

SECTION 5: MAKING IT HAPPEN -

Securing public art

The governing principle for public art is that it must be freely available to be viewed and experienced by the public. Where public art is located on private lands, it must be clearly visible at all times from publicly accessible areas.

In addition to being publicly accessible, public art opportunities and artists must be selected through a process formally approved by the City. As demonstrated in other successful public art programs, the City expects these projects to be developed professionally and through accountable processes that offer opportunities for artists to collaborate with architects and landscape architects in the creation of high quality public spaces.

PERCENT FOR PUBLIC ART RATIONALE

Public art presents an opportunity to increase the profile of a development. Public art can become the image used for marketing and attracting interest to a development. Public art can also be the visual marker or branding for a building or space.

As public art accumulates on different properties in a newly developed area, the neighbourhood builds up a distinctive cachet that can attract new residents and businesses. Property values may increase, and the art will become a destination draw for visitors, who will contribute to the local economy in the shops, cafes and businesses.

The potential for public art to enhance private development and the public realm is enormous and the expectations for public art are high. For private development, the benefit of public art may include increased property values, enhanced marketing of the units or floor space and enhanced aesthetics of the development leading to an improved public image for the developer.

The feasibility of an on-site public art program is governed, in part, by the available funding. Due to the size of contribution generally required to implement an effective public art program, on-site public art installations are primarily suited to larger-scale development (refer to Appendix 1: Budget Examples).



These guidelines recommend the “one percent for public art” model. This recommendation is based on common practice found within numerous successful public art programs in North America, Europe and other countries around the world. It is the “tried and true” target that enables the public art to have impact on the site in relation to the other 99% of the building budget.

Specifically, the recommended minimum public art contribution for a development should be based on one percent of the gross construction cost (GCC) of that development. To obtain a standard estimation for the GCC value, the calculation is to be derived from the most recent release of the Toronto Area Chief Building Officials Committee’s (TACBOC) Construction Value Standard (refer to Table 1 for examples of contribution calculations). The TACBOC

Table 1: Toronto Area Chief Building Officials Committee (TACBOC) Construction Value Standard (2003–2004)

Building Use (10,000 m2 building)	TACBOC Construction Value/m2	One Percent for Public Art Contribution
Performing Arts Centres	\$ 2,400	\$ 240,000
Prestige Hotels	\$ 1,800	\$ 180,000
Recreation Facilities, Libraries	\$ 1,500	\$ 150,000
Hotels (not prestige)	\$ 1,200	\$ 120,000
Banks	\$ 1,400	\$ 140,000
Apartment or Office Buildings, Department Stores	\$ 1,000	\$ 100,000
Townhouses, Plazas, Supermarkets	\$ 800	\$ 80,000
Big Box, Discount Retail	\$ 650	\$ 65,000

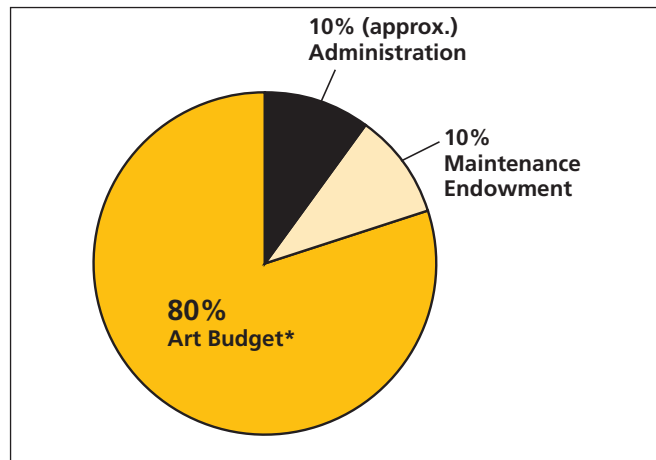
Note: Range of budgets triggered by the "one percent" contribution based on 2003–2004 standards for different building types with a common floor space of 10,000 square metres.

schedule reflects the average construction cost by building type within the Greater Toronto Area and is the accepted method of calculating construction costs related to the issuance of building permits within the City of Toronto.

