

**City of Los Angeles Department of Cultural Affairs (DCA)    ATTACHMENT A**  
**Arts Development Fee (ADF) Program**  
**PROPOSED ADMINISTRATIVE GUIDELINES**

**I.     Introduction**

The Arts Development Fee (ADF) Program was established by City ordinance in 1988, revised in 1991, and codified in Los Angeles Municipal Code (LAMC) Section 91.107.4.6. The ADF Program complies with the California Mitigation Fee Act and adheres to the tenets of the Nexus Study and Cultural Masterplan adopted by City Council in 1992. The ADF ordinance requires each developer of a commercial project to satisfy an arts development fee for any commercial or industrial project for which the costs of the development total \$500,000 or more. The ADF Program is managed by the City of Los Angeles Department of Cultural Affairs (DCA).

Developers that incur an arts development fee may choose to complete their own project(s), subject to the approval of DCA, or pay to the City an amount equal to one-percent (1%) of the development costs for use by DCA in compliance with LAMC Section 91.107.4.6, et al., the Nexus Study, and these ADF Guidelines. Arts development fees are collected by the Department of Building and Safety and are subsequently deposited into the City's Arts Development Fee Trust Fund (Cultural Affairs' Fund No. 516) for programming by DCA.

These Guidelines articulate the goals, allowable uses, and procedures related to the expenditure of arts development fees.

**II.    Purpose**

The purpose of the City of Los Angeles Arts Development Fee Program, as defined by LAMC 91.107.4.6, et al., is to mitigate the additional burden that private development places on the City's existing art and cultural services, facilities, and community amenities. Consistent with the purpose of the ADF Program, arts development fees can be used for cultural and artistic facilities, cultural and artistic services, and for cultural and artistic community amenities, as defined in Section II.

**III.   Program Goals**

- A.     The goals of the Arts Development Fee Program are to:
- (1)    Maintain a quality of life that can sustain economic vitality and growth;
  - (2)    Add vitality and adventure for residents and visitors alike, and reinforce the idea that Los Angeles is a dynamic, evolving, open-minded, and generous City;
  - (3)    Increase support for future publicly accessible works of art, cultural and artistic facilities, services, and community amenities;
  - (4)    Improve access to vibrant and engaging cultural and artistic experiences and/or services, while establishing a multi-disciplinary,

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- innovative approach to broadening and enlivening the public sphere;
- (5) Broaden the enlightenment of the population; and
  - (6) Enrich life, preserve and teach the appreciation of different cultures, make the City livable, foster community pride, and provide a gathering place for communal experiences.

**IV. Allowable Public Arts Projects**

- A. For purposes of these Guidelines, "allowable public arts projects" are projects that may be funded by arts development fees, and they include:
  - (1) Acquisition or placement of publicly accessible works of art;
  - (2) Acquisition or construction of arts or cultural facilities;
  - (3) Provisions of arts and cultural services; or
  - (4) Restoration or preservation of existing works of art.
- B. Additionally, Los Angeles Administrative Code (LAAC) Section 22.118 articulates that DCA may provide arts development fee credits to developers that create their own projects for ADF Program compliance. In order to ensure consistency between developer-led and DCA-led projects, DCA-led projects follow similar allowable types of public art pursuant to LAAC Section 22.118.

**Permanent types of allowable public arts projects are as follows:**

- (1) Sculpture: free-standing, wall-supported or suspended, kinetic, electronic, or mechanical, in any material or combination of materials, and environmental and land artworks.
- (2) Murals or portable paintings: in any material or a variety of materials, with or without collage or the addition of non-traditional materials and means.
- (3) Earthworks, fireworks, neon, glass, mosaics, photographs, prints, calligraphy, in any combination of forms of media, including sound, film, holographic, and video projections, hybrids of any media, technology, and new genres.
- (4) Standardized fixtures such as grates, streetlights, signage, and other design enhancements rendered by an artist in unique or limited editions.
- (5) Similar arts or cultural facilities as approved by DCA.

**Temporary types of allowable public arts projects are as follows:**

- (1) Performing arts: theatre, dance, music, and performance.

