	Public Art Policy –Markham Municipal Projects	
	Policy Category: <i>Public Realm Related</i>	
	Policy No.: 2012 CFS 02	Implementing Procedure No.:
Approving Authority: Markham Council		Effective Date:
Approved or Last Reviewed Date:		Next Review Year: <i>2015</i>
Area(s) this policy applies to: All		Owner Department: <i>Culture</i>
Related Policy(ies): <ul style="list-style-type: none"> Federal copyright legislation and applicable construction legislation and applicable Markham bylaws per project e.g. Heritage districts; <i>Varley Art Gallery Collection Policy and Procedures.</i> 		

Note: Questions about this policy should be directed to the Owner Department.

1. Purpose Statement

This policy is established to direct the integration of public art into *public places* in Markham through a well-administered and appropriately funded public art program. Public art is considered to be a key component to the uniqueness and identity of a municipality.

A strong policy designed specifically for Markham will ensure a valuable public art program that integrates with our environment and is relevant to Markham.

2. Applicability and Scope Statement (*Who and what this policy applies to and/or affects*)

This policy applies to the procurement and management of Public Art for municipal facilities and public right-of-ways, parks and other municipally owned properties, which constitute part of the *public realm*. It includes publicly-owned, operated or managed municipal buildings and parks/open spaces. Eligible projects include new construction, major renovations in excess of one million dollars and all park and open space projects. Markham will commission public art in a variety of public spaces such as: boulevards, sidewalks/streetscapes, esplanades, promenades, squares, parks, urban forests, bridges, walls, pathways and so on.

3. Background *(Indicate any reasons, history, and intent that led to the creation of the policy)*

A Public Art Policy Framework was previously approved by Council. The main outcomes of the Public Art Policy Framework were to direct staff to define a Public Art Policy, to develop a municipal public art plan and to develop funding mechanism to support a public art program. Council has established the Markham Public Art Advisory Committee that has organized several pilot projects. This policy implements the approved framework.

4. Definitions

- A. **Accession/ Acquisition:** The procedure of acquiring and recording a public artwork as part of the public art collection.
- B. **Art Acquisition Committee:** refers to the designated committee as defined by Markham Collection Policies. Its role is to evaluate the relevance of an art work for its inclusion into a collection.
- C. **De-accession:** The procedure of removing a public artwork from its site and from the public art collection.
- D. **Maintenance Plan:** A plan to assess public works of art and issue conservation and maintenance recommendations along with a maintenance assessment report and maintenance duty schedules.
- E. **Public:** The general population which encounters a public artwork over the course of its lifetime, including both residents and visitors.
- F. **Public Art:** An original artwork which is accessible to the general public and has aesthetic qualities. Typically creation of public art takes into consideration site and context as part of its process; the artwork can be permanent, transitory, functional, integrated or discreet to its site, community based, immaterial (example sound or light art, performance) or virtual.
- G. **Public Art Plan:** A three year plan that identifies possible sites and recommended priorities where public art projects could be developed. The plan defines scope of each project, its terms of reference and conditions and budget. It will establish the terms and conditions the objectives and outcomes of the public art program.
- H. **Public Art Program:** The public art program refers to the process through which public art is planned, produced, maintained, documented and inventoried.
- I. **Public Art Gift/Donation:** At any time, a gift of a public artwork, statue or monument, to the municipality. Gifts of art or statues to Markham may be accepted where in compliance with the Varley Art Gallery Collection Policy and Procedures and recommended by the Varley Art Gallery Art Acquisition Committee.
- J. **Public Places:** Refers to places that are accessible to the public, and where the public meets to exchange ideas, products or services. Usually owned by the municipality for the benefit of the community.

- K. **Public Realm:** All privately or publicly owned spaces, indoors and outdoors, which are generally accessible, either visually or physically, to the public free of charge. Also referred to as public places; when referred to as public domain it can act as a social space, a forum for discussion, a place to reach consensus.
- L. **Selection Panel:** Refers to a group of people composed of art professionals and members of the community selected to serve as members of a jury to select an artwork in the context of a public art program for a specific location.
- M. **Varley Art Gallery Collection Policy and Procedures:** provides the ethical guidelines and procedures for acquisition and de-accession of artworks to meet museum standards for Markham.

