

# SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY

## POLICIES

<b>ARTICLE</b>	<b>8</b>	<b>-</b>	<b>GENERAL OPERATIONS</b>
<b>PART</b>	<b>8.5</b>	<b>-</b>	<b>VISUAL AND PERFORMING ARTS</b>
<b>SECTION</b>	<b>8.50</b>	<b>-</b>	<b>POLICY FOR THE AIRPORT AUTHORITY ART PROGRAM</b>

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**PURPOSE:** To establish policy governing acquisition, retention, display, gifts and loans, and deaccession of Artwork at all public-use facilities and airports under the jurisdiction of the San Diego County Regional Airport Authority (“Authority”), as well as overall administration of the Airport Arts Program and Arts Advisory Committee; and to integrate the Airport Arts Program into the day-to-day administration of the Authority, afford new and innovative opportunities for the presentation of arts and culture, and to further the mission of the Authority.

### **DEFINITIONS:**

Acquisition. Permanent artwork collected and catalogued by the Authority through purchase, commission, bequest, or gift.

Airport. All public-use facilities and airports under the jurisdiction of the Authority including San Diego International Airport (Lindbergh Field).

Airport Arts Master Plan. A five-year planning document reviewed and recommended by the AAC to the President/CEO and subsequently approved by the Board that establishes a strategic direction for the Airport Arts Program and defines the associated administrative, organizational, financial resources and guidelines to support its implementation.

Airport Arts Program. A program of the Authority consisting of the: (1) Public Art Program; (2) Temporary Exhibitions Program; and (3) Performing Arts Program. The Airport Arts Program enriches the travel experience and airport environment for customers through innovative and memorable arts programming and exemplifies the Airport’s role as a respected community partner and regional resource.

Airport Art Site and Opportunities Plan. A comprehensive plan created for the Airport Arts Program related to major capital projects. The Airport Art Site and Opportunities Plan should include recommendations for public art projects and arts infrastructure and include recommended budget allocations for each project or infrastructure investment. The Airport Art Site and Opportunities Plan is reviewed and recommended by the AAC to the President/CEO and subsequently approved by the Board.

Artist. An individual recognized by critics and peers as a professional practitioner of serious intent and substantial ability in the visual, performing, or literary arts.

Artist Selection and Review Panels. Ad hoc committees comprised of members appointed by the AAC that review and recommend Artists for participation in the Airport Arts Program.

Arts Advisory Committee (AAC). A standing committee that serves to advise the President/CEO and Board on matters regarding the Airport Arts Program.

Arts Professionals. Individuals with recognized expertise and working knowledge in one or more fields of the visual, performing, and literary arts including arts administrators, arts educators, or practicing artists.

Artwork. A permanent, temporary, fixed, portable, visual, and/or performative work in any style, expression, genre and/or media created by an Artist as defined herein. Memorials, as defined herein, shall also constitute Artwork subject to this Policy 8.50. Gifts of State, as defined herein, shall not constitute Artwork subject to this Policy 8.50.

Board. The Authority's Board of Directors.

Capital Project. Construction projects within the Authority's Capital Program which is defined by Policy 4.30.

Collections Management Plan. A plan maintained by the Airport Arts Program staff that documents the Airport's Public Art Collection, records previous conservation, and documents and prioritizes conservation needs.

Conservation. The preservation, protection and restoration of artwork and cultural property through activities that prolong its existence and minimize chemical and physical deterioration and damage, and that prevent loss of informational content.

Deaccession. The removal of Artwork from the Authority's collection and care.

Design Professionals. Generally refers to architects; civil, structural, mechanical, electrical engineers; landscape architects; urban planners; graphic, interior, industrial, fashion designers; and others whose services require licensing or registration by the state or otherwise require the knowledge and application of design principles appropriate to the Airport Arts Program.

Eligible Project. A Capital Project that includes construction of or renovations to terminals, curbsides, roadways, connecting green spaces and other related landside improvements that directly impacts the customer experience by nature of being physically accessible and/or visually prominent.

Financial Contributions. Funds contributed to support any element of the Airport Arts Program. This may include cash contributions and sponsorships.

Gifts of Artwork. The donation of Artwork, or the funds to acquire or commission Artwork, to the Authority for placement in the Airport.

