



ART IN PUBLIC PLACES
GUIDELINES
2017

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The AIPP Program, to be housed within the Planning Department of the City of Key West, shall be staffed by an Administrator and governed by a Board of Directors.

The Art in Public Places Program is established under City of Key West Ordinance Sec. 2-481 through 2-487 ([Appendix A](#)) and as such shall be governed by the language therein.

Additionally, the following programmatic operating guidelines shall also apply.

➤ MISSION

"To advise the City Commission in the selection and location of public art in the City of Key West; to enhance and maintain the character and identity of our island community through the aesthetic of public art; to create a physical and human environment which nurtures artists, arts organizations, and arts producers; to nurture and preserve cultural diversity consistent with and reflecting Key West's population; and to promote the inclusion of aesthetic considerations in local decision-making through advocacy, services, financial and technical assistance, and leadership in the community."

<http://www.cityofkeywest-fl.gov/department/board.php?structureid=34>

➤ PUBLIC ART INVENTORY

In order to meet the following objectives:

- To provide for the regular inspection of public Artworks;
- To establish a regular procedure for effecting necessary repairs to public Artworks;
- To ensure regular maintenance of public Artworks; and
- To ensure that all maintenance of public Artworks is completed with the highest standards of professional conservation
- To identify opportunities for new installations within each Commissioner's District

The Administrative Coordinator will conduct the annual inventory with each Commissioner's appointed Board Director through the following process:

- Schedule a planning meeting to determine a walking, bike, or vehicular route through the delegate's District
- Conduct and document research required prior to the scheduled planning meeting and follow up with additional research after to the planning meeting
- Compile all relevant pre-visit research in to a one-pager
- Conduct inventory via pre-determined route
- Document each piece with a minimum of three photographs which depict its size, color scheme, dimensions, location, and any special features
- Record the specific address for GIS mapping project

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- For each location and art piece: record the year, the artist, and the title (this information may be identified and collected in the pre-visit research)
- Document any identified maintenance or repair needs and conduct follow up with project contact

➤ ARTIST and ARTWORK SELECTION

The Art in Public Places Boards shall maintain the following general guidelines regarding the methods of artist/artwork selection, which may be employed for a particular project:

- Open Entry competition- any artist is eligible to enter, with recognition of the possible residency requirements. The site and prospectus are appropriately advertised. Artists may be asked to submit slides or past work, resumes, and letters of intent related to the specific project or specific proposals for the project under review.
- Limited Entry Competition – The jury invites a limited number of artists to participate in the selection process. The artists selected may be asked to submit slides of past work or proposals based on the project prospectus. The names of the artists invited to participate shall be publicly announced upon receipt of written acceptance of the invitation.
- Direct selection of the Artist – An artist is invited to participate in the project and may be asked to develop a proposal for the project. If desired a team of several artists may be put together.
- Direct Purchase of an Existing Artwork – A completed work of art is purchased. No more than ten percent of the cost of the work may go toward a dealer or agent.

➤ CONFLICT OF INTERESTS

Chapter 112.311-112.3261 is the Florida Code of Ethics applicable to the board members addressing conflicts of interest.

The purpose of the conflict of interest policy is to protect the interests of the AIPP when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or director of AIPP. This policy is intended to supplement, but not replace, any applicable state or federal laws governing conflicts of interest applicable to nonprofit corporations.

Board members shall at no time accept payments from, or enter into contracts with, any of the projects participating in the AIPP Program and process, and shall be ineligible to submit proposals, qualifications, or responses to calls for artists for any projects under the AIPP Programmatic Operating Guidelines.

Any such collaboration is considered a direct conflict of interest. Upon relinquishment of a Board seat a member remains ineligible to accept payments from or enter into contracts with any of the projects participating in the AIPP Program and process, and to submit proposals, qualifications, or responses to calls for artists for any projects participating in the AIPP Program for a period of 18 months.

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Board members shall make known in writing to the AIPP Administrator any real or perceived conflicts of interest they may have with either discussion or action items presented on their Board Meeting Agendas.