While a minimum value of 1% of gross construction costs is recommended for public art in development projects, that target may not be achievable on every project. In a large project, an on-site public art program with a value of less than 1% of gross construction costs may be feasible or appropriate. In other smaller projects, a cash contribution towards off-site public art may be secured with a specified value comprising less than 1% of gross construction costs.

When determining the public art budget, it is important to consider that the budget includes all of the various costs associated with the commissioning of the art, including administration and fees, material and fabrication costs, insurance and maintenance, etc. (refer to Figure 1).

Figure 1: Example Budget Disbursements



* When calculating public art contributions, consider that the "Art Budget" portion (80%) covers many costs: including materials, fabrication disbursements, transportation of completed work to site, site preparation, below grade elements, accent lighting, plaque, identifier, brochure, engineering fees, legal fees, artist fees, documentation of work (slides, digital images), all applicable taxes, etc.

APPROACHES FOR SECURING PUBLIC ART CONTRIBUTIONS

Section 37 of the Planning Act is the primary tool available for securing public art in the context of development applications. Other circumstances involving planning approvals such as minor variances and plans of subdivision and severances also provide opportunities to secure public art, each of which is discussed below.

A) SECTION 37

Public art is typically discussed and secured through the rezoning process under Section 37 of the Planning Act. The use of Section 37 involves the provision of community benefits by the developer in applications involving increased density and/or height beyond that permitted by the Zoning Bylaw.

The new Official Plan (Section 5.1.1) identifies public art as an eligible community benefit for consideration by the planner in coordination with urban design staff and/or the ward councillor and City Council. The Plan generally establishes that a project have a gross floor area of more than 10,000 square metres and involve either a minimum density increase of 1,500 square metres or a significant height increase in order for Section 37 to be utilized to secure public benefits.”

In proposed development projects across the City, the priorities for Section 37 community benefits will vary significantly. In a development proposal, public art may form part of a package of community benefits, rather than constituting the sole community benefit. Sometimes, other community benefits may be of such a priority that public art may not be secured.

When determining Section 37 community benefits in a development application, on-site public art may have certain advantages to an owner over other community benefits. Many other Section 37 community benefits are provided off-site, and are often publicly owned, meaning that the benefits to the contributing development may be indirect, resulting instead from an enhanced overall community.

With on-site public art, the public art remains in the same ownership as the development, and thus, there is a direct benefit to that development.

B) MINOR VARIANCES INVOLVING HEIGHT AND/OR DENSITY INCREASES

Some projects may receive approval for density and/or height increases by way of minor variances before the Committee of Adjustment as opposed to a full rezoning process. In these circumstances, City Planning staff and/or the ward councillor may discuss with the developer the provision of community benefits in the event the approvals under consideration are granted. When considering a minor variance, the Committee of Adjustment may impose conditions through Section 45(9) of the Planning Act whereby the developer can be required to provide community benefits where reasonably related to the development and the variances and to enter into an agreement with the City to secure the provision and maintenance of such benefits.

In determining whether public art should be required, one of the considerations, although not a prerequisite, is whether there is a secondary or tertiary plan affecting or in the vicinity of the site addressing public art. Another consideration may be the size of the development and the size of the density and/or height increase.

C) PLANS OF SUBDIVISION/SEVERANCE

Through the subdivision/severance approval process, a wide range of conditions may be imposed and secured whereby the developer can be required to provide community benefits where reasonably related to the subdivision or severance and to enter into an agreement with the City to secure the provision and maintenance of such benefits pursuant to Sections 51(25) and (26) of the Planning Act. Where public art has a reasonable relationship to the proposed development, a public art contribution or program may be included under provisions of the subdivision or severance agreement. In determining whether public art should be required, one of the considerations, although not a prerequisite, is whether there is a secondary or tertiary plan affecting or in the vicinity of the site addressing public art.

