



City of Merced
Arts and Culture Advisory Commission
Public Art Policy

Purpose and Mission Statement

It is the purpose of the Arts and Culture Advisory Commission (“ACAC”) to advise the City Council on matters pertaining to public art, art projects, cultural programs and activities and the promotion of art within the City of Merced (“Merced”) (M.M.C. section 2.54.010). The ACAC’s mission is to encourage and promote programs and events that enhance art and cultural development in Merced while engaging community members and local businesses; promote the role arts and culture plays in contributing to the beautification and quality of life in Merced; recognize art and cultural events and activities that enhance vitality and innovation in Merced; promote inclusion of artistic endeavors and cultural activities that are reflective of the Merced community; and preserve the community’s artistic works and cultural identities.

Policy Purpose

The purpose of this policy is to ensure uniform guidelines and procedures for the inclusion of publicly accessible art in Merced. Additionally, this policy will also provide uniform guidelines and procedures for the maintenance, removal, relocation, or deaccession of city-owned public art or public art on City property.

Definitions

The following words and phrases, whenever used in this Policy, shall be construed as defined in this section:

- A. “Art and Culture Advisory Commission” (“ACAC”) a commission appointed by the City Council to advise the City Council as set forth in M.M.C section 2.54.010 and 2.54060 and is responsible for providing recommendations to the City Council, other appointed bodies and staff on a variety of matters including, but not limited to the establishment and implementation of a Public Art Policy and recommendations on the acquisition, installation, maintenance and removal of public art within the City of Merced.
- B. “Artist” a person who has established a reputation of artistic excellence, as judged by peers through a record of exhibitions, public commissions, sale of works or educational attainment.
- C. “Artwork” a work of Public Art.



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- D. “Collection” encompasses both the Public Art Collection and the Portable Collection.
- E. “Concept Design” an artist’s preliminary idea for a project, presented in images and/or text, and approved by the ACAC as the basis for further design exploration and community engagement in the development of a public art project.
- F. “Conservation” the examination, documentation, treatment and preventative care of an artwork conducted by a professional art conservator.
- G. “Creative Zone” specific City locations, general types of places, and/or topics that are a priority for public art.
- H. “Curator” a fine arts professional who assists in the development of a public art project, primarily by locating an artist suitable for a project, assisting the artist in developing their concept, and assisting in the implementation of the project.
- I. “Deaccession” the process by which an artwork is permanently removed from the Collection.
- J. “Final Design” an artist’s final design for a public art project, presented after all design investigation and community engagement is complete, and including all renderings, drawings and certifications necessary for approval prior to fabrication and installation.
- K. “General Fund” the fund in the City budget that is the main operating fund used by default to account for and report all financial resources not accounted for and reported in another fund.
- L. “Lead Agency” the entity who applies for approval of artwork to the ACAC and the City Council.
- M. “Maintenance” the routine care and repair of works of Public Art that does not require specialized expertise such as dusting, washing, changing light bulbs, storage, lubrication of moving parts, etc.



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- N. “Permanent Artwork” artwork that has been approved by the ACAC and the City Council for long-term installation in the public right-of-way or on public property, allowing for inclusion in the City of Merced’s liability policy and subject to maintenance by the City of Merced.
- O. “Portable Collection” artworks in a variety of media, such as sculpture, painting, mixed media, prints, photography and textiles that are owned by the City, movable, and primarily exhibited in interior spaces of City buildings.
- P. “Public Art” includes, but is not limited to, original works of sculpture, photography, graphic art, waterworks, fiber-works, neon, glass, mosaics, paint, furniture, fixture, or any combination of visual media that are displayed in a public place for enjoyment of the community and is void of any commercial, campaignrelated references or affiliations, or art that is divisive and/or not consistent with the purpose and mission statement of this policy.
- Q. “Public Art Collection” the body of artworks acquired by the City, through commission, donation, purchase, loan, lease, competition (limited or open) or any other means, and displayed on city property and/or owned by the City.
- R. “Public Art Master Plan” a document developed by the ACAC and adopted by City Council which sets the foundations for the Public Art Program including, but not limited to, the vision, mission and overall goals, and broadly identifies the types of projects that the Program will undertake, and recommends policies, procedures and guidelines for implementing the Program.
- S. “Public Rights-of-Way” shall include any and all publicly owned or controlled spaces or property with the exception of City street surfaces.
- T. “Request for Proposals (RFP)” a call to artists that asks for the submission of artist credentials and a conceptual proposal for an artwork, both of which are the basis of selecting an artist.
- U. “Request for Qualifications (RFQ)” a call to artists that asks for the



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submission of artist credentials, which is the sole basis of selecting an artist.

- V. “Temporary Artwork” artwork that has been approved by the ACAC and the City Council for installation in the public right-of-way or public property for no more than one (1) year. Insurance and maintenance of the artwork will be the responsibility of the sponsoring lead agency.

