

Montgomery County Public Art Guidelines

September 2018

COVER, FROM LEFT TO RIGHT:

Rock Creek Trail Pedestrian Bridge by Vicki Scuri.
Photo by Roger Foley.

East-West Beaco by Ray King.
Photo by Ken Stanek Photography.

"Neons and Other Lighting for 7475 Wisconsin Avenue"
Bethesda, MD, by Stephen Antonakos.
Photo by Boris Feldblyum Architectural Photography

Approved June 23, 2017

ABSTRACT

These policies and procedures establish the guidelines for implementing the Public Arts Trust as per Chapter 8 of the Montgomery County Code, Article VI. Works of Art in Public Architecture, Sections 8-43 to 8-45 and Chapter 59 of the Montgomery County Zoning Ordinance.

This document was adopted by the Public Arts Trust on June 23, 2017.



Arts & Humanities Council of Montgomery County
creativemoco.com

The Public Arts Trust

Montgomery County Department of Recreation

Montgomery County Public Schools

Montgomery College

Montgomery County Government

CONTENTS

Introduction.....	5
History of Public Art in Montgomery County.....	6
Public Art in Public Projects.....	7
Public Art in Private Projects	7
Definitions	9

THE PUBLIC ARTS TRUST

Mission, Vision, and Goals.....	13
Funding and Governance.....	14
Administration.....	14
Projects and Programs	17

THE ARTWORKS

Site and Project Selection Criteria	21
Collections Management Policy.....	27
Public Art in Private Development	35

APPENDICES

- 1 Criteria for Project and Site Selection
- 2 Montgomery County Code, Chapter 8, Article VI. Works of Art in Public Architecture
- 3 AHCMC Database and Maintenance Information
- 4 Transfer of Title



INTRODUCTION

Montgomery County's public art collection has grown over the past 30 years to include more than 800 works by artists such as Athena Tacha, Jim Sanborn, Heidi Lippman and Martin Puryear. This extensive range of artworks includes freestanding sculpture, integrated pieces and works on paper, as well as occasional temporary commissions, and it has been commissioned under the auspices of a variety of County agencies. In addition, over the same time period, developers have commissioned more than 50 works of art under the "Optional Method" process in the County's zoning code, although these works are not officially part of the County's collection.

These guidelines provide the Public Arts Trust, the Public Art Review Panel, County agencies, developers and their consultants with a consistent set of goals, policies and procedures — grounded in public art best practices and thirty years of experience in Montgomery County — for expanding and maintaining the Collection and the artworks commissioned by developers. The expectation is that these guidelines will ensure the best stewardship of this public trust — to build the collection, maintain it and ensure it remains available for the public's enjoyment for generations to come.

ABOVE:

Penguin Rushhour by Sally Calmer.
Photo by Dodge Chrome.

HISTORY OF PUBLIC ART IN MONTGOMERY COUNTY

Montgomery County established its first public art program under the leadership of County Council member William Hanna. In 1978, while Hanna was Mayor of Rockville, the City adopted a percent for art program. In 1983, when he became a Councilmember, he pursued a similar County-wide program.

In 1983, Council Bill No. 30-83 established an Art in Architecture program, which mandated that one percent of the budget of certain County government capital projects be set aside for acquiring and commissioning artworks (see Appendix 1).¹

At the same time, independent public agencies — Montgomery County Public Schools, the Maryland–National Capital Planning Commission (M-NCPPC) and Montgomery College — were operating their own “percent for art” programs. From 1983 to 1991, the four separate programs collected and commissioned more than 200 works, ranging from small pieces for various recreation centers, public schools and libraries, to larger and highly visible pieces.

Though the intent of Bill No. 30-83 was that the Arts and Humanities Council of Montgomery County (AHC MC) would administer the Art in Architecture program, in 1985 it was determined that without additional professional staff, AHC MC could not coordinate the four agencies and adequately track the CIP. However, AHC MC did participate in the selection of artists for projects.

A 1991 report analyzed these programs and found that each one had its own set of procedures and each applied the legislation differently. There was little or no coordination between the programs or with the public art generated through Optional Method development. The report recommended creating a task force to establish general guidelines and reporting requirements, as well as policies for artwork inspection, maintenance, site selection, allowed expenses, and any restrictions on the number of artworks or the amount to be expended per site. The report recommended suspending the percent for art program while these guidelines were established.

The program was suspended and, in 1993, a bill was introduced in the County Council to eliminate it completely for budgetary reasons. However, in 1995 a new program was proposed (in part by AHC MC) and approved by the Council. That legislation established a single public art program, The Public Arts Trust, which consolidated all four programs into one.

Since 1997, the Trust has been overseen by AHC MC on behalf of the Department of Recreation. The County’s Public Art Collection has continued to grow, today numbering more than 300 pieces. The County has also collected more than 500 pieces for its Contemporary Works on Paper Collection.

¹ This amount was amended twice — to 0.5 percent in 1988 and then to 0.25 percent in 1990 because approved budgets were much higher than anticipated. The percent for art amount was adjusted to be more in line with what the Council had intended to dedicate to public art.

HOW PUBLIC ART IS CREATED IN MONTGOMERY COUNTY

Today, the County creates public art in two ways:

- Public art commissioned as part of County capital projects is funded through the CIP and commissioned under the auspices of the Public Arts Trust and host agencies. These artworks become part of the County's public art Collection.
- Public art in private development is funded by developers pursuing the Optional Method zoning process. It is reviewed by the Montgomery County Planning Board, with guidance from an Art Review Panel that it appoints as well as M-NCPPC staff. These artworks remain in private ownership and are not part of the County's official collection.

PUBLIC ART IN COUNTY PROJECTS

The Public Arts Trust coordinates public art projects within parks, buildings, infrastructure and other facilities the County builds. The Trust works with County agencies to identify the best opportunities for public art, establish budgets, recruit artists and develop concepts for projects. The Trust's public art professionals provide guidance about how public art will best integrate into projects, assist with artist contracting and integration into design processes, monitor projects throughout the design and construction processes, and generally ensure that artworks are developed in a way that meets the goals of the artist, the Trust, the partnering County agency and the public.

County-initiated public art projects receive funding from several sources. Agencies usually include funding for public art into their CIP budgets. In some cases, the Trust can dedicate money from its annual budget or from the Public Art Fund.

PUBLIC ART IN PRIVATE DEVELOPMENT

Private developers can provide public art in exchange for increased density through the County's Optional Method zoning process. Developers may choose either to provide the artwork on their sites as part of their public space requirement or to pay into the Public Art Fund. This process was established in 1974 under the Optional Method standards of the Zoning Ordinance (Article 59 of the County Code), and has been updated several times since.

