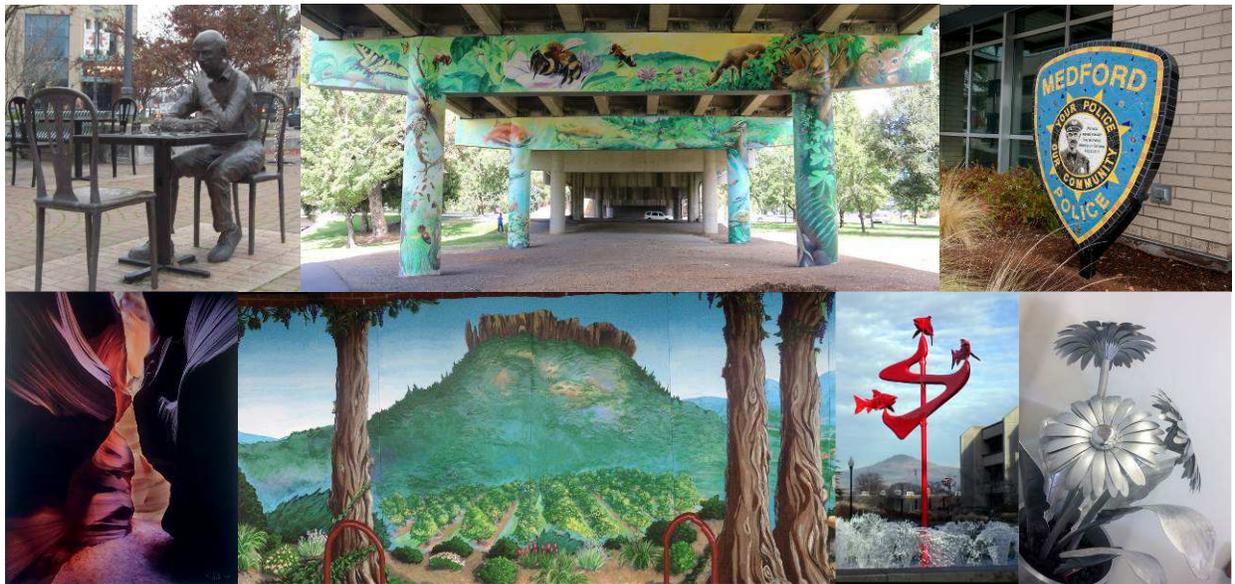




PUBLIC ART SELECTION & ACQUISITION POLICY



**MEDFORD ARTS COMMISSION
MEDFORD, OREGON**

**ADOPTED 2009
REVISED JUNE 2018**

City of Medford

Public Art Selection and Acquisition Policy

1. PURPOSE & INTENT:

The City of Medford Art Commission (MAC), established under Medford Municipal Code Section 2.438, seeks to enhance and improve the city through the development of a public arts program. The Commission's goal is to:

- Develop a program that contributes to and enhances community identity and pride.
- Provide the highest quality artwork available, promoting excellence and demonstrating diversity and variety of media.
- Encourage public participation and interaction with public spaces.
- Enrich the public environment for both residents and visitors through exposure to the arts.

The following policies and guidelines, as adopted by the commission and reviewed by the Medford City Council, establish the process, policies and procedures used for the solicitation, review, approval, and acceptance of public art in the City of Medford.

2. DEFINITION:

As used here, in all communication by the MAC, and by the City of Medford, *Public Art* is defined as follows:

The policy refers to public art as an activity so that it captures all art forms that take place in a public space. Public art activity is defined here to include permanent, temporary and performance art, and the conceptual contribution of an artist to the design of public spaces. Works of craft or art in any medium that has been reviewed against adopted and standardized criteria, approved, and formally accepted for ownership by the City of Medford for installation in public locations, in or on publicly owned buildings, on publicly owned land, or in or on other locations leased or provided to the City through donation, easement or other means for a period of not less than five years duration.

All art, sculpture or other works owned by the City of Medford acquired through any means or process and located in or on publicly owned or controlled buildings or land at the adoption of this policy are, by definition, *Public Art* as herein defined.

3. LEGAL AUTHORITY:

The MAC was created and authorized by Section 2.438 of the Municipal Code, specific sections of which (as cited) empower the Commission to:

4(a): Act on behalf of the Council on matters pertaining to the selection, acquisition, siting, restoration and preventative maintenance of public art for the enjoyment of the citizens. This shall include the hiring of consultants to assist in the development of public art programs and procedures.

4(b): Advise the Parks and Recreation Commission concerning the acceptance and disposition of gifts of art to the City.

