



Culver CITY

MIKE BALKMAN COUNCIL CHAMBERS
9770 CULVER BOULEVARD
CULVER CITY, CALIFORNIA 90232-0507
CITY HALL Tel. (310) 253-5776
FAX (310) 253-5779

GAYLE SMASHEY, Chair
MARLA KOOSSED, Vice Chair
MICHELLE BERNARDIN, Commissioner
REGINA KLEIN, Commissioner
JOHN B. WILLIAMS, Commissioner

CULTURAL AFFAIRS COMMISSION REGULAR MEETING AGENDA TUESDAY, December 11, 2012

PUBLIC COMMENT

The Cultural Affairs Commission will listen to the public on any item on the agenda or item of interest that is not on the agenda. The Cultural Affairs Commission cannot legally take action on any item not scheduled on the agenda. Such items may be referred for administrative action or scheduled on a future agenda.

If you wish to speak to the Commission, please complete a Speaker's Card and present it to the Secretary before the agenda item is called. You will be called to the podium by name when it is your turn to speak to the Commission.

PUBLIC COMMENT FOR ITEMS ON THE AGENDA

Persons wishing to speak on agenda items will be called at the time the agenda item is brought forward. Comments will generally be limited to five minutes per speaker; however, a three-minute limit may be declared by the Chair from time to time for agenda items for which many Speaker Cards have been submitted.

NOTE: AT OR ABOUT 11:00 P.M., COMMISSIONERS WILL DETERMINE WHETHER TO CONTINUE WITH DISCUSSION OF REMAINING ITEMS ON THE AGENDA OR TO CARRY SOME/ALL OF THE ITEMS OVER TO A FUTURE MEETING DATE.

PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA

A total of twenty minutes shall be devoted to audience participation at the beginning of the agenda. Speakers will be called on in the order cards were received by the Secretary. If additional time is needed, the Chair will allow for some at the end of the agenda.

When the Secretary calls your name, please advance to the podium, state your name and city of residence. Speakers must limit their comments to five minutes in length. A three-minute time limit may be declared by the Chair if there are a large number of individuals desiring to address the Commission.

CELL PHONES AND OTHER DISTRACTIONS

Use of cell phones, pagers and other communication devices is prohibited while the Commission meeting is in session. Please turn all devices off or place on a silent alert and leave the Chambers to use. During the meeting, please refrain from applause or other actions that may be disruptive to the speakers and the conduct of City business.

MEETING INFORMATION

Cultural Affairs Commission meetings are regularly scheduled for the second Tuesday of every month. Commission Agenda information is available 72 hours before each meeting.

Cultural Affairs Commission meetings can be viewed live on Channel 35 by most Comcast subscribers. Meetings are also broadcast on the City's Radio Station AM 1690. To view the commission meetings on line please visit <http://www.culvercity.org/webcast>.

ALD

Assisted Listening Devices are available through Cultural Affairs staff.



Culver CITY

Agendas are available on the web
@ www.culvercity.org

REGULAR MEETING
AGENDA
Cultural Affairs Commission
December 11, 2012
7:00 p.m.

Mike Balkman Council Chambers – Meeting

CALL TO ORDER & ROLL CALL:

Chair Gayle Smashey
Vice Chair Marla Koosed
Commissioner Michelle Bernardin
Commissioner Regina Klein
Commissioner John B. Williams

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT – Items Not On the Agenda

CONSENT CALENDAR *Note: Consent Calendar items are considered to be routine in nature and may be approved by one motion. Public requests to discuss Consent Calendar items must be filed with the Secretary before the Consent Calendar is called.*

C-1. Minutes of the November 13, 2012 Regular Meeting. ***Approve minutes.***

ACTION ITEMS *Public requests to discuss Action Items must be filed with the Secretary before the item is called.*

A-1. Consideration of a Recommendation to the City Council to Approve an Ordinance Repealing and Replacing Municipal Code Section 15.06.100 et seq. Relating to the Art in Public Places Program. ***Review changes and make recommendation to City Council.***

PUBLIC COMMENT - Items Not On the Agenda

RECEIPT OF CORRESPONDENCE

ITEMS FROM STAFF

ITEMS FROM COMMISSIONERS

ADJOURN

**Next Cultural Affairs Commission Meeting
Mike Balkman Council Chambers
Culver City City Hall
January 8, 2013
7:00 PM**

December 2012 Public Meeting Tentative Schedule

Date	Day	Time	Location
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City Council

December 10, 2012	Monday	7:00 PM	Council Chambers
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Parks and Recreation Commission

December 4, 2012	Tuesday	7:00 PM	Council Chambers
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Planning Commission

December 12, 2012	Wednesday	7:00 PM	Council Chambers
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Civil Service Commission

December 5, 2012	Wednesday	7:00 PM	Council Chambers
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- Times and dates may be changed.
- Meetings may be added or changed

City of Culver City, California
Cultural Affairs Commission Agenda Item Report

Meeting Date: 12/11/2012		Item Number: <u>A-1</u>	
AGENDA ITEM: Consideration of a Recommendation to the City Council to Approve an Ordinance Repealing and Replacing Municipal Code Section 15.06.100 et seq. Relating to the Art in Public Places Program			
Contact Person/Dept.: B. Christine Byers / Cultural Affairs		Phone Number: (310) 253-5776	
Fiscal Impact: Yes ☒ No ☐		General Fund: Yes ☐ No ☒	
Public Hearing: ☐		Action Item: ☒	Attachments: ☒
Public Notification: Cultural Affairs Master E-Mail Notification List (11/27/12)			
Department Approval: Sol Blumenfeld (12/06/12); Daniel Hernandez (12/07/12)		City Attorney Approval: Carol Schwab (12/07/12)	
Chief Financial Officer Approval: N/A		City Manager Approval: N/A	

RECOMMENDATION:

Staff recommends that the Cultural Affairs Commission (CAC) review the proposed changes to Culver City Municipal Code Section 15.06.100 et seq., relating to the Art in Public Places Program (APPP), and make a recommendation to the City Council.

BACKGROUND:

Culver City's Art in Public Places Program was established by Ordinance in 1988 and is incorporated in Culver City's Municipal Code (CCMC) under Chapter 15.06, which in turn is included in the section of the CCMC pertaining to land use. Since 1988, this section of the CCMC has been amended periodically to reflect programming changes (e.g., establishing a Performing Arts Grant Program and the "Architecture as Art" designation), and administrative changes within the City (e.g., creation of the CAC in 2001, and relocation of the APPP and Cultural Affairs staff to various City departments). The last update to the APPP was in 2004 and is attached hereto as Attachment 3 (Ordinance No. 2004 – 004).

The changes proposed to the APPP (Attachments 1 and 2), are informed by extensive review of ordinances and policies of other percent for art programs, documented best practices in the field of public art, conversations with public art administrators throughout California, and experience with implementing the

City of Culver City, California
Cultural Affairs Commission Agenda Item Report

APPP in Culver City. These changes reflect input from the CAC's Ad Hoc Art in Public Places Ordinance Update Subcommittee (Chair Smashey and Vice Chair Koosed), together with the City Attorney's Office and Community Development Department staff.

DISCUSSION:

While a wide variety of ordinances and policies from other public art programs were reviewed, many of the amendments to Ordinance No. 2004 – 004 were specifically informed by language from programs considered the best examples in the field: City of San Jose, the former CRA/LA (which had the second oldest program in the US), City of San Francisco, City of Portland, City of Seattle and City of Santa Monica. These examples, combined with lessons learned from de-accessioning certain artworks in Culver City, maintenance challenges, efforts to foster diversity in the collection, as well as issues relating to the current economic climate and the elimination of redevelopment as a funding source, further informed the proposed changes to the APPP language as included in the CCMC.

Below is a brief summary of these changes. All page references included herein refer to draft Ordinance 2012 – ____ (Attachment 1).

General:

Pages 1-3 provide a historical overview of the changes affecting the APPP since its inception in 1988. This section also includes a reference to the annual *Otis Report on the Creative Economy*, which demonstrates that the arts have a significant positive economic impact as the 4th largest employment cluster in Los Angeles County.

Some of the sections included in Ordinance 2004 - 004 have been relocated so that they flow logically together; all sections will be renumbered accordingly.

Purpose (p. 5):

The language in this section has been consolidated but still focuses on cultural and artistic resources and the APPP as a land use tool.

City of Culver City, California
Cultural Affairs Commission Agenda Item Report

Definitions (pp. 5 – 7):

The number of definitions has been expanded to seventeen and includes, among others, new definitions for Administrative Fees, Conservation, De-Accession, Design Fees, New Genres, Permanent and Temporary Installations, and Qualified Artist. Changes to some of the existing definitions, such as Artwork and Freely Accessible, are also included.

Cultural Trust Fund Created (pp. 8 - 9):

The term “Art Fund” is changed to “Cultural Trust Fund” (the Fund) to reflect the wider impact this fund has on cultural arts in Culver City; the Cities of Santa Monica and Pasadena use similar names for their public art program funds, as did the former CRA/LA.

Money from this fund is restricted primarily to capital improvements, but amendments have been made to the CCMC to allow for adequate funding for preventative maintenance and restoration of artwork that reflects current needs. As included in Paragraph 2 on p. 8, the allocation for preventative maintenance and utility charges related to artwork has been increased from a maximum of 5% to a maximum of 15% of the payments made to the Fund in the prior fiscal year. Based on the current three-year average for total payments made to the Art Fund (\$152,042), this would allow approximately \$22,806 to be allocated each year for maintenance (cleaning, waxing), compared to an outside amount of \$20,000 currently required annually for maintenance. Maintenance costs do not include periodic larger restoration costs such as those associated with the replacement of the supporting steel structure for Ed Carpenter’s *Hanging Garden* which was completed a few years ago.

Developments Subject to Provisions of Subchapter (p. 9):

The current thresholds for development projects and the types of development projects exempted from the APPP remain unchanged. The language for covenanted low- and moderate-income and senior citizen housing has been expanded to reflect the current common development model of incorporating these units into larger projects and outlines a method of calculating the exempted portion from the larger project for purposes of calculating the APPP allocation.

City of Culver City, California
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Program Allocations (pp. 10 – 12):

Public art programs throughout the US typically have program allocations ranging from .5% - 2%. In light of the current economic climate, the existing 1% allocation has remained unchanged but a threshold of \$75,000 has been added, over which developers (applicants) have a choice as to how they wish to invest their APPP allocation.

This \$75,000 threshold is based on the average cost for commissioning artwork for a private development project in Culver City as well as current City resources and staffing levels. For 31 separate artwork commissions, developers in Culver City have paid on average \$99,839 per artwork commission since the APPP was created in 1988. Since 2009, the average cost for commissions of artwork for private development projects (excluding the cost for *Rainbow* at Sony Pictures Entertainment) is \$198,537.

If an applicant's APPP allocation is under this \$75,000 threshold, the amount may be increased should the applicant wish to pursue one of the other options available.

For new on-site art commissions, additional criteria for the artist selection process are included for projects with APPP allocations exceeding \$100,000. These criteria (using a Request for Proposal process and hiring an art consultant) are based on best practices. Many larger private art commissions, such as those at Westfield Culver City and Sony Pictures Entertainment, have already relied on art consultants and a RFP process in past years.

Paragraph I (p.12) allows for the incorporation of a Cultural Facility within a larger development project for APPP allocations exceeding \$75,000. Based on input from other programs having a similar option, this provides more alternatives for developers in terms of how to fulfill their APPP requirement.

Applicant and Approval Procedures for Placing Artwork or Incorporating a Cultural Facility on Private Property (pp. 12 - 15):

This section has been modified to reference involvement of certain CAC subcommittees in the review process and to emphasize the necessity for preliminary design development as early as possible to

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ensure artworks are integrated within the larger development project. Specific criteria involved in the assessment of proposals for artwork, as well as disqualifying characteristics for art commissions, have been included.

Approval of Procedures of Commission of Artwork in Conjunction with Public Development Projects (pp. 15 - 16):

This section is new and outlines the parameters that should be considered for City-funded art commissions, including using community advisory committees and artist selection panels so that these projects remain competitive but are transparent with regard to process.

Procedure for Acceptance of Artwork Donated to the City to Fulfill the Art in Public Places Program Requirement (pp. 16 – 17):

Language has been added to this section with regard to art appraisers and the use of conservators.

Ownership and Maintenance of Artwork (pp. 17 – 19):

The language in this section has been greatly expanded to make it clear to applicants that future maintenance of artwork is a long-term commitment and needs to be accounted for in the planning process.

Final City Approval (pp.19 - 20):

Language regarding posting money to the Cultural Trust Fund temporarily in cases where the applicant has not decided how they wish to fulfill the APPP requirement has been removed. This option was rarely used by developers, causes unnecessary delays, and poses an added burden on limited City staffing levels.

Final City approval will require the submission of maintenance guidelines to the City, installation of a plaque, and proof of payment to the artist (and/or design team). Language reflecting this has been added to this section.

City of Culver City, California
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Artwork on Public Property, Performing Arts and Purchase of Real Property for Public Art (pp. 20 – 21):

The amount available from the Cultural Trust Fund has been modified to ensure a minimum of \$25,000 funding per year for the performing arts but no more than 25% of the total number of payments made to the Fund in the prior fiscal year, provided that that amount is at least \$25,000. Historically, these monies have been allocated to the Culver City Performing Arts Grant Program. Language has been incorporated to allow for some of this money to be spent on City-produced performing arts events.

Paragraph F allows for up to \$10,000 to be allocated per year for capital improvements to enhance the performance area in City-owned and City-operated facilities to help attract more cultural users.

Criteria for Approving Architecture as Art and Procedure for Approving Architecture as Art (pp. 21 – 22):

These two sections have been amended to include a requirement for applicants to demonstrate how the APPP allocation enhances the design of their project. The incorporation of a peer panel in the review process, and the involvement of the CAC Public Art Subcommittee are referenced in the amended language.

De-Accessioning of Artwork (pp. 23 – 24):

This is a new section that reflects the need for specific guidelines based on past experience.

Pending the CAC's approval of these proposed changes, this draft Ordinance would be placed on the City Council agenda for consideration, and becomes effective 30 days from the date of its adoption.

FISCAL ANALYSIS:

The current Art Fund balance is approximately \$587,663. It is anticipated that with a threshold of \$75,000, under which developers pay the in-lieu fee to the Cultural Trust Fund, the total annual payments to the Fund will, at minimum, remain consistent with the current average of \$152,042. With the exception of an

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increase in the amount allowed for costs associated with the maintenance of City-owned artworks, the proportionate annual allocations for capital improvements (new artworks, enhancements to performance areas of City-owned and City-operated facilities, art restoration projects) versus allocations for soft costs (Performing Arts Grant Program and Fund Administration), will remain relatively consistent. There will also be an indirect positive impact on staff time (and costs) associated with implementing the Art in Public Places Program given the higher APPP allocation threshold over which developers may choose an alternative for fulfilling the program requirements other than paying the in-lieu fee.

ATTACHMENTS:

1. Draft Ordinance No. 2012- ____ (with all additions/deletions to Ordinance No. 2004-004 accepted); and,
2. Draft ordinance No. 2012 – ____ (showing all additions/deletions to Ordinance No. 2004-004)
3. Adopted Ordinance No. 2004 – 004 (excluding Exhibit A – Revisions to Historic Preservation Program)

MOTION:

That the Cultural Affairs Commission:

Recommend to the City Council approval of Draft Ordinance No. 2012-____,
Repealing and Replacing Culver City Municipal Code Section 15.06.100 et seq.
Relating to the Art in Public Places Program.

