

## **POLICY FOR GIFT OR LOAN OF PUBLIC ART TO MONROE COUNTY**

This policy is intended to parallel the procedures in place for commission of Works of Art under the Monroe County Ordinance #022-2001 and the program for rotating art in public buildings. This policy applies to all unsolicited offers of donation of artworks except those commissioned by the Art in Public Places (AIPP) Program governed by Monroe County Ordinance 022-2001 regardless of the source of the artwork or funding for the donated artwork or artwork loaned under the County's rotating art in public buildings program. Unsolicited gifts to Monroe County can be an important part of the County's art collection. Proposed gifts of public art shall undergo a review process to ensure that acceptance of such gifts takes place in a fair and uniform manner. Potential gifts to the County are evaluated as carefully as works that are purchased or commissioned and undergo a careful review process that evaluates the gift on acceptance criteria according to the purposes, guidelines, goals and selection process that guides the Art in Public Places Program as a whole.

The County will not accept monetary gifts.

### **Procedures for Gifts:**

For each proposed gift of public art a written proposal or letter of intent must be submitted to the County Administrator. The proposal must include specifications of the proposed gift, including: artist, title, dimensions, materials, date, and proposed location (if appropriate). The Administrator will refer the proposal to the Art in Public Places (AIPP) Committee through the Arts Council staff for review. The AIPP Committee will recommend disposition of the offer to the Board of County Commissioners whose decision is final.

### **Conflicts of Interest:**

Gifts will be accepted by Monroe County as a political subdivision of the State of Florida. No individual within the County is able to accept gifts. Consideration is given to the context in which the gift is offered in order to ensure that the gift is not being given to influence or reward Monroe County or members, employees or elected officials of the County.

### **Principles on Which Decisions to Accept Memorial or Plaques will be Evaluated:**

Memorials can be achieved through gifts of artwork. Monetary donations will not be accepted.

Memorial gifts will be judged on the following criteria to determine appropriateness:

- The memorial represents broad community values and has timeless qualities that are meaningful to future generations.
- The location under consideration is an appropriate setting for such a memorial; in general, there should be some specific geographic justification for the memorial being located in a specific site.

Donors of memorials are asked to consider the primary uses of the public space or facility in their request for a suitable location for the memorial. While the County acknowledges that appropriate memorials enrich visitor experiences, public open space is a very precious commodity, and monuments, memorials and plaques will be carefully reviewed to balance these two public benefits to protect the greater good. It is recognized that a particular location may reach a saturation point for memorials, and therefore the Art in Public Places Committee may consider limitations or a moratorium of future memorial installations at that particular location or area.

**Art in Public Places Committee Review of Potential Gifts:**

The Art in Public Places Committee will review potential gifts and recommend acceptance or rejection to the Board of County Commissioners. A recommendation to accept a gift of public art will be delineated in an acceptance agreement between the County and the donor. This agreement will describe the terms and conditions under which the art is to be accepted, including responsibilities for fabrication, installation, site preparation, insurance, ongoing maintenance, conservation, etc. In cases where a donor has specified a site for the proposed artwork, the artwork must have the endorsement and approval for installation from the County division/department that oversees the site and the director of the site's primary resident organization(s). Specific plans for site design, installation, and maintenance will be submitted for all necessary approvals. Costs for engineering, inspections, and approvals shall be borne by the donor. The artwork may not deviate from the proposal approved by the Art in Public Places Committee unless the Committee approves such change in writing. Works of art accepted on the basis of maquettes or drawings will be subject to a review process, including inspection by appropriate County officials during fabrication and installation.

**Criteria for Acceptance of Proposed Gifts or Loans of Art:**

The review process will ensure that:

- Artworks must be one-of-a-kind or part of an original series. Reproductions of originals are not considered eligible for acceptance. Under certain circumstances the Art in Public Places Committee may waive this requirement.
- Gifts must maintain high artistic standards for artworks in the County's public art collection and are appropriate in relationship or historical relevance to the County.
- The site available is appropriate to the artwork's content, scale, and material. Factors to be considered in selecting an appropriate site include relationship to architectural and natural features, visibility and public access, traffic patterns, future development plans for area, if known, and public use patterns of the site.
- Restrictions from the donor, if any, are clearly identified and acceptable to the County as determined by AIPP;
- Community groups who generate artwork proposals must show that the surrounding community has been involved and consulted in the process;
- Costs of installation and maintenance and repair over the expected life of the artwork are defined.