4(c): Act in conjunction with the Parks and Recreation Commission on matters pertaining to arts education and promotion, artist's recognition and encouragement of the arts and artistic performance to help foster broad participation in and understanding of the arts and their value to the Medford community.

4(d): Assist City staff in obtaining gifts and grants for the arts fund, which shall be used for support of arts programs/activities and the procurement of public art for the enjoyment of the citizens. Advise City Council of funding needs for arts to attain the desired vision for arts and culture in Medford.

4(e): Assist City staff with the administration of the 1.5% for art program, which allocates funds from specific City building and remodeling projects for the incorporation within and or inclusion of public art to the project.

4(f): The Chairperson or designee will serve as liaison to the Medford Parks and Recreation Commission regarding the placement of public art and scheduling of arts and cultural events in Medford public parks.

There are no Oregon cases applying Article I, Section 8 of the Oregon Constitution in the public art context that we have been able to locate. There is authority under the First Amendment to the United States Constitution, however, suggesting that when the government is acting as a patron of art, or is displaying art in publicly owned places, there is greater (but not unfettered) leeway to distinguish based on content than when the government is acting in a regulatory capacity. *National Endowment for the Arts v. Finley*, 118 S Ct 2168, 141 L Ed 2d 500 (1998)

3.1. Relation to Sign Code:

In placing and supporting public art on city owned and/or controlled sites, the City of Medford acts as a patron of the arts, not as a regulator, and is accordingly free to approve or deny projects according to its own art acquisition goals. *Public Art* approved and adopted under these policies, whether developed as two- or three-dimensional installations, including statues, murals, friezes, or other works, placed on sites owned or controlled for not less than five years by the City of Medford, is therefore exempt from the provisions of the Medford Sign Code.

In locating any proposed public art within special zoning overlays, particularly those portions of the City recognized for their historic significance, the MAC will incorporate other City of

Medford goals or review authority to assure that public art is consistent with all city objectives and priorities. In a historic district, the MAC will solicit the City of Medford planning department and the Landmarks and Historical Preservation Commission input when considering public art projects.

4. PUBLIC ART ACQUISITION PROCESS:

All public art will be sited, evaluated and accepted by the City of Medford following a standardized process that assures fairness and public input. All public art will be reviewed and accepted into city ownership only through the following process.

4.1. General Criteria:

Assuring the highest quality of aesthetic experience for the citizens of Medford is the primary criterion for selection of public art. The objective is to develop a worthwhile, enduring, and varied collection of artwork in city buildings, public spaces and other appropriate spaces secured through long-term lease or easement. In commissioning or accepting public art the following general criteria apply:

- A. Media: All visual art forms and materials will be considered.
- B. Style: Artwork reflecting any school, movement, method style will be considered.
- C. Range: Artwork may be functional or non-functional; conceptual or tangible; portable or site-specific; including folk art, craft or fine art.
- D. Character: Artworks must be appropriate in scale, media, style, and content to the project and environment to which they will relate.
- E. Permanence: Consideration should be given to structural and surface integrity and the use of materials appropriate to the location so as to minimize or eliminate maintenance and repair costs.
- F. Public Safety/ Liability: Artworks and art places must be free of unsafe conditions or other factors bearing on public liability.
- G. Diversity: In selecting works, the City will strive for diversity, reflecting the social, ethnic and cultural fabric of the community.

4.2. Funding:

Funding for purchase or commission of specific works of public art or the development of any base funding process is required prior to the initiation of a public art project. Such funding may be developed through the City budget process, grant or fund-raising activities, private or corporate donations, or any other process of the MAC in accordance with its rules.

The Public Art Selection and Acquisition Policy does not obligate or guarantee funding for public art.

4.3. Site Selection:

The initial step in any public art project is the identification of an approved site for the installation of public art. In the selection of locations for the installation of proposed public art, the MAC strives to place public art in appropriate sites throughout the community with the objective of providing quality art to the greatest number of citizens. The objective is to develop a worthwhile, enduring, and varied collection of artworks in city buildings, public spaces, and appropriate other spaces secured through long-term lease or easement, that enhances, enlivens, and enriches the City while reflecting the values of the community.

4.3.1. Site Determination and Acquisition

Sites for public art may be determined or selected in several ways, including but not limited to, the following:

- A. The City, acting through the Council, City Department, or other entity, utilizing 1% for the Arts funding, dedicates a property or site to public art as an element in new construction.
- B. The City, acting through the Council, City Department or other entity, chooses to designate all or a portion of a city-owned property or site for public art purposes.
- C. The legal owner(s) of a private property or other location meeting the site selection requirements may donate a Public Art Easement (minimum duration of five years) to the City for the placement of public art.
- D. The MAC may solicit the donation of private property for the display of public art.
- E. The MAC may negotiate and purchase a Public Art Easement for the display of public art provided such term is not less than five years duration.
- F. The MAC may, using funds raised for that purpose, purchase property or otherwise obtain sites for public art purposes.

