

RESOLUTION 19 -45

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA, ESTABLISHING THE ARTS IN THE JACK DURRANCE BOARDROOM PROGRAM; ESTABLISHING THE PROCEDURES FOR THE APPLICATION AND SELECTION PROCESS; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Florida's Comprehensive Plan states "Florida shall increase access to its historical and cultural resources and programs; and encourage the development of cultural programs of national excellence"; and

**WHEREAS**, in furtherance of Florida's Comprehensive Plan, the Board of County Commissioners of Alachua County, Florida (the "Board") adopted Ordinance 18-07 entitled "*Alachua County Public Arts Ordinance*"; and

**WHEREAS**, in adopting the *Alachua County Public Arts Ordinance*, the Board declared that "art shall be an integral part of Alachua County" and also declared that "the mission of the County public arts program is to enhance the quality of the visual environment in Alachua County, thereby adding to the quality of life and the level of citizen awareness of the importance of aesthetic experiences in their everyday lives"; and

**WHEREAS**, in furtherance of the County's public arts program, the Board now wishes to engage in government speech in a manner that is beneficial to the public interest by creating a process by which it will select art created by local artist to be temporarily displayed in the John R. "Jack" Durrance Auditorium (the "*Art in Jack Durrance Boardroom Program*"); and

**WHEREAS**, the Board also wishes to engage in the administration and management of the uses of its governmentally owned facility and property, in particular, the Jack Durrance Boardroom; and

**WHEREAS**, the Board hereby finds and declares that temporarily displaying local artwork in the Jack Durrance Boardroom will be beneficial to the public interest by: (i) increasing public access to art, (ii) contributing to the civic pride, tourism, and economic development of our community, (iii) enhancing the climate for artistic creativity in our community, (iv) enriching the public environment for our residents through incorporation of the visual arts; and (v) enhancing our community's recognition as a cultural center; and

**WHEREAS**, the Board re-affirms and declares that the Jack Durrance Boardroom is not a public forum, but rather is a limited public forum but only during duly noticed public meetings and only in the specific areas and only during the specific time periods that are designated for

public comments as required by, and subject to, §286.0114, F.S. and all rules and policies adopted by the Board which govern the opportunity to be heard at public meetings; and

**WHEREAS**, in furtherance of the goals and objectives of the County's public art program, the Board desires to exercise its government speech by creating a process by which it will select local artwork for temporary display in the Jack Durrance Boardroom without creating a public forum for private speech or a limited public forum for artists to display their artwork; and

**WHEREAS**, the Board further finds and declares that although the *Art in Jack Durrance Boardroom Program* will be implemented in a place that sometimes serves as a limited public forum, the Program is not intended to create a public forum for private speech or expression, nor is it intended to expand the limited public forum designation of the Jack Durrance Boardroom that applies only during duly noticed public meetings.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA:**

**Section 1. Recitals.** The recitals set forth above are true, correct and are incorporated by reference into this Resolution.

**Section 2. Title; Purpose.** The program created by this Resolution shall be known as the "*Art in Jack Durrance Boardroom Program*." Local artwork shall be selected and displayed in the Jack Durrance Boardroom as provided for herein. By creating the *Art in Jack Durrance Boardroom Program*, it is not the intent of the Board to create or open the Jack Durrance Boardroom, or any other room in the County Administrative Building, as a public forum for private speech or other expressive activity, nor is it the intent of the Board to create a venue or forum for the expression of political, religious, or controversial subjects which are inconsistent with the governmental mission or government speech of the County.

**Section 3. Definitions.** The following words, terms, and phrases, when used in this Resolution, shall have the meanings ascribed to them in this section, except where the context clearly indicated a different meaning:

1. *Advisory Committee* means the Arts Council of Alachua County Committee created by Resolution 18-17 of the Board of County Commissioners of Alachua County.
2. *Applicant* means a Local Artist that submits an application under this Program to have his or her Art temporarily displayed in the Jack Durrance Boardroom.
3. *Art* means artwork created by Local Artists.
4. *Board* means the Alachua County Board of County Commissioners.

5. *Agreement* means an Art Loan and Display Agreement that will be entered into between the County and the Local Artist who's Art has been selected pursuant to this Program to be temporarily displayed in the Jack Durrance Boardroom. The Agreement shall be legally binding on both parties and shall govern the terms and conditions of the loan and display of the Art.
6. *County* mean Alachua County, Florida.
7. *County Administrative Building* means the County owned building located at 12 SE 1<sup>st</sup> Street, Gainesville, Florida 32601.
8. *Jack Durrance Boardroom* means the Room Number 209 of the County Administrative Building.
9. *Local Artist* means an artist that is at least 18 years of age and is a resident of the County.
10. *Loan Period* means the period of time that the Local Artist has agreed to loan his or her Art to the County as per the Art Loan and Display Agreement.
11. *Program* means the Art in Jack Durrance Boardroom Program created by this Resolution.

**Section 4. Art Selection Criteria.** Each application shall be evaluated for approval or reject using the following criteria:

1. The Art must be original artwork created by a Local Artist.
2. The Applicant must have all legal rights to display the Art.
3. The Art must be of professional quality.
4. The Art shall not depict or express any views that, in the County's sole discretion, are inconsistent with the County's views.
5. The Art presents the image and view that the County wishes to project to all that attend its Board meetings or watch them on TV.
6. The Art is aesthetically pleasing.
7. The Art is compatible with the Board room setting.
8. The dimensions of the Art shall not to exceed 5' wide x 4' high x 3" deep.
9. Weight of the Art shall not exceed 3 lbs.
10. The Art must be suitably framed and equipped with all necessary and appropriate hardware for hanging the Art that is consistent with the existing hardware and fixture in the Jack Durrance Boardroom.
11. The Art must be sufficiently sturdy so that it will not create or pose a risk of breaking or falling due to the effects of gravity or incidental contact by visitors to the Jack Durrance Boardroom.
12. The Art shall not require any maintenance or care during the Loan Period.
13. The Art shall not contain any liquids.

