

# POLICY & PROCEDURES MANUAL

**PUBLIC** FOUNDATION  
GREATER **ART**  
DES MOINES



COVER PHOTO

Richard Serra, American, born 1939

**Five Plate Pentagon, 1986**

Steel

60 x 72 x 113 inches

Promised gift of John and Mary Pappajohn to the Des Moines Art Center  
Pappajohn Sculpture Park

photo courtesy of King Au

# POLICY & PROCEDURES MANUAL

## **TABLE OF CONTENTS**

**Greater Des Moines Public Art Foundation**

**October 2011**

## **SERIES 100 | GOVERNANCE**

- 100. Agreement between the Greater Des Moines Community Foundation and the City of Des Moines, Iowa
- 101. Purpose of the Greater Des Moines Public Art Foundation
- 102. Appointment — Board of Directors Members
- 103. Appointment — Board of Directors Officers
- 104. Powers and Duties of the Foundation
- 105. Board Member Orientation
- 106. Annual Reporting
- 107. Board Member Assignments
- 108. Role of the Executive Committee
- 109. Ad Hoc Committees
- 110. Conflicts of Interest

## **SERIES 200 | OPERATIONS**

- 200. Program Management
- 201. Adherence to the Laws of Iowa
- 202. Fiscal Year
- 203. Meetings
- 204. Voting Procedures and Quorums Defined
- 205. Location of Meetings
- 206. Financial Accountability
- 207. City of Des Moines Financial Appropriations
- 208. Non-Municipal Revenue
- 209. Review of Public Art on City Property
- 210. Ownership of Works of Art
- 211. Annual Policy Review
- 212. Civil Rights Compliance

## **SERIES 300 | ARTIST RECRUITMENT & ART ACQUISITION**

- 300. Methodology
- 301. Direct Commission
- 301. Open Competitions
- 302. Limited Competitions
- 303. Invitational
- 304. Purchase of Existing Works (Permanent or Temporary)
- 305. Consultant, Professional Artist
- 306. Integration of Artist in the Project Design Team
- 307. Composite Process

- 308. Public Art Review & Selection Process
- 309. Artist Selection Panels
- 310. Panel Member Profile
- 311. Panel Composition
- 312. Panel Responsibilities
- 313. Artist Solicitation
- 314. Artist Selection Methods
- 315. Selection Based on Request for Qualifications (RFQ)
- 316. Selection Based on Request for Proposal (RFP)
- 317. Selection Process
- 318. Artist Responsibilities
- 319. Artistic Quality
- 320. Public Availability to Foundation
- 321. Sponsored Activities

#### **SERIES 400 | LEGAL CONSIDERATIONS**

- 400. Deaccessioning
- 401. Relocation, Removal, or Sale
- 402. Artists' Rights Act of 1990 [Abridged]
- 403. Gifts & Loans Acceptance

#### **Series 500 | CARE & MAINTENANCE**

- 500. Definitions
- 501. Objectives
- 502. Conservation Treatment
- 503. Responsibility, Authority and Partners
- 504. Existing Public Art
- 505. New Public Art
- 506. Landscaping and Artist's Original Design
- 507. Implementation
- 508. Funding
- 509. Criteria to Prioritize Treatment and Maintenance

## INTRODUCTION

The purpose of this manual is to provide **guidance only** to the members of the Greater Des Moines Public Art Foundation and to the members of the public who appear before the Foundation. Nothing in this manual is intended to supersede the rights and obligations of the Operating Agreement between the Greater Des Moines Community Foundation and the City of Des Moines, Iowa; its Clarifying Agreement, Articles of Incorporation of Greater Des Moines Public Art Foundation and the Bylaws of the Greater Des Moines Public Art Foundation.

## MISSION

The Greater Des Moines Public Art Foundation places art in public spaces through public and private collaborations.

## SERIES 100 | GOVERNANCE

### 100. Agreement between the Greater Des Moines Community Foundation and the City of Des Moines, Iowa

The Foundation entered into an Agreement (“Operating Agreement”) with the City of Des Moines, Iowa (“City”) to assume the responsibilities of the City’s Public Art Program as defined by Section 82-401 of the Des Moines Municipal Code (AGREEMENT — APPENDIX A). Consequently, the Greater Des Moines Community Foundation established the Greater Des Moines Public Art Foundation (“GDMPAF”) organized under Chapter 504A of the Iowa Code and which is a Section 501 (c) (3) organization, as defined by the Internal Revenue Service.

### 101. Purpose of the Greater Des Moines Public Art Foundation

**101.1.** The GDMPAF will have a purpose comparable to and compatible with the purpose of the Des Moines Public Art Program as identified in Section 82-401 of the Des Moines Municipal Code. (MUNICIPAL CODE, SECTION 82-401— APPENDIX B)

**101.2.** Specifically, the purpose of the GDMPAF is to acquire works of art to be displayed in areas of buildings, streetscapes, or on lands, accessible on a regular basis to members of the public. Furthermore, the GDMPAF exists to accomplish the following goals:

- Enhance the city’s physical environment and public spaces
- Integrate the work and thinking of artists into the planning, design and construction of city facilities, buildings, infrastructure, parks and other public facilities and spaces, and private sector projects
- Celebrate the multicultural and diverse character of the city’s residential and commercial neighborhoods and its citizens

