ORDINANCE NO. 2013-003

AN ORDINANCE OF THE CITY OF CULVER CITY, CALIFORNIA, AMENDING CHAPTER 15.06, NEW DEVELOPMENT FEES, OF THE CULVER CITY MUNICIPAL CODE, BY REPEALING AND REPLACING SECTIONS 15.06.100 THROUGH 15.06.175 WITH NEW SECTIONS 15.06.100 THROUGH 15.06.180, RELATING TO THE ART IN PUBLIC PLACES PROGRAM.

WHEREAS, on August 29, 1988, the City Council adopted Ordinance No. 88-019, which established the Art in Public Places Program (“APPP”); and

WHEREAS, on February 14, 1994, the City Council adopted Ordinance No. 94-004 which created a City Art Fund, limited the type of art on private property to art in a physical hard media, and authorized expenditures from the City Art Fund for the performing arts; and

WHEREAS, on November 13, 1995, the City Council adopted Ordinance No. 95-016 establishing the criteria and the procedures for approving Architecture as Art; and

WHEREAS, by Ordinance Nos. 2001-013 and 2001-015, the City Council established the Cultural Affairs Commission (“CAC”) and directed that the Art in Public Places Program be implemented by the CAC; and,

WHEREAS, the City Council adopted Ordinance No. 2002-007 which incorporated changes made necessary by the establishment of the CAC and the transfer of the Art in Public Places and other Cultural Affairs programs from the Community Development Department to the Parks, Recreation & Community Services Department; and

WHEREAS, in July 2003, the CAC and the programs under its purview were transferred to the Community Development Department from the Parks, Recreation &

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Community Services Department because of the direct effect upon development projects
and the need to better coordinate implementation of the APPP and the development
process; and

WHEREAS, on February 9, 2004, the City Council adopted Ordinance No. 2004-004
to address certain omissions and the change in City departments; and

WHEREAS, with the dissolution of the Culver City Redevelopment Agency on
February 1, 2012, the CAC, the performing arts and certain other Cultural Affairs programs
were transferred to the Parks, Recreation & Community Services Department while the Art
in Public Places Program remained within the Community Development Department; and

WHEREAS, the arts have increasingly become an important component in Culver
City’s identity, both regionally and nationally; and

WHEREAS, the Los Angeles County Economic Development Corporation’s annual
Otis Report on the Creative Economy consistently demonstrates that the arts have a
significant positive economic impact to overall tourism revenues in the region and is one of
the largest employment clusters in Los Angeles County; and

WHEREAS, periodic review and certain amendments are necessary to ensure that
Culver City’s Art in Public Places Program, Performing Arts Grant Program, and related
cultural initiatives remain competitive with current national standards and continue to build
upon what has been established to date.

NOW, THEREFORE, the City Council of the City of Culver City, California, DOES
HEREBY ORDAIN, as follows:

SECTION 1. Sections 15.06.100 through 15.06.175 of the Culver City Municipal
Code are hereby repealed and replaced with new Sections 15.06.100 through 15.06.180
as follows:
ART IN PUBLIC PLACES

§ 15.06.100 Purpose
§ 15.06.105 Implementation by Cultural Affairs Commission
§ 15.06.110 Definitions
§ 15.06.115 Cultural Trust Fund Created
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§ 15.06.125 Art in Public Places Program Allocations
§ 15.06.130 Administrative and Design Fees
§ 15.06.135 Application and Approval Procedures for Placing Artwork on Private Property
§ 15.06.140 Approval Procedures for Fulfillment of the Art in Public Places Program Requirement for City Development Projects
§ 15.06.145 Procedure for Acceptance of Artwork Donated to the City to Fulfill the Art in Public Places Program Requirement
§ 15.06.150 Ownership and Maintenance of Artwork
§ 15.06.155 Final City Approval
§ 15.06.160 Artwork on Public Property, Performing Arts and Purchase of Real Property for Public Art
§ 15.06.165 Criteria for Approving Architecture as Art
§ 15.06.170 Procedure for Approving Architecture as Art
§ 15.06.175 De-Accessioning of Artwork
§ 15.06.180 Appeal

§ 15.06.100. PURPOSE.

The City Council finds and declares:

A. Cultural and artistic resources, that include visual artwork, the performing arts, and architectural resources, enhance the quality of life for individuals living in, working in and visiting the City.

B. Balanced development of cultural and artistic resources preserves and improves the quality of the urban environment, increases real property values, and has a positive economic impact.

C. As development and revitalization of real property within the City continues, the opportunity for creation of cultural and artistic resources is diminished. As these opportunities are diminished and urbanization occurs, the need to develop alternative sources for cultural and artistic outlets to
improve the environment, image and character of the community is increased.