PUBLIC ART PROVISIONS FOR PLANNING AGREEMENTS

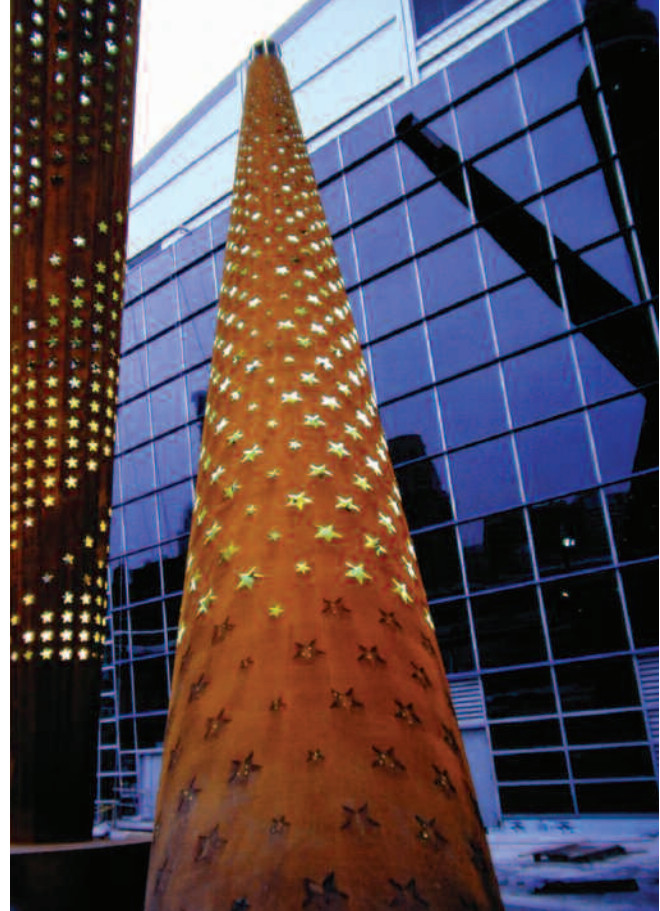
An electronic template of standard public art provisions for inclusion in planning agreements is available from the Public Art Coordinator and/or the City Solicitor (Planning and Administrative Law Section). The public art clauses address the following issues:

- Public Art Contribution options
- Public Art Contribution triggers
- Public Art Plan requirements
- Timing
- Financial Accounting requirements
- Letter of Credit requirements
- Owner and City responsibilities
- Copyright and Maintenance issues

In addressing the City's policy framework for public art, the applicant has the following options:

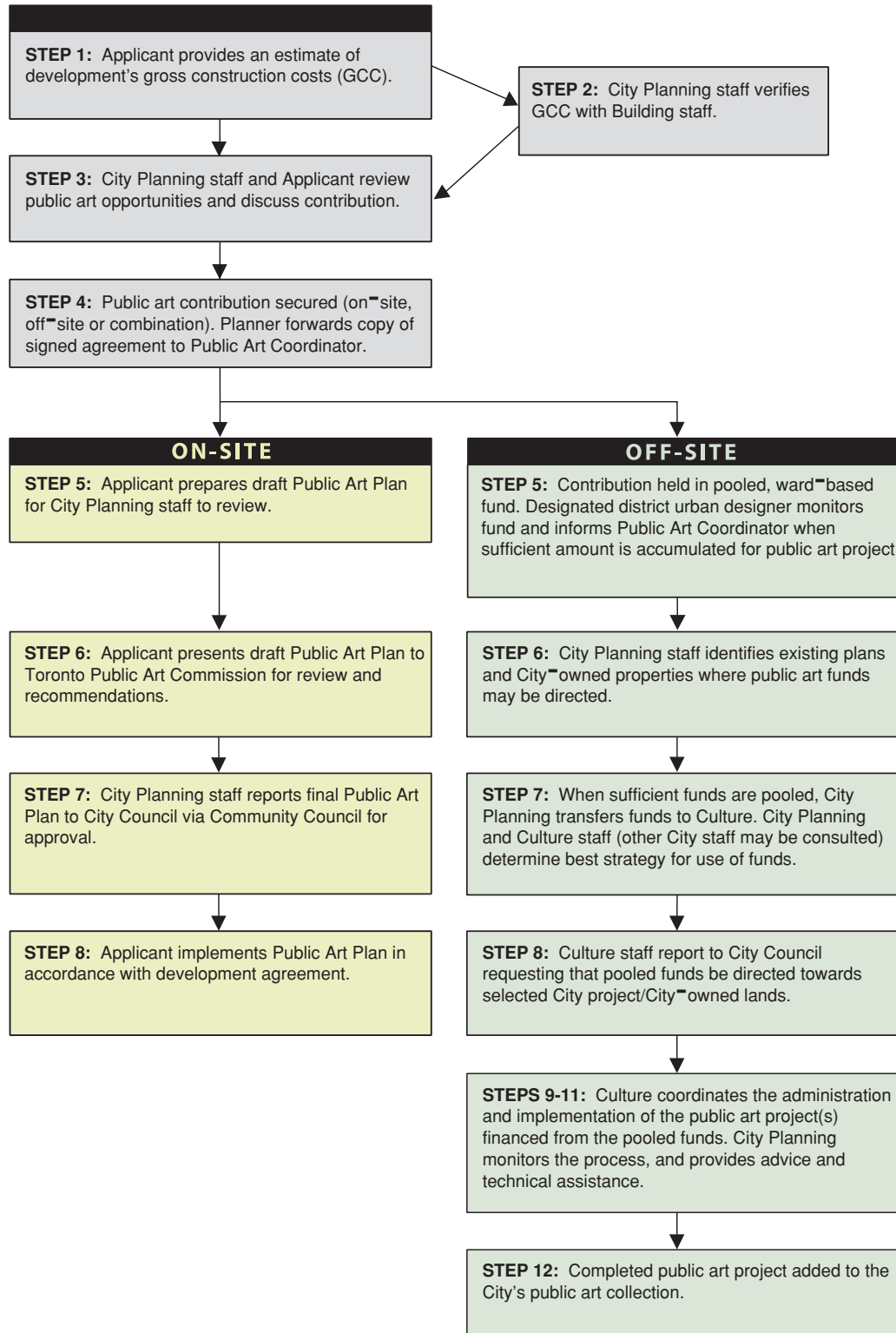
- 'On-site' Contribution: The applicant may commission public artwork to the value of the public art contribution (recommended one percent of the gross construction cost of the development) and such works shall be located upon the subject property or publicly owned lands adjacent thereto; or
- 'Off-site' (pooled) Contribution: The applicant may direct the value of the public art contribution to the City's off-site pooled Public Art Reserve Fund. The fund will be used towards City-supported public art plans on publicly owned lands in the local community; or
- 'On-site/Off-site' Combination: The applicant may commission public art work on the subject property or publicly owned lands adjacent thereto and allocate the remaining portion of the public art contribution to the City's off-site pooled Public Art Reserve Fund to be used as discussed above.

The general approach followed by City Planning to secure public art contributions is outlined in Figure 2. The individual steps are discussed in greater detail over the following pages.



"Search Light, Star Light, Spotlight", John McEwen – Air Canada Centre

Figure 2: Steps for Securing Public Art – On-site and Off-site Contributions



‘ON-SITE’ CONTRIBUTION

Development projects present exciting opportunities for new public art installations on properties across the city. In many cases, a public art installation becomes the development’s signature or calling card – ultimately enhancing the project’s profile. For this reason, applicants are becoming increasingly interested in identifying potential on-site locations for public art installations during the planning and development approval process.

To effectively implement an on-site public art program, the recommended minimum contribution level is one percent of the gross construction cost of the development.

The framework for securing on-site contributions for public art is described below.