- Contribute a sense of citizen ownership and pride in public facilities and spaces
- Mitigate potential adverse impacts of construction
- Engage the citizens, neighborhoods, businesses, and community organizations of the city in creative partnerships with artists
- Support, educate, and assist citizens, neighborhoods, businesses, and organizations with their community activities
- Complement and enhance city planning documents
- Serve as a collaborating partner with the City of Des Moines
- Integrate public art and aesthetic elements in projects that stimulate the eye, mind, and spirit of the public, and serve as a cultural, educational, and tourism resource
- Assist in community initiated projects

#### **102. Appointment — Board of Directors Members**

**102.1.** The GDMPAF Board of Directors will be appointed by the governing body of the Community Foundation will consist of no fewer than nine (9) members. Each director will serve a three (3) year term. No director will serve for more than six (6) consecutive years. After a one-year hiatus, former directors may be nominated to serve a new term.

**102.2.** One position on the Board will be reserved for a member nominated by the City Mayor and appointed by the City Council and will be allowed to continue to serve after his or her term expires until a successor is appointed by the Des Moines City Council.

**102.3.** A majority of the members will be residents of the City of Des Moines.

#### **103. Appointment — Board of Directors Officers**

**103.1** During a designated "annual meeting" of the GDMPAF, the members will elect a president, a vice-president, and secretary to serve as the primary officers.

**103.2** The officers will serve terms of one year, generally following the annual meeting, or until they may be relieved by a successor. Officers may serve more than one term.

**103.3** Before the election of officers, the members of the GDMPAF will receive a report from the nominations committee recommending candidates for such officers. Additional nominations may be offered from the floor at the annual meeting.

**103.4** All officers will be subject to removal at any time by the affirmative vote of a majority of the members in session by quorum and legal notice. Officer vacancies occurring because of death, resignation, removal or any other reason, may be filled by the members at any meeting. All officers must be members of the GDMPAF.

#### **104. Powers and Duties of the GDMPAF**

The GDMPAF will perform the following duties and any additional duties consistent with the Operating Agreement:

- To be responsible for administering a public art program and the acquisition or works of art for temporary or permanent display in public places in the City of Des Moines
- To advocate for a high quality public art program
- To provide assistance in planning for the incorporation of public art in public projects when requested by any City planning committee, task force, board, or commission responsible for developing and implementing master plans, annual plans, studies, and other planning documents and reports for the City
- To develop programs, policies, procedures, guidelines, and review criteria to guide the public art program
- To review and advise all parties involved in the acquisition, accession, placement, and deaccession of public art projects
- To review and make recommendations on all public art matters submitted to the GDMPAF by the City
- To assist in providing public art as part of any civic and private sector development and other community initiatives
- To study proposed public arts related projects of artistic and aesthetic interest to the community and City
- Serve as an advisory body to the City Council regarding disputes involving aesthetic judgment relative to the public art program
- To identify public and private projects with the potential of benefiting from an artists' involvement
- To provide for the maintenance of public art acquired by the GDMPAF and provide oversight for the maintenance of public artwork owned by the City
- Solicit gifts and donations of public art and funds for the acquisition of public art

#### **105. Board Member Orientation**

When feasible, GDMPAF orientation sessions are offered to new members as a group, or individually, as may be necessary. Incumbent members may also attend orientation sessions to refresh their understanding of various aspects of GDMPAF operations. The orientation sessions should take place within 45 days of appointments, and before the first scheduled GDMPAF meeting, if possible.

#### **106. Annual Reporting**

A status report including a detailed accounting of all expenditures, will be prepared and submitted annually to the City of Des Moines, on or before the date of August 15, unless otherwise directed.

## **107. Board Member Assignments**

All assignments for board members will be made by the President in consultation with the Executive Committee and others, as appropriate. Such services may include, but not be limited to, executive, standing, or ad hoc committees, advisory panels and committees, attendance on behalf of the GDMPAF at public gatherings, or any other assignments whereby the function of the member may be construed as direct representation of the GDMPAF.

## **108. Role of the Executive Committee**

- The Executive Committee will be composed of the officers of the GDMPAF and up to four other members from the Board of Directors, named by the President.
- The Executive Committee will monitor the operation of the GDMPAF between meetings of the Board of Directors, and will exercise all powers of the board, except for the appointment of new directors and election of officers.
- Any action taken by the Executive Committee will be forwarded to the board to acquire approval or ratification at its next meeting.
- Executive Committee will meet at the request of the President.

## **109. Ad Hoc Committees**

The President is authorized to establish ad hoc committees for a specific purpose and exist for a limited time. After an ad hoc committee has existed for two consecutive years, it must either be eliminated or reestablished as a standing committee, subject to approval by the Board of Directors.

## **110. Conflicts of Interest**

**110.1.** No director, employee, or volunteer will knowingly participate in any decision of the Board of Directors or any committee or otherwise attempt to influence the conduct of the GDMPAF where such decision or conduct would financially benefit directly or indirectly any person, firm, or organization in which such person has a material financial interest.

**110.2.** If there is a matter for consideration or decision that raises a potential conflict of interest for any director, employee, or volunteer, that person will immediately disclose the potential conflict of interest to the Board or to the committee considering the matter, as the case may be, and will not cast a vote on the matter.

