



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

PUBLIC ART MANAGEMENT FRAMEWORK

Document Control

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Version	2
Document Status	Draft
Review date	As required
Reference Codes	
Contact Details	021 417 4097

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1. DEFINITIONS AND ABBREVIATIONS

Definitions

For the purposes of this policy, except where clearly indicated otherwise, the terms below have the following meanings:

“Advisory Public Art Commission (APAC)” means a body created to provide guidance and support to the City of Cape Town in making decisions on public art.

“Acquisitioning” means the inclusion of an artwork in the City of Cape Town’s Art Collection(s), whether by commission, purchase, gift, donation, bequest or any other means.

“Artist” means a person engaged in one or more of any of a broad spectrum of activities related to creating art, practicing the arts, or demonstrating an art.

“Arts and Culture Department” means the department within the City of Cape Town responsible for arts and culture.

“Busking” means the practice of performing in public spaces. People engaging in this form of public art can be referred to as street performers, buskers, street musicians or troubadours. Performances may include, but are not limited to: acrobatics, clowning, comedy, contortions, dance, singing, fire skills, mime, living statue, music performance, puppeteering, storytelling, reciting poetry or prose, sketching, painting and street theatre.

“Cape Town” means the entire Cape Town Metropolitan Area.

“City of Cape Town” means the municipality established by the City of Cape Town Establishment Notice No. 479 of 22 September 2000, issued in terms of the Local Government: Municipal Structures Act, 1998, or any structure or employee of the City of Cape Town acting in terms of delegated authority. Also referred to in this document as the “City”.

“City of Cape Town Public Art Collection” means the portfolio of artworks owned and maintained by the City of Cape Town. This collection does not include artworks owned by private entities.

“Commission” means an order for a permanent or temporary public artwork specifically produced for the City of Cape Town.

“Council” means the Municipal Council of the City of Cape Town.

“Creativity” means the open exploration and application of new ideas to generate original works of art and cultural products, functional creations, scientific inventions and technological innovation.

“De-acquisitioning” means the formal process followed to remove an existing artwork from public exhibition through storage, loan or disposal.

“Design” means an activity that uses creative and iterative processes to take account of a range of factors and needs in the development of innovative products, services, environments and communication, in response to the human condition and society’s needs. Design includes such aspects as architecture, crafts, fashion, industrial design, product design, textile design, landscape design, production design, graphic design, illustration, web design, interactive design, game design, interior design, service design, systems design and urban planning.

“Gifts” refer to personal or property that is donated to the City of Cape Town for actual artwork, property for placement of artwork or funds for the acquisition of artwork. Bequests and donations shall have a similar meaning.

“Graffiti” means any one of or a combination of any inscription, word, sign, symbol, sketch, picture, drawing, mural, design, figure or letter, other than a figure indicating a street number or letters indicating a house or building name, that is applied to any natural surface or man-made surface on any property which is visible to a person from a public place and which has not been authorised by the City.

“Heritage” means the sum total of both the tangible and intangible aspects of our culture, including sites of scientific and historical importance, national monuments, historic buildings, works of art, literature and music, oral traditions and museum collections and their documentation, which provide for a shared culture and creativity.

“Local artist” means an artist who has lived or worked in Cape Town for five (5) or more years.

“Maintenance” means regular routine inspection and care of artwork, such as cleaning and applying protective surface coatings.

“Medium” means the materials used in a specific artistic technique: eg *oils as a medium*.

“Memorial” includes, but is not limited to, objects such as statues, public artworks, memorial plaques, murals, memorial gardens, squares, walls and buildings; and once-off or annual commemorative events and memorial lectures aimed at memorialisation.

“Memorialisation” means the concept of dedicating a memorial to the memory of a person, organisation or event.

“Mural art” means art applied directly to a wall, fence or structure, which has been approved by the City by way of a permit or art that has been applied to a designated wall.

“Performance Art” means forms of creative activities (traditionally interdisciplinary) that are performed in the public domain. These include drama, music, dance, and various combinations thereof. Performance may be scripted or unscripted, impromptu or composed, with or without audience participation. The actions of an individual or a group at a specific place and in a specific time constitute the work.

“Pitch” means the immediate area in which buskers or street performers conduct their activities.

“Public art” means artwork or design elements that are either temporarily or permanently located in a public space. Public art also seeks to create and inspire relationships and communication and can be a form of collective community expression that enhances the built or natural environment. It may take various forms, including but not limited to: sculpture, paintings, murals, mosaics, land art, photography, digital technologies, performance pieces and busking.

“Public interventions” mean temporary public artworks erected in public spaces. This may include, but is not limited to: sculptures, exhibitions, land art, photographs, street furniture, street lighting, yarn bombing and interactive art installations.

“Public life” means that which is located and transpires within and engages with the public domain, whether in public spaces or the media, and which is for broad public consumption and participation rather than for private or limited engagement.

“Public place” means –

- (a) a public road, any parking area, square, park, recreation ground, sports ground, sanitary lane, open space, beach, shopping centre on municipal land, unused or vacant municipal land or cemetery which has -
 - (i) been provided, reserved or set apart for use by the public; or
 - (ii) been dedicated to the public;
- (b) public transportation operated by service providers for the City,
 - (i) but does not include public land that has been leased by the City.

“Self-Permit” means the process referred to in section 10 of the Graffiti By-law in terms of which an artist obtains authorisation for an artwork.

“Surrounding properties” means properties immediately opposite a site and properties on either side of a site.

“Temporary Art” means artwork designed to be accessible for only a short period of time, up to a period of two (2) years.

Abbreviations

PAMF Public Art Management Framework

2. PROBLEM STATEMENT

The City of Cape Town’s Policy on Arts, Culture and Creative Industries refers to the need to create an enabling environment for public art and memorialisation as a means to foster creative expression, stimulate dialogue, express shared histories and enhance public life.

