

ART IN PUBLIC PLACES GUIDELINES | BROOKINGS, SD

The vision of the Brookings Public Art Guidelines is to
create public art spaces and experiences
that enrich the quality of life in
Brookings, South Dakota and beyond.

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INTRODUCTION

MISSION

The Brookings Public Arts Commission strives to enhance the built environment and reputation of the City of Brookings; enriches the lives of its residents and visitors; serves as a vehicle to attract new businesses and citizens; and encourages artists and the community to engage in creative activities and artistic development.

DEFINITIONS

Acquisition: The process used for acquiring a work of art for the City's public art collection. Artworks may be acquired by means of purchase, donation, bequest, exchange or other transactions by which title passes to the City of Brookings

Accession: the formal transfer of ownership of a work of art into the City's collection and subsequent cataloging of the work within the collection inventory.

Administrator: includes the Brookings Public Arts Commission and any representatives thereof.

Agreement: includes any written agreement pertaining to the planning, design, development, fabrication, delivery and/or installation, maintenance and deaccession of an artwork, including but not limited to letters of intent (LOIs), memoranda of understanding (MOUs), commission agreements, contracts and construction agreements.

Artist: Artist is a person(s) with a sustained practice in the creation of works of fine art or crafts, and includes individuals or artist teams. For the purposes of the Public Art Program, "Artist" may not apply to the project design architect, landscape architect, or other design professionals on the project design team.

Artwork: Original creative expression by an Artist(s).

Built Environment: The buildings, structures and improvements of the City.

Commission: The Brookings Public Arts Commission appointed by the City Council, pursuant to Ordinance No. 16-006.

Deaccession: the formal catalog process used for the removal or relocation of an object from the City's public art collection; for example, to protect public safety-when the artwork presents a hazard or liability through deterioration or damage, artwork may be deaccessioned.

Public Art: Public Art is art in public spaces. Public Art may include, but is not limited to, permanent or temporary works of art such as murals, sculpture, memorials, integrated architectural ornamentation, community art, digital new media, or performance art. Public Art would normally not include paving, incidental architectural ornamentation, landscaping, signs, plaques, or markers, historical or religious artifacts, or other objects of unknown authorship. The City reserves the right to enter into a memorandum of understanding or other agreements with community art partners for temporary or long-term installations on City-owned property.

Public Art Collection: the collection of art purchased, commissioned, gifted, or otherwise acquired by the City to display in public places.

Public Art Collection Program: the process, policies and procedures by which new Public Art is obtained by the Brookings Public Art Commission for the City of Brookings pursuant to Ordinances 16-005 and 16-006 and these guidelines.

ENABLING DOCUMENTS

Brookings City Ordinances 16-005 and 16-006, adopted on February 12, 2016, established the Dedicated Public Art Fund and the Brookings Public Arts Commission.

PUBLIC ART FUND

Purpose

The purpose of the Dedicated Public Art Fund is to provide funding for the advancement of a comprehensive public art appreciation and public displays program through design, purchase, acquisition, installation and maintenance of public art as well as other public art-related activities for the City of Brookings.

Funding

The Dedicated Public Art Fund receives an annual appropriation of one percent (1%) of annual capital expenditures from each revenue fund which is within the City Council's budgetary authority and which has an appropriation for capital expenditures. As part of the annual budget preparation process, the Capital expenditures used for purposes of establishing this annual appropriation includes equipment, infrastructure, construction projects and real estate that are either new acquisitions or replacements or enhancements of existing capital assets.

Administration

In accordance with Government Accounting Standards Board Statement No. 54 ("GASB 54"), the dedicated public art fund shall be reported as part of the general fund for financial reporting purposes, but shall be maintained individually for accounting purposes and budgetary comparisons. A Brookings Public Arts Commission, which is charged with the duty to recommend policies and guidelines for the advancement of public art throughout the community, shall also recommend to the city manager proposed expenditures of the public art fund which are less than \$25,000. The city council shall have final approval of all policies and guidelines recommended by the commission, and shall also approve proposed expenditures for public arts projects which equal or exceed \$25,000.

Effective Date

The effective date of the Public Art Fund is January 1, 2017.

BROOKINGS PUBLIC ARTS COMMISSION

Mission

The Brookings Public Arts Commission strives to enhance the built environment and reputation of the City of Brookings; enriches the lives of its residents and visitors; serves as a vehicle for attracting new businesses and citizens; and encourages artists and the community to engage in creative activities and artistic development.

Purposes

The role and purposes of the Brookings Public Arts Commission are as follows:

1. To develop a unified public art strategy for the City of Brookings;
2. To advise the City Council and other community groups and agencies who are initiating a public art project concerning the proposed site, selection of a professional artist and commissioning of a public artwork;
3. To oversee the Public Art Fund;
4. To guide and monitor design development process of public art projects through reviews at various stages to ensure artistic and design quality, integration with the site and relevance to the community;
5. To approve the final design of public art projects prior to fabrication;
6. To approve the final artwork, installation procedures, and maintenance plan of public art projects prior to installation; and
7. To prepare recommendations and report upon the design or proposed design of any municipal building, bridge, approach, fence or other structure containing public art elements and that is erected or to be erected upon land belonging to the City, and upon the design or proposed design of any arch, bridge, structure or approach which is the property of any person, firm or corporation, and extends in, over or upon any street, avenue, highway, park or public place.

Membership

Manner of Appointment, Composition, Terms, and Compensation: Members of the Brookings Public Arts Commission (Commission) will be appointed by the Mayor, with the advice and consent of the City Council, for three-year terms that commence in January. Members may be appointed for additional three-year terms. The initial terms of office shall be staggered in 1, 2 and 3 year increments. Any members whose term expires may be reappointed.

