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Approval: 

## ADMINISTRATIVE DIRECTIVE

**SECTION:** ADMINISTRATION  
**TOPIC:** PUBLIC ART  
**REFERENCE:** 1.19.0  
**POLICY:** 1.0 – SECTION VII

### I. DIRECTIVE

The City of Lewisville has a Public Art Program to help distinguish Lewisville among North Texas communities by communicating the character of Lewisville and her people, celebrating community strengths, highlighting the city's heritage and natural amenities, and contributing to economic growth and stability. Directive contents are governed by Policy Statement 1.0 Administration, Section VII - Public Art, which include applicable definitions.

Due to requirements for the use of Hotel Occupancy Tax funds, as specified in the Hotel Occupancy Tax Law Subchapter B, Use and Allocation of Revenue, 351.101 (a) (4), placement of Public Art purchased or maintained using Hotel Occupancy Tax funds must be reasonably expected to attract tourists or enhance the tourist experience, as described in Policy Statement 1.0 Administration, Section VI - Hotel Occupancy Fund Request. Further, in accordance with Texas law, Hotel Occupancy Tax revenue will not be co-mingled with revenue from other sources

### II. ADMINISTRATION

Administration of the Public Art Program shall be the responsibility of staff designated by the City Manager, which shall include the Director of Community Relations and Tourism and the Art Center Manager, with advice from the Arts Advisory Board.

The Art Center Manager serves as staff liaison for the Arts Advisory Board. The Board's authority shall not extend to the direction, supervision, employment or termination of City employees, and no supervisory power of the Board is created.

### III. PUBLIC ART MASTER PLAN

As part of the Public Art Master Plan, standards for the placement of Art in public places such as landmarks, view corridors, pocket parks, traffic circles and other locations of prominent stature will be adopted. Those standards will:

- Complement and supplement other planning documents and adopted master plans.
- Ensure visual and physical access by the public.
- Ensure suitability and appropriateness of Art to the site.
- Provide a balanced and equitable distribution of Art in the city.
- Allow for efficient management and maintenance of the Art.

Criteria for the selection of Public Art will also be adopted to ensure quality, appropriateness, and durability of all Public Art pieces acquired by the City. Specific standards shall include:

1. Quality – of the highest priority are capabilities of the artist(s) and the inherent quality of their Artwork(s)
2. Media – All visual forms may be considered, unless otherwise limited.
3. Style – Artworks of all schools, styles and tastes should be considered for the City collection.
4. Nature – Artworks and Art places should be appropriate in scale, material, form and content for the immediate, general, social and physical environments with which they are to relate.
5. Permanence – Consideration should be given to structural and surface integrity and stability, to permanence, protection against theft, vandalism and weathering, as well as to the probability of excessive maintenance and repair costs.
6. Elements of Design – Consideration should take into account that in addition to measuring up to aesthetic standards, Public Art may also serve to establish focal points, terminate vistas, modify, enhance or define spaces or establish identity.
7. Safety – Artworks and Art places must be free as far as reasonably possible from any unsafe conditions or factors.
8. Diversity – The Public Art Program shall strive for diversity of style, scale, media and artists, including ethnicity and gender as well as equitable distribution of Artworks and Art placements throughout the City.

Items not considered suitable for the Public Art Program include:

- Art objects that are mass-produced or of standard manufacture, such as playground equipment, fountains or statuary elements, unless incorporated into an original Artwork by a project artist.
- Decorative, ornamental, architectural or functional elements that are designed by a building architect, as opposed to elements created by artists commissioned for that purpose.
- Landscape architecture and landscape gardening, except where these elements are designed by a professional artist and are an integral part of the Artwork.

#### **IV. PUBLIC ART WORK PLAN**

City Staff and the Arts Advisory Board shall develop an annual Public Art Work Plan as part of the City's annual budget process. This work plan will include a prioritized list of recommended Public Art Projects for the coming fiscal year, recommended locations for

these projects, and recommended budget allocations for the projects. The plan also will include a summary of Public Art activities during the past year.

## **V. RECOMMENDATIONS TO PURCHASE ART**

Recommendations from the Arts Advisory Board to purchase existing pieces of Art shall include descriptions and photos of the Artwork, biographical information about the creating artist where appropriate, suggested location, plan for ongoing maintenance of the Artwork, and a professional appraisal of value by an art appraiser certified in the specific art genre and medium being proposed. The art appraisal must be done by an independent appraiser and may be paid for through City funds or sponsorship.

Recommendation from the Arts Advisory Board to commission a piece of Public Art shall include a description of the purpose for the Public Art Project, suggested location, desired medium, the maximum amount to be spent on the art commission, and the proposed artist selection process.

## **VI. ART PLACEMENT**

Placement of Public Art will be in accordance with the Public Art Master Plan, City's ordinances and stated goals.

