



## MEMORANDUM

May 5, 2023

**TO:** MEMBERS, PORT COMMISSION  
Hon. Kimberly Brandon, President  
Hon. Willie Adams, Vice President  
Hon. Gail Gilman  
Hon. Ed Harrington  
Hon. Steven Lee

**FROM:** Elaine Forbes  
Executive Director 

**SUBJECT:** Informational presentation on the proposed Public Art Program that establishes a process to select and place public art along the Port's waterfront, including selection of artist and outreach to artist.

**DIRECTOR'S RECOMMENDATION:** Information Only – No Action Required

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### EXECUTIVE SUMMARY

Visiting the Port of San Francisco is enhanced by the many temporary and permanent art pieces that have been placed along the waterfront during the past 20 years. When City funds are involved in a Port project, public art is included through the City's 2% for public art program per the City's Administrative Code 3.19 referred to as the Art Enrichment ordinance ("Art Enrichment Program"). The Port also is fortunate in that artists and art organizations find the San Francisco waterfront to be a desirable location to display public art, and several have offered to display their art at no or little expense to the Port.

The purpose of the Port's Public Art Program is to describe the process for the selection of artists and public art and guide its placement along the Port of San Francisco waterfront.

### STRATEGIC PLAN OBJECTIVES

The proposed Program supports the Port's 2021-2025 Strategic Plan through the following Goals and Objectives:

**THIS PRINT COVERS CALENDAR ITEM NO. 10A**

**Equity:** Opportunities for Disadvantaged Communities. Increase opportunities for activation in historically disadvantaged communities.

**Evolution:** Open Space. Improve Port open spaces to provide publicly desired amenities and activities.

**Engagement:** Engage constituents and the public on Port functions and activities. Agency Coordination. Partner with City departments and government agencies to align communication, engagement and activities.

## **PROJECT DESCRIPTION**

### **Public Art at the Port of San Francisco**

“Public Art” refers to original works of art in any artistic medium that is in the public realm, permanent or temporary, whether owned by a public agency or by a private entity. It can be sculptures, murals, utility covers, lighting, paving patterns, railings, entry portals, street furniture, fountains, play equipment, mosaics, tapestries, drawings, signage, and more. Public art aids in celebrating the Port’s history and diversity while demonstrating a vision for the future and commitment to cultural values. Through public art, the Port hopes to educate, inspire discussion, delight citizens and visitors, and add to the waterfront’s sense of recognizable place.

### **Current Practices of Placing Public Art at the Port**

The Port does not currently have a dedicated public art program or staff resources to implement a comprehensive public art program. While public art is something that the Port celebrates and welcomes, it is not part of the Port’s core function and therefore is unable to dedicate the resources needed to run a full art program.

Most of the public art on Port property comes through either the Art Enrichment Program or through unsolicited proposals. The Art Enrichment Program generally requires that 2% of the hard construction cost of civic buildings, transportation improvement projects, new parks, and other above-ground structures be allocated for public art. When City funds are part of a Port project, the Port works with the San Francisco Arts Commission (SFAC) to select sites and establish criteria for art in Port public spaces. The program is then conducted by the SFAC and their established process that includes forming a selection panel, distributing a publicized Request for Qualifications (RFQ), an initial review by staff to determine conformance with the selection criteria, a series of selection panel meetings, and a recommendation to the Port Commission for consideration of approval.

Public art on Port lands that has followed the Art Enrichment Program includes the ‘Islais’ sculpture at Bayview Gateway (Third Street and Cargo Way), Embarcadero Roadway interpretive displays and the concrete and glass block ‘art ribbon’, and the large red ‘Sea Change’ sculpture at South Beach Park.

In addition, periodically artists or arts organizations approach the Port requesting that they be permitted to temporarily display their art on Port property at their own expense. The Port has welcomed many such unsolicited proposals which include several at the Pier 14 entry plaza ('Raygun Rocketship', 'Soma' by Flaming Lotus Girls, 'Passage' by the Black Rocks Art Foundation), a collection of 'Hearts' and 'Sea Lions' at many Port locations, and the 'Polar Bear' for the Global Climate Action Summit at Harry Bridges Plaza. In each case, the proposer is responsible for entering into a License to use Port property, provide required insurance and indemnification, and post the permit performance guarantees. The Port Commission has authorized<sup>1</sup> waiving certain fees for the purpose of better facilitating public art on Port property at locations suitable for large art installations.