- Each director, principal officer and member of a committee with board-delegated powers shall annually sign a statement, which affirms that such person:
 - Has received a copy of this conflict of interest policy
 - Has read and understands the policy
 - Has agreed to comply with the policy and accept disciplinary and corrective action if violations of the conflict interest are identified

➤ ADDING ITEMS TO THE MONTHLY AIPP BOARD MEETING AGENDA

The AIPP Administrator and City Clerk's Office require 5 days advanced notice for submission of items for inclusion on AIPP Board meeting agendas. For meetings held the second Monday of each month, agenda items should be submitted to the Administrator for inclusion on AIPP Board meeting agendas no later than 12 noon on the Wednesday preceding the meeting, except when other arrangements have been made. Items submitted after 12 noon on the Wednesday preceding the Board meeting will require special arrangements with the Clerk's Office for inclusion and should be emailed to both the Administrator and the Clerk, with all relevant attachments, as soon as is feasibly possible.

➤ PROCESS FOR INITIATING AIPP PARTICIPATION

Being present at the Development Review Commission Meetings, the AIPP Administrator will alert applicants for Major Development Plans to the AIPP participation requirement verbally at their initial DRC presentation. A contact person for the project will be established and the AIPP Administrator will be responsible for providing the contact person with an introductory email outlining the process for participation and the guidelines for the required Art Plan.

A variance of 5% between the estimated costs and actual costs will be allowed when calculating the anticipated 1% fee for budgeting purposes in the Art Plan and the actual value required for AIPP compliance, based on the total of the applicable Building Permits, at the project's completion.

For City-owned Development Projects

- Costs determined based on the estimated construction costs as established by the requested building permit(s).
- 1% fee established
 - If the lead department or entity within the City has a Plan for Public Art, the AIPP Admin will work with the City entity to develop it to meet with Board Approval
 - If the lead department or entity within the City does not have an Art Plan, the AIPP Admin and will coordinate one of the following options with the City entity and the Board:
 - develop and disseminate an RFQ for a qualified artist who can develop and implement an Art Plan,
 - develop an overall property plan for the placement of Public Art and, develop and disseminate multiple RFP's for artists to implement the elements of such plan

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- set aside the funds in the dedicated AIPP fund for future Public Art installations or programming in accordance with Sec. 2-487 (e)

For non-City-owned or Private Development Projects

- Costs determined based on the estimated construction costs as established by the requested building permit(s)
- 1% fee established
 - If the Developer has a Plan for Public Art, the AIPP Admin will work with the entity to develop it to meet with Board Approval through the following activities:
 - Support the Developer in determining the specifics of the required Art Plan based on the Ordinance 2-487(c), (3)
 - Assist in the development and dissemination of 'Requests for Qualifications' or 'Request for Proposals'
 - Provide templates and forms for successful participation in the AIPP requirement as needed
 - Provide project consultation throughout the process of AIPP participation as requested by the Developer
 - If the Developer opts to participate through the installation of Public Art and does not have a plan, at the developer's request, the AIPP Administrator will:
 - Support the Developer in determining the specifics of the required Art Plan based on the Ordinance 2-487(c), (3)
 - Assist in the development and dissemination of 'Requests for Qualifications' or 'Request for Proposals' for an artist who can develop and implement an approved Art Plan
 - Provide templates and forms for successful participation in the AIPP requirement as needed
 - Provide project consultation throughout the process of AIPP participation
 - If the Developer does not choose to have a Public Art plan and elects to opt out of the Public Art installation process, the 1% fees will be calculated and collected by the AIPP Administrator, who will then deposit of such funds, through the Finance Department, into the Art in Public Places Fund (designated Community Fund (CF) 110).

➤ PROCESS FOR DEMONSTRATING SUCCESSFUL AIPP PARTICIPATION

Per Ordinance 2-487 (c)(2) in accordance with the AIPP Board approved Art Plan, the artwork shall be commissioned, installed and approved by the city before a certificate of occupancy may be issued for the new construction or renovation project. Upon completion of the installation of the approved Art Plan, the Developer shall notify the AIPP Administrator. The AIPP Administrator will

- Calculate the total construction costs for the project based on the eligible permits issued by the Building Official
- Determine the final amount of the 1% requirement
- Assess the status of the Art Plan and determine that the installed Public Art is in alignment with the AIPP Board approved Art Plan
- Verify the installation of the AIPP Identification Plaque □ Document the completed installation
- Provide a letter declaring the project's status as "Complete and Compliant" to all the following:
 - The Building Department Staff

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- The Building Official
- The AIPP Project File
- The Developer
- The Owner/Project contact
- The Artist (where applicable)
- The Director of the Planning Department

All completed projects will be made known to the AIPP Board through the monthly Administrator's Report and through regular updates to the Project Inventory maintained by the Administrator and presented monthly to the AIPP Board.