D. The Culver City Art in Public Places Program ("APPP") was created in 1988 so that development of cultural and artistic assets are financed by those whose development and revitalization diminishes the availability of the community's resources for those opportunities and contributes to community urbanization.

§ 15.06.105. IMPLEMENTATION BY CULTURAL AFFAIRS COMMISSION.

The Cultural Affairs Commission ("CAC"), as established by Section 3.03.400 of the Culver City Municipal Code, was created in 2001 and shall implement the duties established in this subchapter. The City Council may prescribe, by resolution, other duties and the appointment process for the members of the CAC.

§ 15.06.110. DEFINITIONS.

As used in this subchapter, the following definitions shall apply:

A. "Administrative Fees" include art consultant, conservator, legal fees, travel and out-of-pocket expenses.

B. "Art in Public Places Program Allocation" (also referred to as "APPP allocation") is the percentage of the construction costs which are set aside for the City's Art in Public Places Program.

C. "Artwork" includes but is not limited to paintings, drawings, murals in any media, stained glass, statues, bas relief or other sculptures,
and any creation under “new genres” as defined herein; environmental artworks or public spaces; monuments, fountains, arches or other structures of a permanent or temporary character intended for ornament or commemoration; integrated and functional architectural, video and other media-based elements designed by a qualified artist. For projects which involve no structures, artwork may include a combination of landscape design, natural and manufactured materials including but not limited to rocks, fountains, reflecting pools, sculptures, screens, benches, and other types of street furniture, provided they have been designed by a qualified artist.

D. “Community Development Director” shall mean the Community Development Director of the City or his/her designee.

E. “Conservation” encompasses actions taken toward the long-term preservation of cultural property and includes examination, documentation, treatment and preventative care, supported by research and education. Restoration is a type of conservation treatment and specifically refers to an attempt to bring cultural property closer to its original appearance. Stabilization, also a type of conservation, refers to an attempt to maintain the integrity of cultural property and to only minimize deterioration.

F. “Cultural Affairs Commission” shall be the Commission established in 2001 pursuant to Section 3.03.400 of this Code. Unless otherwise specified, any reference to “Commission” in this subchapter shall mean the Cultural Affairs Commission.
G. "De-accession" refers to the process of permanently removing artwork acquired through the Art in Public Places Program as outlined in this subchapter.

H. "Design Fees" include, but are not limited to, those fees which are paid to an artist, architect, structural engineer or an appropriate party for the development of a design concept and the preparation of construction drawings. Design fees are separate and apart from the cost of the fabrication and installation of an artwork.

I. "Freely Accessible" is defined to mean the artwork is accessible to the public for viewing, in its entirety and in a direct line of sight without hindrances or obstacles, for a period of ten (10) hours per day, seven (7) days per week.

J. "New Genres" include, but are not limited to, sculpture, sound installation, video, film, audio, digital, hybrid and emerging art forms. These works may be temporary or permanent in nature.

K. "Non-Profit" shall mean those entities deemed to be exempt under Section 501(c)(3) of the Internal Revenue Service Code.

L. "Performing Arts" is defined as performances presented by professional or amateur performers including, theatre performance (any form of dramatic presentation, spoken or silent); musical theatre/opera (any dramatic performance of which music is an integral part); dance (any form of rhythmical movement); music or concert (any musical performance with live musicians and/or singers).
M. "Permanent Installation" is defined as artwork designed and fabricated to remain installed for 20 or more years.

N. "Project" (also referred herein as "Development Project") is defined as consisting of all physical changes and improvements necessary to complete a development. Such physical changes shall include the construction of new structures or the remodeling of existing structures.

O. "Real Property" shall mean that which consists of land, and of all rights and profits arising from and annexed to land, of a permanent, immovable nature.

P. "Qualified Artist" (also referred herein as "Artist") shall be defined as a practicing artist who has demonstrated a high level of accomplishment through a body of work, exhibitions, presentations, or performances. The qualified artist shall have a history of strong conceptual development, as well as possess the ability for skillful execution of tools, materials, and craft. This includes programs rooted in innovative uses of technology, collaborative work, or interdisciplinary projects. The qualified artist shall have a BFA, MFA or other comprehensive advanced training in the visual arts and work primarily in the production of art in unique or limited editions and not for purposes of marketing, mass production or advertising.

Q. "Temporary Installation" is defined as artwork intended to remain installed for 3 years or less.
§ 15.06.115. CULTURAL TRUST FUND CREATED.