The Commission shall include specific professional expertise in public art or the visual arts, such as contemporary arts curator, museum director, professor of art or art history, and design professionals such as architects, landscape architects, and urban planners. The Commission shall consist of at least three art or design professionals. The Commission shall be comprised of eight (8) to ten (10) members who are representative of the following: Brookings Arts Council, SDSU School of Design, South Dakota Art Museum, Chamber of Commerce and/or Convention Visitor's Bureau Board, art professional, design professional, landscape architect/urban planner, representative from the Historical Preservation Commission, and two citizens-at-large.

Non-voting liaisons shall include, but are not limited to, Community Development Director, City Park and Recreation Director, City Clerk, and Finance Director.

All members of the Commission shall serve without compensation.

Qualification of Members: A majority of the members of the Commission shall be residents of the City.

Vacancies: If a vacancy on the Commission occurs prior to the expiration of a term, the vacancy may be filled by appointment for a term not exceeding three years. If a member is absent from three consecutive regular meetings without authorization from the chairperson, the member's seat may be considered vacant, and a new member may be appointed.

Officers: The Commission will designate from among its membership a chairperson, vice-chairperson and such other officers and subcommittees as it deems appropriate and necessary.

Meetings: The Commission will meet at such times and places as may be determined by the Commission. A majority of members of the Commission shall constitute a quorum. The Commission meetings shall be open to the public and shall comply with City open meetings policies.

Powers and Authority: The powers and authority of the Commission shall include, but are not limited to:

1. The Commission shall develop and recommend revisions to the Brookings Public Art Guidelines, which shall include criteria for accepting donations or gifts, both of cash and tangible art, a method or methods for the selection of artists and public art projects and for the placement of public art projects. The City Council shall have final approval of all Brookings Public Art policies and guidelines.
2. The Commission shall recommend to the City Manager and City Council proposed public art acquisitions and the placement, maintenance, relocation, and deaccessioning of artwork acquired through the public art program.
3. The Commission shall have the custody and care of all works of art owned by the City and under the control of any department of the City. The term "work of art" shall apply to and include all paintings, mural decorations, statues, bas-reliefs, sculptures, monuments, fountains, arches, ornamental gateways and other structures of a permanent character intended for ornament or commemoration.
4. No work of art shall become the property of the City by purchase, gift or otherwise, until it, or a design or model thereof, and a proposed plan for it shall have been approved by the Commission.
5. No work of art shall be erected or placed in, over or upon, or allowed to extend in, over or upon any street, avenue, square, park or other property belonging to the City without approval of the commission in consultation with appropriate city departments. The Commission may recommend the removal, relocation or alteration of any existing work of art owned by the City, and no such work of art shall be removed, relocated or altered without such recommendation and approval. The additional, removal, relocation, or alteration of any work of art shall be approved by the city manager or the city manager's designee.
6. The commission shall study, prepare recommendations and report upon the design or

proposed design of any municipal building, bridge, approach, fence or other structure erected or to be erected upon land belonging to the city, and upon the design or proposed design of any arch, bridge, structure or approach which is the property of any person, firm or corporation, and extends in, over or upon any street, avenue, highway, park or public place.

7. The Commission shall recommend the purchase or commission of public art projects, including the design, execution and/or placement of such public art with approval of expenditures by the City Manager and City Council consistent with Section 2-115 of Municipal Code.
8. The commission shall consult with the department responsible for a particular construction project regarding the design, execution and/or possible placement of a public art project in connection with such construction project.
9. The Commission shall review the inventory of public art, including assessing the status of maintenance, compile a list of potential sites for public art projects, and prepare recommendations as to location, relocation, and deaccessioning of public art.
10. The Commission may also initiate public forums when appropriate to determine thematic approaches and location options for public art.

BYLAWS | Brookings Public Arts Commission

ARTICLE 1. NAME.

The name of the commission is the Brookings Public Arts Commission (Commission).

ARTICLE 2. PURPOSE AND DUTIES.

The purpose of the Commission is to enhance the built environment of the City of Brookings and enriches the lives of its citizens through public art. A dedicated funding source for an established program of public art enhances the reputation of the City and serves as a vehicle for attracting new businesses and citizens. A public art program encourages the community's artists and citizens to engage in creative activities and artistic development. A public arts commission can develop and implement a unified public art strategy for the community.

The duties of the Brookings Public Arts Commission are as follows:

- A. To develop a unified public art strategy for the City of Brookings;
- B. To advise the City Council, the City Manager, and other community groups and agencies who are initiating a public art project concerning the proposed site, selection of a professional artist and commissioning of a public artwork;
- C. To oversee the Public Art Fund;
- D. To guide and monitor the design development process through reviews at various stages to ensure artistic and design integrity, integration with the site and relevance to the community; and
- E. To approve the final design prior to fabrication; to approve the final artwork, installation procedures, and maintenance plan prior to installation; and to approve deaccessioning procedures.

ARTICLE 3. MEMBERSHIP.

- A. The Commission is composed of eight to ten members appointed by the Mayor with the advice and consent of the City Council.

- B. Members shall serve for a term of three years beginning January 1 on the year of appointment. Any members whose term expires may be reappointed.
- C. Individual members may not act in an official capacity except through the action of the Commission.
- D. If a member is absent three (3) consecutive regular meetings without authorization from the chairperson, the member's seat may be considered vacant and a new member may be appointed. This does not apply to an absence due to illness or injury of the member, an illness or injury of a member's immediate family member, active military service, or the birth or adoption of the member's child for 90 days after the event. The member must notify the staff liaison of the reason for the absence not later than the date of the next regular meeting of the Commission. Failure to notify the liaison before the next regular meeting of the Commission will result in an unexcused absence.
- E. A member who wishes to resign shall submit a written notification to the Commission Chair. If a vacancy on the Commission occurs prior to the expiration of a term, the vacancy will be filled in accordance with City policies.

