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Item No. 11.1.17
Halifax Regional Council
September 1, 2020

TO: Mayor Savage and Members of Regional Council

SUBMITTED BY: Original Signed by 
Jacques Dubé, Chief Administrative Officer

DATE: August 18, 2020

SUBJECT: Updates – Municipal Public Art Policy

ORIGIN

February 21, 2019 Community Planning and Economic Development Standing Committee

MOVED by Councillor Austin that the Community Planning and Economic Development Standing Committee request a staff report that includes:

1. A review and update of the Public Art Policy;
2. A summary of funding that has been provided over the last 10 years for new projects and current projects that are underway;
3. Specific amendments to the public art policy to remove the 25,000 square feet budget exemption for municipal buildings that are highly used by the public such as libraries, recreation centres, and transit terminals; and
4. That the amendments be prepared by the end of the 2019/2020 fiscal year.

MOTION PUT AND PASSED

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, subsections 59(3), 61(3), and 79A(1), and clauses 61(5)(a) and 70(1)(b):

- 59(3) In addition to matters specified in this Act or another Act of the Legislature, the Council may adopt policies on any matter that the Council considers conducive to the effective management of the Municipality.
- 61(3) The property vested in the Municipality, absolutely or in trust, is under the exclusive management and control of the Council, unless an Act of the Legislature provides otherwise.
- 61(5) The Municipality may:
- (a) acquire property, including property outside the Municipality, that the Municipality requires for its purposes or for the use of the public;

RECOMMENDATIONS ON PAGE 2

- 70(1) The Municipality may:
- (b) pay grants to a body corporate for the purpose of promoting or beautifying a business district and for airport, wharf or waterfront development;
- 79A(1) Subject to subsections (2) to (4), the Municipality may only spend money for municipal purposes if:
- (a) the expenditure is included in the Municipality's operating budget or capital budget or is otherwise authorized by the Municipality;
 - (b) the expenditure is in respect of an emergency under the *Emergency Management Act*; or
 - (c) the expenditure is legally required to be paid.

Halifax Regional Municipality Public Art Policy (2008) Section 3.5

Administrative Order 54, the *Procedures for the Development of Administrative Orders*, sections 6 and 7:

- 6. Subject to Section 7 of this Administrative Order, the procedures in this Administrative Order apply to all new Administrative Orders including Administrative Orders developed to amend, consolidate or repeal existing Administrative Orders.
- 7. This Administrative Order does not apply to policies previously adopted by the Council.

RECOMMENDATION

It is recommended that Halifax Regional Council:

- 1. Suspend the rules of procedure under Schedule 3, the Community Planning and Economic Development Standing Committee Terms of Reference, of Administrative Order One, the *Procedures of the Council Administrative Order*; and
- 2. Adopt Administrative Order 2020-001-OP, *The Public Art Policy*, including repealing the 2008 Public Art Policy, as set out in Attachment 2 of this report.

BACKGROUND

On September 23, 2008 Halifax Regional Council adopted the Municipality's inaugural Public Art Policy (Attachment 1). The Policy outlines the Municipality's role in managing its collection of public art and includes consideration of funding, maintenance, siting, acquisition and disposal (or *deaccession*).

At the February 21, 2019 meeting of the Community Planning and Economic Development Standing Committee (CPED) a motion was passed requesting a staff review of the existing municipal public art policy, with direction to return with amendments by the end of the 2019/20 fiscal year. The motion requested a general updating of the Policy, an accounting of all funding provided to public art projects over the 10 years since Policy adoption as well as specific consideration of amendments to Section 3.5 of the existing Policy to allow funding consideration for Municipal capital projects (new constructions well as renovations) under 25,000 square feet in cases where those facilities are of high public usage. The current section of the Policy reads as follows:

Policy 3.5: HRM will fund Public Art at new or renovated municipally-owned publicly accessible facilities through allocation of 1% of the total construction costs in excess of the first 25,000 square feet for a specific project. The contribution will be included as a one-time amount with the Operating Costs of Capital for each project. The public art must be sited on facility grounds.

Typically, this report would be presented as a recommendation report to the Community Planning and Economic Standing Committee. With the ongoing COVID-19 situation, standing committees of Council meetings have been suspended. As a result, this report is being presented to Regional Council. In addition,

the impact of COVID-19 on HRM operations also delayed the finalization of the amendments, such that they were not able to be presented prior to the end of the 2019/20 fiscal year.

DISCUSSION

The proposed updates to the Public Art Policy specifically address the funding and integration of public art as components of municipal facility construction and renovations per the February 21, 2019 motion of CPED. They also address the broader set of issues experienced over the ten years since the existing policy was adopted. The review and the associated recommendations should be considered updates to the existing policy and program, and not a comprehensive reconsideration of the policy itself.

A more thorough review of the municipality's Public Art Policy is addressed within the scope of the Culture and Heritage Priorities Plan (CHPP). The CHPP will consider the Municipality's support of the arts, culture and heritage sector holistically, and the Public Art Policy and program specifically as one of several existing tools for advancing some of the Plan's objectives. It is anticipated that the direction of the CHPP may require more detailed analysis of the Public Art Policy and program.

The focus of this report is toward targeted changes to the Policy in order to update the operational model and improve the overall efficiency of the Municipality's existing public art service delivery relative to the terms adopted by Regional Council in 2008, while keeping the Policy's original intent. Recommended updates include the use of more relevant definitions and terminology, realignment of public art funding models within current and emerging corporate planning processes (specifically with respect to public art as a component of private development), and greater clarification regarding decision-making and governance to remove administrative barriers to program delivery.

The recommended new Policy has been restructured under a proposed new Administrative Order- 2020-001-OP- included as Attachment 2. A summary of the proposed changes contained within the updated Policy/Administrative Order is included below.

A detailed accounting of public art projects and associated funding provided through the public art program over the last ten years (including those projects pending and currently underway) is included as Attachment 3. Included separately is a list of public art and monuments that have been donated to or otherwise indirectly acquired by the Municipality over that same span.

Policy Scope

For the purpose of the updated policy, public art is defined as being any artworks that are created by a professional artist(s) in any medium, material or media. Public art must be sited on, staged in or projected onto publicly accessible space.

Summary of Proposed Public Art Policy Amendments

The below summary lists the significant amendments to the Policy and the relevant section where those amendments are found in the new Administrative Order (Attachment 2). A specific rationale for proposed amendments has been provided in those instances where the reason for the change is not self-evident.

Purpose

Section 2: The Values and Principles have been updated through modification and consolidation of the 2008 Public Art Policy language.

