

ORDINANCE NO. 10-1

**AN ORDINANCE ESTABLISHING A PUBLIC ART PROGRAM FOR THE COUNTY; PROVIDING PURPOSE FOR THE PUBLIC ART PROGRAM; PROVIDING DEFINITIONS; PROVIDING FOR THE ALLOCATION AND FUNDING FOR THE PUBLIC ART PROGRAM WITHIN THE COUNTY'S CAPITAL IMPROVEMENT PROGRAM; PROVIDING FOR REDUCTION OF ASSESSMENT PERCENTAGE BELOW ONE-HALF PERCENT OR SUSPENSION/WAIVER OF ASSESSMENTS BY MAJORITY VOTE OF THE BOARD OF COUNTY COMMISSIONERS; PROVIDING FOR USE OF MONIES FOR THE PROGRAM; PROVIDING A METHOD OF CALCULATION FOR FUNDING; PROVIDING FOR THE ADMINISTRATION OF THE PUBLIC ART PROGRAM; PROVIDING AUTHORITY TO COUNTY ADMINISTRATOR TO ACQUIRE ARTIST SERVICES AND ARTWORK UP TO AN AMOUNT OF \$100,000; ESTABLISHING A PUBLIC ART COMMITTEE TO FOSTER THE PUBLIC ART PROGRAM; PROVIDING FOR OWNERSHIP AND MAINTENANCE OF WORKS OF ART ACQUIRED THROUGH THE PUBLIC ART PROGRAM; PROVIDING FOR SEVERABILITY; REPEALING HILLSBOROUGH COUNTY ORDINANCES 88-31, 89-32 AND 94-3; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Board of County Commissioners of Hillsborough County, Florida finds that expanding the opportunity for the citizens to experience public art will promote the general welfare of the community; and,

**WHEREAS**, providing for art in public places will enhance the aesthetic quality of public buildings and spaces; and,

**WHEREAS**, the Board of County Commissioners of Hillsborough County, Florida encourages the installation of works of art at County facilities with programs like children services, youth, elderly, library, parks and other community interest programs.

**WHEREAS**, the Board of County Commissioners of Hillsborough County finds that establishing a Public Art Committee to foster art in public places will enhance community participation in the Public Art Program.

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF  
HILLSBOROUGH COUNTY, FLORIDA:**

**SECTION 1.        PURPOSE**

Hillsborough County, (“County”) recognizes that providing for visual art is a basic service to all citizens, and that enhancing the appearance of buildings and spaces provides benefits to the community by expanding the historical, cultural, and creative knowledge of citizens. The purpose of this Ordinance is to establish a Public Art Program for the County and to allocate monies for art in the program.

**SECTION 2.        DEFINITIONS**

For the purpose of this Ordinance, the definitions contained in this Section shall apply unless otherwise specifically stated. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular, and words in singular number include the plural.

**A.        Annual Public Art Plan:**

An itemized and prioritized list of anticipated art projects for the Public Art Program, including the objectives, design approach, budgets and scheduling for the upcoming year. The Annual Public Art Plan shall be developed with the assistance of the Public Art Committee in consultation with County departments and agencies and shall be subject to approval by the Board of County Commissioners.

**B.        Artist:**

Any professional practitioner in the arts, generally recognized by art critics and peers as a professional in the field as evidenced by his/her education, record of exhibitions, reviews, public commissions, or sale of artwork.

**C.        Arts Council:**

Created and established for the purpose of developing, coordinating, and promoting the performing and visual arts in Hillsborough County pursuant to

Hillsborough County Ordinance No. 89-26, as amended; a separate and distinct body from the Public Art Program Committee described herein.

**D. Board:**

The Board of County Commissioners of Hillsborough County.

**E. Capital Improvement Program (CIP):**

Hillsborough County's financial plan of approved capital projects, their timing and cost over a six-year period in the first year of a biennial budget and over a five-year period in the second year of a biennial budget.

**F. County Facility Project:**

A County-owned project within the annual Board-approved Capital Improvement Program, included within the following categories of projects: Government Buildings, Parks and Libraries.

**G. Public Art:**

A Work of Art acquired by Hillsborough County through the Public Art Program.

**H. Public Art Committee:**

Appointed by the Board of County Commissioners to act in the public interest on all matters relating to the Public Art Program.

**I. Public Places:**

All spaces owned by Hillsborough County, indoor or outdoor, that are accessible and visible to the general public and located where residents and visitors live or congregate. Funds allocated for Public Art shall be used exclusively for Hillsborough County Public Places. However, the Board of County Commissioners may approve by specific action, temporary or permanent location of public art in a non-County owned public place if deemed a public purpose and in the best interest of Hillsborough County.

**J. Work of Art:**

An original, tangible creation produced by an artist in any medium, material, or combination thereof; such artwork may be functional and may stand alone or be integrated into the architecture or landscape of the site.