POLICY:

A. Project Development Process:

1. Annual Work Plan. An Annual Work Plan will be developed for each upcoming fiscal year, outlining which Creative Zone the Program will focus on and which new projects the Program will initiate. The Annual Work Plan shall be developed collaboratively with relevant City departments and the ACAC and shall be approved by the ACAC with a recommendation to the City Council. The City Council shall retain final approval authority related to the annual work plan and contents thereof.
2. Public Art Project Plan. For each public art project that is approved in the Annual Work Plan, the Program shall adopt a Public Art Project Plan, which shall guide the planning and execution of a project. The Project Plan shall include goals, location, budget, timeline, artist selection process, design review process, community engagement process, and identification of internal and external stakeholders. Public Art Project Plans shall be developed by Lead Agency representatives, working with the ACAC, City departments and other stakeholders, and shall be approved by the ACAC with a recommendation to the City Council. The City Council shall retain final approval authority related to the Public Art Project Plan and the contents thereof including, but not limited to, approved facilities and rights-of-way available for projects, budget approval, design input, and approval of the specific content of the Public Art Project Plan.
3. Collaborating with Other City Departments. The ACAC shall maintain close liaison with staff in other departments in order to collaborate on commissioning public art that is integrated into new projects



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throughout the City through the City Manager's office.

B. Project Approval Process.

1. Artist Solicitation. The Program may solicit artists using a variety of methods, depending on the requirements of the project as determined by each Public Art Project Plan.
 - i. Open Competition. A call to artists for a specific project in which artists are asked to respond through a Request for Qualifications (RFQ) or Request for Proposals (RFP) process. Any artist may respond, subject to criteria established in the Public Art Project Plan.
 - ii. Limited or Invitational Competition. A call to artists in which a smaller number of artists are specifically invited to respond through a RFQ or RFP process. Artists should be invited based on their past work and demonstrated ability to successfully respond to the conditions of the particular project.
 - iii. Direct Selection. A direct selection of a specific artist for a particular project. Such a recommendation may occur for several reasons, but generally when circumstances surrounding the project make either an open or limited competition unfeasible.
2. Artist Selection. The Program may choose from the following methods in selecting artists, depending on the requirements of the project:
 - i. Request for Qualifications (RFQ). A call to artists is issued asking for the submission of an artist's credentials. A Selection Panel may select three to five finalists based on their qualifications alone to submit a proposal, or to interview. The Selection Panel may recommend selecting one of the finalists based on their qualifications and/or interviews, or not selecting any of the artists and going back to review qualifications of other artists.



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- ii. Request for Proposals (RFP). A proposal-based process may be used in a Limited Competition, or in the second phase of an Open Competition. A call to artists is issued to the short list of qualified artists under consideration asking for the artist's credentials and a specific proposal in response to the RFP. An honorarium for artist time and expenses may be established in the RFP. The Selection Panel may recommend one or more of the artists based on their qualifications and proposal, or not selecting any of the artists.
3. Selection Criteria. The following criteria shall be used by the Selection Panel in selecting an artist and artist concept:
 - i. Meets the definition of Artist, as defined in this policy;
 - ii. Demonstrates artistic excellence, innovation and originality as represented in past work and supporting materials;
 - iii. Demonstrates capacity for working in media and with concepts that are appropriate to the project goals and site;
 - iv. Demonstrates interest and capability in creating Public Art in collaboration with the City, design teams and other project partners;
 - v. Demonstrates interest and capability in engaging community representatives in a project;
 - vi. Demonstrates experience in successfully completing works of similar scope, scale, budget and complexity, or articulates how s/he will bring the necessary artistic and technical skills to the project;
 - vii. Demonstrates interest in and understanding of the project as outlined in the Project Plan;
 - viii. Is available to perform the scope of work in a timely and professional manner;



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- ix. Demonstrates artistic merit, including excellence in aesthetic quality, workmanship, innovation and creativity;
 - x. Demonstrates appropriateness in scale and form and is of materials/media suitable for the site;
 - xi. Meets project goals as outlined in the Project Plan;
 - xii. Demonstrates feasibility of construction and installation;
 - xiii. Demonstrates feasibility in terms of budget, timeline, safety, security, durability, operation, maintenance, conservation, legal and ethical issues;
 - xiv. Builds the diversity of the Public Art Collection.
4. Additional Guidelines. The ACAC and City Council may develop additional guidelines and criteria based on the needs of the project and as approved in the Public Art Project Plan. This additional criteria may include, but is not limited to additional submission criteria, design input criteria, modifications to the art/design, relinquishment of all rights previously possessed by the artist/donor, and relinquishment of artist rights under both federal and state law.
5. Curators. As an alternative to issuing a call directly to artists, the Program may issue a RFQ or RFP to non-profit organizations or established curators. In selecting a non-profit or curator, the following criteria should be considered:
- i. Demonstrated interest and capability in working with artists to create Public Art;
 - ii. Demonstrated ability to identify, select and manage artists to produce public art of artistic excellence, innovation and originality that are appropriate for the project;
 - iii. Demonstrated interest in and understanding of the project and City goals;