**110.3.** Furthermore, at Board of Directors or Board committee meetings at which a vote on an issue will occur, the director, employee, or volunteer will present their personal view on the matter only if the President of the Board or committee so requests and subsequently leave the meeting. The Board or committee will then continue to complete discussion and vote, as necessary.

**110.4.** If any Board member or committee member has reasonable cause to believe that a director, employee, or volunteer has failed to disclose actual or possible conflicts of interest, it will inform the Board President of the basis for such belief. The President

will allow that person an opportunity to explain the alleged failure to disclose. If, after hearing the response of the person and making such further investigation as may be warranted, and the President determines that the person has failed to disclose an actual or possible conflict of interest, appropriate action will be taken.

**110.5.** Directors, employees, and volunteers of the GDMPAF are asked to maintain independence, objectivity, and confidentiality and to do what a sense of fairness, ethics, and personal integrity dictate even though not necessarily obliged to do so by law or regulation.

## **SERIES 200 | OPERATIONS**

### **200. Program Management**

Article 2, Section 24B of the operating Agreement between the Greater Des Moines Community Foundation and the City states that no more than 20% of City funding per annum received by the Foundation may be used for administrative purposes. To help meet this stipulation and contain administrative costs, the Foundation may hire a qualified consultant on an annual basis to manage all GDMPAF programs and operations subject to the direction of the GDMPAF.

### **201. Adherence to the Laws of Iowa**

The GDMPAF will comply with all applicable federal, state and municipal laws in exercising its duties.

### **202. Fiscal Year**

The GDMPAF's fiscal year is July 1 through June 31.

### **203. Meetings**

The Board will meet at least four (4) times per year with the annual meeting occurring between October 1 and December 31 of each year. Special meetings of the Board may be called by or at the request of the President or Secretary or any two directors. Notice of any meeting of the Board will be given at least five (5) days before the date of the meeting by mail or electronic communication.

### **204. Voting Procedures and Quorums Defined**

During a legally convened GDMPAF meeting, a quorum will be defined as a simple majority of all eligible voting members whose terms are in effect.

### **205. Location of Meetings**

The GDMPAF will convene its meetings at the offices of the Community Foundation of Greater Des Moines, 1915 Grand Avenue, Des Moines, Iowa, unless otherwise necessary to accommodate unanticipated scheduling conflicts.

## **206. Financial Accountability**

The Community Foundation of Greater Des Moines (Community Foundation) is the fiscal agent for the Foundation. The Community Foundation manages financial activities according to generally accepted accounting practices and the policies and procedures recommended or required by the city and state. The Consultant or GDMPAF staff, as applicable, will present quarterly and year-end financial reports to the Board and is responsible for budget management.

## **207. City of Des Moines Financial Appropriations**

**207.1.** The Community Foundation, as fiscal agent for the Greater Des Moines Public Art Foundation (GDMPAF), will establish a trust account (Trust Account) at a federally insured bank or savings and loan for holding funds transferred from the City to the Community Foundation. The depository agreement will identify that all funds in the Trust Account are held by the Foundation for the benefit of the GDMPAF and may be withdrawn by the Foundation only for the purposes contained in the Operating Agreement. All funds from sources other than the City will be held in a separate account.

**207.2.** Funds may be withdrawn from the Trust Account by the Community Foundation to pay expenses incurred by the GDMPAF for the administration of a public art program in the City of Des Moines. The limitations imposed by the operating agreement between the Community Foundation and the City will not apply to funds received from non-City sources.

**207.3.** Any withdrawal of funds from the Trust Account must be approved in advance by the Board. However upon the termination of this Agreement, the GDMPAF will direct the balance of the Trust Fund to be paid to the City pursuant to Section 32 of the Operating Agreement, without the prior approval of the Board.

**207.4.** The GDMPAF may establish additional public art programs for the promotion of the arts outside the City of Des Moines, but no part of the costs of such other programs will be paid from the proceeds of the Trust Account dedicated to City of Des Moines funds. However, this will not prevent the use of the Trust Fund to pay a reasonable pro-rata share of an undertaking to bring a traveling display, exhibit, or other program to Des Moines and other communities.

**207.5.** The Trust Account will not be subject to the claims of the GDMPAF's general creditors.

**207.6.** The GDMPAF, at its own expense, will conduct an annual independent audit of the Trust Account either as a separate audit or as part of any annual independent audit of the GDMPAF as a whole. The audit will be conducted by a Certified Public Accountant and according to auditing standards generally accepted by the Financial Accounting Standards Board (FASB). A copy of the portions of the audit report addressing the administration of the Trust Account will be provided to City within a reasonable time after its receipt by the GDMPAF.

## **208. Non-Municipal Revenue**

The GDMPAF will seek to augment the City's contributions by actively pursuing alternate sources of funding from other units of government, corporations, foundations, and individuals to support the acquisition of public works of art.

## **209. Review of Public Art on City Property**

The City will endeavor to promptly respond to any request by the GDMPAF to place or display public art upon City property. The City may condition its approval of any such placement upon adequate provision being made by the GDMPAF to assure that the placement and display of the art does not impose any burden upon the City or upon the future operation of City facilities by way of separate agreement. Nothing in the operating agreement will be construed as granting prior approval of the GDMPAF's use of public facilities or City property.

