



Meeting Date: 6/13/2006

| ACTION | TYPE OF ITEM |
|--|--|
| <input type="checkbox"/> Approved Recommendation | <input type="checkbox"/> Info/Consent |
| <input type="checkbox"/> Ord. No(s). _____ | <input type="checkbox"/> Report |
| <input type="checkbox"/> Res. No(s). _____ | <input checked="" type="checkbox"/> Public Hearing |
| <input type="checkbox"/> Other _____ | Other _____ |

Prepared By: Linda Windsor^{iw}, Associate Planner

Agenda Item No. L-1

Reviewed By: City Manager LRB City Attorney Kimbrell Finance PLC Other (Specify) _____

DATE: June 5, 2006

TO: City Council

FROM: Matthew Winegar, Development Services Director
Development Services Department *mw*

SUBJECT: Revision to the Art in Public Places Program

RECOMMENDATION

That City Council adopt a resolution adopting a revised Art in Public Places Program and establishing a Public Art fee.

DISCUSSION

The City Council has requested a reevaluation of the City's Art in Public Places Program. After consultation with several developers, staff of the Economic Development Corporation, and a public art consultant, staff recommends several significant changes that will increase the flexibility and visibility of the City's Art in Public Places Program.

The City of Oxnard was the leader among local cities in requiring large private developments to contribute to the aesthetic improvement of the community by providing visible works of art. The current program has been in existence for almost 20 years, and has been refined several times. The existing program requires installation of public art for all new commercial and industrial projects exceeding 100,000 square feet and mixed use projects over 75,000 square feet (with two or more dwelling units). Alternatively, a developer can request to pay a "Public Art In Lieu Fee" instead of installing public art, with the approving authority (usually the Planning Commission) granting permission to pay the fee, at their discretion. The artwork must be installed, or the fee must be paid, prior to occupancy of the project. The value of the artwork (or the amount of the in lieu fee) is to be 1% of the building valuation. The Art in Public Places Committee reviews all new public art proposals.

Several alternative approaches exist to the current program, including the following:

Expand Scope of Existing Art in Public Places Program. Residential developments (either over a specific size, number of units, or all residential developments) could be required to install public art or contribute to a Public Art Fund.

Allow Option of In-lieu Fee. The current program allows project applicants to pay an in-lieu fee for public art, but only if permission is granted by the project's decision-making authority (usually the Planning Commission, but sometimes the Development Services Director, Planning & Environmental Services Manager, or City Council). This change would allow developers to choose whether to install public art or pay the in-lieu fee. This fee could be required for current projects or expanded to be required for new residential projects, projects over a certain threshold or some combination of these.

The fees would be placed into a Public Art Fund for the City procurement and support of public art programs. Tasks required for installing public art would include choosing locations, choosing artists and artwork, acquiring applicable permits, contracting for installation, and maintaining the public art to protect the City's investment. A portion of the Public Art Fund could also be earmarked for performing arts to be expressed in public places. Staff would recommend that a Public Art Plan be prepared to address these issues as well as to determine costs and expertise required to administer the program.

Mandatory Fee for Commercial and Industrial Projects. Rather than requiring certain size projects to install public art, with an option to pay in-lieu fees at the City's discretion, the program could be changed to require that all commercial and industrial projects pay a public art fee. This approach would generate more revenue than an in-lieu fee for only larger projects. For example, in the period between January 2001 and June 2005, only four building permits were issued for projects that exceeded 100,000 square feet of floor area (commercial and industrial projects). However, during that same period, approximately 16,000,000 square feet of commercial and industrial buildings were built (an average of 2,300,000 square feet per year, if 2005 is extrapolated at the current rate of construction).

Mandatory Fee for All Projects. The program could be expanded to require a public art fee for all projects, regardless of type or size. The revenues collected from this type of a program would certainly be more than if the fees were only collected for projects over specific size thresholds. Over the past five years, approximately 6,372,800 square feet of residential development has been constructed (average of 1,820,000 square feet per year). As with the previous option, if the City were to acquire and install the artwork, staff would recommend preparation of a Public Art Plan.

Combination of Fee for All New Development, and Required Public Art Work for Master Planned Developments. This option would assess a modest fee on all new development, and require public art works for new projects governed by a specific plan or an equivalent master plan. This is the alternative recommended by staff.

Public Art Plan

Staff also recommends the development of a Public Art Plan, which would provide guidance as to the selection of public artwork as well as the basis for the management of a public art fund supported by the Public Art Fee. A draft of such a plan is provided for information.