MEETING DATE: December 11, 2012

AGENDA ITEM: Consideration of a Recommendation to the City Council to Approve an Ordinance Repealing and Replacing Municipal Code Section 15.06.100 et seq. Relating to the Art in Public Places Program

ATTACHMENTS

	<u>Pages</u>
1. Draft Ordinance No. 2012- ____ (with all additions/deletions to Ordinance No. 2004-004 accepted)	1 - 24
2. Draft Ordinance No. 2012 – ____ (showing all additions/deletions to Ordinance No. 2004-004)	25 - 54
3. Adopted Ordinance No. 2004 – 004 (Excluding Exhibit A – Revisions to Historic Preservation Program)	55 - 67

ATTACHMENT 1

ORDINANCE NO. 2012 - ____

AN ORDINANCE OF THE CITY OF CULVER CITY, CALIFORNIA, REPEALING AND REPLACING SECTION 15.06.100 ET SEQ. OF THE CULVER CITY MUNICIPAL CODE, RELATING TO THE ART IN PUBLIC PLACES PROGRAM.

WHEREAS, on August 29, 1988, the City Council adopted Ordinance No. 88-019, which established the Art in Public Places Program ("APPP"); and

WHEREAS, on February 14, 1994, the City Council adopted Ordinance No. 94-004 which created a City Art Fund, limited the type of art on private property to art in a physical hard media, and authorized expenditures from the City Art Fund for the performing arts; and

WHEREAS, on November 13, 1995, the City Council adopted Ordinance No. 95-016 establishing the criteria and the procedures for approving Architecture as Art; and

WHEREAS, by Ordinance Nos. 2001-013 and 2001-015, the City Council established the Cultural Affairs Commission ("CAC") and directed that the Art in Public Places Program be implemented by the CAC;

WHEREAS, the City Council adopted Ordinance No. 2002-007 which incorporated changes that were necessary with the establishment of the CAC and the transfer of the Art in Public Places and other Cultural Affairs programs from the Community Development Department to the Parks, Recreation & Community Services Department; and

WHEREAS, in July 2003, the CAC and the programs under its purview, were transferred to the Community Development Department from the Parks, Recreation

ATTACHMENT 1

1 & Community Services Department because of the direct effect upon development
2 projects and the need to better coordinate implementation of the APPP and the
3 development process; and

4 **WHEREAS**, on February 9, 2005, the City Council adopted Ordinance No.
5 2004-004 to address certain omissions and the change in City departments; and

6 **WHEREAS**, with the dissolution of the Culver City Redevelopment Agency on
7 February 1, 2012, the CAC, the performing arts and certain other Cultural Affairs
8 programs were transferred to the Parks, Recreation & Community Services
9 Department while the Art in Public Places Program remains within the Community
10 Development Department; and

11 **WHEREAS**, the arts have increasingly become an important component in
12 Culver City's identity, both regionally and nationally; and

13 **WHEREAS**, the Los Angeles County Economic Development Corporation's
14 annual Otis Report on the Creative Economy consistently demonstrates that the arts
15 have a significant positive economic impact to overall tourism revenues in the region
16 and is one of the largest employment clusters in Los Angeles County; and

17 **WHEREAS**, periodic review and certain amendments are necessary to
18 ensure that Culver City's Art in Public Places Program, Performing Arts Grant
19 Program, and related cultural initiatives remain competitive with current national
20 standards and continue to build upon what has been established to date.

21 **NOW, THEREFORE**, the City Council of the City of Culver City, California,
22 **DOES HEREBY ORDAIN**, that the following amendments be made to Chapter
23 15.06 of the CCMC:

ATTACHMENT 1

SECTION 1. Sections 15.06.100 *et seq.* of the Culver City Municipal Code shall be repealed and replaced pursuant to the changes set forth in "Exhibit A", attached hereto and incorporated by reference.

SECTION 2. Pursuant to Section 619 of the City Charter, this Ordinance shall take effect thirty (30) days after the date of its adoption. Pursuant to Sections 616 and 621 of the City Charter, prior to the expiration of fifteen days after the adoption, the City Clerk shall cause this Ordinance, or a summary thereof, to be published in the Culver City News and shall post this Ordinance or a summary thereof in at least three places within the City.

SECTION 3. The City Council hereby declares that, if any provision, section, subsection, paragraph, sentence, phrase or word of this ordinance is rendered or declared invalid or unconstitutional by any final action in a court of competent jurisdiction or by reason of any preemptive legislation, then the City Council would have independently adopted the remaining provisions, sections, subsections, paragraphs, sentences, phrases or words of this ordinance and as such they shall remain in full force and effect.

APPROVED AND ADOPTED this _____ day of _____, 2013.

, Mayor

City of Culver City

ATTACHMENT 1

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ATTEST:

, City Clerk

APPROVED AS TO FORM:

Carol A. Schwab, City Attorney

ATTACHMENT 1

EXHIBIT A

REVISIONS TO THE ART IN PUBLIC PLACES PROGRAM

§ 15.06.____. PURPOSE.

The City Council finds and declares:

- A. Cultural and artistic resources, that include visual artwork, the performing arts, and architectural resources, enhance the quality of life for individuals living in, working in and visiting the City.
- B. Balanced development of cultural and artistic resources preserves and improves the quality of the urban environment, increases real property values, and has a positive economic impact.
- C. As development and revitalization of the real property within the City continues, the opportunity for creation of cultural and artistic resources is diminished. As these opportunities are diminished and urbanization occurs, the need to develop alternative sources for cultural and artistic outlets to improve the environment, image and character of the community is increased.
- D. The Culver City Art in Public Places Program (“APPP”) was created in 1988 so that development of cultural and artistic assets are financed by those whose development and revitalization diminishes the availability of the community’s resources for those opportunities and contributes to community urbanization.

§ 15.06.____. IMPLEMENTATION BY CULTURAL AFFAIRS COMMISSION.

The Cultural Affairs Commission (“CAC”), as included in Sections 3.03.400 et seq. of the Culver City Municipal Code, was created in 2001 and shall implement the duties established in this subchapter. The City Council may prescribe, by resolution, other duties, and the appointment process for the members of the Commission.

§ 15.06.____. DEFINITIONS.

As used in this subchapter, the following definitions shall apply:

ATTACHMENT 1

- 1 A. "Administrative Fees" include art consultant, conservator, legal fees, travel and out-
2 of-pocket expenses.
3
- 4 B. "Art in Public Places Program Allocation" (also referred to as "APPP allocation") is
5 the percentage of the construction costs which are set aside for the City's Art in
6 Public Places Program.
7
- 8 C. "Artwork" includes but is not limited to paintings, drawings, murals in any media,
9 stained glass, statues, bas relief or other sculptures, and any creation under "new
10 genres" as defined herein; environmental artworks or public spaces; monuments,
11 fountains, arches or other structures of a permanent or temporary character
12 intended for ornament or commemoration; integrated and functional architectural,
13 video and other media-based elements designed by a qualified artist. For projects
14 which involve no structures, artwork may include a combination of landscape
15 design, natural and manufactured materials including but not limited to rocks,
16 fountains, reflecting pools, sculptures, screens, benches, and other types of street
17 furniture, provided they have been designed by a qualified artist.
18
- 19 D. "Community Development Director" shall mean the Community Development
20 Director of the City or his/her designee.
21
- 22 E. "Conservation" encompasses actions taken toward the long-term preservation of
23 cultural property and includes examination, documentation, treatment and
24 preventative care, supported by research and education. Restoration is a type of
25 conservation treatment and specifically refers to an attempt to bring cultural
26 property closer to its original appearance. Stabilization, also a type of conservation,
27 refers to an attempt to maintain the integrity of cultural property and to only
28 minimize deterioration.
29
- 30 F. "Cultural Affairs Commission" shall be the Commission as established in 2001
31 according to Sections 3.03.400 et seq. of this Code. Unless otherwise specified,
32 any reference to "Commission" in this subchapter shall mean the Cultural Affairs
33 Commission.
34
- 35 G. "De-accession" refers to the process of permanently removing an artwork acquired
36 through the Art in Public Places Program as outlined in this subchapter.
37
- 38 H. "Design Fees" may include those fees which are paid to an artist, architect,
39 structural engineer, or an appropriate party for the development of a design concept
40 and the preparation of construction drawings, which are separate and apart from the
41 cost of the fabrication and installation of an artwork.

ATTACHMENT 1

- I. "Freely Accessible" is defined to mean the artwork is accessible to the public for viewing, in its entirety and in a direct line of sight without hindrances or obstacles, for a period of ten (10) hours per day, seven (7) days per week.
- J. "New Genres" includes installation, sound installation, video, film, audio, digital, hybrid and emerging art forms. These works may be temporary or permanent in nature.
- K. "Non-Profit" shall mean those entities deemed to be exempt under section 501(c)(3) of the Internal Revenue Service Code.
- L. "Performing Arts" is defined as performances presented by professional or amateur performers including, theatre performance (any form of dramatic presentation, spoken or silent); musical theatre/opera (any dramatic performance of which music is an integral part); dance (any form of rhythmical movement); music or concert (any musical performance with live musicians and/or singers).
- M. "Permanent Installation" is defined as artwork designed and fabricated to remain installed for 20 or more years.
- N. "Project" is defined as consisting of all physical changes and improvements necessary to complete a development. Such physical changes shall include the construction of new structures or the remodeling of existing structures.
- O. "Real Property" shall mean that which consists of land, and of all rights and profits arising from and annexed to land, of a permanent, immovable nature.
- P. "Qualified Artist" (also referred herein as "Artist") shall be defined as a practicing artist who has demonstrated a high level of accomplishment through a body of work, exhibitions, presentations, or performances. The qualified artist shall have a history of strong conceptual development, as well as possess the ability for skillful execution of tools, materials, and craft. This includes programs rooted in innovative uses of technology, collaborative work, or interdisciplinary projects. The qualified artist shall have a BFA, MFA or other comprehensive advanced training in the visual arts and work primarily in the production of art in unique or limited editions and not for purposes of marketing, mass production or advertising.
- Q. "Temporary Installation" is defined as artwork intended to remain installed for 3 years or less.

ATTACHMENT 1

§ 15.06.____. CULTURAL TRUST FUND CREATED.

A. There is hereby created a fund to be known as the “Culver City Cultural Trust Fund” (hereinafter “Cultural Trust Fund”) to account for fees paid pursuant to this subchapter. This fund, maintained by the Chief Financial Officer, and subject to §§ 15.06.____ and 15.06.____, shall be used solely:

1. For the design, acquisition, commission, installation, improvement, relocation, conservation, utility charges and insurance of an artwork acquired by the City through the APPP.
2. For preventative care, maintenance and utility charges related to the artwork and real property purchased pursuant to subsection 15.06. A.1. above; provided, that the total amount of the appropriation made in any year from the Cultural Trust Fund for the purpose set forth in this subsection 15.06 A.2. shall not exceed fifteen percent (15%) of the total fees deposited into the Cultural Trust Fund, pursuant to this subchapter, during the City's fiscal year immediately preceding that appropriation. The City Council, with a recommendation by the Cultural Affairs Commission, may appropriate additional funds from the Cultural Trust Fund for the purpose of completing larger conservation efforts, including restoration projects, for one or more artworks.
3. To sponsor or support the performing arts;
4. For the acquisition and improvement of real property for the purpose of displaying artwork, which has been or may be subsequently approved by the City;
5. For costs associated with administering The Art in Public Places Program and associated cultural programs, in an amount not to exceed fifteen percent (15%) of the total fees deposited into the Cultural Trust Fund, pursuant to this subchapter, during the City's fiscal year immediately preceding that appropriation; however, in the event the City Council determines that a special circumstance exists, the City Council may set a higher amount by a majority vote; and
6. Other City-produced cultural programs pursuant to the requirements of this subchapter; and,

ATTACHMENT 1

- 1
2 B. If real property purchased with monies from the Cultural Trust Fund is subsequently
3 sold, the proceeds from the sale shall be returned to the Cultural Trust Fund.
4

5
6 § 15.06.____. DEVELOPMENTS SUBJECT TO PROVISIONS OF SUBCHAPTER.
7

- 8 A. All new residential development projects of five or more units, and all commercial,
9 industrial, and public building development projects, with a building valuation of Five
10 Hundred Thousand Dollars (\$500,000.00) or more shall be subject to the provisions
11 of this subchapter.
12
- 13 B. Including but not limited to exterior and interior modifications and additions, all
14 remodeling of existing residential buildings of five or more units, and all remodeling
15 of existing commercial, industrial and public buildings, shall be subject to the
16 provisions of this subchapter when such remodeling has a valuation of Two
17 Hundred Fifty Thousand Dollars (\$250,000.00) or more, excluding earthquake
18 rehabilitation required by this Code for seismic safety.
19
- 20 C. Covenanted low- and moderate-income and senior citizen housing shall be
21 exempted from the requirements of this subchapter for as long as they are used for
22 that purpose.
23
- 24 1. The APPP allocation for a development project that includes residential units
25 covenanted for low- or moderate-income households or for senior citizens shall
26 be reduced by the value of the square footage of the covenanted units and
27 associated spaces (such as parking).
28
- 29 2. Prior to the date any restrictions regarding residential units covenanted for low-
30 or moderate-income households or for senior citizens terminate, the then current
31 owner of the residential development shall pay fees to the Cultural Trust Fund in
32 an amount equal to the exemption calculated in subsection 15.06____ C(1),
33 above.
34
- 35 D. Buildings which are designed and dedicated primarily to non-profit performing arts
36 spaces or museum uses shall not be required to meet the Art in Public Places
37 Program Allocation requirement for as long as the performing arts or museum uses
38 are maintained within the building.
39
40

ATTACHMENT 1

§ 15.06.____. APPP PROGRAM ALLOCATIONS.

- A. The APPP allocation as used in this subchapter, is the percentage of the construction costs which are set aside for the City's APPP and shall be an amount equal to one percent (1%) of the total building permit construction valuation for an applicable project, excluding land acquisition costs. The total building permit construction valuation used for determining applicable APPP allocations shall be based on the latest building construction valuation data used by the Building Safety division staff, based on R.S. Means Square Foot Costs, unless, in the opinion of the Building Official, a different valuation methodology is more appropriate for a particular project.
- B. Multiple building permits issued within a three year period for a single project shall be considered in the aggregate in determining the APPP allocation for any project.
- C. If the total APPP allocation for a project is less than \$75,000, the applicant shall pay the total amount to the Cultural Trust Fund as the only option for complying with the APPP allocation requirement.
- D. Payment of any required APPP allocation shall be received prior to issuance of a City building permit.
- E. If the APPP allocation is \$75,000 or greater, the applicant shall either:
 1. Pay the APPP Allocation into the Cultural Trust Fund prior to issuance of a City Building Permit ("in-lieu fee"); or
 2. Commission original, site-specific artwork for the applicant's development project, with a valuation equal to or greater than the APPP allocation, in compliance with the guidelines of this subchapter; or
 3. Donate artwork to the City with an appraised value equal to or greater than the APPP allocation, in compliance with the guidelines of this subchapter; or
 4. Incorporate a Cultural Facility into the applicant's development project, in compliance with the guidelines of this subchapter; or
 5. Have the building or a portion thereof designated "Architecture as Art" pursuant to subsection 15.06____.