Interpretation

Section 3: Definitions have been updated to reflect best practice review of other Canadian Municipalities and Canadian funding bodies as well as current HRM corporate practices. Definitions also now include reference to incentive or bonus zoning to align this Policy with the Centre Plan.

Application

Section 4: Exclusions have been more thoroughly developed to better focus the Policy on public art, and to distinguish works of public art from memorials, plaques and common design elements.

Clause 4(g): Community Art has been specifically added as a named exclusion to the Policy.

Rationale: Community art is not subject to peer review as other public art acquisition models, and community art is developed on a collaborative, community-embedded model as opposed to an artist-led assessment process.

Section 5: References the powers of Regional Council are not limited by the Policy.

Section 6: Specifies where public art must be located.

Section 7: References delegated authority to the CAO to enter into agreements under the Administrative Order, including the authority to amend the agreement and agree to assignments, and to appoint a peer review committee. These powers can be delegated to the Director of Parks and Recreation.

Public Art Purchases

Acquisition models have been updated to provide greater detail on municipal, private sector and community-based acquisition.

Municipally-led Acquisition

Subsection 8 (1): Added reference to 'Collaborative Model Purchase' as an acquisition mechanism.

Rationale: This provides clarity regarding the Municipality's ability to collaborate with designated not-for-profit arts and or community organizations, institutional and governmental agencies in certain circumstances. Sections 11 and 12 provide additional detail.

Subsection 8(2): Public commissioning of permanent public artworks is identified as the preferred means of public art purchasing.

Section 9: Provides specific parameters around the use of peer juries in public art acquisition.

Sections 9-11: Additional detail on methods of commissioning, direct selection and collaborative models.

Deed of Gift and Temporary Public Art

Distinguishes between (1) public art donations, (2) donations of plaques, monuments, memorials and other assets not created by a professional artist and (3) externally-led temporary public art proposals.

Section 14: Provides greater detail regarding decision making on donations of public art.

Rationale: Identifies Regional Council as the sole authority to approve private donations of public art and other assets intended to become permanent additions to the Municipal public art collection and asset inventory.

Sections 15-16: Sets out the donation process including evaluation methodology and the roles and responsibilities of the donor and the Municipality.

Section 17: Process for evaluation of externally-led temporary public art proposals is included.

Rationale: The Municipality regularly receives requests from external applicants to install works of art in municipal public spaces for short- and medium-term durations. The existing policy provides specific direction for 'gifts' of public art intended to be permanent (further defined under S. 14 of the proposed AO) but does not currently define a municipal process for evaluating temporary requests.

Funding for Municipal Public Art

Updated references to properly reflect municipal funding sources.

Section 19(3): Removed the 25,000 square feet qualifying minimum criteria for municipal buildings that are highly used by the public specifically referencing libraries, recreation and community centres, and transit terminals.

Rationale: Directly addresses the February 21, 2019 motion to provide public art at both new publicly-accessible municipal facilities and major renovations at existing public facilities. The recommended approach allows flexibility to require public art as a component of municipal capital projects and renovation projects which are of a smaller physical scale, but which carry a significant public impact. The recommendation also specifically identifies the public facilities to which this policy would apply.

This section also removes reference to Operating Cost of Capital as the funding source for public art projects as components of municipal builds and renovations.

Rationale: The Asset Management Office will be undertaking a review of the Tangible Capital Asset Policy in 2020, the findings of which may have implication as to the appropriate funding source for public art. The use of more general language allows for flexibility should any changes impact public art funding models.

Section 20: Added provision for public art funded as component of major streetscape projects, major park developments (including park recapitalization projects) and other major infrastructure projects of significant public impact through allocation of 1% of total project construction costs, at the discretion of Regional Council.

Rationale: Enables the inclusion of public art in major street projects similar to the North Park Roundabout project, Argyle/Grafton streetscape redesign project and the upcoming Spring Garden Road streetscape redesign project.

Reference to the Parkland Subdivision public art contribution as included in the 2008 Public Art Policy (Section 3.6) has been removed, due to further clarification on applicability under the Municipal Subdivision by-law.

Integration of Public Art: Site Evaluation and Prioritization

Sections 22-24: Added detail to masterplan and site plan consideration and approval process for proposed public art locations.

Rationale: This provides a clear framework for site evaluation relative to municipal parks and open spaces, and specifically for those sites with pre-existing thematic and functional programs. The intention is to prioritize 'public art opportunity sites' within masterplans, but also to ensure the protection and preservation of existing character within pre-defined cultural landscapes.

Administration

Section 25: Adds reference to the development of Public Art Procedures to guide the implementation of the Policy.

Maintenance

Section 29: Outlines the parameters of municipal public art database.

Rationale: The municipality currently maintains an active inventory of public art objects based on the list that accompanied the 2008 public art policy. This inventory includes plaques, markers and other cultural assets that do not meet the current definition of 'public art'- e.g. they were not created by a professional artist- in addition to public art. The municipality will develop a specific 'Public Art Database' as a subset to the existing inventory; items not meeting the definition of public art will continue to be captured under the broader cultural asset inventory.

Section 30: Modified to include reference to donations to provide clarity and structure regarding the maintenance contribution for donations.

Rationale: Provides a framework for the application of public art maintenance contributions.

Deaccessioning (Formal Removal of Artworks from the Municipal Collection)

Sections 33-35: Modified to provide definition and structure to the process of deaccessioning items from the Municipal Public Art Collection.

Rationale: Addresses a procedural gap from the 2008 policy and connects to other applicable municipal policies.

Private Development

Section 36: Updated to include reference to the Incentive or Bonus Zoning Program (cash-in-lieu) as specified within the Centre Plan.

Rationale: Necessitated to reflect the changes implemented through the Centre Plan and associated Land Use Bylaw amendments.

FINANCIAL IMPLICATIONS

There are no direct funding implications to this report. Funding for public art as a component of municipal capital projects will be considered on a project by project basis with funding determined within annual budget planning processes. Opportunity funding for public art commissions will be considered through the annual reserves budget planning process on an ongoing basis, subject to the availability of funds and in relation to other funding pressures and priorities.

RISK CONSIDERATION

The risks associated with this report rate low. To determine this, consideration was given to financial, operational and reputational risks.

COMMUNITY ENGAGEMENT

None

ENVIRONMENTAL IMPLICATIONS

None

ALTERNATIVES

1. Regional Council could choose to not approve the proposed Administrative Order and maintain the existing Public Art Policy, approved in 2008.
2. Regional Council may make any amendments to the recommended Administrative Order.

