public Places Panel shall maintain the following general guidelines regarding the methods of artist/artwork selection which may be employed for a particular project:

- a. Open Entry Competition. Any artist is eligible to enter, with recognition of the possible residency requirements. The site and prospectus are appropriately advertised. Artists may be asked to submit images of their past work, resumes, and letters of intent related to the specific project or specific proposals for the project under review.
  - b. Limited Entry Competition. The jury invites a limited number of artists to participate in the selection process. The artists selected may be asked to submit slides of past work or proposals based on the project prospectus. The names of the artists invited to participate shall be publicly announced upon receipt of written acceptance of the invitation.
  - c. Direct selection of an Artist(s). An artist is invited to participate in the project and may be asked to develop a proposal for the project. If desired, a team of several artists may be put together.
  - e. Direct Purchase of an Existing Artwork. A completed work of art is purchased. No more than ten percent of the cost of the work may go toward a dealer or agent.
  - d. Pre-Qualified Artist Pool. The Art in Public Places Panel shall establish, and the AIPP Program Manager shall maintain, a Pre-Qualified Artist Pool for all artists interested in being considered for commissions through the Art in Public Places Program.
    - i. The AIPP Panel and Arts Commission may use the Pre-Qualified Artist Pool to recommend an Open Entry Competition of the entire pool, a Limited Entry Competition or the Direct Selection of an artist from the Pre-Qualified Artist Pool.
    - ii. The Art in Public Places Program reserves the right to decline any and all submissions, cancel any pre-qualified list at any time, or commission an artist through another process.
    - iii. Inclusion in the Pre-Qualified Artist Pool does not guarantee a commission. Specific goals and criteria will be set for each particular project.
    - iv. The Austin Art in Public Places Program reserves the right to open the Pre-Qualified Artist Pool for new applicants as needed.
3. An artist may be asked to develop an artwork proposal for a specific Art in Public Places project. If asked to develop a proposal, an artist may be paid a proposal fee. If a fee is offered, this fee shall be noted in the prospectus and approved by the Art in Public Places Panel and the Arts Commission.

- G. The Art in Public Places Panel shall determine the jury format most appropriate to each project, to include the number of jurors, the necessary expertise and qualifications of the recommended jurors.
- H. The Art in Public Places Panel shall then recommend to the Arts Commission, in the form of the written prospectus, the overall approach to the project including the method of artist selection and the format for jury selection. The Arts Commission shall subsequently review and approve the prospectus in an expedient manner (at the next full meeting of the Commission), so as to ensure the timely selection of an artist.

## **VII. JURY SELECTION AND RESPONSIBILITIES**

- A. For each Art in Public Places project as appropriate, an independent jury of visual art professionals shall be established for the purposes of making an artist/artwork recommendation. The following guidelines shall be used by the Art in Public Places Panel in the development of a jury for each project and in determining the jury's responsibilities:
  - 1. The Art in Public Places Panel shall establish and the AIPP Program Manager shall maintain a file of potential jurors containing information on the experience and expertise of qualifying individuals to serve in this capacity.
  - 2. The artist/artwork for each project shall be recommended by a jury to the Art in Public Places Panel, with the format for the jury selection approved by the Arts Commission. The Art in Public Places Panel shall have the option of constituting itself as a jury.
    - a. No juror may serve more than once in any two-year period, in an attempt to bring a diversity of interests to the selection process and to more precisely match the expertise of the jury members to each project.
    - b. No gallery owner, dealer, or art agent may serve as a juror due to the potential for conflict of interest.
    - c. Jurors who represent the demographics of Austin, and/or the community receiving the art, should be prioritized. The jury shall be composed with a lens of racial equity where every Austin community is represented and has an opportunity to serve. For more information, see "Equity" under III. Definitions.
  - 3. The AIPP Program Manager shall facilitate the selection of each jury and subsequently serve as staff to that jury.
  - 4. Each jury comprises either three or five jurors, depending upon the size and complexity of the individual project.