A. There is hereby created a fund to be known as the “Culver City Cultural Trust Fund” (hereinafter “Cultural Trust Fund”) to account for fees paid pursuant to this subchapter. This fund, maintained by the Chief Financial Officer, and subject to Sections 15.06.040 and 15.06.050, shall be used solely:

1. For the design, acquisition, commission, installation, improvement, relocation, conservation, utility charges and insurance of artwork acquired by the City through the APPP;

2. For preventative care, maintenance and utility charges related to the artwork and real property purchased pursuant to Subsection 15.06.115.A.1; provided, that the total amount of the appropriation made in any year from the Cultural Trust Fund for the purpose set forth in this Subsection 15.06.115.A.2 shall not exceed fifteen percent (15%) of the total fees deposited into the Cultural Trust Fund, pursuant to this subchapter, during the fiscal year immediately preceding that appropriation. The City Council, with a recommendation by the Cultural Affairs Commission, may appropriate additional funds from the Cultural Trust Fund for the purpose of completing larger conservation efforts, including restoration projects, for one or more artworks;

3. To sponsor or support the performing arts;
4. For the acquisition and improvement of real property for the purpose of displaying artwork, which has been or may be subsequently approved by the City;

5. For costs associated with administering The Art in Public Places Program and associated cultural programs, in an amount not to exceed fifteen percent (15%) of the total fees deposited into the Cultural Trust Fund, pursuant to this subchapter, during the fiscal year immediately preceding that appropriation; however, in the event the City Council determines that a special circumstance exists, the City Council may set a higher amount by a majority vote; and

6. Other City-produced cultural programs pursuant to the requirements of this subchapter.

B. If real property purchased with monies from the Cultural Trust Fund is subsequently sold, the proceeds from the sale shall be returned to the Cultural Trust Fund.

§ 15.06.120. DEVELOPMENTS SUBJECT TO PROVISIONS OF SUBCHAPTER.

A. All new residential development projects of five or more units, and all commercial, industrial, and public building development projects, with a building valuation of Five Hundred Thousand Dollars ($500,000.00) or more shall be subject to the provisions of this subchapter.

B. Including but not limited to exterior and interior modifications and additions, all remodeling of existing residential buildings of five or more
units, and all remodeling of existing commercial, industrial and public
buildings, shall be subject to the provisions of this subchapter when such
remodeling has a valuation of Two Hundred Fifty Thousand Dollars
($250,000.00) or more, excluding earthquake rehabilitation required by this
Code for seismic safety.

C. Covenanted low- and moderate-income and senior citizen
housing shall be exempted from the requirements of this subchapter for as
long as it is used for that purpose.

1. The APPP allocation for a development project that
includes residential units covenanted for low- or moderate-income
households or for senior citizens shall be reduced by the value of the
square footage of the covenanted units and associated spaces (such
as parking).

2. Prior to the date any restrictions regarding residential
units covenanted for low- or moderate-income households or for senior
citizens terminate, the then current owner of the development shall pay
fees to the Cultural Trust Fund in an amount equal to the exemption
calculated in Subsection 15.06.120.C.1.

D. Buildings which are designed and dedicated primarily to non-
profit performing arts spaces or museum uses shall not be required to meet
the Art in Public Places Program Allocation requirement for as long as the
performing arts or museum uses are maintained within these buildings.
§ 15.06.125. ART IN PUBLIC PLACES PROGRAM ALLOCATIONS.

A. The APPP allocation, as used in this subchapter, is the percentage of the construction costs which is set aside for the City's APPP and shall be an amount equal to one percent (1%) of the total building permit construction valuation for an applicable project, excluding land acquisition costs. The total building permit construction valuation used for determining the APPP allocation shall be based on the latest building construction valuation data used by the Building Safety division staff, based on R.S. Means Square Foot Costs, unless, in the opinion of the Building Official, a different valuation methodology is more appropriate for a particular project.

B. Multiple building permits issued within a three year period for a single project shall be considered in the aggregate in determining the APPP allocation.

C. If the total APPP allocation for a project is less than $75,000, the applicant shall pay their APPP allocation into the Cultural Trust Fund as the only option for complying with the APPP requirement.

D. Payment of any required APPP allocation shall be received prior to issuance of a City building permit.

E. If the APPP allocation is $75,000 or greater, the applicant shall either:

1. Pay the APPP allocation into the Cultural Trust Fund prior to issuance of a City Building Permit ("in-lieu fee"); or

2. Commission original, site-specific artwork for the applicant's development project, with a valuation equal to or greater
than the APPP allocation, in compliance with the guidelines of this
subchapter; or

3. Donate artwork to the City with an appraised value equal
to or greater than the APPP allocation, in compliance with the
guidelines of this subchapter; or

4. Incorporate a Cultural Facility into the applicant's
development project, in compliance with the guidelines of this
subchapter; or

5. Have the building or a portion thereof designated
"Architecture as Art," in compliance with the guidelines of this
subchapter.