14. The Art shall not be created, in whole or in part, by any material that will decay or otherwise decompose during the period of time that the Art will be on display in the Jack Durrance Boardroom.
15. The Art shall not emit any air, cold, heat, lights, odors, sounds or vibrations.
16. The Art shall not require electricity or batteries.
17. The Art shall not have any moving parts.
18. The Art shall not advocate for the election or defeat of a candidate for public office.
19. The Art shall not advocate for the approval or defeat of any proposed or current Federal, state or local statute, ordinance, rule, regulation, or policy.
20. The Art shall not advance or inhibit any religion.
21. The Art shall not depict the male or female genitalia or any pornographic content.
22. The Art shall not depict any urine, feces, or other bodily excretions or fluids.
23. The Art shall not depict any writing or words that, in the discretion of the County, are vulgar.
24. The Local Artist must execute and agree to be bound all of the terms and conditions set forth in the Art Loan and Display Agreement and this Resolution.

**Section 5. Art Selection Procedure.** Applications shall include the following information:

1. Applications shall be submitted to:
  - Alachua County
  - 12 SE 1<sup>st</sup> Street
  - Gainesville, FL 32601
  - ATTN: Assistant County Manager – Arts Council
2. All applications must be submitted on a form approved by the County Manager.
3. All applications shall contain the following information and/or documents:
  - a. The name, telephone number and address of the Local Artist;
  - b. A photograph of the Art. The photograph must be in color and no smaller than 8" x 10".
  - c. The dimensions of Art.
  - d. The framed weight of the Art.
  - e. A brief description of the Art.
  - f. A statement of when the Art will be available for delivery to the County and either: (i) the maximum period of time that the Local Artist will loan the Art to the County, or (ii) the date by which the Local Artist wants the loan period to end.
  - g. An Art Loan and Display Agreement executed by the Local Artist, along with a statement affirming that if the Local Artist's application is approved, the Local Artist agrees to be bound by the terms and conditions of the Art Loan and Display Agreement.

4. All applications shall be initially screened by County Staff to ensure that the applications are complete. Incomplete applications will not be processed for consideration.
5. All complete applications shall be presented by County Staff to the Advisory Committee for consideration. County Staff shall notify each Applicant of the date, time and location at which its application will be considered by the Advisory Committee. Each Applicant must attend the Advisory Committee meeting and must present the actual Art to the Advisory Committee.
6. The Advisory Committee shall evaluate each application using the criteria set forth in Section 4 of this Resolution.
7. The Advisory Committee shall, by majority vote, determine whether to recommend approval or rejection of each application.
8. County Staff shall prepare present the recommendations of the Advisory Committee to the Board.
9. The Board shall consider the recommendations of the Advisory Committee, but the Board shall exercise its final approval authority of over each application by applying the selection criteria set forth in Section 4 of this Resolution.
10. The Board shall authorize the Chair to execute an Art Loan and Display Agreement for each application approved by the Board.

#### **Section 6. Display of Selected Art.**

1. Only Art approved by the Board in accordance with this Program may be displayed in the Jack Durrance Boardroom.
2. Each piece of Art may be displayed for up to three months. The County reserved the discretion to shorten this period of time without notice.
3. Each piece of Art may be accompanied by a sign that is no larger than 6" wide, 4" long, and ¼" deep. The sign may only state the name of the Art, and the name, physical address, website address, and telephone number of the Local Artist.
4. Price tags and receptacles for donations are prohibited.
5. Seven display areas are currently designated in the Jack Durrance Boardroom. The County reserves the discretion to utilize less than all of the designated display areas in the Jack Durrance Boardroom.
6. The County reserves the right to determine the display location of each piece of Art.
7. Once a display location has been selected, the County reserves the right to relocate any piece of Art to any other display area within the Jack Durrance Boardroom.
8. The County reserves the discretion to change the number of display areas without notice.
9. The County may, in its sole discretion, remove any piece of Art from the Jack Durrance Boardroom.
10. The County reserves the discretion to terminate this Program without notice.

11. The County shall not be responsible for lost, damaged or stolen Art. It shall be the Local Artist's sole responsibility to obtain any and all insurance the Local Artist deems necessary to protect and insure the Art against any loss while the Art is in the possession of the County. The Local Artist shall require any such insurance policy to waive subrogation against the County, including its Board, employees, agents, attorneys, contractors, guests and invitees and also as to the Advisory Committee.

**Section 7. Return of Art.** The County shall, within five (5) business days after the expiration or early termination of the Loan Period, remove the Art from its display area within the Jack Durrance Boardroom and shall notify the Local Artist that its Art is ready for removal from the County Administrative Building. Within ten (10) business days of receiving said notice, the Local Artist prepare the Art for transport and shall remove and transport the Art from the County Administrative Building. The County shall have no duty or obligation, and shall not be responsible, for any Art that is not timely removed by the Local Artist.

**Section 8. Effective Date.** This Resolution shall take effect immediately upon its adoption.

DULY ADOPTED in regular session this 23<sup>rd</sup> day of April, 2019.

**BOARD OF COUNTY COMMISSIONERS OF  
ALACHUA COUNTY, FLORIDA**

By: Charles Chestnut, IV  
Charles Chestnut, IV, Chair

ATTEST:

Jess Irby  
J.K. "Jess" Irby, Esq. Clerk

(SEAL)

APPROVED AS TO FORM

[Signature]  
Alachua County Attorney's Office