Originally, Optional Method development only applied to central business district zoning in Bethesda, Silver Spring, Wheaton and Friendship Heights. To this day, Bethesda and Silver Spring are the areas of the County where the most developer-sponsored public art can be found. These provisions have since been expanded; as of the 2014 comprehensive rezoning, the Optional Method is now available in CR, CRT, EOF and LSC zones throughout the County, which means that a growing number of communities will benefit from Optional Method art projects. Optional Method projects are subject to the Commercial/Residential Zone Incentive Density Implementation Guidelines, approved by the Planning Board.



THE CONTEMPORARY WORKS ON PAPER ART COLLECTION

Originally called the “Works of Art in Public Places” program, the Contemporary Works on Paper Art Collection began in 1975 with \$7,000 from County bond money and matching funds from the National Endowment for the Arts. With the funds, the County purchased works of art from local, area and national artists. Most pieces purchased are prints, drawings or collages. The Collection includes pieces from noted artists Jim Dine, Sam Francis and Milton Avery. It also includes pieces from local artists such as Joseph Craig English, Raya Bodnarchuk and Mark Leithauser. Works on paper are collected primarily because of their lower cost and portability. In recent years, the Trust has focused on collecting pieces from Montgomery County artists.

Pieces from the collection are exhibited in public buildings throughout the County and rotated periodically. Since its inception in the mid-1970s, the collection has grown to more than 500 pieces. New pieces are purchased periodically through a juried or selective process.

In 2012, the Trust completed an assessment of the Works on Paper Collection and all documentation has been incorporated into the Database.

The Trust, with some assistance from the County’s Department of General Services, manages the Works on Paper Collection. The Trust uses maintenance funds allocated each year from the County’s operating budget to provide long-term storage for pieces not currently on exhibit and to frame, maintain and repair pieces as needed.

Guidelines for managing the Public Arts Trust’s Works on Paper Collection are published in a separate document.

ABOVE:

Silver Creek by Deirdre Saunder.
Lightweb by Craig Kraft.
 Photo by Ken Stanek Photography.

DEFINITIONS

For the purposes of this document, the following terms are defined.

Accessioning:	The formal process used to accept an artwork into the County's Collection.
Artist:	<p>An individual who meets one or more of the following criteria:</p> <ul style="list-style-type: none">• realizes income through the sale, performance, publication or commission of original works of art;• has previously exhibited, presented, performed or published original works of art in museums, galleries or other recognized art venues and publications;• has formal training or education in a field of art; and/or• has received awards or other forms of recognition from arts juries, arts grant panels, and similar entities for his/her artistic abilities or accomplishments. <p>Environmental design professionals, such as architects or landscape architects, can be considered artists if they otherwise meet the criteria in this definition.</p>
Artist Registry:	A list of artists interested in creating public art within Montgomery County.
Art Review Panel:	A panel of at least five people convened by the Planning Board to review public art proposed by developers a condition of approval under the Optional Method development process as outlined in the Montgomery County Zoning Code.
Artwork:	An original creation by an artist. May be one-of-a-kind or one of a limited edition, functional or purely aesthetic, exterior or interior, integrated or stand-alone, temporary or permanent. For the purposes of this definition, artworks do not include landscaping, grates, lighting, benches, fences or other design features, unless designed by an artist as a unique feature for the project. (See also Montgomery County Code, Sec. 8-43 for definition of work of art.) ²
Artist Selection Panel:	A panel of five to seven members convened by the Public Arts Trust to review a County- initiated project and select an artist(s) to be commissioned or an artwork(s) to be purchased. If a new artwork is being commissioned, the Panel will review the artist's (artists') concept proposal and recommend it to the Public Arts Trust Steering Committee for approval.
Arts and Humanities Council of MontgomeryCounty (AHCMC):	Represents the Department of Recreation as the administrative contractor that provides day-to-day management and oversight of the Public Art Trust.

²Work of art means an object, objects or surface embellishment produced with skill and taste. A work of art should generally be an original creation, rather than a mass-produced item, generally expressing, but not limited to, a social, cultural or historical theme. Works of art include, but are not limited to, paintings, sculptures, engravings, carvings, frescos, mobiles, murals, collages, mosaics, statues, bas-reliefs, tapestries, photographs, drawings, stained glass, fountains or other decoration, either exterior or interior. The term does not include temporarily hung works of art, landscaping, or the choice or use of materials in architecture.

AHCMC Public Art Collection Database:

The collection management tool that contains written and visual documentation pertaining to every artwork in the County's Public Art Collection or commissioned by a private developer under the Optional Method development process for the County.

Client Department: The County department or agency hosting a public art project.

Conservation Endowment:

A fund held by the AHCMC on behalf of the Public Art Trust, into which contributions for conservation from new project budgets are placed.

Contemporary Works on Paper Art Collection:

All framed and unframed works of art purchased with County funds and exhibited in public buildings throughout the County.

County: The government of Montgomery County, Maryland.

County Capital Improvements Program (CIP):

A biennial six-year plan that outlines capital investments that the County plans to make.

De-accessioning: The permanent removal of an artwork from the Public Art Collection.

Department of Recreation:

The County agency that provides oversight for the Public Arts Trust, as administered by the AHCMC.

Design Collaboration: The collaboration of an artist(s) with the other design professionals who are working on a project. Usually, this begins as the concept planning phase.

Design Team: A group of design professionals (such as an artist, architect, engineer, landscape architect, lighting designer, graphic designer, or others) who collaborate as equal contributors to a specific project.

Integrated Artwork: An artwork that is specifically planned for and executed as a component of the overall design of a larger capital project. Artworks can be integrated into architecture, landscape design, streetscape or infrastructure projects.

Maryland–National Capital Park and Planning Commission (M-NCPPC):

A bi-county agency covering Montgomery and Prince George's Counties that oversees parkland and planning at the County level.

Optional Method Development:

The development process outlined in the County Code, Article 59, Zoning, and administered by the M-NCPPC through the Commercial/Residential Zone Incentive Density Implementation Guidelines.

Public Art: An original, site-specific artwork created by an artist, or a design element created by an artist collaborating with a design team, that is visually and/or physically accessible to the public. The artwork can be created in a variety of media, may be permanent or temporary, and may possess functional as well as aesthetic qualities. Public art must be located in places where public life

occurs, including streets, plazas, parks and open spaces, as well as facades, lobbies, atria, courtyards and similar spaces that are openly accessible and visible to anybody who is interested.

