

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:

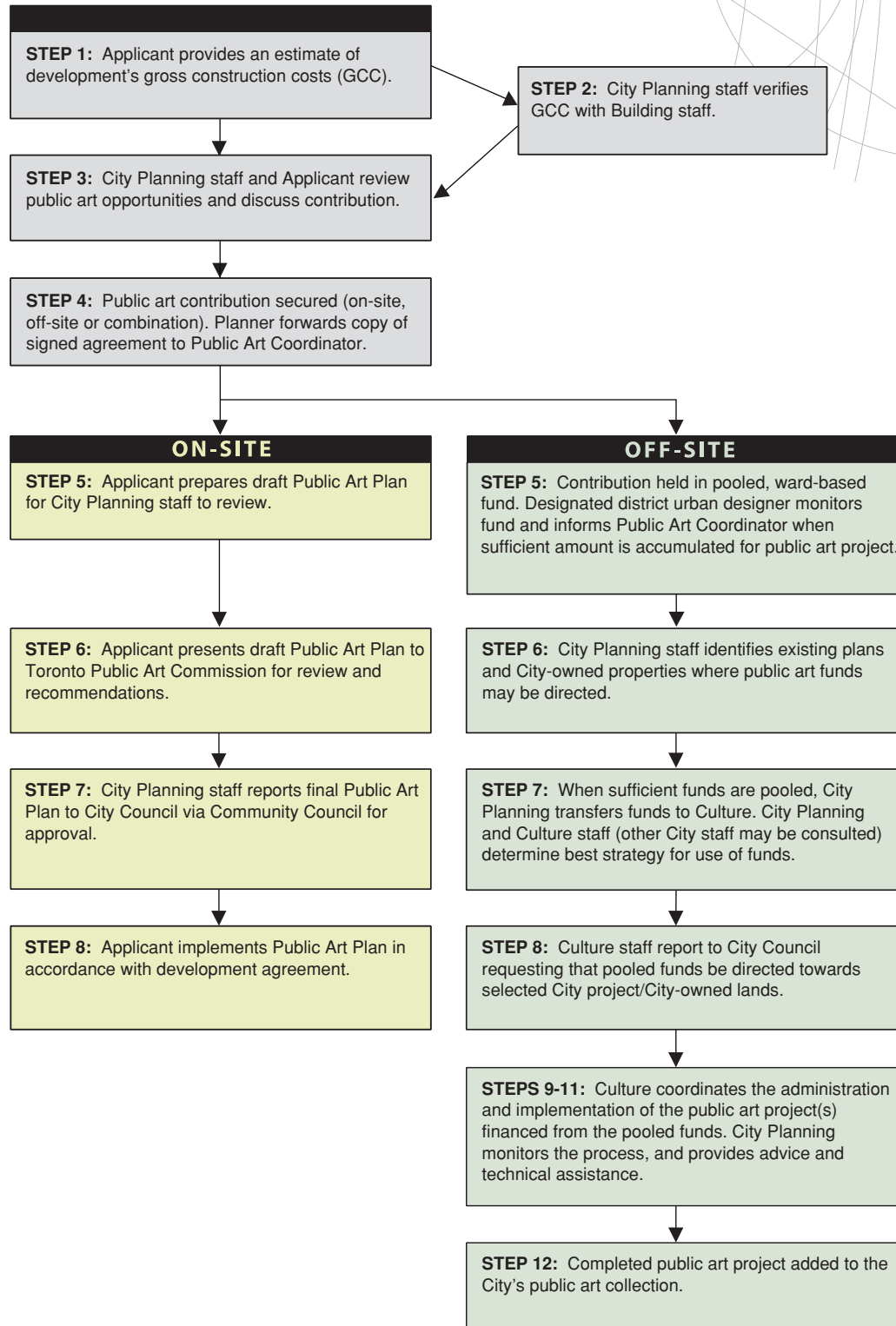
- 'On-site' Contribution: The applicant may commission public artwork to the value of the public art contribution (recommended one percent of the gross construction cost of the development) and such works shall be located upon the subject property or publicly owned lands adjacent thereto; or
- 'Off-site' (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. It is suggested that the Public Art Coordinator 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



"Alberi di Murano", Barbara Astman – the Murano Condominium



"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 - City Place



"Straight Flush", James Turrell - Bay Adelaide Centre

