



LOS ALAMOS

## Community Services Department Boards and Commissions

### Artwork Donations to the Los Alamos County Public Art Collection Policy

#### 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").

#### 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.

#### Exemptions to this Policy

1. 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].
2. Donations of artwork made directly to County departments shall not be subject to this policy.

#### Criteria for Acceptance of Donations

**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 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 displaying 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.

**Location** - Consideration shall be given to the following:

1. Appropriateness of the proposed site concerning the artwork's audience and physical environment;
2. Compliance with any Master Plans or other plans the County has developed about 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 about 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 artworks already in existence at the proposed site.

**Installation** - The standards to be considered for putting the artwork in place shall include:

1. Site requirements necessary for installation include, but are not limited to electricity, lighting, and water, including irrigation water. If the irrigation system needs to be relocated but 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.

**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 funds be raised through private fundraising before the artwork can be installed or fabricated?); and
3. Estimated annual maintenance costs.

**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 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.

**Timeliness** – Subjects of concern related to timeliness include:

1. Allowance of sufficient time for the 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 promptly respond to additional materials or information may be grounds to reject a gift or donation.

**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

## **Procedures**

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

1. The potential donor shall submit 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 on the "Aesthetics" criteria, listed above. If the Board determines that the donation does not meet the criteria, the process is concluded.
2. If the donation offer passes the review above, the Board will review the offer. Upon a recommendation to accept the donation, the staff liaison will be directed to contact all interested County departments affected by the decision for review and technical evaluation, when 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, and 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.
3. If the proposed donation is deemed appropriate through the process outlined above, the Board shall either vote to make a recommendation to County Council to accept the donation, or vote to decline the donation as presented. The recommendation to County Council shall consider the input from all others involved in the review process; however, if the Board votes to decline the proposed donation, the process is concluded.
4. 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 before the Board takes its final

recommendation to the County Council.

5. 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 concerning 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.
6. Until an agreement has been accepted by both the donor and the County, the donor may withdraw the offer of gift or donation.

**Form A**

To be completed by donor

**Los Alamos County  
Art in Public Places Board  
Intent to Donate**

I am presenting the following 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 Number/s:** \_\_\_\_\_

**Email Address:** \_\_\_\_\_

**Information about the Artwork**

**Title:** \_\_\_\_\_

**Date created** (if known) or estimated age of work: \_\_\_\_\_

**Medium:** \_\_\_\_\_

**Dimensions:**

Height: \_\_\_\_\_ Length: \_\_\_\_\_ Diameter: \_\_\_\_\_ Weight: \_\_\_\_\_

**Estimated Value:** \_\_\_\_\_ Photos attached: Yes\_\_\_\_ No\_\_\_\_

**Appraised:** Yes\_\_\_\_ No\_\_\_\_ If yes, date of Appraisal: \_\_\_\_\_

**Appraisal Value:** \$\_\_\_\_\_

**Appraiser's Name & Phone Number:**

\_\_\_\_\_

**Appraisal attached?** Yes\_\_\_\_ No\_\_\_\_

### 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.)

### Donor Requests/Recommendations

**Desired or requested location:**

1<sup>st</sup> choice: \_\_\_\_\_

2<sup>nd</sup> choice: \_\_\_\_\_

3<sup>rd</sup> choice: \_\_\_\_\_

**Description of Annual Maintenance:**

**Requested or Recommended Plaque wording:**

**Additional Information or Comments:**

***\*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.

Donor's Printed Name: \_\_\_\_\_

Donor's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Form B**

To be completed by County

**Los Alamos County  
Art in Public Places Board  
Artwork Donation Offer – Internal Review Form**

**Donation Packet**

**Submitted by:** \_\_\_\_\_ **Date Submitted** \_\_\_\_\_

**APP Member/s:** \_\_\_\_\_

**Date Reviewed:** \_\_\_\_\_

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**Title of Artwork:** \_\_\_\_\_

**Artist:** \_\_\_\_\_

**Medium:**     Abstract \_\_\_\_\_     Representational \_\_\_\_\_

**Aesthetics:**                      Merit \_\_\_\_\_                      Artist  
Rate from 1 (low) to                      Qualification \_\_\_\_\_                      Compatability \_\_\_\_\_  
5 (high)                      Originality \_\_\_\_\_                      Quality & Permanence \_\_\_\_\_

**Quality:**     Professional \_\_\_\_\_     Non-Professional \_\_\_\_\_

**Proposed Location:** \_\_\_\_\_

**Rating (1-Low to 5-High)**                      Indoor \_\_\_\_\_                      Outdoor \_\_\_\_\_

**Installation Requirements:**

**Maintenance:**

Base: Yes \_\_\_\_\_ No \_\_\_\_\_

Plaque: Yes \_\_\_\_\_ No \_\_\_\_\_

Lighting: Yes \_\_\_\_\_ No \_\_\_\_\_

Price Estimate: \_\_\_\_\_

Price Estimate: \_\_\_\_\_

Price Estimate: \_\_\_\_\_

**Comments:****Liability Issues:** Yes \_\_\_\_\_ No \_\_\_\_\_

If Yes, Explain:

**Additional Comments or Special Conditions:**



**Form C**

To be completed by donor

**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 Number/s:** \_\_\_\_\_

**Email Address:** \_\_\_\_\_

**Is this your original work of Art<sup>(1)</sup> ?** Yes \_\_\_\_\_ No \_\_\_\_\_

**Are you the Artist?** 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<sup>(2)</sup>?

Sole Creator \_\_\_\_\_ Created with other artists or Individuals \_\_\_\_\_

## Information about the Artwork

**Title:** \_\_\_\_\_

**Date Created** (if known) or Est. 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 Number:

\_\_\_\_\_

(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

INCORPORATED COUNTY OF LOS ALAMOS

\_\_\_\_\_  
Michael D. Redondo  
COUNTY CLERK

BY: \_\_\_\_\_  
ANNE LAURANT  
COUNTY MANAGER

DATE

ARTIST/DONOR

BY: \_\_\_\_\_  
DATE