Public Art Collection (Collection):

The entire body of public art that is acquired by, commissioned by, or donated to Montgomery County, as reviewed and approved by the Public Arts Trust Steering Committee. Artworks in the Collection are owned by the County, and the County is responsible for maintenance, conservation and interpretation of the artworks. The Collection also includes the Contemporary Works on Paper Collection, which is administered in accordance to policies described in a separate guidelines document.

Public Art Collection Survey:

An ongoing survey of the Collection to prioritize conservation needs and ensure maintenance.

Public Art Fund:

An account in which the contributions to the Public Arts Trust, including donations from Optional Method developers who contribute cash, are held.

Public Art in Private Development:

Artworks that are commissioned by a private developer under the Optional Method development process, and approved by the Art Review Panel and the Planning Board.

Public Art in Public Projects:

County-initiated public art projects on sites owned by County departments or agencies, including Montgomery County government, Montgomery County Public Schools, the Maryland-National Capital Park and Planning Commission, and Montgomery College.

Public Art Road Map:

A written document that augments but does not amend the County's General Plan and identifies appropriate and significant sites or site-selection criteria for the location of permanent, semi-permanent and temporary public art throughout Montgomery County. The Road Map will assist the Trust and Planning Board in guiding privately- and publically-funded public art projects.

Public Arts Trust (Trust):

The County's public art program, designed to receive, hold and pay out public and private funds to acquire, commission, display, relocate and conserve public artworks on County property.

Public Arts Trust Manager (Manager):

The manager of the day-to-day affairs of the Public Arts Trust.

Public Arts Trust Steering Committee (Committee):

A committee appointed by the AHCMC that serves as an advisory board to the AHCMC Chief Executive Officer and Public Arts Trust staff in implementing the public art program.

Temporary Artwork:

An artwork that is created to be presented for fixed period of time, usually less than a year, which is established at the time of the commission or loan.

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applied the legislation differently. There was little or no coordination between the programs or with the public art generated through Optional Method development. The report recommended creating a task force to establish general guidelines and reporting requirements, as well as policies for artwork inspection, maintenance, site selection, allowed expenses, and any restrictions on the number of artworks or the amount to be expended per site. The report recommended suspending the percent for art program while these guidelines were established.

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Since 1997, the Trust has been overseen by AHCMC on behalf of the Department of Recreation. The County’s Public Art Collection has continued to grow, today numbering more than 300 pieces. The County has also collected more than 500 pieces for its Contemporary Works on Paper Collection.



ABOVE:

Alba Rosa (1988) by Joseph Anthony McDonnell.
Photo by Howard Wellman.

THE PUBLIC ARTS TRUST

The Public Arts Trust was established in 1995 under Chapter 8 of the Montgomery County Code, Article VI, Works of Art in Public Architecture, Section 8-45, which states:

“Each year the County Council should consider appropriating funds for the next fiscal year to the Public Arts Trust in an amount equal to 0.05% of the combined total approved capital expenditures for the then-current fiscal year for County Government, Public Schools, Montgomery College and Maryland-National Capital Park and Planning Commission.”

The Trust was created to consolidate public art initiatives that had been previously managed separately by the County, the M-NCPPC, Montgomery County Schools and Montgomery College.

PROGRAM MISSION AND VISION

The Trust’s mission is to build and inspire communities through placemaking and to nurture artists engaged in public art.

The Trust’s vision is to enhance the quality of community and place through public art projects that:

- Promote cultural enrichment,
- Engage diverse communities through projects and dialogue, and
- Foster emerging and established Montgomery County artists.

PROGRAM GOALS

The Trust’s goals are to:

- Foster community identity and spirit, encourage dialogue and promote cultural enrichment.
- Celebrate our community’s heritage, ethnicity, commonality and civic pride by stimulating collaboration and understanding between artists and Montgomery’s diverse community.
- Place public art where it will be enjoyed by numerous people, particularly in parts of the County where there is less public art.
- Create exciting, appealing and harmonious public spaces by integrating art into architecture, landscape and the urban fabric and through planning of infrastructure at the earliest design stage.
- Encourage economic growth through public art that is stimulating and accessible.
- Foster the public’s understanding and enjoyment of public art.
- Enhance Montgomery County’s image locally, regionally and nationally by insuring the creation of the highest quality public art.
- Encourage federal, state, and private support for the County’s public art program.



ADMINISTRATION AND GOVERNANCE

By law, the County Chief Administrative Officer or a designee must administer the Public Arts Trust in consultation with the AHCMC, Montgomery County Public Schools, Montgomery College and the M-NCPPC, the agencies whose independent public art programs were consolidated into the Trust.

The Arts and Humanities Council of Montgomery County (AHCMC)

In 1997, the County contracted with AHCMC to administer the Public Arts Trust. AHCMC is a non-profit agency that is designated by law to administer the County's grant funds for arts and humanities programs. The Trust is overseen by the AHCMC Chief Executive Officer. As an AHCMC program, the Trust has access to broad administrative and marketing resources. The AHCMC provides staff, including a part-time Manager, to the Trust, along with marketing and administrative assistance from AHCMC staff as needed. The Collection and the Trust are featured on AHCMC's website and in most marketing materials.

The Public Arts Trust Steering Committee

The Public Arts Trust Steering Committee (PATSC) is a committee that serves as an advisory board to the AHCMC Chief Executive Officer and Public Arts Trust Manager in implementing the public art program. The PATSC shall have between 11 and 15 members.

The Chair of the PATSC shall be a member of, and appointed by, the AHCMC Board.

The PATSC also includes representatives of:

- Montgomery County Public Schools
- Montgomery College administration
- M-NCPPC-Parks
- M-NCPPC-Planning
- Department of Recreation
- Department of Transportation
- Department of General Services

ABOVE:

Silver Pass by Arts on the Block.
Photo by Ken Stanek Photography.

- Other invited community representatives and art and design professionals, including at least one artist.

PATSC members from public agencies shall be nominated by the directors of those agencies.

At-large members to the PATSC shall be solicited through a public application process, be recommended by the standing Committee members, and approved by the AHCMC board.

All PATSC members shall be appointed for a three-year term and may be re-appointed for a second three-year term. PATSC members who leave the employment of the department they represent shall be replaced by a new representative of that department.

The PATSC meets at an annual retreat to discuss projects for the upcoming year, and on an as-needed basis otherwise to review artist selections, concept proposals and other matters.

Guidelines

The processes for commissioning, purchase, maintenance, acceptance of gifts and de-accessioning of public art for County departments and agencies are outlined in these Guidelines.

