

Bill No. 2252-05

No. 60-05-RE

A RESOLUTION

A Resolution of the County of Allegheny, Commonwealth of Pennsylvania, establishing program guidelines for Allegheny County's Public Art Program, as established under Ordinance No. 39-05.

WHEREAS, the County of Allegheny believes that investing in the arts is crucial to revitalization and development of a strong community and economy, and is an important measure of the success of a region; and

WHEREAS, County Council has given expression to this belief by creating the Public Art Program in Ordinance No. 39-05; and

WHEREAS, Section 8 of Ordinance No. 39-05 requires that Council adopt guidelines for the Public Art Program in resolution form, and that these guidelines must subsequently be adopted by the Arts Board at its first meeting; and

WHEREAS, establishing a policy in which a specific allocation is set aside for revitalization of the County integrates arts and culture into communities throughout the County, supports the region's cultural assets, and emphasizes Allegheny County as a cultural destination; and

WHEREAS, it is the desire of Allegheny County Council, in cooperation with the Chief Executive, to continue to improve the experiences of its residents through its support of visual art, improving the aesthetics of the County.

The Council of the County of Allegheny hereby resolves as follows:

Section 1. Public Art Program Guidelines

Nothing contained within this Resolution shall be construed to in any fashion limit, reduce, enlarge or otherwise alter any right, duty or obligation imposed under the terms of Ordinance No. 39-05, nor shall the function of the Arts Board be deemed to be altered from that described in Ordinance No. 39-05 in any fashion by reason of any language contained herein. The following Public Art Program Guidelines are hereby adopted by Allegheny County Council:

I. Conflict of Interest

A. Arts Board Members.

1. Members of the Arts Board are ineligible for public art commissions or projects during their tenure and for one year following their term of service. Family and household members also are ineligible for public art commissions or projects over which the Board has approval authority or administrative responsibility. These restrictions will extend indefinitely for any specific commission or projects that were reviewed or otherwise acted upon during membership on the Board.
2. Members of the Arts Board must declare any potential conflict of interest, including personal or business relationships, and withdraw from participating or voting on any competition, commission, or project with which they are involved that come before the Board.

B. Other participants. Members of the project management, project architect, or consulting firms and employees of the County of Allegheny are ineligible to receive public art funds for design services or public art commissions.

C. Selection panelists. Selection panels may be created by the Board that exclude family or household members or those who have personal or business relationships with an artist or artwork under consideration for a public art project by that panel. Business relationships include but are not limited to gallery owners, brokers, artist representatives, agents, fabricators, suppliers, and employers.

D. Artists.

1. Artists who were previously involved in the development of a public art project under the County's ordinance or public artwork plan for the County may be eligible for consideration for that particular project or plan provided there is disclosure of the prior involvement and approval of the Board.
2. An artist is ineligible to serve on the Board or as a selection panelist while under consideration for a public art commission or project.
3. An artist is precluded from having his/her work considered for a public art commission or project once selected for or while serving on the Board or a selection panel.

II. Selection Criteria for Artists and Artwork

- A. **General criteria.** Projects undertaken by artists or acquisitions of artwork whether by commission, purchase, gift, or other means should further the purpose and goals of the Allegheny County public art program. The Board will determine the appropriate recruitment strategy to establish a pool of artists for each project based on standard methods described in Section IX. The Board or selection panel will apply the following criteria when selecting artists, considering acquisitions or siting artwork:

Artistic Merit - The inherent quality and excellence of a proposed artwork together with the strength of the artist's concept and design capabilities, are the program's highest priorities.

Context - Artwork must be compatible in scale, material, form, and content with their surroundings. When serving a functional purpose, artworks may establish focal points; modify, enhance, or define specific spaces; establish identity or address specific issues of civic design. Consideration should also be given to the architectural, historical, geographical and social/cultural context of the site or community, as well as the way people may interact with the artwork.

Relevant experience - Experience and professional record of the artist(s) should provide convincing evidence of ability to successfully complete the project as proposed. Particularly on collaborative or design team projects artists should demonstrate ability to:

Communicate effectively and elicit the ideas of team members;

Exhibit flexibility and problem-solving skills;

Work with architectural drawings and construction documents;

Engage community representatives in a project.

