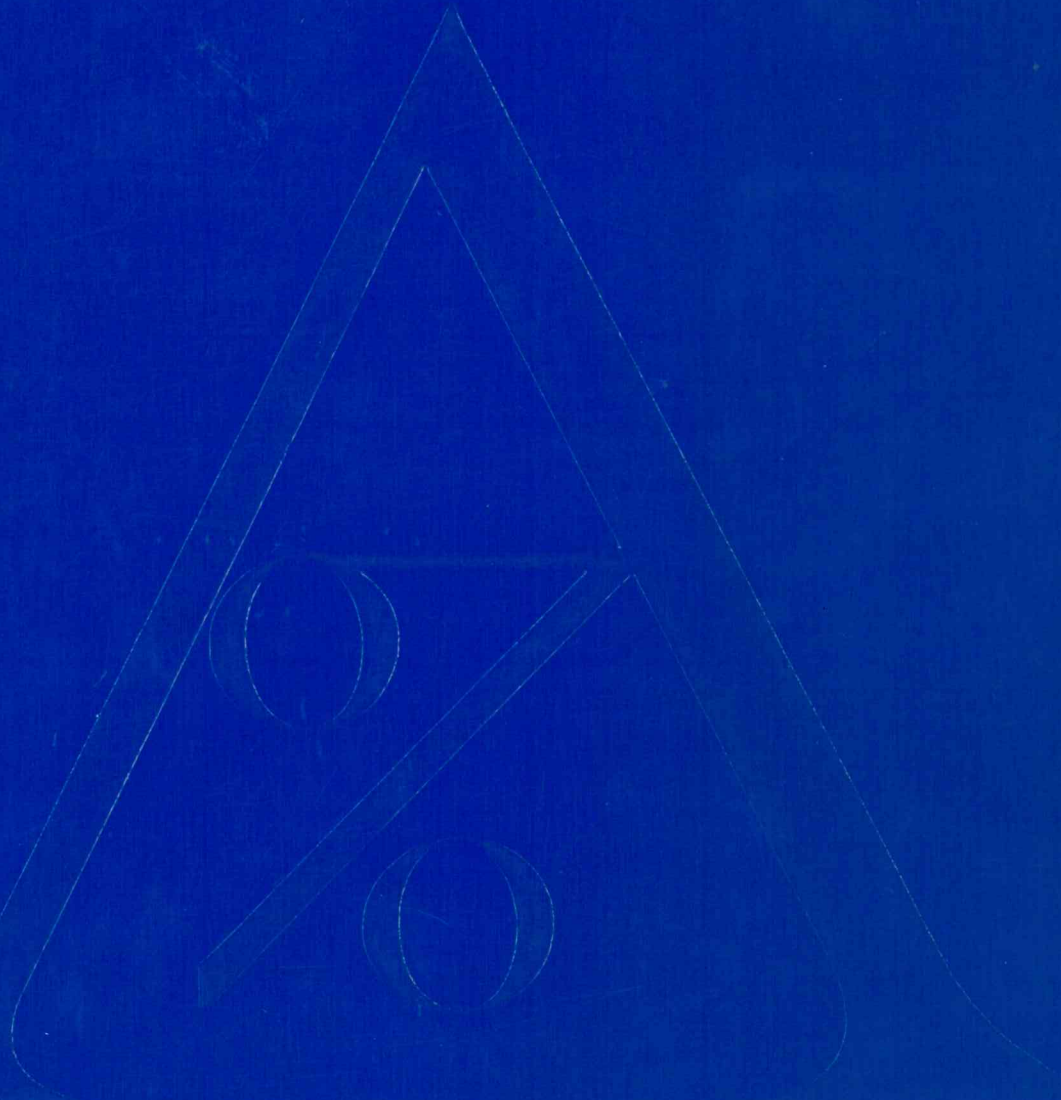


% for Art

NEW LEGISLATION CAN INTEGRATE
ART AND ARCHITECTURE



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% for Art began as a simple booklet describing what has gone on in the field of public art in architecture over the past two years. After work on the book began, however, it became obvious that there was a great deal of information available that needed to be compiled and presented for the first time in a single work. The Foundation was assisted in the process by many people, but a few were especially instrumental in assembling this information.

The Foundation would particularly like to thank the Washington State Arts Commission for its assistance in preparing the documentation for this book. James Haseltine, executive director of the Washington Commission; Johanna Nitzke, the staff member directly responsible for Art in State Building activities; and Judy Whetzel, a Commission member who has been involved with the Washington State and Seattle legislation from the beginning, contributed large quantities of time and knowledge to this project.

We would also like to thank Alfred Preis, executive director of the Hawaii State Foundation on Culture and the Arts; Robert Mitchell, architect with the Department of Public works in Alaska; Peter Hero, executive director of the Oregon Arts Commission; John Blaine, executive secretary of the Seattle Arts Commission; Ellida Kirk, president of the Tacoma/Pierce County Civic Arts Commission; and Yankee Johnson, executive secretary of the King County Arts Commission.

We would also like to thank the Associated Councils of the Arts in New York City for their valuable cooperation.

There have been many others around the country who have sent us materials and given information about what's happening in their areas. We appreciate their assistance as well.

FORWARD

During the past 18 months a number of American cities, counties and states have enacted "% for Art" legislation, and interest in the concept and in programs now in operation has grown, not only in the west but nationwide. And jurisdictions across the country have requested copies of bills that have been enacted, asking such questions as how new bills can be written to meet individual needs, how the legislation is introduced and approved, and how "% for Art" programs are administered.

Because of the increasing frequency of these requests, the Western States Arts Foundation decided that a central source for "% for Art" information and examples of existing legislation would be useful, not only for the western region, but also for other parts of the country. So this report was planned and written. The Associated Council of the Arts, also interested in developing a report for wide use, agreed to distribute this "% for Art" book.

The program in Washington State is emphasized because it has generated the most comprehensive and diversified experience of any state to date. Many cities and counties have also adopted "% for Art"

legislation and are now operating effective programs.

It is seldom easy to establish any kind of new legislation, and "% for Art" is no different. The important thing to remember is not to give up. The State of Idaho has submitted a bill to each of the last two legislative sessions. The first bill went down in a split committee vote. The second bill was passed but then lost in a motion for reconsideration. No doubt Idaho will be back again with another bill that takes into account objections that

were made in this session. Kentucky, Missouri, New Mexico, Nevada and others will also be back for another try. And still others are planning to submit "% for Art" legislation for the first time in the next two to three years.

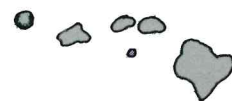
If "% for Art" bills are approved in any significant number, they could create more opportunities for visual artists to practice their business than at any other time in this nation's history.

Richard D. Collins

President

Western States Arts Foundation

SHADED AREAS SHOW THE LEGISLATIVE ACTIVITY
AT STATE LEVEL ONLY



INTRODUCTION

This book is part of an evolutionary process, a growing movement. It is a mid-stream report about what has happened in a number of "% for Art" programs across the country, and is meant as a tool for those interested in developing legislation for their own cities, counties and/or states.

Part One, *What is % for Art?* explains the concept of art in public architecture. It shows how cities and states across the country have developed legislation to allow a small percent of public construction costs to be earmarked for enhancing public buildings and public spaces.

Part One is written for anyone interested in the concept, including mayors, city council members, state legislators, their staffs and the general interest reader. It is a discussion of where current programs exist and how both the artist and the public are aided by the approach.

