

MEMORANDUM OF UNDERSTANDING (copy)

This memorandum of understanding is entered into this Day 18th of August, 1982, by and between the CITY OF SACRAMENTO, a municipal corporation ("City") and the SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY ("Agency").

WHEREAS, the Agency has resolved to provide for the aesthetic improvement of the City of Sacramento; and

WHEREAS, in furtherance thereof the Agency has adopted an art in public places program (attached hereto as Exhibit "A" and incorporated herein by reference) which requires that private projects and Agency projects that are subject to the program expend a minimum of two per cent (2%) of the total construction costs for aesthetic improvements; and

WHEREAS, the Agency wishes to utilize the services and expertise of the City of Sacramento's Department of Community Services, Metropolitan Arts Division to administer the Agency's art in public places program with respect to both the Agency's projects and private projects which are subject to that program; and

WHEREAS, the City is willing and ready to consent to and provide such services by and through the Arts Division;

NOW, THEREFORE IT IS AGREED AS FOLLOWS:

1. The Agency designates the Arts Division as its agent to administer the Agency's art in public places program, with respect to all projects subject to that program.

2. Subject to the terms and conditions set forth in this Memorandum of Understanding, the City (a) shall, by and through the Arts Division, provide to Agency such services as are necessary to administer the Agency's art in public places program; and (b) authorizes the Arts Commission to participate in the administration of the Agency's art in public places program.

MEMORANDUM OF UNDERSTANDING (copy)

3. All agency projects subject to the Agency's art in public places program shall be processed and administered pursuant to and in accordance with the guidelines set forth in Exhibit "B" (attached hereto and incorporated herein by reference). All other projects subject to the Agency's art in public places program shall be processed and administered pursuant to and in accordance with the guidelines set forth in Exhibit "C" (attached hereto and incorporated herein by reference).

4. Except as otherwise provided in this paragraph, with respect to all Agency projects subject to the Agency's art in public places program the Agency shall allocate and expend not less than two per cent (2%) of the total construction costs of each project for aesthetic improvements connected with that project. Within thirty (30) days after the start of schematic designs for each such project, the Agency shall pay to City twenty per cent (20%) of the total estimated amount which is required to be expended for aesthetic improvements pursuant to the preceding sentence (i.e. 20% of 2% of the total estimated construction costs).

The City shall use this sum to offset the costs associated with administering the Agency's art in public places program.

Any provision of this paragraph notwithstanding, with new construction respect to Agency projects funded by the United States Department of Housing and Urban Development ("HUD") the Agency shall allocate and expend only one percent (1%) of the approved estimated Cost of Dwelling Construction and Equipment (as determined by HUD) for aesthetic improvements connected with the project, provided that project funds made available by HUD shall be sufficient to include such amounts at the sole discretion of HUD and Agency.

MEMORANDUM OF UNDERSTANDING (copy)

5. In addition to those projects specifically exempted from the Agency's art in public places program by the terms of that program, the following are exempted from the terms and conditions of the Memorandum of Understanding:

- (i) Mortgage revenue bond projects.
- (ii) HUD Substantial Rehabilitation Program
- (iii) HUD Moderate Rehabilitation Program

6. With respect to private projects subject to the Agency's Art in public places program the private developer and owner, and their successors, shall own and maintain the artwork. With respect to Agency projects funded by HUD, the Agency will own and maintain the artwork. With respect to all other Agency projects, the City will own and maintain the artwork upon the completion and delivery thereof and its acceptance by the City.

7. With respect to private projects subject to the Agency's art in public places program, the City, by and through the Arts Division, shall attempt to assist, through mediation and negotiation in the resolution of disputes between a private developer and an artist pertaining to the performance of a contract executed pursuant to or in furtherance of the Agency's art in public places program.

8. This Memorandum of Understanding may be terminated by either party upon the giving of written notice of termination to the other party not less than thirty (30) days prior to the date of termination.