The City of Cape Town’s Policy on Arts, Culture and Creative Industries identifies the need for a PAMF that provides guidelines for:

- (a) The professional installation and maintenance of permanent and temporary public art;
- (b) Enabling innovative public art of a permanent, temporary or performance nature;
- (c) The diversification of public art in terms of:
 - (i) location of artworks - ensuring these are placed in neighbourhoods and wards throughout the city; and
 - (ii) making of such artworks ensuring that they reflect a wide variety of styles, mediums and makers;
- (d) A fair and equitable process of selecting, commissioning, acquiring and de-accessioning public art and accepting donations for public art; and
- (e) Ensuring that the process for permitting public art is widely publicised and as simple as possible.

This document details the standard operating procedures relating to public art matters within the jurisdiction of the City of Cape Town.

3. DESIRED OUTCOMES

3.1. Clarifying roles relating to public art

- (a) This framework must clarify the roles of key stakeholders in relation to public art.
- (b) There is a specific focus on outlining the mandates of the City of Cape Town Arts and Culture Department, and a proposed Public Art Working Group.

3.2. Directing City support for public art

The framework must provide well-defined guidelines for decisions on:

- (a) Commissioning permanent and temporary public artworks;
- (b) Accepting permanent and temporary public art as gifts; and
- (c) Providing financial or non-financial support for public art projects.

3.3. Clear, simple permitting processes

This framework must set out clear principles and processes for:

- (a) Permitting permanent and temporary public art; and
- (b) Maintenance of permanent and temporary public art.
- (c) Informing the City's By Laws in respect to busking and graffiti (or illegal mural art).

4. STRATEGIC INTENT

This framework aligns with a number of overarching strategy documents that inform the City's priorities.

4.1. Integrated Development Plan (IDP)

The framework gives effect to the following Strategic Focus areas in the IDP:

- (a) A "Caring City" that is welcoming to all people and that makes residents feel at home;
- (b) An "Inclusive City" focused on building a shared community across the city, making residents feel acknowledged, heard and valued, and ensuring that the varied cultural practices and backgrounds of all city residents are encouraged and respected; and
- (c) A "Well-Run City" that is accountable, responsive, open and transparent in all its dealings.

4.2. Policy on Arts, Culture and Creative Industries

By clarifying structures and processes for decision-making, this framework supports key objectives of the Policy on Arts, Culture and Creative Industries, including:

- (a) Creating mechanisms to guide the allocation of resources i.e. human, financial, city services, and property towards the support of arts, culture and the creative industries in Cape Town; and
- (b) Creating mechanisms for internal transversal coordination between various City departments that provide services related to arts, culture and the creative industries.

5. PARAMETERS

- 5.1. This framework constitutes a Standard Operating Procedure for the management of public art in the City of Cape Town.
- 5.2. Public art is understood to include any artwork or element of design that is either temporarily or permanently located in a public place.
- 5.3. Public place is not only publicly owned land but also includes sites and settings of public life that are privately owned, which may be visible from a public space e.g. squares, streets, parks, pavements, alleys, civic buildings and building facades.
- 5.4. Public art can also be a form of collective community expression that enhances the built or natural environment.
- 5.5. Public artworks may take various forms including but not limited to: sculptures, monuments, paintings, murals, mosaics, land art, photography, digital technologies, performance based pieces, busking, mixed or other media.
- 5.6. The following types of performances are not considered “busking” as defined, and are therefore subject to the City of Cape Town Events by-law:
 - (a) Performances requiring amplified sound;
 - (b) Performances for which the crowd size is more than 200;
 - (c) Performances involving more than 10 persons performing; and
 - (d) Performances requiring the erecting of temporary structures exceeding a height of 0.5 metres.
- 5.7. Permanent public art erected on private land falls outside of the City of Cape Town’s Public Art Management Framework. However such work must be approved by the City of Cape Town’s Planning and Building Development Management Department.

6. ROLE PLAYERS AND STAKEHOLDERS

The role of the City of Cape Town Arts and Culture Department

The City of Cape Town’s Arts and Culture Department must create an enabling environment for permanent and temporary public art and facilitate artistic expression and art appreciation outside of traditional gallery spaces by:

- (a) Promoting awareness of the PAMF and related policies within the City and among external stakeholders;
- (b) Facilitating and monitoring the implementation of the PAMF;

- (c) Assisting creative practitioners and organisations in obtaining permits and practical support from departments within the City of Cape Town for creative work in public places or places accessible to the public;
- (d) Ensuring that the City of Cape Town's by-laws and policies do not unnecessarily limit creative expression in public places;
- (e) Engage with departments to ensure funds to be set aside for the inclusion of public art in new urban design initiatives and municipally owned property (including parks, community centres and sports and recreation);
- (f) Ensuring that public art is acquired and de-acquisitioned through an open and equitable process;
- (g) Ensuring that all public art in the City is appropriately catalogued and promoted;
- (h) Ensuring that public art owned by the City of Cape Town is properly managed and maintained;
- (i) Encouraging and maintaining partnerships with the private sector in support of public art; and
- (j) Managing all matters pertaining to the Public Art Working Group as indicated in section 8.7 below and other relevant internal stakeholders as indicated in section 12 below.

7. REGULATORY CONTEXT

The following policies and by-laws have direct bearing on the management of public art.

Policies

- City of Cape Town: Policy on Arts, Culture and Creative Industries, 2014
- City of Cape Town: Memorialisation Draft Policy, 2014

Legislation

- City of Cape Town: By-Law relating to Streets, Public Places and the Prevention of Noise Nuisance, 2007
- City of Cape Town, Events By-Law, 2009
- City of Cape Town: Graffiti By-law, 2010
- City of Cape Town: Informal Trading By-Law, 2013
- City of Cape Town: Management and Administration of the City of Cape Town's Immovable Property By-Law, 2003
- City of Cape Town: Outdoor Advertising and Signage By-law, 2001 as amended in 2013
- City of Cape Town: Traffic By law, 2011

8. OPERATING PROCEDURES: PERMANENT PUBLIC ART

8.1. Defining permanent public artworks

- (a) Permanent public artworks refer to works of art in any medium that have been planned and implemented with the specific intention of being placed in the physical public domain for a period of time exceeding five (5) years.
- (b) Key features of permanent public artworks include the following:
 - (i) they are usually outside and accessible to all; and
 - (ii) the artwork has maintenance costs attached to it.