5. Policy Statements

The Public Art Policy serves as a basis for the acquisition, installation, maintenance, management and programming of public art in Markham. This policy and supporting management framework will apply to all public art under the stewardship of Markham.

Vision for Public Art in Markham

Public Art brings value to Markham, provides a unique perspective to its site and acts as a constant delight to residents and visitors to Markham. Public art contributes to our economic vibrancy. Public art impacts many aspects of community living. Public art enriches daily life through experiences and attracts people to share and shape their identity. Public art allows for the making of a culture.

1. Funding:

- a. Markham will establish a Public Art Acquisitions Reserve Fund to receive cash contributions from both public and private entities. The fund will be utilized to acquire public art in accordance with the eligibility criteria and for specific contributions for maintenance and conservation as determined at time of contribution.
- b. Council will allocate **up to one percent of Markham capital projects** for Markham public art program as follows: -all new building construction projects, renovations over one million dollars, all -parks and open spaces projects, -major street reconstruction projects, major waterworks projects that impact the public, major bridge replacements.
- c. Existing municipal sites for possible public art projects will be identified in a rolling three year plan. The related administration, production, maintenance and conservation will be funded through the annual capital budget allocation process.
- d. Operational aspects of the public art program for management and maintenance will be based on the recommendations in the three year public art plan and be brought forward annually through the capital budget process.
- e. Additional funds will be sought through donations, donations in-kind, private contributions, financial assistance from foundations and Markham capital budget.
- f. Allocations of more than one percent of a capital project budget for public art acquisition may be approved for major projects subject to Council approval.

2. Eligibility Criteria for Municipal Projects

This Policy identifies eligibility criteria and principles to guide the selection and the management of projects. Council will allocate up to one percent of construction cost of new municipal construction budgets and municipal renovation projects over one million dollars for the purpose of public art; it includes

- all new building construction projects
- renovations over one million dollars
- all parks and open spaces projects
- major street reconstruction/streetscape projects
- New or major upgrades to bridges, fences, walls and barriers

Below ground services and paving projects are not eligible for contribution under these public art policies. However, Markham should assess the opportunity to commission a public art work when a community is inconvenienced by a major infrastructure project such as waterworks projects.

Placement of Municipal Projects:

The public art project should be publicly accessible and consideration given to locate projects in high traffic and high profile sites including:

All major municipal buildings and sites, e.g. civic centre

- Parks and open spaces
- Streetscapes, right of ways
- New or major upgrades to bridges, fences, walls and barriers
- Gateways/municipal entrances

3. Policy Administration:

- a. The Culture Department is responsible for the administration of the public art program and contributes to the overall development and priorities determined by Council.
- b. The Public Art Policy Framework approved by Council acts as a guideline for the implementation and administration of the Public Art Policy.
- c. The practices, standards, administrative processes and outcome measures of the Public Art Policy will be developed with a best practices approach by the Culture Department.

4. Key steps of the Process for the Public Art Program:

- a. Markham's strategic planning documents will incorporate public art as an integral part of their plan.
- b. The Culture Department prepares and submits a three-year public art plan to Council.
- c. The Culture Department establishes guidelines and procedures for the administration of public art projects.
- d. The Culture Department constitutes a *Selection Panel* for the evaluation of public art proposals on a project by project basis. The Selection Panel membership will be for a period of one to three years.
- e. The Selection Panel will choose a public art proposal through the defined process and will give its recommendation to the Culture Department.
- f. The Markham Public Art Advisory Committee will review the recommendations of the Selection Panel and advises the Culture Department and Council according to their terms of reference.
- g. Key departments bring their expertise to the public art program: Operations, Financial Services, Planning and Urban Design, Asset Management, Recreation, Communications and Community Relations, Legal and others as required.