ARTICLE 4. OFFICERS.

- A. The officers of the Commission shall consist of a chair and a vice-chair and such other officers as it deems appropriate and necessary.
- B. Officers shall be elected annually by a majority vote of the Commission at the first regular meeting in January. In the event a current officer becomes ineligible to serve, the Commission may hold an emergency election as needed.
- C. A member may not hold more than one office at a time.
- D. The chair, vice chair, and City staff comprise the executive committee.

ARTICLE 5. DUTIES OF OFFICERS.

- A. The chair shall preside at all Commission meetings, appoint all committees, represent the commission at ceremonial functions, and approve all meeting agendas.
- B. In the absence of the chair, the vice-chair shall perform all duties of the chair.
- C. If the chair and vice chair will be absent, the chair may designate another member as acting chair for purposes of running a meeting.
- D. The chair, vice chair, and acting chair have the same voting privileges as any other member.

ARTICLE 6. AGENDAS.

- A. After first consulting with and receiving input from the staff liaison, the chair shall approve each meeting agenda.
- B. Commission staff shall submit the meeting agenda through the City meeting notification system for each meeting not less than 72 hours before the meeting.
- C. Posting of the agenda must comply with all state and City open meetings requirements.

ARTICLE 7. MEETINGS.

- A. All meetings shall be open to the public and shall comply with City open meetings policies. The Commission may not conduct a closed meeting unless it complies with SDCL 1-25-2. (*Executive and Closed Meetings*) and receives approval from city staff and the City Attorney.
- B. The Commission shall meet monthly. The Commission shall adopt a schedule of the meetings for the upcoming year.
- C. The chair may call for a special meeting or may cancel a meeting due to lack of business or

quorum.

- D. A majority of members shall constitute a quorum. A quorum is required to hold a meeting and to conduct business. Members may also attend via teleconference or video conference with prior arrangements with staff.
- E. All meetings shall be governed by Robert's Rules of Order.
- F. The Commission shall allow citizens to address the Commission on agenda items during a time set aside for citizen communications. The chair may limit a speaker's time as needed.
- G. The staff liaison shall prepare and maintain all Commission agendas, minutes, and all other documents and records.
- H. All members of the Commission shall observe decorum pursuant to the City Code of Ethics and other City policies.

ARTICLE 8. COMMITTEES

- A. The Commission may establish committees as needed. Those may include, but are not limited to, the following: Executive, Policy Review, Selection, Public Education/Public Relations, Special Projects, and Fundraising.
- B. Committees may be established by the chair, executive committee, or by an affirmative vote of the Commission.
- C. Committee membership cannot exceed quorum of the full Commission. Membership may include individuals not appointed to the Commission.
- D. Committees shall select a Commission member as chair.
- E. Requirements regarding quorum, meeting notice, staffing, and minutes do not apply to committees.
- F. All committees shall make an annual report to the full Commission at the November meeting for inclusion in the City's annual report.

ARTICLE 9. AMENDMENT OF BYLAWS.

A bylaw amendment requires an affirmative vote of the majority of members. The bylaws were approved by the Brookings Public Arts Commission at their meeting held on September 14, 2017.

RIGHTS AND RESPONSIBILITIES

OWNERSHIP

All works of art acquired pursuant to Brookings Public Arts Program shall be acquired in the name of, and title shall be held by, the City of Brookings.

EXEMPTIONS

The following are exempt from the provisions of this chapter:

1. All works of art in the collections of, or on display at, or under the auspices of the Brookings Arts Council; and
2. All works of art in display in private City offices or other areas of City-owned facilities that are not generally frequented by the public.

DIGITAL IMAGES

Whenever images are posted on the website, the City will acknowledge project credits: specifically, the name of the artist, the name of the photographer, the commissioning agency, the date of the work, and a copyright ©.

INTELLECTUAL PROPERTY

Copyright

The artist retains all rights under the Copyright Act of 1976 (17 USC Section 101) as the sole author of the work for the duration of the copyright. The duration of copyright in the United States is currently the life of the author plus seventy (70) years. Title to the artwork passes to the client or commissioning agency/organization upon their written acceptance of and payment for the work; copyright belongs to and remains with the artist.

Although the City may “own” the work of art, the artist who created the work owns the copyright to the work of art, including all ways in which the work is represented, other than in situ. Artists may wish to register their copyright with the Federal government. The City will not request that artists waive or share any of their legal copyright privileges as defined and awarded by the Federal government. The City may, however, as part of their contractual agreement with the Artist, require that the Artist grant the City license to use the image of the Artwork for purposes of publicity, promotion, educational and other city purposes (See Right to Reproduce the Work).

Rights to Reproduce the Work

The artist and the City must each agree to the right to reproduce the artwork in any and all forms. Typically, artists will be asked to grant the City or commissioning agency/organization license to make two-dimensional reproductions of the work for non-commercial and educational purposes. The City or commissioning agency/organization in turn agrees to include a credit to the artist and a notice of copyright on all such reproductions.

Visual Artists Rights Act (VARA)

The Visual Artists Rights Act of 1990, known as VARA, (17 USC Section 106A) assures an artist’s protection of his/her “visual art” especially as it affects post-sale rights, including all drawings, sketches, and prototypes. Under VARA, artists have the right to prevent any intentional distortion, mutilation, or other modification to their work. In some cases where the art is integrated, (building, landscape, infrastructure, etc.) the City may ask the artist to waive their VARA rights in favor of a negotiated agreement.