Permanence/maintenance - Due consideration will be given to the structural and surface soundness, operational costs and inherent resistance to theft, vandalism, weathering and excessive maintenance.

Technical feasibility - An artist must exhibit a successful track record of construction and installation of artwork or show that an appropriate professional has examined the proposed artwork and confirmed feasibility of construction and installation.

Budget - An artist's proposal should provide a budget adequate to cover all costs for the design, fabrication, insurance, transportation, storage, and installation of the proposed artwork, plus a contingency plan for

reasonable unforeseen circumstances. Artists should have a history of completing projects within budget.

Diversity - Artwork will be sought from artists of diverse ethnic and cultural identities and from local, regional, national, and international artists. The Board encourages applications from artists working in both established and experimental art forms.

Fabrication and installation schedules - The artist proposal should include a project timeline that incorporates design review, fabrication, delivery and installation in accordance with project schedule. The artist should have a history of completing projects on time.

The Board and any selection panel(s) may recommend rejection of all submissions if none are considered satisfactory and a new pool of artists may be established.

- B. Program Procedures.** The Arts Board will develop public art program procedures consistent with both Ordinance No. 39-05 and the guidelines set forth herein which detail the methods and criteria for evaluating artists' proposals. Such procedures shall include, but not be limited to, public art project planning, artists' contract provisions, artist selection procedures, design development, the role of staff and consultants, and policies for accepting gifts of artwork.

III. Methods of Recruiting and Selecting Artists

- A. Open Competition (Request for Qualifications or Request for Proposals).** An open competition is a "Call to Artists" for a specific project in which artists are asked to submit evidence of their past work. Any artist may submit credentials and/or proposals, subject to any limitations established by the Board. Calls for entries for open competitions will be sufficiently detailed to permit artists to determine whether their work is appropriate to the project under consideration.
- B. Limited Competition.** A limited number of artists shall be invited by the Board to submit credentials and/or proposals for a specific project. Artists shall be invited based on their past work and exhibited abilities to meet situations posed by particular project requirements or based on other non-aesthetic, public art program goals.
- C. Invitational Competition.** In an invitational competition, a very small number of artists (usually between three and six) are invited to submit credentials and/or proposals for a specific project. Invited artists shall be selected directly by staff or identified by the Board through an initial slide review process. Artists shall be included in the slide review process based on their ability to meet situations presented by the given project.

- D. **Direct Selection.** At times, the Board may elect to make a direct selection in which they contact a specific artist for a particular project. Such an election may occur for any reason, but will generally occur when circumstances surrounding the project warrant either an open or invitational competition unfeasible (for example: project timeline, community or social considerations, client demand, etc.). Over time an ongoing list of eligible artists will be developed and approved by the Board for use in direct selection projects.
- E. **Mixed Process.** A mixed process includes any combination of the above approaches.

IV. **Proposals.** A potential provider of artwork will consult with the Board, and then submit a written proposal or letter of intent to the Board. Whenever possible the artist or donor will present the actual artwork for approval. The Board or a selection panel will evaluate each proposed artwork based on the selection criteria and make an affirmative or negative recommendation for approval. All proposals will include:

- A. A site plan that locates the artwork if a specific location is proposed;
- B. Description of actual materials which may include drawings, photographs or samples;
- C. Installation details, including architectural drawings and/or construction documents;
- D. Recommended maintenance plan;
- E. Proposals for large or monumental works will include a maquette of a 3-D work or drawings of 2-D work;
- F. Funding provisions:
 - 1. Any display or placement of artwork, whether temporary or permanent, must be covered by insurance, endowment, or contractual agreement for maintenance, so that they will remain in a condition satisfactory to the Board;
 - 2. The insurance, endowment or contractual agreement must also cover costs of installation, storage and/or removal;
- G. An estimate of value by a certified art appraiser or from a source acceptable to the Board.