5. Public Art Collection Management:**Acquisition & Management**

1. Original works of public art be shall be accessioned, de-accessioned and managed according to *Varley Art Gallery Collection Policy and Procedures*.
2. Gifts of art or statues to Markham may be accepted where in compliance with the Public Art Accession and Gift Policy and recommended by the Varley Art Gallery Art Acquisition Committee.
3. Commissioned public art are recommended through the Selection Panel.

A) Public Art Ownership

1. Ownership of artwork shall be transferred by the artist to Markham upon its final installation.
2. In accepting ownership of public art, Markham accepts responsibility for its maintenance, insurance and for upholding contractual agreements made with the artist.
3. Copyright privileges, in accordance with the Canadian Copyright Act shall remain with the artist.

B) Insurance and Liability

1. The artist in charge of the public art project provides and maintains insurance coverage for the duration of the creation, fabrication and installation of the artwork.
2. Upon completion and installation at the prescribed site, the finished artwork be insured by Markham until such time as it is de-accessioned from the public art collection inventory.

C) Documentation

1. All public artworks shall be documented according to Varley Art Gallery Collection Policy and Procedures standards.
2. All public art works shall be included a Public Art Inventory maintained at the Varley Art Gallery

D) Maintenance and Conservation

1. During the artwork and site selection process, due consideration is given to maintenance requirements including structural and surface soundness, inherent resistance to theft, vandalism and weathering as well as to the cost and amount of on-going maintenance and/or repair anticipated.
2. The artist is responsible for providing any and all requested information regarding maintenance requirements that are unique to a particular public art project.
3. Maintenance and conservation for public art will be funded through the annual capital allocation process to ensure preservation of the public art collection.

E) Donations and Gifts

1. Under exceptional circumstances, and as recommended by the Varley Art Acquisition Committee, donations and gifts of artworks may be accepted into the public art program.
2. Markham retains the right to accept or decline donations and gifts of other artworks.
3. When possible, a financial contribution for conservation and maintenance will be obtained from the donor.
4. Charitable tax receipts, when applicable and permitted by law be issued in accordance with Markham policy.

6. Guiding Principles:

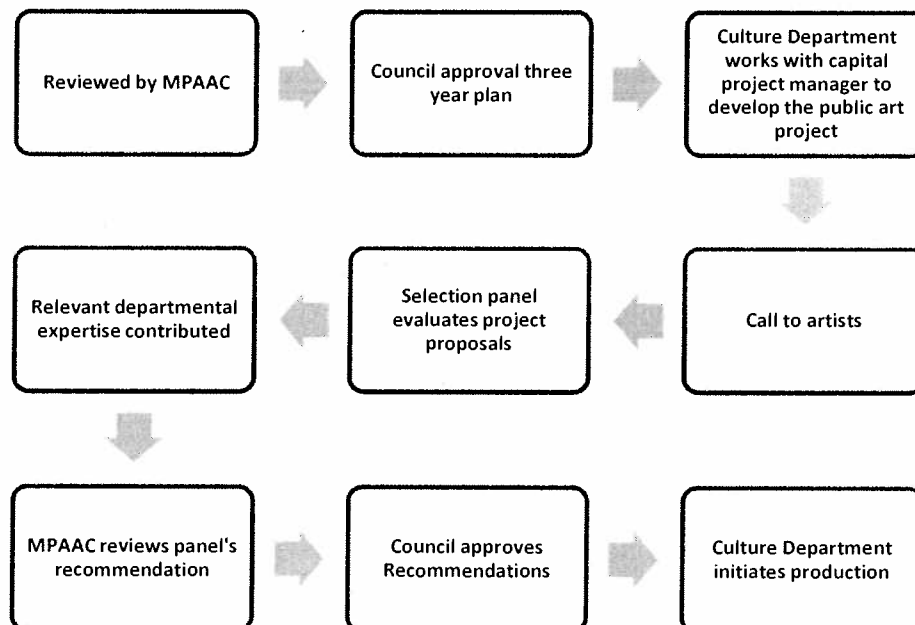
Markham supports the acquisition, installation and management of public art through adherence to the

