



CITY OF  
**PALO  
ALTO**

## Policy & Services Committee Staff Report

**From: City Manager**

**Report Type: ACTION ITEMS**

**Lead Department: Community Services**

**Meeting Date: May 14, 2024**

Report #:2402-2679

### **TITLE**

City Council Referral to Review the respective role of the Public Art Commission, staff, stakeholders, and the Council in public art decisions in relation to placement and themes of art. (CEQA Status – Not a Project.)

### **RECOMMENDATION**

Staff recommends that the Policy and Services Committee review and discuss a report on Public Art processes as referred by the City Council.

### **BACKGROUND AND ANALYSIS**

The City Council discussed and approved the restoration of the Public Art Commission from five to seven members at the December 4, 2023, Council meeting. As part of the motion, the Council also referred to Policy and Services Committee to review with the Public Art Commission the respective role of the Public Art Commission staff, stakeholders, and the Council in public art decisions in relation to placement and themes of art.

Public art projects generally fall into three categories: Municipal Percent for Art Projects, Private Percent for Art Projects, and Temporary Public Art Projects. The current roles of the Public Art Commission, the City Council, and City staff are outlined in the Visual Art in Public Places Municipal Code 2.26<sup>1</sup>, along with the Public Art for Municipal Projects process. All projects

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<sup>1</sup> Palo Alto Municipal Code section 2.26: [https://codelibrary.amlegal.com/codes/paloalto/latest/paloalto\\_ca/0-0-0-61433](https://codelibrary.amlegal.com/codes/paloalto/latest/paloalto_ca/0-0-0-61433)

commissioned and installed are guided by the Public Art Master Plan<sup>2</sup> and associated public art plans for the California Avenue Area<sup>3</sup> and the Baylands<sup>4</sup>.

The Municipal Code assigns decision-making on matters related to Public Art to staff and the Public Art Commission. This ensures that decisions, including selections of artists, art works, and locations are made by professionals with expertise in public art. Section 2.26.060<sup>5</sup> of the Municipal Code outlines the role of the City Council in the review of artistic matters in the visual art in public places program and implicitly states that the City Council can agendaize an artistic matter for discussion should it determine necessary. The code states:

- (1) Decisions on artistic matters will be made by city staff and the public art commission;*
- (2) The city council will not exercise its independent judgment on artistic matters unless the city council requests that the matter be agendaized for its review;*
- (3) Unless the city council determines to exercise its independent judgment as provided above, sketches, designs, photographs, precise plans, art examples, and similar items on artistic matters will not be transmitted to the city council as a matter of course in conjunction with projects before the city council;*
- (4) The city council will refer questions, suggestions, requests, complaints, and similar items pertaining to the visual art in public places program to city staff and the public art commission for their review and response.*

### Municipal Percent for Art Projects

The Municipal Percent for Art Policy was established in 2005 and amended in 2015<sup>6</sup>. In 2015, the City Council also amended Chapter 2.26 of the Municipal Code to add Public Art for Municipal

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<sup>2</sup> 2016 Public Art Master Plan: <https://www.cityofpaloalto.org/files/assets/public/v/1/community-services/public-art-program/pap-policies-and-docs/public-art-master-plan.pdf>

<sup>3</sup> 2021 California Avenue District Public Art Plan: <https://www.cityofpaloalto.org/files/assets/public/v/1/community-services/public-art-program/pap-policies-and-docs/california-ave-district-public-art-plan.pdf>

<sup>4</sup> 2019 Public Art Overlay to the Baylands Comprehensive Conservation Plan: <https://www.cityofpaloalto.org/files/assets/public/v/1/community-services/public-art-program/bccp-public-art-overlay.pdf>

<sup>5</sup> City Council Review of Artistic Matters in the Visual Art in Public Places Program: [https://codelibrary.amlegal.com/codes/paloalto/latest/paloalto\\_ca/0-0-0-61497#JD\\_2.26.070](https://codelibrary.amlegal.com/codes/paloalto/latest/paloalto_ca/0-0-0-61497#JD_2.26.070)

