



**CITY OF PALO ALTO PUBLIC ART PROGRAM
DEACCESSION OF ARTWORK POLICY**

PUBLIC ART PROGRAM VISION

Public art reflects Palo Alto's people, diverse neighborhoods, the innovative and global character of its businesses and academic institutions, and the beauty of its natural environment.

INTRODUCTION

The Public Art Program (PAP) maintains the City of Palo Alto's (City) collection of Artwork for the benefit of Palo Alto citizens. Removing an Artwork from the collection (deaccessioning) is a sensitive matter and should be managed according to clear criteria. The policies outlined below are subject to periodic review by the PAP; from time to time, with the input of the Public Art Commission (PAC), the PAP may update this policy to include additional guidelines or procedures as it deems appropriate. Except in the case of a safety emergency, no Artwork in the collection will be deaccessioned until the policies set forth below have been observed. This policy applies to permanent Artworks in the City's collection; it is not intended to apply to "Temporary Artworks," which are the subject of a separate policy. This policy shall govern removal, disposal and destruction of Artworks; the City's Surplus Property Disposal & Destruction Policy (Policy and Procedure 1-49/ASD) shall not apply.

POLICY

1. Any proposal for removal or destruction of an Artwork shall be submitted to PAP staff and reviewed by the PAC according to the policies and procedures contained herein; review shall be deliberate and independent of political pressures, fluctuations in artistic taste, popularity, and public opinion.
2. Deaccession shall be a seldom-employed action that is taken only after issues such as Artists' rights, public benefit, censorship, copyrights, and legal obligations have been carefully considered. The final decision with respect to deaccession of Artworks owned by the City shall rest with the PAP Director upon approval by the PAC.
3. At regular intervals, the City's Artwork collection shall be evaluated by the PAP and reported to the PAC to determine the condition of each Artwork and determine whether there is Artwork recommended for deaccession.

DEFINITIONS

For purposes of this Policy, the following definitions apply.

ARTIST: An individual generally recognized by critics and peers as a professional practitioner of the visual arts as judged by the quality of the professional practitioner's body of work, educational background and experience, past public commissions, sale of works, exhibition record, publications, and production of Artwork.

ARTWORK: Works in any style, expression, genre and media created by an Artist and owned by the City of Palo Alto in the permanent collection, whether functional or non-functional. Artwork may be stand-alone and integrated into the architecture, landscaping, or other site development if such are designed by an Artist as defined herein.

The following are not considered Artwork:

1. Reproductions, by mechanical or other means of original Artwork, except in cases of Film, video, photography, printmaking, theater, or other media arts;
2. Art objects that are mass produced (excluding artist-created, signed limited-edition works), ordered from a catalog, or of a standard design, such as playground sculpture or fountains; and
3. Directional or other functional elements such as signage, supergraphics, color coding, or maps unless specifically designed as artworks.

DEACCESSION: The procedure for the removal of an Artwork owned by the City and the determination of its future disposition.

DEACCESSION NOTIFICATION: A written letter to the artist or donor referencing the applicable condition(s) of the Artwork and describing reasons why the deaccession review needs to be undertaken.

GUIDELINES

Any Artwork owned by the City shall be eligible for deaccession with the exception of an Artwork that is accompanied by verified legal stipulations that the Artwork may not be deaccessioned. During the review process, the Artwork shall remain accessible to the public in its existing location unless it poses a threat to public safety.

Artwork may be considered for review toward deaccession if one or more of the following conditions apply:

1. The condition or security of the Artwork cannot be reasonably guaranteed;
2. The Artwork requires excessive maintenance or has faults of design, materials or workmanship, and repair or remedy is impractical or unfeasible;
3. The Artwork has been damaged or has deteriorated, and repair or remedy is impractical or unfeasible;
4. The Artwork's physical or structural condition poses a threat to public safety;
5. The Artwork is proved to be inauthentic or in violation of existing copyright laws;
6. The Artwork is not, or is only rarely, on display because the City lacks a location for its display;
7. The Artwork has exceeded its expected lifespan;
8. No suitable site is available for relocation or exhibition, or significant changes in the use, character, or design of the site have occurred which affect the integrity of the Artwork;
9. Changes to the site have significantly limited or prevented the public's access to the Artwork;
10. The site where the work is located is undergoing privatization;
11. Deaccession is requested by the Artist;
12. If there are more than six works (excluding editions of prints) by the same artist in the portable collection, or more than three permanently installed works on public display in the City or in Private Development, PAP staff may recommend to PAC that the City retain only a representative selection of that artist's work.
13. If the Artwork has been lost, stolen, or is missing, the PAC may approve formally deaccessioning it from the collection while retaining a record in the collection database showing that the work has been deaccessioned.