- **Step 1:** Early in the development review process, the planner considers, in consultation with urban design staff, other City staff and/or the ward councillor, the public benefits and whether to request the provision of a public art contribution. If so, the planner requests that the applicant provide the anticipated one percent gross construction cost (GCC) for the proposal or a lump sum contribution as may be appropriate.
- **Step 2:** The planner consults with Building staff to verify that the applicant’s anticipated GCC is consistent with the current TACBOC Construction Value Standard.
- **Step 3:** The planner and the assigned urban designer review opportunities for on-site public art with the applicant and determine whether agreement can be reached on the provision of a public art contribution. If necessary, the Public Art Coordinator may be involved at this stage.
- **Step 4:** If a public art contribution is required, it should be a stated condition of approval and the conditions should include timing as well as indicate that the applicant is required to enter into an appropriate agreement (e.g. Section 37 Agreement, subdivision agreement, etc.) securing the public art contribution and program requirements prior to final bills and/or final approval. In the case of Section 37 matters, the requirements, including timing, must be included in the Zoning Bylaw amendment and where there is an accompanying Official Plan amendment, in the Official Plan amendment.

In the case of a minor variance, Planning would recommend to the Committee of Adjustment that, should the Committee authorize the variance, that the variance approval be subject to conditions on public art and the requirement for a Section 45(9) Agreement securing the public art contribution and implementation. The same approach would apply to consent applications.

When complete, the planner forwards a copy of the signed agreement to the Public Art Coordinator.

- **Step 5:** If the public art contribution involves an on-site component, the applicant, in consultation with the Public Art Coordinator, or assignee, prepares a draft public art plan. The Public Art Coordinator circulates this plan to the planner and urban designer for input.
- **Step 6:** The applicant presents the public art plan to the Toronto Public Art Commission for review and recommendations.
- **Step 7:** The Public Art Coordinator, or assignee, forwards the public art plan with the recommendations of the Toronto Public Art Commission to City Council via Community Council for approval which should generally occur prior to the issuance of the first building permit.
- **Step 8:** The applicant implements the approved public art plan in accordance with the development agreement. The Public Art Coordinator oversees this aspect of the project to ensure the conditions are met.

'ON-SITE' PUBLIC ART PLANS

A public art plan is required when the applicant decides to undertake an on-site public art program. A public art plan will outline the method by which the applicant will commission public art in the publicly accessible areas of the development. If the project is multi-phased and/or will create a new neighbourhood or district, the applicant may be asked to provide a master or district public art plan for City Council approval in advance of site-specific public art plans for each phase of development.

A master or district public art plan is a conceptual framework that proposes long term phasing and budgetary strategies, identification of prominent and priority art locations, site opportunities, art selection methods and possible themes. The Toronto Public Art Commission and City Council must approve the master plan before site-specific public art plans can be prepared.

A public art plan should be prepared at the earliest possible stages of the development to allow for the widest range of opportunities. A plan includes the project objectives, potential sites and opportunities, budget allocation (refer to Figure 1), proposed art selection method, potential artists and selection jury, projected schedule, and a public relations strategy.

In other words, a public art plan identifies “how” the program will evolve, and not “what” the art will actually be. Figure 3 outlines in detail, the eight components of a public art plan.



“Fairgrounds”, Michel Goulet – Icon Condominiums



“Untitled”, Dale Chihuly – Soho Grand Hotel

Figure 3: Components of a Public Art Plan – to be provided by private developer

Public Art Plan

1) PUBLIC ART OPPORTUNITIES AND SITE POTENTIAL

“Site-specific” opportunities should be identified which evoke some aspect of the social, political or physical context of the site through public art. If the project is large enough, the plan should include a balance of different types of public art opportunities. Because public art is a valuable contribution to be enjoyed and experienced in the public domain, the sites identified should be in the most publicly accessible parts of the development.

2) IMPLEMENTATION

The plan should be drafted at the earliest possible stage to create a well-balanced program which can be successfully integrated with the timing of rest of the project. Single and multi-phased developments can offer a variety of art sites and opportunities if planned well in advance. The public art plan shall include a projected schedule for implementation.