➤ MAINTENANCE OF COMMUNITY FUND 110 (PUBLIC ART FUND)

The transfer of monies related to AIPP participation shall take place within thirty days of appropriation by the City Commission. The Fund shall be authorized to accept gifts, grants and donations made to the City for Art, as well as any in-lieu contributions from private developers. The Fund shall be self-perpetuating from year to year. The AIPP Administrator shall be responsible for managing the Fund in cooperation with the City's Finance Department, all relevant City regulations, the advisement of the AIPP Board, and in accordance to Sec. 2-487.

- Grant Funds and Donations ○ The Public Art Program may apply to other sources for funding of specific projects and may utilize Public Art Fund monies as matching dollars. Funds received from other non-City sources shall be deposited in the Public Art Fund.
- Sales and Fundraisers ○ If income is generated from the sale of decommissioned artworks, licensing, software, tickets, printed materials or other objects related to the public art, the proceeds are deposited in the Public Art Fund.

➤ CONTRACTING FOR EXPENDITURES

Once the appropriated budgets are established, the expenditures shall follow the normal contracting approvals and actions that are required by the City Ordinance to authorize the expense from the Public Art Fund.

➤ DONATION & LOAN POLICY

• STATEMENT OF PURPOSE

The City of Key West is committed to building a collection of high quality public art that reflects the artistic and cultural diversity of Key West for the enjoyment and enrichment of citizens and visitors. In 2000, the Art in Public Places (AIPP) program was established to commission and purchase public art for new or remodeled city buildings and parks. In addition to artworks acquired through the Art in Public Places program, the City of Key West encourages donations or loans of art for public places. The objectives of this policy are:

- To Provide uniform procedures for their review and acceptance of gifts and loans of works of art for the City of Key West;

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- To maintain high artistic standards in works of art displayed by the City of Key West; ○ To vest in a single City Board the responsibility for insuring the management and maintenance of the City's public artworks;
- To facilitate planning for the placement of works of art in City facilities; and,
- To facilitate appropriate recognition of the artists and donors of works of art to the City of Key West.

When unsolicited gifts or loans of major artworks are proposed for placement with any City of Key West agency or department, a written proposal or letter of intent must be submitted to the City's AIPP 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) Board for review. The AIPP Board will recommend disposition of the offer to the City Commissioners whose decision is final.

Such proposals shall be reviewed by the Art in Public Places Board and the City Commission, using the same criteria applied to the public art commissions undertaken through the Art in Public Places program. Representatives of the receiving city agency or department and the community are encouraged to participate in the review process through the appropriate staff channels or the public comment process at the monthly AIPP Board meetings.

• DONOR/LOAN AGREEMENT

The City of Key West shall enter into a Donor Agreement with any and all parties wishing to donate Art to the City of Key West's Art in Public Places Program. The Donor Agreement document shall be accompanied by the following materials:

- a detailed Art Plan which meets the general requirements as outlined in sec 2-487, (c), (3) of the City of Key West Municipal Code of Ordinances
- Certificate(s) of appraisal declaring the value of the work for insurance purposes

• ARTWORK DONATION & LOAN REVIEW CRITERIA

The Art in Public Places Board shall review and consider proposed gifts (or loans) of works of art per the following criteria:

• AESTHETIC

- Artistic merit of the work of art, including consideration of its artistic, social, and/or historical significance, as evidenced by the Artwork Donation Proposal (which includes a written description and drawing and/or model for the proposed artwork.)
- Artist's qualifications, as evidenced by the Artwork Donation Proposal (which includes slides/photographs of past work, resume, references, and published reviews.)
- Compatibility of the work of art within the context of the City of Key West Art in Public Places Collection. ○ Warranty of originality of an existing artwork (only original works or limited editions shall be considered.)
- Provenance for an existing artwork.