4.3.2. Site Selection Criteria

In the context of selecting a site for public art installation, the following guidelines apply:

- A. The City will obtain, through a binding Public Arts Easement Agreement, donation, or purchase, a clear and binding right to utilize the site for public arts purposes for a period not less than five years.
- B. For public art proposed within City of Medford right-of-way, the location has been reviewed and accepted by the Public Works Director who may establish reasonable site limitations on the installation to assure public safety or other public needs.

- C. The location satisfies the Commission's objective of distribution of art throughout all areas of the city.
- D. The location is regularly visible or accessible to the public.
- E. The location is accessible under the requirements of the American for Disabilities Act, if such access is necessary for the art to be viewed.
- F. The location provides adequate lighting, if appropriate, to view the art or there is a binding commitment to assure that such can be provided within a reasonable time frame.
- G. The location, including the surface or structure upon which the art is to placed is both sound and in good repair, or there is a binding commitment to assure that it is made so within a reasonable time frame.
- H. Reasonable security from vandalism/theft can be provided as a part of the project design.
- I. Reasonable protection from the elements is available at the site, or the selection will be limited to materials appropriate for the site.
- J. A maintenance agreement with the property/building owner has been executed.

4.4. Selection Panel:

After a site meeting the criteria of Section 4.3.2 has been reviewed and accepted by the City as an appropriate public art location, an art selection panel will initiate the process of determining the work to be placed. All public art in Medford will be determined through a process governed by a selection panel. The objective of the Selection Panel is to allow for broad representation of both commission and community interests in the selection of public art.

For each approved site for public art, the MAC will designate a Selection Panel to oversee the art selection process. In situations where acquisition costs are \$5500 or less, the MAC or a subcommittee thereof may serve in place of the Selection Panel as outlined below.

The MAC may, according to its own requirements, establish a panel for a given term, on a project-by-project basis, or by any other criteria it determines appropriate, provided only a single panel is responsible for any given project for the duration of that project. The Commission may constitute multiple selection panels at any given time, each dedicated to one or more projects. Except as modified by 4.4.1(F), all appointments shall be the duty of the chair of the MAC.

4.4.1. Each Selection Panel will consist of a minimum of seven (7) members, as follows:

- A. Two (2) members of the MAC, one of whom will serve as Selection Panel Chair.
- B. One (1) arts professional, if available. A qualified member of the MAC may serve in this capacity. Appointments will specifically exclude dealers, agents or representatives of artists applying or working before or with the panel.
- C. Two (2) interested members of the community-at-large.
- D. One (1) representative of the public department (where the work is being commissioned/installed on City-owned property) or a resident of the Council Ward in which the project is to be located.
- E. One (1) member of the architect or design team, or of the non-public site owner, if applicable. If no architect, design team member, or non-public site owner is involved, a second arts professional will be appointed.
- F. LHPC Liaison: When the site under consideration is located within a locally or nationally designated historic district (i.e. Medford Downtown Historic, the Geneva-Minnesota Historic District, etc.) or upon any individually designated City of Medford Landmark or National Register listed property, the MAC chair will request the appointment of a liaison from the Medford Landmarks and Historic Preservation Commission to serve on the Selection Panel. The liaison shall be appointed by the chair of the Medford Landmarks and Historic Preservation Commission.

4.4.2. Duties and Responsibility of the Selection Panel

The Selection Panel shall work within the project parameters established by the MAC, including overall budget, site constraints, and program goals. The Selection Panel's duties shall include the following:

- A. Choose a method for selecting an artist by one of the options outlined below at 4.5.
- B. Based on the established budget, develop a realistic project scope, and determine if the budget is sufficient to warrant advertising for artists locally, regionally or nationally.
- C. Except as modified by 4.5, the Panel will draft, print and distribute a Request for Proposal (RFP) using the City's standard form plus any specific instructions relative to the chosen site. The RFP will provide a clear statement of project goals, a copy of the site plan, if applicable, and any other materials or considerations related to the project review.
- D. Advertise for RFP using normal distribution methods, providing adequate time for artist response.

- E. Review, evaluate, and discuss credentials, proposals and/or materials submitted by the artists.
- F. Via majority vote, recommend the award of the commission or decide to further investigate any chosen finalists.
- G. If further investigation of finalists is decided, draft a list of information and/or additional materials required. Conclude investigation as rapidly as possible, convene for further discussion and, via majority vote, recommend the award of the commission.
- H. Inform the MAC in writing of the Panel's decision, citing reasons for the selection.
- I. If the Selection Panel cannot reach an agreement, the matter will be referred to the MAC.