**SECTION 3. ALLOCATION AND USE OF MONIES FOR PUBLIC ART**

- A.** The Board of County Commissioners shall allocate funds annually for the Public Art Program.
- B.** Funds for the Public Art Program shall be allocated by the Board as part of the County's Capital Improvement Program. Such allocation shall occur once annually at the time of the Board's approval of the Capital Improvement Program.
- C.** The use of Public Art Program funds shall be subject to approval by the Board through the annual Public Art Plan.
- D.** Private contributions or donations (monetary or actual Works of Art) to the Public Art Program shall be added to the Public Art Program as approved by the Board of County Commissioners.

**SECTION 4. FUNDING FOR PUBLIC ART PROGRAM**

- A.** At the time of the annual budget approval of the Capital Improvement Program (CIP), the Board of County Commissioners shall allocate funds for the Public Art Program in an amount of up to one percent (1%) and not less than one-half percent (0.5%) of the cost estimate of County Facility projects as included in the County's Budget for that particular fiscal year. The percentage allocation rate shall be set annually by the Board of County Commissioners upon the recommendation of County Administrator. The County Administrator's recommended allocation percentage rate shall be based upon the current Hillsborough County economy and the availability of eligible funds. A reduction of the allocation percentage rate to

less than one-half percent (0.5%) or waiver of all assessments for that annual budget year may be approved by majority vote of the Board of County Commissioners.

**B.** The source of funding for the Public Art Program shall be decided during the budget approval process. The County Facility Projects included in the calculation of the allocation shall be as defined in 2F above, with the exception of the following:

1. No assessment will be made against projects funded by Impact Fees or any other revenue source that prohibits its use for public art.
2. No assessment shall apply to projects identified in the CIP under the following:
  - a. Detention Facilities (Jail/Correctional) projects;
  - b. Enterprise funded projects;
  - c. Community Development Block Grant (CDBG) funded projects;
  - d. Environmental Land Acquisition & Protection Program (ELAPP) funded projects;
  - e. Projects funded by Boat Fees;
  - f. Capital contributions made by the Board of County Commissioners to outside agencies for non County-owned projects.
  - g. Projects funded solely for land acquisition and/or equipment.

**C.** A full or partial waiver of the assessment for Public Art for an individual project may be approved by the Board of County Commissioners at its discretion.

**D.** The allocation for Public Art Program assessment shall not exceed the sum of one hundred and fifty thousand dollars (\$150,000) for any single CIP project.

**E.** The Public Art Program will be included in the County's 6-year (or 5-year, if in

the second year of the biennial budget) Capital Improvement Program as a capital project and will be considered a capital project for accounting purposes. No interest shall be realized for Public Art Program funds.

- F.** Funding for the Public Art Program shall be allocated once annually at the time of the approval of the CIP. Mid-year revisions to the CIP shall not be subject to assessments, unless specifically approved by the Board.
- G.** Monies allocated to the Public Art Program may be used for the selection, commissioning, acquisition, administration, installation, maintenance and insurance of Works of Art. The monies may be used for Works of Art to be located at any Public Place, provided that the location meets the restrictions, if any, of the specific funding source.

**SECTION 5.            METHOD OF CALCULATION**

The method of calculation for the funding of the annual Public Art Program shall be based on the amount designated as the budget for a particular project for the year in question multiplied by the allocation percentage rate approved by the Board of County Commissioners.

**SECTION 6.            ADMINISTRATION**

- A.** The County Administrator shall assign appropriate staff to conduct the day-to-day management and administration of the Public Art Program and to coordinate and implement the Annual Public Art Plan. All applicable County policies and procedures shall be adhered to regarding oversight of Public Art Program monies.
- B.** The County Administrator, or designee, shall have the authority to acquire artist services and procure artwork without prior Board approval up to a contract amount of \$100,000. Any engagement exceeding this amount shall be approved by the Board. All engagements shall, to the extent applicable, include language addressing the following areas: access to records, retention of records, insurance

disclosures and equal opportunity. Additionally, the original of all agreements must be filed with the Clerk of the Board upon execution and maintained with other Board records. Due to the special and unique nature of the services to be provided, acquisition of artist services and artwork are exempt from the County's Procurement Policy and Procedures.

**SECTION 7:           PUBLIC ART COMMITTEE**

**A.**     The Public Art Committee, ("Committee"), shall be an advisory committee appointed by the Board of County Commissioners to act in the public interest on matters relating to the Public Art Program, such as planning, selection, and maintenance of Works of Art for the Public Art Program. Artwork acquired by the County outside of the Public Art Program shall not be the responsibility of the Public Art Committee.