F. Any applicant whose APPP allocation is less than $75,000 may
voluntarily increase their APPP allocation to an amount of $75,000 or greater,
and thereby qualify the applicant to fulfill the APPP requirement pursuant to
Subsection 15.06.125.E.

G. If the APPP allocation is $75,000 or greater, the applicant may
place an approved artwork, create a Cultural Facility, donate artwork, or
designate their building "Architecture as Art" with acquisition and installation
costs totaling less than the applicant's APPP allocation; provided that, such
costs are at least $75,000 and that the applicant also pay the difference
between its APPP allocation and such costs into the Cultural Trust Fund.

H. For the commission of new on-site artwork, applicants are
required to use a Request for Proposal ("RFP") process for selecting an artist
when the APPP allocation exceeds $100,000. The applicant shall also hire a
qualified art consultant to assist with the RFP process, proposal
development, and project oversight. The art consultant shall be selected from
a pre-qualified list provided by the City. The CAC Public Art subcommittee
and staff shall review the art consultant and RFP information with the
applicant prior to releasing the RFP.

The RFP will include the following components:

1. Deadline for submission of requested information;
2. Information on development project components,
   including but not limited to goals for the development project and the
   artwork, scope of work, physical description of project site and other
   physical or legal restrictions which may apply;
3. Proposal review/selection schedule;
4. Scope of services;
5. Artwork budget;
6. Development project and artwork timelines; and,
7. Evaluation criteria.

I. If the APPP allocation is $75,000 or greater, the applicant may
   opt to fulfill the APPP requirement by incorporating a Cultural Facility within
   the development project. In order to ensure integrated projects, applicants
   shall submit plans to the Community Development Director during Preliminary
   Project Review (PPR) or prior to receiving any discretionary review approvals.
   The only acceptable Cultural Facilities are: indoor and outdoor performing
   arts spaces that can accommodate a minimum audience of 50, with a
   performance area of at least 500 square feet, or exhibition spaces designed
for the visual arts. Cultural Facilities must include all amenities for supporting
a performance or art exhibition space, including a sound and lighting system,
audience seating, separately designated restrooms, and technical space.
Cultural Facilities shall be permanent and must be ADA-compliant. Further,
the facility must be made available to the recipients of the Culver City
Performing Arts Grant Program and Culver City-based visual and performing
arts organizations at rental rates no higher than other local arts venues.
Cultural Facilities must be specifically designated as such and cannot be
used for any other purpose on an on-going basis. Applicants may receive
credit for up to three years of operations, maintenance and programming
costs for Cultural Facilities, together with construction costs, toward fulfillment
of the minimum APPP allocation for their project. The applicant’s proposal for
a Cultural Facility shall include a plan that identifies key staff, programming
goals and an associated budget for a minimum of three years. The proposal
shall be approved by the Cultural Affairs Commission, monitored by
designated City staff, and subject to all applicable federal, state and local
laws and regulations. Review and approval of Cultural Facilities shall include
review by a CAC subcommittee with a recommendation to the full CAC.
Cultural Facilities are required to display a permanent plaque as outlined in
Subsection 15.06.155.F.3 and are subject to the covenant and maintenance
requirements of Section 15.06.150.
§ 15.06.130. ADMINISTRATIVE AND DESIGN FEES.

In those instances covered by Subsections 15.06.125.E, 15.06.125.H or 15.06.125.I, the following shall apply:

A. Total Administrative Fees shall not exceed 15% of the APPP allocation or $100,000, whichever is less.

B. Design fees must be proportionate to the overall scope of the budget.

§ 15.06.135. APPLICATION AND APPROVAL PROCEDURES FOR PLACING ARTWORK ON PRIVATE PROPERTY.

A. In order to ensure integrated projects, applicants choosing to commission new artwork for their project shall submit plans to the Community Development Director during Preliminary Project Review (PPR) or prior to receiving any discretionary review approvals. At a minimum, the following information shall be included:

1. Preliminary sketches, photographs or other documentation of sufficient descriptive clarity to indicate the nature of the proposed artwork;

2. Preliminary plans containing such detailed information as may be required by the Community Development Director to adequately evaluate the location of the artwork in relation to the proposed development, including compatibility with the character of adjacent conforming developed parcels and the existing neighborhood. Applicants should be involved in the development of the preliminary

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plans in order to assist in the proper placement of the artwork in
relation to their proposed development environment, and to ensure
that the artist that is chosen creates an artwork that fits the needs and
requirements of both the applicant's project and the APPPP.

B. Upon receipt of discretionary review approvals, applicants shall
prepare the following in preparation for Cultural Affairs Commission review:

1. A narrative proposal, with the artwork's budget and
timeline. Elevations, site plans, line of sight studies, renderings and
other descriptive materials, as deemed necessary by the Community
Development Director, shall be included to demonstrate that the
artwork will be displayed in an area open and freely accessible to the
general public.