ATTACHMENT 1

- 1 F. Any applicant whose APPP allocation is less than \$75,000 may voluntarily increase
2 its APPP allocation to an amount of \$75,000 or greater, and thereby qualify the
3 applicant to fulfill the program requirement pursuant to subsection 15.06.____ D
4 above.
5
6
7 G. If the APPP allocation is \$75,000 or greater, the applicant may place an approved
8 artwork, create a Cultural Facility, donate artwork, or designate their building
9 “Architecture as Art” with acquisition and installation costs which are less than the
10 applicant’s APPP allocation; provided that, such costs are at least \$75,000 and that
11 the applicant also pay the difference between the APPP allocation and such costs
12 into the Cultural Trust Fund.
13
14 H. For the commission of new on-site artwork, applicants are required to use a
15 Request for Proposal (“RFP”) process for selecting an artist when the APPP
16 allocation exceeds \$100,000. The applicant shall also hire a qualified art consultant
17 to assist with the RFP process, proposal development, and project oversight. The
18 art consultant shall be selected from a pre-qualified list provided by the City. The
19 CAC Public Art sub-committee and staff shall review the art consultant and RFP
20 information with the applicant prior to releasing the RFP. Total Administrative Fees
21 shall not exceed 15% of the APPP allocation, or \$100,000, whichever is less.
22 Design fees must be proportionate to the overall scope of the project.
23
24 The RFP will include the following components:
25
26 1. Deadline for submission of requested information;
27
28 2. Information on project components, including but not limited to project goals,
29 work scope, physical description of project site, and other physical or legal
30 restrictions which may apply;
31
32 3. Proposal review/selection schedule;
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34 4. Scope of services;
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36 5. Project budget;
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38 6. Project timeline, and,
39
40 7. Evaluation criteria.
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ATTACHMENT 1

- I. If the APPP allocation under this Chapter is \$75,000 or greater, the applicant may opt to fulfill the APPP requirement by incorporating a Cultural Facility within the development project. Acceptable Cultural Facilities are: indoor and outdoor performing arts spaces that can accommodate a minimum audience of 50, with a performance area of at least 500 square feet, or exhibition spaces designed for the visual arts. Cultural Facilities must include all amenities for supporting a performance or art exhibition space, including a sound and lighting system, audience seating, separately designated restrooms, and technical space. Cultural Facilities shall be permanent and must be ADA-compliant. Further, the facility must be made available to the recipients of the Culver City Performing Arts Grant Program and Culver City-based visual and performing arts organizations at rental rates no higher than other local art venues. Cultural Facilities must be specifically designated as such and cannot be used for any other purpose on an on-going basis. Applicants may receive credit for up to three years of operations, maintenance and programming costs for Cultural Facilities, together with construction costs, toward fulfillment of the minimum APPP allocation for their project. The applicant's proposal for a Cultural Facility shall include a plan that identifies key staff, programming goals and an associated budget for a minimum of three years. The proposal shall be approved by the Cultural Affairs Commission, monitored by designated City staff, and subject to all federal, state and local laws and regulations. Review and approval of Cultural Facilities shall include review by a CAC sub-committee with a recommendation to the full CAC. Cultural Facilities are required to display a permanent plaque as outlined in subsection 15.06.____ and are subject to the covenant and maintenance requirements of subsection 15.06.____.

§ 15.06.____. APPLICATION AND APPROVAL PROCEDURES FOR PLACING ARTWORK ON PRIVATE PROPERTY.

- A. In order to ensure integrated projects, applicants choosing to commission new artwork for their project, integrate a Cultural Facility into the site, or designate the building as "Architecture as Art", shall submit plans to the Community Development Director during Preliminary Project Review (PPR) or prior to receiving any discretionary review approvals. At a minimum, the following information shall be included:
1. Preliminary sketches, photographs or other documentation of sufficient descriptive clarity to indicate the nature of the proposed artwork;

ATTACHMENT 1

2. Preliminary plans containing such detailed information as may be required by the Community Development Director and the Planning Manager to adequately evaluate the location of the artwork in relation to the proposed development, including compatibility with the character of adjacent conforming developed parcels and the existing neighborhood. Applicants should be involved in the development of the preliminary plans in order to assist in the proper placement of the artwork in relation to their proposed development environment, and to ensure that the artist that is chosen creates an artwork that fits the needs and requirements of both the applicant's project and the APPP.

B. Upon receipt of discretionary review approvals, applicants shall prepare the following in preparation for Cultural Affairs Commission review:

1. A narrative proposal, with project budget, and timeline. Elevations, site plans, lines of sight studies, renderings and other descriptive materials, as deemed necessary by the Community Development Director, shall be included to demonstrate that the artwork will be displayed in an area open and freely accessible to the general public.
2. Information provided by an American Institute for Conservation ("AIC") affiliated conservator about the durability of the proposed materials, recommendations for future maintenance and estimated maintenance costs. In addition, the application shall include information on how the future maintenance costs will be allocated and who shall be the responsible party for ensuring that maintenance is performed; and,
3. If applicable, an appraisal or other evidence of the value of the proposed artwork, including acquisition and installation costs.

C. The Cultural Affairs Commission shall review the completed application together with the recommendation of the Community Development Director and CAC Public Art Sub-Committee, and approve, approve with conditions, or deny the proposed artwork, and its proposed location, considering the aesthetic quality and harmony with the proposed project, and the public accessibility of the artwork.

D. Submitted artwork applications shall be assessed on:

1. Compliance with the general APPP requirements as outlined in this subchapter;

ATTACHMENT 1

2. Artistic quality;
3. Conceptual compatibility of the design with the immediate environment for the site;
4. Appropriateness of the design to the function of the site;
5. Creation of a desirable environment for the general community by the design and location of the artwork;
6. Preservation and integration of natural features with the project;
7. Appropriateness of the materials, textures, colors, and design to the expression of the design concept;
8. Ability to convey the artist's intention and underlying themes;
9. Whether the artwork is representative of a broad variety of tastes within the community and makes a contribution to the provision of a balanced inventory of artworks commissioned through the APPP to ensure a variety of style, design, and media;
10. Permanence of structural and surface components including but not limited to the structural and surface soundness and inherent resistance to theft, vandalism, weathering, and excessive maintenance or repair costs.

Disqualifying characteristics for artwork:

1. Directional elements such as super graphics, signage, or color coding except where these elements are integral parts of the original artwork or executed by the artist in unique or limited editions;
2. Artwork that incorporates logos, images, text or other elements that relate directly to a specific business's or organization's branding or marketing themes.
3. Art objects which are mass produced and of standard design such as playground equipment or fountain pieces;

ATTACHMENT 1

4. Reproduction of original artworks, except in cases where incorporated into an original artwork;
5. Decorative or functional elements which are designed by the building architect as opposed to a qualified artist;
6. Landscape design except where it is designed by a qualified artist and is an integral part of the artwork;
7. Architectural rehabilitation, historic preservation and structural building modifications;
8. Temporary art exhibitions, unless included with a Cultural Facility as outlined in Section 15.06.____ above;
9. Educational activities;
10. Artwork designed by City elected or appointed officials, City staff or members of their immediate family, members of the project architect's firm or immediate family members, individuals directly associated with the development team or immediate family members of the property owner/applicant, or any individuals with whom the property owner and/or applicant may have an interest in common;
11. Artwork designed by artists currently under contract for a new City art commission; and,
12. Artwork designed by an artist who has received more than one permanent public art commission through the City's Art in Public Places Program in a ten year period from the date the original contract for the project was executed.

E. If the applicant proposes significant revisions to the artwork, a revised application shall be submitted to the Community Development Director for review and recommendation to the Cultural Affairs Commission. The Commission shall make a determination whether to approve, approve with conditions, or deny the requested revision(s).

§ 15.06.____ APPROVAL OF PROCEDURES OF COMMISSION OF ARTWORK IN CONJUNCTION WITH CITY DEVELOPMENT PROJECTS.

ATTACHMENT 1

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- A. All City initiated projects subject to the requirements of this subchapter, shall follow the same requirements as development projects on private property with the exception of the requirement to pay the in-lieu fee if the amount available is \$75,000 or less. The APPP allocation shall be included in the development project budget and appropriated from the development project funding sources. The APPP allocation may be supplemented with money from the Cultural Trust Fund with a recommendation from the Cultural Affairs Commission and City Council approval.
- B. Depending on the scope of the development project and/or overall budget, the City may employ a Community Advisory Committee and/or Artist Selection Panel, an RFQ and/or RFP process, and/or the services of a qualified art or theatre consultant. Both the Community Advisory Committee and Artist Selection Panel shall include a combination of professional artists, arts and design professionals, community representatives or stakeholders, and City department representatives.

§ 15.06.____. PROCEDURE FOR ACCEPTANCE OF ARTWORK DONATED TO THE CITY TO FULFILL THE ART IN PUBLIC PLACES PROGRAM REQUIREMENT.

- A. An application for acceptance of artwork to be donated to the City for placement on public property shall be submitted to the Community Development Director and shall include the following information, at minimum:
 - 1. Artist biographies and object provenance;
 - 2. Sketches, photographs, models, or other documentation of sufficient descriptive clarity to indicate the nature of the proposed artwork and installation and siting requirements;
 - 3. Acquisition and installation costs;
 - 4. An appraisal or other evidence of the value of the proposed artwork. The value of the proposed artwork will be determined by an Accredited Member or Accredited Senior Appraiser of the American Society of Appraisers, or a member of another established national or international organization for appraisers;
 - 5. Information provided by an American Institute for Conservation (“AIC”) affiliated conservator about the durability of the proposed materials, recommendations for future maintenance and estimated maintenance costs; and,

ATTACHMENT 1

6. A written agreement, in a form approved by the City Attorney, executed by or on behalf of the artist who created the artwork (if applicable) which provides the City necessary protections as permitted under applicable law.

B. Review of application:

1. Completed applications shall be submitted to the Community Development Director who, together with the CAC Public Art Sub-Committee makes a recommendation to the Cultural Affairs Commission.
2. The Cultural Affairs Commission shall in turn make a recommendation to the City Council, which shall have the sole authority to accept or reject or conditionally accept the donation.

C. All artwork donated to the City in fulfillment of the requirements of this subchapter shall become the property of the City upon acceptance by the City Council.

§ 15.06.____. OWNERSHIP AND MAINTENANCE OF ARTWORK.

- A. All artwork placed on the site of an applicant's project shall become the property of the property owner and his/her successor(s) in interest. Artwork cannot be sold or transferred other than to a subsequent successor in interest. The obligation to provide maintenance and security as necessary to preserve the artwork in good condition, shall remain with the owner of the site.
- B. Maintenance of artwork, as used in this subsection, shall include without limitation: preservation of the artwork and where applicable, lighting and surrounding landscaping, in good condition to the satisfaction of the City; protection of the artwork against physical defacement, mutilation or alteration; and, securing and maintaining fire and extended insurance and vandalism coverage in an amount to be determined on a case-by-case basis by the City.
- C. Prior to placement of an approved artwork, the applicant and the owner of the site shall execute and record a covenant reflecting all the owners' obligations under this subchapter, in a form approved by the City.
- D. The covenant shall include a future financial plan for the maintenance of the artwork, a schedule of future condition checks, preventative maintenance and restoration of the artwork necessary to conserve the artwork at an appropriate level,

ATTACHMENT 1

and should be created with input from the artist, the applicant, the Cultural Affairs Commission, and an Art Consultant, if one was hired, for the project.

- E. Applicants are required to set-aside funds for future conservation and where possible, in interest bearing accounts. Preventative maintenance costs may represent from 5 – 15% annually of the total APPP allocation but shall be based on conservation reports prepared by a professional art conservator working with the artist and the artist's fabricator. Funds for maintenance are not part of the APPP allocation.
- F. The City reserves the right to inspect the artwork at any time to ensure it is being maintained as required by the applicable covenant.
- G. Failure to maintain the artwork as provided herein is hereby declared to be a public nuisance. The City may pursue remedies to obtain compliance with the provisions of this Program for maintenance of artwork, including subjecting the property owner to administrative citation and/or misdemeanor prosecution; placing conditions for maintenance of an artwork on the owner's future development project approvals; performing all necessary repairs, maintenance or securing insurance, and placing a lien against the real property for the costs associated with such.
- H. The artwork is to remain freely accessible, as previously defined, and may not otherwise be draped or obscured.
- I. The siting of the artwork, including the surrounding landscaping or adjacent area, shall not be altered without approval from the City. The City reserves the right to implement measures necessary to preserve the design and placement of an artwork as approved by the Cultural Affairs Commission in accordance with subsection 15.06.____ D.
- J. Unless an artwork poses imminent danger to life or property, no person or entity shall remove any artwork from the location for which it was selected, and anyone shall obtain City approval prior to doing so.
- K. The applicant, its successors, and its assigns, may not destroy, permanently remove, relocate, change, alter, modify, or allow to be defaced, any such artwork component without the express consent of the artist and the City. This requirement will be included in a covenant to be recorded against the property.

ATTACHMENT 1

- 1 L. If any approved artwork placed on private property pursuant to this subchapter is
2 removed without City approval, the artwork must be replaced with artwork of same
3 value as the original and be approved by the CAC, or the property owner must pay
4 said amount into the Cultural Trust Fund. If these requirements are not met within
5 180 days, then Certificate of Occupancy is revoked or a lien is placed against
6 Property.

7
8
9 § 15.06.____. FINAL CITY APPROVAL.

- 10
11 A. No final City approval or Certificate of Occupancy for any project subject to this
12 subchapter shall be granted or issued unless and until full compliance with the
13 APPP is achieved as follows:

- 14
15 1. In lieu art fees have been paid in compliance with subsection 15.06.____, if
16 applicable;
17
18 2. The approved artwork has been fabricated and placed on the site in a
19 manner consistent with the proposal approved by the Cultural Affairs
20 Commission and inspected by the CAC and/or Cultural Affairs staff, if
21 applicable;
22
23 3. Donation of an approved artwork has been accepted by the City Council, if
24 applicable;
25
26 4. A Cultural Facility has been incorporated into the applicant's development
27 project, if applicable;
28
29 5. The building or a portion thereof has been designated "Architecture as Art"
30 pursuant to the guidelines outlined in subsection 15.06____, if applicable.
31
32 6. In cases where approved artwork is placed on private property, a Cultural
33 Facility has been incorporated into the applicant's development project, or
34 the building has been designated "Architecture as Art" pursuant to this
35 subchapter, the following is required prior to final City approval or issuance of
36 a Certificate of Occupancy for any project subject to this subchapter:
37
38 a. A copy of the maintenance guidelines that include information on
39 materials, parts and fabricator contact information has been submitted to
40 the City; and,
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ATTACHMENT 1

- b. A covenant, meeting the rules outlined in subsection 15.06. ____ and setting forth the applicant's obligations under the APPP, has been executed and recorded with the Los Angeles County Recorder; and,
- c. A plaque has been installed at the site measuring no less than 8" x 8", or a proportionate equivalent in size. The plaque shall be made of cast metal, stainless steel or other durable material and will be placed in an appropriate location near the artwork and shall include the date, title of artwork (if applicable), artist(s) or architect(s) (as applicable), and that the artwork, building's architecture or Cultural Facility was commissioned in conjunction with the Culver City Art in Public Places Program. Staff shall review and approve plaque text and layout prior to its fabrication and installation at the site; and,
- d. Proof of final payment to the artist and/or all members of the design and fabrication/installation team has been furnished to the City.

§ 15.06.____. ARTWORK ON PUBLIC PROPERTY, PERFORMING ARTS AND PURCHASE OF REAL PROPERTY FOR PUBLIC ART.

- A. The Cultural Affairs Commission shall prepare a plan for the Art in Public Places Program and update it annually through the budget process.
- B. The Cultural Affairs Commission may recommend to the City Council the purchase of artwork to be displayed on public property, recommend support for the performing arts, and the purchase and improvement of real property to be used for the display of artwork. A recommendation shall include the following information:
 1. The type of artwork considered, an analysis of the constraints applicable to placement of the artwork on a site, the need for and practicality of the maintenance of the artwork, and the costs of acquisition and installation of the artwork; or
 2. The type of performance and amount recommended; or
 3. The estimated costs of acquisition and improvements of the real property proposed to be purchased.