It is standard professional practice that agencies agree not to intentionally alter, modify, change, destroy, or damage the work of art without first obtaining permission from the artist. However, the Commission recognizes that due to the ever-changing nature of cities, it may be impossible to guarantee that any work of art will remain where originally installed and may need to be relocated. Necessary changes to buildings and other infrastructure may require that artwork that cannot be removed may be altered, damaged or even destroyed. Artist’s contracts with the City must address this possibility as part of their agreement with the City by waiving VARA rights in favor of a negotiated agreement. If the artist’s work is accidentally damaged or altered, the artist has the right to request that the work not be attributed to the artist until such time as the work is fully restored.

CONTRACT INDEMNIFICATION

Indemnity refers to the party with ultimate responsibility for liability. In the event that there are injuries, damages and/or lawsuits, an indemnity clause will establish who will be responsible for paying the costs and any judgment.

Indemnification language could require a party to be responsible regardless of that party's actions or involvement in a situation that leads to liability. However, generally, indemnification responsibilities are limited to the scope of the work to be performed under the initial agreement and only apply when the indemnifying party somehow contributed to the situation that created the liability.

The City of Brookings endorses Mutual Indemnification for liability resulting from negligent or willful behavior because this is the best compromise between artist and client or commissioning agency. Suggested indemnification language may include, "The Parties shall and hereby agree to defend, indemnify and hold harmless the other party from liability that arises out of the Party's negligent or willful action.

INSURANCE REQUIREMENTS

Contracting agencies may request that the selected artist carry General Liability Insurance and Automobile Insurance. It is standard practice for artists to hold \$1,000,000 (one million dollars) in General Liability coverage per incident regardless of the size of the contract or project budget until final acceptance into the public arts program. If the Artist is an individual and not a company or corporation, Automobile Liability Insurance may be limited to the minimum required for individuals in the state. General Liability and Commercial Automobile Liability policies must be endorsed to name the City of Brookings as additionally insured.

Other insurance that may be required is Worker's Compensation Insurance (if Artist is an employer), Insurance Against Loss. Artists' subcontractors must provide the same insurance. Licensed professionals that the Artist may subcontract with, such as engineers, architects or landscape architects who sign and stamp construction documents shall also provide proof of professional liability insurance upon request.

PAYMENT SCHEDULES

Per the national art organization recommendations, the Public Arts Commission recommends payment of approximately 10% upon signing the contract and a retainage of approximately 5% until title is transferred to the City and a maintenance schedule has been submitted.

CONSERVATION AND MAINTENANCE OF ARTWORKS

Care of a public art collection is a continuing responsibility in which the City preserves the work of art as well as the collection in its entirety. It is recommended that all public artworks be maintained with attention to their unique materials. The Commission shall establish a regular maintenance schedule for each work in the collection and the artist of record shall provide maintenance instructions to the City of the work. The Commission will conduct an artwork inventory and evaluate the condition of the art annually to determine if any extraordinary maintenance is required. Maintenance and conservation treatment plans shall be part of the Commission's annual plan submitted to Council for approval.

The City will withhold final acceptance of the artwork until the artist has provided a maintenance plan or maintenance document because not all project elements will be overtly obvious to those

charged with evaluation (i.e.: projects in which landscape, water, and media made be integrated with the final project). The Artist shall be required to provide the City with copies of all construction documents, shop drawings, site/architectural plans and drawings, product specifications, warranties, and the names of all subcontractors, vendors and suppliers along with a statement of intent, so that it is understood how to maintain the site as conceived by the artist.

The Commission will manage an integrated Collections Management Program, including conducting regular inventory of artworks within the City’s collection, evaluation of the collection condition; initiate treatment proposals and consult with professional conservators as necessary and complete or contract for the maintenance, conservation and/or restoration of the works of art. Where feasible or desirable, the Commission will oversee the training of maintenance personnel by conservators and/or program staff to perform routine maintenance tasks like dusting or washing of an artwork or changing lightbulbs. The Commission shall also be responsible for updating project records and documentation, including the advice of a professional conservator during the development of design documents and prior to fabrication of the art, and maintaining documentation of all conservation treatments performed on artworks in the collection.

COMMISSION CODE OF ETHICS

The Brookings Public Arts Commission members and City staff are expected to adhere to transparent accountability while implementing the City’s public arts programs. In doing so, the Commission and the staff will not accept any work of art that violates clear title or transparent provenance or is in potential conflict with the United Nations Educational Scientific and Cultural Organization Convention ([UNESCO](#)), Native American Graves Protection and Repatriation Act ([NAGPRA](#)), or national protection acts, or the laws of the State of South Dakota. No Commission member, administrator, or collection staff may use his or her position for personal financial gain, to benefit another on the Commission, or to benefit an individual associated with the City. No Commission member, administrator, or director may use their position to allow use or transport of collections objects for private purposes. No Commission member or staff shall purchase objects for the collection from each other or take advantage of privileged information to compete for collections, acquisitions or donations. No Commission member, administrator, City staff, or elected official may obtain a tax benefit for a donation to the public art collection, nor offer formal written appraisals for objects that are under consideration for acquisitions or donation.

PUBLIC DISCLOSURE

All Brookings Public Arts Commission (“Commission”) meetings are open to the public. Meeting agendas and supplemental materials are posted according to City and state regulations and are open to the public. All agendas, minutes and other agenda materials are available on the City of Brookings website: www.cityofbrookings.org.

BEST PRACTICES/CORE VALUES

The City of Brookings will utilize Best Practices of the Public Art Network (PAN) Council and Americans for the Arts (AFTA) in managing its public arts projects and practices.

All organizations and entities commissioning Artwork should consider their process for developing projects and selecting artists in light of the principles in Americans for the Arts Statement on Cultural Equity.