**B.     Membership:**

The Public Art Committee shall be composed of the following seven (7) members:

1.     One member from the Board of County Commissioners, or their designee.
2.     One member from the Arts Council of Hillsborough County.
3.     Three members who are private citizens of the County with knowledge and appreciation for visual art of which at least one (1) member shall reside within unincorporated Hillsborough County.
4.     One member from or designated by the Board of Trustees, of the Tampa Museum of Art, Inc., or one member from or designated by the University of South Florida, School of Art and Art History, with experience in the visual arts.
5.     One member who is an architect, planner, landscape architect or developer in the County.

**C. Compensation:**

Members of the Committee shall serve without compensation.

**D. Terms:**

1. Members shall serve for three years. The Board of County Commissioners shall appoint the members and no member shall serve for more than two full three year terms.
2. Any member who fails to attend three (3) consecutive meetings, without prior approval of the chairperson, may be removed by a majority vote of the members and a new member may be appointed to complete the term.
3. Upon expiration of their terms, members may, at their option, serve until they are reappointed or a new appointment has been made.
4. The current members shall serve out the terms of their current appointments, but shall become subject to the new terms provided for herein upon reappointment.

**E. Responsibilities:**

1. The Committee shall advise County staff on the preparation of the Annual Public Art Plan for presentation to and approval by the Board of County Commissioners. The Annual Public Art Plan shall provide for an itemized list of anticipated art projects.
2. The Committee may advise County staff in the preparation of policies regarding implementation guidelines and selection procedures to facilitate this Ordinance, and to govern the manner and method of submission of proposed Artists and/or Works of Art to the Committee, subject to approval by the Board of County Commissioners.

3. The Committee shall participate in the selection of Artists and/or Works of Art, as appropriate, pursuant to the approved Annual Public Art Plan.
4. The Committee may identify appropriate projects or spaces to locate or display Works of Art, as indicated in the Annual Public Art Plan.
5. At its discretion, the Committee may investigate and recommend other means by which Works of Art for the Public Art Program may be obtained, including, but not limited to, donations gifts of artwork to the County, and grant applications.
6. The Committee may encourage the participation of citizens in a joint public and private effort to promote public art.

**F. Organization; Selection of Chairperson:**

1. The Committee shall organize by electing one of its members as chair person and one as vice-chairperson. These positions shall be for a one year term and may be renewable at the discretion of the Committee. In the event the Chair person's position becomes vacant, the vice- chairperson shall serve as chairperson until a new chairperson is elected by the Committee. The new chairperson shall serve the remainder of the term.
2. The presence three (3) members shall constitute a quorum.

**G. Procedures:**

1. The Committee may adopt rules for governing the conduct of its affairs. Meetings shall be held a minimum of once every three months and at other such times as the Committee deems appropriate.
2. All meetings shall be open to the public and minutes kept including the vote of each Committee member.

**H. Legal Counsel to the Committee:**

The County Attorney's Office shall provide legal counsel as reasonably required by the Committee.

**SECTION 8. OWNERSHIP AND MAINTENANCE**

**A. Ownership:**

Ownership of Works of Art acquired through the Public Art Program shall be vested in Hillsborough County and the County shall acquire title to each Work of Art.

**B. Maintenance:**

1. Whenever appropriate, Works of Art acquired through the Public Art Program may be required to be accompanied by instructions for maintenance and ongoing care.
2. Monies for ongoing maintenance may be included within the Annual Public Art Plan, as appropriate.

**SECTION 9. SEVERABILITY**

Should any section, subsection, sentence, clause, provision or part of this Ordinance be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

**SECTION 10. CERTIFICATION**

A certified copy of this Ordinance shall be filed with the Department of State immediately.

**SECTION 11. EFFECTIVE DATE AND REPEAL OF ORDINANCE NOS. 88-31, 89-32 AND 94-3**

This Ordinance shall be effective upon receipt of official acknowledgment from the Department of State that said Ordinance has been duly filed. On the effective date of

this Ordinance, Ordinance Nos. 88-31, 89-32 and 94-3 shall be repealed and replaced by this Ordinance. All prior actions under the prior Ordinance are hereby incorporated into the processes and procedures of this Ordinance and shall maintain their full force and effect.

**STATE OF FLORIDA** )

**COUNTY OF HILLSBOROUGH** )

I, PAT FRANK, Clerk of Circuit Court and Ex Officio Clerk of the Board of County Commissioners of Hillsborough County, Florida do hereby certify that the above and foregoing is a true and correct copy of an Ordinance adopted by the Board in its regular meeting of, January 6, 2010 as the same appears of record in Minute Book 404 of the Public Records of Hillsborough County, Florida.

WITNESS my hand and official seal this 12th day of January, 2010.

PAT FRANK, CLERK

By: Michael K. Dill  
DEPUTY CLERK

Approved by County Attorney

By: DeBora Cromastie-Minself  
Approved as to form and legal sufficiency