<sup>6</sup> 2015 Municipal Percent for Art Policy: <https://www.cityofpaloalto.org/files/assets/public/v/2/community-services/public-art-program/pap-policies-and-docs/muni-policy-effective-march-2015.pdf>

Projects<sup>7</sup> to strengthen its ongoing commitment to integrating art into the community. The ordinance states that the City will budget one percent of its CIP budget for public art, with certain exceptions. These funds are transferred as part of the annual budget process into the Art in Public Spaces Capital Improvement Project (CIP AC-86017 – Art in Public Spaces) budget, and funds may be pooled and allocated to temporary and permanent public art throughout the City. The process chart (Attachment A) outlines how public art projects are identified, artists are selected, concepts approved, and artwork is commissioned. The chart also is a general outline for how all the City's public art projects are commissioned, with a few nuances.

All municipal public art projects are posted as an open call to artists for temporary or permanent projects initiated by Public Art staff. Public Art staff also occasionally utilize a prequalified pool of artists that is refreshed with an open call approximately every few years, last completed May 2021. When a project is announced for artists to apply, Palo Alto generally receives a robust number of applicants. For instance, a recent open call for artists, completed in April 2024, yielded 120 applicants. Once applications are received and vetted for qualification, as outlined in the call to artists, staff assembles a selection panel to review and score the applicants. Usually, each selection panel is made up of seven voting members: one Public Art Commissioner, the architect and/or project manager for the CIP project, and a combination of local stakeholders and artists determined by the project location. The panel selects a final artist to recommend to the Public Art Commission (PAC) for approval. The Public Art Commission discusses and votes to approve the artist before the artist begins the community outreach process for design development.

Location history and context is of utmost importance when commissioning site-specific artwork to ensure it is aligned with the neighborhood setting and needs. Public Art staff works closely with the artist to arrange public meetings as well as informational meetings with key City staff, usually Palo Alto Historical Association, and any other important stakeholders for the location. Once a conceptual proposal has been developed, that proposal goes to the Public Art Commission for public discussion and approval prior to beginning detailed design development. If the artist contract is over \$85,000, the contract must be approved by City Council in alignment with the Palo Alto Municipal Code procurement authorities.

### Temporary Public Art Projects

Temporary projects are usually defined as being in place for one year or less. Temporary projects initiated by the City, such as Code:ART or ArtLift grants follow a similar, but sometimes more streamlined trajectory as the longer-term municipal projects described above. Depending on the nature and duration of the artwork, sometimes the selection panel is made up of five members instead of the usual seven, or if an artwork is in place for an extremely short period of time (under

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<sup>7</sup> Palo Alto Municipal Code 2.26.070: [https://codelibrary.amlegal.com/codes/paloalto/latest/paloalto\\_ca/0-0-0-61497#JD\\_2.26.070](https://codelibrary.amlegal.com/codes/paloalto/latest/paloalto_ca/0-0-0-61497#JD_2.26.070)

24 hours), City staff may approve the installation in accordance with the Temporary Artwork Policy<sup>8</sup>.

The exception to this one-year definition for temporary public art is murals. Murals are increasingly being defined as temporary (in place a few years) in the public art field, and Palo Alto is keeping alignment with best practices in the public art field. In recent years, the Public Art Program has approved murals that are classified as temporary but approved for up to five years. The reason for this is to avoid the process of taking a mural into the City collection and later going through a legal deaccession process - especially when murals typically do not have a long lifespan. This also helps set expectations with the public about the expected lifespan of an artwork.

### Percent for Art in Private Development Projects

In December 2013, the Palo Alto City Council added chapter 16.61 to the Municipal Code<sup>9</sup> establishing a requirement for public art in projects over 10,000 square feet with an estimated construction valuation of over \$200,000 to either commission art on-site or pay a contribution to the Public Art Fund equivalent to one percent of their construction budget. There is a process chart included in the Application Packet<sup>10</sup>. Applicants choosing to commission art on site develop their public art plan at the same time as the rest of the construction project design. The applicants meet with public art staff prior to their initial review with the Public Art Commission. At the Initial Review, the applicant is asked to present their overall project, estimated art budget, artist selection plan and consultant, areas of consideration for integrating public art, and the overall timeline for the project. The PAC gives feedback for the applicant team to consider regarding placement and themes for the artwork prior to initiating their artist selection process.

