

RESOLUTION NO. 2013-11-___ (R)

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCKINNEY,
TEXAS, AUTHORIZING THE REVISION OF THE PUBLIC ART
PROGRAM**

WHEREAS, the City Council of the City of McKinney, Texas, finds that public art enhances the beauty and economic vitality of public spaces; and

WHEREAS, the City Council of the City of McKinney, Texas adopted a Public Art Program on December 6, 2011, by Resolution 2011-12-118R; and

WHEREAS, the City Council of the City of McKinney, Texas wishes to amend the Public Art Program to establish a designated revenue fund for a Public Art Fund, rather than a Public Art Trust Fund, for the purpose set forth in the guidelines; and

WHEREAS, the City Council of the City of McKinney, Texas wishes that any unspent funds allocated annually to the Arts Commission for support of the Arts in McKinney may be redirected to the Public Art Fund.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, THAT:

Section 1. The City Council of the City of McKinney, Texas hereby approves the amendment of the Public Arts Program.

Section 2. This Resolution shall take effect immediately from and after the date of passage and is so resolved.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ON THE 5th DAY OF NOVEMBER, 2013.

CITY OF MCKINNEY, TEXAS

BRIAN LOUGHMILLER
Mayor

ATTEST:

SANDY HART, TRMC, MMC
City Secretary
BLANCA I. GARCIA
Assistant City Secretary

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney

10/17/2013



CITY OF MCKINNEY

PUBLIC ART PROGRAM ADMINISTRATIVE GUIDELINES

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EXECUTIVE SUMMARY

In December 2011, the McKinney City Council approved a Public Art Program, making the acquisition, commissioning and strategic placement of public art a priority for the City. Council assigned the responsibility for advising on the program and implementing it to the McKinney Arts Commission.

The policies and procedures in this document will guide the way that the City of McKinney, through its Arts Commission, City Council and staff, approaches the commissioning and acquisition of new public artworks. They also address related activities, such as the maintenance and conservation of artworks. These policies and procedures relate primarily to projects the City undertakes, artworks that are offered for donation to the City and artworks that are already in the City's Public Art Collection. They do not apply to the management of the Portable Collection, and they do not apply to projects being commissioned privately by businesses, institutions or other entities.

Sources and Uses of Funds. This section describes the City's Public Art Fund, the sources of funding for public art, and the uses to which the Fund can be put. The Fund will be set up by the City to hold all monies raised and allocated to support the implementation of the Public Art Program. Funding will come from contributions from individuals, corporations, foundations and developers, as well as grants and, on occasion, City funds. There is no dedicated source of funding from the City or other public agencies. The Fund can be used for expenses associated with the selection, commissioning, acquisition, installation, conservation, maintenance, administration, removal and insurance of works of public art.

Roles and Responsibilities. This section describes the distinct roles that the City Council, the Arts Commission, Selection Panels, the City Manager's Office, staff from other City departments and artists will play in making McKinney's Public Art Program successful. The Arts Commission will oversee the Public Art Program; the City Council will have final decision-making authority regarding allocations from the Public Art Fund and the selection and placement of Public Art; and the City Manager's Office will provide staff support. For the selection of artists or artworks, the Arts Commission may elect to call upon the assistance of an ad-hoc Selection Panel.

Planning Processes for Public Art. This section describes the planning tools the Arts Commission will use to guide the Public Art Program and the commissioning and acquisition of Public Art. These include the Public Art Master Plan, the Annual Work Plan and Budget and Individual Project Plans. These will be prepared by the Arts Commission with support from the City Manager's Office, and will be approved by City Council. McKinney's planning and economic development activities will also consider possibilities for public art from the earliest stages of planning, and the Arts Commission will be engaged in these processes when appropriate.

Project Development Process for Public Art. This section explains, step by step, the processes for commissioning and acquiring public art. The Arts Commission will use a competitive process for commissioning or acquiring a work of art, and will ensure that community stakeholders and members of the arts community are involved in artist selections. City staff will manage the project from contract through completion and review the technical aspects of proposals. The City Council will review all new Public Art commissions and acquisitions both at the onset of the project, with approval of an Individual Project Plan, and once there is a Concept Design or artwork recommended by the Arts Commission.

Gifts and Loans. This section explains the process for reviewing and approving proposals to loan or donate artworks to the City. From time to time, private individuals, foundations, corporations or other organizations may wish to give or loan the City of McKinney a work of art for public display. While these gifts and loans can be a great way to enrich public spaces, it is important to consider carefully whether the gift or loan meets the City’s vision for Public Art and ensure that the related costs and risks of the gift or loan are understood.

Collection Management. This section discusses documentation practices, policies for the conservation and maintenance of artworks, and the process for de-accessioning or relocating artworks in the City’s collection. The Arts Commission will work with the City Manager’s Office to ensure that the Public Art Collection is properly maintained and preserved, that a periodic assessment of conservation needs is made, and that proper records regarding the works in the collection are kept. The Arts Commission will review and make recommendations to City Council regarding the de-accession or relocation of works in the City’s Collection, using a strict set of criteria.

Together, these policies and procedures provide a robust framework for a Public Art Program whose growth and vitality matches that of the City of McKinney.

A VISION FOR MCKINNEY’S PUBLIC ART PROGRAM

The following policies and procedures provide a detailed guide for implementing the public art vision, goals and projects that the City of McKinney has established through the Public Art Master Plan, which accompanies this document.

Vision

The McKinney Public Art Program will create innovative artistic experiences that strengthen gathering places for McKinney residents, reinforce the high quality and uniqueness of the City’s built and natural environment, and set McKinney apart as a place to visit, live and do business.

Principles

This vision for public art rests on three central principles that are important to the community and were voiced repeatedly during the planning process: “community place making,” “civic design” and “tourism and economic development.” Each principle reveals different opportunities and suggests different emphases and priorities for the Public Art Program.

Community Place Making: Public art should help create gathering places for McKinney residents, connect people with the place and with each other, and provide engaging, educative experiences.

Civic Design: Public art should reinforce the high quality of the City’s built environment and reflect the uniqueness of its natural landscape; mark important civic features such as streams, civic facilities and infrastructure; enhance the City’s appeal, image and identity in the eyes of residents and businesses; and encourage excellence in private development.

Tourism and Economic Development: Public art should create innovative artistic experiences that attract visitors from outside the City, enhance the desirability of McKinney as a place to live and do business, make the creative energy of the City palpable to anyone who visits and elevate the image of McKinney as a cultural destination with unique offerings.