MEMORANDUM OF UNDERSTANDING (copy)

AGENCY

WILLIAM H. EDGAR
Executive Director

APPROVED AS TO FORM:

Chief Counsel

CITY

WALTER J. SLIPE
City Manager

APPROVED AS TO FORM:

Deputy City Attorney

City Agreement No. **82002A**

RESOLUTION NO. 1750

Adopted by the Redevelopment Agency of the City of Sacramento

OCT 15, 1979

Aesthetic Improvement Policy

WHEREAS:

(a) The Redevelopment Authority of the City of Sacramento finds that the aesthetic character of the community is among its most valuable and important educational, cultural and economic assets; and,

(b) The Authority finds that the development of aesthetic improvements will help eliminate blighting influences in various Housing Project Areas and accordingly assist in the redevelopment of the City of Sacramento; and,

(c) The Authority desires to foster the creation of aesthetic ornamentation in the form of art works as defined in City Code Section 2.59e.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSING AUTHORITY OF THE CITY OF SACRAMENTO:

1. It is the policy of the Housing Authority of the City of Sacramento to promote the aesthetic improvement of the City of Sacramento to promote the aesthetic improvement of the City of Sacramento to the fullest extent possible.

2. It shall be the Authority's policy to require developers to expend a minimum of two (2) percent of total construction costs of aesthetic improvements, and to require Housing Authority public housing building construction projects to expend a minimum of two (2) percent of the total costs on aesthetic improvements with the exception of the following:

(a) Single family or duplex dwellings,

(b), Publicly assisted rehabilitation of private property,

(c) Low- or moderate-income multi-unit housing projects when it is not economically feasible to provide the artwork, subject to the review of the Sacramento Metropolitan Arts Commission, and,

(d) On or off-site improvements that are not buildings.

As used herein, aesthetic improvements include an amount for administrative costs incurred by the Sacramento Metropolitan Arts Commission in the process of selection and installation of artwork projects.

3. The Authority may reduce the required expenditure upon a determination that the particular aesthetic improvements included within the public or private building construction project are such as to accomplish the objectives of this policy.

RESOLUTION No. 1750
OCT 15, 1979

MEMORANDUM OF UNDERSTANDING (copy)

EXHIBIT A
(2 OF 2)

4. The Agency encourages other public agencies constructing public buildings within or adjacent to the Housing Authority to expend at least two (2) percent of the total construction costs of these buildings on aesthetic improvements as described above.

5. Resolution 1222 is rescinded.

CHAIRPERSON

ATTEST:

SECRETARY

RESOLUTION No. 1750
OCT 15, 1979

RESOLUTION NO. 2865

Adopted by the Redevelopment Agency of the City of Sacramento

OCT 16, 1979

Aesthetic Improvement Policy

WHEREAS:

(a) The Redevelopment Agency of the City of Sacramento finds that the aesthetic character of the community is among its most valuable and important educational, cultural and economic assets; and,

(b) The Agency finds that the development of aesthetic improvements will help eliminate the blighting influences in the various redevelopment project areas and accordingly assist in the redevelopment of the City of Sacramento; and,

(c) The agency desires to foster the creation of aesthetic ornamentation in the form of art works as defined in City Code Section 2.59e.

NOW, THEREFORE, BE IT RESOLVED BY THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO:

1. It is the policy of the Redevelopment Agency of the City of Sacramento to promote the aesthetic improvement of the City of Sacramento to promote the aesthetic improvement of the City of Sacramento to the fullest extent possible.

2. It shall be the Agency's policy to insert a covenant in its Land Disposition Agreements (excluding assignments unless the original Agreement so covenants), requiring developers to expend a minimum of two (2) percent of total construction costs of buildings on aesthetic improvements, and to require Redevelopment Agency building projects to expend a minimum of two (2) percent of the total building construction costs on aesthetic improvements with the exception of the following:

- (a) Properties undergoing restoration or located in Old Sacramento Historic Area,
- (b) Single family or duplex dwellings,
- (c) Publicly assisted rehabilitation of private property,
- (d) Low- or moderate-income multi-unit housing projects when it is not economically feasible to provide the artwork, subject to the review of the Sacramento Metropolitan Arts Commission, and,
- (e) On or off-site improvements that are not buildings.

As used herein, aesthetic improvements include an amount for administrative costs incurred by the Sacramento Metropolitan Arts Commission in the process of selection and installation of artwork projects.