Art in Public Places Committee

In light of the suggested modifications to the Art in Public Places Program, staff recommends the City Council consider reformulating the Art in Public Places Committee to consist of the following members:

- a. The Planning and Environmental Services Manager, or a planner designated by the Manager;
- b. The Community Development Director, or a downtown project manager designated by the Director;
- c. An architect, landscape architect, or urban planner from the private sector, appointed by the City Council;
- d. A practicing artist, arts professional, or representative of a community-based art organization, appointed by the City Council;
- e. A representative of the Oxnard Downtown Management District, or other recognized downtown business or development organization, appointed by the City Council.

Recruiting a practicing artist to serve on the committee has been difficult. The City Council could also choose another type of committee member, including appointing a Council member or a planning commissioner. The committee meets on an as-needed basis, primarily when new artwork proposals are submitted to comply with the program requirements.

Programs in Other Communities

Staff examined public art programs in several other jurisdictions to determine the potential cost of administering a public art program.

Port of San Diego has a public art program (established in 1996), with a budget of \$1.69 million for fiscal year 04/05. Of this amount, approximately \$595,000 is overhead (staff costs and depreciation).

The **City of Pasadena** has an extensive public art program, administered by the Cultural Affairs Division. Though overhead costs for employees and other related expenditures were not available, the program has four full time employees.

The **City of Berkeley** requires public art installations for capital improvement projects, with 1% of the project budget for the art and an additional ½% used solely for administrative costs.

The **City of Alameda** limits administrative costs of the public art fund program to 25% of the total budget.

Laguna Beach Cultural Arts Commission Division has a budget of approximately \$104,000, of which \$86,000 is administrative costs (salaries, operations, and office supplies).

FINANCIAL IMPACT

The complete financial impact of modifying the Art in Public Places Program is unknown at this time. Staff recommends that a \$0.05 per square foot Art in Public Places Fee be assessed on all development. The public art plan should make a recommendation regarding allocation of fees to a public art budget to identify line items for administrative costs, maintenance and acquisition, with the objective of

minimizing administrative costs. This assessment would generate approximately \$140,000 to \$200,000 per year to the Public Art Fund, depending on development levels. The fee could be reevaluated after a period of time to determine its adequacy.

A program in which the City becomes responsible for acquiring and maintaining art would require, at the minimum, staff experienced in public art selection, purchasing, installation, and maintenance. The Carnegie Museum staff possesses the necessary expertise to administer the program and manage the Public Art Plan, but may need additional staff resources. Staff salary and overhead costs, as well as office space, supplies and equipment would be the basic expenses of the program. In addition, other costs include those associated with public noticing, preparing and distributing requests for proposals. The Public Art Plan could provide an assessment of the level of support necessary to administer the program.

Attachment #1 – Public Art Plan

Attachment #2 – City Council Resolution No. 12,290

Attachment #3 – Resolution Adopting a Revised Art in Public Places Program

Attachment #4 – Comparison of Resolution No. 12,290 and New Resolution

Note: Attachment 1 has been provided to the City Council. Copies are available for review at the Circulation Desk in the Library after 6:00 p.m. on the Friday prior to the Council meeting and at the City Clerk's Office after 8:00 a.m. on Friday, prior to the Council meeting.

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CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. 12,290

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
OXNARD REVISING THE ART IN PUBLIC PLACES PROGRAM
AND ADOPTING FEES.

WHEREAS, on October 17, 1989, the City Council adopted Resolution No. 9813, establishing an Art in Public Places Program ("the Program") and adopting guidelines for the Program; and

WHEREAS the Program requires applicants for development of commercial and industrial projects of over 100,000 square feet, and mixed-use projects of over 75,000 square feet ("applicants"), to participate in the Program; and

WHEREAS, the City Council wishes to update the Program and further define certain elements; and

WHEREAS, applicants participating in the Program are required to provide to the City one percent of the valuation of the project, either as public art or as a fee to be paid to the Art in Public Places Fund ("the fee"); and

WHEREAS, the City will not issue a certificate of occupancy for each project subject to the Program until the applicant has participated in the Program as required; and

WHEREAS, Government Code section 66001 requires that in establishing, increasing or imposing a fee as a condition of approval of a development project, the City Council make certain findings; and

WHEREAS, the project is among the classes of projects listed in Article 19 (commencing with Section 15300) of Division 6 of Title 14 of the California Code of Regulations as categorically exempt from the requirement for the preparation of environmental documents imposed by the California Environmental Quality Act.