The Selection Panel retains the right to make no selection if, in its opinion, there is insufficient merit among the submissions. If this occurs, the MAC will determine whether to recommend that the project be abandoned, begin a new selection process, or take some other course of action. In all cases the Selection Panel decision is an advisory one, with final authority remaining with the MAC.

4.5. Art Selection Methods:

Artwork may be selected by purchase, commission, donation, or by contract with the artist as part of a design team. An artwork may also be selected for purchase on its own merit, independent of the artist. Types of selection are as follows:

Limited Competition A small number of artists are invited by the Selection Panel to submit proposals.

Open Competition All artists are welcome to apply, subject to limitations established by Selection Panel.

Artist Invitation Based on reputation and experience, an artist is invited by the Selection Panel and requested to develop a proposal. In such a situation the Commission may compensate the artist for the proposal, if determined appropriate.

Direct Purchase The Selection Panel may choose to purchase a piece of existing art, from a gallery or dealer, from a private individual or from the artist directly

Donation Triggered by a citizen offer to contribute artwork to the City, the Selection Panel will review the work in terms of whether it satisfies the stated "Criteria of Artwork" elements, and whether a suitable and appropriate site exists to exhibit the artwork (*See Art Donations Policy Section 6.0*).

4.6. Art Selection and Approval:

Artists will be chosen on the basis of their qualifications as demonstrated by past work, past experience with public art, and successful completion of previous projects similar in scope and scale. Selected artwork will be original work completed by the submitting artist. Emphasis will be on regional artists whenever possible.

The following criteria govern the selection of public art in the City of Medford and will be utilized by both the selection panel and the MAC during the process of review, selection and approval of public art.

- A. Artistic Quality and Originality: The strength and originality and creativity of the artist's concept and demonstrated skill or craftsmanship. (20 Points)
- B. Context: The appropriateness of the concept within the proposed architectural, geographical, socio-cultural, and historical context, including use of appropriate scale and materials for the site. (20 Points)
- C. Diversity: Issues related to race, age, style, and media of the art within the context. (10 Points)
- D. Feasibility: Budget, timeline, and probability of success. (10 Points)
- E. Design & Construction: Issues related to fabrication of the installation, its durability, resistance to vandalism, long-term maintenance issues, and weather permanence. (10 Points)
- F. Support: Demonstrated community agreement/support for the project. (10 Points)
- G. Public Safety: Meets any and all applicable building codes for public projects. (10 Points)
- H. Other: The MAC may adopt other project specific criteria pertinent to special considerations of the site, the project, or the commission's specific intent, provided such criteria are clearly and completely stated in the Request for Proposal. (10 Points)

4.7. Responsibility of the Artist:

If selected for a commissioned artwork by the City of Medford, the artist will:

- A. Sign and abide by the terms stated within a Personal Services contract with the City of Medford.
 - 1) Artist retains all rights and interest in the artwork except for rights of ownership and possession, as passed to the City upon final acceptance.
 - 2) Artist retains all rights under the Copyright Act of 1976. The artist, however, agrees not to make an exact duplicate of the work or permit others to do so, except by written permission of the City.
 - 3) Artist grants to the City an irrevocable license to make two-dimensional reproductions for promotional purposes. The City agrees to give artist appropriate credit on all such materials, including copyright symbol, name of artist, title of piece, and date of completion.
- B. The Artists warrants that:
 - 1) The artwork is made of quality materials.
 - 2) The artwork is free of defects.
 - 3) The artwork is an original product of the artist's own creative efforts and does not infringe on any third party's copyrights or other intellectual property rights.
 - 4) For exterior installations, the proposed work complies with the City of Medford Maintenance Standards.
- C. Execute and complete the work in a timely and professional manner.
- D. Maintain an effective working relationship with the project team and staff.
- E. Advise the MAC immediately of any significant changes to the scope, materials or design of the work after contract is signed (all changes must be reviewed and approved prior to completion, in accordance with the City requirements).
- F. Be responsible for all design and execution of the work, including site preparation and installation, unless otherwise stipulated in the contract.
- G. Provide written maintenance guidelines, including recommended products, where appropriate, to guide city staff in the long-term care of the artwork.
- H. Sign and Execute a waiver of right under the Visual Artists Rights Act (17 USC 106 A).