ATTACHMENTS

- Attachment 1 – 2008 Public Art Policy
- Attachment 2 – Proposed Administrative Order 2019-001-OP, The Public Art Policy
- Attachment 3 – Public Art Acquisition Summary, Commissioned and Donated Works

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Jamie MacLellan, Culture and Events, 902.456.8384

Attachment Two
Proposed Public Art Policy
Revised July 25, 2008

Introduction: Public Art to Delight and Move

The Halifax Regional Council, at its meeting on March 28, 2006, approved its first Cultural Plan. One of the strategic priorities identified is to develop public art as a means of enhancing HRM's cultural identity and raising awareness as to the importance of art in community-building. As such, this public art policy provides the mechanism through which HRM will acquire, commission and manage public art.

It is HRM's aspiration to produce and foster a public art collection that will:

TEACH:

inform, educate and engage people in the pursuit of public art that is appreciated by its audience and that challenges critical debate and thought

DELIGHT:

create art that fascinates and excites the viewer through its aesthetic quality and its creative presence in the public landscape

MOVE:

create art that has meaning and purpose for the audience and the community at large and that evokes emotional response and feeling

CARE:

invest in the long-term care, stewardship and management of public art

CELEBRATE:

showcase and communicate public art and its expression of artistic and creative excellence, community and cultural identity

LEAD:

advance a focused public art agenda and mission through the development of sustained investment, integrated planning, best practices, collaborations and partnerships

Definitions and Exclusions

Public Art is a permanent, semi-permanent, or temporary work of art in any medium, material, media or combination thereof that has been planned and executed with the specific intention of being sited or staged in the public realm and accessible to all. Works can be site specific, environmentally integrated or permanently installed. Public art is created or managed by a

professional artist. Public art can be acquired through an artist commission, acquisition, donation or artist-community collaboration.

Public art does not refer to civic art collections (i.e. paintings, etc.) that have not been produced with the specific intent of being displayed in a public setting. In certain cases, works that have not been produced as public art may have been donated under the condition that they be sited publicly. For the purpose of categorization, these too would be considered pieces of art within the HRM's greater Civic Art collection.

Public art is not mass produced stock items used for fundraising purposes. Nor is it mass produced works, playground equipment or statuary objects; or landscape architecture, landscape gardening, and fountains unless these elements are integral to the work of art itself or a collaboration among design professionals including at least one artist.

Public art may include, but is not restricted to:

1. sculpture,
2. painting and murals
3. engraving,
4. collage,
5. mosaic,
6. photography,
7. time-based art (including media art),
8. drawing,
9. earthwork,
10. art installations,
11. landscape and architectural embellishments,
12. textiles
13. performance art; and
14. artifacts.

A professional artist is a person who is critically recognized as an artist: he or she possesses skill, training and/or experience in an artistic discipline, is active in and committed to his or her art practice and has a history of public presentation and is recognized by his or her peers as a professional.

Cultural Spaces and Places include specific sites of community cultural exchange that support arts, cultural, and heritage activities in the community.

Cultural Precincts function as designated areas and neighbourhoods that promote and foster cultural connections and activities. These cultural precincts have strong cultural and heritage

associations for the wider community, as well as an overlay of rich social significance for a smaller and focussed sector of the community.

Categories of Public Art

Public art will be designated as belonging to one of four categories listed below. The boundaries between these categories are often blurred, and art works often exhibit characteristics applicable to two or more of these descriptions.

Art Works of Remembrance are used to commemorate a specific historical figure or event of public importance. Art works of remembrance can include figurative or abstract statues, monuments, memorials and historical markers and may take various forms including gardens, plazas, cultural centres, sculptures, purpose-designed structures or landscape features. Art works of remembrance represent the bulk of HRM's current public art collection.

Expressive Art Works integrate objects into public spaces with the primary purpose of animating those spaces and engaging the interest of citizens. Expressive art works are more strictly 'arts minded' than works of remembrance—they engage the expertise and resources of professional artists to produce quality art works of their own devising.

Functional Art Works aim to enliven the quality of our public realm while providing comfort and amenity. Functional Art Works create collaborations between visual arts professionals and architects/urban and landscape designers to add functional yet extraordinary elements to the cityscape. Examples of Functional Art Works can include streetscape elements like benches, bus shelters, fountains, street lights and signage.

Community Art Works can be categorized by discipline (ie. paint, sculpture), population (ie. youth, seniors) or social context (ie. activism, community development). Community art is simply an art form rooted in a community setting. Works from this genre can be of many art forms but are characterized by interaction or dialogue with the community.

Municipally-owned public space is considered to be areas frequented by the general public that are owned, maintained, operated or occupied by HRM. Municipally-owned public space includes, but is not limited to parks, boulevards, plazas, pathways, prominent civic gateways and intersections, streets, sidewalks, transportation hubs, bridges, columns, road surfaces and edges. Also included are facilities and built structures including exteriors and interiors of municipally-owned buildings including community and recreation centres, ferry and bus terminals, public amenity spaces within HRM buildings. In addition, municipally-owned public space includes cultural spaces or places and cultural precincts.

Non-municipally owned public space is considered to be areas frequented by the general public that are owned, maintained, operated or occupied privately.

PART ONE: HRM Public Art Collection

Policy 1.1: HRM will strive to build a public art collection that:

- enhances, enlivens and enriches public spaces and public experiences;
- showcases and celebrates the work of professional artists and designers;
- fosters a culture of public art creation and investment;
- reflects and embraces diversity;
- inspires community and neighbourhood revitalization; and
- fosters collaborations between community, artists and art organizations .

Policy 1.2: HRM will acquire Public Art for municipally-owned public spaces through the following mechanisms, pursuant to the HRM Public Art Procedures:

- Direct Purchase;
- Commission;
- Creation of community art projects.

Policy 1.3: Notwithstanding Policy 1.2, HRM will accept public art as a donation where:

- it satisfies the acquisition criteria, as set out in the HRM Public Art Procedures.
- an acceptance agreement transferring ownership to HRM is provided;
- a funding donation for the maintenance, conservation and restoration of the work being donated is provided.

PART TWO: Public Art Evaluation & Siting

Policy 2.1: HRM will establish public art peer-review juries to inform the municipality's public art acquisition and direct purchase processes. The public art peer juries will ensure public art acquisitions and direct purchases represent excellence in design and construction.

Policy 2.2: HRM will create community art through collaborative processes between the community and a professional artist, pursuant to HRM Public Art Procedures.

Policy 2.3: Notwithstanding Policy 2.1, community art works will be excluded from the jury process.

Policy 2.4: HRM will ensure that all public art commissions and direct purchases are created or managed by a professional artist.

Policy 2.5: HRM will ensure all public art commissions and direct purchases are accessible, planned, executed and sited or staged in the public realm, including but not limited to cultural spaces and places, cultural precincts, and Municipally-Owned Public Spaces.