**Appeal Policy:**

All donors or artists, who believe that the AIPP Committee's consideration of their proposal of a gift was procedurally unfair, unreasonable or inadequate, may appeal the committee's recommendation of rejection of the proposed gift. No appeals will be entertained on the grounds of the Committee's aesthetic evaluation of an existing or proposed artwork.

**Appeal Procedure:**

Before pursuing a formal appeal, the donors and/or artist should seek an informal resolution by way of the following procedure:

- The donor and/or artist will first re-examine the Acceptance Guidelines; and
- The donor and/or artist will then informally review the Committee procedure with the Director, Florida Keys Arts Council within three weeks of the date of written notification of the original decision on the proposed artwork.

Should no resolution be reached, the donor and/or artist may submit a formal appeal by way of a written request to the Art in Public Places Committee specifying the date on which an informal review of the



original panel decision was completed, and the factual bases on which the donor claims that the procedures utilized by the panel in reaching its decision were unfair, unreasonable or inadequate.

The Executive Director, of the Florida Keys Council of the Arts will provide the donor, artist and each member of the Committee notice, in writing, with at least fourteen days advance notice of the date, time and place of the appeal in order to enable each of the aforementioned individuals to file written submissions for consideration and to arrange to appear in order to give a verbal presentation, if desired. In addition, the Art in Public Places Committee will invite any individual whom it believes may contribute to the adjudication of the appeal, to appear before it. The deliberations of the Art in Public Places Committee will be open and available to the public.

**Donor Responsibilities and Associated Costs:**

For gifts of art to the County the donor is responsible for all costs associated with fabrication and installation of the artwork or memorial. The donor will also be responsible for engineering specifications, design and cost of pedestal (or other support / base), identification plaque, special lighting, electrical and water hookups, structural support meeting all building codes, and landscaping of site. The donor is responsible for acquiring all City, County, State or Federal permits necessary for the installation of the work, and for paying all costs associated with such permits.

**Maintenance:**

The donor shall create, with the assistance of a professional conservator, a maintenance plan for care of the proposed gift and shall include this plan with its proposal. Exorbitant maintenance costs may be grounds for rejection of a gift. Once the donation has become part of the permanent collection the County shall be responsible for the inventory, operational expenses and maintenance requirements, in the sole discretion of the County.

**Acceptance of Gifts of Public Art**

Once recommended by the Art in Public Places Committee and accepted by the Board of County Commissioners, gifts of works of art will be deemed part of the permanent collection of Monroe County once the donor has supplied the County with the following:

- Written certification of the installation of the artwork;
- A written bill of sale conveying title of the work to the County;
- Written instructions for the care, maintenance, preservation and handling of the artwork prepared with the assistance of a professional art conservator;
- A sworn statement of no liens, claims or other encumbrances associated with the artwork;
- A written assignment of any and all warranties for materials used or labor performed by subcontractors or other persons;
- A written assignment conveying all rights, including copyrights and waiver of all rights under the Visual Artist's Rights Act of 1990 and its amendments (Section 106A of the United States Copyright Act; Pub. L. No. 101-650).

**Acceptance of Loans of Public Art**

Once recommended by the Art in Public Places Committee and accepted by the Board of County Commissioners, loans of works of art will be deemed exhibited on temporary basis only after the donor has supplied the County with the following:

- A fully executed Agreement for Display of Artwork between the lender and the County;
- All insurance as required by the County Risk Management Department;
- A written plan for the transportation, installation and removal of the artwork as per the Agreement for Display of Artwork;

- Written instructions for the care, maintenance, preservation and handling of the artwork during the period of display on County property.

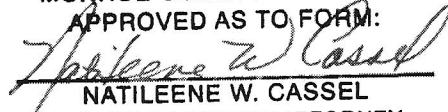
**Title and Ownership:**

Permanent gifts of artwork to the County will become the property of the County once an *Agreement for Acceptance of a Donation of a Work of Art* has been fully executed and the Donor has delivered the Bill of Sale. At such time, all rights of title and ownership will be conveyed to the County and all future decisions regarding the use and continued ownership of the artwork will be under the sole discretion of the County. As owner of the work, the County may exercise any and all legal rights of ownership including, but not limited to, sale, relocation or removal of the artwork.

**Removal, Relocation or Deaccession of an Artwork:**

Artworks gifted to the County may be relocated, removed or deaccessioned from the County's public art collection if the artwork becomes a hazard or liability, or if the approved terms of acceptance are not fulfilled or for any other reason as determined by the Art in Public Places Committee or Board of County Commissioners at their sole discretion.

MONROE COUNTY ATTORNEY  
APPROVED AS TO FORM:

  
NATILEENE W. CASSEL  
ASSISTANT COUNTY ATTORNEY  
Date 5-7-2013