Some projects come to the PAC for an Interim Review once their artist is selected and to gather feedback on their design direction prior to returning for Final Review. When the applicant comes to the PAC for Final Review, they are asked to present their art selection process, samples of the selected artist's previous work and resume, description of the proposed artwork with dimensions and materials, an in-situ rendering of the artwork on site, a rendering of the artwork with any locations of lighting and the identification plaque, a timeline and budget detailing installation and associated consultant fees, and a statement about maintenance requirements. The applicant must get final approval prior to the issuance of a building permit.

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<sup>8</sup> 2017 Temporary Artwork Policy: <https://www.cityofpaloalto.org/files/assets/public/v/1/community-services/public-art-program/pap-policies-and-docs/temporary-artwork-policy.pdf>

<sup>9</sup> Palo Alto Municipal Code Chapter 16.61: [https://codelibrary.amlegal.com/codes/paloalto/latest/paloalto\\_ca/0-0-0-75139](https://codelibrary.amlegal.com/codes/paloalto/latest/paloalto_ca/0-0-0-75139)

<sup>10</sup> Public Art in Private Development Application and Informational Packet: [https://www.cityofpaloalto.org/files/assets/public/v/3/community-services/public-art-program/pap-policies-and-docs/application-packet\\_public-art-in-private-development\\_2024.pdf](https://www.cityofpaloalto.org/files/assets/public/v/3/community-services/public-art-program/pap-policies-and-docs/application-packet_public-art-in-private-development_2024.pdf)

### **FISCAL/RESOURCE IMPACT**

There is no fiscal impact associated with this Council referral. The Public Art budget is reflected in CIP AC-86017 – Art in Public Spaces. The Art in the City Capital Improvement Projects ordinance states that the City will budget one percent of its CIP budget for public art, with certain exceptions. A base level of funding in the amount of \$50,000 is included each year, and a portion of this funding pays for staff to project manage municipal CIP projects funded with CIP funds. Prior to Fiscal Year 2015, one percent for public art was included in the budget for each applicable project. Beginning in Fiscal Year 2015, public art funding is accounted for within this capital project. This change provides a clearer picture of how much funding is available for public art, allows for the pooling of funds for more impactful projects, and ensures that the funds are preserved for public art.

Additional budget needs provided from the General Fund include staff and maintenance costs. One Public Art staff position is funded through the Private Percent for Art in-lieu fees.

### **STAKEHOLDER ENGAGEMENT**

Extensive community engagement went into the development of the Public Art Master Plan, the California Avenue District Plan, and the Baylands Art Overlay. Each public art installation begins with community engagement to determine potential locations and types of artwork should be considered, and influences the design development process for each artwork.

### **ENVIRONMENTAL REVIEW**

This report is for informational purposes only with no action required by the City Council and is therefore not a project subject to CEQA review.