## **210. Ownership of Works of Art**

Any work of art acquired in whole or in part with proceeds from the Trust Fund, which constitutes tangible personal property or a fixture which may be removed from the realty, will not be destroyed, sold, transferred, mortgaged, pledged, leased for more than two years, or otherwise disposed of by the GDMPAF without first offering to donate such work of art to the City.

The City will have 30 days from receipt of notice of such offer to acknowledge acceptance of such work of art. If City declines to accept the donation, or if City fails to respond to such offer within 30 days, the GDMPAF may dispose of the work of art in any legal manner approved by the Board.

## **211. Annual Policy Review**

The policies of the GDMPAF will be reviewed annually and, upon adoption, will be integrated into an updated policy manual.

## **212. Civil Rights Compliance**

**212.1.** All persons or organizations receiving GDMPAF support must agree that they will not discriminate against an employee, applicant for employment, or any persons participating in any aspect of GDMPAF supported programs based on race, creed, color, national origin, religion, sex, sexual orientation, gender identity, age, or physical or mental disability.

**212.2.** Any person or organization receiving GDMPAF support will comply with the Civil Rights Act of 1991, which prohibits discrimination based on race, national origin, or color. Furthermore, the GDMPAF will adhere to Title IX of the Education Amendments of 1972, which prohibits sex discrimination in education programs or activities; the Americans with Disabilities Act of 1990 as amended, which requires that all persons be given equal opportunity to participate in programs or services.

## **SERIES 300 | ART & ARTIST SELECTION PROCESSES**

### **300. Methodology**

The GDMPAF acquires works of art for the public art collection in the following ways:

- Commission
- Community Initiated Projects
- Purchase
- Gift

The method of acquisition is determined by the Board and each are subject to the criteria contained within this manual. The procedures used for acquiring works of art are as follows:

### **301. Direct Commission**

An artist, or group of artists or artist team, is chosen directly by the Board or an artist selection panel. This process can be employed in circumstances where an Open or Limited Competition or Invitational would be inappropriate or impractical.

### **302. Open Competition**

This type of competition involves public advertisement, requests for qualifications, letters of interest, and applications or proposals. It is most often used to identify promising emerging or unknown artists who might be cycled into the constantly changing availability of artists who work in the public domain.

### **303. Limited Competition**

A competition defined by certain perimeters; for example, a competition may be limited to artists working in a specific medium (i.e. sculpture, painting, metal, glass) or only artists whose work meets the high standard of quality defined by the GDMPAF.

### **304. Invitational**

One or more artists are invited by an artist selection panel to submit credentials for a specific project or invited to be interviewed for a specific project.

### **305. Purchase of Existing Works (Permanent or Temporary)**

The purchase of existing work is rare, but may be suitable under certain circumstances, as defined by the Board.

### **306. Consultant, Professional Artist**

On occasion, it may be necessary to engage an artist to provide expert advice about a

particular project. Artists who serve as project consultants will be excluded from being considered for the commissioning process.

### **307. Integration of Artist in the Project Design Team**

The inclusion of artists as part of a project design team is the preferred method for development projects, particularly those having a large scope of activities and multiple design professionals. Advantages include maximizing the artist's creative abilities and ensuring an early dialogue among design team members. It is a method to achieve maximum use of limited resources.

### **308. Composite Process**

A two-tiered process or a process that combines any of the selection processes.

### **309. Public Art Review & Selection Process**

**309.1.** Projects often require the solicitation of artists through a formal selection process. The selection process to be used for any given project will be determined at the inception of the project and is dependent on many factors, which includes, for example, budget, timeline, and scope of work (e.g., building or campus area, bridge, floor, window treatments, outdoor sculpture).

**309.2.** The purpose of a public art review and selection process is to evaluate the quality of proposals relative to a specific set of project criteria. Initiation of any project requiring the selection of an artist(s) begins with identifying and appointing qualified individuals to serve on project specific "Artist Selection Panels."

### **310. Artist Selection Panels**

**310.1.** An artist selection panel is a varied group of individuals appointed to initiate public art projects, solicit and select artists, discuss and debate the quality of artwork and merits of project proposals, and make recommendations based on established criteria. Selection panels are established for each individual project and usually consist of 5 to 7 members, although more may be added if circumstances warrant.

**310.2.** It is essential to include one or more artist or arts professional as a member(s) of each selection panel. These individuals provide a critical and unique perspective, and are credible sources who can speak authoritatively when necessary. They are particularly helpful in discussing aesthetics, contextual themes, and issues related to the suitability of site locations.

### **311. Panel Member Profile**

Any individual serving on a Selection Panel should possess more than one of the following traits:

- The ability to critically debate aesthetics and judge the merits of a proposal
- Willingness to make value judgments about artistic quality

- The ability to express thoughtful opinions and actively participate in discussions
- An aptitude for evaluating the merits of multiple proposals in a competitive environment
- Strong interest in or knowledge of public art, art appreciation, architecture, community development, and design

### **312. Panel Composition**

Selection Panel membership presents an exceptional opportunity for willing and qualified individuals to serve their community in a meaningful way. A Selection Panel might include a representative from the following categories:

- Artists and arts professionals
- Public art patrons and fine art collectors
- Civic and business leaders
- Design professionals
- Art educators
- Government officials and/or department heads
- Property owners
- Community Representatives

### **313. Panel Responsibilities**

**313.1.** Selection panels are responsible for considering a variety of subjective elements contained in an artist's proposal, as represented by the following considerations:

- Does the proposal meet the standards of quality defined by the panel,
- Is the work compatible with the project site,
- Is the proposed artwork feasible in relationship to the project criteria,
- Is the work financially realistic and within budget limitations,
- Has the artist articulated the creative thought process in a manner that is understandable and consistent with project criteria?