• SITE

- Appropriateness to the proposed site with respect to its immediate and general social

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(audience) and physical (neighborhood) ○ Scale, form, content, color, and design of the artwork in relation to the site. (NOTE: Some city districts, such as the historic district, may have specific design criteria or special conditions.)

- Ecological impact (i.e. percentage of impervious cover, etc.)
- Accessibility to the public, including persons with disabilities
- Text components (i.e., signage and/or plaques)

• INSTALLATION

- Site requirements for installation (i.e. electricity, lighting, water, or other services)
- Method of installation
- Storage requirements, if any
- Maintenance requirements

• FINANCIAL (Responsibilities of Donor/Lender)

- All costs associated with fabrication and installation (including site preparation, plaque and unveiling/dedication event, if any)

- Source of funding and date funds are available
- Estimated annual maintenance costs
- Amount and source of funding for annual maintenance costs (NOTE: The City of Key West may assume responsibility if maintenance requirements are anticipated to be under \$100 annually.)
- Statement of value of artwork for insurance purposes (i.e. artist's commission contract amount or professional written appraisal of existing artwork.)
- Recipient(s) of revenues generated by any collateral material other than that used for educational purposes (i.e., will revenues be allocated to the City of Key West to defray annual maintenance costs?)

• LIABILITY

- Susceptibility of the artwork(s) to normal wear to vandalism
- Potential risk to the public
- Public access, in general, as well as compliance with ADA requirements
- Special insurance requirements

• TIMELINESS

- Allowance of sufficient time for normal review process by the Art in Public Places Board, the City Commission, and any other agencies or departments involved
- Timely and appropriate response to Art in Public Places Board and staff requests for additional materials or information

• SPECIAL CONDITIONS

- Any conditions of the gift (or loan) imposed by the donor
- Donations/ Loans that contain advertising will not be considered.

• ADDITIONAL APPLICABLE REVIEW CRITERIA FOR DONATIONS

- All Art in Public Places Board donation based projects shall be reviewed and considered by The Art in Public Places Board.

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- Donations shall be approved for receipt based on the appropriateness of the donor's proposal to the project and/ or proposed location, the probability of successful installation and maintenance, the aesthetic value added to the AIPP program
- or to the community-at-large by the acceptance of the donation, and the long-term resiliency of the piece as Public Art.
- In making its selection, the Board shall bear in mind the purposes of the Art in Public Places Program, always aiming to achieve the highest aesthetic quality.
- The Board shall, in making its selection, give due consideration to the appropriateness of the proposed design in terms of its scale, form, content and design with respect to its immediate and general, social and physical environment.
- The Board shall also give due consideration to the proposed design's materials and construction for questions of durability, maintenance, public access, appropriateness, safety, and security.
- The criteria are the minimum aesthetic and practical criteria on which the Board shall base its deliberation over the acceptance of a donation to the AIPP Program. Other criteria may be established by the Art in Public Places Board, the Administrator, or relevant City Departments, as dictated by the requirements of the donation or donor.

• EXCEPTIONS TO THIS POLICY

- Gifts of State may be accepted by the City Commission and/or City Manager without the benefit of this review, according to the City of Key West Purchasing Policies; however, the Art in Public Places Board shall be notified of acceptance of such donation or loan (in order to accession and insure the work) and may be consulted to recommend appropriate siting, an annual maintenance program, etc.
- Portable artworks on short-term (30 days or less) loan to the city of Key West shall not be subject to review under this policy.

• REVISIONS TO THIS POLICY

The Art in Public Places Board may review this policy annually and make recommendations for revisions to the Key West City Commission as needed

• ART DONATION/LOAN PROPOSAL FORM (available upon request).

- **CONTACT:** Art in Public Places Program, City of Key West Planning Department
AIPP Administrative Coordinator, Vicki Boguszewski, vboguszewski@cityofkeywest-fl.gov, (305) 809-3779

➤ REFUNDS FROM THE AIPP FUND:

If a project elects to contribute 1% of the total construction costs to the AIPP Fund in lieu of installing Public Art and subsequently changes its intention to include Public Art within the development project on the developed site, the following procedure shall be executed for refunding the collected fees from the AIPP fund to the Project for the expressed purpose of the implementation of a Board approved Art Plan:

- AIPP Administrator shall be notified in writing by the developer's AIPP project contact of the intent to revise their decision; this notice of intent must be filed within 60 days of the date of issuance of the project's Building Permit for the AIPP Board to render a determination. If a notice of intent is

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filed outside of the period 60 days from the date of issuance of the project's Building Permit, City Commission approval based on AIPP Board recommendation shall be required.