- a. If the method of selection uses the Pre-Qualified Artist Pool, the jury may be made up of five, seven or nine jurors.
5. Each three-member jury shall include at least one visual artist, and each five member jury shall include at least two visual artists. Other jurors shall be chosen from among the fields of visual art professionals. Additionally, each three-member jury shall include at least one local juror, and each five- member jury shall include at least two local jurors.
  - a. If the method of selection uses the Pre-Qualified Artist Pool, the jury may be made up of subject matter experts and community members who do not have a visual arts background. Jurors may include residents, neighborhood representatives, city staff, facility maintenance staff, project design team members or others determined through the prospectus approval process to be beneficial to the selection of the artist for the project.
6. Each jury shall be aided by a non-voting, advisory panel. This panel shall be appointed by the AIPP Program Manager on a project-by- project basis.
  - a. The panel shall include at least one person connected with those who will be in constant contact with the facility where the artwork will be placed. This individual(s) may be a City employee or a community representative, depending on the nature of the project.
  - b. Where possible, the advisory panel shall also include the user department project manager, the project design team consultant, and a representative of the user department.
7. Expenses related to the selection of an artist will be kept to a necessary minimum as required by each project. Jury payment for professional services rendered shall be determined by the AIPP Program Manager, in consultation with the Art in Public Places Panel, and recommended to the City Manager or his designee for the approval of disbursement. Such contractual payment shall be in keeping with the standards of the field, not to exceed a maximum of \$250 per day plus food, travel and lodging expenses.
  - a. Anyone receiving compensation by the City as either a full-time employee or a separate consultant, members of the Arts Commission who may serve as jurors and any members of the Art in Public Places Panel who serve as jurors may not receive compensation as a juror.
8. The Art in Public Places Panel shall issue instructions to jurors prior to the first meeting of the jury, detailing the jury's duties and responsibilities relating to the project.
  - a. These instructions shall outline the method by which the jury is to make its selection as well as the technical and aesthetic criteria on which that selection is to be based.



- b. The jury shall consider racial equity in the process of artist selection. For more information, see “Equity” under III. Definitions.
  - c. The jury shall adhere to these instructions and criteria in making its recommendation.
9. Each juror shall have one vote, with no juror possessing the right to veto.
- a. Jurors must not be biased in favor of a specific artist.
  - b. If a consensus cannot be reached by the jury within a reasonable amount of time, as determined by the Art in Public Places Panel and the AIPP Program Manager, then a vote shall be taken with the majority of the voting members carrying the decision.
10. The jury shall have the option of making no recommendation, if there is no applicant judged to be of sufficient merit. In such instances the matter shall be referred back to the Art in Public Places Panel for resolution, which may include a new selection process or the abandonment of the project.

#### **VIII. CRITERIA FOR SELECTION OF ARTISTS AND/OR ARTWORK PROJECTS**

- A. All Art in Public Places projects are open to any I artist, defined herein, within a project’s eligibility requirements as delineated by the approved project prospectus.
  - 1. Members of the project Consultant’s firm or anyone employed thereby, members of the jury, or full-time employees of the City of Austin shall be excluded from consideration, unless mitigating circumstances exist, as determined by the AIPP Panel and the Arts Commission.
- B. Artists shall be selected on the basis of their appropriateness for particular project and their likelihood of successfully completing the project, as indicated by the merit of their past work. All Art in Public Places Projects are budgeted for a pre-determined amount.
  - 1. In the case of the design team approach, an artist’s willingness to fully participate in a collaborative process shall also be considered a criterion for selection.
- C. In making its selection, the jury shall bear in mind the purposes of the Art in Public Places Program, always aiming to achieve the highest and best outcome for the project.
- D. If there is a proposal phase, the jury shall, in making its selection recommendation, use the proposal phase to select an artist, not necessarily an artwork, allowing the selected artist the freedom to create a new work once they are under contract and fully apprised of the site constraints and opportunities.

1. To assess the finalists' skills, experience, knowledge and aesthetic choices, the jury should review the proposals, giving due consideration to the appropriateness of:
  - a. the proposed work in terms of its scale, form, content and design with respect to its immediate and general, social and physical environment.
  - b. the proposed materials and construction for questions of durability, maintenance, public access, appropriateness, safety, and security.
  - c. other criteria as dictated by a project's particular requirements, and/or as may be established by the Art in Public Places Panel.
2. Any additional criteria shall be outlined in the jury's written instructions.

## **IX. REVIEW OF THE JURY'S SELECTION**

- A. The jury's recommendation shall be transmitted to the Art in Public Panel in the form of written ballots signed by each juror.
- B. In reviewing the jury's recommendation, the Art in Public Places Panel and the Arts Commission shall take into account the Art in Public Places Program's goal of developing a diverse and high quality collection, the AIPP Commitment to Equity, its commitment to the jury process and the role of the Commission as a bridge between the arts community and the City of Austin. These considerations should outweigh individual aesthetic preferences in the Panel's and the Arts Commission's review of the jury's selection.
- C. As stated in the Ordinance, it is the initial responsibility of the Art in Public Places Panel to recommend the placement of works of art and art projects.
  1. The Panel shall review the jury's recommendation to determine if:
    - a. the process for selection was properly implemented;
    - b. if the jury responded appropriately to the project prospectus; and if
    - c. the recommendation satisfies the intent of the project.
  2. If the Panel determines that the procedure for selection was improperly implemented, the Panel shall have several options including:
    - a. returning the matter to the jury for clarification;
    - b. requesting that the jury recommend a different artist;