NOW, THEREFORE, the City Council of the City of Oxnard finds as follows:

A. Works of art provide intellectual, emotional and cultural enrichment to viewers and, when placed in locations accessible to the public, enhance the appearance of the City.

B. The purpose of the Program is to install works of art in conjunction with new development, in locations on each project site accessible to the public, for the edification of viewers, the enhancement of the City's appearance, and the mitigation of certain effects of development projects, as explained in Section C below.

C. There is a reasonable relationship between the need for such works of art and the type of

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development project for which the Program is required in that larger development projects deprive the City and its residents of significant amounts of open space and natural vegetation, substituting buildings, parking facilities and their attendant noise and traffic, I thereby contributing to the stress of urbanization ("the foregoing effects"), which can be mitigated in part by works of art.

D. In a case where installing artwork on the project site is determined by the approving authority to be infeasible or impractical, the approving authority for the project may, in the approving authority's discretion, allow the applicant to pay an in-lieu fee for the project, as described below.

E. The use to which the in-lieu fee will be put is to finance public facilities, namely, works of art located in places accessible to the public, that are required by this resolution, but that cannot feasibly or practically be located on the project site, for the edification of viewers, the enhancement of the City's appearance, and the mitigation of certain effects of development projects, as explained in Section G below.

F. There is a reasonable relationship between the use to which the in-lieu fee is put and the type of development on which the fee is imposed in that artworks are purchased with the fee and provided to the public to mitigate the foregoing effects of larger development projects.

G. There is a reasonable relationship between the amount of the in-lieu fee and the cost of the artwork or portion thereof attributable to the development on which the fee is imposed in that one percent of the value of the project may, in the case of a large project, pay for a complete work of art to mitigate the foregoing effects of the project or, in the case of a smaller project, pay some portion of the cost of an art work that, when accumulated in the Art in Public Places Fund with fees from other projects, will eventually pay for a complete work of art. In general, small projects are less expensive than larger projects and create fewer of the foregoing effects than larger projects.

NOW, THEREFORE, the City Council of the City of Oxnard resolves:

1. The Development Services Director, the Planning Commission or the City Council ("the approving authority") shall impose on any discretionary permit for a major project a condition of approval requiring that the applicant participate in the Program.

2. A major development project ("major project") means a commercial, industrial, or commercial and industrial project with an aggregate of 100,000 square feet or more of roofed building area, or a mixed-use project of 75,000 square feet or more of roofed building area, undertaken by a person, firm, or other private entity. A mixed-use project shall be defined as any combination of the uses above, when combined with two or more residences, in which the commercial and/or industrial building area is 75,000 square feet or more.

a. If a project is to be constructed in successive phases, the conditions of approval shall specify when the artwork shall be installed.

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- b. If a project is a detached expansion or attached addition to an existing commercial or industrial, or commercial and industrial development, the new project shall be considered subject to this Program if the new portion of the project is at least 100,000 square feet of roofed building area for a commercial or industrial, or commercial and industrial project, or 75,000 square feet of commercial and/or industrial area for a mixed-use project with two or more residences.
3. An applicant's participation in the Program shall be equal to one percent (1%) of the building valuation, including estimated or anticipated tenant improvements, as determined by the Development Services Manager, on the basis of building valuation data published in the most current edition of *Building Standards* magazine.
 - a. The developer's participation in the Program shall be in the form of installation of public artwork, in a public location on the project site, as defined herein.
 - (i) Artwork may be any work of visual art, including, but not limited to, a sculpture, monument, mural, fresco, wall hanging, or mosaic. Artwork may be fabricated from clay, metal, plastic, glass, or any combination of the foregoing art media. Other materials proven to be able to withstand the elements may be considered for approval by the Art in Public Places Committee (the Committee). For purposes of complying with this resolution, artwork may include environmental landscaping involving hardscape and plant materials, subject to approval by the Committee, but not performing or literary arts such as dance, voice, music or poetry unless expressed in the materials specified above.
 - (ii) Artwork shall be enduring, of a lasting nature and not mass-produced; shall be integral to its location; shall contribute to a sense of place and enhance the quality of life by contributing to the unique identity of the place.
 - (iii) An established artist shall create the artwork. "Established artist" means a professional artist who derives his or her income primarily from his or her work as an artist, and is accepted and recognized in the field of art locally, regionally, nationally or internationally, as evidenced by art journals, art books or art gallery reputation. The members of the architectural, engineering, design or landscaping firms retained for the design and construction of the major development project shall not be considered established artists for purposes of complying with this resolution.
 - (iv) Artwork required by this resolution shall be located in a public place on the project site. "Public place" means any area on public or private property that is easily accessible and clearly visible to the general public. If located on private property, the area must be open to the general public and clearly visible from

adjacent public property such as a street or other public thoroughfare or sidewalk.