### **ATTACHMENTS**

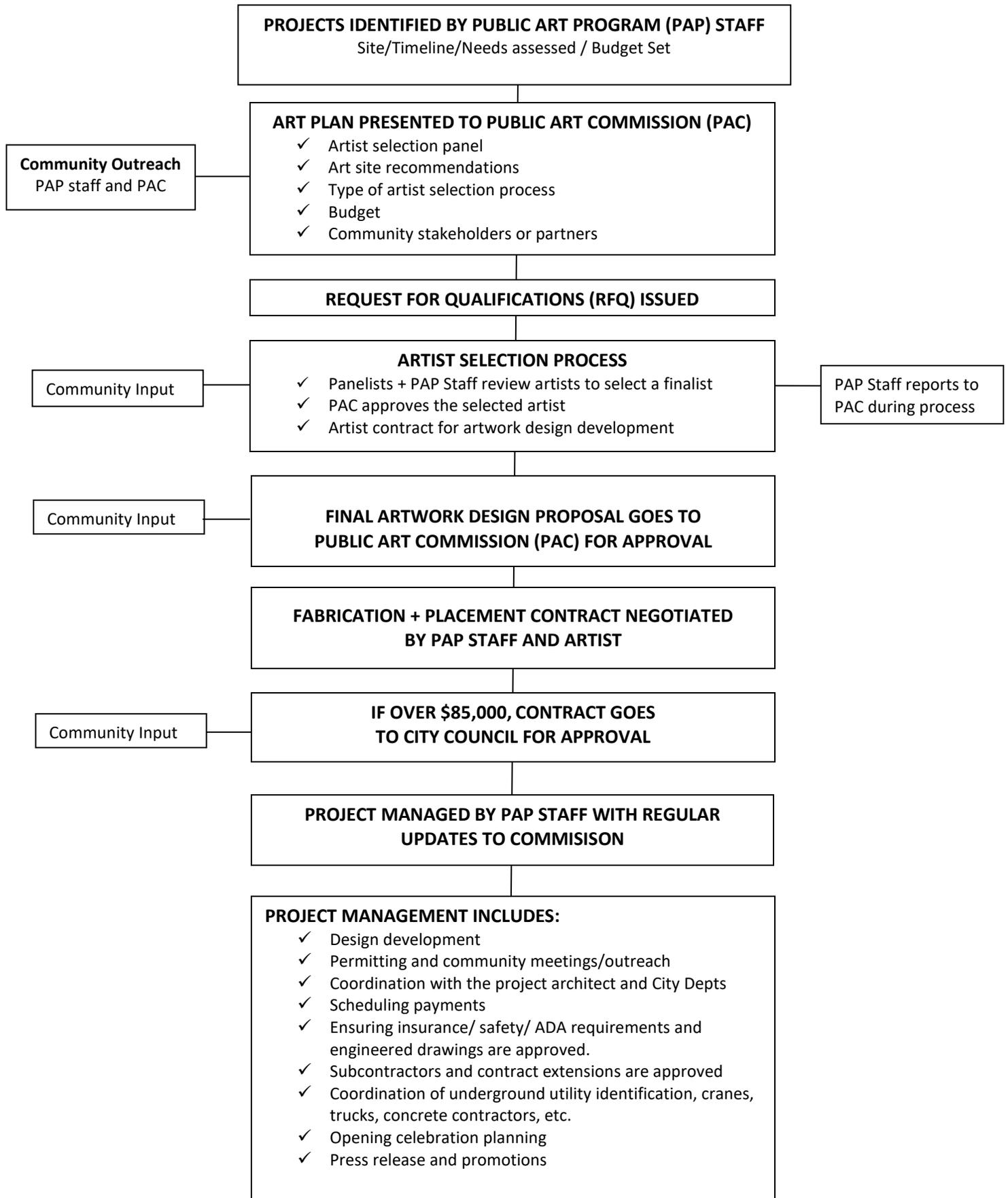
Attachment A: Public Art Approval Process Flow Chart

### **APPROVED BY:**

Kristen O'Kane, Community Services Director

# PUBLIC ART SELECTION AND APPROVAL PROCESS

## *Percent for Art in Municipal Projects*





# Policy & Services Committee Discussion on Public Art Process

May 14, 2024

[www.cityofpaloalto.org/publicart](http://www.cityofpaloalto.org/publicart)