Gifts of State. Items given to the Authority by a domestic or foreign government official as an expression of goodwill; not considered Artwork under this policy.

Incoming Loan of Artwork. Artwork borrowed by the Authority for display in the Airport for a specified period of time.

Ineligible Project. A Capital Project that includes airside improvements, utilities, land acquisition, purchase of right of way, equipment purchase or rental, pollution mitigation, and other project soft costs that do not directly impact or relate to the public experience.

Memorial. An item, object, or monument designed or adapted to commemorate or honor the memory of a person, place, idea, or event that occurred in the past.

Outgoing Loan of Artwork. Artwork from the Public Art Collection that is loaned to qualified institutions which include a non-profit museum, art gallery, governmental or educational entity for a specified period of time.

Performing Arts Program. The presentation of live performances of music, dance, theater or other performative art forms.

President/CEO. The President/Chief Executive Officer of the Authority.

Program Review. A periodic review of the Airport Arts Program that considers the overall vision and goals for the Airport Arts Program, its internal processes, and external partnerships, with special consideration given to current staffing resources. The Program Review is reviewed and recommended by the AAC and approved by the President/CEO.

Public Art Collection. The group of permanent Artworks acquired by the Authority.

Public Art Program. Planning, development, and Conservation of a collection of permanent Artwork that is integral to the Airport.

Public-Private Partnership (P3). A contract between a public sector entity and a private sector entity that outlines the provision of assets and the delivery of services.

Site. A specified area, space or system within the Airport identified for the placement of Artwork.

Temporary Exhibitions Program. The temporary presentation of items on loan from local and regional museums, cultural institutions, arts organizations, educational groups, collectors, and Artists.

## **POLICY STATEMENT:**

- (1) General Policy. The Authority recognizes the unique physical, social and economic contribution of the arts and culture. The Authority is committed to the presentation and advancement of a wide variety of high quality arts and culture programming that has artistic merit, cultural interest, and educational value; that positions the Airport as a creative industry driver; and that promotes regional prosperity and quality of life. Such programming shall be aligned with the mission of the Authority.
  - (a) Airport Arts Program. The President/CEO shall sustain the Airport Arts Program through the presentation and advancement of quality arts and cultural programming that supports and enhances the mission of the Authority.
  - (b) Funding. Funding for the Airport Arts Program shall be accomplished as follows:

- i. The President/CEO shall take appropriate action to allocate for Board approval two percent (2%) of eligible construction costs from each Eligible Project to fund the Public Art Program. In certain extraordinary circumstances, including but not limited to a large-scale Eligible Project or a period of poor economic climate, the President/CEO, in his/her discretion, may request that the Board reduce the two percent (2%) allocation on a per-Eligible Project basis. If less than two percent (2%) of eligible construction costs from an Eligible Project is allocated to fund the Public Art Program, all such instances shall be documented on an annual basis, accounting for the actual percentage that was allocated per Eligible Project to fund the Public Art Program. The accounting report shall be provided to the Arts Advisory Committee and the Board.
  - a. Allocations shall be calculated based on the total of construction costs for the Eligible Project.
  - b. In collaboration with the Airport Design and Construction Department, the Airport Arts Program staff shall participate in the identification of eligible projects during the initial planning phase for Capital Project funding.
  - c. The Board shall approve public art fund allocations in conjunction with Capital Project funds. All Capital Project monies appropriated for the Airport Arts Program purposes shall be maintained in a separate project fund.
- ii. The Temporary Exhibitions Program, Performing Arts Program, and administrative costs required to operate the Airport Arts Program shall be funded from the Authority's annual operating expense budget.
- iii. Up to 15% of the funds allocated for an Eligible Project shall be placed in a separate fund for Conservation, costs associated with relocation and Deaccession, and other costs related to collections management. The amount shall be recommended by Airport Arts Program staff.
- iv. Public Private Partnerships. Any Public Private Partnership (P3) project in which the Authority is a public partner, whether or not the project is owned and operated by the Authority, shall be subject to and considered a Capital Project, or an Eligible Project if so deemed, under this Policy 8.50.
- v. Financial Contributions. The Authority may accept financial contributions to support the Airport Arts Program.
  - a. Financial Contributions shall be held in a fund that allocates the funding for the purpose that it was contributed.

