

# **ART IN PUBLIC PLACES PROGRAM GUIDELINES**

Approved by City Council May 24, 2018

## **I. PROGRAM OVERVIEW**

Palm Desert is a vital and contemporary city. Because a firm commitment exists to preserve the area's unique character and to balance development with artistic enhancement, Palm Desert has become a mecca for the flourishing recreation, resort, housing, and retail industries. Art has played an important role in the creation and maintenance of the character and image in the City of Palm Desert. The Art in Public Places Program provides for the integration of artworks throughout the City in public and private development to enrich the built and social environment.

Palm Desert was the first city in Riverside County to create a public art program. In 1986, the City Council adopted an ordinance requiring Developers to place art or pay a fee to the Art in Public Places Fund for each new structure they build. These funds are used to purchase art for the Palm Desert community. The goals of the Public Art Program are to create an artistic harmony between the buildings, landscaping, and open spaces as well as to serve the people of the community and visitors by bringing art into daily life. The Art in Public Places Commission (AIPP) serves as a technical advisory committee to the Council, and makes the initial selection and recommendation of artists and artworks for public and private projects.

## **II. WHY PUBLIC ART?**

In its thirty years of programming, Palm Desert has taken the lead nationally in ensuring that its growth respects and complements the natural, built, and social landscape. Public art is one method of ensuring that the visual experience of the City is enriching and engaging. Increasingly, cities and major developments across North America, Asia, and Europe are discovering the power of art in creating opportunities for cultural tourism, economic development, and image building.

## **III. ART IN PUBLIC PLACES REQUIREMENTS**

Through its Public Art Ordinance, the City requires that its own Capital Improvement Projects (CIP), and private development projects contribute a percentage of the overall project construction budget (excluding land costs) to enhancing the visual appeal of the project and City. An Art in Public Places Fund was established as a depository for public art fees paid by the City and private developers to secure a building permit from the City of Palm Desert. For the private sector, this fee may be refunded if an artwork has been either placed on the development site or donated to the City. The fee remains in the Art in Public Places Fund for the discretionary use of the City for placement of art should the Developer elect not to participate in the program. City generated funds are typically tied to the related construction

site, but unspent project funds may be pooled with other unspent funds and utilized off site upon conclusion of the project.

**A. Program Requirements**

No permanent or temporary Certificate of Occupancy shall be issued for any structure in the City unless the Art in Public Places requirements have been satisfied, which can be achieved through payment of the Art in Public Places fee. If the developer decides to install a work of art, upon project completion and approval by the City, the Art in Public Places fee will be returned to the developer. Artwork located on private property shall remain the property of the owner. Ownership of the work will transfer to any successive owner of the property. Once the artwork has been accepted by the City and installed it cannot be removed or altered without specific written approval of the Art in Public Places Commission. Private sector projects subject to compliance are:

- All individual residential units whose building valuation permit is in excess of one hundred thousand dollars (\$100,000) which is assessed an amount equal to one quarter of one percent (1/4%) for that portion in excess of one hundred thousand dollars.
- All other residential development, including two or more single-family dwellings being built concurrently in the same tract by the same owner or contractor which is assessed an amount equal to one quarter of one percent (1/4%) of the total building valuation.
- All commercial development which is assessed an amount equal to one half of one percent (1/2%) of the total building valuation, excluding land acquisition and off-site improvement costs.

Public Art fees are paid to the Building and Safety Department prior to issuance of a Certificate of Occupancy. The total building valuation is computed by using the latest Building Valuation Data as set forth by the International Conference of Building Officials (ICBO).

## **B. Developer Options**

Several options are available to the private developer to meet the City's art requirement. They are:

### **1. Artwork On Site**

Upon assessment of the public art fee, the Developer may elect to site a permanent public artwork as part of the development project. Using this option, the Developer may:

- Utilize the Palm Desert Artist Registry to find artists;
- Select the artist directly;
- Hire a professional consultant (at a rate not to exceed 5% of the total cost of the project), to select an artist or artist team to create site-specific artwork;
- Purchase artworks for permanent installation.

Artworks may be:

- Singular, discrete objects (sculpture);
- Artist designed amenities (streetscapes, paving treatments, lighting standards and treatments, benches, wayfinders, architecturally integrated water features, artist designed landscape treatments or other artist designed amenities or aesthetic treatments);
- Artworks must be located outside in publicly accessible locations;
- If artwork is part of a limited edition series, the series must be no larger than 20.

Upon completion and installation of the work on site, and a request utilizing the appropriate paperwork is submitted to and approved by the City Council, the art fee will be returned to the Developer. The returned fee will be in an amount that is equal to the cost of the installed artwork, but does not exceed the amount paid into the Art in Public Places Fund.