3) ESTIMATED BUDGET

The applicant will initially estimate the budget at the building permit stage (a sample budget breakdown is provided in Figure 1: Example Budget Disbursements). If artists are asked to address functional features such as a fountain or wind screens, the art budget is the “upgrade” to existing base costs of the element. If located on private property, the continued maintenance of the artwork will be the responsibility of the applicant and subsequent owners. If the art is commissioned on lands that will become City-owned, and is donated to the City, a maintenance endowment must be provided to the City. Once the budget is implemented, the applicant documents all invoices and cheques issued so that a complete record exists when, at the completion of the project, the City is required to review all expenditures.

4) METHOD OF ARTIST SELECTION

The Toronto Public Art Commission seeks to ensure fair, informed and competitive artist selection methods. Depending on the site opportunities and the budget allocation, artists may be selected through an invitational competition, an open competition or a direct commission.

5) POTENTIAL ARTISTS

Artists should be considered on the basis of past experience and the relationship of their experience and talents to the nature of the opportunity for public art presented by the development. Regardless of the other considerations, they must have the proven capability and experience to produce works of the highest quality. Depending on the site opportunities and overall budget, local, national and international artists may be invited to compete. If the project allows, the developer might consider including a mentor or workshop program for the benefit of other artists.

6) JURY COMPOSITION

While the composition of the jury must have a majority of members with professional art expertise, the applicant is encouraged to be part of the jury process. Normally, the jury consists of three or five people and if possible, one of the members is a local community representative.

7) PUBLIC RELATIONS PROGRAM

A public relations program includes educational and promotional initiatives and may include such features as signage and interpretative displays to help understand, appreciate and celebrate the public art.

8) CONFLICT OF INTEREST

It is understood that the art consultant will be an independent agent who will facilitate the program and act as an advocate for the artists to achieve the successful integration of the art within the development project and the surrounding urban fabric.

TORONTO PUBLIC ART COMMISSION: INFORMED PEER REVIEW

The Toronto Public Art Commission (TPAC) is a group of citizen volunteers appointed by City Council to act as an informed peer review group and advise on public art projects and policies. TPAC provides valuable independent advice to City Planning staff and the private sector in the review of private developer Public Art Plans.

The Toronto Public Art Commission is not an art selection jury; rather it provides advice on the process of developing fair, balanced and professional approaches to commissioning public art. TPAC will also provide advice on City Planning public art policies and guidelines whenever needed.

TPAC membership includes artists, urban designers, architects, landscape architects, public institution representatives, art historians, critics, developers, lawyers and other corporate representatives and individuals from the community with experience in public art.

In 2005, City Council approved the expansion of the TPAC to assist in implementing City Planning's "Percent for Public Art Program" across the entire city. Membership was expanded to 11 citizens with citywide representation. TPAC meets approximately 8 times a year and is administered by City Planning's Public Art Coordinator.



"Barca Volante", Francisco Gazitua

‘OFF-SITE’ (POOLED) CONTRIBUTION

For development projects unable to identify suitable on-site locations for public art or where the public art contribution is an amount too small to be effectively used to create on-site public art installations, the applicant’s contribution will be pooled to a ward-based public art fund. There may be other instances, such as an on-going City initiative in a local park, where it is appropriate to pursue off-site public art contributions regardless of potential on-site opportunities. Contributions to the off-site, pooled, ward-based fund will be used towards City-supported public art plans on publicly owned lands in the local community.

Funds generated through contributions are pooled until reaching an accumulated amount that is either predetermined in a local district public art plan or are of a sufficient amount to launch a public art project and/or added to other funds to build City-initiated projects which include public art.

At such a time, City Planning will contact Culture to discuss a public art initiative. Culture is responsible for the administration, implementation and maintenance of all City-owned public art projects, including those funded by ‘off-site’ developer contributions. Public art projects managed by Culture are reviewed by the Art Committee for Public Places (ACPP), a voluntary advisory committee which performs a similar role to that of the TPAC in the “Percent for Public Art Program.”

However, the funds must be implemented in a manner approved by City Planning, as the public art contributions have been secured through the planning and development approval process, and ultimately help achieve Official Plan policies for building a successful Toronto. Other City staff may be involved in the consultation.

The framework for securing off-site, pooled, ward-based contributions for public art is described below.