SOURCES AND USES OF FUNDS

The following guidelines address the sources, management and uses of funds for the Public Art Program.

The Public Art Fund

The Public Art Fund is a fund administered by the City of McKinney to hold all monies raised and allocated to support the implementation of the Public Art Program.¹ The Arts Commission, working with the City Manager's Office, will develop an Annual Plan and Budget that outlines the anticipated uses of the Fund and will present it to City Council for approval. Public Art Fund monies not expended at the conclusion of a fiscal year will roll over into the following fiscal year.

Uses of the Public Art Fund

The Public Art Fund can be used for expenses associated with the selection, commissioning, acquisition, installation, conservation, maintenance, administration, removal and insurance of works of public art. Specifically, Public Art Fund monies can be used for:

- Artist fees and artist travel and expenses that are related to the City's commissioning of a work of art as stipulated in a contract with the artist.
- Artwork fabrication, storage and installation per contract.
- Acquisition of existing works of art.
- Required permits and insurance during the fabrication and installation of the artwork per contract.
- Project consultants and contracted services if related to the commissioning, acquisition or conservation of artwork.
- Artist selection costs, such as artist travel and honoraria.
- Education and outreach, including collateral materials, symposia and special events.
- Publicity for public art projects.
- Curatorial and appraisal services.
- Conservation and maintenance.
- Public art planning.
- Other purposes recommended by the Arts Commission and approved by City Council for the successful implementation of the program.

Public Art Fund monies cannot be used for:

- Mass produced work, with the exception of limited editions controlled by the artist.
- Artwork not recommended by the McKinney Arts Commission.
- Decorative, ornamental or functional elements that are designed by the architect or landscape architect that has been hired by the City to design the related capital project, if applicable.
- Purchase of existing works of art outside of the selection process.

Grants or donations received by the City for commissioning public art should be used in accordance with the restrictions specified or required in association with the grant or donation.

¹ The Fund was outlined in the Public Art Program established by City Council in December, 2011.

Funding Sources

McKinney's Public Art Program will rely on a variety of funding sources. These will include contributions from individuals, corporations, foundations and developers, as well as grants and, on occasion, City funds. There is no dedicated source of funding from the City or other public agencies.

Private Contributions

The Arts Commission will actively solicit funding from individuals, corporations and foundations and other granting organizations to support the commissioning and acquisition of public art, as well as any other purposes for which the Public Art Fund can be used, such as education, community engagement, maintenance and conservation. A common concern of donors who are asked to contribute to governmental entities is that the contribution will go into a general fund and not be used for the specific project, program or purpose being supported. For this reason, the City will create a special revenue fund to accept checks made out to the "City of McKinney Public Art Fund" to give donors assurance that the funds will be put into a specific account.

Grants

The Arts Commission, working with the City Manager's Office and other related City Departments and partners, will seek grants to help support the activities of the Public Art Program.

In addition, when the City writes a grant request to an outside funding source for capital funding and there is an interest in including public art in the capital project, then the request will include provisions for public art to the extent allowable by the grant source.

Developer Contributions

The City of McKinney encourages, but does not require, private developers who apply to the City for building permits to construct or reconstruct a commercial or municipal structure to donate to the Public Art Fund or to acquire or commission artworks that are located in publicly accessible or visible areas of their projects.²

City Funds

The Arts Commission may request from the City Council that a portion of its annual budget, up to ten percent, be placed in the Public Art Fund to support public art projects and initiatives. When this or any other source of City funding is used to support public art, the Arts Commission will contribute at least a 50-50 match from external fundraising.

Government vs. Nonprofit Status

The legal status of the entity that manages the Public Art Fund will impact the ability to raise funds through contributions and grants.

The tax-deductible status of the organization that manages the Fund can be an important consideration for individuals and corporations and foundations interested in donating to the Fund. Since the Arts Commission is a government entity, private donations to the Fund can be tax deductible.³ The Arts Commission should state its tax-deductible status in any communications relating to fundraising and donor acknowledgement letters should confirm amount of the tax-deductible contribution.

² This is included the Public Art Program established by City Council in December, 2011.

³ See IRS Publication 526, Charitable Contributions, <http://www.irs.gov/uac/Publication-526,-Charitable-Contributions-1>. Contributions would also be tax deductible if the Public Art Fund were managed by a non-profit entity.

Governmental status is also an important consideration for many grant making entities, such as public agencies and foundations. The Arts Commission's status as a government entity will be important for securing grants from other government agencies; for example, the National Endowment for the Arts and the Texas Commission on the Arts have funding categories specifically for government entities.

On the other hand, nonprofit, charitable status is important to other grant makers, some of whom will only make contributions to entities that are designated as 501(c)3 corporations by the IRS.

If, after a focused period of fundraising, the Arts Commission runs into obstacles because it lacks nonprofit status, the Commission should consider options such as establishing a 501(c)3 corporation or creating a special fund within a community foundation.

ROLES AND RESPONSIBILITIES

The City Council, the McKinney Arts Commission, the City Manager's Office, staff from other City departments, Selection Panels and artists will all play important and distinct roles in making McKinney's Public Art Program successful.

City Council

Description: The McKinney City Council consists of seven members. Three members, including the Mayor, are elected at-large and the rest are elected by their respective districts. The City Council has oversight over all City policies related to public art, including the Public Art Master Plan, the Annual Plan and Budget, Individual Project Plans and Concept Design for public art commissions. Council also has oversight over acquisitions, donations and the relocation and de-accessioning of art.

Roles:

- Approves Public Art Master Plan.
- Approves Public Art Program's Annual Plan and Budget.
- Approves the Individual Project Plan.
- Approves artist Concept Design.
- Approves contracts for projects for which the budget allocation was not previously approved in an Annual Plan and Budget or an Individual Project Plan.
- Approves all policies related to the Public Art Program.
- Approves acquisitions.
- Approves gifts and long-term loans of public artworks.
- Approves the de-accession and relocation of public art.

McKinney Arts Commission

Description: The McKinney Arts Commission is an advisory body to the City Council. It comprises seven members who are appointed by City Council. One to two members of the Arts Commission should be chosen based upon previous experience with, and an interest in, fundraising.

