

CITY CLERK DEPT.

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ORDINANCE NO. 017165

**AN ORDINANCE AMENDING ORDINANCE NO. 16324 TO INCREASE THE NUMBER OF MEMBERS ON THE PUBLIC ART COMMITTEE, TO AMEND PAYMENTS TO ARTISTS AND TO REDUCE THE NUMBER OF PAC DECISIONS THAT NEED TO BE REVIEWED BY THE CULTURAL AFFAIRS ADVISORY BOARD**

**WHEREAS**, the City Council (the "Council") of the City of El Paso (the "City") passed Ordinance No. 16324, providing for art in municipal places (the "Public Art Program"), establishing the El Paso Public Art Committee (the "PAC") and establishing a means of funding the acquisition or commissioning of art for municipal places and repealing ordinances 15245 and 15073; and

**WHEREAS**, increasing the number of PAC members to eleven members will provide for a broader range of expertise for the decisions made by the PAC; and

**WHEREAS**, the payments set out in Section 3. F. should be amended to allow for negotiation and variation on the permissible payment once the contract is signed and for the final payment; and

**WHEREAS**, reducing the number of PAC decisions that must be reviewed by the Cultural Affairs Advisory Board ("CAAB") would expedite the process, however will not compromise the Public Art Program; and

**WHEREAS**, the PAC and the CAAB have approved of the amendments herein.

**NOW, THEREFORE, BE IT ORDAINED BY CITY COUNCIL OF THE CITY OF EL PASO, TEXAS:**

1. That the following sections of Ordinance No. 16324, adopted on April 4, 2006 is hereby amended as follows:

SECTION 3. FUNDING OF THE PUBLIC ART PROGRAM

F. An artist or artist team will be contracted for the commissioning or purchase of art. Progress payments may be made to the artist for works of art which have been recommended by the CAAB and approved by the City Manager and/or Council. Such payments may reimburse the artist for the cost of materials. The City, through MCAD, may negotiate a final payment to the artist or artist team that will be withheld until completion of the work and accession into the City's public art collection. The final payment shall be no less than 15%. If feasible, and if the law allows, the City, through MCAD, may negotiate a payment of up to twenty percent (20%) of the total project cost to the artist once the contract is signed for the purchase of material, design work, or labor.

#### SECTION 4. ADMINISTRATION OF THE PUBLIC ART PROGRAM

B. The CAAB, acting in coordination with the Director of the Museums and Cultural Affairs Department, shall, in addition to the duties specified in Chapter 2.40.060 of the City Code, have the following duties and responsibilities associated with the administration of the public art program:

1. Review and provide recommendations on the selection of citizen members of a PAC, the establishment of program policies and guidelines, the recommendation of program budgets, and the approval of recommendations made by the PAC as required herein.

#### C. Public Art Committee

1. The El Paso Public Art Committee (PAC) is hereby established and shall serve as a standing committee of the CAAB. The PAC shall consist of eleven members appointed as follows: The Chair of the CAAB shall appoint three (3) members to the PAC, from the CAAB, one of which shall be appointed as Chair. The additional eight (8) members will be appointed by the Chair of the CAAB from a list of qualified citizen candidates provided by the Museums and Cultural Affairs staff and approved by the CAAB. All PAC members must be qualified/credentialed professionals and represent the following: four (4) members of the PAC shall be representatives of the architecture, landscape architecture, urban planning or engineering, construction or development industries; four (4) members of the PAC shall be representatives of the visual arts, such as visual artists (by means of a currently demonstrable record of exhibitions, work sold/collected and/or commissioned), curators, art historians or critics, arts advocates/collectors or arts administrators. The categories for membership listed above are not exclusive and more than one category may be represented by one member. Members of the PAC shall be appointed to serve staggered terms from the date of appointment and are eligible to serve two-consecutive terms; after which a PAC member must sit out for one term before reappointment.

2. The PAC shall have the following duties and responsibilities associated with the administration of the public art program, and when required, the PAC's decisions and recommendations will be subject to the review by and recommended approval of the CAAB, and the city council:

a. Recommend written regulations as are necessary to carry out the purpose of this ordinance and Ordinance No. 16324. The regulations shall include, but not be limited to, criteria for the selection of artists and works of art and maintenance of a file of the Works of Art that are in the public art collection.

b. Make recommendations regarding the commission of artworks, the review of the design, and the placement of artworks and the removal of artworks from the public art collection.

c. Subject to the review and approval of the CAAB, the PAC shall make recommendations regarding the designation of sites for the implementation of the public art

program, the determination of the scope and budget of public art projects, and the oversight of the artist selection process.

d. Make recommendations to the Department for the selection of Artist Selection Panels who will recommend artists and artworks to be funded from the Capital Improvements Program as provided for in Section 3.A of this ordinance. The Artist Selection Panels are to be composed of 3 to 7 persons who are professionals in the visual arts and design fields and members of the community, and must include one member of the PAC.

e. Make recommendations to the CAAB for public art projects to be funded from the Capital Improvements Program as provided for in Section 3.A of this ordinance.

f. Make recommendations to the City on the acquisition of works of art to include in the Public Art Collection from funding sources other than the Capital Improvements Program for City-owned facilities, except works of art acquired for the permanent collections of or exhibitions within the El Paso Public Library, the El Paso Museum of Art, El Paso Museum of Archaeology, and the El Paso Museum of History.

g. Make recommendations to the Department for programs to educate the community on the public art program and recommendation to the City of programs and activities to further the development and public awareness of art in public places.

h. Make recommendations regarding Works of art proposed to be acquired or donated to the city, as gifts or long-term loans, for placement on municipally owned property, except works of art acquired for the permanent collections of, or exhibitions within, the El Paso Public Library, the El Paso Museum of Art, the El Paso Museum of Archaeology, and the El Paso Museum of History.

SECTION 6. shall be renamed and amended as follows

SECTION 5. SELECTION OF ART TO BE PURCHASED BY CAPITAL IMPROVEMENTS PROGRAM FUNDS

A. Selection Process.

1. MCAD, with appropriate feedback from the PAC, will assemble Artist selection panels to review project proposals and recommend artists to the PAC. The PAC will review recommendations and create the annual public art plan to be presented, through MCAD, to the CAAB for review and approval, who will present it to the City Council for review and approval.

2. For Works of art that are commissioned and are listed in the annual public art plan, Artists will be selected by the approved artist selection process stated in the annual public art plan in accordance with the written regulations for the criteria for selection of artists and Works of art.

3. For all Works of art, the PAC shall consult with the department that oversees the site where the Work of art will be located and involve them in the selection process in the manner that appears most feasible.

4. In addition to Works of art that are on the annual public art plan, the PAC may recommend purchasing a completed work of art, commissioning a work of art, holding a competition to select a work of art, or creating some other timely and appropriate mode of selection. These items will be presented, through MCAD, to the City Manager or City Council as appropriate under City Ordinances.

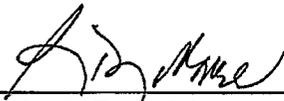
2. Except as herein amended, Ordinance No. 16324 remains in full force and effect.

ADOPTED this 11<sup>th</sup> day of August, 2009.

CITY OF EL PASO

  
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John F. Cook, Mayor

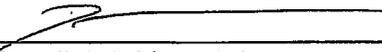
ATTEST:

  
\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Kristen L. Choi  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Sean P. McGlynn, Director  
Museums & Cultural Affairs Department

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