Part Two, *How to Write % for Art Legislation* is a detailed examination of the operating details of various programs throughout the country and will be useful to arts commissions personnel, legislative steering committee, architects, artists and others who are interested in the implementation of a program.

Part Two will (1) help clarify the objectives of legislation and operating guidelines; (2) show how to determine the scope of legislation; (3) aid in using the proper language; (4) explain the problems of varying tax structures; (5) define the

responsibilities of the arts commission, the architect, the contracting agency and the artist; (6) examine administrative costs; (7) discuss techniques for selecting artists and art; (8) show how to develop public support for legislation. Part Two also includes laws and procedures now operational in Baltimore, Hawaii, Seattle and the State of Washington, plus sample letters of agreement among the architect, artist and contracting agencies.

Since "% for Art" is a relatively new idea, its overall effect on the art world is difficult to predict. It will, we believe, be substantial, and will have widespread effects on other segments of the arts industry. As it grows it will also generate other creative techniques for enlisting public support of the arts. In addition, "% for Art" legislation could become a catalyst for mobilizing those who care about the arts around a solid, practical and realistic issue that not only offers assistance to artists, but stimulates a depressed sector of the economy and provides the opportunity to extend public access to art beyond museums and into the streets.

Dennis Green
 Director Of Design Programs
 Western States Arts Foundation



TABLE OF CONTENTS

| | |
|---|----|
| FORWARD..... | 4 |
| INTRODUCTION..... | 6 |
| PART I: WHAT IS % FOR ART? | 8 |
| The growth of public art in America..... | 9 |
| The % for art concept..... | 17 |
| Integrating art and architecture..... | 21 |
| The social economic benefits of public art..... | 23 |
| Public art and the artist..... | 26 |
| PART II: WRITING % FOR ART LEGISLATION | 30 |
| 1. Determining legislative objectives..... | 31 |
| 2. How to decide on the scope of legislation..... | 32 |
| 3. Why city, county and state scope may vary..... | 32 |
| 4. Legislative scope may be narrow or broad..... | 33 |
| 5. Why define words like "artwork", "commission" "construction", "project" and "building"..... | 33 |
| 6. The importance of understanding taxation systems..... | 34 |
| 7. Determine the detail of legislation and guidelines..... | 35 |
| 8. Why mandatory legislation is better than permissive..... | 36 |
| 9. Administrative responsibilities..... | 37 |
| 10. Selection of the artist..... | 38 |
| 11. Artist file..... | 41 |
| 12. What kind of artist to select..... | 41 |
| 13. Encourage community participation..... | 42 |
| 14. Geographic considerations in artist selection..... | 42 |
| 15. When to select the artist..... | 42 |
| 16. How to transfer money to the artist..... | 43 |
| 17. Pooling money from small projects..... | 44 |
| 18. Administrative costs..... | 45 |
| 19. Conservation and maintenance of artworks..... | 46 |
| 20. Defending art selection..... | 47 |
| 21. How to develop legislative support..... | 47 |
| 22. How to sell the % for art idea..... | 48 |
| 23. How to stress the benefits of the program..... | 48 |
| CONCLUSION..... | 49 |
| APPENDIX: WHAT SOME COMMUNITIES HAVE DONE | 50 |
| Alaska Law..... | 51 |
| Metropolitan Dade County, Florida, Ordinance..... | 52 |
| Hawaii Law..... | 53 |
| Hawaii Letter Of Agreement Between Artist and Contracting Agency..... | 53 |
| Seattle, Washington Ordinance 102210..... | 58 |
| Seattle, Washington Amended Ordinance 105389..... | 59 |
| Seattle Implementation Procedures..... | 60 |
| Seattle Procedures For Registration Of Artists..... | 63 |
| Agreement Between City Of Seattle And Artist..... | 64 |
| Washington State Law..... | 66 |
| Washington State Implementation Guidelines..... | 67 |

PART I:
WHAT IS % FOR ART?



THE GROWTH OF PUBLIC ART IN AMERICA

Baltimore has spent well over \$1 million in the past thirteen years to incorporate art into its municipal architecture. Hawaii has equaled that amount since 1967 and, during 1976 alone, Washington State expects to allocate about \$350,000 for art for its public buildings.

All over the country, from Dade County, Florida to Alaska, states, counties and cities have passed a unique kind of legislation requiring that a mandatory percentage (usually 1%) of public building costs be spent specifically to improve the quality of civic architecture.

Most advocates believe that "% for Art" legislation has created, first, real improvement in the design quality of public buildings, and, second, a powerful force in support of the nations artists and craftspeople.

In Washington

Washington State's official support of public artwork goes back to 1959, when architect Paul Thiry persuaded the lawmakers to spend about 3% of the construction costs of the State Library for art. In 1962 numerous works were commissioned for the Seattle World's fair, generating an important motivating force for individuals and corporations throughout the city. Today Seattle, Everett, Tacoma, Renton and King County all have ordinances mandating 1% of all capital appropriations for works of art. Including all jurisdictions, it is estimated that more than \$800,000 will be spent throughout the state in 1976.

Washington law stipulates that ½% of all state-financed new building construction must be allocated for art. In 1976 this will amount to over \$350,000 in state monies for art, and will pay for projects ranging from a \$20,000 outdoor sculpture at Seattle Central Community College to a \$75 silk-screen for the Sunnyside Middle School.

James Haseltine, Executive Director of the Washington State Arts Commission points out that Western Washington State College in Bellingham has had a 1% policy for years. Spearheaded by a campus plan-

ner who became a state senator, the policy shows, as it did in Baltimore where the bill's sponsor Donald Schaefer eventually was elected Mayor, that supporting "% for Art" programs may be a real political asset.

Oregon

Although Washington State has strong advocates for public art and the "% for Art" movement, Oregon and Alaska are also deeply involved in their own "% for Art" programs. Both states enacted legislation in 1976. Although Oregon's law only pertains to construction in and around the State Capital Mall in Salem, the Capital Wings project now under construction involves an \$89,000 art budget.

Oregon has a rich history of public art experience, leading to a 1976 International Sculpture Symposium held in Eugene. The event, backed by the National Endowment for the Arts, had a multiplier effect. It brought renowned sculptors to work in the state and to meet with the public. It also made their works available for public places in Eugene and Portland and furthered the concept of "partnership funding," which Oregon Arts Commission executive director Peter Hero believes to be extremely important. He says, "there often is a real opportunity to leverage '% for Art' funds into far more significant projects if some amount is used as a match either for a National Endowment for the Arts Art in Public Places grant or for corporate/private funding."

Coos Bay, Oregon's successful bid for matching funds from the Arts Endowment's Art in Public Places program is a recent example that the Endowment's interest is very active, resulting in a major sculpture by Claire Falkenstein now placed in front of the City Hall. The Coos Bay citizens' effort in fund raising also set the pace for another projected work.

The city of Portland recently commissioned two major pieces of sculpture for city spaces at a total project cost of \$44,000. Portland is currently involved in another major project—\$250,000 in funds for art for the new Tri-Met Transit Mall now under construction.

Grand Rapids, Michigan

The appetite for public art seems to "grow with the eating," as it did in Grand Rapids, Michigan. In 1968 that city was the first to take advantage of the Arts Endowment's Art in Public Places program intended to stimulate public art.

Funds were raised locally to match a \$45,000 Endowment grant and Alexander Calder's \$90,000 steel sculpture *La Grande Vitesse* was placed in a main Grand Rapids downtown plaza. According to Brian O'Doherty, Director of the Endowment's Visual Arts program, Calder's sculpture is a model of the successful assimilation of "advanced art" by an eager community.