Roles:

- Develops and approves Public Art Master Plan and forwards to City Council for approval.
- Develops and approves Annual Plan and Budget and forwards to City Council for approval.
- Develops and approves Individual Project Plans and forwards to City Council for approval.
- Appoints ad-hoc Selection Panels.
- Reviews and approves recommendations of Selection Panels and forwards to City Council.
- For proposed gifts and loans of artworks, conducts aesthetic review and recommends to the City Council whether the City should accept or not accept the donation.
- Reviews and makes recommendations regarding the de-accession or relocation of artwork from the City's public art collection.
- Makes recommendations regarding proposed revisions to public art policies and procedures.
- Spearheads fundraising efforts from individuals, corporations and foundations to support the Public Art Program.

- Participates, as appropriate, in long-range and current planning processes, and in planning for the incorporation of public art into capital projects.
- Serves as a resource to private developers who wish to incorporate public art into their projects.
- Participates, as appropriate, in the review of private development projects that include public art.
- Serves as an advocate for public art in McKinney.

City Manager's Office / Arts Commission Liaison

Description: The City Manager's Office coordinates and administers the implementation of policies, procedures and ordinances that will provide for the sustainable, managed growth of the City. The Liaison to the Arts Commission is staff appointed by the City Manager's Office to provide day-to-day administration of the Public Art Program.

Roles:

- Oversees the development of the Public Art Master Plan.
- Oversees the development of the Annual Plan and Budget.
- Oversees the development of Individual Project Plans.
- Facilitates artist selection, including drafting RFQs and RFPs, organizing artist responses and facilitating Selection Panel meetings for new Public Art commissions. Facilitates review of artworks for new Public Art acquisitions.
- Manages public art projects, including preparing contracts, facilitating technical review, inspecting artwork prior to installation and coordinating installation.
- Facilitates review of de-accession and relocation of public artwork and manages de-accession or relocation if approved.
- Facilitates review of gifts and loans of artwork and facilitates projects if approved.
- Maintains communication with artists, Host Department, Arts Commission, City Council and other stakeholders.
- Oversees the McKinney Public Art Collection by ensuring that artworks are properly maintained; overseeing periodic conservation assessments and maintaining an inventory of the collection.
- Ensures that City policies are followed.

City Departments and Staff

Description: The City's Engineering Department oversees the planning, design and construction of public improvements. The Planning Department assists in the safe, balanced, efficient, visually appealing and economically sustainable physical development within McKinney. Other City Departments are responsible for the site where Public Art is located. These Departments are referred to in this document as Host Departments.

Roles:

- Reports any issues related to art in the City's collection to the City Manager's Office.
- Undertakes routine maintenance, which is ordinary care that does not require specialized expertise, of Public Art at sites for which it is responsible.
- Participates in artist selection in an advisory capacity.
- Conducts technical review of Concept Designs and possible gifts and long-term loans.
- Collaborates with the Arts Commission to identify opportunities for public art that arise through long-range and current planning projects, and in the planning and design of capital project.

- Collaborates with the Arts Commission to review (when appropriate) public art that is incorporated into development proposals.

Selection Panel

Description: An ad hoc panel appointed by the McKinney Arts Commission for each project the Commission organizes and for each proposed acquisition. Selection Panels should be comprised of a mix of project stakeholders, including at least one member of the McKinney Arts Commission, residents of McKinney with a close connection to the site (neighbors, users) and local or regional artists and arts professionals. The Arts Commission should also invite a representative from the Host Department, the Engineering Department and/or the project architect hired by the City to work on the related capital project, to sit on the Selection Panel as non-voting, advisory members.

Roles:

- For commissions, reviews artist qualifications and selects finalists.
- For commissions, reviews Concept Design(s) and/or interviews finalists and recommends final selection to the Arts Commission.
- For acquisitions, reviews candidate artworks and makes a recommendation to the Arts Commission.

Artist

Description: The professional who is selected and contracted with to create a Public Art commission.

Roles:

- Develops and presents the Concept Design and the Final Design and Construction Documents for his or her project as per the contract.
- Attends meetings and makes presentations as requested by the City and agreed to by contract.
- Fabricates and installs or oversees the fabrication and installation of the artwork per approved Final Design and Construction Documents and contract; keeps the City staff informed of progress; and coordinates with other project stakeholders as directed by the City.
- Provides the City with all information necessary to ensure the proper maintenance and conservation of the artwork.
- Participates in dedications and other community outreach and education activities as requested by the City and agreed to by contract.

PLANNING PROCESSES FOR PUBLIC ART

Public Art Master Plan

The process of creating McKinney's Public Art Master Plan has built awareness, cooperation and involvement from City departments, civic leaders, private developers, community artists and other interested citizens. It has allowed for the identification of projects that are best suited to the City's needs and resources, and will improve the City's ability to integrate public art into other plans and projects.

The Arts Commission will update the City's Public Art Master Plan as necessary. The Plan will articulate a vision and goals for McKinney's Public Art Program, identify strategies to fulfill that vision and goals, and identify possible public art projects for the coming years.

Annual Plan and Budget

Each year, the Arts Commission will develop an Annual Work Plan and Budget that outlines public art activities and the use of the Public Art Fund for the coming fiscal year. The work plan and budget will lay out, on a project-by-project basis, the project development and project management activities that will be undertaken for public art projects, as well as other activities such as education, programming, planning, conservation and maintenance.

The Annual Work Plan and Budget will be developed by the Arts Commission and the City Manager's Office, approved by the Arts Commission and presented to City Council for approval when the Arts Commission makes its annual report to Council.

Individual Project Plans

The Arts Commission will undertake careful planning of each Public Art commission to ensure projects are well-conceived and enduring. This planning includes identifying the opportunity; finding project partners; understanding potential hurdles with permissions, permitting or construction; establishing realistic budgets and timelines and communicating with project partners at an early stage about the intent and scope of the project.

The Arts Commission, in collaboration with the City Manager's Office, the Host Department (if applicable) and other project partners, will develop an Individual Project Plan that guides each project that the Commission initiates. The Arts Commission approves the Individual Project Plan and forwards it to City Council for approval.

The Individual Project Plan is a tool that outlines the work that must be done to undertake the project, establishes the goals against which the project will be reviewed by the Selection Panel, the Arts Commission and City Council, and helps establish buy-in for the project among key stakeholders before the commissioning process begins.

The Individual Project Plan will outline each aspect of the project, including:

- A description of the project's location and other information regarding the proposed siting,
- The project goals, and how the project relates to the overall vision for public art in McKinney,
- Evaluation criteria against which the artist selection and Concept Design can be evaluated,
- The budget and funding sources,
- The project schedule,
- Project stakeholders,
- The artist's scope of work,
- The artist selection method,
- Recommended Selection Panel members with alternates,
- Any anticipated conservation and maintenance needs, and
- A community outreach strategy.