8.2. The selection of permanent public artworks

The City of Cape Town acquires permanent public art through commissioning, gifts, bequests and donations, subject to supply chain rules and regulations.

8.2.1. *Commissioning*

Permanent public artworks may be commissioned by the City of Cape Town in the following ways:

- (a) Direct purchase of existing work;
- (b) Direct selection, in which the artist is commissioned directly by the Public Art Working Group;
- (c) Open competition, in which the City of Cape Town calls for artists to submit proposals for public artworks; and
- (d) Competitive invitational competition.

8.2.2. *Gifts, bequests and donations*

- (a) While the City of Cape Town is grateful for gestures of gifts, bequests and donations, it is at the City's discretion to accept public artworks offered as they may carry with them expensive responsibilities in terms of installation, maintenance and conservation.
- (b) Furthermore, the numbers of sites on municipal property that may be suitable for gifts, bequests or donations of public art are limited.
- (c) All gifts, bequests and donations of public art will be carefully reviewed and assessed by the Public Art Working Group in the same manner as proposals for commissions or purchases by the City.
- (d) All gifts, bequests and donations must receive mayoral approval and follow the contributed assets procedure

8.2.3. *Guidelines for selecting permanent public art*

- (a) The evaluation and approval of permanent public artwork in Cape Town proposed by the City of Cape Town, other public authorities, individuals or groups must be fair and transparent and in line with the Policy on Arts, Culture and Creative Industries.

In addition, consideration must be given to:

- (b) The suitability of the location of the artwork, including the need for a spatial spread of works;
- (c) The prevention of public art clutter, particularly with regard to public artworks commemorating the same or similar events;
- (d) Whether the artwork is structurally sound, adheres to relevant safety regulations and does not pose a threat to public safety – must be in consultation with Planning and Building Development Management department;
- (e) The durability of the artwork, its maintenance needs and the appropriateness of the proposed maintenance plan for the artwork;
- (f) The interest of the public and the possible need for public consultation; and
- (g) The artistic merit of the artwork.

8.2.4. *Provision for detailed criteria for selecting permanent public art*

- (a) More detailed criteria for the selection of public art may be developed by the Public Art Working Group.
- (b) These criteria must be approved by the Economic Cluster Management Committee.

8.3. Applications for permanent public art

- (a) All applications for permanent public art that will be owned by the City of Cape Town will be processed by the Arts and Culture Department.
- (b) Applications for permanent public art must include the following:
 - (i) Names and contact details of applicant, artists and any other parties involved in the project;
 - (ii) CV's and/ or biographies of artists or designers ,including a list all relevant exhibitions and any previous public art activities;
 - (iii) Artistic support material, for example: images of relevant previous works and copies of any articles or reviews that may support the application;
 - (iv) Letters of support specific to the project from affected parties or those who can vouch for the artists credibility (if applicable);
 - (v) The concept of the artwork in narrative form;
 - (vi) The context of artwork, including how and why this project has been conceptualised;
 - (vii) Images of the artwork, which may be conceptual and/or scale drawings with dimensions, measurements and materials;
 - (viii) The location of the artwork, including a map with the exact location of the artwork, images of the location in its current state and a 3-D rendering of the artwork on the proposed site;
 - (ix) Logistical arrangements pertaining to the installation period, traffic or pedestrian disruptions, equipment and earthworks;
 - (x) Relevant safety and security considerations;
 - (xi) A detailed budget for the artwork; and
 - (xii) A maintenance plan for the artwork, including a maintenance budget.

- (c) Structural engineering approval and an environmental impact assessment may be conducted as part of the final approval process.
- (d) Applications must be in electronic format and must be emailed to the City of Cape Town's Arts and Culture Department at artsandculture@capetown.gov.za.
- (e) To be considered at the next meeting of the Public Art Working Group, applications must be submitted thirty (30) days prior to the meeting. The dates of these meetings will be available on request.
- (f) The City of Cape Town undertakes to provide the applicant with feedback regarding the recommendations of the Public Art Working Group within five (5) working days after the minutes of the meeting has been ratified.

8.4. The approval process for permanent public art

- (a) If the Public Art Working Group approves a public artwork, the recommendations of the Working Group will be forwarded to the Manager of the Department of Art and Culture who will be responsible for managing the approval process.
- (b) The designated official responsible for public art will circulate the recommendation of the Public Art Working Group via e-mail to affected stakeholders. This includes, but is not limited to:
 - (i) The department responsible for planning and building development management;
 - (ii) The department responsible for spatial planning and urban design;
 - (iii) The department responsible for city parks;
 - (iv) The department responsible for environmental and heritage resource management;
 - (v) The department responsible for law enforcement;
 - (vi) The department responsible for sports and recreation;
 - (vii) The department responsible for traffic services;
 - (viii) Other Departments as deemed necessary
 - (ix) The public participation unit;
 - (x) The ward councillor and sub-council manager in the area for which the artwork is proposed.

Affected stakeholders: external

 - (xi) The South African Heritage Resource Agency;
 - (xii) Heritage Western Cape; and
 - (xiii) Community-based organisations in the affected ward or sub-council.

- (c) Affected stakeholders will have one (1) month to respond to the request for feedback. If no feedback is received, it will be assumed that the recommendation of the Public Art Working Group is supported.
- (d) If any affected departments or external stakeholders reject the recommendation of the Public Art Working Group, clear reasons for the rejection must be provided to the designated official in writing.
- (e) Feedback from affected stakeholders will be considered at the next meeting of the Public Art Working Group who may make recommendations to applicants to amend their applications.
- (f) Amended applications may be re-submitted for approval and will follow the same approval process.
- (g) After affected stakeholders comment on the recommendations of the Public Art Working Group, a report in support of the application will be submitted to the relevant Portfolio Committee, Mayco and Council for approval.
- (h) Applicants will be kept informed of the progress of their application by the designated official in the Arts and Culture Department.
- (i) The process from submission to Council approval should not exceed four (4) months.