Policy 2.6: Pursuant to Policy 2.5, HRM will place priority on siting and staging public art at the following locations:

- the Halifax, Dartmouth and Bedford Waterfront areas;
- major parks and public places;
- Regional Streetscapes;
- community facilities;
- heritage buildings;
- areas identified through HRM By Design, community visioning process(es) and future land use studies;
- other areas of opportunity that may be identified by Regional Council and staff.

Policy 2.7: Notwithstanding Policy 2.6, no new public art works shall be sited at these public spaces until:

- a public art site plan is completed for the HRM public space; or
- a technical review of the proposed site is undertaken, and the results reviewed by the Jury and staff.

PART THREE: Public Art Funding

Policy 3.1: HRM will provide sustainable investment for public art acquisition, creation and maintenance through the establishment of an:

- annual Public Art operating budget;
- annual Community Art operating budget; and
- utilizing the existing Heritage & Culture Tourism (Q312) and Parkland Development (Q107) Reserves.

Policy 3.2: Pursuant to Policy 3.1 HRM will establish a public art operating budget during the annual business planning process.

Policy 3.3: Pursuant to Policy 3.2, HRM will establish an operating budget for ongoing public art marketing and promotion.

- Policy 3.4:** Pursuant to 3.3, HRM will allocate money from the Heritage & Culture Tourism Reserve (Q312) to advance major works (temporary and semi-permanent) and to provide ongoing maintenance.
- Policy 3.5:** HRM will fund Public Art at new or renovated municipally-owned publicly accessible facilities through allocation of 1% of the total construction costs in excess of the first 25,000 square feet for a specific project. The contribution will be included as a one-time amount with the Operating Costs of Capital for each project. The public art must be sited on facility grounds.
- Policy 3.6:** HRM will fund Public Art through the subdivision parkland contribution requirement, directing 1% or 2% of the existing 5% or 10% cash-in-lieu donation to the Parkland Development Reserve (Q107) to new public art works. HRM will offset administrative costs for small-scale memorials budgeted at less than \$25,000.
- Policy 3.7:** HRM will facilitate public art at non-municipally-owned public spaces through new land use policy provisions. HRM will amend existing land use policies pursuant to HRM's Community Planning Program Framework to require that public art be integrated as a component of private developments in excess of 25,000 square feet of total area. Specifically HRM will achieve this through the provision of density bonus. Amended land use policies will ensure public art works be appraised at a value no less than 1% of the total construction costs in excess of the first 25,000 square feet.
- Policy 3.8:** Notwithstanding Policy 3.7, policies will be amended to ensure that where public art cannot be easily integrated into the development of a non-municipal public space, a cash-in-lieu contribution valued at 1% of the total construction costs in excess of the first 25,000 square feet will be required.
- Policy 3.9:** Private developments are excluded from the requirements of Policy 3.7 and 3.8 where the development is dedicated to use by formally constituted non-profit societies providing child care, neighbourhood and needs-based housing, government assisted housing, or providing needs-based social programs.
- Policy 3.10:** Notwithstanding Policy 3.7, until such time as the land use policy is amended and approved, HRM will encourage private developers to provide public art as a component of their development and to subscribe to HRM Public Art Procedures.
- Policy 3.11:** HRM will not consider memorials through the public art policy program where the primary component or element of design is: benches, picnic tables, trees and shrubs, and plaques.

PART FOUR: Public Art Awareness and Education

Policy 4.1: HRM will strive to facilitate public dialogue on the subject of public art by implementing a public art awareness program focussing on promotions, communications, lectures and public education, and festivals.

Policy 4.2: HRM will offer public art educational sessions for HRM employees.

PART FIVE: HRM Public Art: Maintenance, Conservation and De-Accessioning

Policy 5.1: In the case of privately-initiated public art intended for public lands, an allocation of 10% of project budgets must be made to HRM prior to the installation of the work. Interest generated on this contribution will be used in the ongoing maintenance of public-site art work.

Policy 5.2: Public Artwork installed on private lands (e.g. through the 1%-for-Public Art Development Agreement) is the responsibility of and risk of the owner and must be maintained at the owner's sole cost for the life of the development, pursuant to standards outlined in HRM Public Art Procedures.

Policy 5.3: HRM will establish a budget for public art maintenance, care and conservation of the Municipality's public art collection with funding from the Heritage & Culture Tourism Reserve (Q312). Exclusions: Public Art sited on Private Land but obtained through Development Agreement remains the responsibility of the owner and must be maintained at the owner's sole cost for the life of the development.

Policy 5.4: HRM, or its designate, will oversee the maintenance, conservation and restoration of public art on municipally-owned public spaces, pursuant to HRM Public Art Procedures.

Policy 5.5: HRM, or its designate, will de-accession all temporary public art, pursuant to HRM Public Art Procedures.

Policy 5.6: HRM will strive to maintain an innovative, broad and diverse collection of public art. However, HRM may from time-to-time de-accession public art works that are no longer required for the collection, pursuant to HRM Public Art Procedures.

ADMINISTRATIVE ORDER NUMBER 2020-001-OP
RESPECTING PUBLIC ART

TABLE OF CONTENTS

ITEM SECTION NUMBER

GENERAL

- Short Title1
- Purposes2
- Interpretation3
- Application
 - Public Art Exclusions.....4
 - No Requirement to Accept Public Art or Install it.....5(1)
 - Acceptance without accepting costs, or required cash contribution5(2)
 - Plaques, Memorials, and Monuments may be accepted.....5(3)
- Must be located in Public Realm6(1)
- Permission for Temporary Public Art to be situated for over one year6(2)
- Declaring Temporary Art to be Permanent Art.....6(3)
- Delegations.....7

PURCHASES OF PUBLIC ART

- Public Art Purchases Generally.....8(1)
- Public Commission Purchases9,12
- Direct Selection Purchases10,12
- Collaborative Model Purchases.....11,12
- Acquisitions of Public Art Requires Agreement12

INSTALLATION OF PUBLIC ACT

- Installation of Public Art (except Plaques, Memorials, and Monuments)13(1)
- Installation of Plaques, Memorials, and Monuments13(2)

PRIVATE DONATIONS

- Application Required14(1)
- Application to be Reviewed by Staff14(2)
- Review Team15
- Applications Forwarded to Council for
 - Public Art, except Plaques, Memorials, or Monuments16 (1,3,4)
 - Public Art that is a Plaque, Memorial, or Monument16(2,3,4)
- May require cash contribution30