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- (2) Literary arts: poetry readings, and storytelling.
- (3) Media arts: film and video, screenings, and installations.
- (4) Education: lectures, presentations, and training in and about arts and culture.
- (5) Special events: parades, festivals, and celebrations.
- (6) Visual art installations: sculpture that is free-standing, wall-supported, or suspended, kinetic, electronic, or mechanical, in any material or combination of materials, environmental and land artworks, murals or portable paintings in any material or a variety of materials, with or without collage or the addition of non-traditional materials and means.
- (7) Social interventions: tours, installations, performances, social practice, social innovations, and online or print publications.
- (8) Similar arts or cultural services as approved by DCA.

**V. "Reasonable Relationship" Requirement**

The Arts Development Fee Program is based on the California Mitigation Fee Act (Government Code Section 66006, et al.). As such, a Nexus Study was conducted and adopted by City Council in 1992. Both the California Mitigation Fee Act and Nexus Study mandate that a "reasonable relationship" exists between the use of an arts development fee and the development that generated the fee.

In order to comply with this reasonable relationship requirement and the ADF ordinance, all arts development fees must be used to support public arts projects and/or programs that are free and accessible to the public as well as to the users of the development projects.

In addition, the Nexus Study found there is "a reasonable relationship between commercial and industrial development and the need for cultural and artistic facilities, services, and community amenities in the City of Los Angeles" (pg. 3). Citing the City's Cultural Masterplan, the Nexus Study states that, "people who come to work at a development project, as well as their families, will use art throughout the City in a variety of ways" (pg. 13). Accordingly, the Nexus Study requires the City to spend arts development fees in accordance with the Cultural Masterplan.

**VI. Adherence to the Cultural Masterplan**

The 1992 Cultural Masterplan is organized around **seven priority investment areas** that each include an associated vision statement, and the use of arts development fees must advance and adhere to these priorities:

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PRIORITY AREA	ASSOCIATED VISION STATEMENT
<b>1) Art in the City</b>	Los Angeles should: a) distinguish itself as an international art center with a multicultural character; b) foster creative industries as part of its economic vitality; c) promote the arts with comprehensive marketing strategies; and d) evaluate these efforts through community input and/or assessment.
<b>2) Equity in the Arts</b>	Los Angeles resources for the arts should: a) be used to reflect multiculturalism; b) be available through networks of geographically dispersed facilities and/or activities; c) work hand-in-hand with accessibility; and d) be evaluated through community input and/or assessment.
<b>3) Developing the Audience</b>	Cultural opportunities should be: a) accessible; b) well promoted; c) timely and relevant; and d) evaluated through community input and/or assessment.
<b>4) Developing the Artist</b>	The role of the artist should be: a) validated; b) reflected through equity and fostered through accessibility; c) supported in order to promote quality, mastery, and innovation; and d) evaluated through community input and/or assessment.
<b>5) Youth and Education</b>	The City should make the arts integral to the lives of young people through: a) in-school; b) after school activities; and c) these efforts should be evaluated through community input and/or assessment.
<b>6) The Visual Landscape</b>	The City should ensure that: a) artists play a role in developing the LA's physical landscape; b) places and events of historical and/or cultural significance are preserved and/or celebrated; and c) these practices are evaluated through community input and/or assessment.
<b>7) Cultural Infrastructure</b>	The City should play a leadership role in: a) fostering a dynamic ecology of arts organizations, cultural activities, and creative places; b) engendering dialogue and collaboration within the LA arts ecology; and c) evaluating these efforts through community input and/or assessment.

**VII. Geographic Considerations & "Fees Paid" Clustering**

DCA consults with and solicits input from City Council offices regarding the proposed deployment location of arts development fees generated within the boundaries of their respective Council Districts.

As articulated above, adherence to the Cultural Masterplan ensures that a "reasonable relationship" exists between the use of arts development fees and the developments that generated the fees. Therefore, the placement and/or deployment of public arts projects are not limited geographically to the locations of the developments that generated the related fees.

DCA may identify opportunities to locate and deploy public arts projects in the immediate and adjacent communities in which fee-generated developments are located. DCA may also identify Citywide and regional public arts projects to be funded through the ADF Program. In both cases, DCA may cluster or "pool" various arts development fees in order to assemble adequate funding for a public arts project. In addition, DCA seeks approval from the Council Office(s) for any arts development fees proposed to fund Citywide programs/projects outside of the Council District(s) in which the fees were generated.