ATTACHMENT 1

- 1 C. The Cultural Affairs Commission is authorized to review the performing arts
2 grant applications and make a recommendation to the City Council up to the
3 amount authorized in the City budget for the current fiscal year during which the
4 project is being considered.
5
- 6 D. An expenditure from the Cultural Trust Fund may be made for the performing
7 arts provided the City Council approves the performing arts event and that the
8 performance occurs at a location in the City of Culver City, or location owned or
9 controlled by the City, or at an alternative site which is located within close
10 proximity to the corporate boundaries of the City of Culver City, and has facilities
11 for performing arts which complement or supplement those available within the
12 City.
13
- 14 E. No more than 25% of deposits made in any one year into the Cultural Trust
15 Fund may be allocated from the Cultural Trust Fund for performing arts in the
16 subsequent year unless this amount is less than \$25,000, in which case a
17 minimum of \$25,000 may be allocated. Eligible activities include City-produced
18 performing arts events and grants to performing arts organizations as subject to
19 the release of a Notice of Funding Availability ("NOFA") and review of
20 applications by the Cultural Affairs Commission and approval by the City
21 Council.
22
- 23 F. In order to attract more cultural users of City-owned and City-operated facilities,
24 up to \$10,000 per year may be allocated from the Cultural Trust Fund for capital
25 improvements to enhance the performance area of such facilities.
26
27

28 § 15.06.____. CRITERIA FOR APPROVING ARCHITECTURE AS ART. 29

30 The following criteria shall be used to determine, on a case-by-case basis,
31 whether architecture can be considered art for purposes of fulfilling the City's APPP
32 requirement:
33

- 34 A. The architect shall be internationally recognized and have earned a
35 respectable reputation in both the design and visual art communities and
36 have exhibited their work in major regional, national or international
37 museums.
38
- 39 B. When reviewing architecture as art, the underlying concept of the
40 architecture shall be expressive as more than mere utilitarian architecture.

ATTACHMENT 1

The architecture as a whole or certain architectural features shall express ideas or meaning and have cultural significance or conceptual complexity in relation to the totality of the object.

C. The applicant must be able to demonstrate how the APPP allocation enhances the design of their project.

D. The architecture must meet all the general criteria regarding placement of artwork on private property as defined in subsection 15.06.130 A. et seq. of this subchapter.

§ 15.06.____. PROCEDURE FOR APPROVING ARCHITECTURE AS ART.

The following procedure must be followed by the applicant to fulfill the APPP requirement with the building's architecture.

A. An applicant shall make an initial presentation to the CAC Public Art sub-committee and staff prior to the development application being deemed complete. The applicant must submit a maquette and /or other materials which satisfactorily illustrate the proposed conceptual development. The applicant and architect must submit a conceptual statement expressing why the architecture should be considered art, including an explanation of the ideas, meaning, cultural significance or conceptual complexity expressed in the architecture.

B. A second presentation shall be made at the completion of the City's review and approval process for the project to a panel comprising two commercial architects, one visual artist, one visual arts administrator, and one general design professional such as a landscape architect or commercial interior designer. At least one of the panel members shall be a Culver City business owner or resident. The panel shall make a recommendation to the CAC Public Art sub-committee whether to accept the project under Architecture as Art who in turn make a recommendation to the Cultural Affairs Commission for consideration.

C. The applicant and architect shall demonstrate that high quality materials and craftsmanship will be used in the execution of the construction.

D. If all of the foregoing criteria are met, the Cultural Affairs Commission shall approve the architecture as art, only if, in its judgment, the architectural

ATTACHMENT 1

work is of extremely high artistic merit and would make a substantial cultural contribution to Culver City.

- E. The applicant and/or architect shall have the responsibility to demonstrate that all of the foregoing criteria are met.

§ 15.06.____. DE-ACCESSIONING OF ARTWORK.

- A. The City will allow the de-accessioning of artwork acquired or commissioned through the Art in Public Places Program only when it is in the public interest and serves as a means of improving the quality of the overall collection;
- B. De-accessioning should be considered only after 5 years following acceptance of artwork donated to the City or artwork privately or publicly commissioned through the APPP. The need for temporary removal from public display does not necessitate de-accession. In instances where the artwork considered for de-accession is on private property, the Cultural Affairs Commission shall make the final decision. When the artwork is on public property or City owned, the Cultural Affairs Commission shall make a recommendation to the City Council who make the final decision.
- C. After de-accession has been approved by the Cultural Affairs Commission or the City Council, if the artwork is sold, all proceeds from sale of artwork, minus payment to artist under California Resale Royalties Act, will be used for the exclusive purpose of acquiring a replacement artwork for the site or be paid to the Cultural Trust Fund. If the artwork was on private property, the then property owner shall replace the de-accessioned artwork with an artwork of equal or greater value or pay an in-lieu fee equivalent to the cost of the artwork to the Cultural Trust Fund.
- D. Circumstances that may cause review of artwork for de-accessioning:
1. The artwork is a threat to public safety, or the condition/security of the work cannot be guaranteed;
 2. The owner cannot properly care for the artwork, or the work requires an excessive or unreasonable amount of maintenance;
 3. The artwork has serious or dangerous faults in design or workmanship, the condition of the work requires restoration in gross excess of its monetary value,

ATTACHMENT 1

or it is in such a deteriorated state that restoration is either unfeasible, impractical, or would render the artwork to be false;

4. A similar but superior example exists in the collection;
5. The artwork is a forgery;
6. No suitable site for the artwork is available;
7. A significant adverse reaction to the artwork is documented over 5 years or more;
8. The artwork is judged to have no aesthetic, historical, or cultural value;
9. The owner wishes to replace an artwork with a more appropriate work by the same artist;
10. The artwork can be sold to finance, or can be traded for, an artwork of greater importance;
11. A written request from the artist to remove the artwork from public display has been received and approved by the City;
12. The artwork is not or is rarely displayed; or
13. The artwork is incompatible with the rest of the collection.

§ 15.06.____ APPEAL.

Any person may seek review of a decision of the Cultural Affairs Commission by filing a written appeal with the City Clerk's Office within ten (10) working days, as observed by the Administrative Offices of the City and excluding national holidays, of the decision by the Commission. The City Clerk's Office shall coordinate with the Community Development Director to schedule the appeal hearing before the City Council.

ATTACHMENT 2

ORDINANCE NO. 2012 - ~~2004 -~~ 004

AN ORDINANCE OF THE CITY OF CULVER CITY, CALIFORNIA, ~~REPEALING~~ADDING, AMENDING AND REPLACING SECTION~~DELETING SECTIONS OF CHAPTER 15.05 OF THE CULVER CITY MUNICIPAL CODE, RELATING TO THE HISTORIC PRESERVATION PROGRAM, AND SECTIONS OF CHAPTER 15.06.100 ET SEQ.~~ OF THE CULVER CITY MUNICIPAL CODE, RELATING TO THE ART IN PUBLIC PLACES PROGRAM.

WHEREAS, on August 29, 1988, the City Council adopted Ordinance No. 88-019, which established the Art in Public Places Program ("APPP"); and

WHEREAS, on February 14, 1994, the City Council adopted Ordinance No. 94-004 which created a City Art Fund, limited the type of art on private property to art in a physical hard media, and authorized expenditures from the City Art Fund for the performing arts; and

WHEREAS, on November 13, 1995, the City Council adopted Ordinance No. 95-016 establishing the criteria and the procedures for approving Architecture as Art; and

WHEREAS, by Ordinance Nos. 2001-013 and 2001-015, the City Council established the Cultural Affairs Commission (~~("CAC")~~) and directed that the Art in Public Places ~~Program~~program and Historic Preservation program be primarily implemented by the CAC;

WHEREAS, the ~~City Council~~CAC adopted ~~Ordinance~~Resolution No. ~~CAC 2002-007 which incorporated changes~~005 that ~~were included changes~~ necessary with the establishment of the CAC and the transfer of the Art in Public Places and ~~other Cultural Affairs~~Historic Preservation programs from the Community

ATTACHMENT 2

1 Development Department to the Parks, Recreation & Community Services

2 Department; and

3 ~~**WHEREAS**, the City Council adopted Ordinance No. 2002-007 that~~
4 ~~incorporated the changes adopted by the CAC in Resolution No. CAC 2002-005;~~

5 **WHEREAS**, in July 2003, the CAC and the ~~Art in Public Places and Historic~~
6 ~~Preservation~~ programs under its purview, were transferred to the Community

7 Development Department from the Parks, Recreation & Community Services

8 Department because of the direct effect upon development projects and the need to
9 better coordinate implementation of the APPP and the development process; and

10
11
12 **WHEREAS**, on February 9, 2005, the City Council adopted Ordinance No.
13 2004-004 to address ~~staff has determined that~~ certain ~~word processing~~ omissions
14 and the change in City departments; and

15 ~~**WHEREAS**, with the dissolution of the~~ changes shall be corrected in Culver
16 City Redevelopment Agency on February 1, 2012, the CAC, the performing arts and
17 certain other Cultural Affairs programs were transferred to the Parks, Recreation &
18 Community Services Department while the ~~Municipal Code Section 15.05 et seq.~~
19 ~~and Section 15.06 et seq. in order to proceed with the development of the~~ Art in
20 Public Places Program remains within the Community Development Department;
21 ~~and Historic Preservation programs and that further revisions reflecting the change~~
22 ~~in departments are also necessary; and~~

ATTACHMENT 2

1 **WHEREAS**, the arts have increasingly become an important component in
2 Culver City's identity, both regionally and nationally; and

3 **WHEREAS**, the Los Angeles County Economic Development Corporation's
4 annual Otis Report on the Creative Economy consistently demonstrates that the arts
5 have a significant positive economic impact to overall tourism revenues in the region
6 and is one of the largest employment clusters in Los Angeles County; and

7 **WHEREAS**, periodic review and certain~~proposed~~ amendments are necessary
8 to ensure that Culver City's Art in Public Places Program, Performing Arts Grant
9 Program, and related cultural initiatives remain competitive with current national
10 standards and continue to build upon what has been established to date. ~~were~~
11 ~~unanimously adopted by the CAC in Resolution No. CAC 2003-002 at their meeting~~
12 ~~on October 14, 2003.~~

13 **NOW, THEREFORE**, the City Council of the City of Culver City, California,
14 **DOES HEREBY ORDAIN**, that the following amendments be made to
15 Chapter~~Chapters 15.05 and~~ 15.06 of the CCMC:

16 SECTION 1. Sections ~~of Chapter 15.06.100 et seq.~~05 of the Culver City
17 Municipal Code shall be ~~repealed~~added, amended, and ~~replaced~~deleted, pursuant to
18 the changes set forth in "Exhibit "A", attached hereto and incorporated by reference.

19 SECTION 2. ~~Pursuant~~Sections of Chapter 15.06 of the Culver City
20 ~~Municipal Code shall be added, amended, and deleted, pursuant to~~ Section 619 of
21 the City Charter, this~~the changes set forth in Exhibit "B", attached hereto and~~
22 ~~incorporated by reference.~~

ATTACHMENT 2

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2 ~~SECTION 3. This~~ Ordinance shall take effect thirty (30) days ~~after~~from the
3 date of its adoption. ~~Pursuant to Sections 616 and 621 and, as required by Section~~
4 ~~512~~ of the City Charter, prior to the expiration of fifteen ~~(15)~~ days ~~after~~from the
5 adoption, ~~hereof~~ the City Clerk shall cause this Ordinance, or a summary thereof, to
6 be published in ~~the~~The Culver City News ~~and. Additionally, the City Clerk~~ shall post
7 this Ordinance or a summary thereof in at least three ~~public~~ places within the City
8 ~~pursuant to Section 517 of the City Charter.~~

9 SECTION 3. The City Council hereby declares that, if any provision, section,
10 subsection, paragraph, sentence, phrase or word of this ordinance is rendered or
11 declared invalid or unconstitutional by any final action in a court of competent
12 jurisdiction or by reason of any preemptive legislation, then the City Council would
13 have independently adopted the remaining provisions, sections, subsections,
14 paragraphs, sentences, phrases or words of this ordinance and as such they shall
15 remain in full force and effect.

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19 APPROVED AND ADOPTED this _____ day of _____, ~~2013~~2004.
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25 _____
26 ~~ALAN CORLIN~~, Mayor

27 City of Culver City
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ATTACHMENT 2

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ATTEST:

APPROVED AS TO FORM:

Christopher Armenta, City Clerk
Schwab, City Attorney

Carol A.

ATTACHMENT 2

EXHIBIT B

REVISIONS TO THE ART IN PUBLIC PLACES PROGRAM

§ -15.06.____.100. PURPOSE.

The City Council finds and declares:

A. A.—Cultural and artistic resources, that include visual artwork, including Art Works and the performing arts, and architectural resources, enhance the quality of life for individuals living in, working in and visiting the City.

B. B.—Balanced development of cultural and artistic resources preserves and improves the quality of the urban environment, and increases real property values, and has a positive economic impact. -

C. C.—As development and revitalization of the real property within the City continues, the opportunity for creation of cultural and artistic resources is diminished. As this development and revitalization continues as a result of market forces, urbanization of the community results. As these opportunities are diminished and this urbanization occurs, the need to develop alternative sources for cultural and artistic outlets to improve the environment, image and character of the community is increased.

D. The Culver City Art in Public Places Program (“APPP”) was created in 1988 so that developmentD. Development of cultural and artistic assets areshould be financed by those whose development and revitalization diminishes the availability of the community’s resources for those opportunities and contributes to community urbanization.

E. —Establishment of this Art in Public Places Program (APPP) will promote the general welfare through balancing the community’s physical growth with revitalization and its cultural and artistic resources.

§ 15.06.____.105. IMPLEMENTATION BY CULTURAL AFFAIRS COMMISSION.

____The Cultural Affairs Commission (“CAC”), as included established in Sections 3.03.400 et seq. of the Culver City Municipal Code, was created in 2001 and shall implement the duties established in this subchapterSubchapter. The City Council may prescribe, by resolution, other duties, and the appointment process for the members of the Commission.

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§ 15.06. ~~106~~ DEFINITIONS.

As used in this ~~subchapter~~ Subchapter, the following definitions shall apply:

A. "Administrative Fees" include art consultant, conservator, legal fees, travel and out-of-pocket expenses.

B. "Art in Public Places Program Allocation" (also referred to as "APPP allocation") is the percentage of the construction costs which are set aside for the City's Art in Public Places Program.

C. "Artwork" includes but is not limited to paintings, drawings, murals in any media, stained glass, statues, bas relief or other sculptures, and any creation under "new genres" as defined herein; environmental artworks or public spaces; monuments, fountains, arches or other structures of a permanent or temporary character intended for ornament or commemoration; integrated and functional architectural, video and other media-based elements designed by a qualified artist. For projects which involve no structures, artwork may include a combination of landscape design, natural and manufactured materials including but not limited to rocks, fountains, reflecting pools, sculptures, screens, benches, and other types of street furniture, provided they have been designed by a qualified artist.

~~A. "Art Work" is a sculpture, mural or portable painting, earthwork, firework, neon, glass mosaic, photograph, print, calligraphy, or other form of physical hard media.~~

~~B. "Cultural Affairs Commission" shall be the Commission as established in Sections 3.03.400 et seq. of this Code. Unless otherwise specified, any reference to "Commission" in this Subchapter shall mean the Cultural Affairs Commission.~~

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1 D. C. “Community Development Director” shall mean the Community Development
2 Director of the City or his/her designee.