ACQUISITION POLICY

BACKGROUND

This policy provides a framework for acquiring works of art through the Brookings Public Arts Program. The Brookings Public Arts Commission is responsible for the acquisition and maintenance of such art. The objective of the Commission is that the City of Brookings' public art collection represents Brookings' significance as an artistic community and aspires to touch the life of every citizen and visitor,

CRITERIA FOR PUBLIC ART PROJECTS

All public art projects accepted or funded by the Commission or the City must:

1. Promote meaningful collaboration between the artist, the City, and any other relevant parties;
2. Achieve high visibility, by being in an area where residents and visitors commonly congregate or travel.
3. Be composed of the highest quality materials and constructed according to best practices to achieve results that endure without requiring unusual maintenance;
4. Be well integrated into the context of the surrounding environment. Current usage, historic significance, nearby building materials, foliage and landscape features, public rights-of-way, and potential audiences are all relevant;
5. Be accessible to all, with special consideration to those with special needs. Access to public art must meet all requirements of the Americans with Disabilities Act and other relevant laws; and
6. Be primarily an artwork of artistic merit of known authorship, and not an advertisement for any commercial establishment, or be an object whose main identity is as an artifact of primarily historical or religious interest.

SELECTION OF ARTISTS

It is the Commission's responsibility to oversee and approve the selection of artists for public art projects. The Commission shall establish an Artist Selection Panel for each public art project. Representation on the panel shall include:

- 1-2 members of the Commission;
- A representative of the host site or department;
- A project architect or landscape architect if appropriate;
- 2-3 Arts Professionals or Artists;
- A Community Representative.

The primary objective of the selection process is to select an artist whose experience, aesthetic, commitment to collaboration and community fabrication skills align with the needs of a given public art project. The selection process will be conducted in an open and consistent manner. All selections will be awarded on a competitive basis.

Potential election process models include:

Open Call: For projects with an anticipated cost of over \$25,000 the Commission publishes a Request for Qualifications (RFQ) open to all interested artists. To apply, artists are asked to submit examples of their past work and qualifications for consideration. RFQ's may be issued for specific projects or to establish a pre-qualified pool for consideration for a number of projects. Upon establishing the applicant pool, the Selection panel may then proceed as follows:

The selection sub-committee will review the submissions to select a short list (3-5) artists who will be paid an honorarium to develop site proposals. The panel will then reconvene to review the project proposals and make a recommendation for the winning proposal to the Commission for approval. For the proposal phase, artists will be given 4-6 weeks to develop their proposal. Proposals should only be requested when the commissioning agency/organization is prepared to consider the proposal as a conceptual approach to the project and not the final design. All proposal materials should be returned to those artists not selected for the project, and the authority representing the commissioning agency/organization should assume that all ideas presented for the project, including copyright, belong to the artist. For some projects, it may be preferable to select finalists for interview before selecting one artist to recommend to the Commission to seek a full proposal, or the panel may make a direct selection of an artist based on the panelists' ranking of the applicants.

Select Call: For small projects (under \$25,000) the Commission may solicit proposals from a select group of artists without public advertisement. The selection sub-committee will review these submissions and make a recommendation to the Commission.

Direct Call: For projects with budgets below \$10,000 or for when the artist is, for some specified reason, the sole provider of the artwork, the Commission may make a direct call. Examples of sole source provider would be if, for instance, there is a need to repair, restore or expand that particular artist's artwork, or if the project calls for a media or approach for which there are no other qualified practitioners within a reasonable geographic area.

REQUEST FOR PROPOSALS (RFP)

Artist or Community-Initiated Projects: The Commission may consider funding for Artist-Initiated or Community-Initiated projects (for which the artist has already been selected) in addition to Commission-Initiated projects. Such projects will be evaluated on an annual basis so that proposals may be considered on a competitive basis. Funding such projects is entirely at the Commission's discretion and based on available funds and funding priorities. As per the Commission's authority, all proposals for art on City property must be approved by the Commission, regardless of whether or not City funding is awarded.

Purchases: The Commission may request the submission of pre-existing artwork for consideration for purchase for display in public sites. For such purchases, the Commission will issue an RFP, which will describe the criteria for the artwork and range of purchase price.

GENERAL REQUIREMENTS:

All submissions must include evidence of previous work and credentials but should not include a specific project proposal (except in the case for of artist initiated proposals). Calls for entries must be sufficiently detailed to permit artists to determine if their work is appropriate for the project

under consideration. All solicitations must state that entry into the selection process constitutes an agreement to all conditions set forth during the process, and that entry constitutes permission for the Commission to photograph or scan any accepted work, photo or slide for use in promotional materials, websites, films, television programs, videos or archival records produced by the City.

At any time during the selection process, the Commission may request to see the original work (if it exists at the time).

Every acquisition carries with it an explicit responsibility that it be displayed, maintained, preserved and documented. This is a permanent, ongoing commitment unless otherwise specified.

Artwork will be selected based on:

1. Quality of the work's construction;
2. Aesthetic merit and originality of the work;
3. Benefit to the City's public art collection;
4. Appropriateness of the work's scale, materials and content for the proposed site;
5. Financial considerations, including sources of funding and maintenance costs;
6. Susceptibility to damage, vandalism, or theft;
7. Potential for public endangerment;
8. Technical feasibility;
9. Timeline for acceptance of the work;
10. Donor restrictions;
11. Availability of the proposed site;
12. Suitability of an available site.

DEPARTMENT INPUT

Whether working to select artwork for a designated site or selecting a site for an already acquired artwork, the Commission strives to get input from relevant City departments. Relevant departments will typically be either a department receiving artwork for its building/grounds or a department whose general responsibilities will be materially impacted by the placement of artwork at a particular site. The Commission and/or staff will contact the director of a relevant department(s) to discuss potential sites and will invite the director to serve on any formal selection committee. The Commission encourages participation by the relevant department director. Selection processes are determined by the Commission and vary by project. The Commission and/or staff will ask the director of the relevant department to provide any concerns they have concerning the sites and/or their impact on department operations before a selection process begins

DONATION POLICY

The City of Brookings subscribes to a policy of selective acquisition of art with preference for works of art that are of significant artistic merit, meet the city's collection guidelines, and are of relevance to the city's history, culture and collection priorities. Care and discernment are exercised in acquiring artworks because of limitations of staffing and finances to manage the public art collection and the desire to collect significant art of high quality.