Funding for the PATSC

Montgomery County's public art ordinance recommends, but does not require, that the County Council consider an annual allocation of up to 0.05 percent of the capital budget for public art. The Trust's peaked in FY 2002 at \$201,000. Since 2007, the Trust's annual operating budget has remained at \$140,000, a decision reviewed each year when the County Council approves its operating budget.

Use of Funds

County-appropriated funds and other monies in the Trust can be used to support the commissioning and acquisition of temporary and permanent artworks and related activities. The following types of expenditures are eligible:

- artist selection processes, including jury selection, artist travel costs and artist fees for concept development
- all artist services, including design fees, models and sub-consultant fees such as engineering or other specialty consulting
- materials, fabrication, delivery and installation related to the artwork
- incremental costs of art integrated into infrastructure elements such as soundwalls, utility structures and roadway elements, as well as dedicated lighting, landscape architecture and landscape elements
- identifying plaques/markers
- conservation and maintenance of the collection, including repair, replacement of works damaged beyond repair and not covered by insurance, surveys, curatorial services, re-siting and other conservation work necessary to keep all works of art in the Collection in good condition
- program administration and planning
- community education programs, outreach and dedications
- collection management, including software and database training and photo documentation.



Installation shot of the
Betty Mae Kramer Gallery Music.
Photo by Ken Stanek Photography.

PROJECTS

The Trust initiates three types of public art projects:

- Permanent artworks commissioned or acquired for installation on public property, usually but not always through the Capital Improvements Program,
- Temporary artworks, exhibitions, performances and other public art programs and events,
- Drawings, paintings, photographs and similar work acquired for the Contemporary Works on Paper Art Collection.

Forms of public art include but are not limited to:

- sculpture in the round or in any of the following forms or types: bas-relief, mobiles, fountains, environmental, kinetic, electronic, etc., created in any material or combination of materials, including ceramic, fiber and textiles, wood, metal, plastic, glass, stone, mosaics.
- painting in all media, including portable and permanently affixed works such as murals and frescoes
- printing and drawing, including media such as photography, film, graphic arts, any print media (e.g. lithography, etching, etc.), drawing, and calligraphy
- technological media that may develop through artistic pursuit or adaptation of digital, audio, video or graphic media; use of lighting, the internet, and the like
- functional artworks, or elements of the built environment created by artists,
- integrated artworks that are incorporated into a capital construction project,
- social engagement artworks where the art is embedded in the process of engagement with the audience, not necessarily a tangible outcome, and
- any combination of the forms and media.

CAPITAL IMPROVEMENTS PROJECTS PROGRAM

Montgomery County plans its Capital Improvements Program on a bi-annual basis and adjusts its CIP at the midpoint of each two-year cycle. CIP planning is one of the main processes for identifying and developing public art projects.



ABOVE:

Sun Ra's Intergalactic Street Throne
by Martha Jackson Jarvis.
Photo by John Woo.

Every two years, as the County plans its next CIP cycle, the Trust works with its representatives in County agencies and the M-NCPPC to review projects that are potential candidates for public art. These are typically new construction projects or renovations of existing facilities and are brought to the attention of the Committee by members or through other agency representatives. The Trust Manager should also review draft CIP documents and mid-cycle revisions to monitor potential opportunities for public art.

After potential projects are presented by an agency project manager or other representative, the PATSC identifies appropriate projects and recommends a potential project scope and appropriate artwork budget to be included in the project cost estimate at the facility

planning stage. Ultimately, the agency's project manager and the Trust's staff determine the nature and the location of the project, with review and recommendation by the PATSC.

Because the Trust believes public art projects should be considered at the earliest stages of the planning and design process for capital projects, opportunities that are in the facilities planning and design stages are preferred and will be given priority over projects that have completed final design.

Project Funding

The amount and source of funding for each project, and the role that the Trust plays in implementing each project, varies by project. The Trust typically manages the artist selection process and holds the initial design contract with the artist. Client departments usually manage the projects, with oversight from the AHCMC.

Three percent of the total art project budget must be set aside by the contracting agency into a Conservation Endowment that is administered by the Trust. Such funds shall be transferred to the Trust for the sole purpose of conservation and ongoing maintenance of the Collection.

The Public Art Trust's Role in Reviewing Public Art in Capital Projects

The Trust should be involved at each step in planning and completing a County capital project to ensure that public art best suits the goals of the project, the community where it is located and the agency that is sponsoring it, and that the highest public art professional standards are followed. Some steps involve the Public Arts Trust Manager and some steps involve the PATSC.

The PATSC identifies and recommends types of public art projects that should be prioritized for implementation. Projects may involve the commissioning or acquisition of permanent artworks as well as the commissioning or exhibition of temporary art installations.

At the facility planning phase of a capital project, an Agency representative will present the project to the PATSC to determine if it is an appropriate opportunity for public art. If the PATSC approves the project, the PATSC will recommend a potential project scope and appropriate artwork budget to be included in the project cost estimate at the facility planning stage. Currently, because of the level of funding that the Public Arts Trust receives, projects must be funded entirely through the client Agency's project funding.

At the concept design phase of the capital project, the Public Arts Trust staff will begin the artist selection process, using one of the approaches outlined in these guidelines.

The Public Arts Trust will convene an Artist Selection Panel, which will review portfolios, interview artists and review concepts, as required by the artist selection process that has been designed for the project.

The Public Arts Trust will advise the Agency on contracting with the Artist and be a party to the contract in regard to review and approval of deliverables. Contracts should contain the standard public art contracting provisions outlined in the appendix to these guidelines.

During the design phase of the capital project, the Public Arts Trust staff will manage the artist selection process and concept development process. The artist selection and concept approval must be recommended by the Selection Panel, reviewed and recommended by the PATSC, and approved by the AHCMC and the client Agency.

The Trust is also responsible for ensuring that the materials, fabrication method and installation method for the artwork are reviewed and vetted by a conservator, hired as a consultant either to the artist or the Trust.



Hand of NOAA by Raymond Kaskey.
Photo by Ken Stanek Photography.

THE ARTWORKS

SITE AND PROJECT SELECTION CRITERIA

The following principles and criteria are used to select and make recommendations concerning public artworks.

Site Selection Criteria

Sites for new projects should be:

- Public property in Montgomery County, for permanent installations.
- Suitable for the incorporation of permanent or temporary works of art.
- In an area that is identified as a priority in the Public Art Road Map.
- Visible and accessible at least eight hours a day.
- A location where public art will enhance the quality of community or place.
- A focal point for the community.