3
4 E. “Conservation” encompasses actions taken toward the long-term preservation of
5 cultural property and includes examination, documentation, treatment and
6 preventative care, supported by research and education. Restoration is a type of
7 conservation treatment and specifically refers to an attempt to bring cultural
8 property closer to its original appearance. Stabilization, also a type of conservation,
9 refers to an attempt to maintain the integrity of cultural property and to only
10 minimize deterioration.

11
12 F. “Cultural Affairs Commission” shall be the Commission as established in 2001
13 according to Sections 3.03.400 et seq. of this Code. Unless otherwise specified,
14 any reference to “Commission” in this subchapter shall mean the Cultural Affairs
15 Commission.

16
17 G. “De-accession” refers to the process of permanently removing an artwork acquired
18 through the Art in Public Places Program as outlined in this subchapter.

19
20 H. “Design Fees” may include those fees which are paid to an artist, architect,
21 structural engineer, or an appropriate party for the development of a design concept
22 and the preparation of construction drawings, which are separate and apart from the
23 cost of the fabrication and installation of an artwork.

24
25 I. “Freely Accessible” is defined to mean the artwork is accessible to the public for
26 viewing, in its entirety and in a direct line of sight without hindrances or obstacles,
27 for a period of ten (10) hours per day, seven (7) days per week.

28
29 J. “New Genres” includes installation, sound installation, video, film, audio, digital,
30 hybrid and emerging art forms. These works may be temporary or permanent in
31 nature.

32
33 K. “Non-Profit” shall mean those entities deemed to be exempt under section 501(c)(3)
34 of the Internal Revenue Service Code.

35
36 L. D. “Performing Arts” is defined as performances presented by professional or
37 amateur performers; including, ~~theatre~~ theater performance (any form of dramatic
38 presentation, spoken or silent); musical ~~theatre~~ theater/opera (any dramatic
39 ~~performance~~ performances of which music is an integral part); dance (any form of
40 rhythmical movement); music or /concert (any musical performance with live

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musicians and/or singers ~~form whether classical or popular~~; and children's theater
(~~any theater for young audiences, for or by children~~).

M. "Permanent Installation" is defined as artwork designed and fabricated to remain
installed for 20 or more years.

~~N. E.~~ "Project" is defined as consisting of all physical changes and improvements
necessary to complete a development. Such physical changes shall include the
construction of new structures or the remodeling of existing structures.

O. "Real Property" shall mean that which consists of land, and of all rights and profits
arising from and annexed to land, of a permanent, immovable nature.

P. "Qualified Artist" (also referred herein as "Artist") shall be defined as a practicing
artist who has demonstrated a high level of accomplishment through a body of
work, exhibitions, presentations, or performances. The qualified artist shall have a
history of strong conceptual development, as well as possess the ability for skillful
execution of tools, materials, and craft. This includes programs rooted in innovative
uses of technology, collaborative work, or interdisciplinary projects. The qualified
artist shall have a BFA, MFA or other comprehensive advanced training in the visual
arts and work primarily in the production of art in unique or limited editions and not
for purposes of marketing, mass production or advertising.

Q. "Temporary Installation" is defined as artwork intended to remain installed for 3
years or less.

~~F. "Freely Available" is defined to mean the Art Work is accessible to the
public for viewing, in a direct line of sight, for a period of ten (10) hours per day,
seven (7) days per week, with the option of excluding national holidays.~~

§ 15.06. . CULTURAL TRUST. ~~110. CITY ART FUND CREATED.~~

~~A. — A.~~ There is hereby created a fund to be known as the "Culver City Cultural
Trust Art Fund" (hereinafter "Cultural Trust Fund") to account for fees paid pursuant
to this subchapter~~Subchapter~~. This fund, ~~shall be~~ maintained by the Chief Financial
Officer, City Treasurer and, subject to §§ 15.06. . ~~040~~ and 15.06. . ~~050~~, shall
be used solely:

1. — 1. For the design, acquisition, commission, installation,
improvement, relocation, conservation, utility charges and insurance of an

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artwork acquired by the City through the APPP. ~~maintenance and insurance of an Art Work. "Design Fees" may include those fees which are paid to an appropriate party for the development of a design concept and the preparation of construction drawings, which are separate and apart from the cost of the fabrication and installation of an Art Work;~~

For preventative care, maintenance and _____

2. _____ To sponsor or support performing arts;

_____ 3. _____ For the acquisition and improvement of real property for the purpose of displaying Art Work, which has been or may be subsequently approved by the City; or

2. _____ 4. _____ During a fiscal year, for maintenance of and utility charges related to the ~~artwork~~ Art Work and real property purchased pursuant to subsection 15.06. Section A.1. above; provided, that the total amount of ~~the appropriation~~ expenditures made in any year from the ~~Cultural Trust~~ City Art Fund for the purpose set forth in this subsection 15.06 Section A.24. shall not exceed ~~fifteen~~ five percent (~~155~~%) of the total ~~available amount of~~ fees deposited ~~into the Cultural Trust Fund~~, pursuant to this ~~subchapter~~ Subsection, during the City's fiscal year immediately preceding that ~~appropriation~~. The City Council, with a recommendation by the Cultural Affairs Commission, may appropriate additional funds from the Cultural Trust Fund for the purpose of completing larger conservation efforts, including restoration projects, for one or more ~~artwork~~ expenditure.

3. To sponsor or support the performing arts;

4. For the acquisition and improvement of real property for the purpose of displaying artwork, which has been or may be subsequently approved by the City;

5. _____ 5. _____ For costs associated with administering ~~The~~ the Art in Public Places Program ~~and associated cultural programs~~, in an amount not to exceed fifteen percent (15%) of the ~~total fees deposited into the Cultural Trust Fund, pursuant to this subchapter, during the City's fiscal year immediately preceding that appropriation~~ Program allocation as set forth in ~~Section 15.06.125~~; however, in the event the City Council determines that a special circumstance exists, the City Council may set a higher amount by a ~~majority~~ four-fifths vote; ~~and~~.

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6. Other City-produced cultural programs pursuant to the requirements of this subchapter; and,

B. —B.— If real property purchased with monies from the Cultural Trust~~City Art~~ Fund is subsequently sold, the proceeds from the sale shall be returned to the Cultural Trust~~City Art~~ Fund.

§ 15.06.115. DEVELOPMENTS SUBJECT TO PROVISIONS OF SUBCHAPTER.

A. A.— All new residential development projects of five or more ~~than four (4)~~ units, and all commercial, industrial, and public building development projects, with a building valuation of exceeding Five Hundred Thousand Dollars (\$500,000.00) or more shall be subject to the provisions of this subchapter. ~~Subchapter, provided that the value of a residential unit covenanted for low- or moderate-income households, or for senior citizens shall not be included when determining the value of a residential development.~~

B. —B.— Including but not limited to exterior and interior modifications and additions, all remodeling of existing residential buildings of five or more ~~than four (4)~~ units, and all remodeling of existing commercial, industrial and public buildings, shall be subject to the provisions of this subchapter~~Subchapter~~ when such remodeling has a valuation of exceeding Two Hundred Fifty Thousand Dollars (\$250,000.00) or more., excluding earthquake rehabilitation required by this Code for seismic safety. ~~As used herein, the value of a residential unit covenanted for low- or moderate-income households or for senior citizens shall not be included when determining the value of a residential development.~~

§ 15.06.120. FINAL CITY APPROVAL.

C. Covenanted low- and moderate-income and senior citizen housing shall be exempted from the requirements of this subchapter for as long as they are used for that purpose.

1. The APPP allocation for a development project that includes residential units covenanted for low- or moderate-income households or for senior citizens shall be reduced by the value of the square footage of the covenanted units and associated spaces (such as parking).

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2. Prior to the date any restrictions regarding residential units covenanted for low- or moderate-income households or for senior citizens terminate, the then current owner of the residential development shall pay fees to the Cultural Trust Fund in an amount equal to the exemption calculated in subsection 15.06 C(1), above.

D. Buildings which are designed and dedicated primarily to non-profit performing arts spaces or museum uses shall not be required to meet the Art in Public Places Program Allocation requirement for as long as the performing arts or museum uses are maintained within the building.

§ 15.06. . A PPP-A. — No final City approval for any project subject to this Subchapter shall be granted or issued unless and until full compliance with the Art in Public Places Program is achieved as follows:

1. — The approved Art Work has been placed in a manner satisfactory to the Cultural Affairs Commission. Placement of Art Work shall be completed prior to final inspection and issuance of a Certificate of Occupancy.

2. — In lieu art fees have been paid, if applicable.

3. — Financial security in an amount equal to the acquisition and installation costs of an approved Art Work, in a form approved by the City Attorney, has been posted. In cases where an applicant is not certain whether to contribute to the City Art Fund or to obtain approval of an Art Work, the Community Development Director shall have the authority to negotiate an agreement with the applicant for the deposit of the amount of funds for the project into the Art Fund for a period of time not to exceed one (1) year after the issuance of any construction permit. This option will allow an applicant additional time to determine the desired alternative for compliance with the Program requirements.

4. — Donation of an approved Art Work has been accepted by the City Council.

5. — In cases where approved Art Work is placed on private property pursuant to this Subchapter, the Applicant shall execute and record a covenant with the Los Angeles County Recorder, which sets forth the Applicant's obligations to comply with this Program. The covenant shall be recorded prior to the request for final construction inspections and the issuance of a Certificate of Occupancy.

B. — For the purposes of Subsection A. above, "full compliance with the Art in Public Places Program" shall not be found until the entire program allocation required by

§ 15.06.125 for the project has been satisfied.

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~~C. If any approved Art Work placed on private property pursuant to this Subchapter is removed without City approval, the Certificate of Occupancy may be revoked.~~

~~D. A maximum of 25% of funding received in any one year for the City Art Fund shall be allocated for Performing Arts in the subsequent years, subject to the release of a notice of funding availability and review of applications by the Cultural Affairs Commission and approval by the City Council~~

~~§ 15.06.125. PROGRAM ALLOCATIONS.~~

A. —A.—The APPP allocation, as used in this subchapterSubchapter, is the percentage of the construction costs which are set aside for the City's APPP and shall be an amount equal to one percent (1%) of the total building permit construction valuation for an applicable project, excluding land acquisition costs and off-site improvement costs as defined in § 15.06.106 (E). The total building permit construction valuation used for determining applicable APPP allocations shall be based on consist of the dollar amount of all construction permits using the latest building construction valuation data used by the Building Safety division staff, based on R.S. Means Square Foot Costs, Valuation Data as set forth by the International Conference of Building Officials (ICBO) unless, in the opinion of the Building Official, a different valuation methodology is more appropriate for a particular project.

B. Multiple building permits issued within a three year period for a single project shall be considered in the aggregate in determining the APPP allocation for any project.

C. If the total APPP allocation for a project is less than \$75,000 —B.— In lieu of placement of an approved Art Work, the applicant shallmay pay the total amount to the Cultural Trust Fund as the only option for complying with the APPP allocation requirement.

D. Payment of any required APPP allocation shall be received prior to issuance of a City building permit.

E. If the APPP allocation is \$75,000 or greater, the applicant shall either:

1. Pay the APPP Allocation into the Cultural Trust Fund prior to issuance of a City Building Permit ("in-lieu fee"); or

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2. Commission original, site-specific artwork for the applicant's development project, with a valuation Art Fund an amount equal to or greater than the APPP allocation, in compliance with the guidelines of this subchapter; or
3. Donate artwork to the City with an appraised value equal to or greater than the APPP allocation, in compliance with the guidelines of this subchapter; or
4. Incorporate a Cultural Facility into the applicant's development project, in compliance with the guidelines of this subchapter; or
5. Have the building or a portion thereof designated "Architecture as Art" pursuant to subsection 15.06 .

F. Any applicant whose APPP allocation is less than \$75,000 may voluntarily increase its APPP allocation to an amount of \$75,000 or greater, and thereby qualify the applicant to fulfill the program requirement pursuant to subsection 15.06.
~~Dallocation set forth in Subsection A above. In lieu fees are due at the prior to issuance of a Building Permit.~~

G. If the APPP allocation is \$75,000 or greater, C. — Nothing in this Section shall prohibit the applicant may place from placing an approved artwork, create a Cultural Facility, donate artwork, or designate their building "Architecture as Art" Art Work with acquisition and installation costs which are in an amount less than the applicant's APPP allocation program allocations; provided that, such costs are at least \$75,000 and that the applicant shall also pay to the City Art Fund an amount equal to the difference between the APPP program allocation and such the costs into the Cultural Trust Fund of acquisition and installation of such Art Work.

H. For the commission of new on-site artwork, applicants are required to use a Request for Proposal ("RFP") process for selecting an artist when the APPP allocation exceeds \$100,000. The applicant shall also hire a qualified art consultant to assist with the RFP process, proposal development, and project oversight. The art consultant shall be selected from a pre-qualified list provided by the City. The CAC Public Art sub-committee and staff shall review the art consultant and RFP information with the applicant prior to releasing the RFP. Total Administrative Fees shall not exceed 15% of the APPP allocation, or \$100,000, whichever is less. Design fees must be proportionate to the overall scope of the project.

The RFP will include the following components:

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1. Deadline for submission of requested information;

2. Information on project components, including but not limited to project goals, work scope, physical description of project site, and other physical or legal restrictions which may apply;

3. Proposal review/selection schedule;

4. Scope of services;

5. Project budget;

6. Project timeline, and,

7. Evaluation criteria.

I. If the APPP allocation under this Chapter is \$75,000 or greater, the applicant may opt to fulfill the APPP requirement by incorporating a Cultural Facility within the development project. Acceptable Cultural Facilities are: indoor and outdoor performing arts spaces that can accommodate a minimum audience of 50, with a performance area of at least 500 square feet, or exhibition spaces designed for the visual arts. Cultural Facilities must include all amenities for supporting a performance or art exhibition space, including a sound and lighting system, audience seating, separately designated restrooms, and technical space. Cultural Facilities shall be permanent and must be ADA-compliant. Further, the facility must be made available to the recipients of the Culver City Performing Arts Grant Program and Culver City-based visual and performing arts organizations at rental rates no higher than other local art venues. Cultural Facilities must be specifically designated as such and cannot be used for any other purpose on an on-going basis. Applicants may receive credit for up to three years of operations, maintenance and programming costs for Cultural Facilities, together with construction costs, toward fulfillment of the minimum APPP allocation for their project. The applicant's proposal for a Cultural Facility shall include a plan that identifies key staff, programming goals and an associated budget for a minimum of three years. The proposal shall be approved by the Cultural Affairs Commission, monitored by designated City staff, and subject to all federal, state and local laws and regulations. Review and approval of Cultural Facilities shall include review by a CAC sub-committee with a recommendation to the full CAC. Cultural Facilities are required to display a permanent plaque as outlined in subsection 15.06. and are subject to the covenant and maintenance requirements of subsection 15.06.

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~~§ 15.06.130.~~

§ 15.06. APPLICATION AND APPROVAL PROCEDURES FOR PLACING
ARTWORK~~ART WORK~~ ON PRIVATE PROPERTY.