- b. Donors making financial contributions to the Airport Arts Program shall agree that their funds will be used to support projects and programs developed by the Airport Arts Program in accordance with the Policy, and may not influence artistic decisions or direct the selection of particular artists, performers or contractors.
- (c) Ownership. Except as described below, Authority shall obtain full ownership of and title to all Artwork acquired through the Airport Arts Program.
  - i. Waiver and Transfer of Rights. The Authority shall not commission, accept, or receive any Artwork unless prior to such commissioning, acceptance, or receipt, the author and (or) owner of the Artwork has executed a written waiver of all interests and rights held by the author and (or) owner in the concerned Artwork under all applicable local, state and federal law, and transferring all ownership interests to the Authority.
  - ii. Copyright. Subject to the above provisions, the Artist retains copyright to the Artwork as the sole author of the Artwork and the Artist (or other copyright holder if not the Artist) gives the Authority perpetual license and right to use the Artwork and images of the Artwork at the Authority's sole discretion and without further compensation, including all non-commercial uses. The Authority retains the right to pursue a separate agreement with the Artist for the purpose of producing commercial merchandise featuring the Artwork. The Authority will reasonably endeavor to provide advance notice to the copyright holder for any Artwork that is anticipated to be prominently featured in a commercial use undertaken by the Authority.
  - iii. Unconstrained Use. The Authority shall have the right to alter, change, modify, relocate, destroy, distort, mutilate, remove, transport, store, sell, transfer in whole or in part, replace and replicate the Artwork in whole or in part when the Authority, in its sole discretion, deems it necessary for any reason or when required as part of public works or infrastructure improvements to enhance Airport facilities.
- (d) Rights and Responsibilities. A legal instrument of conveyance clearly defining the rights and responsibilities of all parties must accompany all Artwork acquired and presented by the Authority, including but not limited to ownership, copyright, license, and reproductions.
- (e) Conservation and Maintenance. The President/CEO shall ensure that all Artwork in the Public Art Collection is maintained and conserved in accordance with the Collections Management Plan. Maintenance and conservation shall be conducted through the use of qualified fine art conservators when necessary, skilled maintenance technicians, and detailed Artwork maintenance records.
- (f) Collections Management. The President/CEO shall ensure accurate records that document the ownership, care and appraisal value of Public Art Collection.

- (g) Gifts and Loans of Artwork. The AAC shall review all Gifts and Loans of Artwork and based upon their professional expertise, shall provide a written recommendation to the President/CEO. The AAC shall review all proposed Gifts and Loans by deliberate, standardized procedures independent of political pressures, fluctuations in artistic taste, and public opinion.
- i. The Authority shall accept donated Gifts and Incoming Loans of Artwork only where the President/CEO, in his or her sole discretion, determines that special and unique circumstances exist. In making such a determination, the AAC and the President/CEO shall consider, at a minimum, whether some or all of the following criteria exist:
    - a. Relevance of the Gift or Incoming Loan of Artwork to the Public Art Collection;
    - b. Appropriateness of the Gift or Incoming Loan of Artwork to the Airport;
    - c. Artistic excellence of the Gift or Incoming Loan of Artwork;
    - d. Costs for delivery, site preparation, installation, maintenance and ongoing display of the Gift or Incoming Loan of Artwork;
    - e. Any special restrictions, conditions, or considerations required by the donor regarding the use of the Gift or Incoming Loan of Artwork;
    - f. The proposed gift of Artwork supports the vision and goals of the Airport Arts Program;
    - g. There is an available location for the siting of the gift;
    - h. The gift adds to the diversity of the Public Art Collection; and
    - i. The gift is an Artwork and is created by an Artist, as defined in the Policy.
  - ii. Unless otherwise approved by the AAC, the donor of the proposed gift shall be required to pay all costs associated with the donation including but not limited to design, fabrication, transportation, installation, security, permits, on-going maintenance, lighting and removal.
  - iii. All gifts shall be subject to all applicable provisions regarding review, acquisition, exhibition, ownership and Deaccession governing the Airport Arts Program as described herein.
  - iv. The consideration of acceptance of gifts may be held for up to 12 months to be reviewed in conjunction with other donations.