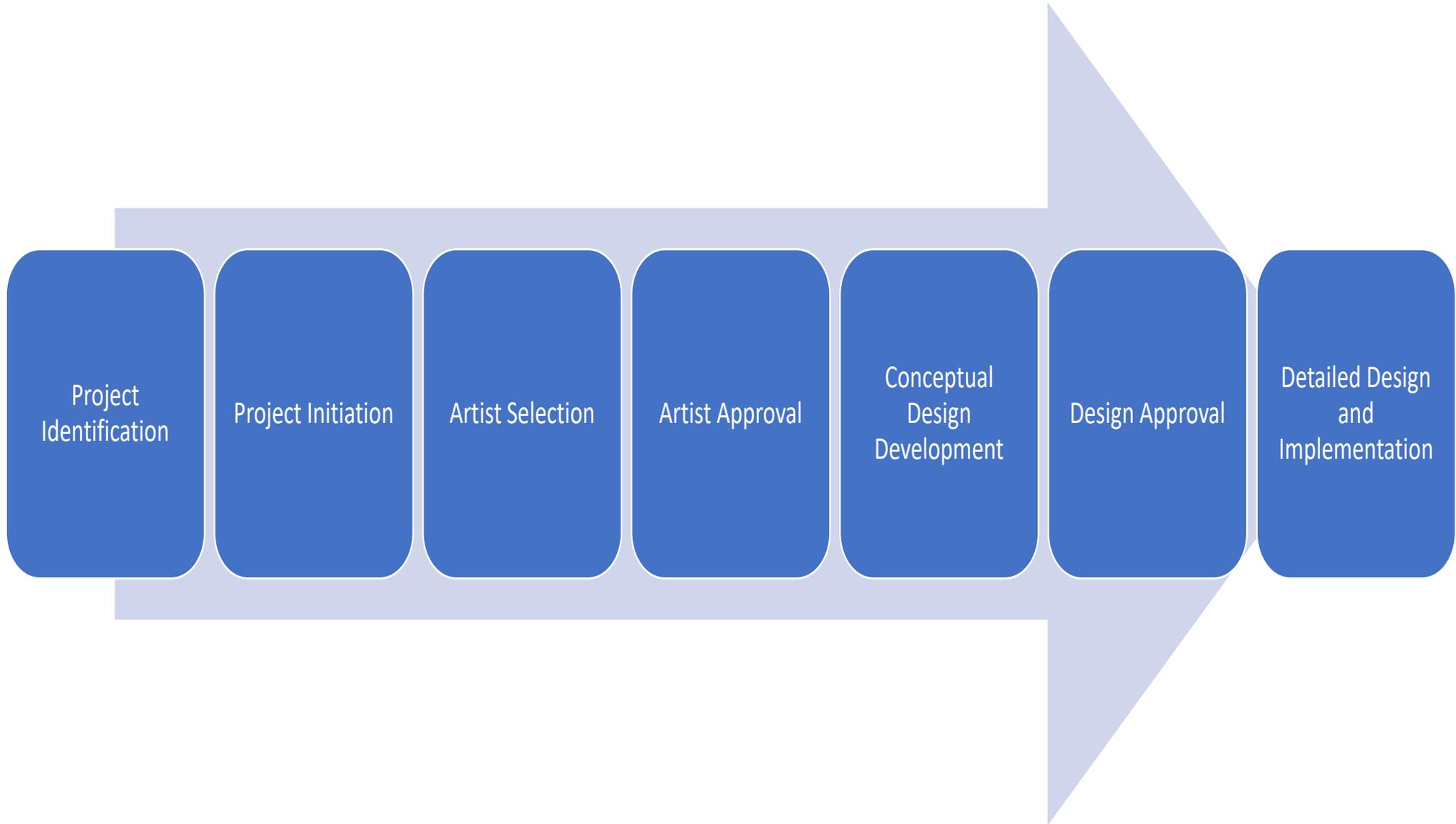
# Staff Recommendation

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Staff recommends that the Policy and Services Committee review and discuss a report on Public Art processes as referred by the City Council.

# Public Art Commissioning Process

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# Public Art Commissioning Process

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## Project Identification

- CIP/Council/Private Development/PAC origin
- Site
- Timeline
- Needs Assessed
- Budget Set



## Project Initiation

Art Plan Presented to PAC

- Artist Selection panel
- Art site recommendations
- Type of artist selection process
- Budget
- Community stakeholders/partners

# Public Art Commissioning Process

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## Artist Selection Process

- RFQ Issued
- Panelists review artists to select a finalist to recommend to PAC
- PAC approves the selected artist
- Artist contract for artwork design development

*Community Input*

*PAP Staff reports to PAC during process*

# Public Art Commissioning Process

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## Conceptual Design Development

- Community and stakeholder meetings
- History of site
- Final artwork design proposal goes to PAC for approval
- Community Input

## Detailed Design and Implementation

- Coordination with construction team
- Materials research/engineering
- Fabrication + Installation
- Regular updates to PAC



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