The Individual Project Plan will be informed by the Public Art Master Plan and other planning documents related to the site.

Coordinating with City Plans

McKinney's planning and economic development activities will consider possibilities for public art from the earliest stages of planning. This is important to ensure that the Arts Commission, staff and City Council can make appropriate decisions about the priorities for public art. This will also lay the foundation for any coordination that might be necessary, in

terms of prioritizing the use of existing funds or raising new funds, making appropriate site preparations, issuing or reviewing requests for proposals, etc.

- Long range City planning processes, such as area, sector and corridor plans, will consider possibilities for public art and make appropriate recommendations. Specifically, they will indicate public facilities, public spaces, infrastructure investments, development projects and other opportunities that are appropriate for the incorporation of public art. The Arts Commission will be engaged as a stakeholder or advisor in these processes.
- Economic development or joint-development initiatives will be considered as candidates for public art. The Arts Commission will be consulted, as appropriate, early in the planning process for these initiatives.
- City capital projects that have public visibility will be considered candidates for public art. The Arts Commission should be consulted in an advisory role early in the planning process for these facilities.
- Development Review activities should encourage developers to incorporate public art into their projects, especially in areas of the Town Center and the Regional Employment Center where public art is indicated as desirable in the codes and design guidelines. The Arts Commission should be consulted in an advisory role when public art is being included in private development projects such as these.

PROJECT DEVELOPMENT PROCESS FOR PUBLIC ART COMMISSIONS AND ACQUISITIONS

The following outlines the general steps in the process of commissioning or acquiring works of art, with emphasis on the role that the McKinney Arts Commission, Selection Panels, City staff and City Council will play.

The Commissioning Process

Define the Art Opportunity

The first step for a public art project is to define the general parameters of the project in an Individual Project Plan, as described in the section “Planning Processes for Public Art: Individual Project Plan”.

Select the Artist

In general, artists will be selected in a two-phase process. Specific approaches to artist selection are described later in this section.

Qualifications Phase. In the first phase, the City issues a Request for Qualifications to artists. Interested artists submit qualifications packages (generally a cover letter, resume, images of past work with descriptions and references). Artists can be invited through an open call or by invitation, as described in the “Artist Selection Approaches” section below. An ad-hoc Selection Panel reviews artist qualifications and selects finalists.

Finalist Phase. In the second phase, finalists are invited either to develop a site-specific Concept Design proposal for the project or to interview with the Selection Panel. If a Concept Design proposal is requested, the artist presents a physical representation of the work (rendering and/or three-dimensional model), a written project description, a description of materials and fabrication techniques, expectations regarding site

preparation and infrastructure needs and a detailed budget and timeline. The Selection Panel reviews artist concepts and/or interviews artists and recommends the selection of an artist for the project to the McKinney Arts Commission.

Select the Artists / Artist Concept

If the artist is selected based upon a competitive Concept Design proposal, then the recommended artist and Concept Design are forwarded from the Arts Commission to City Council for approval.

If the artist is selected based upon an interview, then the selected artist is put under contract to develop a Concept Design (this may be a separate contract or part of the overall design development, fabrication and installation contract). The Selection Panel reviews the selected artist's Concept Design and recommends it to the Arts Commission for approval. The Arts Commission forwards the recommended Concept Design to City Council for approval.

Contracting

The City of McKinney will enter into a contract with the artist for the design, development, fabrication and installation phases of the project. Specific considerations in artist contracts are discussed later in this section.

If the budget allocation was approved in the Annual Plan and Budget or an Individual Project Plan, then the agreement will be sent to the City Manager for approval. If not, the agreement will be sent to City Council for approval.

Monitor Final Design and Fabrication

Prior to fabrication, the artist takes the concept through Final Design and Construction Documents, further refining the design, fabrication techniques, materials, budget, etc. At this point, the artist may also need to have elements of their design reviewed and stamped by a licensed engineer in the State of Texas. The artist will submit the Final Design and Construction Documents to the Arts Commission for overall review and to City staff for technical review. The artist will not proceed with fabrication until receiving approval of the final design from the Arts Commission and City.

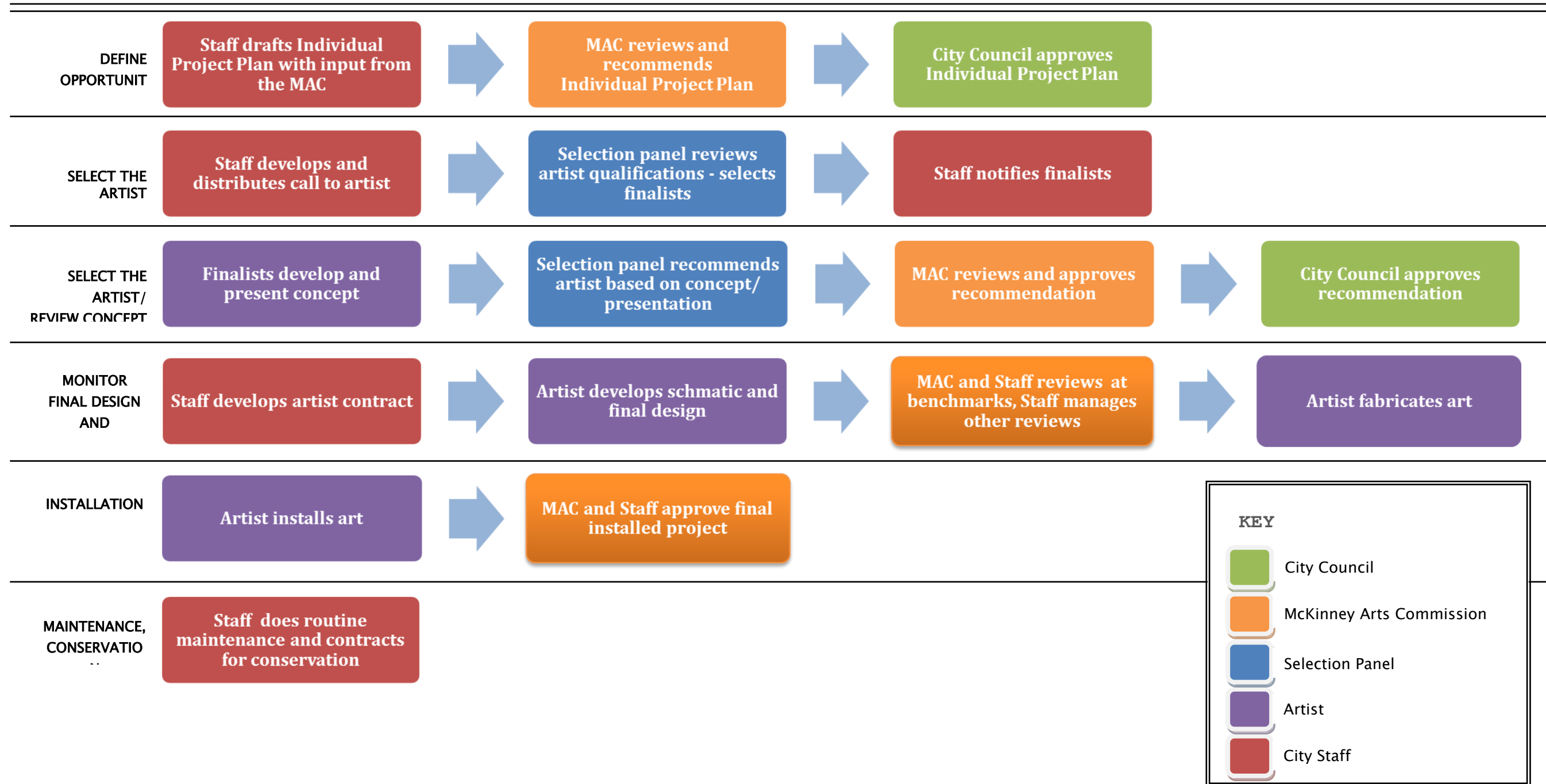
The Arts Commission liaison will maintain regular contact with the artist through the fabrication of the work. A representative from the Arts Commission and a representative from the City should inspect the artwork (photographically or in person) prior to installation.