8.5. Administering public art

8.5.1. Artist warranties

- (a) A formal contract between the artist and the City will be developed.
- (b) All artists, designers and craftsmen contracted by the City must assure the following warranties pertaining to the design, production and installation of a permanent public artwork:
 - (i) The work will be completed timeously;
 - (ii) The work will not infringe any copyrights;
 - (iii) The fabrication, execution and installation of the art will be performed in a highly skilled manner; and
 - (iv) The artwork as installed by the artist, designer or contractor will be structurally sound and free of defects in material and workmanship.

8.5.2. Intellectual property and copyright

- (a) All material created by an artist and that is submitted to the Public Art Working Group will remain the intellectual property of the artist and will be treated as such.

- (b) Contractual agreements for permanent public artwork commissioned by or donated to the City will include a provision allowing the City to reproduce images of the artwork for promotional purposes.

8.5.3. Signage

- (a) The Arts and Culture Department will, where appropriate, provide signage in close proximity to the permanent public artwork displaying:
 - (i) the name of the artist(s);
 - (ii) the title of the artwork;
 - (iii) the date of completion of the artwork;
 - (iv) the medium; and
 - (v) the context of the work.
- (b) The sponsors of a permanent public artwork must be compliant with the City of Cape Town's Outdoor Advertising and Signage By-Law if the work is visible from a public place which states that:
 - (i) Sponsored, Commercially sponsored and Non-profit body signs is less than 4.5m² (clause 62);
 - (ii) Any such sign whether erected by or in connection with a non-profit body or not; not exceeding 4.5m² in total area on condition that no more than 5% of the total surface of the sign is used for third party advertising; and the sign is not illuminated, and furthermore provided that only one such sign shall be permitted per erf. (clause 62.2)
 - (iii) Signs which comply with provisions of Section 62.1 shall, when erected on municipal land, only be erected once agreement has been concluded with the Municipality, wherein the extent of the community or public benefit as jointly agreed between the municipal department responsible for the premises and/or land has been agreed and the terms of the erection of the sign agreed, and a copy of the agreement lodged with the environmental management branch or its successor in title, of the Municipality. (clause 62.2)
- (c) The costs of new signage or the maintenance of existing signage shall be the responsibility of the line department on whose asset register the permanent artwork is documented.

8.5.4. Records of permanent public art

The Arts and Culture Department will be responsible for maintaining a database of all permanent public art belonging to the City. The database will include the following information:

- (a) Copies of all proposals and correspondence between the donor(s) and the City, where applicable;
- (b) Copies of executed title documents; and
- (c) Copies of all of the documentation associated with the public artwork, including but not limited to:
 - (i) Artist name and contact details;
 - (ii) History and context of the artwork;

- (iii) Preliminary drawings;
- (iv) Scale Models;
- (v) Photographs;
- (vi) Written descriptions of the artwork including medium and dimensions;
- (vii) Estimated costs associated with acquisition and maintaining the artwork;
- (viii) Public comment on the artwork;
- (ix) Environmental impact reports, if applicable;
- (x) Records of maintenance; and
- (xi) Records of de-acquisitioning, if applicable.

8.5.5. *Asset register*

- (a) The details of the artwork, including the Council resolution approving its acquisition, the fair value of artwork and the location of artwork must be forwarded to the Treasury Department for inclusion in the relevant line department's asset register.
- (b) Documentation and detail of public artwork referred to in 8(5)(d) above must be forwarded to the Arts and Culture Department for inclusion on the record of permanent public art.

8.5.6. *Maintenance of permanent public art*

- (a) Works of art in the City of Cape Town's Public Art Collection must be properly maintained;
- (b) Maintenance of the artwork will be monitored by the Arts and Culture Department in cooperation with the responsible line department;
- (c) The maintenance needs of each artwork should be detailed in a maintenance manual to be supplied by the artist at the time of completion, which should include:
 - (i) An anticipated maintenance schedule;
 - (ii) A list of materials required for maintenance and sources where such materials can be found;
 - (iii) A list of relevant skilled tradespeople who could conduct the necessary maintenance work; and
 - (iv) An estimate of the maintenance cost;
- (d) Maintenance costs should be included in the costs of any proposed permanent public artwork for a minimum period of five (5) years;
- (e) The responsibility to fund the maintenance of permanent public artworks will be decided upon on a per project/artwork basis by the Public Art Working Group, and the organisation or person proposing the work; and
- (f) Where the City of Cape Town is responsible for the maintenance of an artwork, the budget for this maintenance must be made available by the line department responsible for the artwork.

8.5.7. Insurance

- (a) The City of Cape Town's Treasury Department has advised that permanent public art in open spaces are seen as "goods in the open" and are therefore not covered by the General Insurance Fund.
- (b) Insurance cover can be purchased outside of the City of Cape Town's General Insurance Fund, meaning that a stand-alone policy may be obtained.
- (c) The insured values of the work will be identified on the asset register of public art.
- (d) If insurance cover is secured, the responsible line department is expected to pay the insurance broker directly.

8.5.8. Permanent artwork on private land

The Planning and Building Development Department will, on approval of any permanent artwork on private land, provide the Arts and Culture Department with the details of the approval.

8.6. Alteration, relocation or de-acquisitioning of permanent public art

- (a) The City of Cape Town may, consider altering, re-locating or de-acquisitioning a permanent public artwork.
- (b) No artwork may be altered without the artist's permission.
- (c) De-acquisitioning is generally very sensitive, and will not be actioned without extensive dialogue between affected citizens, donors, the artist, the City , experts in art maintenance and restoration and the Public Art Working Group.
- (d) Wherever possible, no artwork will be relocated or de-acquisitioned without consulting the artist.
 - (i) If the City is unable to contact an artist or an artist representative for a reasonable period, the City may alter, relocate or de-acquisition an artwork without consultation with the artist.
- (e) The Public Art Working Group may consider altering, relocating or de-acquisitioning permanent public artworks for a range of reasons, including:
 - (i) The artwork endangers public safety;
 - (ii) The artwork is no longer appropriate for the site due to changes in the design, access to, use or character of the site;
 - (iii) The identification of a new and more appropriate site for the artwork;
 - (iv) Excessive or unreasonable maintenance requirements or faults in design or workmanship;
 - (v) The artwork has been damaged irreparably or to an extent where restoration is not feasible or excessive in relation to the original cost of the work;
 - (vi) The artwork is found to be offensive or discriminatory; and