- **Step 1:** Early in the development review process, the planner considers, in consultation with urban design staff, other City staff and/or the ward councillor, the public benefits and whether to request the provision of a public art contribution. If so, the planner requests that the applicant provide the anticipated one percent gross construction cost (GCC) for the proposal or a lump sum contribution as may be appropriate.
- **Step 2:** The planner consults with Building staff to verify that the applicant’s anticipated GCC is consistent with the current (TACBOC) Construction Value Standard.
- **Step 3:** The planner, in consultation with the assigned urban designer and Public Art Coordinator, determine whether agreement can be reached on the provision of a public art contribution with the applicant.
- **Step 4:** Prior to development approval, the applicant enters into a development agreement which specifies the timing for the public art contribution. The planner forwards a cover letter with the contribution in the form of a certified cheque to Finance (form letter available from the Public Art Coordinator). The planner also forwards a copy of the signed agreement to the Public Art Coordinator.
- **Step 5:** A designated district urban designer monitors the off-site, pooled, ward-based fund. When the fund has accumulated to an amount identified in a local district public art plan or is of a potentially sufficient amount to launch a public art project, the designated district urban designer will inform City Planning’s Public Art Coordinator.
- **Step 6:** To assist in the determination of a public art opportunity, the planner and assigned urban designer should identify any applicable secondary plans, context plans, urban design guidelines, district plans and/or other tertiary plans and/or other public art commitments associated with the given area. The public art funds will be directed towards publicly owned properties such as parks and open spaces, streetscapes or infrastructure such as bridges, or other such public features.
- **Step 7:** The Public Art Coordinator, or assignee, contacts Culture advising that sufficient funds have been collected for public art within an identified local community. At such time, the two divisions can determine the best strategy for the use of these funds. Other City staff may be consulted.
- **Step 8:** Culture prepares a report to Council requesting that the accumulated funds be directed towards the City project that includes public art.
- **Step 9:** Culture coordinates the administration and implementation of the public art project(s)

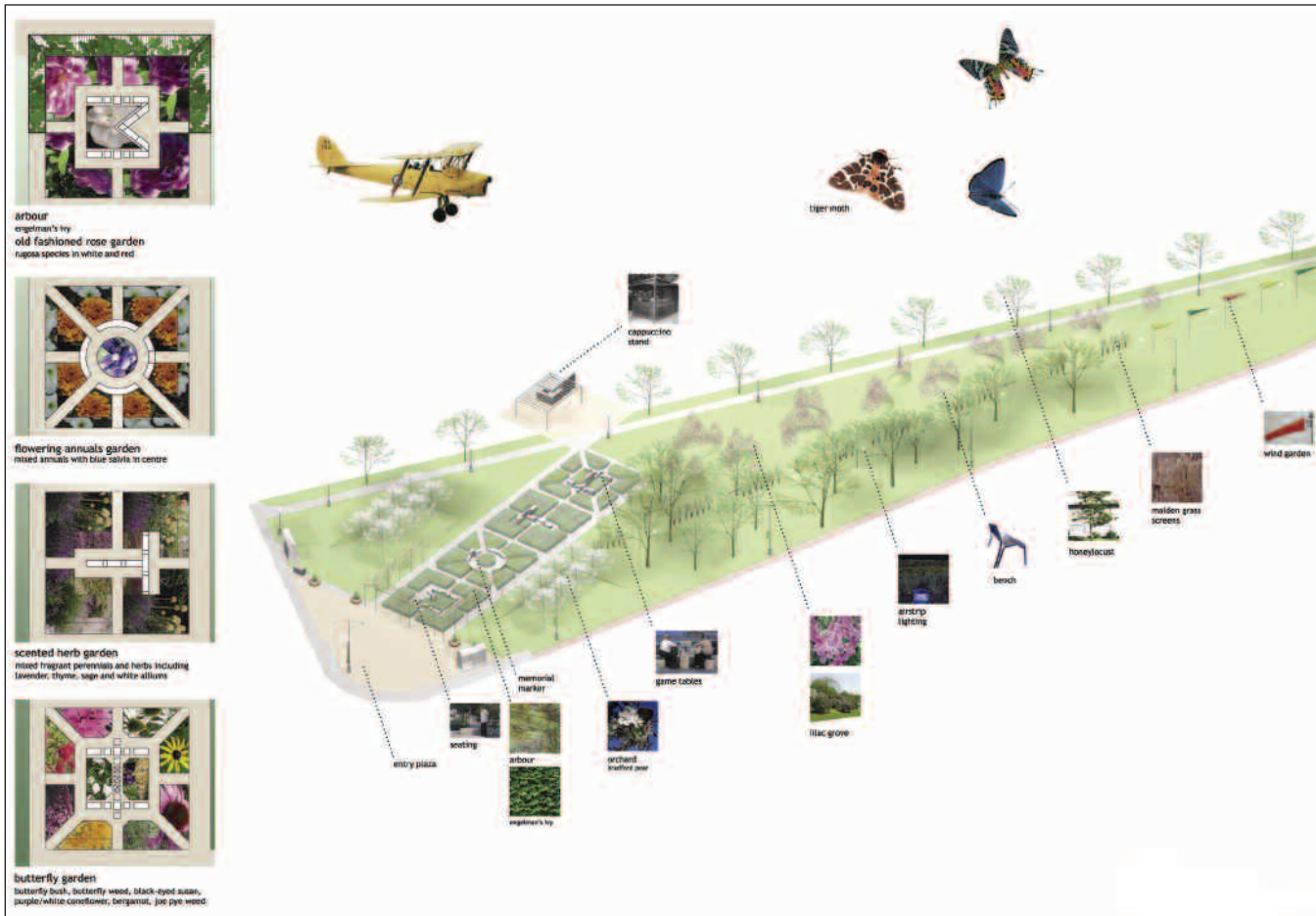
financed from the pooled funds. The Public Art Coordinator, or assignee, monitors and reviews the development of the related request-for-proposal, or public art competition, including the hiring of the project art consultant.