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- iv. Demonstrated experience in successfully completing works of similar scope, scale, budget and complexity, or ability to articulate how he or she will to bring the necessary artistic and technical skills to the project;
 - v. Availability to perform the scope of work in a timely and professional manner.
6. Selection Panel. Once a project is funded as part of the Annual Work Plan and a Public Art Project Plan is adopted, a Selection Panel may be assembled. The ACAC may serve as the Selection Panel, or opt to form a separate Selection Panel, taking into account recommendations from internal and external stakeholders. The Selection Panel shall advise the ACAC on the selection of artists and approval of concept designs. The Selection Panel is responsible for selecting one or more artists, cultural organizations or curators based upon the process outlined in the Public Art Project Plan and recommending selections to the ACAC for approval. The ACAC shall make a recommendation to the City Council. The City Council will have final approval authority.
7. Artist Agreement. Upon recommendation of the ACAC, the City Manager or designee shall coordinate agreements with selected artists, curators and/or cultural organizations. The agreement may include the scope of work, fee, schedule and relevant terms and conditions. The scope of work will generally include final design, engineering, fabrication and installation of the artwork. All such agreements will be presented to the City Council to allow for the approval of Artist Services Agreements, Artwork License Agreements, Talent Services Agreements, Artwork Loan Agreements and Artwork Gift Agreements. Approval for other agreement types shall follow current Award Authority for Contracts.
- C. Gifts and Loans to the Public Art Collection. Proposed gifts and loans of public art shall be evaluated to determine whether they are in keeping with Program goals and adopted plans and policies.
1. Proposals for all gifts and loans of public art made to any City official or department shall be referred to the City Manager.



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2. The City Manager shall oversee technical review to determine:
 - i. There is documentation that the artwork can be legally donated or loaned to the City;
 - ii. The durability, safety and anticipated maintenance needs of the artwork;
 - iii. The ongoing financial costs associated with accepting the gift or loan of artwork can be met;
 - iv. The availability of an appropriate site for the artwork.
3. Additional criteria for technical review may be developed as necessary by the City Manager.
4. Aesthetic review shall be undertaken by the ACAC, according to the following criteria:
 - i. The artwork demonstrates excellence in aesthetic quality, workmanship, innovation and creativity;
 - ii. The artwork demonstrates appropriateness in scale and form, and is of materials/media suitable for the site; and
 - iii. The artwork builds the diversity of the Public Art Collection
5. The ACAC shall provide a recommendation to the City Manager or his/her designee, who shall have final approval authority over gifts and loans of Public Art within the authority of the City's Donation Policy. Donations above the policy limit will be presented to the City Council for consideration.

D. Relocation or Deaccession of Art in the Public Art Collection. The City Council retains the right to relocate or deaccession any artwork in the Public Art Collection, regardless of the source of funding or method of acquisition.

1. The Public Art Program may relocate or deaccession an artwork subject to any of the following criteria:
 - i. The site of artwork is being eliminated or altered in such a



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way that the artwork is no longer compatible with it;

- ii. The security of the artwork can no longer be reasonably guaranteed;
 - iii. The artwork has become a danger to public safety;
 - iv. The cost of maintaining or updating the artwork is cost prohibitive;
 - v. The artist or donor has failed to comply with the terms of any agreement with the City;
 - vi. The deaccessioning of the artwork would otherwise be in the best interest of the City; and
 - vii. The deaccessioning of the artwork is in accordance with the temporary designation of the approved artwork.
2. Relocating or deaccessioning a City owned public artwork will be reviewed in accordance with the following criteria:
- i. The City Manager or his/her designee shall present a preliminary finding to the ACAC that a work of public art should be relocated or deaccessioned. The ACAC shall evaluate if the proposed relocation or deaccession meets the criteria for relocating or deaccessioning;
 - ii. City staff shall contact the artist to discuss the relocation or de-accession of the artwork, as provided for in the artist agreement;
 - iii. If an artwork is to be relocated, the City Manager or his/her designee will develop a plan for the relocation of the artwork, including analysis of the new location for the artwork, and consultation with other City departments as necessary;
 - iv. The City Manager or his/her designee shall present the ACAC with a full report proposing the relocation or deaccessioning of



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the artwork for ACAC review and recommendation; and

- v. The ACAC recommendation shall be forwarded to the City Council for consideration. The City Council retains final approval authority related to any project or activity covered by this policy.
- E. Gifts, Loans, Relocation or Deaccession of Art in the Portable Collection. The approval of gifts, loans, relocations or deaccessions of the Portable Collection shall be at the discretion of the City Manager or his/her designee and the City Council.
- F. The proposed projects subject to this policy shall be governed by the government speech doctrine. The government speech doctrine allows the City of Merced to select the views that it wants to express and to deliver a government-controlled message. The City in enacting this policy seeks to speak for itself irrespective of the funding source for any project subject to this policy