

**LOS ALAMOS COUNTY
ART IN PUBLIC PLACES BOARD
POLICIES AND GUIDELINES**

Approved by the County Council on August 30, 2016

I. PURPOSE

These policies and guidelines are adopted by the Los Alamos County ("County") Art in Public Places Advisory Board, ("APPB" or "Board"), for the purpose of establishing procedures for implementing Los Alamos County Code ("Code") Chapter 8, Article II, Sections 8-31 through 8-34 and Chapter 20, Article III, Sections 20-363 through 20-365.

II. POLICY

The APPB is a standing board of the County, and is responsible for making recommendations to the County Council ("Council") for selection, acquisition, placement, and disposal of public art, plus general management of the County's public art collection.

III. DEFINITIONS

"Acquisition": The inclusion of artwork in the permanent public art collection of the County by commissioning, purchase, or donation.

"Art" or "Work of Art": Any non-ephemeral work of visual art, and may include landscaping and landscape design. See also County Code Chapter 20.

"Art in Public Places Account": A special County fund, as provided in County Code Chapter 20, Article III, established to facilitate the purchase, placement, and maintenance of the County's public collection of art.

"Board": The Art in Public Places Board, as defined in the Los Alamos County Code, including the ex-officio staff liaison.

"Collection": The public collection of art purchased with Art in Public Places account or artwork donated to Los Alamos County through the Art in Public Places Board.

"Disposal" or "Disposition": The permanent removal of public art from the County's public art collection (formerly called "deaccessioning").

"Stakeholders": Those who are exposed to the County's public works of art on a frequent basis.

IV. PURPOSE AND OBJECTIVES

The Board, pursuant to Los Alamos County Code of Ordinances, is charged with the following functions, powers, and duties:

- Recommend to Council the acquisition and maintenance of all works of art funded by the Art in Public Places Account;
- Recommend the public sites selected for the display of art and criteria to be used in selection of the artists or the work of art to be funded or purchased;
- Provide advice to Council on the proposed removal, relocation, or alteration of any public facility or works of art;
- Recommend to Council policies and programs to further the development and awareness of the County's public art programs;
- Seek private donations for the County to supplement the County's art collection and Arts in Public Places Account;
- Recommend necessary policies and procedures to include, but not be limited to, criteria for selection of artists, procedures for artistic competitions, selection of public locations for art equitably distributed throughout the community, and recommendations for the maintenance of art funded by the Art in Public Places Account;
- Recommend policy to coordinate with the County's capital improvements programs and other activities to ensure that works of art funded by the Arts in Public Places Account are properly integrated into the community and do not pose excessive maintenance costs or public health risk, and do not unduly encumber public lands; and
- Perform such additional related duties as may be assigned by Council or requested by the County Manager.

The Board shall also encourage the integration of public art into the architecture of municipal structures and public spaces and shall strive to visually enhance the community.

The Board will address its purpose and objectives by recommending the acquisition and maintenance of a variety of art, including creation and maintenance of labels or plaques to identify the work of public art. This will be accomplished through:

1. Ongoing review and evaluation of appropriate art for County structures, both indoor and outdoor by:
 - a. Working with the public and stakeholders of the proposed location;
 - b. Fostering collaboration between artists, architects, or engineers; and
 - c. Considering factors in the site selection process to ensure substantial public access; specifically, not in the private offices of public officials or in inaccessible public areas.

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2. Recommending the selection of appropriate art through a new acquisition or from the existing County public art collection.
3. Ensuring that the recommended acquisition, distribution, and disposal of works of art are governed by carefully designed procedures to enhance the public's viewing of art.

V. ACQUISITION, DONATION, AND DISPOSAL

The Board will prepare a recommendation with a rationale and cost estimate to Council for the acquisition or disposal of public art. The final decision regarding acquisition or disposal will be by Council action after consideration of the APPB recommendations.

A. ACQUISITIONS

As each public art piece may differ in size, scope, nature, format, and location, the Board may recommend purchasing a completed work of art, commissioning a work of art, holding a competition to select a work of art, or creating some other appropriate mode of selection. In the event that the work of art is to be purchased and placed in conjunction with a County project, the Board shall consult with the appropriate County staff and the project architect, if any, and involve them in the selection process as necessary. The Board may request Council approval in advance to purchase a work of art at a juried show.