- v. The Authority may establish limitations to or a moratorium on future installations of a gift at its sole discretion.
  - vi. The Authority shall approve Outgoing Loans of Artwork only where the President/CEO, in his or her sole discretion, determines that special and unique circumstances exist. In making such a determination, the President/CEO shall consider, at a minimum, the following criteria:
    - a. Value of Artwork and period of Outgoing Loan;
    - b. Function of the facility in which the Artwork is to be located and hours of operation;
    - c. Accessibility of the building in which the Artwork is to be located;
    - d. Environmental controls for Artwork;
    - e. Provision of security and staffing for Artwork; and
    - f. Proof of adequate insurance coverage for Artwork.
  - vii. Gifts of state by foreign governments or by other political jurisdictions of the United States are not considered Artwork and shall not be reviewed by the AAC.
  - viii. Objects that do not meet the Policy's definition of Artwork are not reviewed under this Policy.
- (h) Memorials. The AAC shall review all Memorials, as defined herein, being considered for placement on Airport property and shall provide its written recommendation to the President/CEO. The AAC shall review all proposed Memorials by deliberate, standardized procedures independent of political pressures, fluctuations in artistic taste, and public opinion.
- i. The Authority shall accept requests for Memorials only where the President/CEO, in his or her sole discretion, determines that special and unique circumstances exist. In making such a determination, the President/CEO shall consider, at a minimum, whether some or all of the following criteria exist:
    - a. The person, place, idea or event being memorialized is deemed significant enough to merit such honor and is appropriate to the mission of the Airport;
    - b. The Memorial has timeless qualities and makes a statement of significance to future generations;
    - c. The Memorial represents broad community values and has been embraced and supported by the community it is intended to honor;

- d. The proposed location is an appropriate setting for the Memorial and there is specific justification for the Memorial being located at that site;
  - e. The quality, scale, and character of the Memorial are at a level commensurate with the proposed location or setting;
  - f. The Memorial is relevant to the Public Art Collection; or
  - g. Provision of a maintenance endowment to ensure adequate quality of care for the Memorial in perpetuity.
- ii. Unless otherwise approved by the AAC, the donor of the proposed Memorial shall be required to pay all costs associated with the donation including but not limited to design, fabrication, transportation, installation, security, permits, on-going maintenance, lighting and removal.
  - iii. All Memorials shall be subject to all applicable provisions regarding review, acquisition, exhibition, ownership and Deaccession governing the Airport Arts Program as described herein.
  - iv. The Authority may establish limitations to or a moratorium on future installations of a Memorial at a particular location or area.
- (i) Deaccession. The Authority shall retain the right to Deaccession any Artwork in the Public Art Collection. The AAC shall review all Artwork being considered for Deaccession by deliberate, standardized procedures independent of political pressures, fluctuations in artistic taste, and public opinion.
- i. The Authority shall Deaccession Artwork only where the President/CEO, in his or her sole discretion, determines that special and unique circumstances exist. In making such a determination, the President/CEO shall consider, at a minimum, whether some or all of the following criteria exist:
    - a. The condition or security of the Artwork cannot be reasonably guaranteed;
    - b. The Artwork requires excessive maintenance or has faults of design or workmanship and repair or remedy is impractical or unfeasible;
    - c. The Artwork has been damaged or has deteriorated and repair or remedy is impractical or unfeasible;
    - d. The Artwork's physical or structural condition poses a threat to public safety;
    - e. The Artwork is proved to be inauthentic or in violation of existing copyright laws;
    - f. The Artwork is not, or is only rarely on display because no suitable site is available;