Artwork may be reviewed for deaccession at any time at the initiative of PAP staff or PAC members. Review also may be initiated by the Artist regarding the Artwork she/he created, by that Artist's designated heir(s), or by legally recognized representative(s).

PROCEDURES

Deaccession shall begin with a formal Deaccession Request which can be initiated by the PAC, by PAP staff, the Artist, the Artist's designated heirs or legally-appointed representative. The Deaccession Request shall be submitted to PAP staff and shall describe the applicable condition(s) outlined in the Guidelines above, and the reasons why the deaccession review should be undertaken. A Deaccession Request must also contain information about the requestor's relationship to the Artwork and stake in deaccessioning the Artwork.

Deaccession Requests shall be reviewed by PAP staff, who shall make every reasonable effort to contact the Artist who created the Artwork named in the Deaccession Request, and any other known parties with a vested interest in the artwork, and shall comply with any applicable state or federal notice requirements. When Artworks are proposed for deaccession, staff shall place the matter on the PAC agenda for an initial review of the reasons deaccessioning is being considered and to gather comments on the deaccession proposal. At a subsequent PAC meeting, staff shall then present a deaccession recommendation to the PAC.

In presenting the Deaccession Request, PAP staff will provide all available relevant corresponding materials to the PAC, including, but not limited to:

1. Artist's name, biographical information, samples of past artwork, and resume.
2. A written description and images of the Artwork.
3. Artist's statement about the Artwork named in the Deaccession Request.
4. A description of the selection/acquisition process and related costs that was implemented at the time the Artwork was selected.
5. If available, a formal appraisal of the Artwork provided by a qualified art appraiser.
6. Information about the origin, derivation, history, and past ownership of the Artwork.
7. A warranty of originality of the Artwork.
8. Information about the condition of the Artwork and the estimated cost of its conservation provided by a qualified visual arts conservator.
9. Information about and images of the Artwork's site.
10. For permanently-sited Artwork: information about how community feedback about the Artwork was collected and the outcome of that feedback.
11. Feedback from the Director of the City department responsible for operating and maintaining the Artwork site.
12. A detailed budget for all aspects of conservation, maintenance, repair, installation, operation, insurance, storage, and City staff support.
13. The Artist's contract with Donor or comparable legally binding document with Proof of Title.
14. Deed of gift restrictions, if any.

The PAC shall approve, with or without conditions, or reject the Deaccession Request based on the Deaccession Criteria described in this policy.

DEACCESSION CRITERIA

In addition to the condition and security of the Artwork as stated above, the review criteria for Deaccession Requests include, but are not limited to:

1. **ARTISTIC EXCELLENCE:** Qualifications and professional reputation of the Artist; craftsmanship, conceptual content, style, form.
2. **VALUE OF ARTWORK** as determined by a professional appraiser, if available.