- **Step 10:** The Public Art Coordinator, or assignee, may participate in the competition as a technical advisor or planning resource.
- **Step 11:** The Public Art Coordinator, or assignee, monitors the agreements, implementation and completion of the public art project.
- **Step 12:** The completed public art project becomes part of the City of Toronto's public art collection and as such is included in an ongoing maintenance program.

SECTION 6: TRACKING AND MONITORING PUBLIC ART CONTRIBUTIONS

Public art contributions secured through the planning and development approval process need to be tracked and monitored. To ensure accountability and consistency for tracking these funds, each District will identify a “public art administrator”. This role may be fulfilled by the district urban design assignee. The administrator will have the following responsibilities:

- Establish, update and maintain separate files for public art monies collected through Section 37 community benefit contributions and public art monies collected outside of Section 37 agreements.
- Track and maintain records for off-site, pooled contributions from development on a ward basis.
- Arrange for transfer of pooled public art monies through Finance to the identified Culture account at the implementation stage.
- Prepare a fund tracking report quarterly, or as otherwise determined, identifying public art monies spent, accumulated and any transfers to Culture for the Public Art Coordinator.
- Maintain an inventory of the “Percent for Public Art” installations at the district level.



“MOTH Gardens”, Jeannie Thib in collaboration with Scott Torrance – Downsview Memorial Parkette

SECTION 7: SUMMARY -

Building on today's strengths for tomorrow's successes

Toronto is a dynamic, modern and exciting city with a rich history of public art policies and programs. Building on these strengths, this set of guidelines is designed to support public art initiatives as part of the development approvals process and to assist City Planning staff with the implementation of the “Percent for Public Art Program” across the city.

The Official Plan recognizes the important contribution of public art to the quality of the public realm and to city building. Public art helps to make buildings, open spaces and neighbourhoods attractive and memorable places where people want to visit, live, work and play. City Planning looks forward to continuing success with public art on a citywide basis. These guidelines represent an important tool for securing high quality installations as the private and public sectors work together to build our neighbourhoods and communities.



Public art under construction