Guiding Principles:

1. **Collaboration** – The program will encourage joint participation by artists and the community in projects that meet specific community needs and aspirations. The public art program will encourage participation from other levels of government and the private sector
2. **Accessibility** -- The Public Art Policy and supporting management framework strives to provide visual art opportunities and initiatives that are accessible to all in Markham regardless of their geographic location, affiliation and demographic. Public Art projects will be publicly accessible: a) for above ground buildings including all major municipal buildings; b) for parks; c) for industrial parks; d) for new or major upgrades to bridges; e) for neighbourhood place making and community identification
3. **Sustainability and Responsibility** – A successful and enduring public art presence in Markham relies on sustainable funding, responsible management, strategic planning, and appropriate maintenance and conservation. Council delegates the responsibility and authority to lead all public art matters, including development and implementation of the management framework, to staff
4. **Open and Transparent Processes** -- The Public Art Policy and supporting management framework will rely on open and transparent processes to ensure equitable and respectful practices for all involved parties
5. **Fairness/Equity** – Public art projects shall be chosen by the Selection Panel in a fair and equitable manner,
6. **Artistic Merit** – The Public Art Program shall strive for high artistic standards and public art projects shall be chosen on the basis of artistic merit
7. **Professionalism** – Individuals engaged in the management and implementation of the public art program shall exhibit the highest degree of dedication and competence in the execution of their assigned duties
8. **Community Input and Engagement** -- The Public Art Policy and supporting management framework values community engagement and will create a variety of opportunities for public input and involvement through public programs and activities

9. **Outreach** – The Public Art Program will endeavour to stimulate individual artist creativity at the local and national level through the provision of educational and public awareness opportunities for learning, participation, and experimentation in arts and culture
10. **Diversity** – Diversity will be incorporated into the public art program including artist and committee member selection, site selection, media, scale and style of artwork, through experimentation with new art forms as well as traditional forms, and through the work of emerging as well as established artists
11. **Innovation** – The public art program shall enable participation by professional artists throughout the design process of public art projects.
12. **Acquisition and De-accession of Public Art** – Markham’s criteria for the acquisition and the de-accession of public art is defined in the Varley Collection Policy approved by Council and available to the general public.
13. **Copyright** - In accordance with the Copyright Act, Markham acknowledges the artist as full owner of copyright including moral rights and will negotiate the transfer of certain rights through individual artist contracts.

7. Flow Chart:



8. Guidelines and Process for the Selection of Public Art:**Purpose and Applicability:**

The intent of the guidelines is to ensure art is selected through by a publicly accountable process combining expert evaluation and community input. The Guidelines describe the process for developing public art at new and existing civic capital projects, and set out the roles of City Council, staff, the Markham Public Art Advisory Committee and the Selection Panel.

1. THE PUBLIC ART PLAN

The Culture Department will prepare a Public Art Plan for consideration by the Markham Public Art Advisory Committee (MPAAC). The Plan sets out the budget, artist participation, selection process, community process, and other matters as appropriate. The Markham Public Art Advisory Committee (MPAAC) reviews and recommends the Plan to Council for budget approval and for the authority to initiate projects.

2. SELECTION METHODS

Artists or artist proposals are generally selected by a Selection Panel, and members of the Selection Panel are contracted by the Culture Department. The intent is to ensure artists are selected on merit by a process informed by expertise and community input. Proposals by artists are generally solicited through open competition, through invited submission, or through a curatorial process leading to direct commission.

3. SELECTION PANEL COMPOSITION

- a) Selection panels consist of 3 to 5 voting members and also non-voting advisors as needed to supply technical information or community advice. The panel process allows for neighbourhood input or representation. Members of the Selection Panel should reflect community diversity.
- b) A typical panel might consist of the following:
 - project engineers, architects or project representatives
 - artists
 - curators or other visual arts professionals
 - community representatives
- c) Typical panel advisors might be:
 - project staff
 - technical staff

4. SELECTION PANEL TERMS OF REFERENCE

The terms of reference for the Selection Panel are set at the project development stage by the Staff.