1. Minimum Criteria: Pursuant to Code, the Board will consider the following minimum criteria in selection of works of public art:

- a) The work of art must be located in a public place with public visibility and impact.
- b) The work of art shall have a permanence generally of at least twenty (20) years and shall be likely to remain a thing of value for this time period given appropriate site selection and maintenance.
- c) The work of art shall enhance the environment of the County.

2. Additional Criteria: In addition to the minimum standards, the Board may also consider the following:

- a) Quality of the workmanship
- b) Reputation and/or recognition of the artist or artists.
- c) Appropriateness of the art for the proposed location.
- d) Maintenance requirements for the art.
- e) Environmental factors (weather, noise, light, etc.).
- f) Security factors (theft, vandalism, etc.).
- g) Public safety.

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The Board will consult with the County Attorney in order to prepare a purchase agreement or purchase order, if needed. To the extent possible, a legal instrument of conveyance, transferring title of the artwork and clearly defining the rights and responsibilities of all parties shall be made and maintained for all works of art in the public collection. In general, works of art shall be acquired without legal restrictions regarding future use and disposal, except with respect to copyrights and certain clearly defined residual rights that may be part of the agreement with the artist.

B. DONATIONS

1. **DONATIONS OF ART** to the County's art Collection is to be guided by the County's works of art donations policy as provided for in Appendix A.
2. **DONATION OF CASH** to the Art in Public Places Fund can be added to the Art in Public Places Fund and used, budgeted, and appropriated in the same manner as all other APPB funds. In general, cash donations or gifts will only be accepted without restrictions. If a cash contribution or donation is proposed to be earmarked for a particular project, the Board, in consultation with the County Manager, will determine if the proposed project/work of art is reasonable depending on the circumstances and is in accordance with the objectives and intent of the of the County's public art program.

C. DISPOSAL

1. A recommendation for Disposal of any work of public art can come to the APPB from any person, source, or Board member. The Board, in an open public meeting, will decide whether to proceed with recommending disposal of the work of public art or to dismiss the proposed Disposal. Generally, a work of art may be considered for disposal if one or more of the following conditions apply:
 - a) It has received consistent adverse reaction on the part of the stakeholders.
 - b) It is duplicative in the County's public art collection.
 - c) It possesses faults of design or workmanship.
 - d) It requires excessive or unreasonable maintenance.
 - e) It is damaged irreparably, or to an extent where repair is unreasonable or impractical.
 - f) It represents a threat to public safety or unduly encumbers public land.
 - g) A suitable place for display no longer exists.
 - h) The work is not, or is rarely, displayed.

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2. If the APPB decides to proceed with recommending to Council the Disposal of a work of public art, the Board will:
 - a) Gather information from the stakeholders and discuss the results at an APPB meeting. The artist whose work is being considered for Disposal will be notified by reasonable means of the meeting, if possible.
 - b) If the Board decides to recommend Disposal of the art work, a plan for the path forward will be developed reflecting input from the stakeholders and the artist, if possible. The role of the artist is advisory only. The current monetary value of the art work, if available, will be included in the plan along with a description of the applicable conditions listed above.
 - c) Notify the Council liaison of the recommended plan for Council approval and disposition. Disposal of any public work of art requires Council approval, so the Board Chair, the Council liaison, and the staff liaison will formulate a plan and path forward for final Council decision.
3. Disposal by any means of County-owned public art shall comply with all applicable County and State legal requirements.

VI. PLACEMENT, MOVEMENT OR RELOCATION OF ART

The Board is charged with the duty to recommend to Council the placement, movement, or relocation of all public art from one public building or site to another. The Board's recommendation to Council will generally include the method by which the works of art will be moved, handled, or stored, the dates of expected movement, length of storage, where applicable, and method for reinstalling the art. Once approved by Council, the Board will assist the staff liaison in coordinating the movement, storage, and/or relocation of art to ensure proper handling and care of the art.

VII. MAINTENANCE, REPAIR, AND RESTORATION OF PUBLIC ART

The Board shall recommend to Council the general requirements for maintenance, repair, or restoration of all County-owned works of public art.

VIII. PLAQUES AND IDENTIFICATION SIGNS

To the extent practicable, the APPB will comply with the current County's Graphic Standards related to the identification of County owned works of art. Attached here as Appendix B is the Art Board's plaque and labeling guidelines.