Oversee Installation

The Arts Commission liaison will work with the artist to ensure that all necessary site permissions and permits are obtained prior to installation, and that any site preparation or other infrastructure that is not being provided by the artist is in place. The liaison will also be involved in coordinating the scheduling of the installation and coordinating with necessary City departments and property owners. A representative from the Arts Commission and the Arts Commission liaison will conduct a final inspection of the installed artwork.

The artist will provide detailed maintenance instructions to the City. Any maintenance or conservation needs will be managed through the City Manager's office, in consultation with the Arts Commission

PUBLIC ART COMMISSIONING PROCESS



The Acquisition Process

In certain cases, the Arts Commission may determine that it is in the best interest of the City to acquire an artwork directly from an artist or from a gallery. The reasons for purchasing a work instead of commissioning would be outlined in the Individual Project Plan.

When the City wishes to consider purchasing an artwork, it should follow the procedures for commissioning an artwork, outlined above, with the following modifications:

Select the Art

In most cases, an art acquisition will be the result of a competitive process. The Arts Commission will invite artists and/or galleries to submit images and information about existing and available artwork. The information should include the artist's basic qualifications (résumé or bio, portfolio), an image of the artwork, dimensions, materials, date fabricated, condition, provenance and asking price.

The Arts Commission will convene an ad-hoc Selection Panel to review the submissions of existing work based on the goals and criteria outlined in the Individual Project Plan. The Selection Panel will return a recommendation to the Arts Commission.

Prior to forwarding a recommendation for purchase to the City Council, the City will obtain an independent, qualified appraisal of the fair market value of the artwork and a professional art conservator's report on the condition of the artwork.

Agreement of Sale

The City will enter into an agreement of sale with the seller. The transaction will also include a transfer of title from the seller to the City and an indemnification regarding past and future claims related to the provenance of the artwork.

Oversee Installation

Depending on the nature of the agreement with the seller, the City may be required to take full or partial responsibility for site preparation; the design and installation of foundations, landscape and hardscape; shipping the artwork to its new location and insurance for the transfer; and the installation of the artwork.

Artist Selection Approaches

The City of McKinney should select an approach to recruiting and selecting artists that is specific to each project, reflecting the specific goals of each project and offering the greatest chance of finding the best artist. All selection processes should be competitive, except in situations where the Arts Commission and City Council determine there are extraordinary circumstances, as expressed in the approved Individual Project Plan.

Open Competition

In an Open Competition, any artist may submit his or her qualifications, subject to any requirements established in the Call to Artists. The call should be sufficiently detailed to allow artists to determine whether their work is appropriate for consideration.

An Open Competition allows for the broadest range of possibilities and can bring in new, otherwise unknown, and emerging artists. However, Open Competitions can consume a large amount of staff resources, and sometimes discourage established artists who prefer to respond to limited competitions or to be directly selected for projects.

Limited or Invitational Competition

In a Limited Competition or Invitational process, several pre-selected artists are invited to submit their qualifications and/or proposals. This method would be appropriate when the City is looking for a small group of experienced artists, when there is a limited time frame, or if the project requirements are so specialized that only a limited number of already identified artists would be eligible. It is possible that this list of artists for a Limited or Invitational Competition would come from an Artist Registry.

Artist Registry

The Arts Commission can decide to develop a pre-qualified pool of artists, or Artist Registry, from which it can choose artists for Limited Competition/Invitational or Direct Selection. This Registry would be developed based on a comprehensive review of qualifications from artists who responded to an Open Call to Artists. This list could be focused on a specific set of opportunities, or be used for a broad range of commissions. If the Registry is meant to be used for several years, it should be updated annually or bi-annually to allow new artists to be considered and to allow Registry artists to update their materials.

A Registry requires upfront work and ongoing management, but it allows for artist selection for specific projects to proceed much more quickly. This would be a viable strategy if McKinney were anticipating a large number of commissions over a short period of time.

Direct Selection

On occasion, the Arts Commission may choose to directly recommend an artist for a project. Direct selection may be useful on projects where there is an urgent timeline, low budget, or when very specific project requirements exist. It is possible that this artist would come from a pre-qualified list or Registry. Such selection would need to be consistent with City procurement procedures and be approved as part of the Individual Project Plan.

Review Criteria

At various steps in the commissioning process, a Selection Panel, the Arts Commission and the City Council will review the project. The following criteria will serve as a starting point for evaluation of each project at various benchmarks.