- AIPP Administrator will verify the collection of the payment of the 1% of the total construction costs through the values assessed at the issuance of the project's building permits and document the receipt of the 1% fees into the AIPP fund, as collected by the City
- AIPP Administrator will notify the developer's AIPP project contact of the amount of funding available to be refunded from the AIPP fund
- The developer's AIPP project contact will submit an Art Plan for approval by the AIPP Board; the AIPP Administrator will be available to support the development of the Art Plan to comply with Sec2-487, (c), (3)
- The developer's AIPP project contact will indicate to the AIPP Administrator the requested amount or percent of the available funds to be refunded for Public Art based on the budget developed with in the proposed Art Plan
- The Art Plan must be submitted and approved by the AIPP Board, and the approval must be documented by the AIPP Administrator
- AIPP Administrator will generate a refund request via email and submit it to the Finance Director for processing.

Per the Finance Director, the request shall include the following:

- Proof of the receipt of payments to the City's AIPP Fund, verified by AIPP Administrator
 - AIPP Board minutes demonstrating Board approval of the project's proposed Art Plan
 - AIPP Board approved Art Plan, as per Sec2-487, (c), (3)
 - Name of the Company to be refunded
 - Payment address and designee
 - Amount to be refunded
 - Narrative of the circumstances prompting the requested refund
 - Signature of the Planning Director
- The Finance Director will then issue the refund to the developer for the sole purposes described in the approved plan to participate in the AIPP program.

➤ DEACCESSION/DE-COMMISSIONING/DE-INSTALLING EXISTING PUBLIC ART

In accordance with the City of Key West's Municipal Code of Ordinances, Sec. 2-487, (f), (5) the City of Key West, in its sole discretion, may remove, relocate, or deaccession a work of art owned by the City, installed on City property, or incorporated into City owned facilities. Also in accordance with the above section of code, a private property owner may request that a work of art be removed from the site due to hardship with the approval of the AIPP Board through the following procedural policy.

Deaccessioning should be cautiously applied only after careful and impartial evaluation of the artwork to avoid the influence of fluctuations of taste and the premature removal of artwork from the collection. Prior to the deaccession of any work, the Art in Public Places (AIPP) Board shall weigh carefully the interests of the public, the intent, in the broadest way, of the donor/artist, and the goal of the Program to expend private and public funds on works of art and art projects of redeeming quality that advance public understanding of art and enhance the aesthetic quality of public places.

Causes for review

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While the intent of acquisition of a work of art is for permanent (minimum of five (5) years) or lifelong installation, circumstances and/or conditions may arise that make it necessary for the AIPP Board to remove an artwork from public display.

One or more of the following conditions shall apply for an artwork to be considered for permanent removal or deaccession:

- The work presents a threat to public safety;
- The condition or security of the work cannot be guaranteed, or the City cannot properly care for or store the work;
- The work requires excessive or unreasonable maintenance;
- The work has serious or dangerous faults in design or workmanship;
- The condition of the work requires restoration in excess of its monetary value, or is in such deteriorated state that restoration would prove either unfeasible, impractical or would render the work essentially false;
- The work is of poor aesthetic quality and or historic/cultural value;
- A similar but superior example exists in the collection;
- The work is a forgery;
- No suitable site for the work is available;
- Significant adverse public reaction is documented over an extended period (5 years or more);
- The work can be sold to finance, or be traded for, a work of greater importance by the same artist;
- A written request from the artist has been received to remove the work from public display;
- The work is rarely or not displayed.