- g. Significant changes in the use, character or design of the site have occurred which affect the integrity of the Artwork;
  - h. The Artwork has been lost, stolen, or is missing;
  - i. The Artwork has received documented and unabated adverse public reaction over an extended period of time; and
  - j. Deaccession is requested by the Artist.
- ii. Should the Authority choose to Deaccession an Artwork, the Authority reserves the right to sell the Artwork. The Artist shall be given the first opportunity to purchase the Artwork at its current appraised value.
  - iii. Should the Artist choose not to purchase the Artwork, the Authority may sell, trade, donate, or destroy the Artwork.
  - iv. Destruction shall only be used where, in the sole discretion of the President/CEO, the following circumstances exist:
    - a. Most or all of the Artwork has been damaged or has deteriorated and/or repair or remedy is impractical or unfeasible; and
    - b. Public safety can be protected only by destroying the Artwork.
- (2) Arts Advisory Committee (AAC). In carrying out its duties, the AAC shall make recommendations to the President/CEO on matters relating to the Airport Arts Program upholding the Airport Arts Program mission, ensuring the Airport Arts Program policies and procedures are followed, and supporting the development and stewardship of the Airport Arts Program. The President/CEO shall decide, in his or her sole discretion, whether or not to forward the AAC recommendations to the Board for approval. The AAC shall be advisory in nature and shall have no authority to negotiate for or commit the Authority in any respect.
- (a) Composition. The AAC shall be comprised of seven voting members and no more than three ex-officio, non-voting members. The composition should include members who bring a variety of professional expertise in the arts and design, cultural backgrounds, and spectrum of life experiences, striving especially to ensure inclusive representation, including but not limited to age, cultural background, and gender. The following membership shall constitute the AAC:
    - i. Six voting members who are Arts Professionals or Design Professionals.
      - a. At least two of the six members shall be practicing Artists.
      - b. At least one of the six members shall be actively involved in the performing arts.
      - c. At least two of the six members shall reside outside San Diego County.

- d. At least one of the six shall be active in building design, architecture or operational engineering.
  - ii. One voting member who serves as the Board Representative.
  - iii. Up to three ex-officio non-voting Authority staff members whose departments work closely with the Airport Arts Program as determined by the President/CEO.
- (b) Appointment Process. Appointment of members to the AAC shall be as follows:
  - i. The Chair of the Board shall annually appoint one Board Representative to serve as a voting member of the AAC. The Board Representative may be a past or present Board member. The President/CEO shall recommend six individuals who are Arts Professionals and Design Professionals to serve as voting members of the AAC subject to appointment by the Board, for three-year terms.
  - ii. The President/CEO shall review interested candidates' qualifications and make recommendations to the Board as follows:
    - a. Solicit and review qualifications submitted by AAC, staff, and interested professionals in the fields of design, visual art, performing arts, and literary arts annually or as needed; and
    - b. Conduct interviews as needed.
- (c) Terms of Membership. Voting members of the AAC shall be recommended by the President/CEO for appointment by the Board for a term of three years, and no member may serve more than two consecutive terms. Should a member serve a partial term less than one-and-a-half years to complete the non-expired term of a prior member, such partial term shall not be included for purposes of the maximum service of two consecutive terms. Partial terms equal to or exceeding one-and-a-half years shall count as a full term. Ex-officio members of the AAC shall be appointed by the President/CEO without a term limit.
  - i. A member's term shall commence on the date the member is appointed or reappointed to the AAC.
  - ii. Should a vacancy occur prior to the end of the member's scheduled term, the President/CEO shall recommend a replacement for the non-expired term, subject to appointment by the Board.
  - iii. The Authority shall maintain a record of the current AAC members and their term expirations.
- (d) Governance. The members of the AAC shall elect a Chair and Vice-chair at the first meeting of each calendar year for a one-year term.
  - i. The Chair shall be a resident of San Diego.

- ii. The Chair and Vice-chair shall not hold a current leadership position on the staff, governing board, or advisory committee of the arts agency or department of any local governmental or educational entity within San Diego County, to prevent any overlap of authority.
- (e) Role. The AAC shall make recommendations to the President/CEO who shall decide, in his or her sole discretion, whether or not to forward the AAC recommendations to the Board for approval. The AAC shall:
- i. Recommend Airport Arts Program policies to the President/CEO for his/her review and recommendation to the Board for its approval;
  - ii. Recommend Airport Arts Program guidelines and procedures to the President/CEO for his/her approval;
  - iii. Recommend the Arts Master Plan to the President/CEO for his/her review and recommendation to the Board for its approval;
  - iv. Recommend the Program Review to the President/CEO for his/her review and approval;
  - v. Recommend the Airport Art Site and Opportunities Plan to the President/CEO for his/her review and recommendation to the Board for its approval;
  - vi. Approve selection process and Artist Selection and Review Panel composition for public art commissions;
  - vii. Approve selection panels for Performing Arts Residency and Temporary Exhibition programs;
  - viii. Recommend approval of artist selection for public art projects to President/CEO for his/her review and confirmation;
  - ix. Recommend approval of artist concept design for public art projects to the President/CEO for his/her review and confirmation;
  - x. Recommend Deaccession to the President/CEO for his/her approval;
  - xi. Recommend Gifts and Loans to the President/CEO for his/her approval;
  - xii. Recommend Memorials to the President/CEO for his/her approval; and
  - xiii. Participate in advocacy, community outreach and strategic planning in support of the Airport Arts Program mission.