The Port has also commissioned temporary art on Port property, including Bayview Rise on the Pier 92 Grain Silos. For this process, the Port retained the SFAC, who used their Art Enrichment Program process to select and install the art.

## **PUBLIC ART PROGRAM PROPOSAL**

### **Overview/ Purpose**

In the absence of procedures to guide public art and artist selection for Port property, the Port Commission directed staff to develop a program. The proposed Public Art Program (Program) is prepared in collaboration with SFAC staff.

The Program outlines and describes the process for the selection of artists/public art and guides its placement along the Port of San Francisco waterfront. See *Attachment A* for the full proposed Program. In addition to selection and placement guidance, the Program directs and informs the Port to accomplish the following:

- Set forth how and where public art can enhance and enliven the Port's network of parks, public spaces, and natural areas;
- Administer a transparent and inclusive process for the selection of diverse artists and artwork; and,
- Expand opportunities for indigenous people and people of color to display art, inclusive of local and regional artists.

### **Locations for Public Art**

Public art would be placed where its size and presence will enhance the use and enjoyment of the area where it is located. Larger sculptures require appropriately sized areas while many other or smaller forms of art can complement a variety of spaces and

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<sup>1</sup> (\*Source - "The Port's Executive Director is authorized to waive Public Art use fees in license agreements and MOUs under the following circumstances: (i) there are no other uses for the space during the term of the license/MOU that would generate rent to the Port; (ii) no uses would be displaced; (iii) the Port does not expend any or only minimal or incidental resources or revenues to support the installation; (iv) there is a direct benefit to the Port in that Public Art enlivens and attracts people to the waterfront, and (v) the sites that are most likely to be attractive for large scale public art, and that have adequate space for a variety of types of installations include: Pier 14, Cruise Terminal Plaza, Harry Bridges Plaza, Brannan Street Wharf, Crane Cove Park, and Heron's Head Park. Port staff would continue the practice of informing citizen advisory committees and presenting informational items on public art installations to the Port Commission." [Port Commission Resolution No. 19-24.]

present opportunities for emerging artists. Locations described above for larger installations and as directed by the Port Commission would remain in place.

### **Artist Selection Process**

The Port may employ one of three processes for the selection of artists and artworks: 1) Open Call, 2) Direct Selection, or 3) Artist Sponsored proposals. Each process is set to respond to the purpose, scale, duration, and budget of proposed public art as determined by the Port Commission or the Executive Director. The artist and art selection processes shall follow the SFAC *Public Art Program Guidelines* for the Civic Art Collection which are further described below. For projects that require project management or assistance from SFAC or SFAC staff, a Memorandum of Understanding (“MOU”) shall be entered into and executed by both parties that outline goals and deliverables, schedules, and ownership and maintenance responsibilities.

### **Selection Processes:**

#### **1) Open Call**

For the Port, each Open Call selection process will be either a local, national, or international competition open to professional practicing artists that meet minimum eligibility requirements.

**Applicability:** Permanent art proposals that utilize City funds per the Art Enrichment Program or other major public art on Port Property as directed by the Port Executive Director or Port Commission.

**Outreach:** Outreach is conducted by SFAC staff with assistance from Port staff and will include the distribution of a publicized Request for Qualifications (RFQ) to professional practicing artists. Outreach will be conducted consistent with Section 5 of the Program (see *Attachment A*).

**Selection Process:** Using the SFAC *Public Art Program Guidelines*, SFAC with assistance from Port staff will engage in the following steps:

- Distribute a publicized RFQ to professional practicing artists;
- Form an Art Selection Panel that may include representatives from Port staff, the site design team, BCDC, community advisory committee members or community members, and arts professionals;
- Conduct the artist selection process to determine conformance with selection criteria which may include consultation with professional art conservators regarding future maintenance;
- Enter into agreements with selected finalists to develop design proposals for the site;
- Produce materials for a 2-week public display of proposals at an appropriate site near the Project site and on the SFAC and/or Port’s websites;

- Proposals may be reviewed by the Port’s Advisory Committees and/or BCDC and/or the Civic Design Review Committee if required by the scope of each group or committee;
- Present the selection panel’s final recommendation and maintenance plan to the Port Commission and when applicable to the SFAC for consideration and approval.