**Artwork On Site** approach allows the Developer to:

- Maximize and return the outlay of art fees by bringing a signature artwork to the development as an identifying and prestige feature;
- Increase the scope of work of a particular project or feature within the development by using art allocations to supplement and enhance the budget (for example, bringing an artist in to design an already budgeted water or entry feature);
- Keep the artwork on site.

## **2. Art Donated to the City of Palm Desert**

Upon assessment of the public art fee, the Developer may elect to purchase an existing artwork or commission an original artwork for donation as a gift to the City of Palm Desert's public art collection. Donations to the City are reviewed by the Art in Public Places Commission and the City Council to determine the aesthetic quality of the donation, the work's maintenance requirements and the appropriateness of the donation to the overall goals of the Art in Public Places Commission.

This approach allows the Developer to:

- By-pass the commissioning process and the subsequent installation of the artwork on the property in favor of purchasing an artwork for the City to own and maintain.
- Increase public awareness of the Developer and development as civic benefactors.
- Upon donation of the artwork the Public Art fee will be returned to the Developer. The returned fee will be in an amount that is equal to the cost of the installed artwork, but does not exceed the amount paid into the Art in Public Places Fund.

## **3. Fees in Lieu of Artwork On Site**

- Upon assessment of the public art fee, the Developer may elect to pay the fee to the Art in Public Places Fund with no intention of placing artwork on site or donating a work of art to the City. Funds are subsequently used by the City of Palm Desert and the Art in Public Places Commission on publicly

sited projects of their choosing.

- This approach allows the Developer to:
- By-pass completely the public art selection and placement process.

#### **IV. SITE CRITERIA FOR DEVELOPERS**

##### **A. Eligible Public Art Locations**

- Such facilities include commercial or residential buildings and adjoining plazas, parks, sidewalks, traffic islands, public buildings, power stations, etc.
- Spaces may only be exterior and must be accessible to the public at all times.
- Locations can include surface treatments of buildings, retaining walls, and bridges. The definition of “location” can also be expanded by an artist’s ability to extend the possibilities for public art, and would then be determined on a case-by-case basis.
- Projects can also include artist-designed features that might otherwise be provided by commercial sources, such as gates, water fountains, tile and surface materials, doors, furniture, clocks, lighting fixtures, railings, signage, etc. by using public art allocations to supplement and enhance the budget.

##### **B. Eligible Public Art Components**

###### **On-Site Art in Public Places**

The Art in Public Places Program is receptive to the broadest definitions of art and encourages imaginative interpretations of media. The possible media and materials, which might be used for permanent installation, decorative or functional purpose, include:

- Sculpture: Free standing, wall supported or suspended, kinetic, electronic, etc., in any material or combination of materials.
- Painted and mosaic murals.
- Earthworks, fiberworks, 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 gates, streetlights, signage, etc., may be contracted to artists for unique or limited editions.

## **V. BUDGETARY GUIDELINES FOR DEVELOPERS**

### **Eligible Costs**

All artworks created by artists are considered eligible expenses for the Art in Public Places program as well as the following:

- Structures, which enable the display of artwork(s).
- Artists' budgets for projects, which will be expected to cover:
  - Professional fees for the artist(s).
  - Labor of assistants, materials, and contracted services required of the production and installation of the work of art.
  - Any required permit or certificate fees.
  - Business and legal costs directly related to the project.
  - Studio and operating costs.
  - Communication and other indirect costs (insurance, utilities).
  - Travel expenses of the artist for site visitation and research.
  - Transportation of the work of art to the site.
  - Preparation of site to receive artwork.
  - Installation of the completed work of art.
  - Documentation (color slides and black and white photographs) of the artwork.
  - Subcontractors including fabricators, engineers, contractors, signage, etc.
  - Installation of lighting with the explicit intent to light the artwork.

## **B. Ineligible Costs**

- Directional elements such as supergraphics, signage, or color-coding except where these elements are integral parts of the original work of art.
- “Art objects” which are mass-produced of standard design such as playground equipment, fountains, or statuary objects.
- Reproductions, by mechanical or other means, of original works of art.
- Decorative, ornamental, or functional elements that are designed by the building architect as opposed to an artist commissioned for this purpose.
- Landscape architecture and landscape gardening except where these elements are designed by the artist and/or are an integral part of the work of art by the artist.
- Services or utilities necessary to operate or maintain the artwork over time.
- Artwork maintenance.