Review process

The AIPP Board, acting through its Administrative Coordinator, shall require a Deaccession Plan which includes the following:

1. A report, which indicates:
 - Acquisition method and purchase price
 - Any restrictions that may apply to the specific work based on contract review
 - An analysis of the reasons for deaccessioning
 - Alternative solutions
 - Suggested methods of deaccession
 - The Appraised value of the work as documented in the records of the City of Key West's Risk Management Division within the Finance Department or by two independent consultants, if obtainable
 - Documentation of correspondence, press or other evidence of public debate documenting extended adverse public reaction
- 2 Document discussion with the artist or donor regarding the circumstances prompting the review.
- 3 Document discussion of the circumstances with the Community Services Department, the Engineering Department, and other relevant City Departments as needed
- 4 Document assessment of the City's Legal rights and responsibilities for the deaccession of the work in question in regard to the Visual Artist Right Act [note](#) or other City, State, or Federal Laws.
- 5 Seek additional information regarding the work from the artist, curators or appraisers if necessary

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- 6 Document a plan for the future life of the work which meets with the approval of the AIPP board, the Artist (when applicable), and the City Commission. Options for the future life of a work include:
 - a. Relocation of the work of art
 - b. Placement of the work of art in a storage facility
 - c. Sell or exchange the work of art through the following means:
 - i. Offer the artist first opportunity to buy back the work of art at the current value or at a negotiated price.
 - ii. Obtain professional appraisal and advertise the sale
 - iii. Seek competitive bids

The Deaccession Plan will become an action item during the next AIPP Board Meeting. A recommendation shall be made by the AIPP Board and shall require the majority vote of the full membership of the Board.

For deaccession of artwork on City-owned public property, the final approval of the City Commission will be required.

In the event that a work of Art sells, all proceeds shall be deposited in the AIPP Fund.

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➤ IDENTIFICATION PLAQUE

An identification plaque is required with any permanent work of public art and needs to be included in the project budget.

The location of the plaque should consider font size and style to achieve readability, be in the artwork vicinity and consider audience members in wheel chairs and be agreed upon by the partner agency. Bronze is the recommended material for the plaque.

The plaque must be installed at the same time as the artwork.

Artist statement (1-3 sentences to provoke artwork related inquiry)

This artwork was commissioned by (_____ through) the City of Key West Art In Public

Plaque format:

Artwork Title

Artist name

Primary mediums

(Optional)

Year

Places Program.

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APPENDIX

For AIPP Projects not related to a Major Development Plan a proposal must be submitted to the AIPP Board for approval; the following template is suggested:

Key West Art in Public Places

Project proposal

| | | |
|------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|
| Suggested name AIPP project: | | |
| Brief description: | | |
| Tentative budget: | Overall cost \$ | Estimated Income: Fundraising \$ Donations \$ 1% \$ City's general fund \$ |
| | Total: \$ | Total \$ |
| Estimated time line: | | |
| Suggested location(s) | | |
| Project needs approval from: | <input type="checkbox"/> City Commission <input type="checkbox"/> HARC <input type="checkbox"/> Tree Commission <input type="checkbox"/> | |

APPENDIX

Donation Agreement

This AGREEMENT is made and entered into this ____ day of _____, 201_, by and between donor or donor representative name and address, hereafter referred to as the "DONOR", the City of Key West, Florida, a municipal corporation of the State of Florida, whose address is 1300 White St., Key West, Florida 33040, hereafter referred to as the "CITY". This agreement shall be effective on the date of execution of the last party to sign the AGREEMENT.

WHEREAS, DONOR desires to donate to the CITY describe the items to be donated, the location for the installation of such items, and

WHEREAS, CITY desires to accept the donation of items to be accepted as donation and recognition of any associated donated funds

WHEREAS, the parties wish to reduce to writing the rights and responsibilities of the parties.

IN CONSIDERATION of the mutual promises and covenants contained herein, the parties agree as follows:

Article 1. Obligations of the Donor

1. DONOR, at his sole cost and expense, will detailed description of offer being proposed Prior to installation, the design and scope of the donation and commemorative plaque/monument will be approved by the CITY and the Art in Public Places Committee. DONOR shall be responsible for obtaining all necessary permits and other approvals for the installation of the donation.
2. In addition to the construction and installation of the donation and commemorative plaque/monument, DONOR shall donate the sum of \$ _____ to the CITY, which sum shall represent the anticipated operating expenses, including, but not limited to, list the anticipated items for which costs would be accrued and funds allocated for the length of time funds are expected to support the work period commencing on the effective date of this Agreement. Included in this sum shall be amount required for de-installation of work reserve for the removal of the fountain in the event CITY elects to remove the donation and commemorative plaque/monument as provided for herein below.
3. With the assistance of support entities or donor partners, DONOR shall use his best efforts attempt to secure additional funding for the maintenance and operating expenses of the donation through an annual sponsorship program. However, nothing herein shall be interpreted to imply that DONOR guarantees any result and DONOR assumes no additional liability for the success of the sponsorship program.
4. In connection with the donation, DONOR shall put in place an education/information component through the website <http://www.cityofkeywest-fl.gov/AIPP> which will include text, photos, and audio and/or video clips with information regarding the donation to the City. This website shall be maintained by the AIPP Administrator.

Article 2. Obligations of the City

5. Upon the CITY's acceptance of the donation referred to in paragraph 2 above, the donation and commemorative plaque/monument shall become the sole property of the CITY. Thereafter, CITY shall be solely responsible for all expenses associated with operating and maintaining the donation, and DONOR shall have no further

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responsibility or liability for those expenses. Further, upon the CITY's acceptance of the donation referred to in paragraph 2 above, the CITY shall have the unfettered right, in CITY's sole discretion, to alter or remove the donation and commemorative plaque/monument. In the event CITY removes the donation and commemorative plaque/monument at a time when all or a portion of the funds referred to in paragraph 2 above remain unspent, CITY shall return the balance of those funds to DONOR.

Article 3. General Legal Provisions

6. If any of the provisions contained in this AGREEMENT are held for any reason to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will affect any other provision, and this AGREEMENT will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
7. In the event of litigation affecting the rights of either party under this Agreement, the losing party shall pay the prevailing party's costs, expenses, and Attorney's Fees incurred in the enforcement of the prevailing party's rights hereunder, including those pertaining to appeals.

Article 4. Signatures

This AGREEMENT constitutes the entire AGREEMENT, supersedes all prior written or oral understandings, and may only be changed by a written amendment executed by both parties.

IN WITNESS WHEREOF, the parties execute below:

CITY OF KEY WEST, FLORIDA

By: _____

James Scholl, City Manager

ATTEST:

Cheryl Smith, City Clerk

Dated this _____ day of _____, 201_

Donor or donor representative

Dated this _____ day of _____, 201_

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Art in Public Places | City of Key West | Planning Department
1300 White St. | Key West, Florida 33040 | (305) 809-3779
vboguszewski@cityofkeywest-fl.gov

Refunds from the AIPP refund request for:

The AIPP eligible project located at _____ elected to contribute 1% of the total construction costs to the AIPP Fund in lieu of installing Public Art.

The Applicant has changed its intention and plans to include Public Art within the development project. The Applicant is requesting a refund of the collected fees from the AIPP fund to the Project for the expressed purpose of the implementation of a Board approved Art Plan.

This document serves as written notice to the AIPP Administrator of the developer's intent to revise their decision. Based on the following circumstances:

AIPP Administrator has verified the collection of the payment of the 1% of the total construction costs through the values assessed at the issuance of the project's building permits and documented the receipt of the 1% fees into the AIPP fund, as collected by the City in the amount of \$_____.

The AIPP Administrator has notified the developer's AIPP project contact of the amount of funding available to be refunded from the AIPP fund.

The requested amount or percent of the available funds to be refunded for Public Art based on the budget developed with in the proposed Art Plan is \$_____.

The developer's AIPP Board approved Art Plan is attached and meets the Art Plan requirements as specified in Sec2-487, (c), (3) of the City of Key West's Municipal Code of Ordinances. The attached Art Plan was approved at the AIPP Board meeting, as per the meeting minutes, and is intended to be installed at _____.

The projected date for the completion of the Public Art installation is _____ and the AIPP identifying Plaque is to be in place at the installation no later than _____.

In the event of project delays, the developer will notify the AIPP Administrator in writing of the new projected installation date a minimum of 21 days prior to the originally intended completion date.

In order to secure compliance with the approved Art Plan's scheduled installation, the developer shall provide a performance bond to the City equal to the amount of the requested refund.