RESOLUTION No. 2865
OCT 16, 1979

MEMORANDUM OF UNDERSTANDING (copy)

EXHIBIT A
(2 OF 2)

3. The Agency may reduce the required expenditure upon a determination that the particular aesthetic improvements included within the public or private building construction project are such as to accomplish the objectives of this policy.

4. The Agency encourages other public agencies constructing public buildings within or adjacent to the Redevelopment Project Areas to expend at least two (2) percent of the total construction costs of these buildings on aesthetic improvements as described above.

5. Resolution 2394 is rescinded.

CHAIRPERSON

ATTEST:

SECRETARY

RESOLUTION No. 2865
OCT 16, 1979

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY
ART IN PUBLIC PLACES PROGRAM
GUIDELINES FOR AGENCY PROJECTS

I. THE POLICY AND LAW

In 1979, the Sacramento Housing and Redevelopment Agency (Agency) enacted Resolutions #1750 and #2865 pledging itself “to promote the aesthetic improvement of the City of Sacramento to the fullest extent possible”. These resolutions require that Agency building projects expend a minimum of two percent (2%) of the total construction costs on aesthetic improvements.

II. WHAT ARE AESTHETIC IMPROVEMENTS?

A. The Agency’s art in public places program (Program) is receptive to the broadest definitions of art and encourages imaginative interpretations of the various media. Among the possible media and materials which will be considered are:

Paintings, prints, drawings, collages, photographs, frescoes, murals, mosaics, mobiles, fountains, sculptures, works in clay, wood, metal, paper, glass, earth, fiber, plastics.

The art work may be:

Decorative or functional;

Part of a changing installation or permanently affixed;

Landscape items (i.e. placement of natural materials or functional objects)

Aesthetic improvements may also include work that will facilitate public access to an arts experience.

B. Items that are not eligible for funding as “aesthetic improvements” or “works of art” under this program include:

1. Directional elements such as super graphics, signage, or color coding except where these elements are an integral part of the original work of art.

2. “Art Objects” which are mass produced of standard design such as playground equipment or fountains.

3. Reproductions, by mechanical or other means, of original works of art, except in cases of film, video, photography, printmaking or other media arts.

4. Decorative, ornamental, or functional elements which are designed by the building architect as opposed to an artist commissioned for this purpose.

5. Landscape architecture and landscape gardening except where these elements are designed by the artist and are an integral part of the work of art by the artist.

6. Operating costs of electrical, mechanical, plumbing or other services which are needed to operate the work of art over time.

III. WHO MAY PROVIDE AESTHETIC IMPROVEMENTS?

Subject to a few limitations specified below, any artist may be considered to create or provide aesthetic improvements. The City of Sacramento Metropolitan Arts Division (Arts Division) has files containing slides and resumes from hundreds of artists, primarily from California but also from around the country. This is presently the only public art slide registry in California.

Members of the Sacramento Metropolitan Arts Commission (“Arts Commission”) and the staff of the Arts Division, and their immediate families, may not be selected to create or provide the aesthetic improvements required by the Program.

Except in connection with work which will facilitate public access to aesthetic improvements, project architects, consulting architectural firms, and members thereof, may not be selected to create or provide the aesthetic improvements required by the Program for a project which they or their firm have provided services in connection with.

IV. HOW ARTWORKS ARE SELECTED

A. Artists may be selected by any of the following methods, depending on which is most appropriate for the situation.

Open competition: The site is advertised and anyone may submit a proposal for review. This method generates a good deal of publicity, but may not be of the highest quality of artwork.

Limited competition: A few people (usually three to five) are selected and paid to develop proposals for a site. One of the proposals is selected. This method produces a number of options and often results in a higher quality of artwork than open competition.

Invitation: One person is paid to develop one or more proposals for a site(s). This method often assures close collaboration between the artist and the architect for the construction project.

Direct purchase: A completed work of art is selected for a particular site. Although administratively this process is straight forward and easy, it should be noted that one of the major goals of the program is to produce work that is appropriate for the site and that this method of selection may not result in the perfect match between artwork and site.

B. If a proposal is to be selected by means of invitation or limited competition, the artist(s) is (are) paid to develop the proposal (s). (This is standard procedure in the art world.) Sample contracts are on file with the Arts Division.