Qualifications Review Criteria

The Selection Panel will review qualifications from interested artists and select finalists. The qualifications package will include, at a minimum:

- The artist's résumé and/or bio.
- An artist statement that discusses the artist's interest in and approach to creating a public project for the selected site.
- Images of relevant past work by the artist with information about the date, media, scale, location and budget/cost of the project, if applicable.
- References

The Selection Panel will review qualifications based on the following criteria, as well as other criteria that may be added because they are specific to the project:

- Artistic excellence and innovation as demonstrated by the artist's past work.

- The capability of the artist to develop a project that is consistent with the vision for public art in McKinney and specific project goals outlined in the RFQ.
- A demonstrated understanding of and interest in creating work for the specific site.
- Established proficiency in the use of materials appropriate for a public installation.

Concept Design Review Criteria – Aesthetic Review

The Arts Commission will either invite multiple finalists to submit Concept Designs or select a single artist, based upon a qualifications and an interview, to develop a Concept Design. In either case, the Selection Panel and the Arts Commission will conduct an aesthetic review of the Concept Design and, in the case of competitive proposals, recommend one for selection.

The materials developed by the artist and presented to the Selection Panel will include, at a minimum:

- A narrative description of the concept describing how the concept meets the vision for public art in McKinney and the project goals.
- Renderings from multiple vantage points in order to convey the concept and how it is situated within the chosen site.
- A description of the materials and fabrication methods.

The Selection Panel will review the Concept Design based on the following criteria, as well as other criteria that may be added because they are specific to the project:

- The concept demonstrates artistic excellence, maintaining high quality, innovation, creativity and clarity of vision.
- The artist possesses a clear understanding of the site, including how the artwork will be integrated into the physical environment and how it will engage the public.
- The concept addresses the overall vision and goals for public art in McKinney as well as project-specific goals.

Concept Design Review Criteria – Technical Review

The City of McKinney staff, along with a representative from the Arts Commission, will conduct a technical review during the Concept Design phase. The materials shared with the City at this stage will include, at a minimum:

- A brief narrative description of the concept that includes detail on any technical or feasibility issues, or specialized needs relating to matters such as power, site preparation, etc. that would require coordination with the City; intended fabrication and installation methods, including a preliminary list of materials, and preliminary identification of maintenance considerations.
- Renderings from multiple vantage points in order to convey the concept and how it is situated within the chosen site.
- A detailed budget that includes estimated costs for creating the artwork (i.e.: fabrication, materials, fees, travel, insurance, overhead, design, shipping, electrical, site-work, installation, de-installation).
- A schedule for the final design, fabrication, and installation of the work.

The City of McKinney will conduct a technical review and provide feedback based on the following considerations, as well as other considerations that may be added because they are specific to the project:

- Capacity to meet all safety and maintenance requirements.
- Ability to satisfy the budgetary limits of the project.
- Feasibility of timeline.

- Consideration of all stages of fabrication and installation.
- Consideration of site issues such as permitting, installation staging, and availability of electrical or other utilities.

Criteria for Reviewing Acquisitions

When the Arts Commission recommends acquiring an existing work of art rather than commissioning an artist to create a new work, the Arts Commission will invite artists and/or galleries to submit available works for art that meet the goals and criteria outlined in the Individual Project Plan. The artist or gallery will submit the following for review:

- Background on the artists (a résumé and/or bio).
- An image of the artwork.
- Information about the artwork, including materials, dimensions, date fabricated, condition and provenance.
- Asking price.

The Selection Panel and the Arts Commission will use the following criteria when evaluating acquisitions of existing artwork, as well as other criteria that may be added because they are specific to the acquisition:

- Clearly responds to the City's vision for public art.
- Meets the project's goals as outlined in the Individual Project Plan.
- Demonstrates excellence in aesthetic quality, workmanship, innovation and creativity.
- Demonstrates appropriateness in scale and form, and is of materials and/or media suitable for the site.
- Demonstrates feasibility in terms of cost, timeline, safety, durability, operation, condition, maintenance, conservation, legal and ethical issues related to possession and use of artwork, security, and/or storage and siting.

Criteria for City Council Review of Public Art Commissions and Acquisitions

For new public art commissions, the Arts Commission will bring the recommended Concept Design to City Council for final approval. For acquisitions, the Arts Commission will bring information about the recommended artwork to the City Council for final approval. By the time these projects reach City Council, they will have been reviewed by the appointed Selection Panel as well as the Arts Commission. City staff will also provided a preliminary technical review.

The City Council will use the following criteria to review proposed commissions and acquisitions of artwork:

- The City's policies and procedures have been followed properly.
- Recommendations are consistent with the approved Individual Project Plan and other relevant plans and policies of the City.

Contract Considerations

A contract will be drafted to confirm the agreement between the City of McKinney and the Artist, who will be an independent contractor.

The contract will outline the various rights and responsibilities of each party. These typically include:

- Budget, timeline, fee and payment schedule.
- Design review, revision and approval process.
- Responsibility for design, fabrication and installation of the artwork.

- Responsibility for improvements to the site where the artwork will be located, including foundations, structural support, lighting, landscaping and interpretive panels.
- Responsibility for permits and approvals.
- Warranties made by the Artist regarding the artwork's originality, soundness and durability.
- Insurance requirements for design, fabrication, transportation, installation and warranty phases.
- Artist moral rights, copyright, rights of reproduction and licensing.
- Protocols for involving artist in conservation, repair, relocation, de-accession and changes to the site.

The City will recognize that the unique nature of contracting with artists for public art projects could require specialized contract forms and policies. Issues to consider include insurance requirements (artists are not able to obtain Professional Liability insurance), copyright (artists' moral rights as defined in the Visual Artists Rights Act) and payment practices (artists should be compensated for concept designs, and artists are paid in phases linked to specific project thresholds, with the payment prior to the fabrication phase being sufficient to acquire materials).

GIFTS AND LOANS

Private individuals, foundations, corporations or other organizations may wish to give or loan the City of McKinney work or works of art for public display. These gifts and loans can enrich the City's public spaces. However, it is important to consider carefully whether the gift or loan meets the vision and goals of the Public Art Program and ensure that the related costs and risks of the gift or loan are understood.

Both City staff and the Arts Commission should review and make recommendations regarding the acceptance and display of gifts and loans of works of art. The Arts Commission may choose to include additional stakeholders in the review process by establishing an ad hoc review committee.

