



# City of Richmond

## Report to Committee

**To:** Parks, Recreation and Cultural Services Committee

**Date:** February 8, 2019

**From:** Biliانا Velkova  
Public Art Planner

**File:** 11-7000-09-00/Vol 01

**Re: Options for Use of Private Developer Public Art Contribution Funds**

### Staff Recommendation

That the proposed option to maintain status quo funding of Community Public Art Programs with Private Developer Public Art Contributions in the report titled "Options for Use of Private Developer Public Art Contribution Funds" dated January 21, 2019 from the Director, Arts, Culture and Heritage Services, be endorsed.

Jane Fernyhough  
Director, Arts, Culture and Heritage Services  
(604-276-4288)

Att. 1

REPORT CONCURRENCE		
ROUTED TO:	CONCURRENCE	CONCURRENCE OF GENERAL MANAGER
Finance Department	<input checked="" type="checkbox"/>	
Development Applications	<input checked="" type="checkbox"/>	
Law	<input checked="" type="checkbox"/>	
Community Social Development	<input checked="" type="checkbox"/>	
REVIEWED BY STAFF REPORT / AGENDA REVIEW SUBCOMMITTEE	INITIALS: 	APPROVED BY CAO 

## Staff Report

### Origin

At the April 24, 2018 Parks, Recreation and Cultural Services Committee Meeting the following referral motion was approved:

*That staff provide options for the Public Art Program Policy regarding developer contributions for public art such as directing funds towards alternative options.*

This report brings forward information on the use of the contributions from private developers to Public Art and provides options to address questions raised by Council. Staff recommends keeping the status quo with funding to Community Public Art Programs in the existing Policy.

### Analysis

The intent of the Public Art Program is to animate the built and natural environment with meaning, contributing to a vibrant city in which to live, work and visit. By placing artwork in our everyday environment, the Public Art Program sparks community participation in the building of our public spaces, offers public access to ideas generated by contemporary art; celebrates community history, identity, achievements and aspirations; encourages citizens to take pride in community cultural expression and creates a forum to address relevant themes and issues of interest and concern to Richmond's citizens.

At the April 24, 2018 Parks, Recreation and Cultural Services Committee Meeting, questions were raised regarding whether developer contributions for public art could be redirected to other arts programs or to build facilities, including arts facilities.

This report provides some context to the Public Art Program's activities and some options for the direction of developer contributions.

### Public Art Program Policy Goals and Objectives

On July 27, 2010, Council endorsed the Public Art Program Policy 8703 (The Policy) (Attachment 1). This Public Art Program Policy outlines the City's goals and process for selection and implementation of public art in the City and includes commitments to community diversity and sustainability.

The Policy, updated from the original version of 1997, was developed through a review of Richmond's Public Art Program and of best practices of public art implementation in other communities. Through workshops with the Richmond Public Art Advisory Committee (RPAAC), community consultation, and feedback from the Urban Development Institute (UDI), the following Policy Objectives were established:

- a) Increase opportunities for the community and artists to participate in the design of the public realm;
- b) Develop original site-specific works of art in order to contribute to cultural vibrancy;

- c) Select art through an arm's length process incorporating professional advice and community input that ensures the quality of art and its relevance to the community and site;
- d) Ensure that a public and transparent process is maintained to develop and accept public art;
- e) Enter into partnerships with private and public organizations to further public art in the City; and
- f) Ensure that public art, and the environs of that art, are maintained in a manner that will allow for continued public access to, and enjoyment of, these artworks in appropriate settings.

Within the Policy, the Richmond Private Development Public Art Program encourages the private sector to support the integration of public artworks into public space through collaboration with artists, design professionals and community members in the selection of that art. In the Development Permit Guidelines in the Richmond Official Community Plan, the Public Art Policy is identified as a development standard to be applied across the entire community to achieve a high standard of urban design for the public realm.

#### Richmond Private Development Public Art Contributions

Public art contributions are voluntary. Development incentives are not offered in exchange for the contributions. When a private developer agrees to contribute to the Public Art Program, the developer has the following options:

- going through a process of commissioning public art of a value equal to the public art contribution (to date, 60 permanent artworks have been installed through this process);
- providing a cash contribution in lieu of artwork to the City's Public Art Reserve for city-wide programs; or
- a split of the contribution between the provision of artwork and a deposit to the Reserve.

For public art contributions that are less than \$40,000, a cash contribution is made to the City's Public Art Reserve for city-wide Public Art Programs. In implementing the Public Art Program, Council approved through bylaw, the establishment of the Public Art Statutory Reserve Fund, for the purpose of holding funds for expenditures related to public art capital projects and public art public programs. Recommended expenditures from the reserve fund are presented for Council approval as part of the City's annual Capital Budget.