- c. developing a new prospectus; or
  - d. convening a new jury panel.
- D. Once the Art in Public Places Panel approves the jury's selection process recommendation, it will be recommended to the Arts Commission for a formal vote.
- 1. If the Jury's selection process recommendation results in the selection of a specific work of art, prior to the Panel's recommendation being forwarded to Arts Commission, the user and managing departments responsible for housing the work shall be requested to view the proposal for technical feasibility and maintenance expenses.
    - a. The results of this departmental review will be submitted to the Arts Commission for their information.
    - b. In cases where legitimate problems are demonstrated to the satisfaction of the Art in Public Places Panel, the jury may be reconvened to select an alternative work.
- E. The Arts Commission shall review the recommendation of the AIPP Panel on the basis of procedural matters to ensure that the approved prospectus was appropriately considered throughout the selection process.
- 1. If the Arts Commission determines that the requirements of the approved prospectus was followed throughout the selection process, the Arts Commission will approve the AIPP Panel recommendation.
  - 2. In the event that the Commission has questions regarding the selection process, those questions shall be referred, in writing, back to the AIPP Panel for clarification. The Arts Commission will cause the specific questions to be written into the meeting minutes so that the Panel may clearly understand and adequately clarify the question(s).
  - 3. The AIPP Panel will address the Arts Commission question(s) at a subsequent AIPP Panel meeting and provide written response in time to be taken up at the following Arts Commission meeting; and/or deliver a response to the question(s) via the AIPP Panel Liaison; or his/her AIPP Panel member designee.
- F. If the monetary amount of the artist's commission is over current administrative authority, the Arts Commission's recommendation shall be forwarded to the City Council for authority to negotiate an artist contract for the purchase or commission of a work of art.
- 1. In the instance that the Arts Commission's recommendation is disapproved by the City Council, the matter shall be returned to the Arts Commission for further review.

## **X. PROJECT IMPLEMENTATION AND DOCUMENTATION**

- A. Upon the approval of the Arts Commission recommendation and the City Council, if necessary, the City of Austin shall contract with the artist(s) for services or for the purchase and installation of a specific artwork.
  - 1. In general, Art in Public Places project contracts shall require the artist(s) to produce, deliver, and install a work of art for a guaranteed maximum cost and by a predetermined time, which is in keeping with the construction project schedule.
  - 2. Depending on the nature of the project, performance by the artist may be contractually ensured through phased payment for work completed and/or professional liability coverage.
  - 3. In addition, the artist may be asked to make a public presentation at an appropriate time and in an appropriate forum in the community.
- B. Prior to the construction of a work of art, the artist must obtain approval of the final design by both the Art in Public Places Panel and the Arts Commission.
  - 1. The AIPP Program Manager shall work with the artist to finalize the budget for each project to ensure that all necessary costs are met, and the Art in Public Places Panel shall approve the final budget during the final design approval phase.
  - 2. The artist will work with the city department, the project design team and the community members receiving the artwork to create a work in keeping with the goals of the project as listed in the prospectus.
    - a. It shall be the primary responsibility of the artist to collaborate on the design of the artwork and its relationship with the site.
    - b. The artist shall be required to bring the artwork design to the Art in Public Places Panel for review at Mid-Design and approval at Final Design.
  - 3. Once the artist has received final design approval, the artist will not deviate substantially from the approved design.
    - a. The Art in Public Places Panel and AIPP Program Manager shall have full authority to determine what constitutes a substantive change in the design.
- C. All project consultants contracted for an eligible construction or renovation project shall be advised of the Art in Public Places Program requirements and guidelines by the City department contracting them.

1. The consultant and appropriate City representatives shall work closely with the AIPP Program Manager in the development of the artwork project and with the jury in the selection of the artist/artwork.
  2. The consultant shall incorporate the requirements of the work of art into the construction documents, including time of delivery and installation.
- D. On-site activity in connection with the installation of artwork is the responsibility of the artist. The artist will schedule on-site activity with the AIPP Program Manager, and the appropriate City representatives within the departments having jurisdiction over the site and/or construction.
- E. The Art in Public Places Administrator shall function as the single point of contact between the artist and the various City Departments involved in the completion of each artwork project.
1. During artwork installation, in instances where construction matters cannot be resolved between the artist and the consultant, the User Department project manager shall have final authority.
- F. The AIPP Program Manager shall establish and maintain appropriate records on each project, which shall include the contract with the artist, records of the Panel's and Commission's actions, interdepartmental agreements, all billings made in connection with the project and all correspondence related to the project.
1. In addition, the AIPP Program Manager shall maintain records particular to the project to ensure adequate standards of documentation, registration, care, and installation of the artwork.