Public Art placed at City facilities should enhance the aesthetic appearance of the associated facility and grounds and should represent the nature and purpose of the associated facility or portray the heritage and character of the City as a whole.

When possible, Art should be integrated into the design and construction of new and renovated City facilities, with the artist selected in time to participate in the facility design process (estimated to be at the 30 percent design stage). In addition, any professional services agreement or similar documents related to a municipal facility construction or renovation project for which there is to be a Public Art component will contain language describing the intended scope of the Public Art element.

Installation of Public Art must be accomplished in a manner that will ensure that the object is shown to full advantage, in a setting appropriate for the Artwork's style, scale and quality. The installation must be designed to preserve the Artwork from harm to the degree possible, while preserving visual access for the public and safeguarding the health, safety and peace of the public. Impacts of the installation on the site and the environment must be given consideration.

The re-location of Artworks in the Public Art Collection must be for reasons that are in the best interests of the community and must follow the same site selection guidelines as are established for placement of newly acquired Artwork.

## **VII. ART ACQUISITION AND ARTIST SELECTION**

Methods of acquisition may include, but are not limited to, open artist competitions, invitational competition or direct selection and purchase of existing Artworks. Artworks may also be acquired through donations by individuals, businesses, institutions or organizations. All purchases must comply with all applicable laws, regulations and City policies governing purchasing.

Artists shall be selected on the basis of their qualifications as demonstrated by past work, appropriateness of the proposal to a particular project, probability of successful completion and practicality of long-term maintenance. Other specific requirements may be applied for each project.

## **VIII. DONATIONS OR LONG-TERM LOANS**

When a gift of Public Art or long-term loan of Art is offered to the City, the proposal shall be reviewed by the Arts Advisory Board. Artwork must meet the same general criteria as are established for City-owned Artwork. This does not include Art that has been given or loaned to the City as part of a cultural exchange with another city. This does not include artifacts or antiquities given or loaned to the City for display or archiving purposes.

Proposals for a donation of Public Art or long-term loan of Art to the City must be submitted in writing and include a description of the item(s) proposed for donation or loan, estimated value of the Artwork, information on the background and qualifications of the artist where appropriate, a statement of the provenance for the Artwork, and any special terms or conditions that accompany the proposed donation or loan. In the case of a loan, the owner must agree to a hold harmless agreement in favor of the City addressing any damage that might occur to the loaned Artwork.

Upon receiving a proposal for a donation of Public Art or long-term loan of Art, City staff will review the proposal to ensure compliance with Council-adopted policy, City codes and ordinances, and the Public Art Master Plan. As part of that review, staff will attempt to identify and estimate any costs to the City for installation, display and maintenance of the Artwork. If the proposal is found to be in compliance, staff will submit the proposal and any staff comments to the Arts Advisory Board for consideration.

The Arts Advisory Board will review the proposal, applying the same standards as are established for selection of City-owned Artwork. City staff may negotiate placement and presentation of the Artwork, future costs to the City for maintenance or insurance, length of any loan agreement, and donor/leader recognition. If the Board decides to accept the proposed donation or loan, a formal agreement including all details of the proposal and any negotiated terms will be drafted with the donor or lender and executed by the City Manager or designee.

The City shall accept donated Artworks only when accompanied by a legal instrument of conveyance of title, enumerating any conditions of the gift that the City has agreed to accept, and the appropriate warranty of originality. In general, gifts shall be accepted without

restrictions as to future use or disposition. Art Center staff shall forward copies of the conveyance of title and the stated insurance value for donated Artwork(s) to the appropriate City departments.

Donations of Public Art shall comply with the requirements set forth in **Administrative Directive 1.7.2 - Donations**.

## **IX. MAINTENANCE**

Repairs, restoration and conservation of Public Art shall be the responsibility of the City, not the artist, and the City shall commit to keeping Artwork in a well-maintained condition.

Ongoing maintenance needs, and associated costs, will be considered during the selection or acceptance process for any piece of Public Art. This includes the possibility of special insurance requirements that might be required. A detailed plan for annual or periodic maintenance of the Artwork must be developed, including an estimate of annual costs of such maintenance.

City staff will create a Public Art maintenance project in the Maintenance and Replacement Fund to receive transfers and make disbursements related to Public Art maintenance. Funds from various sources shall remain segregated within the project for accounting purposes.

As part of the annual budgeting process, the Art Center Manager will include any needed allocations to the Public Art maintenance project that might reasonably be needed for anticipated maintenance of the Public Art Collection. Money allocated to the Public Art maintenance project not used during the fiscal year will be rolled forward into the following fiscal year.

If, in the judgement of City staff, any Artwork in the Public Art Collection is in need of repair, restoration or conservation, staff will prepare a recommendation for needed work after soliciting input from qualified professionals in the field of art conservation, repair and restoration. In accordance with City purchasing and other policies, staff will obtain cost estimates, identify sources of funding and submit a requisition for said work. Once approvals have been obtained, City staff will oversee the successful completion of needed work.