- (vii) The artwork has received adverse public reaction which is well founded and creates a reasonable possibility of it leading to the harm of people or property or it incites xenophobic or sectarian violence.
- (e) The Public Art Working Group will consider and make recommendations with regard to the alteration, relocation or de-acquisitioning of permanent public artwork.
 - (i) A recommendation to alter, relocate or de-acquisition a permanent public artwork will require a majority vote of the full membership of the committee.
 - (ii) Such decisions will be informed by input from the department(s) responsible for the site as well as the artist and other interested stakeholders.
- (f) Final approval for alteration, relocation or de-acquisitioning of permanent public art shall be made by Council. To inform this decision, the Public Art Working Group will prepare a report to Council detailing the following:
 - (i) The reasons for the suggested alteration, relocation or de-acquisition;
 - (ii) A history and evaluation of the work including acquisition method, cost and current market value;
 - (iii) Photographic documentation of the artwork or site conditions;
 - (iv) Documentation of correspondence or negotiation with the artist or donor;
 - (v) Budgetary implications; and
 - (vi) A recommended course of action.

8.7. Establishment of a Public Art Working Group

A Public Art Working Group will be created to advise the City of Cape Town on matters pertaining to public art.

8.7.1. Members of the Public Art Working Group:

- (a) Will be appointed by the Economic Cluster Management Committee on recommendation from the Arts and Culture Department; and
- (b) Must have knowledge of contemporary public art practices and a clear understanding of the role of the City in promoting public art.

8.7.2. The Public Art Working Group must:

- (a) Meet at least six (6) times a year, or as needed; and
- (b) Maintain appropriately detailed records of their deliberations and decisions.

8.7.3. Composition of the Public Art Working Group

- (a) The Public Art Working Group will be chaired by the head of the City of Cape Town's Arts and Culture Department and must include officials from the City departments responsible for:
 - (i) Arts and Culture;

- (ii) Environmental and Heritage Resource Management;
- (iii) Spatial Planning and Urban Design; and
- (iv) Tourism.

8.7.4. The term of office of the Public Art Working Group will be 2 years

8.7.5. The Public Art Working Group may consult with outside experts when required.

8.7.6. Outside experts will not receive financial compensation for their time.

8.8. Roles and responsibilities of the Public Art Working Group

- (a) A formal terms of reference for the Public Art Working Group must be developed within two (2) months of its first meeting.
- (b) The terms of reference must be approved by the Economic Cluster Management Committee.
- (c) The terms of reference must refer to the role of the Public Art Working Group in:
 - (i) Advising on permanent public artworks to be commissioned by the City of Cape Town;
 - (ii) Advising on the acceptance of permanent public art proposals on City owned land;
 - (iii) Advising on the acceptance of permanent public art gifts;
 - (iv) Considering proposals to alter, re-locate, remove or de-acquisition permanent public artworks;
 - (v) Advising on an overall strategy for public art;
 - (vi) Encouraging the development of public-private partnerships for public art in Cape Town; and
 - (vii) Identifying opportunities for public art projects.

9. OPERATING PROCEDURES: TEMPORARY PUBLIC ART (GENERAL)

- (a) Temporary public artworks are more spontaneous than permanent public artworks. These works can last a few minutes, several weeks or months and may raise public awareness about an important or timely issue or simply add momentary beauty to a site.
- (b) The City of Cape Town may issue temporary public art permits for the following periods:
 - (i) 0 – 6 months;
 - (ii) 6 – 12 months;
 - (iii) 12 – 18 months; and
 - (iv) 18 – 24 months.

- (c) Temporary permits may be renewed, but no longer than an accumulated period of 24 months.
- (d) The duration of a permit will depend on its location and the materials used.
- (e) The City of Cape Town divides temporary public artworks into three categories:
 - (i) Mural art;
 - (ii) Public Interventions;
 - (iii) Busking / Street performance.

10. OPERATING PROCESURES TEMPORARY PUBLIC ART (MURALS/PUBLIC INTERVENTIONS)

10.1. Permitting temporary public artworks: Murals and Public Interventions

- (a) Application forms for murals and public interventions may be obtained from the Arts and Culture Department.
- (b) Application forms will only be considered if they are complete.
- (c) The following documents should accompany all application forms:
 - (i) Proof of consent of the owner of the immediately affected property by way of signature;
 - (ii) Proof of consent of the immediately surrounding properties by way of signature;
 - (iii) Digital mock-up (to scale) depicting the proposed public artwork at the proposed site;
 - (iv) Graphic representation of the proposed public artwork with dimensions;
 - (v) A photograph of the proposed location in its current state as well as five (5) contextual images of surrounding properties (neighbouring properties, businesses, roads etc.); and
 - (vi) Proof of structural integrity (if applicable).
- (d) Additional permitting considerations:
 - (i) All proposals for mural art must comply with the conditions outlined in the City's Graffiti By-law;
 - (ii) All proposals for mural art must comply with the conditions outlined in the outdoor Advertising and Signage by-law;
 - (iii) Any public intervention requiring amplified sound, involving more than fifty people and requiring the erecting of temporary structures exceeding 0.5 meters in height will be processed as an event by the Events Department.

- (e) Maintenance of approved temporary public art:
 - (i) Permit holders are responsible for the maintenance of approved artwork for the lifespan of the work; and
 - (ii) Permit holders must restore the site to its original condition once the lifespan of the work has ended.