The recommended voluntary contribution rate for Richmond private development is set at 0.5 per cent of construction cost. The City issues guidelines for calculating the public art contribution based on an amount per square foot rate with annual Consumer Price Index adjustments beginning in 2010. There are different rates based on building types (residential, commercial and industrial). The guideline rate for 2019 for residential uses is \$0.87 per square foot, \$0.46 per square foot for commercial and \$0.25 per square foot for industrial. The contributions from private developers are secured at the time of Rezoning or Development Permit approvals.

Certain types of developments are exempt from participating in the program, including:

- purpose-built non-market rental housing;
- secured market rental;
- subsidized social housing;
- community amenity spaces;
- community care facilities;
- congregate housing;
- child care;
- health services; and
- educational uses.

These exempt facilities are eligible to apply for public art project funding through the Community Public Art Program, which is funded through the Public Art Reserve, made up of developer contributions through the Private Developer Public Art Program.

#### Private Developer Public Art Contribution Current Program Use

The Public Art Statutory Reserve Fund is currently directed to a range of city-wide community public art programs, as per Item 7.3.1 of the Policy (Attachment 1). When the Policy was updated in 2010, as part of the stakeholder consultation process, UDI expressed concerns about developer contributions being used for anything other than physical art pieces. Nevertheless, in keeping with current best practices and trends in the field of public art, the City established a Community Public Art Program (which includes temporary public art works, videos, etc.) as an integral part of the program and the Policy.

Therefore, the Reserve Fund is used to support the creation not only of physical artwork on civic property; it pays for a wide range of public art programs and activities understood as vital to community engagement through art-based activities, education and partnerships with diverse groups. The following programs are currently made possible with the private developer public art contributions:

- Engaging Artists in the Community Program. Recent examples include: *Minoru Stories* at the Minoru Seniors Centre, *Stepping Stones* at the City Centre Community Centre and *Musqueam Workshops* at the Richmond Public Library;
- Functional public art projects on public land including shelters and benches. (e.g., Tait Park Pavilion);
- The recently endorsed Richmond Mural Program;
- Sanitary and storm Sewer Access Cover Program and Utility Box Vinyl Wraps;
- Collaborations with community partners such as the Richmond Public Library, Richmond Art Gallery, Capture Photography Festival and others;
- Children's Arts Festival workshops with professional artists;
- Public art exhibition opportunities for local 2D artists including No. 3 Road Art Columns;

- Public Art Bus Tours such as the Indigenous Public Art Tours;
- Five permanent artworks have been approved for installation in parks and other public spaces including the recently approved *Wind Flowers* on Gilbert Road and *Pergola Garden* in West Cambie Park; and
- Professional Development Programs and Workshops for local artists.

Any redistribution of funds from the Public Art Reserve Fund would negatively impact the provision of these community public art activities and programs.

#### Redirecting Private Developer Public Art Reserve Funds

As per the Policy, contributions to the Public Art Reserve Fund must be used for Public Art Program activities. The City is legislatively bound to comply with the reserve fund use limitations and has made that commitment to developers and is therefore precluded from using the funds for any other purpose, including the building or maintenance of facilities, including arts facilities or other arts programs or services.

#### Developer Contributions to City Facilities within the City Centre

The Local Government Act permits the use of density bonuses to encourage developers to make voluntary contributions towards community amenities. The City Centre Area Plan (CCAP) Village Centre Bonus (VCB) includes provisions for a non-residential density bonus in strategic locations through the City Centre in exchange for 5 per cent of the density bonus floor area being used for the construction of City owned space within a development. The decision to pursue physical space within a development taking advantage of the VCB provisions is at Council's discretion.

To date, the City has secured a number of City facilities within private developments in the City Centre including community centres, numerous childcare facilities and office/commercial space. In situations where the City does not wish to seek physical space within a development taking advantage of the VCB, a cash-in-lieu contribution based on the potential City facility size is secured and deposited into the City Centre Facility Development Fund ([sub-fund of the Leisure Facility Reserve][ Bylaw 7591]). The funds deposited into the City Centre Facility Development Fund and any interest earned on it, must be used only for the purpose for which this reserve was established, in accordance with the BC Community Charter.

#### Options

##### **1. Status Quo with funding to Community Public Art Programs (Recommended)**

Maintain the current Policy, created through consultation with various stakeholders, to balance the complementary interests of private developers and the City in providing community benefit through the provision of public realm enhancement and community-engaged programs.