While Calder's skill as an artist cannot be minimized, O'Doherty attributes the Grand Rapids success to the fact that different groups within the city found that the Calder sculpture fulfilled their needs. The art community was, naturally, enthusiastic. The city's cultural leaders saw the sculpture as a focus for various other kinds of cultural events like open air concerts, and the public was proud of the national attention the city received. Others saw the artwork as a socially useful device for improving the quality of life.

Since 1968, Grand Rapids, with the assistance of local industry, has continually brought sculptors into the city to work. In 1974, the city commissioned Robert Morris, well-known earth sculptor, to create his first U.S. earthwork on the slopes of a reservoir near a public park.

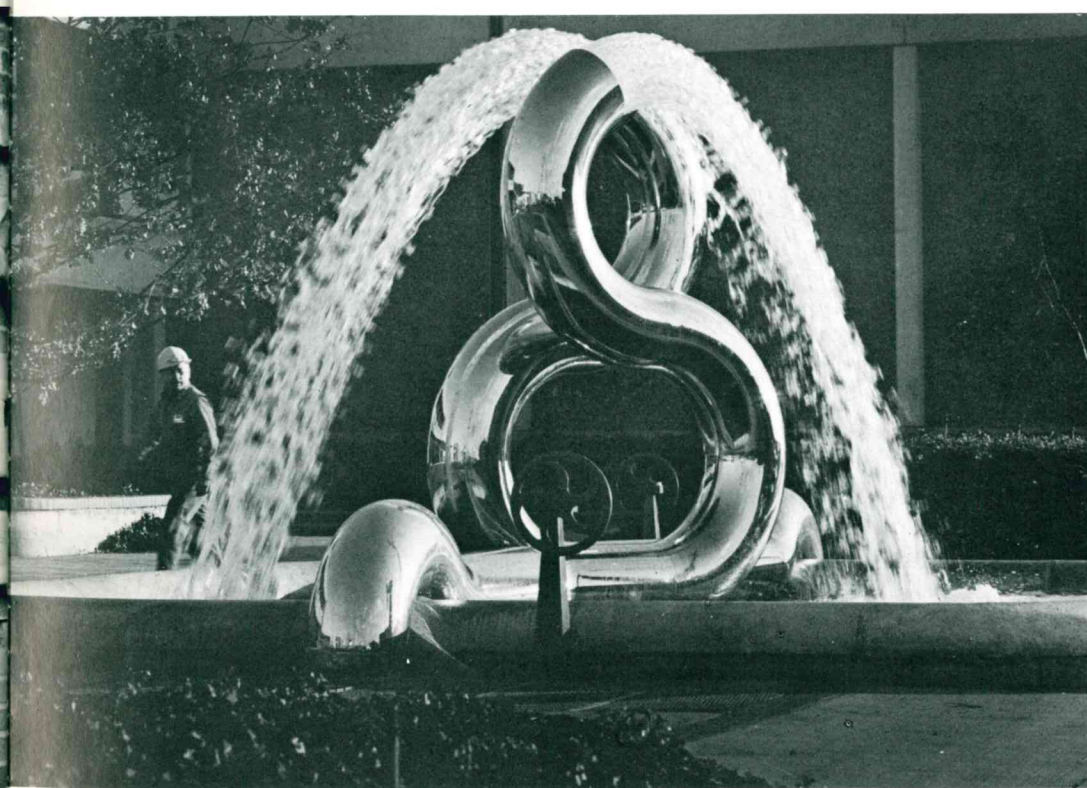
Illinois

In Illinois, an innovative new program expected to generate between 1/2% and 3/4% for art is being planned. Because recent bills have died in legislative committee, Louis B. Silverman, director of the Illinois Capital Development Board (CDB), is using his administrative powers to accomplish the bill's intent. Since no law prohibits such a program, the CDB decided to give it a try, and the potential scope of the program includes a possible 78 new projects in 1976.

"LA GRANDE VITESSE" BY ALEXANDER CALDER
PAINTED STEEL
GRAND RAPIDS, MICHIGAN



"FORECOURT FOUNTAIN"
LAWRENCE HALPRIN & ASSOC.
(LANDSCAPE ARCH.)
PORTLAND, OREGON



"WATER WORKS" BY TED JOHNSON
SEATTLE, WASHINGTON

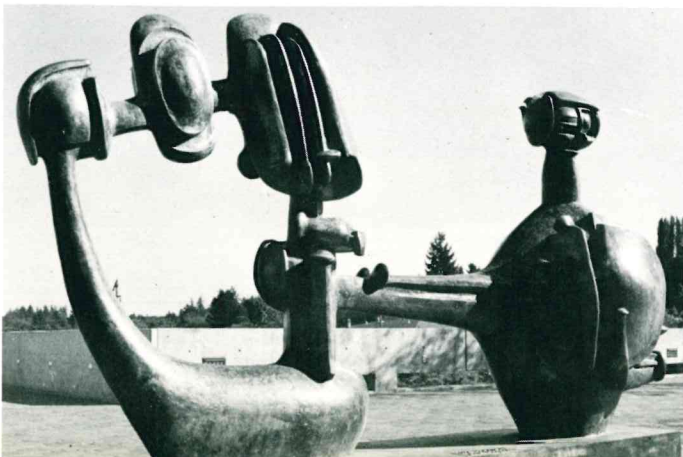
EXTERIOR WALL, KENT CITY LIBRARY
KENT, WASHINGTON
HAROLD BALAZS
PHOTO: ART HUPY



"WOMAN DANCING" BY PHILIP LEVINE
CAST BRONZE
HIGHWAY BUILDING, OLYMPIA, WASHINGTON

"FLAMINGO" BY ALEXANDER CALDER
RED PAINTED STEEL
FEDERAL OFFICE BUILDING, CHICAGO, ILLINOIS
PHOTO: GENERAL SERVICES ADMINISTRATION

"THE SHAMAN" BY JAMES HANSEN
CAST BRONZE
HIGHWAY BUILDING, OLYMPIA, WASHINGTON
PHOTO: SPENCE HALL



Dade County, Florida

Dade County, Florida, which includes Miami, passed an ordinance in 1974 requiring 1/2% for art. Each of the 25 communities in Dade County have been invited to adopt similar ordinances. Many, including Miami and Miami Beach, have done so. Recently Broward County also adopted the 1/2% bill.

Canada

Canada has spent \$160,000 on sculptures and murals at Toronto's International Airport.

Mexico

Mexico is well known for its giant public murals in such locations as the underground Metro passages in Mexico City.

Baltimore and Philadelphia

Baltimore and Philadelphia have been operating public art programs for more than 13 years.

Portsmouth, New Hampshire

Portsmouth, New Hampshire recently dedicated a sculpture commissioned for a waterfront park from funds in a city trust.

Hawaii

Hawaii, which passed a law in 1967, has spent well over \$1 million dollars on art since the program began.

San Francisco

San Francisco legislation allocated 1/2% of \$900,000 for art on the giant \$60 million Golden Gateway Rehabilitation Project.

Maine

Maine has encouraged schools to place art works in public areas through grants matched by local funds.

Nebraska

Nebraska is spending \$475,000 for large outdoor sculptures at 10 rest areas spread along 455 miles of Interstate 80.