- b. The artwork shall become a permanent part of the project. If ownership of the property or building changes, the seller shall transfer ownership of the artwork as an integral part of the sale. Relocation or changes to the artwork will require approval of the Planning and Environmental Services Manager ("Manager") and the Art in Public Places Committee ("Committee").
- c. The applicant may ask to pay a fee in lieu of installing artwork. The approving authority for the project (Development Services Director, Planning Commission, or City Council, as applicable) shall consider and approve, approve with conditions, or deny such request in the approving authority's sole discretion.
 - (i) The in-lieu fee shall be equal to 1% of the total gross building valuation, including estimated or anticipated tenant improvements.
 - (ii) In-lieu contributions shall be deposited into the Art in Public Places Fund.
 - (iii) The Art in Public Places Fund may also receive other monetary contributions from private sources. Disbursements from the Art in Public Places Fund are subject to approval by the Committee and City Council.
4. The Committee is hereby established, and directed to review, approve, approve subject to modification, or disapprove all artwork required by the Program.
5. The Committee is authorized to oversee, develop and administer:
 - a. General guidelines and specific criteria to determine the type of artwork that may be provided by applicants or purchased by the Program; the placement and display of artwork in places accessible to the public; maintenance of artwork; and such other matters concerning the artwork as the Committee may deem advisable.
 - b. Applications and procedures for applicants providing artwork and for artists to apply to create artwork for the Program.
 - c. Photographs of artwork installed by applicants and purchased by the Program, together with information about the artists and the locations of the artworks.
 - d. Agreements between and among the City, artists and applicants, including provisions for artwork maintenance.
 - e. The Art in Public Places Fund, which shall be administered in accordance with Government Code section 66006 and subdivision (d) of Government Code section 66001.
6. For the purposes of carrying out the provisions of this resolution, the Committee

may hold meetings within the City in such time or place as deemed necessary to conduct its affairs. Meetings of the Committee shall be subject to the Brown Act (Government Code section 54950 *et seq.*)

7. The Committee shall consist of the following members:
 - a. The Manager or a professional planner designated by the Manager;
 - b. The Development Services Manager or designee, who shall have technical building construction experience;
 - c. A landscape architect from the City's Parks and Facilities Division, appointed by the Parks and Facilities Superintendent;
 - d. The Director of the Carnegie Art Museum;
 - e. An architect, landscape architect or urban planner from the private sector, appointed by the City Council;
 - f. A representative of the Planning Commission, appointed by the Planning Commission; and
 - g. A practicing artist, arts professional or other established artist, appointed by the City Council. "Practicing artist" means a person whose major profession is in the visual arts. "Arts professional" means a person who is employed full-time in the profession of visual arts administration. The visual arts include public art, urban design, art history instruction, art curatorship and dealership, and gallery management. "Established artist" shall mean a professional artist who derives his or her income primarily from his or her work as an artist and is accepted and recognized in the field of art local, regionally, nationally or internationally, as evidenced by art journals, art books or art gallery reputation.

8. On receipt of an application for any discretionary permit for a major project, City staff shall provide the applicant with a copy of this resolution, criteria for artwork adopted by the Committee, and an artwork application. The following shall be the procedure for approving artwork:

- a. Applicant selects location for public art on-site and designates the location on all site plans submitted for review.
- b. Manager includes artwork condition in the document evidencing the approving authority's consideration.
- c. Approving authority considers project for approval.
- d. Following approval of the major project by the approving authority, applicant submits the following information to the Manager for Committee consideration:
 - (i) Completed application form provided by the Manager;
 - (ii) Preliminary sketches, photographs, a model or other documentation of