**313.2.** The panel is empowered to recommend one or more finalists at the conclusion of the review process, if warranted. Should the panel be unable to do so, it may be necessary to either extend the existing process or begin anew by issuing a modified Request for Proposals or contacting additional artists. Artist Selection Panels serve in an advisory capacity only, and make recommendations to the Board of the GDMPAF.

### **314. Artist Solicitation Methods**

The two preferred methods for soliciting artists are Request for Qualifications (RFQ) or

Request for Proposals (RFP).

### **315. Selection Based on Responses to Request for Qualifications**

**315.1.** If not soliciting artists by Direct Commission or Invitational, a selection panel may want to consider a broader pool of candidates based on RFQ. The use of an RFQ offers wide distribution for announcing the intent to commission artwork for an anticipated, but not thoroughly defined public art project.

**315.2.** The first step is to distribute a call to artists by publishing an announcement in professional journals and other media. The announcement states the intent to commission an artist(s) for a specific project and the availability of an official Request for Qualifications, including a general description of the project.

**315.3.** The actual RFQ is then sent to responding artists. Occasionally, the process can be truncated by publishing a simplified RFQ in place of an announcement. The RFQ may also be sent to directly to artists working in the public domain. The type of information typically sought in an RFQ includes:

- Contact information
- Statement of qualifications — A narrative or other statement of qualifications for the anticipated project
- Availability — A brief statement of the availability to undertake the anticipated project
- Curriculum vitae or resume
- Slides/images of current work

**315.4.** The responding artists are ranked by the selection panel based on information provided in the RFQ. The top-ranked submissions are maintained for future consideration and drawn upon when the project is initiated. The RFQ selection procedure is particularly useful in instances where timing is important; e.g., pending projects are on a fast track and slated to begin in the relatively near future. It also provides a pool of artists from which to draw for successive future projects.

### **316. Selection Based on Responses to a Request for Proposal (RFP)**

**316.1.** Artists are often solicited through an RFP process. The primary purpose of an RFP is to elicit detailed proposals from suitable candidates and discourage responses from those who lack the necessary qualifications. In this process, an artist(s) must submit a detailed project proposal to be considered a viable applicant.

**316.2.** A well-developed RFP engages the interest of artists and elicits creative approaches to a defined project. It should accurately convey the full scope of the project, thereby enabling the artist(s) to submit precise information and make realistic budgets.

**316.3.** An RFP may be accompanied by appendices, maps, drawings, and other backup material, but the body of content should include the following:

- Cover sheet — project title, name of the issuing entity, and proposal due date
- Introduction — should identify and describe the project for which the artist(s) is being solicited
- Criteria — this should be carefully worded, since nuance can often be misleading and troublesome
- Budget — states a range of financial resources available for the proposed project
- Due date — the date by which submission must be received, to ensure fairness to applicants
- Description of the Project — this section should establish the scope of work to enable artists to judge the degree of project complexity.

### **317. Selection Process**

The selection panel will review submission materials, i.e., artist's response to either an RFQ or RFP, identify those who meet or exceed expectations, and advance selected submissions to the next level in the process. Each submission will be judged against necessarily subjective standards of quality, adopted by the panel, and related to the following criteria:

- Artistic merit as evidenced by slides or other forms of imagery
- Professional qualifications, such as artistic achievement and professional recognition, as expressed in a resume or curriculum vitae
- Demonstrated ability to complete successfully public art projects of similar scale, scope, and budget
- Ability to imagine an unique approach to the project
- Suitability of the proposed artwork
- Flexibility of proposal, particularly in response to unanticipated issues and availability of resources
- Ability to work on a design team with other professionals and structural engineers, as required
- An ability to think critically and provide creative solutions to potentially complex problems
- Artists selected as finalists will receive a design fee or honorarium and, if necessary, travel expenses for personal interviews with the Selection Panel.

### **318. Artist Responsibilities**

It is sometimes necessary for a commissioned artist to provide certified documents at various stages of a project. If required, the artist will be responsible for assembling and submitting the following project information:

- "Shop Drawings" represent preliminary drawings, diagrams, and other illustrated

documents showing how the work will be fabricated and installed.

- “Design Development Documents” accurately depict the proposed artwork, method of installation, and type and quality of material to be used in fabrication. They will include all necessary architectural, structural, mechanical, and electrical system details.
- “Mockups, Maquettes, or Samples” will mean illustrations such as standard schedules, performance charts, instructions, brochures, diagrams, and physical samples of all or any portion of the work, and other information furnished at the request of the panel.
- “Fabrication Documents” are complete architectural, structural, electrical, mechanical, and certified engineering drawings. They include written specifications and engineering calculations, and feature an all-inclusive narrative of the proposed work at its completion and installation.