TEMPORARY PUBLIC ART

- Application Required.....17(1)
- Third Party Applications17(2),25

TEMPORARY PUBLIC ART CONTINUED

- Third Party Consideration.....17(3)
- Community Engagement may be Required17(4)
- Satisfaction of Community Engagement (if required)17(5)
- Agreement may be Required17(6)
- Exclusion for Special Events17(7)

FUNDING

- Funding for Municipal Public Art Generally18(1)
- Operating Budgets may be Established.....18(2)
- Funding for Municipal Public Art on Facilities.....19(1)
 - May be part of new construction or renovation.....19(2)
 - Must Allocate at least 1% of construction cost (if part of project)19(3)
 - Must place public art on site19(4)
 - May consider funds from Applicable Reserve21
- Funding for Municipal Public Art on Streetscapes20
 - May be part of major projects20(1)
 - Must Allocate at least 1% of construction cost (if part of project)20(3)
 - May consider funds from Applicable Reserve.....21
- Funds Allocated from Reserve for Maintenance, Care and Conservation28

INTERGRATION OF PUBLIC ART ON SITES

- Must be in Public Realm.....22(1)
- Agreement for unowned public space22(2)
- Priority Locations.....23
- Requirements for new Permanent Public Art24

ADMINISTRATION

- Development of Procedures25
- Promotion.....26,27
- Database of Public Art.....29
- Public Art Procedures apply to
 - Maintenance, conservation, restoration.....31
 - Removing Temporary Art32

MAINTENANCE

- Allocation of funds for Maintenance28
- Donation may Require Cash Contribution30
- Public Art Procedures apply to
 - Maintenance, conservation, restoration.....31
 - Removing Temporary Art32

DEACCESSIONING

- Considerations for Permanent Public Art and Cultural Assets.....33,34

PRIVATE DEVELOPMENT

- Incentive or Bonus Zoning.....36

REPEAL

- 2008 Public Art Policy.....37

**ADMINISTRATIVE ORDER NUMBER 2020-001-OP
RESPECTING PUBLIC ART**

WHEREAS the Municipality values the inclusion of art in its public spaces;

AND WHEREAS the Municipality wishes to encourage private developments to include art for the enjoyment of the public;

AND WHEREAS the *Halifax Regional Municipality Charter, S.N.S.1998, c. 39*, as amended, permits the Council to adopt policies on any matter that Council considers conducive to the effective management of the Municipality;

BE IT RESOLVED AS AN ADMINISTRATIVE ORDER of the Council of the Halifax Regional Municipality under the authority of the *Halifax Regional Municipality Charter*, as follows:

Short Title

1. This Administrative Order may be cited as the *Public Art Policy*.

Purposes

2. The purposes of this Administrative Order are to provide a framework for the Municipality to:

(a) commission works of public art that showcase and celebrate the work of professional artists and designers;

(b) engage the expertise of the Municipality's arts and cultural sector to inform the acquisition of public art possessing high formal and aesthetic quality, conceptual weight and a compelling relationship to the surrounding landscape with the intention of enhancing, enlivening, and enriching public spaces and public experiences;

(c) inform, educate, and engage the diverse publics and communities of the Municipality through the ongoing development and management of a public art collection that reflects and embraces diversity, is connected to and appreciated by its audience, and that fosters critical thinking and debate among residents and visitors;

(d) invest in the long-term care, stewardship, and maintenance of its public art collection;

(e) advance a focused public art agenda and mission through the development of sustained investment, integrated planning, best practices, collaborations, and partnerships; and

(f) set out the deed of gift processes for community led donations of public art and cultural assets.

Interpretation

3. In this Administrative Order,

(a) "CAO" means the Chief Administrative Officer of the Municipality, or their designate;

- (b) “community art” means an art form rooted in a community setting and characterized by interaction or dialogue with the community, involving an artist facilitator who works with participants throughout the process to create public art that is exhibited, installed, or performed for the community;
- (c) “Council” means the Council of the Municipality;
- (d) “cultural asset” means a tangible object that was not created by a professional artist, and in the opinion of the Municipality, has an enduring historical, cultural, or other value;
- (e) “deaccession” means the process of permanently removing public art or a cultural asset from the public art collection;
- (f) “Director” means the director assigned by the CAO to the department with responsibility for the Public Art Policy, and includes their designate;
- (g) “incentive or bonus zoning” means requirements that permit the relaxation of certain requirements if one exceeds other requirements or undertakes other action, in the public interest, as specified in the requirements;
- (h) “Municipality” means the Halifax Regional Municipality;
- (i) “municipally-owned public spaces” includes a property owned, leased, or licensed by the Municipality and open to the public, such as:
- (i) parks, boulevards, plazas, pathways, prominent civic gateways and intersections, streets, sidewalks, transportation hubs, bridges, columns, road surfaces and edges, or
 - (ii) facilities and structures, including exteriors and interiors of municipally-owned buildings such as community and recreation centres, ferry and bus terminals, and public amenity spaces therein;
- (j) “non-municipally-owned public spaces” means interior or exterior spaces that are not owned by the Municipality, but are generally accessible, whether physically or visually, to members of the public free of charge;
- (k) “peer review panel” means the evaluation, scoring, and ranking of eligible applications by a committee composed of a diverse range of artists and art professionals;
- (l) “permanent public art” means any original public art which is situated at a location for longer than one year and for which there is an intention to maintain on an ongoing basis;
- (m) “*Procurement Policy*” means Administrative Order 2020-004-ADM, as amended from time to time;
- (n) “professional artist” means an artist who:
- (i) has proven, specialized training in the artistic field,

(ii) is recognized as a professional by their peers who are working in the same artistic tradition, and

(iii) has a history of public presentation or publication;

(o) “public art” means a permanent or temporary work of art created by a professional artist in any medium, material, media or any combination thereof;

(p) “public realm” means municipally-owned public space and non-municipally-owned public spaces;

(q) “staff” means the employees of the Municipality given the responsibility for administering this Administrative Order by the Director; and

(r) “temporary public art” means any original public art which is commissioned or otherwise acquired under the understanding that the work be situated at a location for a period of one year or less.

Application

4. Subject to subsection 5(3) of this Administrative Order, “public art” excludes the following:

(a) interpretive, wayfinding, or other functional signage;

(b) branding or promotional projects, including corporate insignia;

(c) plaques, and supporting infrastructure;

(d) stock and mass-produced items that are not planned and executed by a professional artist, including street furnishings, playground infrastructure, and serials and editions;

(e) memorials, if:

(i) the memorial commemorates a single individual not previously approved through the Municipality’s Commemorative Asset Naming Program,

(ii) the memorial has not been designed and created by a professional artist through an acceptable acquisition mechanism as outlined herein, or

(iii) the primary component or element of design involves: benches, picnic tables, playgrounds or other park infrastructure, trees, shrubs or other ornamental landscape elements;

(f) landscape design or landscape gardens, or any garden features including fountains, garden furnishings or other infrastructure, unless those features:

(i) have been conceived of by a professional artist independently or in collaboration with other design professionals, and

(ii) are an integral component of an artwork; or

(g) community art, including the Placemaking Program of the Municipality, where the form and content of the art is community-generated and executed.