2. Information provided by a conservator affiliated with the
American Institute for Conservation ("AIC") about the durability of the
proposed materials, recommendations for future maintenance and
estimated maintenance costs. In addition, the application shall include
information on how the future maintenance costs will be allocated and
identify the party responsible for ensuring that maintenance is
performed; and,

3. If applicable, an appraisal or other evidence of the value
of the proposed artwork, including acquisition and installation costs.

C. The Cultural Affairs Commission shall review the completed
application together with the recommendation of the Community
Development Director and CAC Public Art subcommittee, and approve,
approve with conditions, or deny the proposed artwork, and its proposed
location, considering the aesthetic quality and harmony with the proposed
project, and the public accessibility of the artwork.

D. Submitted artwork applications shall be assessed on:

1. Compliance with the general APPP requirements as
   outlined in this subchapter;

2. Artistic quality;

3. Conceptual compatibility of the design with the
   immediate environment for the site;

4. Appropriateness of the design to the function of the site;

5. Creation of a desirable environment for the general
   community by the design and location of the artwork;

6. Preservation and integration of natural features with the
   project;

7. Appropriateness of the materials, textures, colors, and
   design to the expression of the design concept;

8. Ability to convey the artist's intention and underlying
   themes;

9. Whether the artwork is representative of a broad variety
   of tastes within the community and makes a contribution to the
   provision of a balanced inventory of artworks commissioned through
   the APPP;

10. Permanence of structural and surface components
    including, but not limited to, the structural and surface soundness and
inherent resistance to theft, vandalism, weathering, and excessive maintenance or repair costs.

E. Disqualifying characteristics for artwork:

1. Directional elements such as super graphics, signage, or color coding except where these elements are integral parts of the original artwork or executed by the artist in unique or limited editions;

2. Artwork that incorporates logos, images, text or other elements that relate directly to a specific business's or organization's branding or marketing themes;

3. Art objects which are mass-produced and of standard design such as playground equipment or fountain pieces;

4. Reproduction of original artworks, except in cases where incorporated into an original artwork;

5. Decorative or functional elements which are designed by the building architect as opposed to a qualified artist;

6. Landscape design except where it is designed by a qualified artist and is an integral part of the artwork;

7. Architectural rehabilitation, historic preservation and structural building modifications;

8. Temporary art exhibitions, unless included with a Cultural Facility as outlined in Subsection 15.06.125.1;

9. Educational activities;

10. Artwork designed by City elected or appointed officials, City staff or members of their immediate family, members of the
project architect's firm or immediate family members, individuals
directly associated with the development team or immediate family
members of the property owner/applicant, or any individuals with
whom the property owner and/or applicant may have an interest in
common; and,

11. Artwork designed by an artist who has received a prior
permanent public art commission through the City’s Art in Public
Places Program, if the contract for said commission was executed
within the last ten years.

F. If the applicant proposes significant revisions to the artwork, a
revised application shall be submitted to the Community Development
Director for review and recommendation to the Cultural Affairs Commission.
The Commission shall make a determination whether to approve, approve
with conditions or deny the requested revision(s).

§ 15.06.140. APPROVAL PROCEDURES FOR FULFILLMENT OF THE ART
IN PUBLIC PLACES PROGRAM REQUIREMENT FOR CITY
DEVELOPMENT PROJECTS.

A. All City-initiated projects subject to the requirements of this
subchapter shall follow the same requirements as development projects on
private property, with the exception of the requirement to pay an in-lieu fee
into the Cultural Trust Fund if the APPP allocation is less than $75,000. The
APPP allocation shall be included in the development project budget and
appropriated from the development project funding sources. The APPP
allocation may be supplemented with money from the Cultural Trust Fund
with a recommendation from the Cultural Affairs Commission and City Council approval.

B. Depending on the scope of the development project and/or overall budget, the City may employ a Community Advisory Committee and/or Artist Selection Panel, an RFQ and/or RFP process and/or the services of a qualified art or theatre consultant. Both the Community Advisory Committee and Artist Selection Panel shall include a combination of professional artists, arts and design professionals, community representatives or stakeholders and City department representatives.

§ 15.06.145. PROCEDURE FOR ACCEPTANCE OF ARTWORK DONATED TO THE CITY TO FULFILL THE ART IN PUBLIC PLACES PROGRAM REQUIREMENT.