## **VI. ART IN PUBLIC PLACES ART SELECTION GUIDELINES**

- Will the art component be concentrated in one area or distributed throughout the public spaces?
- Is the proposed project a collaborative effort? If so, specify the participants, responsibilities, and proposed arts budget allocation to non-arts components, if applicable.
- How will the art component function within the whole development? Activate a space? Provide a landmark? Serve a function (gateway, seating, etc.)?
- Who are the primary and secondary audiences for the artwork (pedestrians, building users, tourists, automobile traffic, etc.)?
- How has the anticipated audience influenced your choice of artwork?
- If applicable, describe plans for artwork to conform to necessary safety and functional requirements. Who will assist on these requirements?
- Describe plans for fabrication and installation of the artwork.
- Describe needs and plans for ongoing maintenance responsibilities.

- Please submit 50 percent schematic design, with model, if appropriate.

## VII. PRIVATE OWNERSHIP AND MAINTENANCE REQUIREMENTS

### A. Maintenance

All privately sited artworks shall remain the property of the owner for the life of the project. Title and ownership of the artwork shall transfer in whole or in part to any successor in interest of the structure. The owner of the artwork shall provide all maintenance necessary to preserve the work in good condition. In addition, the owner of artwork shall maintain in full force and effect fire and extended insurance coverage, including but not limited to vandalism coverage, in a minimum amount of the purchase price of said artwork. Failure to maintain the artwork will make the owner subject to possible liens against the real property.

### B. Removal or Alteration of the Work

Public art installed onto or integrated into a private construction project shall not be removed or altered without the approval of the City Council. If the art is knowingly removed or altered without prior approval from the Art in Public Places Commission, the Certificate of Occupancy may be revoked by the City Council upon due notice. In addition, if artwork is removed by the property owner without the approval of the Art in Public Places Commission, the owner shall contribute funds equal to the original public art fees, or replace the work with another of equal value, as approved by the City. If this requirement is not met, the Certificate of Occupancy may be revoked.

### C. Filing of Public Art Agreement with the County of Riverside

Owner must execute a recordable Public Art Agreement regarding ownership and maintenance of the artwork. The Agreement must be recorded with the County of Riverside before the Art in Public Places fee can be refunded.

## VIII. SITE SELECTION

General criteria for the selection of an art site include:

### A. Location, Installation and Identification

- Artworks for public and private projects must be located in an exterior area, which is accessible to the public at all times.

- Installation of the artwork should be planned to complement the work and allow for unrestrained viewing from a variety of vantage points.
- Potential obstruction of growing trees, shrubbery, or future construction should be taken into account.
- The artwork shall be a permanent, fixed asset to the property.
- Each artwork shall be identified by a plaque stating the artist's name, artwork title, and date the artwork was dedicated. The plaque will be placed in an appropriate location near the artwork that can be easily accessed by pedestrians.

**B. Public Placement**

- Artwork sites for public projects are selected for its aesthetic possibilities as recommended by the AIPP Commission or the City Council.
- Sites may include urban gateways, vistas, public spaces and plazas or other exterior, publicly accessible places.
- Particular attention will be given to providing artwork at major intersections, corridors and entrances to the City of Palm Desert.
- Artwork sites for City Capital Improvement Projects including private donations may include public facilities such as the Civic Center, senior center, schools, parks and recreation buildings or other sites as appropriate.

**C. Private Placement**

- On-Site: The artwork shall be displayed in one or more of the following locations on the site of the commercial structure.
- Architecturally integrated into the structure or hardscape.
- Placed as a discrete object in any exterior location open and available to the general public, in a manner, which complements the artwork and site.
- Off-Site: At the request of the applicant, the artwork may be located on a site other than that of the development provided, however, that the site is selected by the Art in Public Places Commission and approved by the City Council.

## IX. ARTWORK SELECTION

### A. Selection Criteria for Artists

- General criteria for the Art in Public Places Commission or developer to consider in selecting artists for public or private projects should include:
- The aesthetic and technical quality and originality of the artist's previous work as evidenced by images of past projects and other supporting materials;
- The artist's previous experience with public art projects of a similar scale and scope;
- The artist's demonstrated ability to execute and complete a project in a timely and professional manner;
- The artist's ability to communicate ideas verbally and visually, and work effectively in a team environment;
- The appropriateness of the artist's proposal to the particular project and its probability of successful completion;
- A wide variety of nationally known artists as well as local artists.