## **X. INVENTORY**

All pieces in the City's Public Art Collection will be listed in an inventory and control list maintained by Art Center staff. The list will use standardized naming for individual pieces and will be kept current at all times. Information included in the inventory and control list for each Artwork will include description of the piece, its origin and acquisition, its appraised value, its location and public access, and a copy of its provenance.

The following process shall be followed in recording the addition of Artwork to the Public Art Collection:

1. Assign a number according to a formal inventory naming structure;
2. Assemble documentation of the Artwork (including color photos or digital files) and incorporate it into the documentary library located at the Art Center; and
3. Forward documentation information, including appraised value, to the Risk Management office.

Each piece in the Public Art Collection shall be re-appraised a minimum of every 10 years or as deemed necessary by the Art Center Manager to ensure proper security, maintenance and insurance measures. City Council can request a re-appraisal of any Public Art piece at any time.

## **XI. REVIEW**

There will be a review of all items in the Public Art Collection at least once in every 10-year period to assess the condition of the Artworks and appropriateness of location. This review will be conducted by Art Center staff, using input as needed from qualified professionals in the field of art conservation, repair and restoration. Upon completion of the review, staff will submit a written report to the Arts Advisory Board. In addition, Art Center staff will periodically examine pieces of Public Art to monitor the condition of each Artwork and watch for any urgent repair or restoration that might be needed.

Based upon input the Art Center Manager, the Arts Advisory Board shall make any needed recommendations to City Council. Recommendations to remove or relocate works of Art in the Public Art Collection must be in the public interest, a matter of public safety and welfare, or a means of improving the quality of the collection. The Board can recommend any of the following courses of action as a result of this review:

1. No change;
2. Relocate Artwork;
3. Sell or trade Artwork (requires a formal appraisal and must follow all appropriate laws and policies related to disposal of public property);
4. Remove work from display and store for future consideration; and
5. Remove and permanently dispose of Artwork. Disposal could include return to the artist or donation to charity or other local government entity.

Artists whose work is under consideration for removal shall be notified by reasonable means, to include written notification by registered mail, and shall have the right of first refusal to purchase the Artwork(s) if the City decides to sell the piece.

## **XII. ARTIST RESPONSIBILITIES**

City staff shall obtain from artists whose work is selected for acquisition information on the materials and methods of construction of the Artwork and when possible, advice on the best method of installation and maintenance of the Artwork.

The artist must warrant that:

1. The Artwork, Art place or Art concept is the result of the artist's personal creative efforts except in the case of design collaboration.
2. The Art is unique and original and does not infringe upon any copyright. The artist must agree to hold the City harmless against any claims for copyright infringement.
3. The Art or a duplicate has not been accepted for sale elsewhere.
4. The Art is free and clear of any liens.
5. The execution and fabrication of the Art will be performed in a professional manner.
6. The Art as fabricated and installed will be free of defects in material and craftsmanship, including, but not limited to, any defects constituting "inherent vice" or qualities that cause or accelerate deterioration.

### **XIII. FUNDING**

The City of Lewisville shall establish and maintain a Public Art Project within the Capital Projects Fund from which Public Art Projects in the City may be funded. The sources of revenue for this fund will be various and can include:

1. The accumulated balance of the difference between the total amount of annual Hotel Occupancy Taxes available for support of the arts and the actual amount expended for support of the arts;
2. Funds donated to the City for the purpose of acquisition of Public Art;
3. Grants from foundations or public agencies;
4. Proceeds from fundraising activities approved by City Council;
5. Funding from Capital Projects as directed by City Council;
6. Any other funding sources designated and approved by City Council.

If a Public Art Project (excluding bond-funded projects) is completed without spending the entire amount allocated by City Council, any remaining money will be returned to the Public Art Project. If voter-approved bond funds are used for Public Art, the Artwork must be permanently incorporated into the design of the capital project.

City staff will, as part of the annual budget process, make a budgetary request for funds to be allocated from the Public Art Project for acquisition, installation, maintenance, repair or other purposes related to the Public Art Collection of the City of Lewisville

### **XIV. EXCLUSIONS**

This directive does not apply to:

1. Exhibitions of 90 days or less. Any Artwork or exhibition of Artworks to be displayed on City property for 90 days or less will not be subject to the above outlined review process. Review and approval will be the responsibility of the department with jurisdiction over the space involved, with input from the Art Center Manager if requested.
2. Acceptance of Gifts of State. Artwork presented to the City by another government agency (municipal, state, national or international) may be accepted as allowed by

state law and City ordinances and policies. Appropriate placement and public access shall be determined by the Art Center Manager with the advice of the Arts Advisory Board. Appropriate donor recognition shall be the responsibility of the department with jurisdiction over the placement site.

**XV. GENERAL PROVISIONS**

The City of Lewisville reserves the right to change, modify, amend, revoke or rescind all or part of this policy in the future.