- sufficient descriptive and visual clarity to indicate the nature of the proposed art work;
- (iii) Qualifications of the artist, including a resume, copies of articles from art journals, or other documents providing evidence of the artist's qualifications;
 - (iv) An appraisal by an independent, qualified fine art appraiser or other evidence satisfactory to the Committee of the value of the proposed art, including but not limited to invoices, purchase orders or agreements, and auction records, as well as other artwork costs allowable by this resolution;
 - (v) The site plan and elevations as approved by the approving authority for the major project;
 - (vi) Sketches, photographs, or other documentation sufficient to show the relationship of the proposed artwork to the proposed structure or structure(s);
 - (vii) An estimate of the construction valuation of the proposed major development, as defined herein; and
 - (viii) Such other information as may be required by the Committee in considering the application under the standards included herein.
- e. Upon receiving a complete application, the Committee shall schedule a meeting to consider the application. Fourteen days prior to the scheduled meeting, notice shall be provided to the applicant indicating the time and place of the meeting at which the application will be considered.
- f. The Committee shall approve the application if the proposed artwork satisfies all of the following standards:
- (i) The artwork has the minimum value required by this resolution. Such value shall be established by an appraisal by an independent, qualified fine art appraiser or other evidence satisfactory to the Committee, including but not limited to invoices, purchase orders or agreements, and auction records, as well as other artwork costs allowable by this resolution. Utility and maintenance costs incurred to operate and maintain the artwork over time shall not be considered in determining the value of the proposed artwork
 - ii) An established artist, as defined in this resolution, has created the artwork.
 - iii) The artwork has intrinsic quality and enduring value beyond any decorative characteristics.
 - iv) The artwork is compatible with and enhances the aesthetic quality of the development and its site. The relationship of the artwork to the site in terms of physical size, shape and colors shall be considered as well as the social and cultural interaction of the artwork with the space it ornaments.

further administrative appeal. The applicant may seek judicial review of the decision of the City Council in accordance with Code of Civil Procedure section 1094.6.

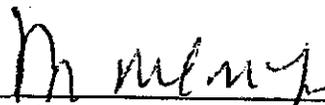
11. This resolution shall become effective 60 days following the date of adoption.
12. Resolution No. 9813 is repealed, effective on the date that this resolution becomes effective.

PASSED AND ADOPTED this seventh day of January, 2003, by the following vote:

AYES: Councilmembers Lopez, Maulhardt, Pinkard, Zaragoza and Herrera.

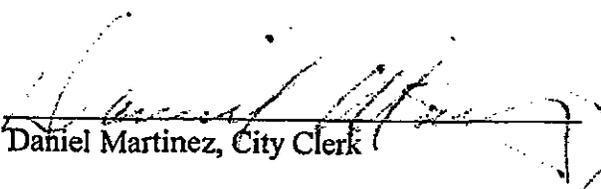
NOES: None.

ABSENT: None.



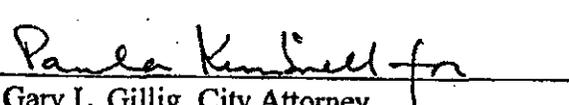
Dr. Manuel M. Lopez, Mayor

ATTEST:



Daniel Martinez, City Clerk

APPROVED AS TO FORM:



Gary L. Gillig, City Attorney

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CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
OXNARD REVISING THE ART IN PUBLIC PLACES
PROGRAM AND ADOPTING FEES.

WHEREAS, on October 17, 1989, the City Council adopted Resolution No. 9813, establishing an Art in Public Places Program ("the Program") and adopting guidelines for the Program; and

WHEREAS, on January 7, 2003, the City Council adopted Resolution No. 12,290, revising the Program and adopting fees; and

WHEREAS the Program currently requires applicants for development of commercial and industrial projects of over 100,000 square feet, and mixed-use projects of over 75,000 square feet ("applicants"), to participate in the Program; and

WHEREAS, the City Council has determined that more public art should be installed, especially in more prominent locations, such as in downtown Oxnard; and

WHEREAS, the City will not issue a building permit or a certificate of occupancy, as stated herein, for each project subject to the Program until the applicant has participated in the Program as required; and

WHEREAS, Government Code section 66001 requires that in establishing, increasing or imposing a fee as a condition of approval of a development project, the City Council make certain findings; and

WHEREAS, the project is among the classes of projects listed in Article 19 (commencing with Section 15300) of Division 6 of Title 14 of the California Code of Regulations as categorically exempt from the requirement for the preparation of environmental documents imposed by the California Environmental Quality Act.

NOW, THEREFORE, the City Council of the City of Oxnard finds as follows:

A. Works of art provide intellectual, emotional and cultural enrichment to viewers and, when placed in locations accessible to the public, enhance the appearance of the City.

B. The purpose of the Program is to install works of art in conjunction with new development, in locations accessible to the public, for the edification of viewers, the enhancement of the City's appearance, and the mitigation of certain effects of development projects as explained in Section C below.