10.2. The approval process for temporary public artworks: Murals and Public Interventions

- (a) Application forms for murals and public interventions must be submitted to the Arts and Culture Department.
- (b) The designated official in the Arts and Culture Department responsible for public art will circulate complete applications for comment to affected stakeholders via e-mail. This will include, but is not limited to:
 - (i) The department responsible for planning and building development management;
 - (ii) The department responsible for environmental and heritage resource management;
 - (iii) The department responsible for law enforcement;
 - (iv) The department responsible for traffic services;
 - (v) The department responsible for transport;
 - (vi) The relevant sub-council; and
 - (vii) The relevant ward councillor;
 - (viii) Community-based organisations in the affected ward or sub-council; and
 - (ix) Heritage Western Cape.
- (c) Internal stakeholders will be given five (5) working days to respond to the application.
- (d) External stakeholders will be given ten (10) working days to respond to the application.
- (e) If no feedback is received from a stakeholder within the prescribed period, it will be assumed that they have no objections to the application.
- (f) approval is required in the following cases:
 - (i) Where scaffolding is required for the production of a mural, explicit approval will be required from the City department responsible for transport.
 - (ii) In the following conditions, murals and public interventions will require permit approval from the department responsible for Environmental and Heritage Resource Management:

- a. Locations for temporary public artworks falling within a heritage area, conservation area or if the application relates to a building older than 60 years;
 - b. Where any natural features such as trees, boulders etc. are affected by or included in the proposed artwork; and
 - c. If the artwork contains any promotional, marketing related content with the intention of advertising.
- (g) Feedback on the outcome of a permit application will be provided to the applicant within 15 working days from the receipt of the application.
- (h) Should the City approve an application, a permit will be issued in writing to the application unless it is a self-permitting artist in terms of section 10 of the Graffiti By-law:
- (i) Where relevant, permit conditions may be included in a letter accompanying the permit.
- (i) Should an application not be approved, the applicant will be notified in writing.

10.3. Self-permitting mechanism for murals

- (a) Artists may apply to the Arts and Culture Department for a self-permit if they have:
- (i) Had five (5) successful permit applications for murals; and
 - (ii) Complied with all conditions and requirements related to previous permits;
- (b) The application may be submitted via e-mail and must provide proof of the conditions in (a) above.
- (c) Should a self-permit be granted, the artist will receive a letter and a permit detailing the rules and conditions relating to the self-permit.
- (d) Once a self-permit has been granted, an artist may only commence work on a mural once a self-permitting notice has been submitted to the Arts and Culture Department. A self-permit does not authorise anyone to do a mural. The Self-permitting notice must include the following:
- (i) Proof of consent from the property owner;
 - (ii) Proof of consent from the surrounding properties;
 - (iii) Proof of having contacted community-based organisations in the affected ward or sub-council area;
 - (iv) A digital mock-up (to scale) depicting public artwork at the proposed site;

- (v) Graphic representation of the proposed public artwork with dimensions; and
 - (vi) A photograph of the proposed location in its current state as well as five (5) contextual images of surrounding properties and roads.
- (e) Once the work is completed, the artist must ensure that the Arts and Culture Department receives images of the completed work to be included in the record of permitted murals.
- (f) Self-permits will be subject to the following conditions:
- (i) Heritage legislation;
 - (ii) Legislation relating to outdoor advertising and signage;
 - (iii) The conditions stipulated in the Graffiti by-law;
 - (iv) All conditions pertaining to the self-permitting notice must be adhered to;
 - (v) The self-permit, or a digital copy thereof must be produced on request of an authorised official;
 - (vi) The self-permitting artist may not issue permits to other people or self-permit work not created by him/herself;
 - (vii) If scaffolding is to be used in producing the artwork:
 - a. Proper signage must be in place to advise pedestrians; and
 - b. Written permission must be obtained from the Transport Cape Town.
 - (viii) Any transgression of the conditions above will result in the revocation of self-permits.
- (g) The self-permitting artist accepts responsibility for the maintenance of the artwork for its lifespan; and
- (h) The self-permitting artists must restore the site to its original conditions once the lifespan of the artwork has ended.

10.4. Designated mural spaces

- (a) Designated mural spaces refer to a clearly demarcated City-or privately owned space allocated for the practicing of mural art skills.
- (b) Individuals utilising this space will not require a permit.

10.4.1. The Sub-council will approve a proposed designated mural space in consultation with the Ward Councillor, Sub-council Chair, Sub-council manager and the Arts and Culture Department.

- (a) The following suggestions are to be considered when selecting a designated mural space:
 - (i) Whether there is a need for a designated mural space, determined through engagement with the street art community

- (ii) Whether the location is safe and well lit;
 - (iii) Whether the location could cause any obstruction to motorists or pedestrians;
 - (iv) The wall surface should be plastered and should not be smaller than two metres by four metres for any single designated space.
- (b) Roles and Responsibilities relating to designated mural spaces
- (i) The Sub-council will approve and remove designated spaces in cooperation with the Ward Councillor, Subcouncil Manager, Subcouncil Chairperson and the Arts and Culture Department.
 - (ii) The Ward Councillor will obtain feedback in relation to the suitability of proposed locations of designated spaces from Community Based Organisations and Ward Committees.
 - (iii) The Arts and Culture Department will:
 - a. Implement decisions in respect to the designated spaces in cooperation with the Sub-Council and Ward Councillor
 - b. Confirm the suitability of recommended locations of designated spaces with relevant line departments impacted, before the spaces are agreed upon.
 - (iv) Law Enforcement Services will:
 - a. Monitor complaints regarding the content of murals in designated spaces;
 - b. Repaint designated spaces containing material contrary to the by law within 7 days.
- (c) Rules and conditions pertaining to designated spaces
- (i) Designated spaces are deemed practice space for murals and no prior approval or applications are needed for murals to be applied.
 - (ii) Murals may not display offensive content, as per the definition of "offensive content" in the Graffiti By-law, as the designated space is a practice wall; artists are permitted to paint over existing work.
- (d) Managing designated spaces
- (i) The suitability of the designated space will be reviewed annually by Law Enforcement Services, the Arts and Culture Department, the relevant Ward Councillor and the relevant Sub-council.
 - (ii) The designated space will be clearly demarcated by way of a sign (paid for by the Arts and Culture Department) that communicates the rules and regulations and that the space is utilised at the artist's own risk. The City of Cape Town is therefore indemnified of any claims relating to the use of designated spaces.