IX. APPB AND COUNCIL APPROVAL

This policy was voted on and approved at the following public open meetings of the Board and Council.

Arts in Public Places Advisory Board

Approved by the Arts in Public Places Advisory Board on June 23, 2016.

Incorporated County of Los Alamos County Council

Approved by the County Council on the 30th day of August, 2016.

APPENDIX A: Artwork Donations to the Los Alamos County Public Art Collection Policy

I. Purpose

In addition to artwork purchased for the Los Alamos Public Art collection, the County may accept donations of art. The purpose of this policy is to establish procedures for the acceptance or rejection of these donations. This policy only applies to artwork donation offers made through the Art in Public Places Board ("Board").

II. Policy

It is the Board's policy that when any gifts or donations of art are proposed to the Board for placement within any County facility (interior or exterior) or any other public space, such proposals of gift or donations shall be evaluated by the Board, the respective County department, and the County Council using the procedures listed in this policy.

III. Exemptions to This Policy

- A. Portable artworks on short-term loan to Los Alamos County shall not be subject to review under this policy [i.e. temporary exhibitions, generally 60 days or less].
- B. Donations of artwork made directly to the Library Division shall not be subject to this policy.

IV. Criteria for Acceptance of Donations

- A. Aesthetics - Visual criteria shall include consideration of the following:
 - 1. Artistic merit of the work of art, including consideration of its artistic social and/or historical significance, as evidenced by Form A - Intent to Donate (which shall include a written description and drawings and/or photographs of the proposed artwork);
 - 2. Artist's background, as evidenced by Form A – Intent to Donate (which shall include information about the artist plus slides/photographs or other visual examples of past work, and a resume, if possible);
 - 3. Compatibility of the work of art within the context of the County's collection;
 - 4. Warranty of originality of an existing artwork (only original works or limited editions shall be considered);
 - 5. Ability of the work to meet the Board's criteria for quality of workmanship and permanence; and

6. Verification that any permanently attached text components (including signage and/or plaques) for the artwork will not violate the requirements of Los Alamos County regulations relating to the display of non-commercial signs in public places. As noted under “Special Conditions,” the artwork shall not contain/display anything that can be construed as advertising.
- B. Location – Consideration shall be given to the following:
1. Appropriateness of the proposed site with respect to the artwork’s audience and physical environment;
 2. Compliance with any Master Plans or other plans the County has developed with regard to site location;
 3. Identification of potential public safety concerns;
 4. Proposed method of display (including any necessary base design; landscaping, lighting, utilities, anchoring);
 5. Scale, form, content, color, and design of the artwork in relation to the site;
 6. Ecological impact (i.e., percentage of impervious cover, etc.);
 7. Accessibility to the public, including persons with disabilities; and
 8. Compatibility with art works already in existence at the proposed site.
- C. Installation – The standards to be taken into account for putting the artwork in place shall include:
1. Site requirements necessary for installation, including, but not limited to electricity, lighting, and water, including irrigation water. If the irrigation system needs to be relocated, but that is not feasible, then the effect of the irrigation water on the artwork must be taken into effect;
 2. Method of installation;
 3. Transportation costs;
 4. Storage requirements, if any; and
 5. Maintenance requirements.
- D. Financial – Financial criteria to be considered shall address the cost and availability of funding and shall include the following items:
1. All costs associated with fabrication and installation (including site preparation, plaque and unveiling/dedication event, if any);
 2. Source of funding and date funds are available (i.e., must monies be raised through private fundraising before the artwork may be installed or fabricated?); and
 3. Estimated annual maintenance costs.
- E. Liability – Added costs or liabilities the County may incur if the artwork is accepted, such as:
1. Susceptibility of the artwork(s) to normal wear and to vandalism;
 2. Potential risk to the public;

3. Public access, in general, as well as compliance with ADA requirements; and
4. Any special insurance requirements.

F. Timeliness – Subjects of concern related to timeliness include:

1. Allowance of sufficient time for normal review process by the affected department, the Board, the County Council and any other affected parties; and
2. A failure by the donor to provide a timely response for additional materials or information may be grounds to reject a gift or donation.

G. Special Conditions – Conditions imposed by the donor may not be compatible with the County's plans. Therefore, such conditions will be a factor in determining the advisability of accepting a proposed gift or donation.

