



LOS ALAMOS

Community Services Department Boards and Commissions

Los Alamos County Art in PUBLIC Places BOARD Policies and Guidelines

APP and Council Approval

This policy was voted on and approved at the above PUBLIC open meetings of the APP BOARD and Los Alamos County Council.

Purpose

These policies and guidelines are adopted by the Los Alamos County ("County") Art in Public Places Advisory BOARD, ("APP" 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](#).

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.

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.

COLLECTION: Consists of ART purchased with ART in Public Places funds and/or WORKS OF ART 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 (formally called "deaccessioning").

PUBLIC and COMMUNITY MEMBERS: Those who are exposed to the County's public ART COLLECTION.

I. Purpose and Objectives

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

- 1) Recommend to Council the ACQUISITION and maintenance of all WORKS OF ART funded from the ART IN PUBLIC PLACES ACCOUNT;
- 2) Recommend to Council the public sites selected for the display of ART funded from the ART IN PUBLIC PLACES ACCOUNT and establish criteria to be used in the selection of the artists or the WORK OF ART desired;
- 3) Provide advice to Council on the proposed removal, relocation or alteration of any public facility or WORKS OF ART funded from the ART IN PUBLIC PLACES ACCOUNT;
- 4) Recommend to Council programs and policies to further the development and public awareness of public art;
- 5) Seek private donations for the County to supplement the ART IN PUBLIC PLACES ACCOUNT and advise the Council regarding additional sources of funding for public ART;
- 6) 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;
- 7) Recommend a policy to coordinate with the County's capital improvements program and other County activities to ensure that WORKS OF ART funded by the ART 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
- 8) Perform 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 enhance the community visually.

The BOARD will address its purpose and objectives by recommending the ACQUISITION and maintenance of various WORKS OF ART, including creating and maintaining labels or plaques to identify the WORK OF 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 COMMUNITY MEMBERS 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 private offices of public officials or in inaccessible public areas.
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, placement, and DISPOSAL of WORKS OF ART are governed by carefully designed procedures to enhance the PUBLIC's viewing of ART.

II. 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 APP recommendations.

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.

If 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 advance approval to purchase a WORK OF ART at a juried show.

1. Minimum Criteria: According to Code, the BOARD will consider the following minimum criteria in the selection of WORKS OF 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
 - h. PUBLIC comment, including but not limited to surveys

In order to support public awareness of the County's ART COLLECTION, all art pieces in the COLLECTION will be catalogued in an online Public Art Archive database. The ART IN PUBLIC PLACES ACCOUNT will fund this database per Sec. 20-365 of the County's code. This database will be updated as needed when new art is purchased, donated, moved, relocated or disposed.

The BOARD will consult with the County Attorney to prepare a purchase agreement or purchase order, if needed. To the extent possible, a legal instrument of conveyance, transferring the 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.

Donations

1. **Donations of Art** to the County's ART COLLECTION are to be guided by the County's WORKS OF ART donations policy as provided in Appendix A.
 - a. The BOARD should perform research on any potential donated piece.
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 County's public ART program.

DISPOSAL

1. A recommendation for DISPOSAL of any public ART work can come to APP from any person, source, or BOARD member. The BOARD, in an open public meeting, will decide whether to proceed with recommending the DISPOSAL of the public ART work 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 reactions on the part of the PUBLIC.
 - 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.
2. If APP decides to proceed with recommending to Council the DISPOSAL of a work of public ART, the BOARD will:
- a. Gather information from the PUBLIC and COMMUNITY MEMBERS and discuss the results at an APP meeting. If possible, the artist whose work is being considered for DISPOSAL will be notified by reasonable means of the meeting.
 - 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 PUBLIC and COMMUNITY MEMBERS and the artist. 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.

III. 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, the length of storage, where applicable, and the 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.

IV. Maintenance, Repair, and Restoration of ART

The Board shall recommend to Council the general requirements for maintenance, repair, or restoration of all County-owned WORKS OF ART. If the COLLECTION needs maintenance, repair, and/or restoration, the BOARD will prepare a recommendation with a rationale and cost estimate to Council for the specific maintenance, repair or restoration. The final decision regarding maintenance,

repair or restoration will be by Council action after consideration of APP's recommendations.

An agreement **with** a contractor or contractors to provide outdoor sculpture, indoor cleaning and maintenance services to assess the condition of, clean, maintain, restore and repair the COLLECTION should be maintained in order to help keep the COLLECTION in good condition.

V. Plaques and Identification Signs

To the extent practicable, APP will comply with the current County's Graphic Standards related to identifying County-owned WORKS OF ART. All new and replacement plaques identifying artworks in the Los Alamos County COLLECTION should be designed in alignment with general guidelines used by New Mexico public ART collections, museums, and cultural institutions, as well as adhering to Los Alamos County's specific plaque guidelines.

Appendix A

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 other County divisions shall not be subject to this policy unless specifically requested.

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 WORKS OF ART 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 account;
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 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 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.

Date Appendix A was approved by the APP BOARD:

April 25, 2013; Revised November 21, 2013; Revised March 24, 2016; Revised June 23, 2016; January 25, 2024

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 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:

1st choice: _____

2nd choice: _____

3rd 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 donor

**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: _____

Title of Artwork: _____

Artist: _____

Medium: Abstract _____ Representational _____

Aesthetics: Merit _____ Artist Qualification _____ Compatability _____
Rate from 1 (low) to 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⁽¹⁾ ? 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⁽²⁾?

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 REDONDO
COUNTY CLERK

BY: _____
ANNE LAURANT
COUNTY MANAGER

DATE

ARTIST/DONOR

BY: _____
DATE