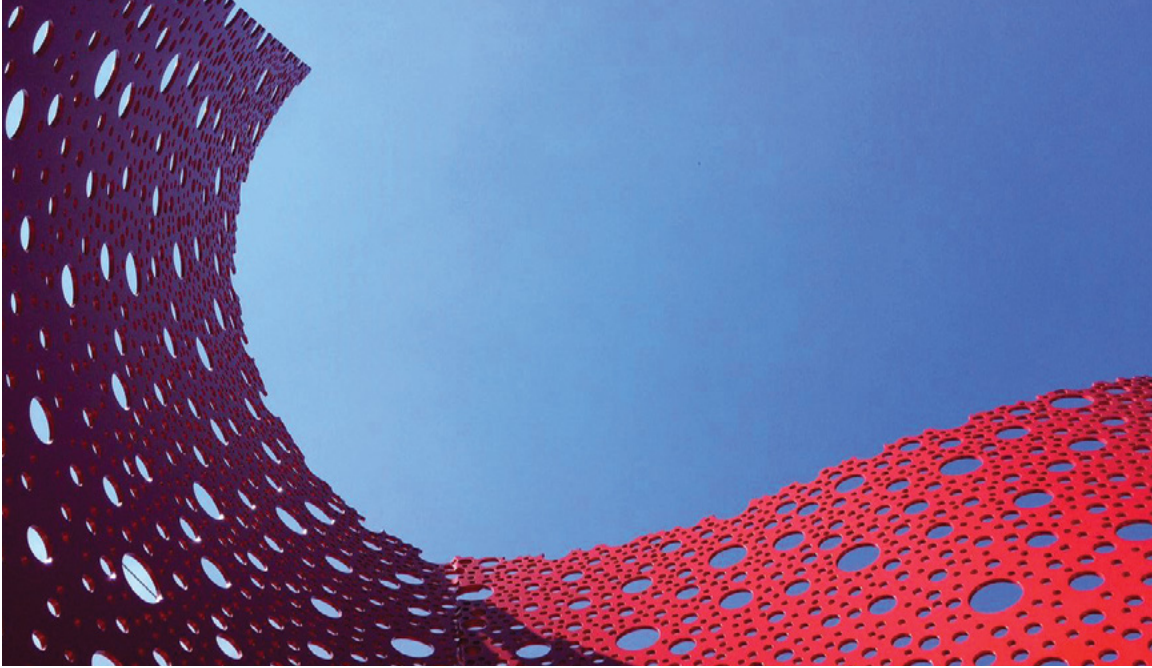
Project Selection Criteria

- The project should be in keeping with the mission, vision and priorities of the Trust.
- The project should address a priority of the Road Map, in regard to its location, partnering agency or potential medium for the artwork.
- There is an opportunity to form a strong partnership with another agency or jurisdiction.
- The host agency supports including an artist in the project design.
- The host agency will provide funding for the artist and the artwork.
- The project can catalyze financial and other support for public art from the private and public sector.
- There is an opportunity to plan for the inclusion of public art during the facilities planning and/or design phases.
- The project and design process present a unique opportunity to include the work and/or thinking of visual artists in the design and construction.
- The budget is appropriate for the type of art and/or artistic process envisioned.

Criteria for Reviewing Artist Concepts

In addition, once the site and project are determined, the approval of the artist's concept shall be guided by the following principles and process. Public art concepts should:

- Respond to the character, culture and history of the area.
- Reflect a creative exchange between the artists and the community.
- Create no negative impacts upon the surrounding environment or resources
- Be fabricated using the best possible materials and professional standards.
- Require reasonable maintenance.



ABOVE:

Red Orchard Wall by Michael Enn Sirvet.
Photo by Amina Cooper, AHCMC.

ARTIST SELECTION PROCESS

The preference shall be to select artists on the basis of qualifications as demonstrated by past work and other professional accomplishments and the likelihood that they will successfully complete the project. Artist qualifications will also be evaluated using specific criteria established for each project.

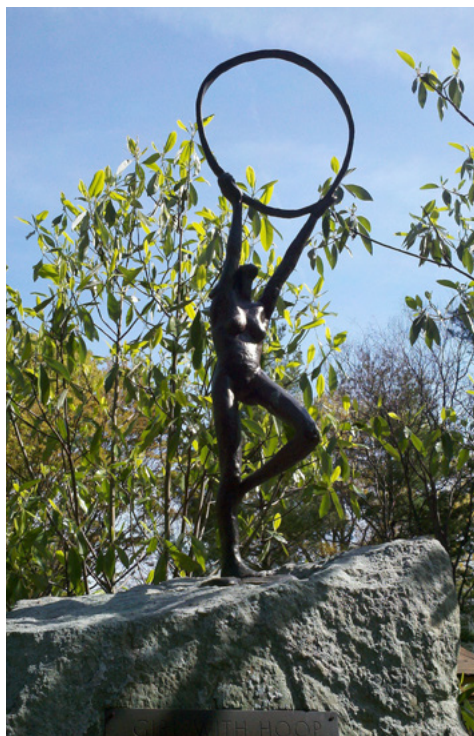
Alternatively, artists can be selected on the basis of both qualifications and concept proposals. Generally, this approach will involve a two-stage process in which artists are first considered on the basis of qualifications, and then finalists are asked to submit proposals. In a proposal-based process, artists shall be compensated for their work.

Artist Selection Methods

In most cases, an open call for artists is recommended. Any artist may submit qualifications subject to any project-related limitations established in the Call for Artists. This call may be distributed locally, nationally or internationally, depending on the needs of the project.

In cases that warrant a specific artistic vision or where a more renowned artist is desired, an invitational call may be used. The list of artists to whom the invitational call is circulated can be developed through an artist registry or a curatorial process. In conducting an invitational call, the Trust shall rely on an outside art advisor. The list of artists invited to submit should be reviewed by the Selection Panel.

In highly unusual cases, an artist can be recommended directly by a curator or the Trust's director, based on the artist qualifications that are being sought, and reviewed by the Selection Panel. Generally, Direct Selection will not be employed except on those projects where an Open Competition or Limited Competition would be impractical.



Artist Selection Objectives

In establishing an artist selection process for a project, the Public Arts Trust will consider the following factors:

- Foster a competitive application environment that results in strong proposals from artists and in high quality artworks.
- Conduct artist selection early in the project to maximize the artist's impact on the project. When working with a design team, the artist may be brought on before, with, or after the team. It is preferred that the artist be selected as soon as possible during the design phase.
- Create opportunities for a wide range of artists, including emerging and established artists.
- Foster the development of design teams that support artists and select artists who are compatible with the other team members.
- Select artists who have specific skillsets deemed necessary to successfully complete the project.
- Select artists who are sensitive to the communities in which they will be working.
- Minimize the cost to artists of applying for consideration.
- Support an efficient workload for staff, artists, and design teams.