U.S. Government

U.S. Government is also operating "1% for Art" programs. Don Thalacker, head of the U.S. General Services Administration's Fine Arts Program, reports that by December 1, 1975, 58 separate works of art were in varying states of completion under the program's 1% allowance. Six works totaling \$431,000 have already been completed and installed around public buildings in Chicago; Eugene, Oregon; Las Cruces, New Mexico; Midland, Texas; Seattle, Washington; and Willmington, Delaware. And 30 additional contracts for artworks have already been awarded with others being developed as buildings are constructed.

% FOR ART LEGISLATIVE ACTIVITY*

| State | Submitted Bill 76 | Action | Submitted Bill other yr. | Action | Planning Bill future | Other methods for % Art in public Arch. | Cities & Counties in State with Bills (amount %) |
|-------------|-------------------|------------|--------------------------|-------------|----------------------|---|--|
| Alabama | No | | No | | Yes | | None |
| Alaska | — | | 75 | passed 1% | — | | None |
| Arizona | Yes | pending | Yes | Not passed | Yes | | None |
| Arkansas | No | | No | | No | | None |
| California | Yes | Pending | — | | — | | Walnut Creek pending 1% San Francisco permissive up to 2% Palo Alto permissive amount determined each year by city council Davis Municipal art Fund 1% Santa Rosa (Urban Renewal Agency) 1% Riverside Pending |
| Colorado | No | — | No | — | Yes | | None |
| Connecticut | No | | No | | Yes | | None |
| Delaware | No | | No | | No | | None |
| Florida | No | | No | | Yes | | Dade County 1½% Miami Beach, Miami 1½% Broward Co. 1½% |
| Georgia | No | | No | | Yes | — | None |
| Hawaii | — | | Yes | Passed | — | | |
| Idaho | Yes | Not passed | Yes | Didn't pass | Yes | | None |
| Illinois | Yes | Not passed | No | | Yes | Administrative agreement IAC/Capital Development Board 1% Building agency for the State | None |
| Indiana | No | — | No | — | Yes | — | None |
| Iowa | — | — | Yes | Not passed | Yes | Ammendments for each building ½% | None |
| Kansas | No | | No | | No | | None |
| Kentucky | Yes | Not passed | No | | Yes | — | None |

*This chart represents current information, but activity within some states may vary slightly.

| State | Submitted Bill 76 | Action | Submitted Bill other yr. | Action | Planning Bill future | Other methods for % Art in public Arch. | Cities & Counties in State with Bills (amount %) |
|----------------|-------------------|--------------------|--------------------------|------------------------|----------------------|---|--|
| Louisiana | | | | | | | Working on Bill for New Orleans |
| Maine | No | | No | | No | | None |
| Maryland | Yes | "77" Pending 1% | Yes | Not passed | — | | Baltimore 1%, 1963 |
| Massachusetts | No | | No | | No | | None |
| Michigan | Yes | Pending | Yes | Not passed | — | | None |
| Minnesota | No | | No | | No | | None |
| Mississippi | No | | No | | Yes | | None |
| Missouri | Yes | | '75 | Not passed | Yes | | Kansas City: Non-binding 1% |
| Montana | No | | No | | Yes | | None |
| Nebraska | No | | No | | No | | None |
| Nevada | | | '75 | every 2 yrs not passed | Yes same bill | | None |
| New Hampshire | No | — | No | — | No | — | None |
| New Jersey | Yes | Pending 1½% | Yes | | — | | None |
| New Mexico | No | | Yes | Not passed | Yes | | None |
| New York | | | | | | | New York City Permissive |
| North Carolina | No | | No | | Yes | | None |
| North Dakota | No | | No | | No | | None |
| Ohio | No | | No | | No | | None |
| Oklahoma | No | | No | | No | | |

| State | Submitted Bill 76 | Action | Submitted Bill other yr. | Action | Planning Bill future | Other methods for % Art in public Arch. | Cities & Counties in State with Bills (amount %) |
|----------------|-------------------|--------|--------------------------|----------------------|----------------------|---|---|
| Oregon | — | | Yes | Passed restricted 1% | — | | None |
| Pennsylvania | No | | No | | No | | Philadelphia, 1% (1959) |
| Rhode Island | No | | No | | No | | None |
| South Carolina | No | | No | | No | | None |
| South Dakota | No | | No | | No | | None |
| Tennessee | No | | Yes | Not passed | Yes | | None |
| Texas | — | | Yes | Passed permissive 1% | Yes | | None |
| Utah | No | | No | | Yes | | None |
| Vermont | No | | No | | No | | None |
| Virginia | No | None | No | | No | | None |
| Washington | — | — | Yes | 74 passed ½% | — | | King Co. 1%, Pierce Co. 1% Tacoma, Everett, Seattle, Bellevue 1%, Renton 1% |
| West Virginia | No | None | No | | No | | None |
| Wisconsin | No | | No | | No | | None |
| Wyoming | No | | No | | Yes | | None |

THE % FOR ART CONCEPT

Public art is not entirely new to this country. Both government and corporate enterprise have had a record of placing artworks within view of the public. But the “% for Art” concept is, however, more than a stimulus for public artworks. It is an approach for integrating the artistic and utilitarian into one humane and responsive form of public architecture. The foundation of the movement rests on the belief that modern public architecture is often sterile, monotonous and inhuman; that the functional starkness can be softened with what architect Percival Goodman has called “works of the hand;” that buildings need to be brought closer to human experience and scale; and, finally, because art and architecture significantly affect the lives of people, art should become a normal, integrated part of everyday life, not isolated in city museums and art studios.

The belief that our public architecture is dull and monotonous is supported by both architects and building users. Many of the nation’s best known architects have argued that public architecture is not what it could be. Although much current criticism focuses on the problems of badly functioning structures, much of the problem is also esthetic, argues architect Edward Durrell Stone.

“In this period of prosperity and overabundance, the American people can afford everything but beauty. We simply have not taken the time to reflect on whether we are creating a beautiful environment or not.”

In this century the emphasis in architecture, as in society as a whole, has been on functional utility. Attacking that value, Lewis Mumford claimed our nation has placed too much emphasis on utility for too long. He said,

“Western man has sought to live in a non-historic and impersonal world of matter and motion, a world with no values except the values of quantities. Precisely in those areas where modern man has seemed most prosperous and secure, most efficient in action, most adept in thought, we begin to realize that something has been

left out of the regimen, something essential to our organic balance and development.”

Mumford believed that with all our boasted machine efficiency, with all our superabundance of energy food, materials and products, there has been no commensurate improvement in the quality of our daily existence. Without an integrated view of art and technology, he believed the great majority would live lives of emotional apathy—lives that belie the real personalities of modern culture.

According to Bennard Perlman in his *1% for Art in Civic Architecture* (1973), the chairman of one board of public instruction readily admitted, “I am afraid that most city schools I have seen are totally undistinguished architecturally and in fact are more akin to warehouses than to places of learning.”

In 1962 the New York Chapter of the American Institute of Architects held a conference on esthetic responsibility. Its purpose was to inspire community activity to fight our country’s ugliness. Conference chairman Richard W. Snibbe declared,

“We are fighting the pressure for cheapness in the midst of prosperity. We have never been richer and poorer at the same time.”

And respected architect Victor Gruen admonished those in his profession who failed to support the idea of integrating art with our environment. At the same conference August Heckscher, former Special White House Consultant on the Arts, added,

“A civilization begins to manifest itself when men and women have begun to take thought about what it is they construct and how and to what end. It begins to be a living whole when the idea of beauty has found its place alongside the pressure of utility and the spur of need.”