Proposal Requirements

Donors who express an interest in making a gift or loan of a work of art to the City should be required to submit a proposal that includes:

- Drawings, photos and written descriptions of the artwork. This should include size, colors, weight, materials and any other information that will establish that the artwork has the requisite physical integrity to be placed on public display and withstand exposure to the natural elements.
- An explanation of how the artwork supports the vision and goals for public art established in the master plan.
- Background on the artist (resume or bio).
- The proposed location for the installation.
- The method of display and required site improvements (i.e.: hardscaping, landscaping, buildings, utilities, security devices, anchoring, etc.).
- Cost estimates for installing the artwork, including but not limited to site improvements, foundations, landscaping, seating, lighting and other improvements and the funding source to cover these costs.
- Written explanation of legal issues, including but not limited to certifying the current legal owner of the artwork and the existence of any copyrights, patents or

other title rights in or to the artwork, and an explanation of any conditions or limitations on the donation of the artwork.

- The estimated fair market value of the artwork (including appraisals if available, required if more than \$10,000).
- A condition report prepared by a conservator, including an estimate of ongoing maintenance and conservation costs and the funding source to cover these costs.
- The anticipated date(s) for the gift or loan to occur.
- Any additional information the City deems necessary or appropriate.

Technical Review Criteria

City staff will first conduct a technical review of the proposed gift or loan. The review should focus on the following issues:

- Ownership. If the donor is proposing to donate an existing artwork, has the donor documented that the artwork can be legally given to the City?
- Costs. Has the donor documented that the costs associated with the artwork have been adequately anticipated and can be met?
- Safety and Liability. Is artwork durable? Does it pose any safety or liability concerns?
- Maintenance and Conservation. Are the anticipated maintenance and conservation needs documented, and can they be met?
- Availability of Site. Is the proposed site available for the installation of artwork? Are necessary electrical, plumbing or other utility requirements defined and available?
- Timing. Is there sufficient time for the normal review process by the City and the Arts Commission? Has the donor provided timely and appropriate responses to Commission and staff requests for additional materials?

Aesthetic Review Criteria

The Arts Commission will review the proposed gift or loan for aesthetic and site considerations. When reviewing the work the Commission will consider the following criteria:

- The artist should meet the definition of artist that is included in this plan.
- The artwork supports the City's vision and goals for public art.
- The artwork demonstrates excellence in aesthetic quality, workmanship and creativity.
- The artwork is appropriate to the site in scale and form, and is of materials/media suitable for the site.

Acceptance

For permanent gifts and loans that would be on display for ninety days or more, the recommendations from City staff and the Arts Commission regarding acceptance of the gift or loan will be forwarded to City Council for approval. For loans of ninety days or less, the recommendation will be forwarded to the City Manager's office for approval.

Once the loan or gift has been approved, a written agreement will be prepared detailing the roles and responsibilities of the City of McKinney and the entity lending or donating the work of art.

COLLECTION MANAGEMENT

Documentation of the Collection

An important aspect of collection management and, ultimately, long-term maintenance of the McKinney Public Art Collection is keeping accurate, up-to-date records. The main aspects of this are identifying the project on-site, keeping accurate records for each project, and maintaining a comprehensive inventory of the collection.

Project Identification

Each artwork will be identified with a plaque stating the artist's name, the artwork title, the media and the date the work was created. The plaque should be placed in an appropriate location near the artwork that can be easily viewed by pedestrians.

Project Records

Files for all projects will be kept in a centralized location in the City Manager's Office. The file will contain information such as:

- A copy of the artist contracts.
- A copy of project correspondence and public records, such as discussions of the project at Art Commission or City Council meetings.
- The maintenance instructions provided by the artist and subsequent conservation records.
- Documentation of the process, including plans and drawings generated by the artist during the commissioning process, fabrication and installation photos, etc.
- Hard copy images of the installed artwork.
- Media clippings.

Public Art Inventory

The City will maintain a full and centralized inventory or database of its public art. This inventory will include information such as:

- Name of artist
- Title of work
- Location (kept in a format compatible with the City's GIS system)
- Year completed/installed
- Owner of work
- Media
- Dimensions
- Budget/cost and source of funds
- A brief description of the work suitable for publication
- Maintenance and conservation needs as defined by the artist and conservation assessments
- Schedule of maintenance or conservation needs
- Conservation history
- A unique number assigned to each work of art that can be used for cross-referencing with hard files and other digital files.

Conservation and Maintenance of the Collection

Public art is a community asset that should be properly maintained. The City will undertake conservation and routine maintenance to preserve its public art collection in the best possible condition.

To assist in the maintenance and conservation of the City's public art collection, information on each work of art commissioned, leased, loaned or owned outright by the City should be kept on file with the City on a standardized maintenance and conservation worksheet. Works of art on loan should be maintained in accordance with the requirements of, and in collaboration with, the lender.

CONSERVATION

Conservation is the regularly scheduled examination, documentation, treatment and preventative care of public art conducted by a professional art conservator.

The City will regularly conduct, or hire a professional conservator to conduct, a survey of the condition of each work in the City's collection and make recommendations for conservation, cost estimates, and a recommended schedule for implementation.

In addition, the City will take steps to identify conservation needs prior to the fabrication and installation of new works. The City will require, when necessary, that artists consult with a conservator during the design development phase of the project to identify the conservation needs of the project. Alternately, the City could have design documents reviewed by a conservator hired by the City prior to executing the fabrication and installation portion of a contract.

ROUTINE MAINTENANCE

Routine maintenance is the care for public art that does not require specialized expertise (i.e.: dusting, washing, lubrication of moving parts). Routine maintenance can generally be managed by the Host Department that maintains the facility and/or site where the art is located. If the Host Department determines that it does not have the expertise or budget to manage routine maintenance, it should contact the City Manager's office to arrange for outside support.

The Host Department should not conduct any non-routine maintenance or conservation unless requested by the Arts Commission. The Host Department should notify the Arts Commission immediately if an artwork is damaged or stolen, or if the Host Department plans to move the artwork or in any way alter its site. Any work that is recommended for relocation or de-installation would be subject to the de-accession policy.

Works of art should be maintained in a manner outlined in the above-mentioned maintenance and conservation worksheet, appropriate to the medium and characteristics of the artwork, and in accordance with the Visual Artists Rights Act of 1990.⁴

De-accession and Relocation of Artworks in the Collection

It shall be the City's policy to ensure the ongoing integrity of the artwork and the site for which it was created, to the greatest extent feasible, in accordance with the artists' original intentions and consistent with the rights afforded by the 1990 Visual Artists Rights Act.

However, from time to time, there will be circumstances in which the City will want to consider de-accessioning and removing an artwork, or relocating an artwork.