- (f) Conflict of Interest. AAC members must abide by the following:
  - i. Withdraw from participating or voting on any recommendation involving a competition, commission, project or program for which any monetary gain or for which any business or familial relationship would make it difficult to render an objective and impartial decision or create the perception that an objective and impartial decision would be difficult;
  - ii. Be ineligible for any Authority-related competition, commission, project, or program during their tenure; and
  - iii. Disclose any real or perceived conflicts of interest.
- (3) Artist Selection and Review Panels. The AAC shall appoint Artist Selection and Review Panel members to review and recommend Artists for designated projects and program opportunities within the Airport Arts Program.
  - (a) Composition. Each Panel shall be comprised of the following:
    - i. Three to five voting members who are Arts Professionals or Design Professionals;
    - ii. A representative from the project design or construction team of the Authority who shall participate as a non-voting advisor; and
    - iii. A member of the AAC who shall participate as a non-voting advisor.
  - (b) Duration. Artist Selection and Review Panels shall be formed for only the duration of the designated selection process. Upon final recommendation of an Artist to the AAC, the specific Artist Selection and Review Panels shall be disbanded.
  - (c) The AAC, at staff's request and at the Committee's discretion, reserves the right to serve as the Artist Selection and Review Panel.
- (4) Duties of the Board. The Board shall, in its sole discretion:
  - (a) Approve the Airport Art Site and Opportunities Plan;
  - (b) Approve the allocated 2% of the amount of eligible construction costs from Eligible Projects for the Public Art Program;
  - (c) Through its Chair, appoint one Board Representative annually to serve as a voting member of the AAC who may be a past or present member of the Board.
  - (d) Approve appointments to the AAC, other than the Board Representative who is selected by the Chair; and.
  - (e) Approve Airport Arts Program public works contracts per Policy 5.02.

- (5) Duties of the President/CEO. The President/CEO shall be responsible for the administration and implementation of the Airport Arts Program and shall decide, in his/her sole discretion, whether or not to forward the AAC recommendations to the Board for its approval as defined herein. The President/CEO shall determine processes to carry out the following:
- (a) Negotiate and execute contracts with Artists to commission the design, fabrication, and installation of Artwork for the Airport;
  - (b) Ensure that artists shall be involved at the earliest stages of design for Eligible Projects to maximize the successful integration of the Artwork at the Site;
  - (c) Review and approve the Program Review;
  - (d) Review the Airport Art Site and Opportunities Plan and forward it to the Board for its approval;
  - (e) Allocate 2% of eligible construction costs from Eligible Projects for the Public Art Program;
  - (f) Review and confirm the AAC's recommended artist selection for public art projects;
  - (g) Review and confirm the AAC's recommended concept design for public art projects;
  - (h) Approve Deaccession and relocation of public art;
  - (i) Approve Gifts and Loans;
  - (j) Approve Memorials;
  - (k) Serve as a liaison between the Authority and the public on Airport Arts Program-related matters, including coordinating outreach and communications efforts; and
  - (l) Pursue collaborations and partnerships that further the goals of the Authority and the Airport Arts Program.

[Amended by Resolution No. 2019-0031 dated March 14, 2019.]

[Amended by Resolution No. 2013-0005 dated January 10, 2013.]

[Amended by Resolution No. 2006-0149 dated December 4, 2006.]

[Amended by Resolution No. 2006-0081 dated July 6, 2006.]

[Adopted by Resolution No. 2002-02 dated September 20, 2002.]