**VIII. Expenditure Plan & Fee Status Report**

Throughout each fiscal year, DCA works with City Council offices and the Office of the Mayor to develop and implement ADF-funded public arts projects.

For reporting purposes, the DCA develops an annual Expenditure Plan & Fee Status Report for the ADF Program. The Expenditure Plan & Fee Status Report is transmitted to the City Council for review and any necessary approvals, and prepared according to the following schedule:

**June to August** – DCA staff assembles preliminary information that includes but is not limited to: amounts and addresses of all active arts development fee collected to date; status of each previously proposed use of an arts development fee or identification of uncommitted fee balances; maps of development sites that generated the fees; and updated lists of suggested arts/cultural priorities and public arts projects to be considered for ADF funding.

**September to October** – DCA staff meets with each Council Office to review the assembled information and identify additional arts and cultural priorities for funding consideration during the upcoming calendar year through uncommitted arts development fees. DCA also consults with the

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Mayor's Office to ensure that the proposed use of arts development fees is aligned with Citywide arts/cultural priorities, programs, and/or projects.

**November to December** – DCA transmits the final ADF Expenditure Plan & Fee Status Report to City Council for review and any necessary approvals.

Following review and approval of the Expenditure Plan & Fee Status Report, DCA initiates and administers ADF projects and programs accordingly. DCA also works with the City Council offices and the Office of the Mayor during each fiscal year to identify and consider other time-sensitive projects that may be appropriate for ADF funding.

The contents of the ADF Expenditure Plan & Fee Status Report, in combination with the schedule outlined above for review and approval, also serve to meet the requirements specified in California Government Mitigation Code 66006(b), that within one-hundred-eighty (180) days after the last day of each fiscal year, the City must make available to the public the following information for the prior fiscal year: a brief description of the type of arts development fee; the amount of the fee; the beginning and ending balance of all fees; the amounts of fees collected and interest earned; the public art project on which fees were spent and the amount spent on each, including the percentage of the project funded with fees; and an approximate date by which a public arts project will commence if there is sufficient funding to complete the project.

## **IX. Administrative Structure**

### *General Manager*

Pursuant to LAAC Section 5.346, the General Manager of the DCA is responsible for administration of the Program.

### *Cultural Affairs Commission (CAC)*

Pursuant to LAAC Section 22.109, the Cultural Affairs Commission (CAC) is responsible for review and approval of all construction and artwork on or over City property. Permanent artworks sited on or over City property must be brought to the CAC for review and receive final approval. Temporary artworks sited on City property do not require CAC review but may be brought to the CAC as an informational item.

### *Public Art Committee (PAC)*

In order to expedite CAC review of public arts projects, the Commission designates a Public Art Committee ("PAC") to assist DCA in developing public art policies and procedures. The PAC typically includes arts professionals, working artists, at least one CAC Commissioners, and DCA staff. Permanent artworks

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sited on or over City property must be brought to the PAC for review. Temporary artworks sited on City property do not require PAC review but may be brought to the PAC for input.

*Department Staff*

DCA staff is responsible for Program administration, including artist selection oversight, project development, and maintenance. Up to eighteen-percent (18%) of each ADF can be used to finance administration of the Program. DCA staff is responsible for attending meetings with City Council offices and other departments, preparing requests for qualifications/proposals, panel assembly and facilitation, contract preparation, budget, project management, public education, marketing, and maintenance of completed projects as applicable.

**X. Arts Provider Selection Procedures**

- A. In keeping with the goals stated above, the DCA awards ADF funding to public arts projects and/or programs on the basis of competitive proposals or peer review process of qualified candidates. DCA establishes arts project specifications consistent with the ADF Expenditure Plan & Fee Status Report, and bids are solicited on the basis of these specifications and evaluated by a peer review panel assembled by DCA. Several types of specifications may be employed as part of the selection process in order to bring the most diverse and high-quality artistic experiences to fruition.
- (1) **Request for Proposals:** This selection method is used as a means of encouraging artists and arts organizations to propose arts projects that are site-specific, in relation to specific locations that have been identified in advance. An open Request for Proposals enables any artist or arts organization to submit a proposal in response to a call for ideas.
  - (2) **Request for Qualifications/Proposals:** This selection method is used when the nature or specific location of the artwork has not been determined in advance of an artist or arts organization selection. This process is used to establish a pre-qualified list of artists that DCA can cull from to invite a small number of artists to submit a proposal. An artist selection panel reviews the proposals and makes a final selection.
  - (3) **Request for Qualifications/Interview:** This selection method is used when it is determined that it would be appropriate to include an artist as a lead member of an art program development team working in tandem with DCA staff in identifying the nature of the arts project or program. An artist selection panel reviews all

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qualifications submitted, then selects a small number of artists to interview before making a final selection.