10.5. Administering temporary public artworks: Murals and Public Interventions

- (a) Permit extensions
- (i) Requests for the extension of the approved period of display for permitted murals and public art interventions may be submitted to the Arts and Culture Department via e-mail.
 - (ii) The Arts and Culture Department will circulate this request to internal affected departments and external stakeholders.
 - (iii) Should the extension be granted the applicant will be notified by way of an updated permit or letter of approval.
 - (iv) Should the request for an extension be denied, the applicant will be informed in writing.
 - (v) The City of Cape Town undertakes to provide the applicant with feedback regarding the outcome of the application for extension within fourteen (14) working days of receipt of the application.
- (b) Protected murals and public art interventions
- The City of Cape Town may, through its formal acquisition process via the Public Art Working Group, protect existing murals and public art interventions which have great artistic, historic and contextual merit.
- (c) The removal of graffiti/temporary art
- The City reserves the right to remove mural art, temporary public art or graffiti if:
- (i) The artist does not have a permit
 - (ii) It contains offensive content;
 - (iii) The permitted exhibition time has lapsed and the permit holder does not remove the artwork from the site completely, with the site left in a clean and acceptable condition without decoration;
 - (iv) The permitted mural or temporary public art requires maintenance and the permit holder does not repair the mural/temporary public art appropriately;
 - (v) The artist has infringed any copyright laws;
 - (vi) The artist materially deviates from the original temporary art application; or
 - (vii) The graffiti/temporary public art is on a major landmark or heritage site.
- (d) Graffiti on private property
- (i) If graffiti is located on private property visible from a public place, the owner may be served with a notice to clean the property.
 - (ii) The owner has the right to appeal to the City Manager in terms of Section 62 of the Local Government: Municipal Systems Act, 2000 (Act 32 Of 2000)
 - (iii) Failure to obtain approval or to comply with the compliance notice within the stipulated time period will result in the removal of the graffiti by Law Enforcement and the issuing of a fine for non-compliance to property owners.

- (e) Graffiti-related offences
 - (i) All offences related to graffiti must be recorded and a file must be opened for court records.
 - (ii) The investigation document must include details of all actions and information related to the offence, including:
 - a. Compliance notices served;
 - b. Fines issued;
 - c. Officers affidavits on actions taken in dealing with the offender and complaints; and
 - d. Relevant photographic evidence.
 - (iii) Continuing offenders may be summonsed to court to answer for continuous non-compliance.

- (f) Records of permitted murals and public art interventions
 - (i) The City of Cape Town's Arts and Culture Department will maintain a database and files of all permitted murals and public art interventions. These files will include the following information:
 - a. Copies of all submissions and correspondence between the applicant and the City of Cape Town;
 - b. Copies of all correspondence to affected internal departments and interested persons;
 - c. Copies of all permits issued including special conditions attached to the permit;
 - d. Permit numbers;
 - e. The location of temporary public artwork,
 - f. Contact details of the applicant and the artist; and
 - g. Photographs of the completed work.

11. OPERATING PROCEDURES: TEMPORARY PUBLIC ART (BUSKING)

This section sets out operating procedures with regard to busking. The PAMF acknowledges that the busking section of this document is not directed by an approved by-law. The policy directives related to busking draws on the Policy on Arts, Culture and Creative Industries, including the need to create an enabling environment for public art. The Arts and Culture Department will lobby with relevant departments to ensure that this framework informs by-laws related to or affecting busking.

11.1. Creating an enabling environment for busking

- (a) Subject to paragraph (e), busking is allowed in public spaces between 08:00 am and sunset, Monday to Friday and between 09h00 to 14h00 on a Saturday and Sunday.

- (b) Buskers are subject to all relevant legislation, including but not limited to the Informal Trading By-law, the By-law relating to Streets, Public Places and the Prevention of Noise Nuisances and Animal By-Law.
- (c) The Department of Arts and Culture will take reasonable steps to ensure that buskers are aware of legislation that applies to their activities.
- (d) Notwithstanding 11(1)(a), special busking permits will be required in terms of 11(2) for busking acts involving dangerous materials or implements.
- (e) The City retains the right to restrict busking in specified areas to a limited period of time.
 - (i) Such restriction may relate, but is not limited to, special events; film shoots nuisance, or reasonable security concerns.
 - (ii) Buskers may be made aware of busking restrictions at short notice.

11.2. Special busking permits

- (a) Busking acts involving dangerous materials or implements will require a special busking permit.
- (b) Dangerous materials or implements include but are not limited to:
 - (i) Acts that involve fire; and
 - (ii) Acts that involve sharp implements;
- (c) Obtaining a special busking permit
 - (i) Applications for special busking permits must be submitted to the Manager of the Department of Arts and Culture.
 - (ii) The Arts and Culture Department will facilitate engagement with the relevant City service department such as Fire Services, Law Enforcement, Environmental Health and Disaster Risk Management regarding approval for acts requiring special busking permits.
 - (iii) Special busking permits can only be issued by the Department of Arts and Culture after the busking act application has received written approval in terms of clause c (ii) above.
 - (iv) Special busking permits will be valid for six (6) months from date of issue and can be renewed without an additional safety review providing it is within one (1) year of the previous review and the performance has not changed in that period.
 - (v) Special busking permits are not transferable.
Special busking permits must specify the conditions in terms of which the permit has been granted.

11.3. Busking Rules and Regulations

11.3.1 *The following rules and regulations apply to busking permits:*

- (a) Non-acceptable acts include the following:
 - (i) The sale or provision of goods or services, or one-on-one consultations for money, fee or reward; and
 - (ii) A performance which involves an animal.

- (b) Performance Duration and Times
 - (i) The maximum performance time is 45 consecutive minutes at any one location including set up, breaks and breakdown. After 45 minutes the busker must move to a different location at least one full street block away or to a different park.
 - (ii) Performances may take place between 08:00am and sunset, Monday to Friday and between 08/09h00 to 14h00 on a Saturday and Sunday unless otherwise agreed to by the City of Cape Town and affected property owner(s).
 - (iii) In public parks, performances may take place only during normal park hours while the park is open to the public unless otherwise agreed to by the City of Cape Town.
 - (iv) Procedures for exemptions from general provisions on performance duration and times are outlined in 11(5) below.

- (c) Busking locations
 - (i) Performances involving sound must be sited at least 250 metres apart.

- (d) Volume Levels
 - (i) Volume must be kept to a reasonable level, within the guidelines set by the By-law relating to Streets, Public Places and the Prevention of Noise Nuisances.