A. In order to ensure integrated projects, applicants choosing to commission new artwork—A. Application procedures. An application for their project, integrate a Cultural Facility into the site, or designate the building as “Architecture as placement of Art”. Work on private property shall submit plansbe submitted to the Community Development Director during Preliminary Project Review (PPR) or prior to receiving any discretionary review approvals. At a minimum, and shall include the following information shall be included, at minimum:

1. ————1. Preliminary sketches, photographs or other documentation of sufficient descriptive clarity to indicate the nature of the proposed artworkArt Work;

2. ————2. An appraisal or other evidence of the value of the proposed Art Work, including acquisition and installation costs;

2. ————3. Preliminary plans containing such detailed information as may be required by the Community Development Director and the Planning Manager to adequately evaluate the location of the artworkArt Work in relation to the proposed development, and its compatibility with the proposed development, including compatibility with the character of adjacent conforming developed parcels and the existing neighborhood. Applicants should be involved in the development of the preliminary plans in order to assist in the proper placement of the artwork in relation to their proposed development environment, and to ensure that the artist that is chosen creates an artwork that fits the needs and requirements of both the applicant’s project and the APPP.existing neighborhood if necessary to evaluate the proposal; and

B. Upon receipt of discretionary review approvals, applicants shall prepare the following in preparation for Cultural Affairs Commission review:

1. ————4. A narrative proposal, with project budget, and timeline. Elevationselevations, site plans, lines of sight studies, renderings and other descriptive materials, as deemed necessary by the Community Development Director, shallto be includedsubmitted to the Cultural Affairs Commission to demonstrate that the artworkArt Work will be displayed in an area open and freely accessibleavailable to the general public. at least ten (10) hours each

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day, seven (7) days per week, or otherwise provide public accessibility in an equivalent manner based on the characteristics of the Art Work or its placement on the site. (Refer to § 15.06.106 (F) for a definition of “Freely Accessible.”)

2. Information provided by an American Institute for Conservation (“AIC”) affiliated conservator about the durability of the proposed materials, recommendations for future maintenance and estimated maintenance costs. In addition, the application shall include information on how the future maintenance costs will be allocated and who shall be the responsible party for ensuring that maintenance is performed; and,
3. If applicable, an appraisal or other evidence of the value of the proposed artwork, including acquisition and installation costs.

B. Approval.

~~1. Except as provided in Subsection B.2. below, completed applications shall be submitted to the Community Development Director for review of the Art Work, considering the aesthetic quality and harmony of the Art Work with the existing on-site improvements, and the proposed location of and public accessibility to the Art Work.~~

C. 2. The Cultural Affairs Commission shall review the completed application together with the recommendation of the Community Development Director and CAC Public Art Sub-Committee, and approve, approve with conditions, or deny the proposed artworkArt Work, and its proposed location, considering the aesthetic quality and harmony with the proposed project, and the public accessibility of the artworkArt Work.

D. Submitted artwork applications shall be assessed on:

1. Compliance with the general APPP requirements as outlined in this subchapter;
2. Artistic quality;
3. Conceptual compatibility of the design with the immediate environment for the site;
4. Appropriateness of the design to the function of the site;

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5. Creation of _____ a desirable environment for the general community by the design and location of the artwork;
6. Preservation and integration of natural features with the project;
7. Appropriateness of the materials, textures, colors, and design to the expression of the design concept;
8. Ability to convey the artist's intention and underlying themes;
9. Whether the artwork is representative of a broad variety of tastes within the community and makes a contribution to the provision of a balanced inventory of artworks commissioned through the APPP to ensure a variety of style, design, and media;
10. Permanence of structural and surface components including but not limited to the structural and surface soundness and inherent resistance to theft, vandalism, weathering, and excessive maintenance or repair costs.

Disqualifying characteristics for artwork:

1. Directional elements such as super graphics, signage, or color coding except where these elements are integral parts of the original artwork or executed by the artist in unique or limited editions;
2. Artwork that incorporates logos, images, text or other elements that relate directly to a specific business's or organization's branding or marketing themes.
3. Art objects which are mass produced and of standard design such as playground equipment or fountain pieces;
4. Reproduction of original artworks, except in cases where incorporated into an original artwork;
5. Decorative or functional elements which are designed by the building architect as opposed to a qualified artist;
6. Landscape design except where it is designed by a qualified artist and is an integral part of the artwork;

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7. Architectural rehabilitation, historic preservation and structural building modifications;

8. Temporary art exhibitions, unless included with a Cultural Facility as outlined in Section 15.06. above;

9. Educational activities;

10. Artwork designed by City elected or appointed officials, City staff or members of their immediate family, members of the project architect's firm or immediate family members, individuals directly associated with the development team or immediate family members of the property owner/applicant, or any individuals with whom the property owner and/or applicant may have an interest in common;

11. Artwork designed by artists currently under contract for a new City art commission; and,

12. Artwork designed by an artist who has received more than one permanent public art commission through the City's Art in Public Places Program in a ten year period from the date the original contract for the project was executed.

E. —If the applicant proposes significant revisions to the artwork~~Art Work~~, a revised application shall be submitted to the Community Development Director for review and recommendation to the Cultural Affairs Commission. The Commission shall make a determination whether to approve, approve with conditions, or deny the requested revision~~(S).~~

~~b. —If the applicant proposes or the Cultural Affairs Commission recommends significant revisions to the architecture or physical design and layout of the proposed project subsequent to receipt of the Community Development Director's recommendation, the revised application may be returned to the Commission for further review and approval.~~

~~3. —Any person may seek review of the decision made by the Cultural Affairs Commission, pursuant to Subsection B.1. by filing an appeal in accordance with the CCMC.~~

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1 § 15.06. APPROVAL OF PROCEDURES OF COMMISSION OF ARTWORK IN
2 CONJUNCTION WITH CITY DEVELOPMENT PROJECTS.

3
4 A. All City initiated projects subject to the requirements of this subchapter, shall follow
5 the same requirements as development projects on private property with the
6 exception of the requirement to pay the in-lieu fee if the amount available is \$75,000
7 or less. The APPP allocation shall be included in the development project budget
8 and appropriated from the development project funding sources. The APPP
9 allocation may be supplemented with money from the Cultural Trust Fund with a
10 recommendation from the Cultural Affairs Commission and City Council approval.

11
12 B. Depending on the scope of the development project and/or overall budget, the City
13 may employ a Community Advisory Committee and/or Artist Selection Panel, an
14 RFQ and/or RFP process, and/or the services of a qualified art or theatre
15 consultant. Both the Community Advisory Committee and Artist Selection Panel
16 shall include a combination of professional artists, arts and design professionals,
17 community representatives or stakeholders, and City department representatives.

18
19
20 § 15.06. .135. PROCEDURE FOR ACCEPTANCE OF ARTWORKART WORK
21 DONATED TO THE CITY TO FULFILL THE ART IN PUBLIC PLACES
22 PROGRAM REQUIREMENT.

23
24 A. — A. — Application procedure. An application for acceptance of artworkArt Work
25 to be donated to the City for placement on public property shall be submitted to the
26 Community Development Director and shall include the following information, at
27 minimum:

28
29 1. Artist biographies and object provenance;

30
31 2. Sketches — 1. — Preliminary sketches, photographs, models, site plan,
32 lines of sight studies, or other documentation of sufficient descriptive clarity to
33 indicate the nature of the proposed artwork and installation and siting
34 requirementsArt Work;

35
36 3. Acquisition and installation costs;

37
38 4. — 2. — An appraisal or other evidence of the value of the proposed
39 artwork. The value of the proposed artwork will be determined by an Accredited
40 Member or Accredited Senior Appraiser of the American Society of Appraisers.

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or a member of another established national or international organization for appraisers Art Work, including acquisition and installation costs;

5. Information provided by an American Institute for Conservation ("AIC") affiliated conservator about the durability of the proposed materials, recommendations for future maintenance and estimated maintenance costs; and,

6. ~~3.~~ A written agreement, in a form approved by the City Attorney, executed by or on behalf of the artist who created the artwork (if applicable) Art Work which provides the City necessary protections as permitted expressly waives his or her rights under the California Art Preservation Act or other applicable law; and

~~4.~~ Other information as may be required by the Cultural Affairs Commission to adequately evaluate the proposed donation of Art Work.

B. ~~B.~~ Review of application;

1. ~~1.~~ Completed applications shall be submitted to the Community Development Director who, together with the CAC Public Art Subcommittee makes a for review and recommendation to the Cultural Affairs Commission. City Council.

2. The Cultural Affairs Commission shall in turn make a recommendation ~~2.~~ Recommendations shall be forwarded to the City Council, which shall have the sole authority to accept or reject or conditionally accept the donation.

C. All artwork donated to the City in fulfillment of the requirements of this subchapter shall become the property of the City upon acceptance by the City Council.

~~§ 15.06.140. LIMITATION ON FORMS OF ART.~~

A. Private property. Subject to the provisions of §§ 15.06.130 and 15.06.145, if a person subject to this Subchapter chooses to meet the Art in Public Places allocation requirement by providing art, the only form of art which can satisfy the requirement is placement of an approved Art Work on private property. As used in this Subchapter, an Art Work is a sculpture, mural or portable painting, earthwork, firework, neon, glass mosaic, photograph, print, calligraphy; or other form of physical hard media.

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~~_____B._____ Donation of art. Subject to the provisions of §§ 15.06.135 and 15.06.150, an applicant, subject to this Subsection, chooses to meet the APPP allocation by donation of art, the only form of art which can be donated to the City is an Art Work, as described in the definitions contained in Subsection 15.06.106.~~

~~§ 15.06.145. OWNERSHIP AND MAINTENANCE OF ARTWORKART WORK.~~

~~A. _____A._____ All artworkArt Work placed on the site of an applicant'sApplicant's project shall become the property of the property owner and his/her successor(s) in interest. Artwork cannot be sold or transferred other than to a subsequent successor in interest. The obligation to provide ~~all~~-maintenance and security as necessary to preserve the artworkArt Work in good condition, shall remain with the owner of the site.~~

~~B. _____B._____ Maintenance of artworkArt Work, as used in this subsectionSubsection, shall include without limitation: preservation of the artwork and where applicable, lighting and surrounding landscaping,Art Work in good condition to the satisfaction of the City; protection of the artworkArt Work against physical defacement, mutilation or alteration; and, securing and maintaining fire and extended coverage insurance and vandalism coverage in an amount to be determined on a case-by-case basis by the City.~~

~~Attorney. Prior to placement of an approved artworkArt Work, the applicant and the owner of the site shall execute and record a~~

~~C. covenant reflecting all the owners' obligations under this subchapter, in a form approved by the City.~~

~~D. The covenant shall include a future financial planAttorney for the maintenance of the artwork, a schedule of future condition checks, preventative maintenance and restoration of the artwork necessary to conserve the artwork at an appropriate level, and should be created with input from the artist, the applicant, the Cultural Affairs Commission, and an Art Consultant, if one was hired, for the project.~~

~~E. Applicants are required to set-aside funds for future conservation and where possible, in interest bearing accounts. Preventative maintenance costs may represent from 5 – 15% annually of the total APPP allocation but shall be based on conservation reports prepared by a professional art conservator working with the artist and the artist's fabricator. Funds for maintenance are not part of the APPP allocation.~~

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1 F. The City reserves the right to inspect the artwork at any time to ensure it is being
2 maintained as required by the applicable covenant.

3
4 ~~Art Work.~~ Failure to maintain the ~~artwork~~Art Work as provided herein is hereby
5 declared to be a public nuisance. ~~-~~ The City ~~may also shall~~ pursue ~~additional~~
6 remedies to obtain compliance with the provisions of this Program for maintenance
7 of artwork, including subjecting, as appropriate.

8
9 G. — C. — In addition to all other available remedies provided by law, in the event
10 the property owner to administrative citation and/or misdemeanor prosecution;
11 placing conditions for maintenance of an artwork on the owner's future development
12 project approvals; performing fails to maintain the Art Work, upon reasonable notice,
13 the City may perform all necessary repairs, maintenance or securingsecure
14 insurance, and placing the costs thereof, shall become a lien against the real
15 property for the costs associated with such.

16
17 H. The artwork is — D. — All Art Work donated to remain freely accessible, as
18 previously defined, and may not otherwise be draped or obscured.

19
20 I. The siting of the artwork, including the surrounding landscaping or adjacent area,
21 shall not be altered without approval from the City. The -shall become the property
22 of the City reserves the right to implement measures necessary to preserve the
23 design and placement of an artwork as approved by the Cultural Affairs
24 Commission in accordance with subsection 15.06. D.

25
26 J. Unless an artwork poses imminent danger to life or property, no person or entity
27 shall remove any artwork from the location for which it was selected, and anyone
28 shall obtain City approval prior to doing so.

29
30 K. The applicant, its successors, and its assigns, may not destroy, permanently
31 remove, relocate, change, alter, modify, or allow to be defaced, any such artwork
32 component without the express consent of the artist and the City. This requirement
33 will be included in a covenant to be recorded against the property.

34
35 L. If any approved artwork placed on private property pursuant to this subchapter is
36 removed without City approval, the artwork must be replaced with artwork of same
37 value as the original and be approved by the CAC, or the property owner must pay
38 said amount into the Cultural Trust Fund. If these requirements are not met within
39 180 days, then Certificate of Occupancy is revoked or a lien is placed against
40 Property.

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1 § 15.06. .upon acceptance FINAL CITY APPROVAL.

2
3 A. No final City approval or Certificate of Occupancy for any project subject to this
4 subchapter shall be granted or issued unless and until full compliance with the
5 APPP is achieved as follows:

6
7 1. In lieu art fees have been paid in compliance with subsection 15.06. , if
8 applicable;

9
10 2. The approved artwork has been fabricated and placed on the site in a
11 manner consistent with the proposal approved by the Cultural Affairs
12 Commission and inspected by the CAC and/or Cultural Affairs staff, if
13 applicable;

14
15 3. Donation of an approved artwork has been accepted by the City Council, if
16 applicable;-

17
18 4. A Cultural Facility has been incorporated into the applicant's development
19 project, if applicable;

20
21 5. The building or a portion thereof has been designated "Architecture as Art"
22 pursuant to the guidelines outlined in subsection 15.06 , if applicable.

23
24 6. In cases where approved artwork is placed on private property, a Cultural
25 Facility has been incorporated into the applicant's development project, or
26 the building has been designated "Architecture as Art" pursuant to this
27 subchapter, the following is required prior to final City approval or issuance of
28 a Certificate of Occupancy for any project subject to this subchapter:

29
30 a. A copy of the maintenance guidelines that include information on
31 materials, parts and fabricator contact information has been submitted to
32 the City; and,

33
34 b. A covenant, meeting the rules outlined in subsection 15.06. and
35 setting forth the applicant's obligations under the APPP, has been
36 executed and recorded with the Los Angeles County Recorder; and,

37
38 c. A plaque has been installed at the site measuring no less than 8" x 8", or
39 a proportionate equivalent in size. The plaque shall be made of cast
40 metal, stainless steel or other durable material and will be placed in an
41 appropriate location near the artwork and shall include the date, title of

ATTACHMENT 2

artwork (if applicable), artist(s) or architect(s) (as applicable), and that the artwork, building's architecture or Cultural Facility was commissioned in conjunction with the Culver City Art in Public Places Program. Staff shall review and approve plaque text and layout prior to its fabrication and installation at the site; and,

d. Proof of final payment to the artist and/or all members of the design and fabrication/installation team has been furnished to the City.~~§ 15.06.150.~~
~~ART WORK~~

§ 15.06. ~~ARTWORK~~ ON PUBLIC PROPERTY, PERFORMING ARTS AND PURCHASE OF REAL PROPERTY FOR PUBLIC ART.

A. ~~A.~~ The Cultural Affairs Commission shall prepare a plan for the Art in Public Places Program and update it annually through the budget process~~APPP~~.

B. ~~B.~~ The Cultural Affairs Commission may recommend to the City Council the purchase of artwork~~Art Work~~ to be displayed on public property, recommend support for the performing arts, and the purchase and improvement of real property to be used for the display of artwork~~Art Work~~. A recommendation shall include the following information:

1. ~~1.~~ The type of artwork~~Art Work~~ considered, an analysis of the constraints applicable to placement of the artwork~~Art Work~~ on a site, the need for and practicality of the maintenance of the artwork~~Art Work~~, and the costs of acquisition and installation of the artwork~~Art Work~~; or

2. ~~2.~~ The type of performance and amount recommended; or

3. ~~3.~~ The estimated costs of acquisition and improvements of the real property proposed to be purchased.