⁴ 17 USC § 106A - Rights of Certain Authors to Attribution and Integrity

The Arts Commission shall review any proposal for de-accession or relocation of an artwork. Consideration of de-accession shall involve the same degree of careful review as a decision to commission a work of art. Decisions will be informed by professional judgment and be made in the interests of the public, balancing the policy described above with the conditions described below.

PROCEDURE

- The City should not remove any artwork from the site for which it was selected, nor remove it from display, without prior review by the Arts Commission.
- The Arts Commission shall review the circumstances surrounding the proposed de-accession, relocation or removal. The Commission may choose to hold a public meeting for the purpose of gathering community feedback on a proposed de-accession, relocation or removal or gather community input through other methods.
- The Arts Commission may recommend de-accession, relocation or removal of a work of art for any of the following conditions:
 - › The condition or security of the artwork cannot be reasonably guaranteed;
 - › The artwork requires excessive maintenance or has defaults of design or workmanship and repair or remedy is impractical or unfeasible;
 - › The artwork has been damaged and repair is impractical or unfeasible;
 - › The artwork endangers public safety;
 - › Significant changes in the use, character, or design of the site have occurred which affect the integrity or relevance of the work;
 - › Significant adverse public reaction has been documented over an extended period of time (a minimum of five years);
 - › The work is of inferior quality or is judged to have little aesthetic and/or cultural value;
 - › A suitable location for the artwork has been identified that better satisfies the original goals of the project; or
 - › The artist requests removal due to concerns listed above.
- During the review process, unless there is imminent danger to the public, the artwork shall remain accessible to the public in its original location.
- The Arts Commission will make a recommendation to the City Council, which makes the final decision regarding de-accession, relocation and removal.
- The City Manager's Office should make a good faith effort to notify the artist that his or her work is being considered for de-accession.
- If the artwork is site-specific, the City Manager's Office should make a good faith effort to notify the artist that his or her work is being considered for relocation.
- De-accession, relocation or removal of artwork shall be done in a manner that complies with all other applicable City, state and federal procedures, policies and regulations. For example, de-accession, relocation and removal actions must comply with applicable procedures and laws relating to the disposition of City property and with laws protecting artists' rights.

DEFINITIONS

Acquisition – An artwork that is added to the McKinney Public Art Collection through purchase.

Annual Work Plan and Budget – The document that outlines the activities and finances of the Public Art Program for the coming fiscal year. The Annual Work Plan and Budget is developed by the Arts Commission with City staff, approved by the Arts Commission and presented to City Council for approval when the Arts Commission makes its annual report to Council.

Arts Commission Liaison – The staff person from the City Manager’s Office that is responsible for providing staff support to the McKinney Arts Commission.

Art Inventory – A registry maintained by the Arts Commission of all art resources in the City of McKinney, including the Public Art Collection, the Portable Collection and Privately Placed Public Art.

Artist – A practitioner in the visual arts who produces artwork and is generally recognized by critics and peers as a professional of serious intent and recognized ability.

Artist Registry – A local, regional and national collection of artists and artworks used as a resource for art, art activities and for the public art selection process.

Artwork – An aesthetic creation resulting from the skill and creativity of an artist or artists. An artwork may be made of any materials or combination of materials and may be permanent, temporary, fixed or portable. An artwork can be an integral part of a building or structure, and can be integrated with the work of other design professionals. For the purposes of the City of McKinney Public Art Program, artwork shall be defined as a work of visual art, as distinguished from performing art or literary art. However, an artwork can include visual representations of performing and literary arts, or can incorporate performative or narrative elements.

Concept Design – The phase of a public art project in which an artist creates an initial proposal, including diagrams or a maquette, and conducts a preliminary cost estimate.

Conservation – The regularly scheduled examination, documentation, treatment and preventative care of an artwork conducted by a professional art conservator.

De-accessioning – The permanent removal of a work from the City’s Public Art Collection or Portable Collection by selling, donating or destroying it.

Final Design and Construction Documents – The phase of a public art project in which the artist finalizes the design, placement, installation specifications and cost estimate, and has relevant components prepared and stamped by a licensed engineer.

Gift – Art donated to the City from a private individual, institution or other outside source.

Host Department – The City department responsible for the site where Public Art is located.

Individual Project Plan – A document, developed by the Arts Commission with City staff, that outlines the work that must be done to undertake a specific public art commission or acquisition and establishes the goals against which the project will be reviewed. The Individual Project Plan is approved by the Arts Commission and forwarded to City Council for approval before a project begins.

Loan – Artworks provided to the City for its use for a period of time and to be returned to the owner after the loan period expires.

Maintenance – The routine care and repair of works of public art that does not require specialized expertise (i.e.: dusting, washing, changing light bulbs, lubrication of moving parts, etc.).

Portable Collection – Smaller scale, non-site-specific artwork acquired by the City for display in City facilities.

Privately Placed Public Art – Artwork located on private property for public enjoyment. These pieces are not maintained by the City, nor do they go through the program’s art selection

process.

Public Art – Elements of a public place that are designed by a professional artist or artist team. Public art can be permanent, temporary or functional. Public art can be stand-alone or integrated into the architecture, landscape or infrastructure such as public buildings, bridges and parks. Public art can be the sole creation of the artist or it may result from a design team approach in which artists work on project teams with architects, engineers, landscape architects and others to design and create public places.

Public Art Collection – Public Art owned or commissioned by the City.

Public Art Program – Program established by the McKinney City Council in December, 2011, to oversee the commission, acquisition and strategic placement of Public Art.

Public Art Fund – A fund administered by the City to hold all monies raised and allocated to support the implementation of the Public Art Program.

Public Art Master Plan – A planning document developed by the Arts Commission and approved by City Council that outlines a vision for public art in McKinney, and strategies for achieving that vision over an approximate five-year timeframe.

Regional – Within the boundaries of the State of Texas.

Request for Proposals – Term for a document soliciting proposals from artists for a specific public art project.

Request for Qualifications – Term for a document soliciting qualifications from artists for a specific public art project or for an artist roster.

Selection Panel – An ad-hoc committee of the Arts Commission, which is responsible for recommending the selection of an Artist and the Concept Design review for a specific public art Commission, or the review of candidate artworks for a public art acquisition.

Site-Specific Artworks – Artworks that are inspired by and created to fit the context of a particular place.

Temporary Public Art – Works of art that are created to be in a public place for a limited period of time, generally less than five years.