**Ownership & Maintenance:** Upon completion of the project, it is intended that ownership and maintenance for all public art involving City funds transfer to the City under the jurisdiction of the SFAC; however, this will be negotiated on a case-by-case basis with SFAC. For Public art not involving City funds the Port may request the SFAC accept the art into the City’s Civic Art Collection, pending SFAC’s ability for acceptance.

## 2) Direct Selection

A Direct Selection process may be used for temporary or permanent artworks of a limited budget as described below, consistent with City Purchasing Department contract threshold requirements for Professional Services under Chapter 21 of the Administrative Code (“Code”).

**Applicability:** Per Chapter 21 of the Code, the Direct Selection process may be used if the proposal or project budget is less than the minimum competitive amount as described in the Code. This selection process is distinguished from Open Call in that Port or SFAC staff are not required to publicize an RFQ or RFP if the contract is below \$10,000, but are required to complete an informal solicitation process if the contract is between \$10,000-\$129,000 (per Code). Once bids are submitted only one artist and/or artist team will be pursued to develop a full proposal as described below.

**Outreach:** SFAC or Port staff will reach out to qualified artists through an inclusive outreach process that is consistent with SFAC *Public Art Program Guidelines* and Section 5 of the Program.

**Selection Process:** Using the SFAC *Public Art Program Guidelines*, SFAC and/or Port staff will engage in the following steps for selection:

- Contracts under \$10,000: no RFQ or RFP is required, however, the Port is encouraged to solicit three (3) written bids or proposals and select the lowest responsive and responsible bidder.
- Contracts over \$10,000 but less than the Minimum Competitive Amount (currently set at \$129,000 per Code) informal solicitation is required. Port staff will follow the informal bidding rules established by the Contracts Monitoring Division (CMD) under the Code and Chapter 14B rules and regulations;
- Port and/or SFAC staff will review bids or proposals and determine conformance with the selection criteria as per section 6 of the Program, and pursue one artist and/or artist team to develop a full proposal for the project site;

- Review of bids or proposals may also be administered by a Selection Panel at the discretion of Port staff;
- Proposals may include a review by the Port's Advisory Committees and/or BCDC if required by the scope of each group of committee;
- Port staff will present a final proposal as an informational item to the Port Commission for review and comment prior to consideration of approval by the Port's Executive Director;

**Ownership & Maintenance:** Upon completion of the project and final payment to the artist, it is intended that ownership and maintenance for all public art involving City funds shall transfer to the City under the jurisdiction of the Arts Commission; however, this will be negotiated on a case-by-case basis with the SFAC and their ability for acceptance. For all other Direct Selection public art, the Port shall negotiate ownership and maintenance with the artist prior to finalizing the artist selection.

### 3) Artist Sponsored Proposals

Artist Sponsored proposals occur when artists or arts organizations approach the Port requesting permission to temporarily display their art on Port property. Artist Sponsored proposals are by Executive Director approval and are at the sponsor's expense.

**Applicability:** Artist Sponsored art offered or proposed to the Port to temporarily display art at the artist or arts organization's expense.

**Outreach:** The Port or with assistance from SFAC staff, will inform the public of public art opportunities per Section 5 of the Program (*Attachment A*).

**Selection Process:** Artist Sponsored or unsolicited proposals will be evaluated by Port staff up to three (3) times a year (February, June, and October) or as directed by the Port's Executive Director. Port staff will engage in the following steps for selection:

- Proposals will be reviewed by Port staff for consistency with Criteria for Artist Sponsored Art (Section 7) of the Program.
- The selection process may include a review by the Port's Advisory Committees and/or BCDC if required by the scope of each group of committee.
- Port staff may present final proposals as an informational item to the Port Commission for review and comment prior to consideration of approval by the Port's Executive Director.

**Ownership & Maintenance:** Upon completion of the project, ownership, and maintenance for Artist Sponsored public art shall be the responsibility of the sponsoring artist or arts organization, unless ownership of the public art is accepted by the Port. Maintenance shall be performed consistent with Section 8 of the Program.