4.8. Responsibility of the Medford Arts Commission:

The Medford Arts Commission (MAC) will manage and administer all implementation of public arts programming as follows, coordinating with others (City staff as appropriate and necessary):

- A. Encourage, identify, and accept public art sites, locations and projects.
- B. Participate in the coordination and development of funding sources to support the Public Art Program.
- C. Convene Selection Panel and coordinate its work.
- D. Prepare, review, oversee and monitor all documents, including Requests for Proposal, responses, and contracts (City staff as appropriate and necessary).
- E. Coordinate physical and logistical components of art installation.
- F. Coordinate preparation of any necessary signage, including identification labels and/or plaques.
- G. Serve as an information conduit and link between artists, project and building managers (City staff) and others as necessary to ensure a trouble-free project flow.
- H. Serve as resource, guide, and counsel to the City Council and the City Manager regarding public art related issues.

5. Ownership/Copyright/Reproduction/Re-siting/Resale:

- A. Work purchased, commissioned or accepted as a donation shall be the property of the City of Medford.
- B. The City intends that the work shall remain accessible to public viewing for as long as the City owns the work.
- C. The City retains the right to transfer work from one City-owned site to another, as it deems necessary, to place the work in storage, in another facility, or to make a temporary loan to another agency or organization.
- D. The City retains the right to deaccession works of arts it no longer desires to retain as a component of the public art program as per Section 7.

6. Accepting Donations of Artwork:

In addition to supporting the Public Arts Program via financial assistance or the grant of land or long-term easements for public art, private parties and other entities may offer to donate completed or proposed works of art to the City of Medford under the Public Art program. It is the responsibility of the MAC to review such proposals for consistency with its goals and, where appropriate either accept or reject such gifts to the City. All such determinations reside with the MAC, as the designee of the Medford City Council. In evaluating offers of donated artwork, the Commission will use the procedures and criteria established in Section 4.0 to determine the appropriateness of both the proposed site and the extant or proposed work of art.

- A. Art offered to the City of Medford through donation will be evaluated using the entire public art process except as noted below.
- B. In the case of *pre-existing* works of art only, the MAC, at its discretion by majority vote, may chose to function as the Selection Panel rather than creating one as Section 4.4.
- C. Donated artwork in exterior locations shall include the donation of the site or a minimum seven year easement to the City for such use.

7. Deaccessioning Works of Art:

Deaccession is a procedure for withdrawal of a work of art from city ownership. This may be recommended by the MAC when the artwork has deteriorated or been damaged and repair is unfeasible, or when it has been determined by the commission to be no longer appropriate for the site or to the City's public art collection.

7.1 Deaccession Subcommittee:

A Deaccession Subcommittee will be appointed by the MAC. This Subcommittee will be composed of:

- One (1) member of the MAC, who shall act as chair,
- One (1) interested member of the community, and
- Three (3) three arts professionals.

Based on criteria developed by the MAC, artworks may be released from City ownership and de-accessed or removed as public art. Such work, if reusable or transferable, may be donated to another government or non-profit entity, or may be offered for sale at fair market value at the discretion of the Deaccession Subcommittee. Outside appraisals or opinions shall be used when the value of the work exceeds \$5000.

Where artwork is in anyway deemed not reusable, transferrable, or otherwise worth saving by the subcommittee, the subcommittee will determine an appropriate disposal method. The

subcommittee will make its recommendation to the City Council which shall approve the final disposition of the work, including disposal, if so recommended.

The subcommittee will make reasonable attempts to notify the artist or heirs of the deaccessioned work during this process. Written records of the entire process shall be maintained.

Proceeds from sales of deaccessioned artwork shall be used to fund additional purchases or commissions for public art conforming to the Criteria and Selection Methods described above.

**City of Medford Arts Commission
Request for Qualifications
PUBLIC ART PROJECT**

The Medford Arts Commission is soliciting proposals from qualified artists for public art to be placed at [location]. The Commission will follow its Public Arts Selection and Acquisition Policy, in this process. The weighted selection criteria the Commission will use to evaluate projects is found at Section 4.4. Copies of the policy are available for review at www.cityofmedford.org/XXXXXXX.

Interested artists should submit only the following:

1. Artist resume, not exceed two (2) pages per person. Please include daytime phone number and mailing address.
2. Up to ten (10) jpg images of recent (maximum of fourteen (14) per artist team) on a CD-ROM labeled with the artist's (team) name. Images must be no larger than 1024 x 768 pixels at 72 dpi. NO slides, prints, or other submittal formats are accepted. Each submitted image shall be identified/named in the following format.

Artist(Team)Name, Image XX, Month/Year (00/200x). jpg

3. Image Identification Sheet corresponding to the image numbers, to include title, date of completion, material(s), size, and client information. Please include installation locations for public art.
4. A completed City of Medford Arts Commission submittal form.