In the nineteenth century the movement toward functionalism in architecture went on in spite of the architects rather than through their efforts. The great new constructions of the 1800's were as often as not the work of engineers—The Crystal Palace of 1851, the Brooklyn Bridge of 1883, the Paris Hall of Machines in 1889, were all works of engineering. About these buildings Mumford says,

"All these works tended toward a certain starkness, a certain severity and simplicity...reinforced by a social desire to slough off symbolic excrescences, to avoid ornateness of any sort, to reduce speech to its simplest forms and to remain quiet when one has nothing to say... Democratic simplicity in dress and manners passed over into architecture."

He suggests that in rejecting antiquated symbols we have also rejected human needs, interests, sentiments and values, and that the time has come to balance off mechanical facilities with biological needs, social commitments and personal values.

Winston Churchill described the importance of the physical environment in molding human values when he said, "We shape our buildings and our buildings shape us." John Dewey agreed, "...the first great consideration is that life goes on in an environment and not merely in it, but because of it and through interaction with it..."

The importance of supportive, functional architecture cannot be overstated, but neither can esthetic values. In his book *Architectural Environment and Mental Health*, Clifford Moller says,

"Architecture exerts a *personality* made up of the dynamic relationship between its physical structural elements and its effect on the people who use it. ...In attempting to solve the problems of our cities, we cannot separate the behavior of men from the spaces in which they live."

18

“ We shape our buildings and our buildings shape us. ”

“ Improvement in the architecture of both public monuments and public housing projects would provide a sense of community and stability in today's violence oriented world. ”

A citizen writing a letter to the editor of a Baltimore newspaper in 1963 adds,

"If we improved our schools with art and the students were made aware of their beauty, they would take a pride in their schools and I believe this pride properly inculcated would lessen the vandalism in the schools. We can live without art, but not so well."

Agreeing that the shape of environment can affect the shape of people, Daniel P. Moynihan as Director of the Joint Center for Urban Studies at the Massachusetts Institute of Technology and Harvard pointed out that,

"Improvement in the architecture of both public monuments and public housing projects would provide a sense of community and stability in today's violence-oriented world."

From this evidence it seems highly probable that our built environment exerts a powerful personality force on our daily

behavior. The evidence likewise shows that this personality is defective. It lacks a sense of the artistic, the creative and the beautiful. One wonders why we allow such a deficient social condition to exist. In our interpersonal relationships we rarely tolerate an abrasive personality because we recognize the potential harm to ourselves. Still we continue to produce inadequate, unsatisfying public buildings.

Some believe we accept these inadequacies for economic reasons, claiming that the high cost of construction simply doesn't leave money for artistic expression. A more plausible reason appears to be that we place a higher value on functionalism and quantity than we do on the quality of experience.

19

“ . . . we rarely tolerate an abrasive personality because we recognize the potential harm to ourselves. Still we continue to produce inadequate, unsatisfying public buildings. ”



INTEGRATING ART AND ARCHITECTURE

Part of the “% for Art” concept is an attempt to improve machine functionalism by reintroducing the values of beauty, expression, and “works of the hand” into public architecture. Opinions vary, nevertheless, on how this should happen. Not everyone agrees on the best way to make this reintroduction. It is at this point that the underlying motivations of the various “% for Art” programs show up more clearly.

Two major opinions are, first, that esthetic values should be reintroduced through a genuine integration of art and architecture, wherein architecture would become as much an art form as a functional form, and, second, that art can be an embellishment which softens the architecture but is not necessarily integrated within its structure. These two approaches should be seen as complementary, however, and non conflicting. While some “% for Art” programs stress one or the other, they are nevertheless, not mutually exclusive and could easily be combined to improve the quality of the buildings and surrounding environments.

The “integration” versus “embellishment” viewpoints are historically represented by two people, the first by Horatio Greenough, a nineteenth century American sculptor, and the second by philosopher-writer John Ruskin.

Greenough was one of the first to recognize the implications of functionalism. He carried forth the theorem “form follows function,” which ultimately became, through architect Louis Sullivan, the underlying principle of modern architecture.

Greenough was not interested in art as adornment but rather as an integration of form and function. He saw the American ax, the American clock, and the Clipper ship as eloquent without ornament or decorative device of any kind, except perhaps a surviving figurehead.

He claimed that, “We don’t need to add artworks to our buildings, we need to design our buildings as artworks.”

John Ruskin, on the other hand, disagreed. In his *Seven Lamps of Architecture* he insisted that building was one thing and architecture was another.

A building becomes architecture when the structure is enhanced and embellished with original works of sculpture and painting.

Ruskin’s theory, which makes a humane architecture dependent upon the symbolic contributions of the non-architectural arts, is difficult if not impossible for the Greenough followers to accept. The basic truth of Ruskin’s statement does, however, surface when one replaces the restricted notion of painting and sculpture, applied to an otherwise finished building, with the concept of a building as an expressive work of multi-mural painting and architectonic sculpture.

Mumford describes it as the architectural painting of a picture.

By his choice of materials and textures and colors, by the contrasting play of light and shade, by the multiplication of planes, by the accentuation, when necessary, of sculpture or ornament, the architect does in fact turn his building into a special kind of picture.

In Greenough’s ideal the integration of art and architecture produces perfect form and perfect function—a multi-dimensional moving picture, whose character changes with the hours and seasons, with the functions and actions of spectators and inhabitants. It is the creation of a unique work or sculpture; a form one not merely walks around but walks into, a form in which the very movement of the spectator through space is one of the conditions under which the solids and voids of architecture have a powerful esthetic affect, not known in any other art.

DENVER ART MUSEUM, DENVER, COLORADO
ARCH: JAMES SUDLER ASSOC., DENVER
PHOTO: RUSH J. MCCOY

Since President Johnson signed the National Endowment for the Arts into law in 1965, chief executives have continued to support the arts. In the fall of 1975 on the 19th anniversary of the Endowment, President Ford said,

"It has been a wonderful experience for me to go from one who had little or no appreciation or support for the arts to one who has learned that the arts can be very important, very vital in a community and I think in the nation."

Research shows that a substantial number of Americans agree with Ford. According to a nationwide survey conducted by the National Research Center for the Arts, Inc., an overwhelming majority of the public feels that it is important to the quality of life in the community to have facilities like museums, and feels that such facilities are important to the business and economy of the community.

Specifically regarding public artworks, 87% of the public agreed that, "when businesses put up factories or office buildings they should be given incentives to spend a certain part of the cost on landscaping, attractive interiors, fountains, *art-works*, sculpture and things like that" Only 8% disagreed.

Public art in architecture can also act as a magnet—a meeting place where people can gather to experience the building or the artwork or merely eat their lunches.

Everyone can share in public art, not only because it becomes an integral part of a city, neighborhood park, schoolyard, post office or power sub-station, but also because they can become part of its creation. Public art offers the opportunity for participation and community involvement, and public involvement is the force which separates "public art" from artworks which are donated by patrons and placed on view for the public. Art forms have value for and impact on the community no matter who is involved. But those who participate in the process can gain a special sense of community. In Sumner, Washington, for example, a mural, *Rings of Time*, was designed by artist Betty Franko and actually painted by Ms. Franko and the citizens of Sumner. The effort was part of Pierce County's publicly-funded artists program, which is one of the

first in the country since the public art efforts of the 1930's.