5. (1) Nothing in this Administrative Order requires Council to:

- (a) include or erect public art for a particular project or facility; or
- (b) accept public art.

(2) Nothing in this Administrative Order prevents Council from accepting public art donated:

- (a) without the donor assuming all the costs associated with the donation;
- (b) by a third party without a cash contribution;
- (c) by a third party with a cash contribution less than the amount required by section

30.

(3) Nothing in this Administrative Order prevents Council from accepting public art excluded under clauses 4(c), (d), (e), or (f).

6. (1) Any public art under this Administrative Order must be sited or staged in the public realm and accessible to everyone.

(2) Temporary public art may be situated for a period beyond one year, at the discretion of the Director.

(3) The Director may declare temporary public art to be permanent public art, providing the temporary public art has been situated for more than one year and where such declaration is made the provisions for public donation apply.

7. (1) Council delegates to the CAO, the authority to:

- (a) make, approve, and enter into agreements under this Administrative Order, and any amendments to such agreements on behalf of the Municipality;
- (b) agree to assignments of agreements this Administrative Order on behalf of the Municipality; and
- (c) appoint a peer review committee under section 9.

(2) The CAO may delegate any or all of the authorities under subsection 1 of this section to the Director.

Public Art Purchases Generally

8. (1) Subject to subsection (2) of this section, the Municipality may purchase public art for municipally-owned public spaces by:

- (a) a public commission purchase;
- (b) a direct selection purchase; or
- (c) a collaborative model purchase.

(2) The preferred mechanism to acquire public art is through the public commission of art in accordance with the *Procurement Policy*.

Public Commission Purchase

9. (1) The Municipality:

(a) must establish peer review panels to review proposals and make recommendations when the Municipality undertakes a public commission purchase of public art; and

(b) may establish peer review panels for any other form of public art that is purchased or acquired by the Municipality.

(2) If a peer review panel is established, the recommendations of the peer review panel will form the basis of the staff recommendation to Council on all public art awards.

(3) The peer review committee may be appointed by the CAO.

Direct Selection Purchase

10. Staff may identify circumstances in which the Municipality may purchase works of art through a direct selection purchase with an artist provided it is in compliance with the *Procurement Policy*.

Collaborative Model Purchase

11. Staff may identify circumstances in which the Municipality may purchase works of public art through a collaboration with not-for profit arts and cultural organizations, and institutional or governmental agencies under the terms and conditions of this Administrative Order and in compliance with the *Procurement Policy*.

Acquisitions of Public Art Require Agreement

12. Acquisitions of public art by the Municipality through a public commission purchase, a collaborative model purchase, or a direct selection purchase, will require a written agreement with the commissioned artist or body corporate outlining the roles, responsibilities, and rights of all parties, including ownership, stewardship, and moral rights considerations, artist acknowledgement, and acceptable use provisions as well as ongoing maintenance expectations.

Deed of Gift and Temporary Public Art

13. (1) Subject to subsection 2 of this section, the Municipality may consider proposals for the installation of public art that is not owned by the Municipality but located on municipally-owned public spaces, providing the public art

- (a) will be donated to the Municipality; or

(b) is temporary public art.

(2) The Municipality may consider proposals for the installation of those items of public art excluded under clauses 4 (c), (d), (e), or (f), providing such item:

(a) was not created by a professional artist;

(b) is not currently owned by the Municipality;

(c) is located, or is intended to be located, on municipally-owned public spaces; and

(d) will be either donated to the Municipality, or is temporary public art.

Private Donations

14. (1) Prospective donors of any public art and cultural asset shall make an application to the Municipality.

(2) Applications for donations to the Municipality will be reviewed, from time to time, by staff for recommendation to Council.

15. (1) A review team will be established to review the applications for donations.

(2) The review team will be comprised of those members of staff selected by the Director to be on the team.

16. (1) Subject to subsection 2 of this section, any donation of public art or cultural asset may only be forwarded to Council for consideration if, in the opinion of the review team:

(a) the donation is the unique work of a professional artist;

(b) the donation exemplifies excellence in artistry, design, and construction;

(c) the donation embodies a form of cultural expression of value to the public art collection, or exhibits relevance to the Municipality and its communities;

(d) the donation has been found to be in a state of good repair, constructed of durable materials, and the costs of maintaining the donation is reasonable;

(e) there is a suitable municipally-owned public space to site the donation and the Municipality has sufficient resources to maintain the donation;

(f) the donor has clear legal title to the proposed donated public art; and

(g) the donation complies with subsection 3 of this section.

(2) Any donation that is excluded under clause 4(c)(d)(e), or (f) that was not created by a professional artist, may only be forwarded to Council for consideration if, in the opinion of the review team:

- (a) the donation exhibits relevance to the Municipality and its communities;
- (b) there is a suitable municipally-owned public space to site the donation and the Municipality has sufficient resources to maintain the donation;
- (c) the donation has been found to be in a state of good repair, constructed of durable materials, and the costs of maintaining the donation is reasonable;
- (d) the donor has clear legal title to the proposed donated asset; and
- (e) the donation complies with subsection 3 of this section.

(3) The acceptance of a donation of any public art by the Municipality shall be subject to the following conditions

- (a) if the donation is for new public art, the donor assumes all costs associated with the donation, including design, public consultation, production, siting, and installation of the art;
- (b) if the donation is existing public art, the donor provides a recent appraisal of the art;
- (c) proof the donor has a commitment for full funding for the project;
- (d) the Municipality has sole and final authority to determine the location and siting of the proposed public art;
- (e) the Municipality has sole and final authority to remove the public art;
- (f) the donor provides a maintenance manual;
- (g) if the donor owns the public art and it is required by the Director, maintenance funds in the amount determined by the Director;
- (h) if the donor is a third party and section 30 applies, section 30 is satisfied;
- (i) if maintenance funds are required by the Director or section 30 applies, the full amount of the funds are paid prior to acceptance into the Municipality's collection; and
- (j) the donor does not impose any conditions on the Municipality associated with the donation.