## **XI. MAINTENANCE OF WORKS OF ART**

- A. The Art in Public Places staff shall make a maintenance and repairs needs assessment of the City's Art in Public Places collection to annually share with the AIPP Panel.
- B. The works of art acquired through the Art in Public Places Ordinance become the property of the City of Austin and are held in trust by the User Department. Therefore, the expenses associated with the routine maintenance and operation of each artwork shall be incurred by the user department and considered to be part of the routine maintenance of the facility.
1. Routine maintenance shall be understood to include such things as the periodic cleaning of a work and operational costs such as water in the case of a fountain.
  2. Any substantive repair of the work, such as structural repair, shall be considered to be an expense of the related Public Art Fund.

3. Per the Ordinance, no maintenance or repair work shall be performed by the user department without the prior written consent of the Art in Public Places Program Manager.
- C. The City shall not move any work of art from the site for which it was selected, nor remove it from display, without the prior written consent of the Arts Commission and in conformance with legal restrictions regarding the source of funds for that work of art.
  - D. So far as practical, in the event repair of the artwork is required, the City shall give the artist the opportunity to do that work for a reasonable fee.
    1. Disputes concerning what constitutes a reasonable fee shall be settled by a panel of three visual art professionals with knowledge of curatorial concerns, to be appointed by the Arts Commission.
    2. If the artist declines to perform the needed repairs for such a fee, the City may solicit bids from qualified conservators and award a contract to the conservator presenting the lowest and most responsible bid.

## **XII. ELIGIBLE COSTS FOR TWO PERCENT MONIES**

- A. All Art in Public Places contracts shall require the artist to design, produce, deliver and install a work of art for a guaranteed maximum cost. This cost may include the cost of the work itself and any associated costs which may be required by the City of Austin or inherently related to the implementation of the project. Therefore the following costs are eligible expenditures for the 2% monies included in the total project commission:
  1. The work of art itself, including but not limited to:
    - a. Artist's design fee;
    - b. Additional labor, materials, and contracted services required for the production and installation of the work;
    - c. Artist's operating expenses related to the project;
    - d. Travel related to the project;
    - e. Transportation of the work to the site;
    - f. Installation of the work.
  2. Identification plaques and labels.

3. Frames, mats, mountings, anchorages, containments, pedestals, or materials necessary for the installation, location or security of the work or art.
  4. Photographs or slides of the completed work for the purposes of routine documentation of the project.
  5. Permits or fees necessary for the installation of the work of art.
  6. Legal costs directly related to the project.
- B. In addition to the actual costs associated with the Art in Public Places project commission, the 2% monies are by Ordinance to be used for the selection, acquisition, and maintenance of the work of art commissioned or purchased through the Art in Public Places Program. Therefore the following items are eligible expenditures of the 2% monies:
1. The project specific costs of the Art Public Places Program associated with the selection and acquisition of artwork.
  2. Jury honoraria expended for the purposes of selecting the artwork.
  3. Payment for artists invited to submit proposals for a project.
  4. Substantive structural repair and maintenance of the works of art commissioned through the Art in Public Places Program.

### **XIII. INELIGIBLE COSTS FOR THE TWO PERCENT MONIES**

- A. Directional elements such as supergraphics, signage, or color coding except where these elements are integral parts of the original works of art.
- B. Art objects which are mass produced of standard design such as playground equipment or fountains.
- C. Reproductions, by mechanical or other means, of original works of art, except in cases of film, video, photography, printmaking or other media arts.
- D. Decorative, ornamental, or functional elements which are designed by the building consultant as opposed to an artist commissioned for the purpose.
- E. Landscape architecture and landscape gardening except where these elements are designed by the artist and are an integral part of the work of art by the artist.
- F. Services or utilities needed to routinely operate or maintain the artwork over time.
- G. Project Consultant's fees.

- H. Modifications in or improvements to building surfaces or structural elements of the building.
- I. General administrative costs of the Art in Public Places Program, those which are not directly related to a specific project.

**XIV. THESE GUIDELINES AND THE ART IN PUBLIC PLACES ORDINANCE ARE SUBJECT TO AN ANNUAL REVIEW FROM THE PASSAGE OF THE ORDINANCE.**