C. There is a reasonable relationship between the need for such works of art and the type of development projects subject to the Program in that, like commercial and industrial

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projects of 100,000 square feet or more and mixed use projects of 75,000 square feet or more, the cumulative effect of all new development projects creates the need for works of art in that, over time, such projects deprive the City and its residents of significant amounts of open space and natural vegetation, substituting buildings, parking facilities and their attendant noise and traffic, thereby contributing to the stress of urbanization, which can be mitigated in part by works of art.

D. Extending the Program to developers of all new development projects and allowing developers to pay a fee instead of installing artwork will result in the payment of more Public Art and Public Art in-lieu fees, allowing more public art to be placed in various locations in the City, rather than primarily in the industrial areas where most projects of 100,000 square feet or more are located.

E. Artwork required under this program shall be installed in various areas of the City, with an emphasis on areas where many people will view the artwork. Works of art provide intellectual, emotional and cultural enrichment to viewers and, when placed in locations accessible to the public, enhance the appearance of the City.

F. The use to which the fee will be put is to finance public facilities, namely, works of art located in places accessible to the public, for the edification of viewers, the enhancement of the City's appearance, and the mitigation of certain effects of development projects, as specified in Section C above.

G. There is a reasonable relationship between the use to which the fee is put and development on which the fee is imposed in that artworks are purchased with the fee and provided to the public to mitigate the cumulative effects of all development projects.

H. There is a reasonable relationship between the amount of the fee and the cost of the artwork or portion thereof attributable to the development on which the fee is imposed in that one percent of the value of the project may pay for a complete work of art to mitigate the foregoing effects of the project or, in the case of a smaller projects, 5 cents per square foot of building area will pay some portion of the cost of an art work that, when accumulated in the Art in Public Places Fund with fees from other projects, will eventually pay for a complete work of art. In general, small projects create fewer of the effects specified in Section C above than larger projects, but the cumulative effects of many small projects may be equal to or greater than the effects of a single larger project.

NOW, THEREFORE, the City Council of the City of Oxnard resolves:

1. All new development shall be required to participate in the Art in Public Places Program.

a. Public art shall be provided for projects governed by a specific plan or other equivalent master plan. Such public art shall be installed according to the conditions set forth in the Public Art Element of the respective specific plan or master plan. If the project is to be

constructed in phases, the conditions of approval shall specify when the artwork shall be installed.

b. All new development shall pay a public art fee of 5 cents per square foot of roofed building area. Such fee shall be paid prior to issuance of a building permit.

2. Definitions

a. "New development" means a new building on a vacant site, an addition to an existing building on a site, a new building on a developed site, or a change in land use type which requires a discretionary permit.

b. "Project governed by a specific plan" means a new building on a vacant site, an addition to an existing building on a site, a new building on a developed site, or a change in land use type which requires a discretionary permit in a specific plan area, or other master-planned area in which a Public Art Element is an element of the specific plan or master plan.

3. The value of the artwork to be installed as part of a specific plan or master plan shall be specified by the Public Art Element of such plan.

4. Public art shall meet the following standards:

i. Artwork may be any work of visual art, including, but not limited to, a sculpture, monument, mural, fresco, wall hanging, or mosaic. Artwork may be fabricated from clay, metal, plastic, glass, or any combination of the foregoing art media. Other materials proven to be able to withstand the elements may be considered for approval by the Art in Public Places Committee ("Committee"). For purposes of complying with this resolution, artwork installed by a project developer may include environmental landscaping involving hardscape and plant materials, subject to approval by the Committee, but not performing or literary arts such as dance, voice, music or poetry unless expressed in the materials specified above.

ii. Artwork shall be enduring, of a lasting nature and not mass-produced; shall be integral to its location; shall contribute to a sense of place and enhance the quality of life by contributing to the unique identity of the place.

iii. An established artist shall create the artwork. "Established artist" means a professional artist who derives his or her income primarily from his or her work as an artist, and is accepted and recognized in the field of art locally, regionally, nationally or internationally, as evidenced by art journals, art books or art gallery reputation. The members of the architectural, engineering, design or landscaping firms retained for the design and construction of the major development project shall not be considered established artists for purposes of complying with this resolution.

5. Public art required by this resolution shall be located in a public place on the project site. "public place" means any area on public or private property that is easily accessible and clearly visible to the general public. If located on private property, the area must be open to the

general public and clearly visible from adjacent public property such as a street or other public thoroughfare or sidewalk.

6. Public art required by this resolution shall become a permanent part of the project. If ownership of the property or building changes, the seller shall transfer ownership of the artwork as an integral part of the sale. Relocation or changes to the artwork will require approval of the Art in Public Places Committee.