C. Two major criteria will be used in the selection of artwork: artistic excellence and appropriateness for site. Accessibility, durability, security and maintenance requirements will also be taken into consideration. The artwork must be of sound construction and comply with all applicable code requirements (including but not necessarily limited to the Sacramento City Code).

D. Artists will be given general guidelines or parameters for the desired artwork, but to the fullest extent feasible they will be left to develop creative solutions on their own.

V. THE ART BUDGET

With the exception of projects funded by the Department of Housing and Urban Development (HUD), the Agency is required to allocate and expend two percent (2%) of the total construction costs on aesthetic improvements. With respect to projects funded by HUD, one percent (1%) of the approved estimated Dwelling Construction and Equipment Costs will be allocated and expended on aesthetic improvements when approved by HUD.

Because the artwork must be planned before construction begins on the overall project, the preliminary art budget must be based upon the estimated construction costs. However, the total amount expended on aesthetic improvements required by the Program shall be based upon total construction costs as determined upon completion of the construction project.

VI. HOW ARTISTS ARE PAID

All financial arrangements are negotiated between the Arts Division (as agent for the Agency) and the artist, and will be verified by a written agreement. The Arts Division has sample contracts on file. Invoices for payments will be submitted by the artist to the Arts Division for review and approval and, as approved, transferred by the Arts Division to the Agency for processing and payment. The Agency shall be solely responsible to pay such sums as are due the artist, and neither the City of Sacramento, the Arts Division, or the Arts Commission, or their agents, officers or employees, shall be liable or responsible to pay such sums to the artist.

VII. EXEMPTIONS TO THE PROGRAM

The Agency's Program exempts the following projects from its requirements:

Properties undergoing restoration or located in Old Sacramento Historic Area;

Single family or duplex dwellings;

Publicly assisted rehabilitation of private property;

Low or moderate income housing projects when it is not economically feasible to provide the artwork, or not approved by HUD, subject to the review of the Sacramento Metropolitan Arts Commission; and

Projects consisting entirely of on or off-site improvements that are not buildings.

In addition, Agency projects funded by HUD, while not exempted, are subject to the limitation that only one percent (1%) of the approved estimated Dwelling Construction and Equipment Costs are to be expended for aesthetic improvements pursuant to the Agency's Program.

VIII. PROCEDURE

1. Within thirty (30) days after schematic designs are begun for any Agency project subject to the program, the Agency shall transfer twenty percent (20%) of the total Art Budget to the City to offset the City's costs associated with administering the Agency's program. Upon the receipt thereof the Arts Division will begin the process of administering the program with respect to the project for which the funds were received.

2. The Arts Division shall consult with the Agency staff, the project architect and the community. Thereafter, an art program shall be developed for the particular project, consisting of the designation of a proposed site, the media of artwork to be used, the selection and fabrication and installation of the artwork. This program is subject to the review and approval of the Arts Commission.

3. The Arts Division shall then convene a panel to select an artist by one of the methods set forth in Part IV hereinabove. The Arts Division will provide assistance to artists in developing proposals.

Before a proposal is finally approved it shall be submitted to the following persons or groups for review and approval: the panel convened to an artist, a committee of the Arts Commission appointed for this purpose, the Project Area Committee (if within a redevelopment area), the City Engineer, the Arts Commission, the City Manager (if the proposal is for less than \$10,000) or the City Council (if for \$10,000 or above), and the Agency.

4. After an artist is selected and a proposal approved, the Arts Division, on behalf of the Agency, negotiates and executes a contract between the artist and Agency. Thereafter, the Arts Division monitors the contract performance and coordinates the fabrication and installation of the artwork with the project architects and contractors. When appropriate the Arts Division will also develop a suitable public education program in connection with the artwork.

IX. MISCELLANEOUS

1. The staff of the Arts Division is experienced in public art projects and is available for consultation and advice.

2. Notwithstanding the provisions of section III, above, collaboration between artists and architects, engineers, and/or designers is encouraged. In exceptional circumstances, funds may be allocated for the architects fee or a portion of the costs of the architecture if it is determined that the work for which the funds are proposed to be so allocated is an integral part of the artwork required pursuant to the Agency's Program and would not have been done otherwise. (For example, an artist and a landscape architect might collaborate to design a plaza that includes paving, fountains, and trees. The design and construction of the area may not be charged entirely to the art budget, because some landscaping would have been done anyway. However, approval might be given to allocate from the art budget the costs over and above the "standard" landscaping).