### **319. Artistic Quality**

The primary criteria for awarding financial support to any project will be artistic quality. Other priority criteria, such as public access, will be identified for each project.

### **320. Sponsored Activities**

The GDMPAF will provide financial support only to those projects that are free and open to the public.

## **SERIES 400 | LEGAL CONSIDERATIONS**

### **400. Deaccessioning**

400.1. Deaccessioning of public art should only be considered in rare circumstances and with legal advice from professionals. Deaccessioning of public artwork is potentially controversial and it is advisable to document the steps followed throughout the decision-making process.

400.2. Documentation should include the following subject matter:

- Criteria for approving the removal of a work subject to the approval of the City as required by the Operating Agreement.
- Decision making process related to removal
- Implications of deaccessioning action
- Time schedule for deaccessioning
- Methods used for removal

#### **401. Relocation, Removal, or Sale**

Once a public work of art is deaccessioned, it is usually disposed of by sale, gift, exchange, or destruction. Any decision to change or alter the status of a work must meet the legalities established by the Artists Rights Act of 1990, as enacted, revised, or amended.

#### **402. ARTISTS' RIGHTS ACT OF 1990 (ABRIDGED)**

402.1. Effective June 1, 1991, the Visual Artists Rights of 1990 amended the Copyright Act of 1976 to provide visual artists with the moral rights of attribution and integrity.

402.2. The Act grants protection to the creator of a work of visual art. A "work of visual art" includes paintings, drawings, prints, sculpture, and still photographic images produced for exhibition purposes. Each of those works must exist in a single copy or in a limited edition of no more than 200 copies that are consecutively numbered and signed by the artist. Specifically excluded from coverage are posters, maps, globes, charts, technical drawings, diagrams, models, applied art, motion pictures and other audiovisual works, books, magazines, newspapers, periodicals, data bases, electronic information services, electronic and similar publications, advertising, merchandising, promotional and packaging materials, and any works for hire.

402.3. The "right of attribution" encompasses three rights: (1) the right to be identified as the work's author, (2) the right to prevent the use of the author's name as the author of a work that he or she did not create, and (3) the right to prevent the use of the artist's name as the creator of the work if it has been distorted, mutilated, or modified so as to be prejudicial to the artist's honor or reputation.

402.4. The "right of integrity" entitles the artist to prevent any intentional distortion, mutilation, or modification of a work of visual art that is prejudicial to the artist's honor or reputation and any intentional or grossly negligent destruction of a work of recognized stature. The rights of integrity granted by the Act are subject to certain limitations. These rights do not apply to a work of visual art incorporated into a building when the artist consented that removing the work from the building may subject the work to destruction, distortion, or mutilation.

402.5. In addition, rights of integrity do not apply to a work of visual art that can be removed from a building without causing harm, provided the building owner either makes a good-faith attempt without success to notify the artist of the work's intended removal or does notify the author, who then fails to remove the work or to pay for its removal.

#### **403. Gifts & Loans Acceptance**

Proposed gifts or loans of public art should be reviewed within a set of pre-established criteria. Gifting artwork is a valuable part of building a collection, but on occasion, unscrupulous donors may exploit the system to rid themselves of unwanted or meaningless work. A review process should be established to ensure that any gifts are legitimate and meets a high standard of excellence and artistic merit. The process for considering gifts and loans should parallel that used for commissioning work.

## **SERIES 500 | Care & Maintenance**

### **500. Definitions**

**500.1. Maintenance** -- Regular routine inspection and care of artwork, such as cleaning and applying protective surface coatings. A conservator usually carries out maintenance, though a skilled City employee can be trained by a conservator to carry out routine maintenance.

**500.2. Treatment or Conservation Treatment** -- Repair is done when needed to return artwork to its original condition and integrity, which may be the result of flaws, neglect, aging, damage or vandalism. A professional conservator usually carries out treatments, often in collaboration with artists or other experts.

**500.3. Condition Assessments** -- Inspections of artwork include information on the present location, the current condition and the treatment or maintenance needed. Inspections may be carried out by City staff, but thorough assessments should occasionally be conducted by the GDMPAF's Director or a professional conservator.

**500.4. Artwork Definition and Scope** -- A detailed definition of the scope of each artwork will be created by the artist(s) and the Public Arts Director and will be reflected in all agreements. The definition may include all parts of the artwork designed by the artist, and may include bases, lighting and landscape elements.

### **501. Objectives**

- To inspect the condition of City-owned public artwork on a regular basis;
- To clean and provide other appropriate routine maintenance to public artwork;
- To insure timely conservation of public artwork;
- To integrate longevity and maintenance considerations into artist's planning, and City approval processes for artwork;
- To establish a treatment and maintenance program for public art with regular procedures, agreements and documentation;
- To educate public employees about public art and its important role in public infrastructure and planning;
- To use public funds wisely by avoiding costly conservation expenses resulting from neglect; and
- To leverage private and volunteer support for maintenance of public art, whenever possible.

### **502. Conservation Treatment**

**502.1. Purpose:** Art works will be efficiently maintained and preserved in the best possible condition as understood by the GDMPAF and consistent with the artist's original intention.