C. ~~C.~~ The Cultural Affairs Commission is authorized to review the performing arts grant applications and make a recommendation to the City Council up to the amount authorized in the City budget for the current fiscal year during which the project is being considered.

D. ~~D.~~ An expenditure from the Cultural Trust~~City Art~~ Fund may be made for the performing arts; provided, the City Council approves the performing arts~~Performing Arts~~ event and that the performance occurs at a location in the

ATTACHMENT 2

City of Culver City, or location owned or controlled by the City ~~or the Culver City Redevelopment Agency~~, or at an alternative site which is located within close proximity to the corporate boundaries of the City of Culver City, and has facilities for performing arts which complement or supplement those available within the City.

~~§ 15.06.155. RETURN OF FEES.~~

~~A. Fees paid into the City Art Fund which are not committed within five (5) years from the date of payment may be returned to the then current owner of the development project, with all interest actually earned thereon, if a written request for return is filed with the City Treasurer during the fifth year after payment, and refund of the fees is approved by the City Council. The request for return shall be verified, and include the date of payment, the amount paid and method of payment, the location of the new development for which the fee was paid, and a statement that the applicant is the payer of the fees or the current owner of the development project.~~

~~B. The City Council shall determine if return of the then uncommitted portion of the fees and interest is appropriate and, if so, the method of refund. No refund shall be appropriate if the City Council determines any one (1) of the following conditions applies:~~

~~1. The City Council finds the fee is needed for the Art in Public Places Program.~~

~~2. Moneys were not posted as fees, but were satisfied by letter of credit, bond or other instrument taken to secure payment at a future date.~~

~~3. The administrative costs of refunding uncommitted fees pursuant to this Subchapter exceeds the amount to be refunded; provided notice of a public hearing on this issue has been published and posted on the site of the development project in not less than three (3) places.~~

E. § 15.06 No more than 25% of deposits made in any one year into the Cultural Trust Fund may be allocated from the Cultural Trust Fund for performing arts in the subsequent year unless this amount is less than \$25,000, in which case a minimum of \$25,000 may be allocated. Eligible activities include City-produced performing arts events and grants to performing arts organizations as subject to the release of a Notice of Funding Availability ("NOFA") and review of

ATTACHMENT 2

applications by the Cultural Affairs Commission and approval by the City Council.

F. In order to attract more cultural users of City-owned and City-operated facilities, up to \$10,000 per year may be allocated from the Cultural Trust Fund for capital improvements to enhance the performance area of such facilities.

~~.160.~~

§ 15.06. CRITERIA FOR APPROVING ARCHITECTURE AS ART.

— The following criteria shall be used to determine, on a case-by-case basis, whether architecture can be considered art for purposes of fulfilling the City's APPP public art requirement:

A. — A. — The architect shall be internationally ~~substantially~~ recognized and have earned a respectable reputation in both by the design and visual art communities and have exhibited their work in major regional, national or international ~~world in shows, museums, and/or publications.~~

B. — B. — When reviewing architecture as art, the underlying concept of the architecture shall be expressive as more than mere utilitarian architecture. The architecture as a whole or certain architectural features shall express ideas or meaning and have cultural significance or conceptual complexity in relation to the totality of the object.

C. The applicant must be able to demonstrate how the APPP allocation enhances the design of their project.

~~— C. — In the alternative, architecture can be considered art if it is created as a collaborative effort with an artist, the artist does a majority of the work, the artist has major design control of the portions of the architecture to be considered art, and the artist has been brought in early in the process. The artist shall have experience and knowledge of monumental scale sculpture.~~

D. — D. — The architecture must meet all the general criteria regarding placement of artwork ~~Art Work~~ on private property as defined in subsection ~~§~~ 15.06.130 A. et seq. of this subchapter ~~Chapter~~.

§ 15.06. ~~.165.~~ PROCEDURE FOR APPROVING ARCHITECTURE AS ART.

ATTACHMENT 2

1 | ~~_____~~ The following procedure must be followed by the ~~applicant~~developer to ~~fulfill~~fill
2 | the ~~APPP~~public art requirement with the building's architecture.

3 |
4 | ~~_____ A. _____~~ An applicant ~~shall~~must make ~~an initial~~two (2) ~~presentations to the~~
5 | ~~Cultural Affairs Commission:~~

6 |
7 | ~~A. _____ 1. _____~~ The first presentation ~~to the CAC Public Art sub-~~
8 | ~~committee and staff~~shall be made prior to the development application
9 | being deemed complete. The applicant must submit a maquette and ~~/or~~
10 | other materials which satisfactorily illustrate the proposed conceptual
11 | development. The applicant and architect must submit a conceptual
12 | statement expressing why the architecture should be considered art,
13 | including an explanation of the ideas, meaning, cultural significance or
14 | conceptual complexity expressed in the architecture.

15 |
16 | ~~B. A second presentation shall be made at the completion of the City's~~
17 | ~~review and approval process for the project to a panel comprising two~~
18 | ~~commercial architects, one visual artist, one visual arts administrator, and~~
19 | ~~one general design professional such as a landscape architect or~~
20 | ~~commercial interior designer. At least one of the panel members shall be~~
21 | ~~a Culver City business owner or resident. The panel shall make a~~
22 | ~~recommendation to the CAC Public Art sub-committee whether to accept~~
23 | ~~the project under Architecture as Art who in turn make a recommendation~~
24 | ~~to the Cultural Affairs Commission for consideration.~~

25 |
26 | ~~_____ 2. _____~~ The second presentation ~~shall be made at the completion of~~
27 | ~~the City approval process. The applicant must then submit a maquette and other~~
28 | ~~materials which satisfactorily illustrate the to-be-built development.~~

29 |
30 | ~~C. _____ B. _____~~ The applicant and architect shall demonstrate that ~~there will be~~
31 | high quality materials and craftsmanship will be used in the execution of
32 | the construction.

33 |
34 | ~~D. _____ C. _____~~ If all of the foregoing criteria are met, the Cultural Affairs
35 | Commission shall ~~approve~~accept the architecture as art, only if, in its
36 | judgment, the architectural work is of extremely high artistic merit and
37 | would make a substantial cultural contribution to Culver City.

38 |
39 | ~~E. _____ D. _____~~ The applicant and/or architect shall have the responsibility to
40 | demonstrate that all of the foregoing criteria are met.
41 |

ATTACHMENT 2

§ 15.06. DE-ACCESSIONING OF ARTWORK. ~~170. EXEMPTION.~~

- A. The City will allow the de-accessioning of artwork acquired or commissioned through the Art in Public Places Program only when it is in the public interest and serves as a means of improving the quality of the overall collection;
- B. De-accessioning should be considered only after 5 years following acceptance of artwork donated to the City or artwork privately or publicly commissioned through the APPP. The need for temporary removal from public display does not necessitate de-accession. In instances where the artwork considered for de-accession is on private property, the Cultural Affairs Commission shall make the final decision. When the artwork is on public property or City owned, the Cultural Affairs Commission shall make a recommendation to the City Council who make the final decision.
- C. After de-accession has been approved by the Cultural Affairs Commission or the City Council, if the artwork is sold, all proceeds from sale of artwork, minus payment to artist under California Resale Royalties Act, will be used for the exclusive purpose of acquiring a replacement artwork for the site or be paid to the Cultural Trust Fund. If the artwork was on private property, the then property owner shall replace the de-accessioned artwork with an artwork of equal or greater value or pay an in-lieu fee equivalent to the cost of the artwork to the Cultural Trust Fund.
- D. Circumstances that may cause review of artwork for de-accessioning:
1. The artwork is a threat to public safety, or the condition/security of the work cannot be guaranteed;
 2. The owner cannot properly care for the artwork, or the work requires an excessive or unreasonable amount of maintenance;
 3. The artwork has serious or dangerous faults in design or workmanship, the condition of the work requires restoration in gross excess of its monetary value, or it is in such a deteriorated stated that restoration is either unfeasible, impractical, or would render the artwork to be false;
 4. A similar but superior example exists in the collection;
 5. The artwork is a forgery;

ATTACHMENT 2

1 6. No suitable site for the artwork is available;

2
3 7. A significant adverse reaction to the artwork is documented over 5 years or
4 more;

5
6 8. The artwork is judged to have no aesthetic, historical, or cultural value;

7
8 9. The owner wishes to replace an artwork with a more appropriate work by the
9 same artist;

10
11 10. The artwork can be sold to finance, or can be traded for, an artwork of greater
12 importance;

13
14 11. A written request from the artist to remove the artwork from public display has
15 been received and approved by the City;

16
17 12. The artwork is not or is rarely displayed; or

18
19 13. The artwork is incompatible with the rest of the collection.

20
21
22 ~~§ 15.06. —Buildings which are designed and dedicated to performing arts spaces~~
23 ~~or museum uses shall not also be required to meet the one percent (1%) set aside~~
24 ~~requirement for as long as the performing arts or museum uses are maintained~~
25 ~~within the building.~~

26
27 ~~§ 15.06.171. REMOVAL OF ART WORK.~~

28
29 ~~The Cultural Affairs Commission shall establish guidelines to address~~
30 ~~potential options for the sale, removal and disposal of Art Work in cases where such~~
31 ~~change becomes necessary. These guidelines shall be adopted by resolution as~~
32 ~~soon as reasonably feasible.~~

33
34 ~~§ 15.06.175. APPEAL.~~

35
36 —Any person may seek review of a decision of the Cultural Affairs Commission by
37 filing a written appeal with the City Clerk's Office within ten (10) working days, as observed by
38 the Administrative Offices of the City and excluding national holidays, of the decision by the
39 Commission. The City Clerk's Office shall coordinate with the Community Development
40 Director to schedule the appeal hearing before the City Council.

ATTACHMENT 3

ORDINANCE NO. 2004 - 004

AN ORDINANCE OF THE CITY OF CULVER CITY, CALIFORNIA, ADDING, AMENDING AND DELETING SECTIONS OF CHAPTER 15.05 OF THE CULVER CITY MUNICIPAL CODE, RELATING TO THE HISTORIC PRESERVATION PROGRAM, AND SECTIONS OF CHAPTER 15.06 OF THE CULVER CITY MUNICIPAL CODE, RELATING TO THE ART IN PUBLIC PLACES PROGRAM.

WHEREAS, by Ordinance Nos. 2001-013 and 2001-015 the City Council established the Cultural Affairs Commission (CAC) and directed that the Art in Public Places program and Historic Preservation program be primarily implemented by the CAC;

WHEREAS, the CAC adopted Resolution No. CAC 2002-005 that included changes necessary with the establishment of the CAC and the transfer of the Art in Public Places and Historic Preservation programs from the Community Development Department to the Parks, Recreation & Community Services Department;

WHEREAS, the City Council adopted Ordinance No. 2002-007 that incorporated the changes adopted by the CAC in Resolution No. CAC 2002-005;

WHEREAS, in July 2003 the CAC and the Art in Public Places and Historic Preservation programs were transferred to the Community Development Department from the Parks, Recreation & Community Services Department; and

ATTACHMENT 3

WHEREAS, staff has determined that certain word processing omissions and changes shall be corrected in Culver City Municipal Code Section 15.05 et seq. and Section 15.06 et seq. in order to proceed with the development of the Art in Public Places and Historic Preservation programs and that further revisions reflecting the change in departments are also necessary; and

WHEREAS, the proposed amendments were unanimously adopted by the CAC in Resolution No. CAC 2003-002 at their meeting on October 14, 2003.

NOW, THEREFORE, the City Council of the City of Culver City, California, **DOES HEREBY ORDAIN**, that the following amendments be made to Chapters 15.05 and 15.06 of the CCMC:

SECTION 1. Sections of Chapter 15.05 of the Culver City Municipal Code shall be added, amended, and deleted, pursuant to the changes set forth in Exhibit "A", attached hereto and incorporated by reference.

SECTION 2. Sections of Chapter 15.06 of the Culver City Municipal Code shall be added, amended, and deleted, pursuant to the changes set forth in Exhibit "B", attached hereto and incorporated by reference.

ATTACHMENT 3

SECTION 3. This Ordinance shall take effect thirty (30) days from the date of its adoption and, as required by Section 512 of the City Charter, prior to the expiration of fifteen (15) days from the adoption hereof the City Clerk shall cause this Ordinance or a summary thereof to be published in The Culver City News. Additionally, the City Clerk shall post this Ordinance or a summary thereof in at least three public places within the City pursuant to Section 517 of the City Charter.

APPROVED AND ADOPTED this _____ day of _____, 2004.

ALAN CORLIN, Mayor

City of Culver City

ATTEST:

APPROVED AS TO FORM:

Christopher Armenta, City Clerk

Carol A. Schwab, City Attorney

ATTACHMENT 3

EXHIBIT B

REVISIONS TO THE ART IN PUBLIC PLACES PROGRAM

§ 15.06.100. PURPOSE.

The City Council finds and declares:

A. Cultural and artistic resources, including Art Works and the performing arts, enhance the quality of life for individuals living in, working in and visiting the City.

B. Balanced development of cultural and artistic resources preserves and improves the quality of the urban environment and increases real property values.

C. As development and revitalization of the real property within the City continues, the opportunity for creation of cultural and artistic resources is diminished. As this development and revitalization continues as a result of market forces, urbanization of the community results. As these opportunities are diminished and this urbanization occurs, the need to develop alternative sources for cultural and artistic outlets to improve the environment, image and character of the community is increased.

D. Development of cultural and artistic assets should be financed by those whose development and revitalization diminishes the availability of the community's resources for those opportunities and contributes to community urbanization.

E. Establishment of this Art in Public Places Program (APPP) will promote the general welfare through balancing the community's physical growth with revitalization and its cultural and artistic resources.

§ 15.06.105. IMPLEMENTATION BY CULTURAL AFFAIRS COMMISSION.

The Cultural Affairs Commission, as established in Sections 3.03.400 et seq. of the Culver City Municipal Code, shall implement the duties established in this Subchapter. The City Council may prescribe, by resolution, other duties, and the appointment process for the members of the Commission.

§ 15.06.106. DEFINITIONS.

As used in this Subchapter, the following definitions shall apply:

A. "Art Work" is a sculpture, mural or portable painting, earthwork, firework, neon, glass mosaic, photograph, print, calligraphy, or other form of physical hard media.

B. "Cultural Affairs Commission" shall be the Commission as established in Sections 3.03.400 et seq. of this Code. Unless otherwise specified, any reference to "Commission" in this Subchapter shall mean the Cultural Affairs Commission.

ATTACHMENT 3

C. “Community Development Director” shall mean the Community Development Director of the City or his/her designee.

D. “Performing Arts” is defined as performances presented by professional or amateur performers, including theater performance (any form of dramatic presentation, spoken or silent); musical theater/opera (any dramatic performances of which music is an integral part); dance (any form of rhythmical movement); music/concert (any musical form whether classical or popular); and children’s theater (any theater for young audiences, for or by children).

E. “Project” is defined as consisting of all physical changes and improvements necessary to complete a development. Such physical changes shall include the construction of new structures or the remodeling of existing structures.

F. “Freely Available” is defined to mean the Art Work is accessible to the public for viewing, in a direct line of sight, for a period of ten (10) hours per day, seven (7) days per week, with the option of excluding national holidays.

§ 15.06.110. CITY ART FUND CREATED.