V. Procedures

The following procedures have been established to provide a fair and consistent application of this policy.

- A. The potential donor shall submit a completed Form A – “Intent to Donate Artwork,” including the required attachments, to the Board's staff liaison. The staff liaison will schedule the proposal on the Board's agenda. The Board shall perform a preliminary review based upon the criteria listed in Section IV. A. “Aesthetics.” If the Board determines that the donation does not meet the criteria listed in Section IV. A., the process is concluded at this point.
- B. If the donation offer passes the review in Section V. A. above, the Board will review the offer in relation to Sections IV. B-G. Upon a recommendation to accept the donation by the Board, the staff liaison will be directed to contact all interested County departments affected by the decision for review and technical evaluation, when particular technical expertise is needed. The purpose of the departmental review is to determine the feasibility of accepting the artwork, i.e., the viability of the recommended location, maintenance costs, as well as other impacts. If the affected department(s) has a Board or Commission that is appropriate to involve, that Board or Commission should review and comment on the proposal as well.
- C. If the proposed donation is deemed appropriate through the process outlined in A. and B. above, the Board shall either vote to make a recommendation to the County Council to accept the donation or vote to decline the donation as presented. The recommendation to County Council shall take into consideration the input from all others involved in the review process; however, if the Board votes to decline the proposed donation, the process stops.

- D. If the Board's review of the proposed donation results in a recommendation to accept the donation with modifications, the new design shall be resubmitted to the respective department for review prior to the Board taking its final recommendation to the County Council.
- E. When the artwork donation approval process has been successfully completed, the County and the donor shall enter into an Agreement for the Transfer and Placement of Artwork that legally conveys the title to the County and includes the appropriate warranty of originality. The Agreement shall also enumerate any conditions of the gift the County has agreed to accept and outline the responsibilities of each party with respect to the donation, including installation and maintenance. In general, gifts may only be accepted without restrictions. Once installed, the artwork shall be added to the County's collection and covered under the County's insurance policies for the appraised value.
- F. Until an agreement has been accepted by both the donor and the County, the donor may withdraw the offer of gift or donation.

Date Appendix A was approved by the APP Board: April 25, 2013; Revised November 21, 2013; Revised March 24, 2016; Revised June 23, 2016

Date Appendix A was approved by the Los Alamos County Council: November 5, 2013; Revised August 30, 2016;

Form A
To be completed by donor

**LOS ALAMOS COUNTY
ART IN PUBLIC PLACES BOARD
INTENT TO DONATE**

I wish to present the following piece of artwork for consideration by the Art in Public Places Board to be included in the Los Alamos County Public Art Collection. **I understand that the acceptance and disposition of this piece will be governed by the Policies and Guidelines established for the Art in Public Places Board.**

Donor Information:

NAME: _____

ADDRESS: _____

PHONE(s): _____

E.MAIL: _____

Information about the Artist, if known:

Artist Name: _____

Resume Attached: Yes____No____

Represented by: _____

Additional Information: (Attach additional pages, as needed. Provide photographs, or other visual examples of the artist's work, if possible.)

Information about the Artwork:

Title: _____

Date Created (if known) or Estimated Age of the Artwork: _____

Medium: _____

DIMENSIONS:

Height _____ Length _____ Diameter _____ Weight _____

Estimated Value: _____ Photos attached? Yes____No____

Appraised?: Yes____No____If yes, date of appraisal: _____

Appraised Value: _____

Appraiser's Name & Phone: _____

Appraisal attached? Yes _____ No _____

Donor Requests/Recommendations:

Desired or requested location: _____ 1st
Choice

_____ 2nd Choice

_____ 3rd Choice

Description of Annual Maintenance:

Requested or Recommended Plaque Wording: _____

Additional Information or Comments:

Donor's Signature: _____

Printed Name: _____

Date: _____

****Please attach photographs of the piece (at least 2 photos from different angles) and any additional information you have about the artist and the artwork.***

Form B*To be completed by APPB*

**LOS ALAMOS COUNTY
ART IN PUBLIC PLACES BOARD**

ARTWORK DONATION OFFER - INTERNAL REVIEW FORM

Donation packet Submitted by:	
Date Submitted:	
Date Reviewed:	
APPB Member:	

Title of the Artwork:	
Artist:	