IV. Placement of Artwork and Temporary Artwork or Exhibitions

A. Process. The Board will meet to determine the appropriate location for artwork. The artist, Board, architect(s) or engineer(s) overseeing construction may propose site option(s) for artworks. Final approval of the placement of artwork by the County department with oversight responsibility is required.

B. Factors. In determining a site for artwork, the Board will consider the following factors:

1. Visibility and civic prominence;
2. Public accessibility to proposed artwork for all individuals, including facility users, surrounding community members and those with special needs;
3. Public safety and liability issues;
4. Vehicular and pedestrian traffic patterns;
5. Relationship to architectural and natural features, landscape design, environmental impact and concerns, and future plans for the area;
6. Social context and other uses of the artwork or space;
7. Existing artwork within the proposed site vicinity.

C. Temporary Artwork or Exhibitions

1. Temporary artwork shall be defined as artwork or exhibitions on loan or created for display on county-owned property for ninety (90) days or less.
2. Temporary artwork shall be documented by the site sponsor, responsible department, or the artist(s) for the Board inventory through appropriate media, such as photographs, slides or digital record.
3. Final approval for use of temporary artwork or exhibitions by the County department with oversight responsibility is required.

VI. Funding

A. Funding process. Funds will be dispersed in accordance with the policies and procedures of Allegheny County.

B. Application of public art funds. Funding generated for public art projects

may be spent for the acquisition of artwork, including:

1. Artist-related costs consisting of:
 - a. Artist's design fee;
 - b. Operating and overhead costs;
 - c. Labor and materials;
 - d. Proposals, drawings, or maquettes;
 - e. Permits required by the County related to construction or erection of artwork;
 - f. Project-related travel subject to the County's travel policy and approval by the County Manager;
 - g. Transportation of artwork to the site;
 - h. Installation;
 - i. Site preparation or modification when not included in construction costs;
 - j. Frames, mats, mounting, anchorage, pedestals, cases or other materials necessary for the installation, display and/or security of the artwork (such as fire retardant or graffiti resistant treatment);
 - k. A portion of the budget for the artwork may be set aside for contingency at the beginning of a project and returned to the public art fund if unused.
2. Project management costs, itemized upon submission and capped in aggregate at fifteen percent (15%) of funds set aside for any one public art project shall consist of:
 - a. Artist recruitment costs;
 - b. Fees for consultants to a selection panel;
 - c. Pre-contract artists' costs;
 - d. Permanent identification plaques and labels;
 - e. Documentation directly related to the acquisition or to establish ownership of the

artwork;

- f. Educational activities directly pertaining to the project;
- g. Architectural and engineering design services when they cannot be included in construction costs;

- 3. Insurance;
- 4. Capital maintenance and restoration of artwork acquired through the public art program (See VII. Maintenance and Conservation for policy.);
- 5. Storage and disposal costs for resited or deaccessioned artwork acquired through the public art program;
- 6. Special projects and other purposes directly related to a specific project and approved by the Board;
- 7. Public relations and general education, such as locator guides, web-site or documentation catalogs;
- 8. Review and management of the public art collection;
- 9. Dedications and publicity.

C. Exclusions. No public art funds may be spent for:

- 1. Reproductions of original artwork;
- 2. Decorative or functional elements by the project design professionals such as architects, landscape architects, engineers, or their consultants;
- 3. Art objects that are mass-produced of standard design, such as playground equipment or fountains;
- 4. Directional elements such as signs, maps, color coding, unless designed or executed by an artist and integral to a specific project;
- 5. Utility costs;
- 6. Building or maintaining cultural facilities;
- 7. Ongoing routine maintenance and restoration of artwork.