7. Public art fees shall be deposited into the Art in Public Places Fund. The Art in Public Places Fund may also receive other monetary contributions from private sources. Disbursements from the Art in Public Places Fund are subject to approval by the City Council.

8. The public art fee shall be used to acquire, purchase, install and maintain artwork on public property and to reimburse the City's costs to administer the Program. Such artwork shall become the property of the City and the City shall be responsible for maintenance of such artwork. Staff and the Art in Public Places Committee are hereby directed to prepare a Public Art Plan ("the Plan") for review and adoption by the City Council. The Plan shall identify potential locations for artwork; identify criteria for selecting artwork; establish a budget for, establish guidelines for, and assign responsibility for artwork conservation and restoration; and establish a budget for staff resources required to administer the Program. Artwork may be any work of visual art, including, but not limited to, a sculpture, monument, mural, fresco, wall hanging, or mosaic. Artwork may be fabricated from clay, metal, plastic, glass, or any combination of the foregoing art media. Other materials proven to be able to withstand the elements may be considered for approval by the Art in Public Places Committee (the Committee). Artwork purchased with public art fees may also include environmental landscaping involving hardscape and plant materials, and performing or literary arts such as dance, voice, music or poetry. The Plan shall identify downtown Oxnard as a priority area for installation of artwork

9. The Committee is hereby established, and directed to review, approve, approve subject to modification, or disapprove all artwork required by the Program.

10. The Committee is authorized to oversee, develop and administer

a. General guidelines and specific criteria to determine the type of artwork that may be provided by applicants or purchased by the Program; the placement and display of artwork in places accessible to the public; maintenance of artwork; and such other matters concerning the artwork as the Committee may deem advisable.

b. Applications and procedures for applicants providing artwork and for artists to apply to create artwork for the Program.

c. Photographs of artwork installed by applicants and purchased by the Program, together with information about the artists and the locations of the artworks.

d. Agreements between and among the City, artists and applicants, including provisions for artwork maintenance.

e. The Art in Public Places Fund, which shall be administered in accordance with Government Code section 66006 and subdivision (d) of Government Code section 66001.

11. For the purposes of carrying out the provisions of this resolution, the Committee may hold meetings within the City in such time or place as deemed necessary to conduct its affairs. Meetings of the Committee shall be subject to the Brown Act (Government Code section 54950 *et seq.*)

12. The Committee shall consist of the following members:

a. The Manager or a professional planner designated by the Manager;

b. The Community Development Director or a downtown project manager designated by the Director;

c. An architect, landscape architect or urban planner from the private sector, appointed by the City Council;

d. A practicing artist, arts professional, or representative of a community-based art organization, appointed by the City Council, and

e. A representative of the Oxnard Downtown Management district, or other recognized downtown business or development organization, appointed by the City Council.

f. The terms of the members appointed by the City Council shall be two years, or until replaced by the appointing body.

13. On receipt of an application for any discretionary permit for which public artwork is required, City staff shall provide the applicant with a copy of this resolution, a checklist of application requirements, and an artwork application. The following shall be the procedure for approving artwork, unless the applicant chooses to pay the in-lieu fee:

a. Applicant selects location for public art on-site and designates the location on all site plans submitted for review.

b. Manager includes artwork condition in the document evidencing the approving authority's consideration.

c. Approving authority considers project for approval.

d. Following approval of the major project by the approving authority, applicant submits the following information to the Manager for Committee consideration:

i. Completed application form provided by the Manager and required processing fees, as adopted by the City Council;

ii. Preliminary sketches, photographs, a model or other documentation of sufficient descriptive and visual clarity to indicate the nature of the proposed art work;

iii. Qualifications of the artist, including a resume, copies of articles from art journals, or other documents providing evidence of the artist's qualifications;

ii. Preliminary sketches, photographs, a model or other documentation of sufficient descriptive and visual clarity to indicate the nature of the proposed art work;

iii. Qualifications of the artist, including a resume, copies of articles from art journals, or other documents providing evidence of the artist's qualifications;

iv. An appraisal by an independent, qualified fine art appraiser or other evidence satisfactory to the Committee of the value of the proposed art, including but not limited to invoices, purchase orders or agreements, and auction records, as well as other artwork costs allowable by this resolution;

v. The site plan and elevations as approved by the approving authority for the major project;

vi. Sketches, photographs, or other documentation sufficient to show the relationship of the proposed artwork to the proposed structure or structure(s);

vii. An estimate of the construction valuation of the proposed major project, as defined herein; and

viii. Such other information as may be required by the Committee in considering the application under the standards included herein.