5. SELECTION CRITERIA

- a) Artists are chosen by majority vote on the basis of their qualifications and previous work, their experience with projects at similar scale, their capacity to work in demanding environments with communities or other design professionals, and their record of success.
- b) Proposals are selected by majority vote for their artistic merit, response to project terms of reference, capacity to advance public art program goals, responsiveness to the site and community, technical feasibility, and their probability of success.
- c) The Selection Panel and its technical advisors will consider the proposal's materials, construction and durability, maintenance, public access, and safety.
- d) Selection panels may make no selection, in which case the selection process may be re-opened at a later date.

6. PANEL REMUNERATION

Members of the Selection Panel who are asked to provide an expert evaluation of proposals are paid honoraria.

7. PROPOSAL REVIEW

The Culture Department will ensure all proposals are reviewed prior to final selection for safety and liability, compliance with by-laws and requirements, technical feasibility, cost, and other aspects as needed. No final selection will be made or announced until any question on these issues is resolved. Culture Department will confer with other affected departments prior to finalization.

8. COMMISSION PROCESS

Artists are contracted as needed to provide proposals, small scale models (maquettes) and commissions.

9. PROJECT DOCUMENTATION & REGISTRATION

Project documentation, which includes project maintenance and conservation information, is registered in the public art inventory

6. Roles and Responsibilities

6.1 Markham Council:

- a) Approves the policy
- b) Approves terms of reference and appointments to the Markham Public Art Advisory Committee.
- c) Approves the three year public art plan, establishes priorities, and approves the annual budget for the public art program.
- d) Receives and approves the recommendations issued by the Selection Panel and reviewed by the MPAAC

6.2 Culture Department:

- a) Implements and manages the Public Art Policy and program, and each year, oversees the plan and budget
- b) Is responsible for the development and the implementation of operational procedures in the matter of public art, selection, funding, conservation and maintenance.
- c) Advises Council on the management of the public art collection and the use of gifts and expenditures of donated funds to the Reserve Fund for public art projects.
- d) Reports annually to Council on activities within the Public Art Acquisitions Fund.
- e) Supervises the projects through the year and oversees the status of the public art collection and the archival material.
- a) Receives suggestions, recommends and contracts members of the Selection Panel

6.4 Markham Public Art Advisory Committee (MPAAC):

- Is comprised of, but not limited to, such individuals as visual artists, curators, architects, landscape architects, art historians, civil engineers and business representatives.
- Assists in setting a vision and objectives for the public art program.
- Advises Markham on the following:
 - Helps Markham enliven its city spaces and public parks with public art
 - Ensures that Markham's diverse communities are involved and engaged
 - Anticipates and influences policy, actions and approaches for the placement of public art on public lands
 - Advises Council on Staff and Selection Panel' recommendations
 - Reviews the public art plan before Council approves it.

6.5 Selection Panel:

- a) Members of the Selection Panel are contracted by the Culture Department
- b) Members choose the successful public art proposal
- c) Membership of the Selection Panel shall vary between three to five people depending on the scope of the project
- d) The majority of the members shall be artists and arts professionals, and include representation from the



community in which the project will be sited.

- e) Members serving on a Selection Panel are paid an honorarium based on current practice -- to be determined by the Director of Culture
- f) Members of the Selection Panel may serve for a period of one to three years on more than one project

6.6 Markham Expertise:

Many Departments will provide their expertise in the review of the approved public art project and in the production-construction-installation of specific public art projects. Subject to scope of the project and not limited to this list: Planning and Urban Design, Operations and Asset Management, Recreation, Finance and Legal, for contracts, will normally be reviewing projects.

6.7 Conflict of Interest:

Staff and all members of the Markham Public Art Advisory Committee, and members of the Selection Panel shall declare a conflict of interest, pecuniary or any other interest, and remove themselves in all cases from a juried selection process where a project comes before the committee in which he or she is involved either directly or indirectly.

Prepared April 23, 2012