Medium:	Abstract	Representational	
Aesthetics: <i>Rate from 1 (low) to 5 (high)</i>	Merit _____	Artist Qualifications: _____ Compatibility: _____	
	Originality: _____	Quality and Permanence: _____	

Quality	Professional	
	Non Professional	

Proposed Location:	Indoor	
Rating (1-Low To 5-High):	Outdoor	

Installation Requirements	
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		Yes	No	Price Estimate
Maintenance	Base			
	Plaque			
	Lighting			

Comments:

	Yes	No
Liability Issues		
If Yes, Explain:		

**Additional Comments Or Special
Conditions:**

Form C

To be completed by County and Artist/Donor upon acceptance of Donated Art

**LOS ALAMOS COUNTY
ART IN PUBLIC PLACES BOARD
ACCEPTANCE OF DONATED ART**

I understand that the acceptance and disposition of the work of art will be governed by the Policies and Guidelines established for the Art in Public Places Board and the Terms and Conditions outlined below.

Donor Information:

NAME: _____

ADDRESS: _____

PHONE(s): _____

E-MAIL: _____

IS THIS YOUR ORIGINAL WORK OF ART? ARE YOU THE ARTIST? ⁽¹⁾ ☐ Yes. ☐ No.

If "Yes", proceed with the below. If "No", please contact the Arts in Public Places Staff Liaison to review what rights you may have in donating the work of art.

Are you the sole creator of this work or was it created in coordination with others? ⁽²⁾

☐ Sole Creator ☐ Created with other Artists or Individuals

Information about the Artwork:

Title: _____

Date Created (if known) or Estimated Age of the Artwork: _____

Medium: _____

DIMENSIONS:

Height _____ Length _____ Diameter _____ Weight _____

Estimated Value: _____ Photos attached? Yes _____ No _____

Appraised?: Yes _____ No _____ If yes, date of appraisal: _____

Appraiser's Name & Phone: _____

⁽¹⁾ If you answered “No” to the question on whether you are the Artist or creator of the work, a case-by-case analysis is required to determine what rights you may have, hold, or possess in relation to the work of art and what rights may be transferred to the County.

⁽²⁾ If you are not the sole creator of the work of art, can you or will you obtain the other artist(s) release and agreement to donate the work of art? All creators of the work of art must agree to donate the work of art either by full copyright or irrevocable license.

**INCORPORATED COUNTY OF LOS ALAMOS
ACCEPTANCE OF DONATED (ORIGINAL) WORK OF ART**

I, _____, and _____ ("Artist" hereafter used individually or collectively) hereby, on this the ____ day of _____, of _____, donate my original work of art, described fully below, (hereafter "Artwork") to be included in the Incorporated County of Los Alamos ("County") Public Art Collection. The County hereby accepts the donation of the Artwork from Artist in accordance with the following term and conditions.

The work of art (hereafter "Artwork"), is titled " (title) ," is as follows: (describe the work of art)

For good and valuable consideration, Artist agrees that upon the acceptance, transfer, receipt, and installation of the donated Artwork by County into the County's public art collection that the County shall be granted, given: *(choose one and initial)*

☐ ____ Full ownership, including the Copyright as held by Artist, whether recorded or not and to include all rights, title, and interests Artist has in the Artwork, including possession, is transferred and vested with and in perpetuity to the County. County shall have the sole right to any and all derivative works and the County has all rights to publish, print, copy, or otherwise distribute the Artwork. County may, at its option and costs, record the copyright with the U.S. Copyright Office; *or*

☐ ____ An irrevocable license to perpetually hold, possess, and publish, including, but not limited to, reproductions used in advertising, brochures, media publicity and catalogues or other similar publications, the Artwork for the life of the Artist plus seventy (70) years. Artist retains all copyrights under the United States Copyright Act of 1976, 17 U.S.C. sec. 101 *et seq.*, as amended, and all derivative rights to the Artwork, except that Artist agrees to: 1) not enter into any agreements which would authorize the creation, duplication, or installation of copies or derivatives of the Artwork as part of a public art collection within a 100-mile radius of the County's installation site; and 2) Artist shall not make any additional exact duplicate

reproduction of the final Project, nor shall Artist grant permission to others to do so, derivative works, except with the express written permission of the County.