(4) The acceptance of a donation of a cultural asset by the Municipality shall be subject to the following conditions,

- (a) proof the donor has a commitment for full funding for the project;
- (b) the Municipality has sole and final authority to determine the location and siting of the proposed cultural asset;
- (c) the Municipality has sole and final authority to remove the cultural asset;
- (d) the donor provides a maintenance manual;
- (e) if the donor owns the cultural asset and it is required by the Director, maintenance funds in the amount determined by the Director;
- (f) if the donor is a third party and section 30 applies, section 30 is satisfied;
- (g) if maintenance funds are required by the Director or section 30 applies, the full amount of the funds are paid prior to acceptance into the Municipality's collection; and
- (h) the donor does not impose any conditions on the Municipality associated with the donation.

(5) Donations of any public art or cultural asset approved by Council will be structured under a deed of gift transferring title and ownership to the Municipality.

Temporary Public Art

17. (1) Third parties wishing to install temporary public art in accordance with this section shall make an application to the Municipality.

(2) Applications by third parties will be assessed under any requirements that were developed under section 25, as well as any other relevant municipal regulation, standards, and processes.

(3) Subject to subsection 6 of this section, the Municipality may consider requests from third parties to install temporary public art on Municipally-owned public space if:

- (a) the proposed public art remains under the ownership of the artist or community group that initiated the project and will not become part of the Municipality's Public Art Collection;
- (b) the applicant agrees to be responsible for all costs associated with insurance, maintenance, and de-installation of the public art, and any associated site repair;
- (c) the applicant identifies sufficient funding sources for the installation; and

(d) the applicant agrees the public art that will be temporarily installed on a municipally-owned public space is not owned by the Municipality.

(4) The Director may require the third party to undertake engagement with the community and may specify the manner of the engagement.

(5) If the Director requires engagement, the proposal shall not proceed until the engagement is undertaken to the satisfaction of the Director, and the results of the engagement are provided to the Director.

(6) Successful applicants may be required enter into a formal agreement with the Municipality outlining the terms and conditions under which the installation will be permitted on Municipal property and shall acquire any necessary permits for the installation.

(7) This section does not apply to temporary public art installations as part of an event that is subject to Administrative Order Number 2014-010-ADM, *The Special Events Administrative Order*.

Funding for Municipal Public Art Generally

18. (1) The Municipality may provide investment for public art acquisition, creation, and maintenance through:

- (a) the Council approved budget; and
- (b) the ongoing funding through a reserve of the Municipality.

(2) The Municipality may establish an operating budget for public art initiatives, signage, and interpretation, and ongoing marketing and promotion of its public art collection during its annual business planning process.

Funding for Municipal Public Art on Facilities

19. (1) This section applies to municipally-owned public spaces that is a facility or structure.

(2) The Municipality may include public art as a component of new construction or major renovation projects that are located on municipally-owned public spaces, for the following:

- (a) community centres;
- (b) recreational, cultural and sports facilities;
- (c) transit terminals;
- (d) libraries; and
- (e) any other municipal facility recommended by staff and approved by Council for the inclusion of public art.

(3) When incorporating public art as a component of new construction and major renovation projects as outlined in subsection (2) of this section, staff must allocate no less than one percent (1%) of the total construction costs of the project to public art, and this amount shall be included in the overall budget for the project.

(4) Public art that is a component under subsection (2) of this section must be sited on the facility grounds.

Funding for Municipal Public Art on Streetscapes

20. (1) In accordance with subsection (3) of this section, the Municipality may fund public art in municipally-owned public spaces that are municipal streetscape development projects, major park development and park recapitalization projects, and other major infrastructure projects.

(2) In determining whether to fund Public Art under subsection (1) of this section, Council may consider the amount of public open space and the public impact of the public art.

(3) When incorporating public art as outlined in subsection (1) of this section, staff must allocate not less than one percent (1%) of the total construction costs of the project toward the provision of public art, to be included as a one-time allocation from the overall capital project budget for the project.

21. Council may consider applying funds from an applicable reserve to supplement the one percent (1%) public art allocation from project budgets for smaller capital projects to achieve significant public art at strategically important locations.

Integration of Public Art: Site Evaluation and Prioritization

22. (1) Subject to subsection (2) of this section, the Municipality will ensure public commission purchases and direct selection purchases are accessible, planned, executed, and sited or staged in the public realm.

(2) The Municipality may facilitate public art in non-municipally-owned public spaces through:

(a) an agreement in accordance with section 12; or

(b) in accordance with clause 70(1)(b) of the *Halifax Regional Municipality Charter*.

23. The Municipality will give priority to siting and staging public art at the following locations:

(a) Halifax, Dartmouth, and Bedford waterfront areas;

(b) Regional Parks, and District Parks;

(c) streetscaping projects;

(d) community facilities;

(e) areas identified through municipal planning strategies, community visioning process(es) and future land use studies; and

(f) other areas of opportunity that may be identified by Council.

24. No new permanent public art will be approved for any municipally-owned public spaces until:

(a) a site plan has been completed for the municipally-owned public spaces;

(b) where a masterplan exists for a park, the proposed public art is, in the opinion of staff, consistent with the masterplan; and

(c) a technical review of the proposed site has been completed, and the results reviewed by staff designated by the Director.

Administration

25. The Director may develop:

(a) public art procedures to support the administration of this Administrative Order; and

(b) requirements for the temporary installation of public art on municipal-owned public space.

Promotion

26. The Municipality may promote awareness of and engagement with public art through an awareness program that will include promotion of new acquisitions and major restoration projects, public education, programs and public art festivals, and events.

27. The Municipality may engage institutional and not-for-profit organizations within the arts and cultural sector to develop and deliver the awareness program.

Maintenance

28. Council may consider allocating funds from the Community Events Reserve, or such applicable reserve, for the maintenance, care, and conservation of the Municipality's public art collection.

29. The Municipality will maintain a current database of its public art and cultural asset to inform its collection management, and the database will include a list of the public art:

(a) that is owned by the Municipality before the coming in force of this Administrative Order;

(b) commissioned or acquired by the Municipality under this Administrative Order; or

(c) public art that has been installed as a form of public benefit from incentive or bonus zoning.

30. The Municipality may determine that a donation of public art or cultural asset include a cash contribution to support the ongoing maintenance of the public art, and if such a determination is made, the contribution shall be in the following amounts:

(a) in the case of public art already sited on municipally-owned public spaces for which the Municipality has agreed to accept ownership, no less than ten percent (10%) of the estimated current value of the art; or

(b) in all other cases, to be no less than ten percent (10%) of the construction budget for the public art.

31. The Municipality will oversee the maintenance, conservation, and restoration of public art on municipally-owned public spaces pursuant to HRM Public Art Procedures.

32. The Municipality will remove all municipally-commissioned temporary public art installations pursuant to the HRM Public Art Procedures.