A. An application for acceptance of artwork to be donated to the City for placement on public property shall be submitted to the Community Development Director and shall include the following information, at minimum:

1. Artist biography and object provenance;

2. Sketches, photographs, models, or other documentation of sufficient descriptive clarity to indicate the nature of the proposed artwork and installation and siting requirements;

3. Acquisition and installation costs;

4. An appraisal or other evidence of the value of the proposed artwork. The value of the proposed artwork will be determined by an Accredited Member or Accredited Senior Appraiser.
of the American Society of Appraisers, or a member of another  
established national or international organization for appraisers;  

5. Information provided by an American Institute for  
Conservation ("AIC") affiliated conservator about the durability of the  
proposed materials, recommendations for future maintenance and  
estimated maintenance costs; and,  

6. If applicable, a written agreement, in a form approved by  
the City Attorney, executed by or on behalf of the artist who created  
the artwork which provides the City necessary protections as permitted  
under applicable law.  

B. Review of application:  

1. Completed applications shall be submitted to the  
Community Development Director who, together with the CAC Public  
Art subcommittee, makes a recommendation to the Cultural Affairs  
Commission.  

2. The Cultural Affairs Commission shall in turn make a  
recommendation to the City Council, which shall have the sole  
authority to accept or reject or conditionally accept the donation.  

C. All artwork donated to the City in fulfillment of the requirements  
of this subchapter shall become the property of the City upon acceptance by  
the City Council.
§ 15.06.150. OWNERSHIP AND MAINTENANCE OF ARTWORK.

A. All artwork placed on the site of an applicant's project shall become the property of the property owner and his/her successor(s) in interest. Artwork cannot be sold or transferred other than to a subsequent successor in interest. The obligation to provide maintenance and security, as necessary to preserve the artwork in good condition, shall remain with the owner of the site.

B. Maintenance of artwork, as used in this section, shall include without limitation: preservation of the artwork and, where applicable, of the lighting and surrounding landscaping, in good condition to the satisfaction of the City; protection of the artwork against physical defacement, mutilation or alteration; and, securing and maintaining fire and extended insurance and vandalism coverage in an amount to be determined on a case-by-case basis by the City.

C. Prior to placement of an approved artwork, the applicant and the owner of the site shall execute and record a covenant reflecting all the owners' obligations under this subchapter, in a form approved by the City.

D. The covenant shall include a financial plan for the maintenance of the artwork, a schedule of future condition checks, preventative maintenance and restoration of the artwork necessary to conserve the artwork at an appropriate level, and should be created with input from the artist, the applicant, the Cultural Affairs Commission, and an Art Consultant, if one was hired for the project.
E. Applicants are required to set-aside funds for future conservation and, where possible, in interest bearing accounts. Preventative maintenance costs may represent from 5% to 15% annually of the total APPP allocation but shall be based on conservation reports prepared by a professional art conservator working with the artist and the artist’s fabricator. Funds for maintenance are not part of the APPP allocation.

F. The City reserves the right to inspect the artwork at any time to ensure it is being maintained as required by any covenant entered into pursuant to the provisions of Subsection 15.06.150.C.

G. Failure to maintain the artwork as provided herein is hereby declared to be a public nuisance. The City may pursue remedies to obtain compliance with the provisions of the APPP for maintenance of artwork, including subjecting the property owner to administrative citation and/or misdemeanor prosecution; placing conditions for maintenance of an artwork on the owner’s future development project approvals; performing all necessary repairs, maintenance or securing insurance and placing a lien against the involved property for the costs associated with such.

H. The artwork is to remain freely accessible, as previously defined, and may not otherwise be draped or obscured.

I. The siting of the artwork, including the surrounding landscaping or adjacent area, shall not be altered without approval from the City. The City reserves the right to implement measures necessary to preserve the design and placement of an artwork as approved by the Cultural Affairs Commission.
J. Unless an artwork poses imminent danger to life or property, no person or entity shall remove any artwork from the location for which it was selected, and anyone needing to do so shall obtain City approval prior to doing so.

K. The applicant, its successors, and its assigns, may not destroy, permanently remove, relocate, change, alter, modify, or allow to be defaced, any artwork or portion thereof without the express consent of the City. This requirement will be included in the covenant to be recorded against the property.

L. If any approved artwork placed on private property pursuant to this subchapter is removed without City approval, the artwork must be replaced with artwork of the same value as that of the removed artwork and be approved by the CAC or the property owner must pay the value of the removed artwork into the Cultural Trust Fund. If these requirements are not met within 180 days, then the Certificate of Occupancy is revoked or a lien is placed against the involved property.

§ 15.06.155. FINAL CITY APPROVAL.