A. There is hereby created a fund to be known as the “City Art Fund” to account for fees paid pursuant to this Subchapter. This fund shall be maintained by the City Treasurer and, subject to §§ 15.06.040 and 15.06.050, shall be used solely:

1. For the design, acquisition, commission, installation, improvement, maintenance and insurance of an Art Work. “Design Fees” may include those fees which are paid to an appropriate party for the development of a design concept and the preparation of construction drawings, which are separate and apart from the cost of the fabrication and installation of an Art Work;

2. To sponsor or support performing arts;

3. For the acquisition and improvement of real property for the purpose of displaying Art Work, which has been or may be subsequently approved by the City; or

4. During a fiscal year, for maintenance of and utility charges related to the Art Work and real property purchased pursuant to Section A.1. above; provided, that the total amount of expenditures made in any year from the City Art Fund for the purpose set forth in this Section A.4. shall not exceed five percent (5%) of the total available amount of fees deposited, pursuant to this Subsection, during the City’s fiscal year immediately preceding that expenditure.

5. For costs associated with administering the Art in Public Places Program, in an amount not to exceed fifteen percent (15%) of the Program allocation as set forth in Section 15.06.125; however, in the event the City Council determines that a special circumstance exists, the City Council may set a higher amount by a four-fifths vote.

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B. If real property purchased with monies from the City Art Fund is subsequently sold, the proceeds from the sale shall be returned to the City Art Fund.

§ 15.06.115. DEVELOPMENTS SUBJECT TO PROVISIONS OF SUBCHAPTER.

A. All new residential development projects of more than four (4) units, and all commercial, industrial, and public building development projects, with a building valuation exceeding Five Hundred Thousand Dollars (\$500,000.00) shall be subject to the provisions of this Subchapter, provided that the value of a residential unit covenanted for low- or moderate-income households, or for senior citizens shall not be included when determining the value of a residential development.

B. Including but not limited to exterior and interior modifications and additions, all remodeling of existing residential buildings of more than four (4) units, and all remodeling of existing commercial, industrial and public buildings, shall be subject to the provisions of this Subchapter when such remodeling has a valuation exceeding Two Hundred Fifty Thousand Dollars (\$250,000.00), excluding earthquake rehabilitation required by this Code for seismic safety. As used herein, the value of a residential unit covenanted for low- or moderate-income households or for senior citizens shall not be included when determining the value of a residential development.

§ 15.06.120. FINAL CITY APPROVAL.

A. No final City approval for any project subject to this Subchapter shall be granted or issued unless and until full compliance with the Art in Public Places Program is achieved as follows:

1. The approved Art Work has been placed in a manner satisfactory to the Cultural Affairs Commission. Placement of Art Work shall be completed prior to final inspection and issuance of a Certificate of Occupancy.

2. In lieu art fees have been paid, if applicable.

3. Financial security in an amount equal to the acquisition and installation costs of an approved Art Work, in a form approved by the City Attorney, has been posted. In cases where an applicant is not certain whether to contribute to the City Art Fund or to obtain approval of an Art Work, the Community Development Director shall have the authority to negotiate an agreement with the applicant for the deposit of the amount of funds for the project into the Art Fund for a period of time not to exceed one (1) year after the issuance of any construction permit. This option will allow an applicant additional time to determine the desired alternative for compliance with the Program requirements.

4. Donation of an approved Art Work has been accepted by the City Council.

ATTACHMENT 3

5. In cases where approved Art Work is placed on private property pursuant to this Subchapter, the Applicant shall execute and record a covenant with the Los Angeles County Recorder, which sets forth the Applicant's obligations to comply with this Program. The covenant shall be recorded prior to the request for final construction inspections and the issuance of a Certificate of Occupancy.

B. For the purposes of Subsection A. above, "full compliance with the Art in Public Places Program" shall not be found until the entire program allocation required by § 15.06.125 for the project has been satisfied.

C. If any approved Art Work placed on private property pursuant to this Subchapter is removed without City approval, the Certificate of Occupancy may be revoked.

D. A maximum of 25% of funding received in any one year for the City Art Fund shall be allocated for Performing Arts in the subsequent years, subject to the release of a notice of funding availability and review of applications by the Cultural Affairs Commission and approval by the City Council

§ 15.06.125. PROGRAM ALLOCATIONS.

A. The APPP allocation, as used in this Subchapter, is the percentage of the construction costs which are set aside for the City's APPP and shall be an amount equal to one percent (1%) of the total building valuation for an applicable project, excluding land acquisition and off-site improvement costs as defined in § 15.06.106 (E). The total building valuation shall consist of the dollar amount of all construction permits using the latest Building Valuation Data as set forth by the International Conference of Building Officials (ICBO) unless, in the opinion of the Building Official, a different valuation methodology is more appropriate for a particular project.

B. In lieu of placement of an approved Art Work, the applicant may pay to the City Art Fund an amount equal to the program allocation set forth in Subsection A above. In lieu fees are due at the prior to issuance of a Building Permit.

C. Nothing in this Section shall prohibit the applicant from placing an approved Art Work with acquisition and installation costs in an amount less than the program allocations; provided that the applicant shall also pay to the City Art Fund an amount equal to the difference between the program allocation and the costs of acquisition and installation of such Art Work.

§ 15.06.130. APPLICATION AND APPROVAL PROCEDURES FOR PLACING ART WORK ON PRIVATE PROPERTY.

A. Application procedures. An application for placement of Art Work on private property shall be submitted to the Community Development Director, and shall include the following information, at minimum:

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1. Preliminary sketches, photographs or other documentation of sufficient descriptive clarity to indicate the nature of the proposed Art Work;
2. An appraisal or other evidence of the value of the proposed Art Work, including acquisition and installation costs;
3. Preliminary plans containing such detailed information as may be required by the Community Development Director and the Planning Manager to adequately evaluate the location of the Art Work in relation to the proposed development, and its compatibility with the proposed development, including compatibility with the character of adjacent conforming developed parcels and existing neighborhood if necessary to evaluate the proposal; and
4. A narrative proposal with elevations, site plans, lines of sight studies, renderings and other descriptive materials, as deemed necessary by the Community Development Director, to be submitted to the Cultural Affairs Commission to demonstrate that the Art Work will be displayed in an area open and freely available to the general public at least ten (10) hours each day, seven (7) days per week, or otherwise provide public accessibility in an equivalent manner based on the characteristics of the Art Work or its placement on the site. (Refer to § 15.06.106 (F) for a definition of "Freely Accessible.")

B. Approval.

1. Except as provided in Subsection B.2. below, completed applications shall be submitted to the Community Development Director for review of the Art Work, considering the aesthetic quality and harmony of the Art Work with the existing on-site improvements, and the proposed location of and public accessibility to the Art Work.
2. The Cultural Affairs Commission shall review the completed application together with the recommendation of the Community Development Director and approve, approve with conditions, or deny the proposed Art Work, and its proposed location, considering the aesthetic quality and harmony with the proposed project, and the public accessibility to the Art Work.
 - a. If the applicant proposes significant revisions to the Art Work, a revised application shall be submitted to the Community Development Director for review and recommendation to the Cultural Affairs Commission. The Commission shall make a determination whether to approve, approve with conditions, or deny the requested revision.
 - b. If the applicant proposes or the Cultural Affairs Commission recommends significant revisions to the architecture or physical design and layout of the proposed project subsequent to receipt of the Community Development Director's

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recommendation, the revised application may be returned to the Commission for further review and approval.

3. Any person may seek review of the decision made by the Cultural Affairs Commission, pursuant to Subsection B.1. by filing an appeal in accordance with the CCMC.

§ 15.06.135. PROCEDURE FOR ACCEPTANCE OF ART WORK DONATED TO THE CITY.

A. Application procedure. An application for acceptance of Art Work to be donated to the City for placement on public property shall be submitted to the Community Development Director and shall include the following information, at minimum:

1. Preliminary sketches, photographs, models, site plan, lines of sight studies, or other documentation of sufficient descriptive clarity to indicate the nature of the proposed Art Work;

2. An appraisal or other evidence of the value of the proposed Art Work, including acquisition and installation costs;

3. A written agreement, in a form approved by the City Attorney, executed by or on behalf of the artist who created the Art Work which expressly waives his or her rights under the California Art Preservation Act or other applicable law; and

4. Other information as may be required by the Cultural Affairs Commission to adequately evaluate the proposed donation of Art Work.

B. Review of application.

1. Completed applications shall be submitted to the Community Development Director for review and recommendation to the City Council.

2. Recommendations shall be forwarded to the City Council, which shall have the sole authority to accept or reject or conditionally accept the donation.

§ 15.06.140. LIMITATION ON FORMS OF ART.

A. Private property. Subject to the provisions of §§ 15.06.130 and 15.06.145, if a person subject to this Subchapter chooses to meet the Art in Public Places allocation requirement by providing art, the only form of art which can satisfy the requirement is placement of an approved Art Work on private property. As used in this Subchapter, an Art Work is a sculpture, mural or portable painting, earthwork, firework, neon, glass mosaic, photograph, print, calligraphy; or other form of physical hard media.

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B. Donation of art. Subject to the provisions of §§ 15.06.135 and 15.06.150, an applicant, subject to this Subsection, chooses to meet the APPP allocation by donation of art, the only form of art which can be donated to the City is an Art Work, as described in the definitions contained in Subsection 15.06.106.

§ 15.06.145. OWNERSHIP AND MAINTENANCE OF ART WORK.

A. All Art Work placed on the site of an Applicant's project shall become the property of the property owner and his/her successor(s) in interest. The obligation to provide all maintenance necessary to preserve the Art Work in good condition shall remain with the owner of the site.

B. Maintenance of Art Work, as used in this Subsection, shall include without limitation, preservation of the Art Work in good condition to the satisfaction of the City, protection of the Art Work against physical defacement, mutilation or alteration, and securing and maintaining fire and extended coverage insurance and vandalism coverage in an amount to be determined by the City Attorney. Prior to placement of an approved Art Work, the applicant and the owner of the site shall execute and record a covenant in a form approved by the City Attorney for maintenance of the Art Work. Failure to maintain the Art Work as provided herein is hereby declared to be a public nuisance. The City also shall pursue additional remedies to obtain compliance with the provisions of this Program, as appropriate.

C. In addition to all other available remedies provided by law, in the event the property owner fails to maintain the Art Work, upon reasonable notice, the City may perform all necessary repairs, maintenance or secure insurance, and the costs thereof, shall become a lien against the real property.

D. All Art Work donated to the City shall become the property of the City upon acceptance by the City Council.

§ 15.06.150. ART WORK ON PUBLIC PROPERTY, PERFORMING ARTS AND PURCHASE OF REAL PROPERTY FOR PUBLIC ART.

A. The Cultural Affairs Commission shall prepare a plan for the APPP.

B. The Cultural Affairs Commission may recommend to the City Council the purchase of Art Work to be displayed on public property, support for the performing arts, and the purchase and improvement of real property to be used for the display of Art Work. A recommendation shall include the following information:

1. The type of Art Work considered, an analysis of the constraints applicable to placement of the Art Work on a site, the need for and practicality of the maintenance of the Art Work, and the costs of acquisition and installation of the Art Work; or

2. The type of performance and amount recommended; or

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3. The estimated costs of acquisition and improvements of the real property proposed to be purchased.

C. The Cultural Affairs Commission is authorized to review the performing arts grant applications and make a recommendation to the City Council up to the amount authorized in the City budget for the current fiscal year during which the project is being considered.

D. An expenditure from the City Art Fund may be made for the performing arts; provided, the City Council approves the Performing Arts event and that the performance occurs at a location in the City of Culver City, or owned or controlled by the City or the Culver City Redevelopment Agency, or at an alternative site which is located within close proximity to the corporate boundaries of the City of Culver City and has facilities for performing arts which complement or supplement those available within the City.

§ 15.06.155. RETURN OF FEES.

A. Fees paid into the City Art Fund which are not committed within five (5) years from the date of payment may be returned to the then current owner of the development project, with all interest actually earned thereon, if a written request for return is filed with the City Treasurer during the fifth year after payment, and refund of the fees is approved by the City Council. The request for return shall be verified, and include the date of payment, the amount paid and method of payment, the location of the new development for which the fee was paid, and a statement that the applicant is the payer of the fees or the current owner of the development project.

B. The City Council shall determine if return of the then uncommitted portion of the fees and interest is appropriate and, if so, the method of refund. No refund shall be appropriate if the City Council determines any one (1) of the following conditions applies:

1. The City Council finds the fee is needed for the Art in Public Places Program.

2. Moneys were not posted as fees, but were satisfied by letter of credit, bond or other instrument taken to secure payment at a future date.

3. The administrative costs of refunding uncommitted fees pursuant to this Subchapter exceeds the amount to be refunded; provided notice of a public hearing on this issue has been published and posted on the site of the development project in not less than three (3) places.

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§ 15.06.160. CRITERIA FOR APPROVING ARCHITECTURE AS ART.

The following criteria shall be used to determine, on a case-by-case basis, whether architecture can be considered art for purposes of fulfilling the City's public art requirement:

- A. The architect shall be substantially recognized by the art world in shows, museums, and/or publications.
- B. When reviewing architecture as art, the underlying concept of the architecture shall be expressive as more than mere utilitarian architecture. The architecture as a whole or certain architectural features shall express ideas or meaning and have cultural significance or conceptual complexity in relation to the totality of the object.
- C. In the alternative, architecture can be considered art if it is created as a collaborative effort with an artist, the artist does a majority of the work, the artist has major design control of the portions of the architecture to be considered art, and the artist has been brought in early in the process. The artist shall have experience and knowledge of monumental scale sculpture.
- D. The architecture must meet all the general criteria regarding placement of Art Work on private property as defined in § 15.06.130 A. et seq. of this Chapter.

§ 15.06.165. PROCEDURE FOR APPROVING ARCHITECTURE AS ART.

The following procedure must be followed by the developer to fill the public art requirement with the building's architecture.

- A. An applicant must make two (2) presentations to the Cultural Affairs Commission:
 - 1. The first presentation shall be made prior to the development application being deemed complete. The applicant must submit a maquette and other materials which satisfactorily illustrate the proposed conceptual development. The applicant and architect must submit a conceptual statement expressing why the architecture should be considered art, including an explanation of the ideas, meaning, cultural significance or conceptual complexity expressed in the architecture.
 - 2. The second presentation shall be made at the completion of the City approval process. The applicant must then submit a maquette and other materials which satisfactorily illustrate the to-be-built development.
- B. The applicant and architect shall demonstrate that there will be high quality materials and craftsmanship used in the execution of the construction.

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C. If all of the foregoing criteria are met, the Cultural Affairs Commission shall accept the architecture as art, only if, in its judgment, the architectural work is of extremely high artistic merit and would make a substantial cultural contribution to Culver City.

D. The applicant and/or architect shall have the responsibility to demonstrate that all of the foregoing criteria are met.

§ 15.06.170. EXEMPTION.

Buildings which are designed and dedicated to performing arts spaces or museum uses shall not also be required to meet the one percent (1%) set-aside requirement for as long as the performing arts or museum uses are maintained within the building.

§ 15.06.171. REMOVAL OF ART WORK.

The Cultural Affairs Commission shall establish guidelines to address potential options for the sale, removal and disposal of Art Work in cases where such change becomes necessary. These guidelines shall be adopted by resolution as soon as reasonably feasible.

§ 15.06.175. APPEAL.

Any person may seek review of a decision of the Cultural Affairs Commission by filing a written appeal with the City Clerk's Office within ten (10) working days, as observed by the Administrative Offices of the City and excluding national holidays, of the decision by the Commission. The City Clerk's Office shall coordinate with the Community Development Director to schedule the appeal hearing before the City Council.