**502.2. Integrity of Artworks:** The GDMPAF and its partners in this effort will seek to

insure the ongoing integrity of the artwork and the sites for which they were created, to the greatest extent feasible, according to the artist's original intentions, and consistent with the rights afforded by the 1990 Visual Artists Rights Act.

**502.3. Access to Artworks:** The City will seek to assure continuing access to artwork by the public, although the City may limit availability due to circumstances such as funding, public safety, display space and deaccession.

### **503. Responsibility, Authority and Partners**

**503.1.** The GDMPAF will have the final authority in decisions regarding conservation of public art.

**503.2.** The GDMPAF Director will oversee the condition assessment, treatment, maintenance, disposition and relocation of artwork, working in collaboration with the following partners:

**503.2.1. Experts:** Arts professionals, professional arts conservators, city staff, and other individuals familiar with art materials, fabrication methods, and the artistic intent will inspect and evaluate artwork.

**503.2.2. Artists:** Artists will develop artwork with maintenance requirements that can be realistically maintained by the City. Artist's specifications may be taken into account in maintaining artwork along with applicable conservation standards. Artists (if possible) will be notified of all repairs and may be involved in conducting treatments and maintenance.

#### **503.2.3. Site Owners, Site Managers and Other Partners**

**503.2.3.1.** The GDMPAF may work with the following site representatives and partners, as appropriate, to implement these policies: City Legal Department, Des Moines Park and Recreation, Pappajohn Sculpture Park Board, Polk County, other governmental agencies, and private businesses or landlords.

**503.2.3.2.** Contractual agreements for treatment and maintenance will be developed for artwork on City property, other governmental agencies or private businesses. These agreements will seek to insure the integrity of the artwork. They will also be consistent with the policies and procedures of each partner and will stipulate the roles of each respective party in staffing and funding treatment and maintenance for the life span of the artwork.

**503.2.3.3.** Property owners will be responsible for keeping the area surrounding the artwork clean and groomed. They will also be responsible for protecting the artwork from maintenance equipment, such as mowers and plows.

### **504. Existing Public Art**

#### **504.1. Assessing Needs**

Artwork should be inventoried and receive cursory inspections once a year. Artwork should receive regular, thorough, condition examinations, which include the present locations and conditions of artwork, as well as cost estimates for treatment and maintenance. These thorough examinations should occur every 1-5 years, depending

upon the needs of individual works. They should also occur when required by reports of damage.

#### **504.2. Planning for Maintenance**

Maintenance plans for existing artwork should be developed by the responsible department or agency as treatments and repairs are applied. A maintenance plan includes detailed specifications for monthly maintenance, winter maintenance, maintenance of plantings (if applicable), annual routine maintenance, other periodic maintenance and a long-term prognosis. The GDMPAF may periodically request a copy from these partners of these maintenance or treatment plans.

### **505. New Public Art**

#### **505.1. Sustainable Artwork**

Artists will be commissioned to develop sustainable artwork, that is artwork which can be realistically maintained by the City, using City resources and within the guidelines described in these policies and procedures. Artists will work with GDMPAF and its partners to implement maintenance strategies (such as applying graffiti coatings, selecting durable materials and providing wood chip borders near mowed areas) as part of the construction and installation of artwork, as long as those strategies do not interfere with the approved artist's proposal or integrity of the artwork.

#### **505.2. Design Approval and Final Receipt and Completion**

Before design approval and then prior to final receipt and completion, an art conservator, or other qualified City staff, such as engineers, concrete experts, landscape architects, maintenance crews and police, will review the proposed design for possible flaws in structural design and fabrication.

#### **505.3. Inherent Flaws**

Artists will also be responsible for the cost and execution of repairs related to any defects in workmanship or inherent flaws in artwork, which they are commissioned to fabricate. Inherent flaws may include any quality within the material or materials incorporated into the artwork which, either alone or in combination, result in the deterioration of the artwork. Artist's plans for public artwork will be reviewed and approved by certified structural engineers. When an artist is commissioned to fabricate an artwork, this review may be at the artist's expense. (City staff will encourage artists to contract with vendors, obtain warranties and hold manufacturers accountable for inherent flaws in their work.)

#### **505.4. Maintenance Plans for New Work**

All new artwork must have a treatment and maintenance plan that projects both staff time and funding needs. As part of their contractual requirements, commissioned artists will consult with the Public Art program, an art conservator (provided by the Public Art program), and all other appropriate partners on a maintenance plan for each new artwork. These maintenance plans will include documentation of materials used to fabricate the artwork and a reasonable annual budget for maintenance. Artwork that includes landscaping as an integral part will include a maintenance plan for the landscaping elements as well. Maintenance plans for new works will be reviewed and

approved by the Greater Des Moines Public Art Foundation overseeing the development of artwork, to ensure there are no major concerns with materials, safety or maintenance.

## **506. Landscaping and Artist's Original Design**

**506.1.** Artwork with landscaping elements should be commissioned only for sites with an irrigation source and an ongoing source of funding for the operation and maintenance of the irrigation system. Exceptions will be made if plantings are sustainable within the local climate without irrigation and a budget provides watering for two years or until the plantings are established.

**506.2.** Artists will create a landscaping plan for such artwork. Property owners and experienced horticulturists or landscape architects will approve this plan. Such landscaping will also be included in the artwork's maintenance plan and contractual agreements with property owners.