ABOVE, LEFT TO RIGHT:

Girl with Hoop by Jenny Reed.
Photo by Amina Cooper, AHCMC.

Watermark by David Hess.
Photo by AHCMC.

Artist Selection Panels

For each project, the Trust will establish an Artist Selection Panel consisting of five to seven members. The Panel should include at least two members who have a professional background in the visual arts (artist, arts administrator, curator, art historian, art educator), at least one project stakeholder, and at least one community stakeholder. At least one of the members should also be a member of the PATSC. The client agency's project manager and design consultants may participate in Panel meetings as non-voting members. Trust staff will coordinate the artist selection process and will advise the Panel, but will not be a voting member of the Panel.

Artist Registry

The Trust can create a juried Artist Registry that is open to local and national professional artists, and which would be used as a resource for the PATSC and developers in identifying artists for public art projects. The Registry would be vetted periodically by a panel convened by the AHCMC.

Multiple Commissions

To ensure that the program supports a diversity of artists and artistic expression, multiple artworks awarded to the same artist should be minimized. Any artist receiving a PATSC or Optional Method commission shall not be eligible for another PATSC or Optional Method commission for two years from the date they were selected for that commission.



ABOVE:

Hearts Beat by Athena Tacha.
Photo by AHCMC.



CONTRACTS

Contracts that are entered into with artists by any County agency, or the Public Arts Trust on behalf of any County agency, should follow the model of the Public Art Network “Annotated Model Public Art Commission Agreement,” particularly in regard to the provisions below. These provisions can be amended only with the approval of the Director of the Trust:

1. Artist Warranties of Originality Title, Quality and Condition,
2. Ownership, Intellectual Property
3. Artist Rights
4. Alterations of Site or Removal of Artwork
5. Artist provision of instructions for maintenance and conservation

ABOVE:

Rock Creek Trail Pedestrian Bridge by Vicki Scuri.
Photo by Roger Foley.

COLLECTIONS MANAGEMENT

The Collections Management Policy guides the development of the Collection for the enjoyment of the public, with direct focus on balancing accessions and de-accessions with the quality, maintenance and conservation of the collection as a whole.

DONATIONS

From time to time, other parties may wish to donate artworks to the County. Although the County is not actively pursuing gifts of art, it welcomes the opportunity to enrich the quality of the environment through the addition of appropriate artworks.

Donations will be accepted, and artworks will be accessioned into the Collection, only upon recommendation of the PATSC and approval of the AHCMC and the County agency on whose site the artwork would be located. Acceptance criteria include, but are not limited to, the quality of the artwork, the availability of a site, the appropriateness of the subject matter and safety and maintenance issues.

Due to limited maintenance budgets, limited space and other concerns, the County may not accept all donations. Proposed donations of artworks that require the County to pay for transportation, installation, storage, framing, restoration or repair are discouraged. In addition, artwork(s) requiring high or excessive maintenance are discouraged and are likely to be declined. The Trust will evaluate these factors as part of the donation review process.

Donation Review Process

All parties interested in donating existing artwork(s) to the County will be required to submit the following information in writing to the Trust:

- Name, address, phone number and e-mail address of the donor or donor's agent
- Motivation/intent of the donor for offering the artwork(s) to the County
- Artist's name, resume, birthplace and date, current address if known, gallery representation if any, and examples of artist's previous work
- Artwork title, medium, dimensions, weight if applicable, date created, and description of signature/inscriptions
- Current owner, statement of ownership, absence of liens, copy of bill of sale
- Current location
- Current condition including conservation history or a conservator's report
- Maintenance manual and schedule prepared by professional conservator, including an estimate of the annual cost of maintenance
- Estimated value, as determined by a professional art appraiser (if the artwork is existing)
- Photographs of proposed donation
- Estimated cost and commitment to funding installation and contribution to Conservation Endowment
- Proof of insurance sufficient to meet the requirements of the County, if applicable

The Trust requests at least six months to thoroughly review all site options and/or research safety and maintenance concerns.



Criteria for Accepting Donations

The Trust and the PATSC will use the following criteria in evaluating proposed donations of artworks:

- **Artistic Merit:** The intrinsic quality and excellence of a proposed artwork(s). Other factors to include are the credentials of the artist, such as training and critical or other professional recognition.
- **Context:** Artwork(s) must be compatible in scale, material, form and content with the proposed location, and compatible with existing approved community or area plans, especially public realm strategies. Consideration should also be given to the architectural, historical, geographical and social/cultural context of the site or community, as well as the way people may interact with the artwork(s).
- **Permanence/Maintenance:** The artwork(s) must demonstrate structural soundness and surface integrity; and inherent resistance to theft, vandalism, weathering and excessive maintenance.
- **Technical Feasibility:** The artwork and its installation will conform to all applicable codes and safety requirements.
- **Funding:** The donor's ability to pay for the cost for installing and maintaining the artwork(s) and to contribute to the Conservation Endowment.
- **Diversity:** The artwork will result in an improvement of the Collection as a whole. Consideration will be given to ease of public access, geographic distribution and variety of medium. Consideration will also be given to whether the artwork addresses a priority expressed in the Road Map.

ABOVE:

A Brush of Discovery by Narcissus Quagliata.
Photo by Ken Stanek Photography.

Expected Duration of Artwork

Each donated artwork should be assessed for its likely lifespan. For artworks that are expected to be permanently in the Collection, regular procedures for obtaining maintenance protocols and funds for the Conservation Endowment should be followed. For artworks that are expected to be time-limited, a de-installation and de-accessioning plan should be created in consultation with the artist.

Placement and Site Considerations

A donated artwork(s) should significantly contribute to the place where it will be located, from a functional and/or design standpoint, and significantly enhance the chosen location in a way that is meaningful to the public. The following factors will be considered:

- visibility from streets and other public spaces
- public accessibility to the artwork(s), including ADA requirements
- relationship to the site, including circulation, programmed areas and architectural and landscape features,
- impact on planned and informal uses of the site,
- environmental conditions, such as sunlight and stormwater
- future development plans for the area (if known)
- the presence of existing artwork(s) within the proposed site vicinity
- social context (intended use of the work if any)
- public safety, and
- significance of the site to the proposed artwork(s).

Final Approval and Acceptance

Donations will be accepted, and artworks will be accessioned into the Collection, only upon recommendation of the PATSC, approval of the AHCMC and the County agency on whose site the artwork will be located, and receipt of documentations and funding for the Conservation Endowment. Final acceptance of donated artwork(s) will be acknowledged through a written statement to the donor or donor's agent. Final acceptance will require an Acceptance Agreement.