A few years ago an artist was asked, "Why place art about public buildings?" And, answering more like an economist than a sculptor, he replied,

"At any given time within a society I suppose that it is possible to determine what percentage of the people are actively interested in watching ball games, going fishing, going hunting, reading books, etc. The state has in varying degrees helped in providing ball parks and arenas, buying access to lakes, and stocking pheasants and providing libraries, etc. I maintain that the state can therefore logically provide works of art for that percentage of the populace so interested. And just as some would rather fish for sting rays and others prefer trout, the state provides both."

President Ford, who was less than enthusiastic about federal funding for the arts when the idea was first conceived, has now come to believe in the value of public art. After seeing the effects of Calder's *La Grande Vitesse* in his home town of Grand Rapids, he admitted that the sculpture "really helped to regenerate the city."

There is also evidence to suggest that the public is willing to pay for this kind of regeneration. A 1975 study, *Americans and the Arts II* by National Research for the Arts, Inc., measured people's willingness to pay taxes to support the arts. On a national level it was discovered that 58% of those surveyed would be willing to pay an additional \$5 a year to support arts and culture. 51% would pay \$10, 46% would pay \$15, and an amazing 41% would agree to contribute \$25.

Nationally there are approximately 145 million taxpayers over the age of eighteen. With 58% of them contributing \$5 a year, the added amount going to the arts would be an astounding \$420 million per year. At \$25 each 41% of the people would be giving over \$1.4 billion. Current appropriations for the National Endowment for the Arts are set at about \$82 million, and although growing each year, they are still substantially lower than what the citizenry is willing to give.



"RINGS OF TIME" AN OUTDOOR MURAL DESIGNED BY BETTY FRANKO
PAINTED ON SUMNER BUILDING.
PHOTO: SCOTT ROSSITER

“Everyone can share in public art, not only because it becomes an integral part of a city . . . but also because they can become part of its creation.”



PUBLIC ART AND THE ARTIST

Government can and may take steps to safeguard the nation's cultural activity and stimulate the healthy development of its cities. Supporting public art is a logical direction, and the "% for Art" concept offers a simple but effective mechanism to enhance the community and develop the nation's artists as well. An important link, since, without the artist, cultural development is not possible.

In Oregon, the "% for Art" law reflects the importance of the artist and the state's responsibility to foster artist development. It says,

"The visual arts contribute to and provide experiences which are conducive to the enrichment of all people. Art has enabled people of all societies to better understand their community and individual lives."

There is no denying the "% for Art" movement is a necessary one. Most artists are prevented from receiving support from governmental groups because most state laws or constitutions prohibit direct grants or subsidies to individuals. Major museums tend to exhibit only better known major artists. Another problem is that the visual arts, unlike the performing arts, are usually material-intensive. Therefore, the actual cash outlays for materials, equipment and tools makes financial support all the more necessary. Many sculptors spend as much as 85% of their commission dollars on materials with the rest going to cover overhead, like any other business.

For example, John Rietta's free-standing steel sculpture in the federal plaza in Roanoke Virginia, a G.S.A. funded project, cost \$58,000. The work took eight months to complete and netted less than \$8,000 for Rietta.

Also, because of the individual nature of their work, artists are generally unable to mount fund-raising drives or stage benefits, and they can't sell subscriptions or tickets and the like to support themselves. The resultant effect is often to force the visual artist to create works on a purely speculative basis, keeping works small and within financial reach of the private gallery market, but beyond the access of people who can't afford to own works of art—especially art of the size and spirit of publicly commissioned art.

Recognizing this predicament, some foundations and government agencies offer fellowships to individual artists. This kind of support does help foster the artist's personal growth, but rarely lasts beyond one year, offers little to bolster the artist's career and generates few new commissions from either private or public sources.

If "% for Art" legislation were enacted by every state legislature, it is estimated that at the rate of 1% of annual public construction costs well over \$25 million per year would be earmarked for integrated architecture and public art in this country. That, alone, would benefit visual artists more than all programs for artists at any time in our history.

“Art has enabled people of all societies to better understand their community and individual lives.”

The Federal Art Program, which began in August, 1935 and ended in June, 1943 as a part of the Work Progress Administration (WPA), is often pointed to as the largest government-sponsored art program in our nation's history. But its effects still would not equal the effects of the "% for Art" programs. Over an eight year period the Federal Art Project cost \$35 million, including administration, and employed about 5,000 artists. Another WPA program begun in 1935, the Treasury Relief Act Project, employed about 450 people to decorate public buildings with artworks. The program lasted four years and spent about \$833,784.

Altogether, WPA programs spent about \$40 million over an eight or nine year period—a huge figure at the time. Nevertheless, "% for Art" programs, if operated nationwide, would probably surpass this figure (even in uninflated dollars) within five years and continue to grow as new buildings are constructed. Another point is that WPA projects were primarily employment measures and not art programs, and often produced mundane works of art. As Oregon's Peter Hero says, "the '% for Art' laws of modern times are not the same. They are far more selective, professional, and directed. Also, it is the existence of state arts agencies, virtually unknown in WPA times, that ensures this professional quality aspect."

Another shortcoming was that the WPA projects were almost never directly integrated with the architecture. Nearly all were applications to existing buildings.

“Many sculptors spend as much as 85% of their commission dollars on materials with the rest going to cover the cost of overhead, like any other business.”

Under a 1974 program similar to WPA, the federal government responded to large scale unemployment with a new law establishing Title X of the Public Works and Economic Development Act and Title VI of the Comprehensive Employment and Training Act (CETA).

Using Title X, Congress appropriated \$500 million to the Commerce Department and instructed the Secretary of Commerce to ask other federal agencies to submit proposals for job opportunity projects in areas with high unemployment rates.

Title X money became available in early 1975, but only a little more than \$1 million went directly to the arts in the first year. Only \$683,263 was initially transferred to the Arts Endowment to fund five projects involving museum renovation and utilization of collections. In a second transfer to the Endowment in 1976, two state arts councils, Rhode Island and Connecticut, each received a \$250,000 grant (in matching funds) with the intention of stimulating new arts-related employment opportunities.

In addition, CETA money has gone to non arts-related city and state agencies that have ultimately employed artists. However, figures are not available on how much that program has directly affected the arts or public architecture. But, since 80% of the CETA grant money must be used to pay the salaries and fringe benefits of previously unemployed workers, and only 20% can be used for project supplies and materials, the visual artist doesn't feel much effect by this so-called temporary infusion of money into the arts.

In Canada, where the innovative Federal Art Bank provides art to federal

agencies on a rental basis (equal to 1% of the value of the individual work per month), the benefits to artists are considerable. At a rate of \$1 million per year nationally, it exceeds any federal expenditure for art in the United States, although the U.S. General Services Administration spent some \$431,000 in 1975 through their "1/2% for Art" program.

At least one state, Alaska, is considering a state art bank concept, but the bank system would require additional appropriations from already tight state agency budgets. "1% for Art" legislation circumvents this problem since money is simply "set aside" from already appropriated public construction funds rather than added to the cost of construction.

The concept of "set aside" money has been criticized by people who see it as another form of taxation. However, proponents of "set aside" money argue, it is really no different than designing a building and including decorative brick in the construction budget.

Money will be spent to cover a lobby wall with wood panelling or wallpaper or design elements, they say, so why not use that same money to commission an artist to contribute to the design. In Quebec, for example, a sculptor was hired to design a wall in the lobby of a major public building and produced a magnificent sculptural element at about the same cost as a vinyl wallcovering.

"The beauty of the '1% for Art' concept," says James Haseltine, Executive Director of the Washington State Arts Commission, "is that it adds something significant to the building environment without adding to existing government spending."