## **2. Replace Public Art Program Policy**

The existing Policy was developed through feedback from stakeholders including UDI and the Richmond Public Art Program depends on the voluntary participation of developers; that is, development incentives are not offered in exchange for the contributions. Any changes to the current policy should involve consultation with the impacted stakeholder groups, particularly UDI. Based on previous feedback, any significant change to the policy to redirect the funds can be anticipated to trigger a negative reaction from the development community and significantly impact the rate of participation.

Council can replace the current Policy and/or create an additional new policy that directs developer contributions to a different range of usages such as arts facilities.

Note: All Public Art contributions negotiated or made in advance of any new Policy would remain subject to current Public Art Program spending guidelines until the existing Reserve is depleted. Only legal agreements entered into after a new Policy is enacted would permit a different distribution of funds.

### **Financial Impact**

No financial impact.

### **Conclusion**

The Richmond Public Art Program is recognized across Canada as a leader in working with the development community to place meaningful art in the public realm, help to enhance community participation in the arts, nurture local artistic talent and achieve a high standard of urban design. Voluntary Developer Contributions to the Public Art Reserve are essential funding sources for the public art program, the provision of public art works and the community programs that serve to make Richmond an appealing and livable city.



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Att. 1: Policy 8703–Public Art Program



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**Policy 8703:**

It is Council policy that:

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## RICHMOND PUBLIC ART PROGRAM

### 1. APPLICATION AND INTENT

- 1.1 **Public art** is defined as artwork in the public realm, which is accessible physically or visually to the public and possesses aesthetic qualities. Public Realm includes the places and spaces, such as building facades, parks, public open spaces and streets, which provide physical or visual access to the general public.
- 1.2 **Public Art Program:** Public art animates the built and natural environment with meaning, contributing to a vibrant city in which to live and visit. By placing artwork in our everyday environment, the Public Art Program sparks community participation in the building of our public spaces, offers public access to ideas generated by contemporary art, celebrates community history, identity, achievements and aspirations, encourages citizens to take pride in community cultural expression and creates a forum to address relevant themes and issues of interest and concern to Richmond's citizens.

### 2. PROGRAM GOALS

- 2.1 The Public Art Program strives to:
- a) **Spark community participation** in the building of our public spaces, encouraging citizens to take pride in public cultural expression;
  - b) **Provide leadership in public art planning** through civic, private developer, community and other public interest initiatives to develop the City's cultural uniqueness, profile and support of the arts;
  - c) **Complement and/or develop the character of Richmond's diverse neighbourhoods** to create distinctive public spaces, which enhance the sense of community, place and civic pride;
  - d) **Increase public awareness**, understanding, and enjoyment of the arts in everyday life, and provide equitable and accessible opportunities for Richmond's diverse community to experience public art;
  - e) **Encourage public dialogue** about art and issues of interest and concern to Richmond residents; and
  - f) **Encourage public art projects that work towards achieving a more sustainable community**, environmentally, economically, socially and culturally.

### 3. PROGRAM OBJECTIVES

- 3.1 The objectives of the Public Art Program are:
- a) **Increase opportunities for the community and artists** to participate in the design of the public realm;
  - b) **Develop original site-specific works of art** in order to contribute to cultural vibrancy;
  - c) **Select art through an arms'-length process** incorporating professional advice and community input that ensures the quality of art and its relevance to the community and site;





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- d) **Ensure that a public and transparent** process is maintained to develop and accept public art;
  - e) **Enter into partnerships** with private and public organizations to further public art in the City; and,
  - f) **Ensure that public art, and the environs of that art, are maintained** in a manner that will allow for continued public access to, and enjoyment of, these artworks in appropriate settings.
- 3.2 The Public Art Program will maintain a continuous, consistent and affordable funding mechanism to support the City's commitment to public art.

**4. ADMINISTRATIVE PROCEDURES**

- 4.1 Council approval is required for all public art plans and projects on City controlled property.
- 4.2 The City will develop administrative procedures relating to the management of projects, including: selection processes, developer contributions, donation and de-accession guidelines, site considerations, documentation and maintenance (the "Public Art Program Administrative Procedures Manual").
- 4.3 The City will maintain a Public Art Program Reserve to hold public art allocations from both public and private sources for capital expenses.
- 4.4 The City will maintain a Public Art Program Operating Provision to hold public art allocations from private sources for operating expenses relating to the administration of the Public Art Program.

**5. CIVIC PUBLIC ART PROGRAM**

**5.1 General**

- 5.1.1 The City's policy is to provide leadership in public art by incorporating public art, at the planning stages, into the development or renovation of civic infrastructure, buildings, parks and bridges, and to encourage collaboration between the Public Art Advisory Committee, City staff, artists, engineers, design professionals and the community to enrich such projects.
- 5.1.2 The priority for civic public art projects will be to fully integrate the artwork into the planning, design and construction of civic works and to select and commission an artist to work as a member of the project consultant design team, in order to maximize opportunities for artistic expression and minimize material and construction costs.