Visual Artists Rights Act (VARA) and Derivative Works. Artist agrees that if the Artwork is found to be a work of “visual art” as provided by the Visual Artists Right’s Act, the Parties specifically agree that: (1) Artist, as author of the Artwork, will only have the right to claim authorship of the work, pursuant to 17 U.S.C. § 106A(a)(1)(A), but herein specifically waives all rights to prevent the use of Artist name by County related to publication or showing of the Artwork; and (2) Artist hereby expressly waives all other rights, including the right to limit or prevent the use of the Artist’s name(s) in relation to the Artwork, the right of to prevent, limit, or halt the placement, movement, or temporary loaning of the Artwork and of the right to be notified of movement, sale, or decommissioning of the Artwork. Artist, where applicable, will provide to County any instructions on the preservation, maintenance, or cleaning of the Artwork.

Authorship Credit. Display of the Artwork by County will include a credit to Artist pursuant to the County’s Arts in Public Places *Policies and Procedures*, as may be amended. In any public showing or publication of the Artwork, derivative works, or reproductions by Artist, as permitted herein, Artist shall give the following credit: “ (title) , an original work held as a Public Work of Art by the Incorporated County of Los Alamos.” This requirement may be waived upon written approval and mutual agreement of the Parties.

Release. Artist agrees there are no claims or liens against the Artwork and that Artwork was solely created as an original work of art by the Artist. Artist releases, waives, and gives to County, whether granted a license or copyright, all income from the Artwork. Each party is responsible for their own costs in holding, maintaining, or preserving the Artwork or their right(s) therein. Artist agrees to release County against any and all claims of the Artist for any infringement of copyright by the publication, duplication, or copy of the Artwork including derivative works. Artist understands, agrees, and releases County from any actions in law or equity relating to resulting from such infringement of rights that may be held by the Artist.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date(s) set forth opposite the signatures of their authorized representatives to be effective for all purposes on the date first written above.

ATTEST

SHARON STOVER
COUNTY CLERK

INCORPORATED COUNTY OF LOS ALAMOS

By: _____
HARRY BURGESS **DATE**
COUNTY MANAGER

ARTIST/DONOR

By: _____, _____
DATE

APPENDIX B: Los Alamos County Art in Public Places Collection Plaques and Identification Signs

GUIDELINES: All new and future replacement plaques identifying artworks as part of the Los Alamos County collection should be designed, to the extent possible, according to the general guidelines used by New Mexico public art collections, museums and other cultural institutions.

Required Plaque Content:

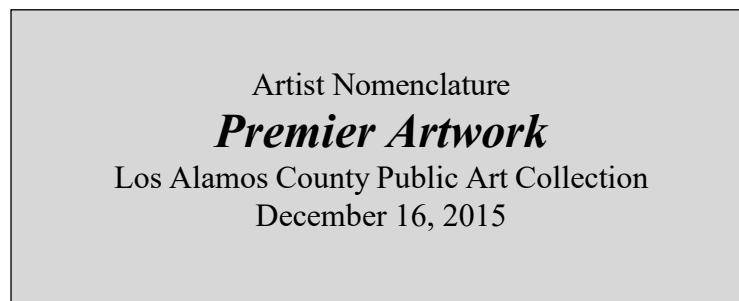
1. Artist Name
2. Artwork title (***Bold, Italicized – not in quotation marks***)
3. Ownership
4. Date of Acquisition

Plaque content is not limited to the required content. Dedication information, artist comments, background information, story, etc., may be added by APPB vote to suit the installation.

Indoor Plaques:

1. Minimum size: 3.5" X 2"
2. Material: gold brass or equivalent look
3. Font: Book Antiqua, Times New Roman, or equivalent
4. Font size: line 1 and 4: 12pt, line 2: 16pt or 18pt, line 3: 12pt, or as appropriate for plaque size.

Example:



Outdoor Plaques:

1. Minimum size: 9" X 12"
2. Material: Bronze, Dark satin or equivalent – or another appropriate material as determined by the Art in Public Places Board, depending on the circumstances
3. Border Style: Single

4. Font: Book Antiqua, Times New Roman, or equivalent
5. Font size: lines 1 and 4: 36pt, line 2: 48pt, line 3: 24pt, or as appropriate for plaque size.

Date Appendix B was approved by the APP Board: June 23, 2016

Date Appendix B was approved by the Los Alamos County Council: August 30, 2016