No final City approval or Certificate of Occupancy for any project subject to this subchapter shall be granted or issued unless and until full compliance with the APPP is achieved as follows:

A. In lieu art fees have been paid, if applicable;

B. The approved artwork has been fabricated and placed on the project site in a manner consistent with the proposal approved by the
Cultural Affairs Commission and inspected by the CAC and/or Cultural
Affairs staff, if applicable;

C. Donation of an approved artwork has been accepted by the City
Council, if applicable;

D. A Cultural Facility has been incorporated into the applicant's
development project, if applicable;

E. The building or a portion thereof has been designated
"Architecture as Art," if applicable.

F. In cases where approved artwork is placed on private property,
a Cultural Facility has been incorporated into the applicant’s development
project or a building has been designated “Architecture as Art” pursuant to
this subchapter, all of the following must occur prior to final City approval or
issuance of a Certificate of Occupancy for any project subject to this
subchapter:

1. A copy of the maintenance guidelines that include
information on materials, parts and fabricator contact information has
been submitted to the City;

2. A covenant, complying with Subsection 15.06.150.C and
setting forth the applicant's obligations under the APPP, has been
executed and recorded with the Los Angeles County Recorder;

3. A plaque has been installed adjacent to the artwork
measuring no less than 8" x 8" or a proportionate size. The plaque
shall be made of cast metal, stainless steel or other durable material
and will be placed in an appropriate location near the artwork and shall

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include the date, title of artwork (if applicable), artist(s) or architect(s) (as applicable), and should indicate that the artwork, building's architecture or Cultural Facility was commissioned in conjunction with the Culver City Art in Public Places Program. Staff shall review and approve plaque text and layout prior to its fabrication and installation at the site; and,

4. Proof of final payment to the artist and/or all members of the design and fabrication/installation team has been furnished to the City.

§ 15.06.160. ARTWORK ON PUBLIC PROPERTY, PERFORMING ARTS AND PURCHASE OF REAL PROPERTY FOR PUBLIC ART.

A. The Cultural Affairs Commission shall prepare a plan for the Art in Public Places Program and update it annually through the budget process.

B. The Cultural Affairs Commission may recommend to the City Council the purchase of artwork to be displayed on public property, recommend support for the performing arts, and the purchase and improvement of real property to be used for the display of artwork. A recommendation shall include the following information:

1. The type of artwork considered, an analysis of the constraints applicable to placement of the artwork on a site, the need for and practicality of the maintenance of the artwork, and the costs of acquisition and installation of the artwork; or

2. The type of performance and amount recommended; or
3. The estimated costs of acquisition and improvements of the real property proposed to be purchased.

C. The Cultural Affairs Commission is authorized to review the performing arts grant applications and make a recommendation to the City Council up to the amount authorized in the City budget for the fiscal year for which the projects are being considered.

D. An expenditure from the Cultural Trust Fund may be made for the performing arts provided the City Council approves the performing arts event and that the performance occurs at a location in the City, or location owned or controlled by the City, or at an alternative site which is located within close proximity to the corporate boundaries of the City and which has facilities for performing arts that complement or supplement those available within the City.

E. No more than 25% of deposits made in any one year into the Cultural Trust Fund may be allocated from the Cultural Trust Fund for performing arts in the subsequent year unless this amount is less than $25,000, in which case a minimum of $25,000 may be allocated. Eligible activities include City-produced performing arts events and grants to performing arts organizations as subject to the release of a Notice of Funding Availability ("NOFA") and review of applications by the Cultural Affairs Commission and approval by the City Council.

F. In order to attract more cultural users to City-owned and City-operated facilities, up to $10,000 per year may be allocated from the Cultural
Trust Fund for capital improvements to enhance the performance area of such facilities.

§ 15.06.165. CRITERIA FOR APPROVING ARCHITECTURE AS ART.

The following criteria shall be used to determine, on a case-by-case basis, whether architecture can be considered art for purposes of fulfilling the City's APPP requirement:

A. The architect shall be internationally recognized and have earned a respectable reputation in both the design and visual art communities and have exhibited their work in major regional, national or international museums.

B. When reviewing architecture as art, the underlying concept of the architecture shall be expressive as more than mere utilitarian architecture. The architecture as a whole, or certain architectural features, shall express ideas or meaning and have cultural significance or conceptual complexity in relation to the totality of the object.

C. The applicant must be able to demonstrate how the APPP allocation enhances the design of their project.

§ 15.06.170. PROCEDURE FOR APPROVING ARCHITECTURE AS ART.

The following procedure must be followed by the applicant to fulfill the APPPP requirement with the building's architecture:

A. An applicant shall make an initial presentation to the CAC Public Art sub-committee and staff prior to the development application being
deemed complete. The applicant must submit a maquette and/or other materials which satisfactorily illustrate the proposed conceptual development. The applicant and architect must submit a conceptual statement expressing why the architecture should be considered art, including an explanation of the ideas, meaning, cultural significance or conceptual complexity expressed in the architecture.