## **Outreach for Artists**

Outreach for artists and artworks will play a critical role in developing a comprehensive public art Program along the Port's waterfront. The Port may continue to work with SFAC (through an MOU) on outreach to notice and promote opportunities for public art along the Port's waterfront. In addition, Port staff will broaden its public art outreach and ensure that an expanded audience of artists is aware of opportunities to submit art proposals. Staff will strive to achieve a wider diversity of artists by utilizing and implementing the following strategies:

- Publicize the Port's Public Art Program and promote opportunities for artists and artworks through established Port communication channels such as newsletters, social media, and the Port's website.
- Develop a transparent Port Public Art Program webpage with an overview of the Program, including, but not limited to:
  - Requirements and processes for using Port property for public art, such as processes for Licenses and Encroachment Permits.
  - Review process for large, small-scale, and temporary art.
  - Locations and sites suitable for large-scale art installations.
  - Expansion of opportunities to increase the diversity of artists and artworks, inclusive of Black, Indigenous, and People of Color (BIPOC).
- Develop, maintain, and utilize an email distribution list within the 9-county Bay Area region to highlight the Port's Public Art Program and opportunities for involvement.
- Partner with San Francisco Cultural Districts and applicable City agencies to expand outreach to potential artists.

## **Public Art Maintenance Requirements**

Dependent on the selection process listed under Open Call, Direct Selection, or Artist Sponsored Art (as outlined above), maintenance requirements and responsibilities of public art are negotiated with the SFAC on a case-by-case basis through an MOU. Public Art Maintenance requirements for City Ownership vs. Port Ownership are further described as follows:

### **City Ownership - SFAC Civic Art Collection and Maintenance**

Where public art is identified in the Program to be owned by the City, the following procedures identify the maintenance requirements:

- A. Upon completion of the project and final payment to the artist, ownership of the artwork shall transfer to the City under the jurisdiction of the SFAC. The SFAC shall incorporate the artwork into the City's Civic Art Collection.

B. The SFAC will maintain files containing artwork records, artist files, condition reports, maintenance reports, conservation records, and other similar records. The SFAC staff may provide copies of the files to Port staff for duplicate storage purposes upon request.

C. The SFAC shall maintain the artwork to the best of its abilities within available resources. However, although the SFAC strives to maintain the Civic Art Collection in good repair and condition, SFAC is not required to maintain the artwork to any particular standard. The Port shall work in good faith with the SFAC by informing of needed maintenance or repairs, and to assist in the maintenance of the artwork by providing non-specialized cleaning services that fall within the scope of standard maintenance. Future maintenance responsibility may be addressed in other agreements between the Port and SFAC and may supersede these conditions.

### **Port Ownership**

Where public art is identified in the Program to be owned by the Port, the following procedures identify the maintenance requirements:

A. Upon completion of the project and final payment to the artist, ownership of the artwork shall transfer to the Port.

B. The Port will maintain files containing artwork records, artist files, condition reports, maintenance reports, conservation records, and other similar records.

C. The Port shall maintain the artwork to the best of its abilities within available resources. However, although the Port strives to maintain public art in good repair and condition, the Port is not required to maintain the artwork to any particular standard. Port staff shall work in good faith with the Port Commission by informing the Commission of needed maintenance or repairs, and to assist in the maintenance of the artwork by providing non-specialized cleaning services that fall within the scope of standard maintenance.

D. *Removal, Relocation, or De-accessioning of Gifts of Art.* In accepting a gift of artwork or commemorative plaque, the Port Commission shall not be bound by any agreement with the donor that restricts its ability to act in the best interests of the Port of San Francisco. Nothing in the acceptance of a gift of artwork shall prevent the Port from approving subsequent removal, relocation, or de-accessioning of such gifts if it serves the Port's best interest to do so. The Port shall de-accession and dispose of works of art in its collection in accordance with both the City Arts Commission De-accessioning Policies and in accordance with the requirements of Section 10.100.30 of the Administrative Code.



## **NEXT STEPS**

Preparing a Public Art Program is listed as an Urban Design policy of the Port's recently adopted Waterfront Plan. After the Public Art Program is presented to the Port Commission, the item will be brought to the Port's Southern and Northern Advisory Committees. Staff will then begin to complete the tasks and deliverables outlined under the Outreach for Artists section.

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Attachments: Draft Public Art Program