Donations are an important part of the City of Brookings' art collection. The city has limited funds for administration, protection and maintenance. Likewise, there are a limited number of suitable municipal sites appropriate for the installation of artwork (see opportunities map). To ensure the quality of the collection, the Commission uses the guidance in this policy to decide whether a proposed donation is appropriate for addition to the City's collection. The Commission accepts only those works that will, in its discretion, further the goals of the Public Art Guidelines.

The Commission requests individuals or entities interested in donating artwork must follow the City's donation proposal process. Individuals or corporations interested in donating a work of art must complete an official donation application and submit it to the Brookings City Clerk. The donation proposal form is available on the City website.

Funds to maintain artworks in the City's collection are limited. Therefore, when accepting a gift into the City's collection, the Commission may require the donor sign a maintenance agreement or establish a maintenance endowment to ensure an adequate quality of care for the artwork. It is unlikely that the Brookings Public Arts Commission will consider any donation that requires immediate or extensive maintenance.

The Commission reviews gifts during their meetings, which are announced publicly on the City website. After review, the Commission may choose to accept or decline a gift, or to table an offer.

COLLECTIONS MAINTENANCE POLICY

INVENTORY

BACKGROUND

The Commission will develop an inventory of the public art program collection in Brookings. A copy of the public artworks inventory will be updated annually and made available on the City website.

PROCESS

Information regarding newly acquired artworks should be entered into the inventory and database by the Commission as the artworks are installed. The inventory should be structured and managed, so as to be a resource to community residents and visitors seeking to view Brookings' public art collection. Current information is included as an addendum.

Ideally, the following information will be recorded in the inventory and database:

1. Title of the artwork
2. Medium
3. Dimensions
4. Photograph(s)
5. Value, if available
6. Artist
7. Location
8. Year created
9. Year acquired
10. Donor, if donated
11. Maintenance/conservation instructions

MAINTENANCE POLICY

BACKGROUND

The goal of the policy is to maintain the City's collection of publicly owned artwork to ensure Brookings citizens' long-term enjoyment of the collection. The Public Art Maintenance Policy provides the documentation, preservation and maintenance processes, which will support this goal. The Public Art Maintenance Policy will be implemented on a piece-specific basis that recognizes the value of each work of art in the collection.

Documentation includes, but is not limited to, periodic condition reports, records of actual maintenance performed and an assessment of those efforts, photographs, artist's maintenance recommendation, methods and materials information, potential problems with the work, finishes information (e.g., painter's name; when, where, what, and how the piece was finished), quality of materials used, installation information, warranties and professional and other knowledgeable opinions regarding preservation and maintenance. The documentation may also include the artist's resume, artwork history, where the work has been exhibited, and a personal interview with the artist.

Preservation includes placement, installation, security, regularly scheduled maintenance and emergency repairs (with consideration of the natural process of aging).

Maintenance will be performed according to a scheduled piece-specific plan to clean, repair, and preserve each piece in the public collection. This plan will include measures to assess the ongoing effectiveness of preservation.

PROCESS

Documentation. The initial documentation will occur before a piece is accepted into the City collection. A standardized form will be used for this purpose. The Commission will identify appropriate City departments and staff, outside contractors, service people and experts to review this documentation.

Documentation will reside in the official City records. The Commission will be responsible for creating and maintaining the documentation. The Commission will use the projected cost of maintenance as one consideration in its final determination of acceptance and placement. Although documentation and maintenance recommendations alone will not be used to specifically exclude artwork from the City collection, the recommendation may play a role in that final determination.

Maintenance and Conservation Documentation: When an artwork is accepted into the City collection, an initial level of maintenance and a maintenance schedule will be established for it. The documentation will include a standard for regular maintenance (e.g., timing, type of maintenance) and will identify any maintenance issues that may require special attention. Each medium will require knowledgeable people to develop maintenance criteria. In addition, the maintenance criteria may include future historic and aesthetic considerations for each piece. The maintenance documentation may be reviewed and revised as needed with the artist's input and permission.

Annually, the Commission will initiate an inspection and condition report. Paid professional condition appraisers/conservators and/or knowledgeable volunteers, craftspeople or industry experts will perform the inspection of each piece. The inspection and condition report will become part of the permanent documentation of the specific piece and will be filed with the official records of the City.

Paid professionals and/or trained City staff will perform regular maintenance according to the maintenance schedule and condition report for each specific piece annually. The Commission will initiate and coordinate the regular maintenance activities.

Emergency Maintenance or Repair. The Commission will be notified of the need for emergency repair before any work is done. Paid professionals and/or trained City staff will perform emergency maintenance or repair on a timely basis.

Policy Implementation. Designated City staff and a sub-committee of the Commission will implement and monitor the Public Art Maintenance Policy and will report to the Commission annually, or more often if needed, on the status of art work maintenance. City staff will oversee the quality control, evaluation and corrective maintenance actions carried out by this policy.

Funding. Funding for maintenance will be established through a budget developed by the Commission and presented to the Commission each November. Funds will come from the Brookings Public Art Fund. Maintenance funding will take precedence over art purchases.

Contract Services. Contracts with paid professionals/craftspeople will follow established City guidelines and will be handled through the appropriate City department.

PUBLIC RIGHT-OF-WAY POLICY

BACKGROUND

This policy is to provide visual arts planners with general guidelines to consider when developing installations that impact the public right-of-way (PROW). The goal of this collaborative experience is to support the maintenance and growth of the public and private art collections within the City of Brookings and to enhance our community's quality of life.