B. A second presentation shall be made at the completion of the City's review and approval process for the project to a panel comprising two commercial architects, one visual artist, one visual arts administrator, and one general design professional such as a landscape architect or commercial interior designer. At least one of the panel members shall be a Culver City business owner or resident. The panel shall make a recommendation to the CAC Public Art subcommittee whether to accept the project under Architecture as Art and the subcommittee will then make a recommendation to the Cultural Affairs Commission for consideration.

C. The applicant and architect shall demonstrate that high quality materials and craftsmanship will be used in the execution of the construction.

D. If all of the foregoing criteria are met, the Cultural Affairs Commission shall approve the Architecture as Art, only if, in its judgment, the architectural work is of extremely high artistic merit and would make a substantial cultural contribution to Culver City.

E. The applicant and/or architect shall have the responsibility to demonstrate that all of the foregoing criteria are met.
§ 15.06.175. DE-ACCESSIONING OF ARTWORK.

    A. The City will allow the de-accessioning of artwork acquired or
    commissioned through the Art in Public Places Program only when it is in the
    public interest and serves as a means of improving the quality of the overall
    APPPP collection;

    B. De-accessioning should be considered only after 5 years
    following the acceptance of artwork donated to the City or the installation of
    permanent art commissioned through the APPPP. The need for temporary
    removal from public display does not necessitate de-accession. In instances
    where the artwork considered for de-accession is on private property, the
    Cultural Affairs Commission shall make the final decision. When the artwork
    is installed on public property or is City-owned, the Cultural Affairs
    Commission shall make a recommendation to the City Council which will
    make the final decision.

    C. After de-accession has been approved by the Cultural Affairs
    Commission or the City Council, if the artwork is sold, all proceeds from sale
    of artwork, minus payment to the artist under California Resale Royalties Act,
    will be used for the exclusive purpose of acquiring replacement artwork for
    the site or be paid into the Cultural Trust Fund. If the artwork was on private
    property, the then property owner shall replace the de-accessioned artwork
    with an artwork of equal or greater value or pay an in-lieu fee equivalent to
    the cost of the artwork to the Cultural Trust Fund.

    D. Circumstances that may cause review of artwork for de-
    accessioning:
1. The artwork is a threat to public safety, or the condition/security of the work cannot be guaranteed;

2. The owner cannot properly care for the artwork, or the artwork requires an excessive or unreasonable amount of maintenance;

3. The artwork has serious or dangerous faults in design or workmanship, the condition of the artwork requires restoration costs in gross excess of its monetary value or is in such a deteriorated state that restoration is either unfeasible, impractical, or would render the artwork to be false;

4. A similar but superior example exists in the collection;

5. The artwork is a forgery;

6. No suitable site for the artwork is available;

7. A significant adverse reaction to the artwork is documented over 5 years or more;

8. The artwork is judged to have no aesthetic, historical or cultural value;

9. The owner wishes to replace an artwork with a more appropriate work by the same artist;

10. The artwork can be sold to finance, or can be traded for, an artwork of greater importance;

11. A written request from the artist to remove the artwork from public display has been received and approved by the City;

12. The artwork is not or is rarely displayed; or
13. The artwork is incompatible with the rest of the collection.

§ 15.06.180. APPEAL.

Any person may seek review of a decision of the Cultural Affairs Commission by filing a written appeal with the City Clerk's Office within ten (10) working days of the decision by the Commission. The City Clerk's Office shall coordinate with the Community Development Director to schedule the appeal hearing before the City Council.

SECTION 2. In any case where a development project has an approved entitlement and/or been issued a City building permit prior to the effective date of this Ordinance, compliance with Subsections 15.06.125.C, 15.06.125.F, 15.06.125.G and 15.06.125.H of this Ordinance shall be voluntary.

SECTION 3. Pursuant to Section 619 of the City Charter, this Ordinance shall take effect thirty (30) days after the date of its adoption. Pursuant to Sections 616 and 621 of the City Charter, prior to the expiration of fifteen days after the adoption, the City Clerk shall cause this Ordinance, or a summary thereof, to be published in the Culver City News and shall post this Ordinance or a summary thereof in at least three places within the City.

SECTION 4. The City Council hereby declares that, if any provision, section, subsection, paragraph, sentence, phrase or word of this ordinance is rendered or declared invalid or unconstitutional by any final action in a court of competent jurisdiction or by reason of any preemptive legislation, then the City Council would have independently adopted the remaining provisions, sections, subsections, paragraphs, sentences, phrases or words of this ordinance and as such they shall remain in full force and effect.
APPROVED AND ADOPTED this 26th day of March, 2013.

Andrew Weissman, Mayor

ATTEST:

Martin Cole, City Clerk

APPROVED AS TO FORM:

Carol A. Schwab, City Attorney