However, no such collaboration should be undertaken, and no such allocation will be approved, unless the plans therefore are presented to and approved by the responsible agency (ies) before the costs are incurred.

3. In developing these guidelines the Agency, the Arts Commission and the Arts Division have tried to allow for a flexible series of public art possibilities while still attempting to maintain a high artistic standard.

MEMORANDUM OF UNDERSTANDING (copy)

EXHIBIT B
(5 OF 5)

For further information, please contact:

Coordinator, Art in Public Places Program
City of Sacramento Arts Division
2030 Del Paso Blvd.
Sacramento, Ca 95815
(916) 566-3992

**SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY
ART IN PUBLIC PLACES PROGRAM
GUIDELINES FOR PRIVATE DEVELOPERS**

I. THE POLICY AND LAW

In 1979, the Sacramento Housing and Redevelopment Agency (Agency) enacted Resolutions #1750 and #2865 pledging itself “to promote the aesthetic improvement of the City of Sacramento to the fullest extent possible”. These resolutions require “developers expend a minimum of two percent (2%) of the total construction costs on aesthetic improvements.”

II. WHAT ARE AESTHETIC IMPROVEMENTS?

A. The Agency’s art in public places program (Program) is receptive to the broadest definitions of art and encourages imaginative interpretations of the various media. Among the possible media and materials which will be used are:

Paintings, prints, drawings, collages, photographs, frescoes, murals, mosaics, mobiles, fountains, sculptures, works in clay, wood, metal, paper, glass, earth, fiber, plastics.

The art work may be:

decorative or functional;
part of a changing installation or permanently affixed;
landscape items (i.e. placement of natural materials or functional objects)

Aesthetic improvements may also include work that will facilitate public access to an arts experience.

B. Items that are not eligible for funding as “aesthetic improvements” or “works of art” under this program include:

1. Directional elements such as super graphics, signage, or color coding except where these elements are an integral part of the original work of art.
2. “Art Objects” which are mass produced of standard design such as playground equipment or fountains.
3. Reproductions, by mechanical or other means, of original works of art, except in cases of film, video, photography, printmaking or other media arts.
4. Decorative, ornamental, or functional elements which are designed by the building architect as opposed to an artist commissioned for this purpose.
5. Landscape architecture and landscape gardening except where these elements are designed by the artist and are an integral part of the work of art by the artist.
6. Operating costs of electrical, mechanical, plumbing or other services which are needed to operate the work of art over time.

7. Other items as determined by the Sacramento Metropolitan Arts Commission (“Arts Commission” on a project by project basis.

III. WHO MAY PROVIDE AESTHETIC IMPROVEMENTS?

Subject to a few limitations specified below, any artist may be considered to create or provide aesthetic improvements. (As used herein “artist” means a professional who is engaged in the creation of artworks). The City of Sacramento Metropolitan Arts Division (Arts Division) has files containing slides and resumes from hundreds of artists, primarily from California but also from around the country. This is presently the only public art slide registry in California. Though not a requirement, developers are encouraged to use this Slide Bank as a resource for selecting artists.

Members of the Sacramento Metropolitan Arts Commission and the staff of the Arts Division, and their immediate families, may not be selected to create or provide the aesthetic improvements required by the Program.

Except in connection with work which will facilitate public access to aesthetic improvements, project architects, consulting architectural firms, and members thereof, may not be selected to provide artwork for a project that they or their firm have provided other services in connection with.

IV. HOW ARTWORKS ARE SELECTED

- A. The developer is free to use any of the following methods of selecting artists, depending on which is most appropriate for the situation.

Open competition: The site is advertised and anyone may submit a proposal for review. This method generates a good deal of publicity, but may yield the highest quality of artwork.

Limited competition: A few artists (usually three to five) are selected and paid to develop proposals for a site. One of the proposals is selected. This method produces a number of options for the developer and often results in a higher quality of artwork than open competition.