STANDARDS

The City of Brookings utilizes the Manual of Uniform Traffic Control Devices (MUTCD) when determining uses, signage, visual sightline requirements, and other matters that impact the PROW. The MUTCD is nationally accepted as the primary standard for these requirements.

INSTALLATIONS ADJOINING THE PROW

When considering installations along the PROW, the following factors shall be considered in making a determination about a particular installation.

1. ADA requirements: For example: does the installation impact the egress of a person with disabilities;
2. Impact on flow of pedestrians, bicycles, or traffic: For example: does the installation cause undue interruption of the flow of individuals on a sidewalk or cross walk;
3. Safety impacts; and
4. Maintenance requirements that may be created by the installation.

INSTALLATIONS WITHIN THE PROW

When considering installations in the PROW, the following factors shall be considered in making a determination about a particular installation.

1. ADA compliance
2. Impact on flow of pedestrians, bicycles, or traffic
3. Safety impacts
 - a. Does the installation cause undue distraction for drivers, so that vehicles are more likely to cause accidents from slowing?
 - b. Does the installation cause a blockage of sightlines such that safety for drivers, pedestrians or cyclists is compromised?
 - i. These sightlines will be different in each installation, so size may be a factor at certain locations. For example, in an installation at a traditional intersection location close to the sightlines at the corners may create a significant hazard; or within a roundabout, installations that create blind spots for drivers related to pedestrians will create a significant hazard.
 - ii. The height of installations is not generally an issue except when a foundation structure is required that may limit visibility for pedestrians in wheelchairs or may cause drivers to “rubber neck” for better viewing.
 - c. In installations that are within the PROW, project planners must be sensitive to pieces that may draw pedestrians into the traffic flow for viewing. In roundabout situations, this is a critical factor as a round-about is developed to keep speeds relatively high and do not have clear locations for drivers to stop. Generally, roundabout islands are not designed in such a manner as to accommodate pedestrian traffic. If a piece is designed into a roundabout prior to construction, it may be possible to create and place design elements that can accommodate these issues. It is also recommended that recognition for pieces (artist signatures, piece descriptions, etc.) be placed outside of the roundabouts’ flow of traffic versus on the island itself.
4. Maintenance requirements that may be created by the installation.

COLLABORATIVE EFFORTS

In cases where the Commission is seeking to locate a piece adjoining the PROW or within the PROW, prior to final selection, the City Engineering Department requests a sketch drawing with estimated measurements be provided. The earlier in the process that detailed information can be provided, the better staff will be able to identify potential issues. Appropriate City staff will review the particular piece for the factors noted above. If the department has particular issues with one or several factors, the City Engineer will provide a detailed description of the issues to the Commission with recommendations concerning possible adjustments that may remedy the noted issues.

POST-INSTALLATION

If an issue arises, the City Engineering Department and the Commission will work collaboratively to develop a post-installation monitoring plan for traffic flow, accident data, and other factors to determine if future alterations to the installation are necessary. If site alterations are identified, staff will work with the Commission to develop possible remedies to alleviate the noted impacts.

DEACCESSIONING POLICY

BACKGROUND

Deaccessioning is a procedure for withdrawing the display of a work of art from the City of Brookings' public collection. As part of the ongoing evaluation of the collection, the Commission will review the Permanent Collection when deemed appropriate. Works of art that came into the City collection prior to adoption of this policy will be subject to this deaccessioning procedure. The Commission is responsible for deciding whether any piece(s) should be deaccessioned.

CRITERIA

Deaccession is the procedure for the permanent removal of a work from the City's collection. An artwork may only be considered for deaccession for these reasons:

1. It has deteriorated or has been damaged such that restoration is impractical, infeasible, or would render the work false;
2. It no longer exists due to theft, accident or natural disaster;
3. It requires excessive maintenance or is found to be of inferior workmanship;
4. It is demonstrated to be fraudulent, not authentic or in violation of copyright law;
5. It endangers public safety;
6. Its site has experienced significant changes that prevent its continual display and no suitable replacement site is available;
7. Its security cannot be reasonably guaranteed;
8. It is not regularly on display, with no plans for its future display; or
9. It has been determined to be significantly incompatible or inferior in the context of the collection.

Artwork may only be removed from the City's collection through deaccession after careful and impartial evaluation of the artwork within the context of the City's collection by the Commission. The deaccession evaluation must include:

1. A good faith effort to inform the artist or the artist's estate that the artwork is being considered for deaccession;
2. A review of all pertinent accession documentation, including a review of legal documents by the City Attorney;
3. A written recommendation on deaccession by an independent art professional such as a curator, conservator, historian or architect; and
4. A review of any pertinent written correspondence, media coverage, and other evidence of public opinion.

If the Commission deems deaccession appropriate, it will submit a formal recommendation, including a written statement of findings to the City Manager. If the City Manager decides that deaccession is appropriate, the artwork will be disposed as follows:

1. The artist or estate of the artist will be given first option to acquire the work through purchase, exchange, or other terms as determined by the Commission;
2. The artwork may be sold in accordance with all relevant laws governing surplus public property and all resulting proceeds will be allocated to the Public Art Fund;
3. The artwork may be loaned to a gallery, museum or similar institution; or
4. The artwork may be donated to a gallery, museum or similar institution.

The City is responsible for all costs associated with the removal or relocation of the artwork unless another person or entity agrees to assume these costs. Any proceeds from the sale of public art belongs to the Public Art Fund. A record of deaccessioned artwork will be kept with the documentation of the City's collection.