e. Upon receiving a complete application, the Committee shall schedule a meeting to consider the application. Fourteen days prior to the scheduled meeting, notice shall be provided to the applicant indicating the time and place of the meeting at which the application will be considered.

f. The Committee shall approve the application if the proposed artwork satisfies all of the following standards:

i. The artwork has the minimum value required by this resolution. Such value shall be established by an appraisal by an independent, qualified fine art appraiser or other evidence satisfactory to the Committee, including but not limited to invoices, purchase orders or agreements, and auction records, as well as other artwork costs allowable by this resolution. Utility and maintenance costs incurred to operate and maintain the artwork over time shall not be considered in determining the value of the proposed artwork

ii. An established artist, as defined in this resolution, has created the artwork.

iii. The artwork has intrinsic quality and enduring value beyond any decorative characteristics.

iv. The artwork is compatible with and enhances the aesthetic quality of the development and its site. The relationship of the artwork to the site in terms of physical size, shape and colors shall be considered as well as the social and cultural interaction of the artwork with the space it ornaments.

g. The Committee may conditionally approve proposed artwork subject to conditions that the Committee deems reasonably necessary for such artwork to satisfy the standards set forth above. Upon written request of the property owner, the Committee may later reconsider a decision denying approval of artwork if changes are made either to the subject

a. The required artwork is completed and installed or the equivalent guarantee, such as but not limited to, a bond, letter of credit, or cash deposit has been accepted by the Manager.

b. A document has been recorded setting forth the responsibility of the property owner and all transferees, successors, and assigns concerning maintenance of the artwork on the project site for the project's lifetime. A copy of the document recorded with the County of Ventura shall be acceptable evidence.

c. Evidence of insurance coverage is provided to the Manager in the amount of the purchase price to insure the artwork against any loss or damage, including vandalism. This insurance coverage shall be maintained in full force and effect at all times.

15. An applicant may appeal a final decision of the Committee as follows:

a. Within ten calendar days of a final decision by the Committee, the affected applicant may file an appeal to the City Council. The filing of an appeal shall suspend the Committee's decision until the City Council decides the appeal or the appeal is withdrawn.

b. The appeal shall be filed in writing with the City Clerk, accompanied by a fee of \$500, and shall state in detail the reasons that the applicant disagrees with the Committee's decision.

c. The City Clerk shall set the appeal for hearing by the City Council within thirty calendar days of the filing of the appeal.

d. The City Council shall hold a hearing on the appeal and shall issue a written decision thereon, affirming, reversing or modifying, in whole or in part the decision of the Committee.

e. The decision of the City Council shall be final and not subject to rehearing or further administrative appeal. The applicant may seek judicial review of the decision of the City Council in accordance with Code of Civil Procedure section 1094.6.

16. Resolution No. 12,290 shall apply to land use approval applications and building permit applications that have been deemed complete as of the effective date of this resolution.

17. This resolution shall become effective 60 days following the date of adoption and shall apply to land use approval applications and building permit applications that have not been received or have not been deemed complete as of the effective date of this resolution.

PASSED AND ADOPTED this 13th day of June, 2006, by the following vote:

AYES:

NOES:

000093

ATTACHMENT 3
PAGE 7 OF 8

ABSENT:

Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:

Paula Kimbrell for
Gary L. Gillig, City Attorney

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ATTACHMENT 3
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Comparison:

Resolution No. 12,290 to Revised Program

| | Resolution No. 12,290 | Revised Program |
|----------------------------------|---|--|
| Projects required to participate | - Commercial & industrial projects over 100,000 square feet - Mixed-use projects over 75,000 square feet | --Projects within a specific plan or master planned area must install art (Public Art Element) --All projects pay a fee |
| Fee Payment | Permission to pay fee at discretion of decision-making authority (1% of building valuation) | --Projects provide art if in a specific plan or master-planned area --All projects pay \$0.05 per sq ft of building area |
| Timing | Required prior to issuance of certificate of occupancy | --Install artwork according to conditions of specific plan Public Art Element --Pay fee prior to building permit issuance |
| Public Art Fee Disbursements | Subject to approval of Art in Public Places Committee and City Council | Subject to approval of City Council, in compliance with Public Art Plan |
| Type of Artwork | Tangible artwork only | Use public art fund for performing arts as well as tangible artwork |
| Art in Public Places Committee | --7 members --No term limits specified | --5 members --Two year term limits for members appointed by City Council |