VII. Maintenance and Conservation

A. Maintenance policies.

1. Prior to acceptance of a new artwork by the Board, the artist will submit in writing a routine maintenance plan for the department or administrator having oversight responsibility, and provide appropriate training where necessary;
2. The routine maintenance plan for permanently installed artwork will require final approval by the department having oversight responsibility and become the responsibility of this department;
3. Maintenance will be guaranteed by the artist against all defects of material and workmanship for a minimum of one year following installation or according to the artist's contract;
4. The artist will have the opportunity to comment on, and participate in, all repairs and restorations that are made during his/her lifetime;
5. On an annual basis, the Board will require reports from all departments overseeing public artworks tracking routine maintenance activities on artwork created through the public art program;
6. The department with oversight will be responsible for keeping the Board informed about changes in the condition of the artwork and the site;
7. Responsible departments will not clean or repair artwork beyond what is specified in the artist's maintenance plan without the prior written authorization of the Board;
8. Any proposed public art project requiring operation or maintenance expenses shall include a maintenance plan with estimates of annual operating and maintenance expense and be submitted for prior approval by:
 - a. The Director of Finance, as to the availability of funds;
 - b. The department head responsible for such operation or maintenance;
 - c. The County Council, of funds appropriate to cover such operation and maintenance expenses.

B. Conservation policy. The Board will establish policies and procedures to

evaluate the public art collection on a regular basis for purposes of conservation and assessment of the collection's future.

VIII. Resiting and Deaccessioning

- A. Guidelines.** The Board will retain the right to resite or deaccession any artwork created or acquired under the public art program pending final approval by the County department with oversight responsibility. While the intent of acquisition is for long-term public display, circumstances and/or conditions may arise that make it prudent for the Board, on behalf of the public interest, to remove an artwork from public display. However, the review process will insure that resiting or deaccessioning will be a seldom-employed action that operates from a strong presumption against removing artwork from the public art collection, insulating the collection from fluctuations in taste.
- B. Reasons for resiting or deaccessioning.** The Board shall determine that a specific artwork will be resited or deaccessioned only if one or more of the following criteria are met:
1. The site is being eliminated;
 2. The site is being altered such that the artwork is no longer compatible with the site;
 3. The security of the artwork can no longer be reasonably guaranteed at its current site;
 4. The artwork has become a danger to public safety;
 5. The cost of maintaining or updating the artwork's operating technology is cost prohibitive;
 6. Significant adverse reaction to the artwork from the community has continued for an extended period (at least ten years).
- C. Procedures.** Once the Board has determined that an artwork meets one or more of the above criteria, the following process is initiated:
1. The Board will make a good faith attempt to discuss resiting with the artist;
 2. If the artist does not agree to the proposed resiting, he/she will have the right to prevent the use of his/her name as the author of the artwork;
 3. If, in the opinion of the Board, there is not another appropriate site, the artwork may be stored or deaccessioned;

4. If deaccessioned, the County may store or dispose of the artwork;
5. If the structural integrity or condition of an artwork, in the opinion of the Board or the Director of the Allegheny County Department of Public Works, presents an eminent threat to public safety, the Board may authorize its immediate removal, without the artist's consent. The Board would declare a state of emergency and have the work placed in temporary storage. The artist must be notified of this action within 30 days. The Board will then recommend options for disposition (e.g., repair, reinstallation, maintenance provisions or deaccessioning);
6. In the event that the artwork cannot be removed without being irreparably damaged or destroyed, the Board will proceed according to the advice of the Allegheny County Law Department.

Section 2. Severability. If any provision of this resolution shall be determined to be unlawful, invalid or unenforceable, then that provision shall be considered severable from the remaining provisions of this resolution which shall be in full force and effect.

Section 3. No Private Right of Action. Allegheny County, Pennsylvania shall have the sole right and authority to enforce this resolution. This resolution does not grant any individual, group of individuals, organization, entity or any other person any right to bring any action in or before a court, administrative agency or board or any similar body to enforce the provisions of this resolution.

Section 4. Any resolution or ordinance or part thereof confliction with the provisions of this Ordinance is hereby repealed so far as the same affects this resolution.

SPONSORED BY COUNCIL MEMBER ROBINSON

Enacted in Council, this 20th day of December, 2005

Council Agenda No. 2252-05



Rich Fitzgerald
President of Council

Attest: John Mascio
John Mascio
Chief Clerk of Council

Chief Executive Office DECEMBER 22, 2005

Approved: [Signature]
Dan Onorato
Chief Executive

Attest: Donna Beltz
Donna Beltz
Executive's Secretary