Deaccessioning

33. Council may consider the deaccessioning of permanent public art or a cultural asset that Council considers is no longer required for, or relevant to, the Municipality's public art collection, and such considerations may include:

(a) substantive alterations to the site of the public art or cultural asset has resulted in the public art or cultural asset being negatively impacted, including physically or contextually altering or diminishing the public art or cultural asset;

(b) whether the extent of material or technical degradation of the public art or cultural asset makes repair unreasonable or impractical, or makes the public art or cultural asset unsightly or a concern for public safety; or

(c) that exceptional or unforeseen circumstances have arisen which supported removing the public art or cultural asset from its site, and no other suitable site could be found.

34. In considering the deaccession of permanent public art or a cultural asset in accordance with section 33, Council shall consider the following:

(a) the reasons for the suggested deaccessioning;

(b) the opinion of Legal Services;

(c) the method by which the public art or cultural asset was originally acquired and its original cost;

(d) if the acquisition was \$5,000 or less, an informal estimate of the current value of the work;

(e) if the acquisition cost exceeded \$5,000, at least one expert appraisal of the current value of the public art or cultural asset;

(f) the cost of deaccessioning or removal of the public art;

(g) any documented public response to the public art;

(h) a report on the condition of the public art or cultural asset from a professional conservator, engineer, or material specialist;

(i) a recommended disposal plan for the permanent removal from the public art collection;
and

(j) any alternative course of action suggested by staff, including relocation.

35. Public art or cultural asset that is deaccessioned shall be disposed of in accordance the *Administrative Order Number 2020- 003-ADM, the Surplus Assets Policy*.

Private Development

36. If a land use by-law provides for incentive or bonus zoning and the Municipality is the recipient of money-in-lieu of a contribution for public art for incentive or bonus zoning, the funds received by the Municipality shall be used by the Municipality in accordance with this Administrative Order.

Repeal

37. The *Public Art Policy* adopted by Council on September 23, 2008 is hereby repealed.

Done and passed in Council this ___ day of _____ A.D. 2020.

Mayor

Acting Municipal Clerk

Notice of Motion:
Approved:

August 18, 2020
September 1, 2020

Public Art Acquisition Summary, Commissioned and Donated Works

Table 1: FUNDING SUMMARY- COMMISSIONED PROJECTS (2008-2020)

Date Commissioned	Artist/Artwork	Location	Budget
2008	Cody Lee Stephenson and Adam Collins <i>Fallen Peace Officers Memorial*</i>	Grand Parade, Halifax	\$137,027.91 Capital Budget (\$107,000 in fundraising by NSFPOA)
	Holly Carr <i>A Fall River Impression*</i>	Gordon R. Snow Community Centre, Fall River/Waverley	\$10,000 Councillor Discretionary Budget
2010	Ivan Murphy <i>Untitled</i>	Prospect Road Community Centre, Prospect	\$20,000 Allocation from Capital Project Budget (Prospect Road Community Centre)
2011	Ilan Sandler <i>School Chair</i>	Greenvale Lofts, Dartmouth	\$25,000 Developer Contribution; \$5,000 Reserve Funding Capital Project Account
	Cliff Eyland <i>Bookshelf Paintings and Library Card Paintings</i>	Halifax Central Library	\$430,000 allocation from Capital Project Budget (Halifax Central Library)
2013	Sara Hartland Rowe <i>Travellers</i>	Dartmouth Bridge Terminal, Dartmouth	\$44,467.55 Reserve Funding, Capital Project Account
2014	Breakhouse <i>Less is Moire</i>	Canada Games Centre, Clayton Park	\$50,000 Reserve Funding, Capital Project Account
	The Deanery Project (various artists) <i>Our Common Woods</i>	Halifax North Common, Halifax	\$46,928.70 allocation from Capital Project Budget (North Park Intersection redesign)
2016	Passage Studio <i>City of Lakes</i>	RBC Centre, Dartmouth	\$363,000 Capital Project Budget (Dartmouth 4-Pad project)
2017	rhad Architects, <i>Halifax Explosion Markers (x12)</i>	Various Locations, Halifax, Dartmouth, Bedford	\$483,744 Capital Project Account (portion of \$450,000 federal funding <i>Commemorate Canada</i> program)
2017 (cont'd)	NIS+TS/Mindsea <i>Drifts</i>	Smartphone App and companion website	\$133,260 Capital Project Account (portion of \$450,000 federal funding)

			<i>Commemorate Canada program)</i>
	Jennifer Demitor <i>Rain/Plains</i>	Bedford Hammonds Plains Community Centre	\$19,259 Capital Project Budget (Bedford-Hammonds Plains Community Centre)
	Jordan Bennett, <i>P'jilasi (Welcome)</i>	Zatzman Sportsplex, Dartmouth	\$200,000 Capital Project Budget (Zatzman Sportsplex Renovation)
2018	Passage Studio <i>Porous Light</i>		\$65,000 Capital Project Budget (Argyle and Grafton Shared Streetscape Project)
2019	The Christopher Joyce Team <i>Cole Harbour Tree</i>	Cole Harbour Place, Cole Harbour	\$50,000 Reserve Funding, Capital Project Account
2019	rhad Architecture, <i>Halifax Explosion Markers (1)</i>	Africville Park, Halifax	\$40,793 Capital Project Account

*Commissioned prior to the adoption of the HRM Public Art Policy but installed under the direction of the draft Policy.

Table 2: SUMMARY- GIFT ACQUISITIONS 2008-2020

The acquisitions listed below did not carry an acquisition cost to HRM but do carry ongoing maintenance requirements.

2011	Merchant Navy Commemorative Marker	Sackville Landing, Halifax	Deed of Gift, Canadian Merchant Navy Association
2013	Ilan Sandler, <i>Lace Up</i>	Halifax Central Common, Halifax	MOA Canada Games Legacy; Deed of Gift
2016	Miro Davis, <i>Untitled</i> and Rory MacDonald and Catherine LeRoche, <i>Barrington Blocks</i>	Barrington Benches, Barrington Street, Halifax	Deed of Gift (x2), Sculpture Nova Scotia and Downtown Halifax Business Commission
2016	Hammonds Plains Cenotaph	Uplands Park, Hammonds Plains	Deed of Gift, Hammonds Plains Lucasville Veterans Memorial Association
2019	Peter Bustin, 'The Sailor'	Sackville Landing, Halifax	Deed of Gift, Atlantic Chiefs and Petty Officers Association
2020	Ivan Higgins, untitled (pending)	Daffodil Garden for Cancer Survivors, Ferry Terminal Park, Dartmouth	Deed of Gift, James William Edgar and Margaret Judith Edgar