Invitation: One person is paid to develop one or more proposals for a site(s). This method often assures close collaboration between the artist and the architect for the construction project.

Direct purchase: A completed work of art is selected for a particular site. Although administratively this process is straight forward and easy, it should be noted that one of the major goals of the program is to produce work that is appropriate for the site and that this method of selection may not result in the perfect match between artwork and site.

If a proposal is to be selected by means of invitation or limited competition, the artist(s) is (are) paid to develop the proposal (s). (This is standard procedure in the art world.) Sample contracts are on file with the Arts Division.

- B.
1. Two major criteria will be used in the selection of artwork: artistic excellence and appropriateness for site. Accessibility, durability, security and maintenance requirements will also be taken into consideration. The artwork must be of sound construction and comply with all applicable code requirements (including but not necessarily limited to the Sacramento City Code).
 2. Artists will be given general guidelines or parameters for the desired artwork, but to the fullest extent feasible they will be left to develop creative solutions on their own.
 3. The selection of a site is as important as the selection of the artist. Often works of high quality fail in public situations because they are out of scale in their location, hidden by an architectural feature, situated in an unused site, or improperly lit. Artists should be consulted in the selection of sites for their artwork and in arranging for proper lighting at the site.
 4. All permanent installations of artwork should have a plaque of durable material adjacent to the artwork listing the title of the artwork, the artist's name and the date completed.
 5. It is the intention of the Program that the developer use two percent (2%) of the total construction costs to provide aesthetic improvements of reasonably permanent nature. If, over time, it is desired to change portions of these improvements, this should be done only if the changes and/or replacements are consistent with the intentions of the Program and these guidelines.

V. THE ART BUDGET

The developer is required to allocate and expend two percent (2%) of the total construction costs on aesthetic improvements. However, the artwork must be planned before construction begins on the overall project. Therefore, the preliminary art budget must be based upon the estimated construction costs.

However, the total amount expended on aesthetic improvements required by the Program, shall not be less than two percent (2%) of the total construction costs, as determined upon completion of the construction project. If such total cost of construction is more than \$50,000 higher than the figure (estimated cost of construction) used to calculate the art budget in the Preliminary or Final Arts Plan, the art budget must be increased as necessary to equal or exceed 2% of the total construction costs.

The developer may allocate and expend a portion of the art budget for administrative costs incurred in complying with the Agency's Program; however, in no event shall more than ten percent (10%) of the art budget be allocated or expended for such costs, and in no event shall such costs include overhead.

VI. HOW ARTISTS ARE PAID

All financial arrangements are negotiated between the developer and the artist and should be verified in a written agreement. Copies of the executed contracts between the developer and the artist (s) shall be submitted to the Arts Division within 30 days of their execution. The Arts Division has sample contracts that can be used as models and is also willing to assist in the negotiations between the artist and developer.

VII. EXEMPTIONS TO THE PROGRAM

Agency's Program exempts the following projects from its requirements:

Properties undergoing restoration or located in Old Sacramento Historic Area;

Single family or duplex dwellings;

Publicly assisted rehabilitation of private property;

Low or moderate income housing projects when it is not economically feasible to provide the artwork, or not approved by HUD, subject to the review of the Sacramento Metropolitan Arts Commission; and

Projects consisting entirely of on or off-site improvements that are not buildings.

VIII. PROCEDURE

1. When any development proposal (for a project subject to the Agency's Program) is submitted to the Agency, the developer shall include a completed art information sheet in the form attached hereto as Form #1.
2. Within fifteen (15) days after the Agency resolves to tentatively select a developer on the basis of such a development proposal, the developer shall contact the Arts Division and invite the Arts Division staff to make a presentation regarding the Agency's Program to the developer and project architects.
3. Within thirty (30) days after the Agency resolves to finally select a developer, the developer shall submit a Preliminary Arts Plan, in the form attached hereto as Form #2, to the Arts Division. Within sixty (60) days after submission of the Preliminary Arts Plan the developer and the Arts Commission shall meet, at which time the developer shall present the Preliminary Arts Plan to the Commission.
4. The Arts Division and the Arts Commission will review the developer's Preliminary Arts Plan. The Arts Commission shall recommend approval, revision or other action on said Plan based upon the Agency's Program; these recommendations may include a request that the developer make a second presentation to the Arts Commission. If any recommendations other than approval are to be made, these must be transmitted to the developer within thirty (30) days after the developer's latest presentation to the Arts Commission; if no such recommendations are transmitted within said thirty day period, the Arts Commission shall approve the Preliminary Arts Plan as presented.