### B. Selection Criteria for Artwork

General criteria for the Commission or Developer to consider in selecting artwork for public or private projects should include:

- Quality: artwork demonstrates originality, artistic excellence, and quality;
- Media: all visual forms and media may be considered, subject to the selection jury or the Art in Public Places Commission;
- Style: artworks of all schools, styles, and tastes should be considered;
- Response to Site: artworks and art places should be appropriate in scale, material, form, content, and value for the immediate, general, social, and physical environments with which they are to relate;
- Team Approach: encourage the early involvement of the artist as a member of the project design team of architect, engineer, landscape architect, etc.;

- Durability: consideration should be given to structural and surface integrity, permanence, and protection against theft, vandalism, weathering, excessive maintenance and repair costs;
- Elements of Design: consider that public art, in addition to meeting aesthetic requirements, may also serve to establish focal points, terminate areas, modify, enhance, or define specific spaces or establish identity;
- Public Liability: artworks and art places should be examined for unsafe conditions or factors that may bear on public liability;
- Diversity: strive for diversity of style, scale, media, artists, community values, forms of expression, and equitable distribution of artworks throughout the City.

### C. Selection Methods

Artworks for public and private projects may be selected in a variety of methods. In addition to advertising of projects, the Palm Desert Artist Registry ([www.palmdesertartistregistry.com](http://www.palmdesertartistregistry.com)) is a resource for the review and direct selection of an artist or artwork. Selection methods may include but are not limited to:

- Open Competition: The project is advertised locally, regionally, nationally, or internationally and through the AIPP artist data bank. Interested artists may submit materials for review, which include images of past projects, letter of interest, resume, references, and supplementary materials such as reviews, articles, books or brochures.
- Limited Invitational: A selected number of artists are invited to submit materials for review. Artist finalists may be selected to submit detailed models for the project for which they will be paid a fee.
- Invitation: One artist is invited to submit materials for review, and may be commissioned to create a detailed proposal.
- Direct purchase: An existing work is purchased for a specific project.

Selection of the artwork for City sponsored projects is subject to the artist(s) providing materials and completion bond (upon request), as well as completing a contract as set forth by the City Attorney.

## **X. REVIEW AND APPROVAL PROCESS**

### **A. Art in Public Places Commission**

The Art In Public Places Commission serves in an advisory capacity providing recommendations for art placement to the City Council.

Membership of the AIPP Commission is made up of seven (7) arts professionals who are residents of Palm Desert. Arts professionals for these purposes are defined as: curators, visual artists, art critics, art historians, art collectors, architects, landscape architects, art educators, and other persons with visual arts backgrounds respected in their field and willing to engage effectively in a panel process. Commission appointments shall be made by the City Council who may on occasion appoint a non-resident visual art professional whose expertise is required for the program.

The Architectural Review Commission and the Planning Commission shall each appoint one member to serve as a non-voting liaison to AIPP. These members are responsible for providing follow-up to both commissions/committees on the status of current projects.

A City Council liaison appointed by the Mayor and a Staff liaison appointed by the City Manager serve as ex-officio members to the Commission.

Membership appointments will be limited in order to (1) promote equal opportunity to the membership to serve in a leadership role; (2) bring a diverse aesthetic; (3) bring diverse ethnic and cultural perspectives to the program; (4) most precisely match the project's program to the expertise of the panelist.

### **B. AIPP Responsibilities**

The AIPP is charged with the responsibility to:

- Serve as the selection panel for all City initiated public art projects;
- Serve as the first review body for all privately initiated public art projects;
- Provide technical and aesthetic recommendations for all public and private public art projects for the City Council;
- Review artist applications for participation in the Art in Public Places Artist Registry;

- Create and recommend cultural policy for the visual arts for the City of Palm Desert.

## **XI. ARTIST SELECTION METHODS**

### **A. City of Palm Desert Public Process**

1. Artists solicited (solicitation process dependent upon selection method as determined by AIPP Commission);
2. Materials reviewed by AIPP Commission, finalists shortlisted (as appropriate) to prepare and present a proposal. The selected proposal is forwarded as a recommendation for commission or purchase to the City Council;
3. Review by City Council with direction to staff to proceed with commission contract if approved;
4. City Council determination of final acceptance upon project completion.

### **B. Private Development Process**

1. Public Art Guidelines received upon contact with Planning Department;
2. Art in Public Places Program contacted;
3. Public Art fees paid to receive building permit;
4. Pre-Design consultation with City Public Art Management Analyst;
5. Artwork site/artwork selected;
6. Art in Public Places application submitted;
7. City review/approvals of artwork site and artwork (AIPP and the City Council) prior to artwork installation;
8. Artist/artwork commissioned/donated/purchased;
9. Artwork installed, including any required certificates or permits and plaque;
10. City notified of completion with a request for a return of AIPP fee;

11. Application for refund of fee submitted and reviewed for approval by City Council.
12. AIPP fee returned to applicant if required by these regulations.