ALTERATION, MODIFICATION, OR DESTRUCTION OF ARTWORK:

It is the primary responsibility of the Commission to preserve and protect the art collections under its management for the City of Brookings. However, under certain conditions, and in accordance with the constraints of the Visual Artists Rights Act of 1990 (17 U.S.C. 106A and 113 (d), known as VARA, or in the case where the Artist has waived their rights under CAPA and VARA, in accordance with the City's contractual agreement with the artist, the Commission may authorize actions that would alter, modify or destroy an artwork.

CONDITIONS:

Removal and disposal, destruction, alteration or modification of an artwork may be considered under the following circumstances:

The work has faults of design or workmanship, or is damaged so that repair or remedy is impractical, infeasible or is an unjustifiable allocation of resources.

The work poses a threat to public safety, or in some other way poses a potential liability for the City. In the event that the condition of the artwork represents an imminent safety hazard, and cannot be removed without risk of damage or destruction, the Commission will proceed in accordance with the provisions specified under "Emergency Removal."

The Commission deems it necessary in order for the City to exercise its responsibilities in regard to public works and improvements, or in furtherance of the City's operations, or for any other good cause.

OPTIONS:

If, for any of the above reasons, the City finds it necessary to pursue plans that would modify, remove, destroy or in any way alter an artwork, and the Commission approves such action, then the Commission shall make a reasonable effort to notify the artist by certified mail of the City's intent, and outline possible options, which include, but are not limited to the following:

Transfer of Title to the Artist: The artist will be given the first option of having the title to the artwork transferred to them. If the artist elects to pursue title transfer, they are responsible for the object's removal and all associated costs.

Disclaim Authorship: In the case where the City contemplates action which would compromise the integrity of the artwork, the artist shall be given the opportunity to disclaim authorship and request that their name not be used in connection with the given work. Alteration, Modification or Destruction: If alteration, modification, or destruction of an artwork protected under the Visual Artists Rights Act of 1990 is contemplated, the Commission must secure a written waiver of the artist's rights under this section. In the case of an emergency removal that may result in destruction or irreparable damage, the City Manager will act in accordance with the advice of the City Attorney.

OPPORTUNITIES & PARTNERS

OPPORTUNITIES MAP

The Commission will initiate the development of an inventory of public property upon which public artworks may be located within the City of Brookings. A copy of the Public Art Opportunities Map will be made available on the City website. Information regarding public property on which public artworks may be located should be entered onto the Public Art Opportunities Map by the Commission as potential locations are identified. The map should be structured and managed so as to be a resource to the community as well as groups or individuals wishing to place artworks on public property.

INTEGRATION

In addition to its responsibilities of acquiring and maintaining public art, the Commission is a resource for the City of Brookings. Other City departments as well as the Brookings City Council are encouraged to seek input from the Brookings Public Arts Commission to integrate the arts throughout the City, in its building projects and in the City's master plan. Opportunities for input could include, but are not limited to:

1. Construction and maintenance of streets, boulevards and public right of ways
2. Construction of bike lanes and bike parking

3. Beautification of common items such as electric boxes, sidewalks, street signs, etc.
4. Public parks and spaces
5. Other building projects that may provide opportunities for public art including alleys, walls and underutilized spaces
6. Integrate public art opportunities in the City's 5 Year Capital Improvement Plan

PUBLIC-PRIVATE PARTNERSHIP

The successful creation and execution of a strategy for public art in Brookings, South Dakota requires a collaborative network of public and private partnerships. The City alone does not have the staff or resources to acquire an extensive inventory of public art. The private sector alone cannot place art on public or City property. Together, the public and private sectors can translate the community vision of supporting the creative class and high quality of life in Brookings into a systematic program for the selection, acquisition and display of public art, including pieces on City property.

No work of art financed or installed either wholly or in part with City funds or with grants procured by the City shall be installed on privately owned property without a written agreement between the Commission, acting on behalf of the City and the private property owner. The City shall specify the proprietary interests in the work of art and specify other provisions deemed necessary or desirable by the City Attorney. In addition, such written agreement shall specify that the owner of said private property shall assure:

1. That the installation of the work of art will be done in a manner which will protect the work of art and the public;
2. That the work of art will be maintained in good condition; and
3. That insurance and indemnification will be provided as is appropriate.

OWNERSHIP IN A PARTNERSHIP

It is anticipated that most of the public artworks displayed on municipal property or public art easements will be either owned by the City of Brookings, private foundations, charitable organizations, individuals, or displayed on municipal property through a license agreement. In some instances, privately owned artworks suitable for display on public property may be secured through a loan agreement.

Public artwork is to be identified with a plaque or marker identifying the City (e.g., "City of Brookings Public Art Collection") the artist's name, title of the work, and year created. The plaque or marker may include the name(s) of the donor. Corporate script or logos are not permitted.

MONETARY PARTNERSHIP

With these goals in mind, several mechanisms of public and private funding should be considered. Financial contributions and gifts by corporations, private individuals and foundations can leverage limited public dollars. Regardless of the source, it is important to know what constitutes usual and customary expenditures for public art projects. The following items represent the types of expenditures generally associated with the commissioning and placement of public artwork. The following are representative of expenditures to be considered:

1. Cost of actual artwork.
2. Artist and artwork selection related expenses, including proposal and project related honoraria.
3. Documentation and public education materials.
4. Pre-design, design, planning and service contracts.
5. Expenses for technical assistance provided by architects or engineers.
6. A designated fund for project costs, maintenance, restoration and conservation.
7. Site preparation.

With these considerations in mind, a combination of public and private investments as described above will allow the City of Brookings to develop a robust public art collection that will enhance its environment for generations to come.

Donors may contribute money to acquire, install and/or maintain art. Gifts should be directed to the City of Brookings - Public Art Fund. The City of Brookings serves as the entity that collects, controls and administers the investment of the contributed financial resources in public art.

Donations from the private sector or grants from the private or public sector shall be encouraged as a means to broaden the existing program potential. These funds shall be maintained in a separate fund for the public art program.