The Arts Commission's approval of the Preliminary Arts Plan must be received before the Agency will approve the Developer's Preliminary Plan for the development project.

5. The developer shall submit a Final Arts Plan, in the form attached hereto as Form #3, to the Arts Division not later than sixty (60) days before submission to the Agency of the Developer's Final Plan for the development project. Within sixty (60) days Commission shall meet, at which time the developer shall present the Final Arts Plan to the Commission.

6. The Arts Division and Arts Commission shall review the Final Arts Plan. The Arts Commission shall recommend approval, revision or other action on said Plan based upon the Agency's Program and the previously approved Preliminary Arts Plan.

The Arts Commission's approval of the Final Arts Plan must be received before the Agency will approve the Developer's Final Plan for the development project.

7. Before the closing of escrow for the sale of the subject parcel from the Agency to the developer, a sum equal to two percent (2%) of the developer's art budget, or \$1,000, whichever is greater, shall be placed on deposit with the City of Sacramento as a fee to offset the costs incurred by the Arts Division and the Arts Commission in connection with the development project.

8. The artwork must be installed and completed in conformity with the approved Final Arts Plan unless modifications have been previously agreed to by the Agency. Upon such installation and completion the developer shall notify the Arts Division in writing.

Within thirty (30) days after receipt of such notification the Arts Division shall (i) inspect and review the artwork; and (ii) if the artwork conforms to the approved Final Arts Plan (including any agreed upon modification), issue a written confirmation of such conformity to the Agency. If the artwork does not so conform the Arts Division shall notify the developer in writing of the deficiencies.

The Arts Division's confirmation that the artwork conforms to the approved Final Arts Plan (including agreed upon modifications) must be received by the Agency before the Agency will issue a Certificate of Completion to the developer.

9. Any person aggrieved by a decision or action of the Arts Commission or the Arts Division pursuant to these guidelines may appeal such decision or action to the Agency by filing a written notice of appeal, specifying the bases of the appeal, with the Executive Director of the Agency not later than fifteen (15) days after the decision or action sought to be appealed. At the hearing of the appeal the burden shall notify the developer in writing of the deficiencies.

IX. REVIEW CRITERIA

The criteria for review of proposed improvements pursuant to the Agency's Program shall be essentially the same as the criteria utilized in reviewing public works projects subject to the City of Sacramento's Art in Public Places Policy (Sacramento City Code Section 2.60-1 et seq.) These include artistic excellence, appropriateness of the artwork for the site (in terms of scale, material, and composition, form and content, and the relationship of the work to the architectural, social and historic environment) and its availability and accessibility in sites that are frequented.

X. MISCELLANEOUS

1. The staff of the Arts Division is experienced in public art projects and is available for consultation and advice.
2. Notwithstanding the provisions of section III, above, collaboration between artists and architects, engineers, and/or designers is encouraged. In exceptional circumstances, funds may be allocated for the architects fee or a portion of the costs of the architecture if it is determined that the work for which the funds are proposed to be so allocated is an integral part of the artwork required pursuant to the Agency's Program and would not have been done otherwise. (For example, an artist and a landscape architect might collaborate to design a plaza that includes paving, fountains, and trees. The design and construction of the area may not be charged entirely to the art budget, because some landscaping would have been done anyway. However, approval might be given to allocate from the art budget the costs over and above the "standard" landscaping).

However, no such collaboration should be undertaken, and no such allocation will be approved, unless the plans therefore are presented to and approved by the responsible agency (ies) before the costs are incurred.

3. In developing these guidelines the Agency, the Arts Commission and the Arts Division have tried to allow for a flexible series of public art possibilities while still attempting to maintain a high artistic standard.

For further information, please contact:

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