Please submit seven (7) copies of all printed materials single-sided on white 8.5 x 11 paper (Letterhead is acceptable for resumes). *NO models or specific proposals for artwork will be accepted, only the requested information.*

Please Submit to:

Medford Purchasing Department
Public Art Request for Proposal
411 West 8th Street, Room 353
Medford, Oregon 97501

Contact for Additional Information
Medford Parks and Recreation
Jesse Nyberg, 541-774-2482
jesse.nyberg@cityofmedford.org

Deadline for Submittal: 12:00 Noon, **XXXX-DATE**

Selected artist(s) will be contacted shortly after the Deadline and asked to present project proposals for the site.

**City of Medford Arts Commission
Request for Qualifications
PUBLIC ART PROJECT**

Artist/Team Name: _____

Contact Person (if different): _____

Mailing Address: _____

City/State/Zip: _____

Main Phone: _____ Cell/Alternate Phone: _____

E-mail: _____

Briefly describe experience/background:

Please list previous experience with Public Art Projects (title/location/material(s) and date installed)

**City of Medford Arts Commission
Maintenance Standards
PUBLIC ART-Exterior Installations**

The City of Medford accepts that public art in exterior installations is subjected to varying climates, sunlight, wind and other natural forces in addition to the potential for vandalism. In order to assure high-quality, attractive, and long-lasting benefit for the citizens, the following standards are required for ALL public art installations in an exterior location.

- All exposed elements of the work are made of durable, exterior-quality, water-resistant materials that are, to the highest degree practical, of color-fast materials resistant to sunlight and UV damage.
- All connections, mountings, and hardware are made from non-ferrous metal or other materials that will not degrade from exposure.
- All mountings are sufficiently designed for the size, scale, and mass of the work to assure public safety.
- Attached elements, plaques, markers, or other fittings include vandal-detering hardware wherever applicable.
- Depending upon the installation, efforts at reducing physical vandalism, including graffiti, have been employed to the greatest extent feasible given the location. This may include high-placement to reduce access, the use of lighting at night, or other physical barriers and passive methods that discourage damaging behaviors.

In order to reduce potential damage from graffiti and to ease cleaning subsequent to any future vandalism, all exterior public artwork will be treated with an anti-graffiti-coatings as practical. A variety of products are available, most of which can be found at www.thomasnet.com under “anti-graffiti coatings.”

As per 4.7(G), the artist will provide specifications on the installation, including information on any anti-graffiti coatings used, the requirements for maintenance or re-application (if any) and any other pertinent information which will assist City Staff in maintaining and cleaning the work subsequent to installation.

After Recording Return to:
City of Medford
811 West 8th Street
Medford, OR 97501

PUBLIC ART EASEMENT AGREEMENT

1. Parties:

_____, hereinafter referred to as “Grantor.”

CITY OF MEDFORD, an Oregon Municipal Corporation, hereinafter referred to as “Grantee.”

2. Affected Property:

Grantor is currently the owner of the following described real property (property) located in Jackson County, Oregon:

As shown on the attached legal description of property in EXHIBIT “A,” incorporated herein.

3. Grant of Easement:

For and in consideration of the sum of _____ DOLLARS, or other valuable consideration Grantor does hereby grant unto the Grantee, its successors and assigns, and Grantee hereby accepts, a PUBLIC ART EASEMENT for a portion of Grantor’s property as shown in the map as “EXHIBIT B” and more fully described in the attached “EXHIBIT C,” both of which are incorporated herein.

4. Statement of Purpose:

The easement described above shall be used for the placement of public artwork (art) and for unrestricted ingress and egress to Grantor’s property for the purpose of installing, maintaining, operating and exhibiting the art and related facilities or structures. The public artwork and its location shall be as approved by the Medford Arts Commission in compliance with its Public Art Selection and Acquisition Policy or as otherwise authorized by the Medford City Council.

5. Type of Easement:

The easement described above shall be non-exclusive except that Grantee shall have the exclusive right to construct, install, operate, maintain, and exhibit public artwork and related facilities or structures within the easement. Grantor shall not excavate, alter, or locate any structures or buildings within the easement. Grantor may use the surface of the easement provided such use does not interfere with Grantee’s rights contained in this easement. Grantor shall not permit any other use or utilities to be located in the easement without the written consent of Grantee. The easement shall be for a term beginning _____ and shall last through _____ (Minimum of 5 years).

6. Maintenance:

Grantee shall be responsible for maintenance of the art equipment and facilities located within the easement. Grantor shall be responsible for landscape and surface maintenance within the easement. Grantee’s use of the easement shall not unreasonably interfere with Grantor’s use of the property.

7. Indemnification:

The Grantor does hereby agree to defend, hold harmless, and indemnify Grantee, its successors and assigns, from any claim of liability or any other claim involving the art, or arising out of the Grantee's use of the easement described above, unless caused by Grantee's negligent conduct or failure to fulfill its maintenance obligations as set forth in Paragraph 6 above.