**5.2 Project Identification**

- 5.2.1 The City will identify and prioritise specific areas within the City and types of capital projects appropriate for the inclusion of public art. Applicable projects include:
  - a) New building construction;
  - b) Major additions or renovations to existing buildings;
  - c) Park development projects;
  - d) Environmental programs; and
  - e) New engineering structures.



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**5.2.2** Projects appropriate for consideration should:

- a) Have a high degree of prominence, public use and/or public realm impact;
- b) Achieve or enhance project objectives or other City objectives (e.g. beautification, liveability, multiculturalism, sustainability, cultural or environmental interpretations);
- c) Promote opportunities for meaningful community participation; and/or
- d) Complement existing public artworks or public amenities in the local area, and/or fulfil a need identified in that community.

**5.2.3** The City will undertake artist-initiated public art projects from time to time. Artists will be invited to submit proposals for concepts and locations of their own choosing, and may be asked to respond to a specific topic of community interest or importance.

**5.3 Funding**

**5.3.1** Each year, the City will commit an amount of funds equivalent to a minimum of 1% of each Capital Project Budget, to the planning, design, fabrication and installation of public art, provided that:

- a) Capital projects for equipment and land acquisition are exempt;
- b) Infrastructure utilities projects - water supply and sewerage - which are funded solely from restricted sources, are exempt; and
- c) For eligible projects, allocations are based on the construction costs of capital projects, and exclude soft costs (i.e., administration, professional and legal fees, furnishings, and permit fees).

**5.4 Donations and/or Gifts of Artwork(s)**

**5.4.1** Private donations or gifts of artworks may be accepted into the City's public art collection, provided that:

- a) The artworks are assessed on their artistic, environmental, cultural, historical and social merits before being accepted into the City's public art inventory;
- b) A suitable site can be identified; and
- c) Funds are made available for the ongoing maintenance and conservation of the artwork.

**5.5 Purchase Pre-Existing Artwork**

**5.5.1** The City may add to its public art inventory by purchasing pre-existing works of art from time to time.

**5.6 De-accession**

**5.6.1** De-accession is defined as any actions or set of procedures that result in the cessation by the City of its ownership and possession of works of art installed in public places, through sale, exchange, gift or any other means.

**5.6.2** Provided that the de-accession of the artwork is not contrary to the terms on which it was received by the City, the City may de-accession artworks from the City's inventory when necessary:

- a) Through a considered public review and assessment process;
- b) If the de-accession of the artwork is evaluated on a case by case basis; and



- c) If the de-accession of the artwork is endorsed by Council.

## **6. PRIVATE DEVELOPMENT PUBLIC ART PROGRAM**

### **6.1 General**

The City's policy is to encourage the private sector to support the integration of public artworks in the community during the rezoning and development permit processes, and the collaboration of artists, design professionals and the community in the design of that art.

### **6.2 Project Identification**

- 6.2.1** Applicable projects include new building construction, major additions or renovations to existing buildings, as follows:

- a) For residential uses containing 10 or more units; and
- b) For non-residential uses with a total floor area of 2,000 m<sup>2</sup> (21,530 ft<sup>2</sup>) or greater.

- 6.2.2** The following uses or occupancies of all or part of a development or building are exempt from contributing to the Public Art Program:

- a) Community Amenity Space, Community Care Facility, Congregate Housing, Child Care, Health Services, Education and related uses as defined under the Richmond Zoning Bylaw, as amended from time to time;
- b) Purpose-built non-market rental and subsidized social housing projects and/or units secured through the City's Affordable Housing Strategy; and

- 6.2.3** Public art should be sited in locations that meet the following criteria:

- a) Visibility and accessibility (as appropriate to the art work) for pedestrians and/or motorists;
- b) Proximity to high pedestrian activity areas, e.g. active retail areas, transit stops (especially those serving high ridership routes), places of public gathering, public open spaces and recognized pedestrian routes;
- c) Opportunities to expand on existing or future public artworks as part of an existing or proposed multi-artwork public art plan; and/or
- d) Places of special heritage or community significance.