- (4) **Direct Commission:** This selection method is used when severe time restraints exist and the need for a specific type of artwork or project has been identified by DCA. It may be necessary to have an artist selection panel make a direct selection from artists or arts organizations whose work has been submitted to a pre-qualified list maintained by DCA in connection with the Program.
- (5) **Artist Sub/Contractor:** This selection process is used to restore existing artwork, and conservation services are provided by the original artist or by a conservator approved by the original artist or artist's heir.
- (6) **Limited Competition:** This selection method is used if it is determined that favorable conditions or opportunities exist to access artists who do not respond to open calls for public art. A peer review panel is convened to nominate a limited number of artists and then select project artist(s) based on interviews and/or review of proposals.

**XI. Artist Selection Panel**

Each public arts project, or groups of projects, is served by artist curatorial/selection panels whose function it is to select the artist or arts organization to carry out the project. The composition of a selection panel may be arranged to meet the needs of a specific project. Panels are typically comprised of the following members:

- o One community representative;
- o One representative of relevant city agencies; and
- o One to three arts professionals with knowledge of public art issues, including presenting art projects or programs in the public realm.

Arts professionals may include artists, art historians, art restorers, arts administrators, curators, or art critics. At least one of the arts professionals must be a working artist. Three panel members are necessary to form a quorum. DCA staff chair panel meetings. In complex situations that require the identification of numerous commissions at multiple sites, one or more DCA staff may serve as panelists. Decisions are made on the basis of consensus and require the affirmative vote of three or more members of a panel in order to make a final selection of the artist(s) or arts organization(s).



## **XII. Implementation of Public Arts Projects**

The DCA bears ultimate responsibility for the implementation of public arts projects supported by the ADF Program. The following steps are typically used to facilitate the development of a public arts project:

- Once identified or selected by a panel, the arts service provider, artist, and/or arts organization (jointly "artist") is informed in writing and given thirty (30) days to accept or reject the public arts project commission. Upon acceptance, DCA staff drafts a contract for the artist's services.
- DCA staff works with the artist to identify other City agencies that may need to be informed in regard to a specific art project, and facilitates any necessary approvals from such agencies.
- Permanent public artwork commissions may require the artist to present the project to the community for review and feedback. Community reviews are facilitated by DCA and/or another City agency as appropriate, and the public must submit any comments in writing to DCA within ten (10) days following a community meeting. Upon receiving written comments, DCA transmits concerns to the artist for consideration and potential refinement.

## **XIII. Public Engagement & Marketing**

DCA staff works with artists to develop appropriate public engagement and/or marketing plan(s) for ADF-funded projects. Each plan may include but not be limited to: social media engagement strategies, person-to-person and online presentations to community and/or project stakeholders; online and person-to-person project tours; and digital and printed project documentation and marketing materials, including any specific materials for targeted use at development(s) that generated the associated arts development fee(s).

## **XIV. Maintenance Program Plan**

A maintenance plan is prepared by the artist for each permanent ADF-funded public arts project. DCA is responsible for long-term maintenance and repair of the artwork. Funds may be set aside for these purposes, as appropriate, and as part of DCA's budget for administration of the Program.

**XV.    Dispute Resolution**

The General Manager of DCA has final authority over ADF expenditures, except where constrained by Charter. All claims, disputes, and any other matters in question between the DCA and an artist that may arise out of or relating to an executed contract or its breach, shall first be brought to the attention of DCA. If a dispute is not resolved through mutual agreement between an artist and DCA, in consultation with the City Attorney and/or other City agencies as appropriate, the artist submits a written explanation of all unresolved issue(s) to the General Manager of DCA. Upon receipt of an artist's written explanation and upon consultation with City Attorney and/or the General Manager(s) of other City agencies as appropriate, and within sixty (60) calendar days of receipt of the artist's written explanation, the General Manager of DCA renders a final decision in writing to the artist.