Tax Deduction

If a value is to be placed on the donated artwork(s) for tax purposes, it is the donor's responsibility to establish that value.



RELOCATION AND DE-ACCESSIONING OF ARTWORKS IN THE COLLECTION

The Trust retains the right to relocate any artwork in the Collection, or to de-accession any artwork in the Collection — acknowledging, however, that the relocation or de-accession of an artwork before the end of its anticipated lifespan should be a rare and unusual measure.

An individual artwork may be relocated or de-accessioned from the Collection only upon recommendation of the PATSC, recommendation approval by the AHCMC, and approval of the Director of the Department of Recreation, after careful consideration of the following criteria.

Conditions for Relocation

Artworks can be recommended for relocation from their site only if reasonable cause has been established by one or more of the following conditions:

- the architectural support (building, wall, plaza) is to be destroyed,
- the use of this particular public space may have changed, and/or the artwork may have lost its contextual meaning,
- the condition or security of the artwork cannot be reasonably guaranteed in its present location, or
- relocation has been requested by the artist.

ABOVE:

Global Refugee Mural
by Tom Block and Joel Bergner.
Photo by Ken Stanek Photography.

Conditions for De-accessioning

Artworks can be recommended for de-accessioning only if reasonable cause has been established by one or more of the following conditions:

- the artwork's present condition poses a safety hazard to the public;
- the artwork has been damaged or has deteriorated to the point that it can no longer be represented to be the original artwork;
- the restoration of the artwork's structural or aesthetic integrity is technically not feasible, or the expense of restoring it exceeds 50 percent of the original cost of the artwork;
- the architectural support (building, wall, plaza) is to be destroyed and the artwork cannot be removed intact for relocation;
- the use of this particular public space may have changed, and/or the artwork may have lost its contextual meaning and it cannot be re-sited, or re-siting the artwork would be inappropriate;
- the artwork requires excessive and inappropriate conservation and/or maintenance (a standard guideline is that if conservation cost exceeds 50 percent of appraised value, the work is de-accessioned) or has inherent faults of design or workmanship;
- an artwork is not, or is rarely, on display because of lack of a suitable site;
- the condition or security of the artwork cannot be reasonably guaranteed in its present location;
- the County wishes to replace the artwork with a work of more significance by the same artist;
- the artwork does not meet the mission of the Collection;
- removal has been requested by the organization displaying the artwork or by the artist;
- the artwork is proved to be inauthentic or in violation of existing copyright laws; and
- the artwork has received documented and unabated adverse reaction from a measurably large number of citizens and/or organizations based within the community where the artwork is located over at least five years and modifications of the artwork as per discussions with the artist are not possible.

Procedures for Relocating or De-accessioning an Artwork

Initiating the Process

Any request for relocating or de-accessioning an artwork shall be submitted to the Public Arts Trust Manager, who shall take the following steps to inform stakeholders of the request and to develop a report and recommendation for the review and approval of the PATSC, the Executive Director of the AHCMC and, in the case of de-accession, the director of the Department of Recreation.

Informing Stakeholders

The Public Arts Trust staff will ensure that all necessary stakeholders are aware of the process to relocate or de-accession an artwork by:

- consulting with the artist about the artist's intentions for the work and, in the case of a de-accessioning, the artist's interest in reclaiming the work,
- consulting with the affected County agency/agencies,
- consulting the donor of the artwork, if it was a gift, and
- providing appropriate notification to project stakeholders and the public at large.

The Public Arts Trust staff shall collect and record feedback from the artist, the donor, stakeholders and the public at large.

Report and Recommendation

The Public Arts Trust Manager will prepare a report that includes:

- analysis of the reasons for relocation or de-accessioning;
- review of any restrictions that may apply to the disposition of the artwork, based on contract review or the condition of the artwork;
- appraised value of the artwork, if obtainable;
- feedback from the artist, the donor, stakeholders and the public at large; and
- in the case of relocation of an artwork, a recommendation for the new location for the artwork or for storing the artwork,
- in the case of de-accessioning an artwork, a recommendation for the disposition of the artwork, considering (in order of preference): transfer to the artist; sale or trade; loan or donation to an arts nonprofit; or destruction.



Approval

The Public Arts Trust staff will send the report to the PATSC for its review. The PATSC may seek additional information from artists, galleries, conservators and other artist professionals prior to its recommendation. The PATSC then makes a recommendation to the AHCMC and, in the case of a relocation, the affected County agency.

The final recommendation for action is referred to the Director of the Department of Recreation.

Visual Artists Rights Act

All relocations and de-accessions must be undertaken in conformance with the Visual Artists Rights Act, which offers the artist a protection of his or her right of integrity and right of attribution.

PUBLIC ART INVENTORY

The AHCMC maintains a database that includes information and images of all artworks in the Collection. All inventory numbers for public artworks in the collection begin with PA; works on paper begin with WP.

For informational purposes, the inventory also includes works that are on view in public institutions but which have not been officially accessioned into the Collection (designated as ZZ) and artworks that were commissioned by private developers under the Optional Method (designated with the suffix DV at end of inventory number) but are not formally part of the Collection.

ABOVE:

Moon Dance by Martha Jackson Jarvis.
Photo by John Woo.

MAINTENANCE AND CONSERVATION

The acquisition of artwork(s) carries with it the responsibility for and commitment to maintaining the condition in which it was meant to be enjoyed by the public. Host agencies are responsible for ordinary maintenance of the artworks, following the protocols established by the artist. The Trust is responsible for capital maintenance and conservation of permanent artworks that have been formally accessioned into the Collection as well as the Works on Paper Collection.

The Trust staff is responsible for:

- Oversight of the Public Art Inventory
- Preparation of a Conservation Review of the Collection every five years.
- Preparation of a Conservation and Maintenance plan for PATSC review every year.

The artist is responsible for:

- guaranteeing and/or securing manufacturers' warranties for the artwork against all defects of material or workmanship for a period of two years following installation
- providing Trust staff with installation diagrams detailing hardware and foundation structures and detailed instructions regarding routine maintenance of the artwork, which shall become part of the AHCMC Collection Archives and Database
- responding to opportunities to accomplish necessary repairs and preservation or consulting on such repairs, as appropriate.

Conservation Endowment

Three percent of total budget for new commissions shall be set aside in the Conservation Endowment that is administered by the Trust at time contract is signed with the artist. This has applied to all projects commissioned after the fall of 2012.

Collection Review

Periodically, but preferably at least every five years, the Trust will undertake a Conservation Review of the Collection.