### **6.3 Funding**

- 6.3.1** The public art contribution rate for private sector public art projects is an amount equivalent to a minimum value of 0.5% of the estimated total project construction cost:

- a) Contributions are based on construction costs and exclude soft costs (i.e., administration, professional and legal fees, furnishings, development cost charges, and permit fees);
- b) For the purpose of calculating public art contributions for private development, only floor areas that make up the calculation of density as set out under the Richmond Zoning Bylaw, as amended from time to time, are included;
- c) Floor areas for uses set-out under 6.2.2, above, are excluded; and
- d) This contribution funds the planning, design, fabrication and installation of public art.



- 6.3.2 The City will issue guidelines for calculating the public art contribution based on building types and annual Consumer Price Index adjustments.
- 6.3.3 The public art contribution rate will be reviewed periodically by Council.
- 6.3.4 For public art project contributions that are less than \$40,000, a cash contribution is to be made to the City's Public Art Reserve, for city-wide public art programs.
- 6.3.5 For public art contributions over \$40,000, the developer may choose one of the following three options:
  - a) A monetary contribution to the City's Public Art Program Reserve; or
  - b) The developer may provide public artwork of a value equal to the public art contribution for the project, provided the artwork complies with this Public Art Program Policy and the Public Art Program Administrative Procedures Manual; or
  - c) The developer may negotiate a split of its contribution between both i) a monetary contribution to the Public Art Program Reserve; and ii) provision of artwork, provided the combined value of the monetary contribution and the artwork is equal to or greater than the project's public art contribution.
- 6.3.6 Where the developer chooses to provide artwork, either on their development site or on a City controlled property:
  - a) A minimum of 85% of the public art contribution will be allocated to the creation of the artwork;
  - b) Where the City manages the public art selection process, 15% of the developer's public art contribution will be dedicated to the City's Public Art Program Operating Provision to support and sustain the management, administration and promotion of the Public Art Program;
  - c) Where the developer engages an independent Public Art Consultant to manage the public art selection process, 5% of the developer's public art contribution will be dedicated to the City's Public Art Program operating budget and Operating Provision to support and sustain the management, administration and promotion of the Public Art Program and a maximum of 10% of the public art budget may be directed towards the consultant fees;
  - d) Where located on City controlled land, the artwork will become the property of the City;
  - e) Where located on private land, the artwork must remain accessible at no cost to the public and be maintained in good repair for the life of the development, and not be removed or relocated except with the prior written consent of the City; and
  - f) In the event the artwork is damaged beyond repair, or becomes ineffective for reasons other than the owner's failure to maintain it, or in the event the work becomes an unreasonable burden to maintain, application to allow its removal or relocation may be made to the City.
- 6.3.8 The following are ineligible expense items for the private sector public art contributions:
  - a) Maintenance costs for artwork(s);
  - b) Artwork not provided in accordance with the City's Public Art Program; and
  - c) Costs not directly related to selecting, designing, fabricating or installing the artwork(s).



**7. COMMUNITY PUBLIC ART PROGRAM**

**7.1 General**

7.1.1 The Richmond Community Public Art Program supports art projects between community groups and artists of all disciplines. Artists and communities working collaboratively can explore issues, ideas and concerns, voice community identity, express historical and cultural spirit and create dialogue through art.

7.1.2 The end product need not be a permanent work of art but should leave a legacy for the general public. The project could include:

- a) A public event such as an exhibition, performance, play, concert, reading or dance; or
- b) Documentary artworks such as books and videos; or
- c) Electronic media.

**7.2 Project Identification**

7.2.1 Projects proposed must be publicly accessible and located or performed on public property such as City-owned or controlled parks, boulevards, and buildings. Sites owned or controlled by the Federal or Provincial governments will also be considered.

7.2.2 Projects should demonstrate the support of the local community and document significant community involvement of a sizable number of people.

7.2.3 Projects should demonstrate the capacity to be undertaken and completed within an approved time frame.

**7.3 Funding**

7.3.1 Community public art projects will be funded in part or in whole from the Public Art Program Reserve.

7.3.2 Community partners should investigate or provide matching funds where possible, or contribute an equivalent amount through time/participation, labour, materials or contributions in-kind.

7.3.3 The final artwork, if any, will become the property of the City, unless the City agrees otherwise

**8. PUBLIC ART ADVISORY COMMITTEE**

**8.1 Mandate**

8.1.2 The "Richmond Public Art Advisory Committee" is a Council-appointed volunteer advisory committee that provides input on public art policy, planning, education and promotion.

**8.2 Role**

8.2.1 The Committee provides informed comment to City Council through staff on the implementation of the Public Art Program through civic, private development and community public art initiatives.

8.2.2 The Committee acts as a resource on public art to City Council, staff, residents and developers of land and projects within the City of Richmond.

8.2.3 The Committee's terms of reference are outlined in the *Richmond Public Art Advisory Committee Terms of Reference*.