8. Remedies:

In addition to all other remedies allowed by law, the parties, their successors and assigns, shall have the right to seek injunctive relief for the enforcement of the terms and conditions of this agreement.

9. Binding Effect on Successor Interests:

The terms, conditions and provisions of this agreement shall extend to, be binding upon and inure to the benefit of the heirs, personal representatives and assigns of the parties.

10. Attorney Fee:

In case suit or action is instituted in connection with this agreement, the prevailing party shall be entitled to recover from the losing party such sums as the court may adjudge reasonable as attorney fees and costs in such suit or action, or upon appeal.

DATED this _____ day of _____, 20____.

GRANTOR:

GRANTEE:

By: _____ By: _____
Manager, CITY OF MEDFORD

STATE OF _____)
) ss.
County of _____)

Personally appeared before me this _____ day of _____, 20____,
_____, _____ for
_____, and acknowledged the foregoing
instrument to be his/her and the _____' voluntary act and deed.

By: _____
Notary Public for _____
My Commission expires: _____

Public Art Murals Guidelines and Process

Section 2.438 of the Municipal Code requires that exterior murals must be approved by the Medford Arts Commission, whose role is to ensure that each project aesthetically enhances its location and surroundings. The costs associated with developing and executing/installing a mural are the responsibility of the applicant and/or property owner of the wall where the proposed mural will be installed. To simplify this document, the word ‘mural’ refers to artwork that is painted on an exterior wall and other works of art affixed to an exterior wall.

Overview

- The approval process for executing/installing murals on public or private property within the City of Medford is administered by the City of Medford staff liaison to the Medford Arts Commission (MAC).
- Applicants without professional mural experience may apply but should partner with a professional muralist.
- Applicant must provide a budget for the project and if the project is approved funding must be in place before work can begin.
- Proposed murals are reviewed by the MAC, by the Landmarks & Historic Preservation Commission if required, and if recommended by the MAC, approved by the City Council.
- Murals shall not be considered for installation on building facades with a public entrance in historic districts.
- Murals may be considered for installation on building with a public entrance outside historic districts.
- Murals shall not be proposed for installation on an unpainted façade surface (natural brick, stone) of a historic building.
- All property owners must sign an Art Agreement to be included with the Public Art Mural application agreeing to transfer ownership of the mural to the City pending approval of the proposed mural by the City Council.
- All murals approved through this process become part of the City’s public art collection for as long as the Art Agreement remains in effect.
- The number of murals per block may be limited.
- Historically significant murals (including historic advertisements) shall not be painted over, even if faded.
- To the extent practicable, murals shall be applied only to the flat planes of walls.
- Imitative materials including but not limited to asphalt siding, wood textured aluminum, and artificial stone should be avoided on murals within historic districts.
- All applicants are required to meet with the MAC and staff liaison at least one month prior to submitting an application. To schedule an appointment contact Medford Parks, Recreation & Facilities at 541-774-2400 or parks@cityofmedford.org.

Murals on Historic Buildings

- Murals proposed for installation on the exterior of structures listed on the National Register of Historic Places or to a contributing property within a Historic District on the National Register of Historic Places will be forwarded to the Landmarks & Historic Preservation Commission for review.
- The Landmarks & Historic Preservation Commission will review the proposal using criteria stated in the City of Medford Municipal Code and provide their comments to the City Council and to the MAC.

Criteria for Approval of Wall Murals

The mural should be a professionally designed, original work of exceptional quality with consideration of the following criteria:

- Visual imagery that is reflecting partisan politics or containing sexual or religious content or expressing a commercial aspect will not be accepted. Visual imagery content that comes under question will be reviewed by the MAC, the Landmarks & Historic Preservation Commission and by city council if necessary.
- Artwork that is designed to be visible from many view points (by pedestrians, from moving vehicles, seated audiences, etc.).
- Artwork that is appropriately sited for directional exposure to minimize fading of colors.
- Suitability of the wall surface to receive all materials that are to be used to execute the mural, including the wall preparation material.
- Work that is appropriate in scale to the building and to the site.
- All installation and technical issues.

Mural Design Application

Applicants (artist, property owner, etc.) intending to execute/install a mural on an exterior wall that is visible from a public-right-of-way and within the boundaries of the City of Medford must apply for approval through the following process. Applicant shall:

- a. Schedule an appointment and meet with the staff liaison to the MAC for an informational overview of the process and initial review of the proposed project.
- b. Complete and submit a Public Art Mural application.
- c. Submit a signed Art Agreement from the property owner.
- d. Prepare a mural presentation package as described in *Mural Design Presentation and Review*.
- e. Schedule an appointment for MAC review of mural package at a monthly public Commission meeting.
- f. Submit a complete Mural Presentation package to staff no less than ten days prior to MAC review. Only packages that are totally complete will be accepted for review.