If necessary, the PATSC will designate an advisory Sub-Committee composed of visual art professionals (artists, museum curators, conservators, art historians) to review specific items proposed for de-accession and make recommendations to the PATSC and the Department of Recreation about the disposition of these works.

Based on the findings of the review, the Public Arts Trust will prepare a Conservation and Maintenance plan and budget each year.

PUBLIC ART IN PRIVATE DEVELOPMENT

PUBLIC ART AND THE OPTIONAL METHOD OF DEVELOPMENT

Private developers provide public art in exchange for increased density through the County's Optional Method zoning process. Public art is one of many amenities that developers can provide to fulfill Optional Method development standards; they may choose to provide the artwork on their site as part of their public space requirement or to pay a fee to the Trust. Although the artworks approved through the Optional Method are public in nature, they are privately owned and maintained.

The Optional Method was originally developed by the Montgomery County Planning Department in 1974 as a means of acquiring public facilities and amenities in the intensively developed central business districts of Bethesda, Silver Spring, Wheaton, and Friendship Heights. In February 1988, a committee was formed to study issues relating to the approval, installation, and maintenance of public artwork received through this development process. The Montgomery County Planning Board approved the policies and procedures, goals and objectives for selecting public artworks recommended by the study committee, and established the Art Review Panel. The Art Review Panel was formed to serve in an advisory role to M-NCPPC-MC staff and the Planning Board regarding the appropriateness of public art proposed in fulfillment of the Optional Method requirements.

The guidelines governing the rule, procedures and activities of the Art Review Panel are provided in **Montgomery County Art Review Panel: Policies and Procedures for the Optional Method of Development**, created by the Montgomery County Planning Department in 2017³.

For more information about these guidelines, please visit www.MontgomeryPlanning.org.



ABOVE:

Bio Wall by Elisabet Cabeza, Bill Rock.

³ M-NCPPC, Montgomery County Art Review Panel Policies and Procedures for the Optional Method of Development, December 2017

APPENDICES

- 1 Montgomery County Code, Chapter 8, Article VI. Works of Art in Public Architecture
- 2 Montgomery County Code, Sec. 8-45. Appropriation for art
- 3 AHCMC Database and Maintenance Information
- 4 Transfer of Title

APPENDIX 1

MONTGOMERY COUNTY CODE, SEC. 8-45. APPROPRIATION FOR ART.

Each year the County Council should consider appropriating funds for the next fiscal year to the Public Arts Trust in an amount equal to .05% of the combined total approved programmed capital expenditures for the then current fiscal year for County Government, Public Schools, Montgomery College, and Maryland-National Capital Park and Planning Commission. (1984 L.M.C., ch. 1, § 1; 1988 L.M.C., ch. 43, §§ 1--3; 1990 L.M.C., ch. 43, § 1; CY 1991 L.M.C., ch. 9, § 1; 1992 L.M.C., ch. 9, § 1; 1995 L.M.C., ch. 12, §§ 1, 2.)

MONTGOMERY COUNTY CODE, CHAPTER 8, ARTICLE VI. WORKS OF ART IN PUBLIC ARCHITECTURE

Page 1 of 2

Article VI. Works of Art in Public Architecture. [Note]

Sec. 8-43. Definitions.

In this Article, *work of art* means an object, objects or surface embellishment produced with skill and taste. A work of art should generally be an original creation, rather than a mass-produced item, generally expressing, but not limited to, a social, cultural or historical theme. Works of art include, but are not limited to, paintings, sculptures, engravings, carvings, frescos, mobiles, murals, collages, mosaics, statues, bas-reliefs, tapestries, photographs, drawings, stained glass, fountains, or other decoration, either exterior or interior. The term does not include temporarily hung works of art, landscaping, or the choice or use of materials in architecture. (1984 L.M.C., ch. 1, § 1; 1995 L.M.C., ch. 12, § 1.)

Sec. 8-44. Public arts trust.

- (a) There is a Public Arts Trust fund within County Government to:
 - (1) receive, hold, and pay out public and private funds to:
 - (A) buy and display works of art on public property in the County; and
 - (B) pay the cost of administering the fund; and
 - (2) sponsor privately-funded temporary or permanent displays of art on public property in the County.
- (b) The Chief Administrative Officer or a designee must administer the trust in consultation with:
 - (1) Arts and Humanities Council;
 - (2) Montgomery County Public Schools;
 - (3) Montgomery College; and
 - (4) Montgomery County Parks Commission.
- (c) The Chief Administrative Officer must report to the County Council:
 - (1) each quarter on:
 - (A) new locations selected for works of art to be funded by the Public Arts Trust; and
 - (B) works of art purchased or displayed with Public Arts Trust funds during the quarter; and
 - (2) each year by January 15 on all other uses of Public Arts Trust funds during the prior calendar year. (1995 L.M.C., ch. 12, § 1; 2001 L.M.C., ch. 28, §§ 2, 15 and 16.)

Editor's note The effective date of the amendments made to this section by 2001 L.M.C., ch. 28, § 2, is the same effective date as 1999 L.M.C., ch. 24, § 1.

Sec. 8-45. Appropriation for art.

<http://www.amlegal.com/nxt/gateway.dll/Maryland/montgom/partiilocalawsordinancesres...> 2/24/2010

APPENDIX 3

AHCMC DATABASE AND MAINTENANCE INFORMATION

AHCMC Database and Maintenance Information		
Date:		
Artist Name:		
Artist Email: Artist Phone Number:		
Artist Mailing Address:		
Title of Artwork:		
Inventory Number: (To be assigned by Trust staff)		
Location:		
Address:		
Name of Contract Person at Site:		
Phone Number of Contact Person:		
E-mail of Contact Person:		
Installation date of Artwork:		
Trust Funds:	Agency Funds:	Contact #
Materials Used (be as specific as possible):		
Fabrication Information:		
Brief Description of Artwork and Edition Number if Applicable (can add attachment):		
Dimensions of Artwork:		
Dimension of Frame or Base:		
Signed:		
Maintenance Required (e.g., washing, waxing, etc.) and Frequency:		
Consulting Conservator and Contact Information:		
Artist Signature:		
Date:		

APPENDIX 4:
TRANSFER OF TITLE

Transfer of Title

for Valuable Consideration

This is to certify that _____ has taken possession of the following public Artwork.

This certifies that the project has been completed and the contract has been fulfilled.

Project and/or Title of Artwork: _____

Artist: _____

Address: _____

Location: _____

Address: _____

County Representative/Project Manager (print): _____

Signature: _____

AHCMC Representative: _____

Signature: _____

Date: _____