Critics who argue with this interpretation, claim that the same money appropriated for art could better be spent on more functional necessities for the building users. However, people familiar with construction costs, especially architects, answer that 1% of the total construction of a building has an almost negligible effect on the overall functional effectiveness of the design—a feeling demonstrated by their enthusiastic support for programs wherever they have been enacted.

The critics say the 1% concept shows that the cost of public construction could be reduced by one percent. But they are missing the point. While both architect and building users have recognized the economic benefits of efficient, low-cost structures, neither believes that buildings should be monotonous or inhuman. Both want something done to improve esthetic quality, and cutting construction costs would only make matters worse.

One reason "1% for Art" programs have proven successful across the nation is that they offer a rational alternative to appropriating additional money to improve the life quality of our cities, schools, courthouses, libraries and other public places. And these programs will continue to grow because they work for the people who come in contact with their results.

Public art programs can expose people to the best in both art and artist the way they did in the Eugene, Oregon Sculpture Symposium and the Sumner, Washington mural. And an Arizona artist summed up the value of this contact with the public. She said,

"It is good to have ways of placing the artist in the mainstream of society and of education where he belongs. The 'far out' and the 'put on' and the snobbish, precious attitudes (like what can the public possibly know about art) have alienated artists and public until they can scarcely communicate..."

No wonder it's so hard to get funds for art experiences which are just as important, maybe more so, to the development of a human being as mathematics."

At the city level, a resolution introduced by Seattle Mayor Wes Uhlman was passed by the U.S. Conference of Mayors on July 26, 1974 in San Diego, California adapting the following principles as guidelines for city action supporting the arts:

1. City Government should recognize the arts as an essential service equal in importance to other essential services, and help to make the arts available to all our citizens.

2. Every city should have a public agency specifically concerned with the arts.
3. The physical appearance of the city, its architectural heritage and its amenities should be acknowledged as a resource to be nurtured.
4. A percentage of the total cost of every municipal construction budget should be set aside for the purchase or commission of works of art.
5. City Government working together with the public at large should help affect a new national goal: "that no American shall be deprived, of the opportunity to experience (or to respond artistically to) the beauty in life by barrier to circumstance, income, background, remoteness or race."

Mayor William Donald Schaefer of Baltimore on April 24, 1972, after almost 10 years of working with the "1% for Art" legislation, said,

"The question of financing art in new construction is not a matter of can we afford the expense of art in our new buildings, but, rather can we afford not to finance art. I still opt for art. It is art in the form of sculpture, paintings, mosaics, fountains and the like, that turns sterile new buildings into living things that attract people. People, in turn, are what a city needs to live. Art gives meaning to life, and art must be seen to have meaning. Art contained only within the halls of museums turns that institution into a mausoleum. I believe the art in architecture approach can prevent our cities from becoming mausoleums."

“It is art
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People, in turn, are what
a city needs to live.”

PART II:
WRITING % FOR
ART LEGISLATION



As the benefits become more obvious, “% for Art” programs will continue to grow. However, one word of caution to those thinking about drafting new legislation: existing programs have had their share of administrative complications.

In the past, hard information about existing programs has not been widely available. Because of this most new legislation has been modeled on bills from Baltimore, Philadelphia, Hawaii and Washington. But, although modeling is sometimes an effective learning technique, it can make the process of writing legislation deceptively simple. Writing “% for Art” legislation is complex and requires careful analysis. Copying the language of a model bill without understanding the influencing factors may produce unexpected problems. Don’t assume that the political, social or economic conditions in one state are the same as in another. The artists, labor unions, art associations, architects and politicians are as different as the geography, the climate, and the specific needs of the public.

There are three sets of questions to be answered before the writing process begins. They will help clarify the direction the writing will take.

First, what is the *purpose* of the “% for Art” program? Why should this legislation be developed? To improve the architectural and human environment? To help the artist financially? To attract artists to the state? To create a significant art collection? Examine the real reason for the “% for Art” program, including its beneficiaries. Establishing the purpose will help in making some tough decisions about subsequent program options.

Second, what are the *attitudes* of those involved in writing the bill toward the “% for Art” concept? Is everyone involved totally committed to the concept? Do those involved agree philosophically? Should the program strive to integrate art and architecture or should art be separated from architecture? Should government funds be used to support art?

Third, what are the special *abilities* that can help get the legislation passed?

What role does each individual play? Who is an organizer, a resource person, a political lobbyist, the ultimate program administrator, an artist, an architect? Who will testify in favor of the program in front of the city council or state legislature?

Once the purpose, the attitudes and the abilities have been defined, the details and trade-offs of the legislative process can be examined.

1. Before starting to write legislation determine its objective or objectives. Who is it intended to help? What condition is it meant to change? Where will the art be placed?

Existing legislation has been established for three fundamental reasons: (a) to add new dimensions to the public environment, (b) to help foster culture and the arts generally, and (c) to aid the personal development of artists and craftsmen.

Some laws stress the integration of art and architecture or cultural development while others center attention on aid to artists. Although each point of view may result in improving the quality of life, each has a different way of reaching its goal.

Objectives may be written in detail or in general, but the words must communicate exactly what is intended. Philadelphia, Baltimore, Hawaii, Washington State, and the U.S. General Services Administration all stress “% for Art in *Architecture*,” thus focusing on integrating art and buildings. This places strict limits on the scope of the program and, consequently, on the potential commissions to artists. In contrast, Seattle, Tacoma, Everett and King County, Washington stress a broader scope by including “% for Art” in *all public works*, not just buildings, thereby creating opportunities for more varied commissions and purchases.

A fundamental question is, should legislation be limited to public buildings or expanded to include all public places? These two options are most commonly described by the phrases “% for Art in *Architecture*,” and “% for Art in *Public Places*.”

This book uses a third phrase, "% for Art," to show that both approaches have a useful purpose. (Note: The "% symbol is not intended to signify 1% or ½% or any other specific amount. It merely represents the concept of percentage).

Although Oregon has recently drafted "% for Art" legislation for the entire state, current Oregon law limits expenditures to *buildings* in and around the State Capital Mall. Hawaii also limits the art to *buildings* only. On the other hand, Seattle emphasizes placing art *throughout the city*, permitting works of art to be located in parks, town squares or around power substations.

2. After defining objectives, decide on the scope of the legislation. How broad should the program be? Do you want the law to include money acquired from all construction projects, all renovations of existing buildings, *new construction*, or just *new building construction*?

Ideas on the proper scope vary considerably. Laws in Hawaii and Washington State specify that money can only be spent on *original construction*, but the city of Seattle applies the 1% law to any capital project whether it is new construction, remodeling, or building sidewalks or utilities. King County, which includes Seattle, has a similar law reading, "County construction projects shall mean any project, paid for wholly or in part by King County, to construct or remodel any building, decorative or commemorative structure, park or any portion there-of...."

Alaska limits art expenditures to either new construction or remodeling for projects over \$250,000.

3. One reason the scope may vary depends on whether it's written for the city, county or state level. Adapt the scope to the governmental unit involved.

An important distinction between the Seattle and King County laws is that the Seattle bill includes streets, sidewalks and utilities—all of which may be a significant part of a city scope, but which may be too broad for a county or state scope. How you write the scope naturally depends on the kinds of projects you expect. Tacoma's law is similar to Seattle's, but excludes the Department of Public Utility funds unless the Public Utility Board elects to authorize an expenditure for art.

It may not be wise to include utilities, roads or even parks in a state law because of the enormous scale of statewide projects. At the city level, however, some people feel that without including parks, streets, utilities and even sidewalks, the legislation can't generate enough money to run an effective program.