**506.3.** The City's responsibility for funding maintenance of such landscaping will be proportional to Art in Public Place's original role in funding the creation of landscaping portion of the artwork.

**506.4.** Volunteers and garden clubs may be a good resource in maintaining such landscaping, however, it is unreasonable to expect them to assume full responsibility for maintenance for the life span of most artwork.

### **506.5. Landscaping Altered by Installation of Artwork**

Any landscaping disturbed or altered by the installation of artwork will be restored afterward in a manner consistent with the design for the artwork and the site, and at the expense of the Public Art program.

### **506.6. Supplemental Landscaping**

Maintenance of decorative landscaping that is supplemental to the artwork and not part of the artist's original design will not be staffed or funded by the Public Art program. This may include landscaping in the area where the artwork has been installed or landscaping that has been added later. The artist and the property owner will approve such landscaping in advance.

### **506.7. Life Span of Artwork**

Condition assessments and maintenance plans for new works may also include an estimated life span for each artwork. This life span will be selected from one of four categories: 1) temporary-up to 5 years, 2) midspan-up to 15 years, 3) long term-up to 50 years, 4) permanent or site integrated-part of site or structure and cannot be removed.

## **507. Implementation**

### **507.1. Roles and Responsibilities**

**507.1.1.** When treatment or maintenance is approved, the GDMPAF, in conjunction with its partners, will handle repairs, in consultation with a qualified art conservator.

**507.1.2.** The artist will be notified (if possible) of all repairs and may be involved in the treatment and maintenance of the work, if practical and for a reasonable fee. If an artist disagrees with the conservator's condition assessment and does not think the suggested alterations are in keeping with the integrity of the artwork, they may request changes to the repair plan in writing to the GDMPAF Director. Other independent contractors will be involved in treatment and maintenance as needed.

## **507.2. Annual Maintenance Plan**

**507.2.1.** Condition examinations and plans for artwork will be reported to the GDMPAF by the GDMPAF Director, which will meet annually to review potential treatment and maintenance projects and make recommendations for priorities.

**507.2.2.** GDMPAF recommendations will result in an annual treatment and maintenance plan, which will include staffing, treatments and restoration for specific artwork, ongoing routine inspection and maintenance for all artwork, and artwork to be deaccessioned.

## **507.3. Training and Technical Assistance**

**507.3.1.** Commissioned artists will be trained in maintenance prevention strategies. The Public Art program and its partners will be responsible for communicating these Conservation Treatment and Maintenance Policies to artists, as well as any City department, City agency, or site responsible for routine maintenance of artwork or adjacent areas.

**507.3.2.** A professional conservator will train staff conducting routine maintenance of any kind on artwork. These staff may include building custodians or landscaping crews. The Public Art program will develop a maintenance manual for each artwork and coordinate and fund all training for these staff. When possible, the Public Art program will also provide technical assistance to community groups, private businesses, and individual artists regarding the treatment and maintenance needs of privately owned public artwork.

## **508. Criteria to Prioritize Treatment and Maintenance**

### **508.1. Stimulate Excellence in Community Design and Public Arts**

- Is the artwork engaging and high quality in concept and construction?
- Is the quality of this artwork comparable to other artwork commissioned by the City?
- Is the artwork unique, one-of-a-kind or part of a limited edition? Is the artist not over represented in the City's collection?
- Does the artist have a significant or engaging body of work?

### **508.1. Enhance Community Identity and Place:**

- Does the artwork raise awareness of the community or setting and its characteristics, including history, identify, geography and cultures?
- Is the artwork an icon associated with the community or setting and the above characteristics?

- Is the artwork integrated into the site design?

#### **508.1. Contribute to Community Vitality**

- Does the artwork draw visitors to the community?
- Has it attracted strong public attachment or support over time?
- Does the conservation effort have the potential to build capacity and cooperation between the private and public sectors, artists, arts organizations and community members?
- Is the artwork a catalyst for civic dialogue about City issues?
- Is the artwork safe or will repairing it make it safe?

#### **508.1. Involve a Broad Range of People and Communities**

- Does the artwork engage a broad range of people?
- Does the current artwork and site meet ADA regulations or can it be modified to do so?
- Does the artwork celebrate one or more of the City's cultural communities?
- Does the artwork bring people together or create a gathering place?

#### **508.1. Value Artists and Artistic Processes**

- Does the artist have a unique or appropriate cultural, geographic or artistic perspective?
- Is the original artistic integrity of the artwork intact?
- Will foregoing treatment or maintenance undermine the artist's intention or reputation?
- Did someone other than a practicing artist create the artwork?

#### **508.1. Use Resources Wisely -- Does the artwork not have any of the following problems:**

- Requiring excessive maintenance or repair, having faults of design or workmanship, or securing the artwork is impractical or unfeasible (without substantially replacing it)?
- Will immediately treating or maintaining the artwork stabilize its condition?
- Is it more practical within the overall maintenance plan to repair the artwork at this time (i.e. cost-effective to do two similar treatments at same time)?
- Are conservation costs less than fifty percent of the artwork's financial value?
- Will immediately addressing short-term maintenance needs prevent increased long-term treatment costs?
- Does conservation of this artwork provide an opportunity for a specific grant, private partnership or donation?

###