Mural Design Presentation and Review

The proposed mural application will be presented to the Medford Arts Commission at their monthly public meeting.

▪ **Initial MAC Presentation Meeting**

Presentation materials for the initial meeting must include:

- a. Photos of the proposed location of the mural including all wall features and features immediately adjacent to the proposed mural site; complete wall measurements.
- b. Professional portfolio of the lead artist's mural work including examples of the artist's demonstrated ability from prior projects to carry out the project as designed.
- c. A color drawing at ½ inch scale that adequately illustrates the proposed mural including actual color, finishes and materials samples with their locations designated on the mural drawing,
- d. Verbal explanation of imagery concept including:
 - How the artwork enhances the existing character of the site through scale, color, material, texture, and content,
 - How the mural considers the social dynamics of the location, and
 - How the artwork considers the historical, geographical and cultural features of the site as well as its relationship to existing architecture and landscaping.
- e. Statement regarding the durability of the artwork and its potential to require ongoing maintenance.
- f. Art Agreement signed by the property owner.

▪ **Preliminary Design Approval**

Generally, the MAC review and preliminary approval for the applicant to move forward with the proposed mural concept occurs at the regularly scheduled monthly MAC meeting following the applicant's initial presentation. Staff will notify the applicant of the Commission's decision and if necessary, schedule a date for the second design meeting.

*NOTE: If the mural is proposed for installation on the exterior of structures listed on the National Register of Historic Places or to a contributing property within a Historic District on the National Register of Historic Places the proposal will be forwarded to the Landmarks & Historic Preservation Commission for review. See **Murals on Historic Buildings** above.*

Design Approval by City Council

- Following final design approval by the MAC and review by the Landmarks & Historic Preservation Commission (if required). If the Commission votes to forward the mural concept to the City Council, the Commission will forward the concept to the City Council for approval.
- Once final approval is granted by the City Council, the applicant must:
 - a. Provide staff with the installation schedule. Applicant will be responsible for implementing all safety requirements per direction from staff (if work is occurring within the public right of way).
 - b. Enter into a contract between the applicant and the City of Medford.

Note: If the MAC finds that there are areas of the mural that are not rendered according to the approved design documents, the MAC may request the applicant adjust the mural to comply with the approved design. The MAC also recognizes that an artist may wish to make minor changes during the process that deviate from the approved concept but that enhance the overall project. The MAC and artist will agree on any changes to the approved design drawing.

- Once the MAC and applicant are satisfied that the mural is complete, the mural must be coated with a clear UV protectant paint to protect the mural from graffiti and ultra violet light.
- The MAC will vote to accept the mural into the City's public art collection and forward their recommendation to the City Council for approval.

Other Things to Know

- The City will contract with the applicant for the execution/installation of the mural.
- The Art Agreement will require the applicant to submit proof of liability insurance.
- The Art Agreement will be in place for a period of five years. At the expiration of the five years, the Art Agreement may be terminated or extended by either party upon 30 day written notice.
- The City retains the right to remove the mural if the mural is not executed according to the approved concept documents.
- The City is responsible for the maintenance of the mural during the existence of the Art Agreement.

Medford Arts Commission Mural Application

Applicant (City contracts with)

Applicant's Name: _____
Phone: _____ Email: _____
Address: _____
City: _____ State: _____ Zip Code: _____

Lead Artist

Artist Name: _____
Phone: _____ Email: _____
Address: _____
City: _____ State: _____ Zip Code: _____
Artist Website: _____

Name of Property Owner of proposed mural building (if different from applicant):

Phone: _____ email: _____
Proposed Mural Building Street Address: _____
City: _____ State: _____

Dimensions of proposed mural wall: _____

Has the owner given permission for a mural to be painted on the proposed wall and is the owner willing to enter into an Agreement with the City? Yes: No:

The wall is: brick: cinderblock: stucco: wood: other:

Project Questions

1. Please describe the project, the specific location of the mural and why a mural will enhance the area.

2. Can the wall be seen from the public right of way (e.g. sidewalk, alley, street etc.)?

3. Describe the process you used to select a professional mural artist.

4. Describe the theme/image you envision for this mural if known at this time.

5. Why do you want a mural at this location? How will the mural benefit the neighborhood? Community?

6. Please attached a detailed budget for the project. What funding do you have for the project?

7. Describe the ground in front of the wall (condition, debris etc.) and surrounding features.