3. **RELATIONSHIP TO EXISTING COLLECTION OF ARTWORK:** Style, form, scale, diversity, quantity, quality, longevity, and compatibility with the existing collection of Artwork and goals of the Public Art Program.
4. **AVAILABILITY OF CITY SUPPORT:** The availability of necessary funding for conservation, maintenance, and/or repair; exhibition and storage space; real property for siting Artwork; and staff support.
5. **RELATIONSHIP TO SITE:** Accessibility, public safety, and social, cultural, historical, ecological, physical, and functional context of the Artwork in relation to the site, both existing and planned.
6. **LEGAL CONSIDERATIONS:** Issues related to liability, insurance, copyright, warranties, ownership, theft, vandalism, loss, indemnification, and public safety. The City Attorney shall review the recommendation of the PAP staff and PAC to determine whether there are any known legal restrictions that would prevent deaccessioning the object. The City Attorney's approval must be obtained prior to deaccessioning an object.
7. **TIMING:** Safety or hazard emergencies, relevant construction schedules, and the allowance of sufficient time for a normal review process.
8. **ACQUISITION PROCESS:** Method by which the Artwork was acquired and accessioned into the collection of artwork (i.e. donation, loan, commission).
9. **COMMUNITY FEEDBACK:** Community feedback about the Artwork, its site, and its condition solicited via a publicly-noticed meeting or placed on the agenda of the Public Art Commission.
10. **RESTRICTIONS:** Any recognized restrictions associated with the Artwork.

IMPLEMENTATION

The deaccessioned Artwork shall be removed from the collection of Artwork through methods administered by the PAP. In all cases, the Artist or the Artist's designated heir(s), or legally recognized representative(s) shall be given, when possible and within a reasonable time frame, the opportunity to purchase the Artwork for the fair market value (as determined by a qualified art appraiser), or, if the Artwork is determined to be of negligible value, the Artist shall be given the opportunity to claim the Artwork at the Artist's own cost.

When the Artist does not purchase or claim the deaccessioned Artwork, the City, at its discretion, may use any of the following methods to remove the Artwork:

1. **Sale.** Proceeds from the sale shall be deposited into the Public Art CIP Budget. Written acknowledgement by Budget to place revenues from the sale of deaccessioned Artwork into the Public Art CIP Budget, must be obtained. Public notice regarding the sale shall be provided on the City website, at a publicly-noticed meeting and in any other manner required by law.
 - a. The Artist/donor shall be given the right of first refusal to reacquire the work at fair market value, original price, or nominal value, depending on the recommendation of the PAC. The cost of removal of the work may be reflected in the amount set.
 - b. Sell the work through a dealer.
 - c. Sell the work through sealed bidding or public auction.
2. Trade or exchange of a deaccessioned Artwork for another by the same Artist.
3. Donation of deaccessioned Artwork to a non-profit organization, institution, or agency.
4. **Destruction.** This method is appropriate in the following instances:
 - a. The entire Artwork has been damaged or has deteriorated, and repair or remedy is impractical or unfeasible.

- b. Most of the Artwork has been damaged or has deteriorated, and repair or remedy is impractical or unfeasible, and any remaining intact parts of the Artwork are deemed to have negligible value, and the Artist is not willing to claim the remaining parts at the Artist's own cost.
- c. Public safety considerations support destroying the Artwork.
- d. Every effort to locate the Artist, kin, or donor has failed.
- e. The City determines that no other method of implementation is feasible.

When possible, the method for removing the Artwork from the collection of Artwork shall be selected to ensure that the highest reasonable price is received. Any profits received by the City through the sale, trade, or auction of a deaccessioned Artwork shall be deposited into the Public Art CIP Budget administered by the PAP.

If a deaccessioned work is sold or exchanged, PAP staff will implement any legal requirements for compensating the artist, including but not limited to the California Resale Royalties Act.

PAP staff shall remove acquisition numbers and labels from the Artwork and coordinate its physical removal from the City's collection.


PAP staff shall report on the sale or exchange of Artwork at the next regularly scheduled meeting of the PAC, following receipt of all funds or the completion of the sale, exchange, or donation.

PAP staff shall transmit a report informing City Council of the removal of the Artwork from the City's collection.

Staff shall maintain a Deaccession File that includes individual files on each deaccessioned Artwork. These files shall include all documentation regarding the Artwork.

Artworks may not be sold, traded, or donated to current employees of the City of Palo Alto, their business partners, or their immediate family members. Current elected officials, PAC members, their business partners, and their immediate family members may not buy, receive or own any Artwork which has been deaccessioned from the collection of Artwork.

Nothing in these guidelines shall limit the City's ability to take appropriate action to protect public health and safety in the event of an emergency.

Recommended:	 _____ Director	<u>2-3-17</u> Date
Approved:	 _____ City Manager	<u>2/10/17</u> Date