- (e) Young Performers
 - (i) Proof of consent from a parent or legal guardian is required for performers and applicants under the age of eighteen (18);
 - (ii) Performers under fifteen (15) years of age must be accompanied by a parent or legal guardian who is eighteen (18) years or older at all times during performances; and
 - (iii) Performers under fifteen (15) are not allowed to perform during school hours unless part of an official school outing and with consent of a parent or legal guardian.

- (f) Voluntary donations
 - (i) Buskers may give audiences an opportunity to provide voluntary donations by placing a container in close proximity to the area that they perform in or by asking an audience for donations;
 - (ii) Buskers may not continue to ask a person for donations or follow a person to request donations after such person has given a negative response to such attempts;
 - (iii) The performer's money collection container should not obstruct pedestrian traffic; and
 - (iv) Buskers may associate themselves with 3rd party advertising in conjunction with their performance, provided it is in line with the City's Outdoor Advertising and Signage Bylaws, 2001.

- (g) Safety and Comfort
 - (i) Buskers and their audience must not block doorways, display windows, sidewalks, paths, bicycle routes or city streets and roads;
 - (ii) Performances must not jeopardise the comfort and safety of others;
 - (iii) Buskers must respect the wishes of nearby residents and visitors, particularly regarding the volume of the performance and crowd response;
 - (iv) Buskers must take all practicable steps to ensure their performance causes no harm to themselves or members of the public; and
 - (v) Buskers must ensure that the area in which they are working is kept clean.

- (h) Cooperation With Officials
 - (i) Buskers must cooperate with reasonable requests by any member of the South African Police Department, Metro Police Department, Park Board or other such designated official; and

- (i) Buskers are required to follow all of the busking rules and regulations and all relevant by-laws. The following actions will be applied in the following order to non-compliant buskers:
 - (i) The busker may be told to lower the volume or find a new location;
 - (ii) A performance may be stopped;
 - (iii) A compliance notice may be issued in terms of a relevant by-law; and
 - (iv) A fine may be issued in terms of relevant by-laws.

11.3.2 Exemptions from busking rules and regulations

In exceptional circumstances, deviations from the rules and regulations will be considered through written request to the City of Cape Town's Manager of Arts and Culture.

11.4. Busking Administration

A register of buskers will be kept by the Arts and Culture Department and made available for official monitoring and statistical purposes.

12. IMPLEMENTATION PROGRAMME

12.1 The Arts and Culture Department

- (a) Promote PAMF to affected users in a user friendly format Administer the application process;
- (b) Facilitate the consultation with affected line departments;
- (c) Issue the Permit/permission;
- (d) Oversight of installation of permitted works;
- (e) Initiate, monitor and evaluate the Public Art Working group;
- (f) Co-ordinate the Public Art Working Group;
- (g) Compile a register of all permanent and temporary public art (updated annually);
- (h) Maintain Public Art;
- (i) Review and update the PAMF (annually);
- (j) Powers to:
 - (i) Permit Public Art
 - (ii) Recommend the commissioning and decommissioning of Permanent Art
 - (iii) Order the removal of Temporary art or murals
- (k) Tools;
- (l) Application Form;
- (m) Permit;
- (n) Register.

12.2 Law Enforcement Department

- (a) Review the public art application to ensure compliance with their departmental area of responsibility;
- (b) Provide relevant approval or permits required for the approval and issuing of the public art permit;
- (c) Respond within 5 working days to permit requests;
- (d) Power to remove or order the removal of graffiti or unauthorised public art.

12.3 Traffic Services Department

- (a) Review the public art application to ensure compliance with their departmental area of responsibility;

- (b) Provide relevant recommendations for the approval and issuing of the public art permit;
- (c) Respond within 5 working days to permit requests.

12.4 Roads and Transport Department

- (a) Review the public art application to ensure compliance with their departmental area of responsibility;
- (b) Provide relevant recommendation or permits required for the recommendation and issuing of the public art permit;
- (c) Respond within 5 working days to permit requests.

12.5 Environment and Heritage Resource Management Department

- (a) Review the public art application to ensure compliance with their departmental area of responsibility;
- (b) Provide relevant recommendation or permits required for their commendation and issuing of the public art permit;
- (c) Respond within 5 working days to permit requests.

12.6 Planning and Building Development Management Department

- (a) Review the public art application to ensure compliance with their departmental area of responsibility;
- (b) Provide relevant recommendation or permits required for the recommendation and issuing of the public art permit;
- (c) Respond within 5 working days to permit requests;
- (d) Power to remove advertising that has infringed the outdoor advertising and signage by law.

12.7 Internal Department Property Owners

- (a) Review the public art application to ensure compliance with their departmental area of responsibility;
- (b) Provide relevant recommendation or permits required for the recommendation and issuing of the public art permit;
- (c) Respond within 5 working days to permit requests.

12.8 Communications Department

- (a) Review the public art application to ensure compliance with their departmental area of responsibility;
- (b) Provide relevant recommendation or permits required for the recommendation and issuing of the public art permit;
- (c) Respond within 5 working days to permit requests.

12.9 Electricity Department

- (a) Review the public art application to ensure compliance with their departmental area of responsibility;
- (b) Provide relevant recommendation or permits required for the recommendation and issuing of the public art permit;
- (c) Respond within 5 working days to permit requests.

12.10 Potential risks

- (a) Delays in line departments responding to the application process
- (b) Lack of capacity to deal with volume of permits
- (c) Reputational risk to City
- (d) Public objections

13. MONITORING, EVALUATION AND REVIEW

13.1. Monitoring and Evaluation

- (a) Role-players:
 - (i) Working Group for Public Art
 - (ii) Public
 - (iii) Council and/or Portfolio Committee
- (b) Criteria for Measurement:
 - (i) Number of permits processed
 - (ii) Number of permits issued
 - (iii) Number of permits declined
 - (iv) Public Perception via media feedback and online survey
 - (v) Variety of genre of public art

13.2. Review

The framework will be evaluated annually by the Working Group for Public Art, based on a report outlining all challenges and the successes of implementing this framework and the programme of public art.