Seattle's broad law was challenged in October, 1975 by the City's Office of Management and Budget. Almost two years after the law was passed, the OMB proposed a number of revisions which included narrowing the scope to include only new construction. The OMB, however, reconsidered when the Seattle Arts Commission pointed out that remodeling, building additions, sewer construction and underground wiring projects provided the majority of funds in the first two years, and that these funds help to create a solid and continuous financial base for the overall program.

Nevertheless, some people feel that approach is too far removed from the original intent of the Baltimore and Philadelphia movement which stressed "*% for Art in Architecture*." But large cities with correspondingly large budgets can more realistically afford to limit the law to building construction and, more specifically, new construction. In contrast, smaller cities with limited building construction, especially new construction, may find that, like Seattle, the only way

they can consistently generate enough money to operate a program is to enlarge the scope of the law. This enlargement is based on the belief that public art is valuable regardless of its relationship with a specific building.

4. Write the scope in a narrow frame that spells out specific types of projects or more broadly to allow flexibility.

The Washington State law specifies that ½% shall be spent on art on all new building construction regardless of the specific situation. On the other hand, Baltimore has a flexible scope which allows each project to come under a special Civic Design Commission's scrutiny, permitting decisions to be made on a case-by-case basis. Although the law makes it mandatory to spend 1% on art, it does provide some latitude for a special commission to decide if it would be practical or desirable in each case. The ordinance specifies that in every construction project, the city agency in charge of the project, with the architect or engineer employed for that project, shall determine whether or not in their judgement "ornamentation" is desirable, and, if so, what type would be appropriate. (This is to eliminate the possibility of applying a mandatory 1% to projects that may be, for example, out-of-view of the public who therefore, would not benefit from the intent of the law.) The contracting agency and architect then take their selection to the Civic Design Commission which either accepts or rejects their choice. If a project is determined suitable, a mandatory 1% is allocated for the art work, although the amount may not exceed \$20,000 for any single work.

A bill can be written to include a scope of any size or type. In Philadelphia the scope even mentions "a bridge, and its approach, arch, gate or other structure or

fixture." Nevertheless, before one of these "model bills" is used, it is important to analyze the style of city, county or state government to determine if the lawmakers will favor a narrow or a broad definition, or one that allows flexibilities. If there is a strong civic design commission like that in Baltimore, the commission might be given decision-making powers under a flexible bill. On the state level, however, citizens in different parts of the state may want their own local or regional panels to make these kinds of decisions.

5. Carefully define words and phrases, like "artwork", "commission", "construction", "project" and "building".

Words can be misleading, especially to people who don't understand arts jargon. Two terms that will always need definitions are "artworks" and "commission." A "commission" could mean either "arts commission" or a "commission" to the artist to produce artworks. In defining "artwork" it may be necessary to include examples of all of the possible art forms from metal sculpture to stained glass. But, regardless of how many examples are included in a bill, the important clarification is not the types of artwork within the visual arts grouping, but rather the distinction between the visual arts and other forms, like performing arts.

Although most legislation specifies the visual arts exclusively, it is conceivable that "conceptual" and "performance" arts could be included. Because these art forms are not permanent, including them may be interpreted as a tax on construction rather than a "set aside" to improve the quality of public buildings, and could cause complications in clarifying legislative objectives.

Roy Helms, executive director of the Alaska State Council on the Arts, points out a problem that might be encountered. "It must be clear that the intention is to involve artists in the process. 'Artistic sidewalks' or 'artistic fixtures' which are actually manufactured items are not applicable. Of course, there is no problem with the concept of an artist-designed and executed sidewalk or fixture." For example, the Portland, Oregon airport has claimed expenditures for art—"artistic" fixtures and fancy door knobs. The use of "off the shelf" items, no matter how unusual or fancy, is not necessarily in keeping with the concept of aiding the artist.

"Construction" and "project" are also confusing words. Be sure to distinguish "building construction" from some other kind of "construction." Seattle defines a *construction project* as "any capital project paid for wholly or in part by the city of Seattle to construct or remodel any building, decorative or commemorative structure, park, street, sidewalk, parking facility or utility or any portion thereof within the limits of the city."

Legislation in the state of Hawaii shows the importance of defining the word "project." The State Foundation on Culture and the Arts had developed a long-standing practice of placing new artworks in buildings already completed before the 1% law was passed. This practice was based on legislation which stated, "In case the amount (1%) shall not be required in total or in part for any *project*, such unrequired amounts may be accumulated and expended for other projects." Still, the State Attorney General questioned the practice of using money from one building project to finance artworks for other already completed structures. The essence of his objection was that a "project" was defined as a "planned undertaking rather than an

established facility." Therefore, already completed buildings were not considered "projects," and money could not be used to procure art for those completed buildings. The objection resulted in a proposed amendment to the law which, if adopted, will allow the Foundation to continue with its original practice. However, the controversy has caused considerable confusion and delay in their program.

Finally, if the law applies strictly to buildings, it may be necessary to include a precise definition of "building." In Hawaii there was a conflict regarding whether or not money from the 1% law should be set aside from construction of the massive \$28 million state financed Hawaii Stadium. Money was being withheld because the state comptroller never considered the stadium a *building*. It was ultimately interpreted to be a building, but only after considerable debate and legal action by the state's citizenry.

Although there may be many sources for defining a "building" from dictionary, to building code, to law dictionary, to other statutes, the important point is to include the most appropriate definition in the law.

6. Taxation powers are different in each state, county and city government. Find out about the taxing process and how it may affect the "% for Art" law.

The public schools in Philadelphia have their own tax-collection powers. They are autonomous, and, therefore, are exempt from the art ordinance. In Baltimore, however, all public buildings come under the law, as they do in Washington, Hawaii, and Seattle.

It is important to find out how buildings are financed. In school construction, for example, does part of the money come from state taxes and part from local taxes? If so, how does it affect the law? So far Washington State is the only location where the state, a county and a city all have separate laws which potentially overlap each other. In Washington, schools are financed with approximately half state

money and half local personal property taxes and special levies. Therefore, Washington's ½% law only applies to the portions of money the state contributes to a project.

One current problem with the application of the law involves a park in King County, which combines state, county and federal money. King County plans to apply its 1% law to the federal money since no federal law prohibits the action. However, King County will not apply its 1% law to state money since state law only requires the lesser ½%. The State, therefore, will apply its ½% to its portion of the project money and combine it with the County and Federal money.

If a question exists about whether the law can be applied to other appropriations, like federal matching funds, find out how these authorities stand on the issue.

7. Determine how much detail the legislation and operating guidelines should contain.

Generally speaking, legislative wording should establish the clear intent of the law, leaving the guidelines to specify operating procedures. Because legislation is difficult to change, some people believe it should not be too specific. For instance, Hawaii has only three sections. The first establishes purposes, and the second sets the amount of appropriation, what it applies to and who will administer the program (but not how its to be done). The third section has only eight words: "This Act shall take effect upon its approval."

In contrast, Seattle's law has six basic sections. It establishes legislative intent, but also becomes specific about the responsibilities of the Seattle Arts Commission and about how money is transferred from the client agency to the artist.

Some believe that flexibility is insured if both legislation and guidelines are written with minimum detail. However, as questions are raised by program critics, this flexibility may stimulate unrealistic proposals by people who are not close to the day-to-day administration. Thoroughness will eliminate confusion and misunderstanding, and, although changes will always be in order, the more such administrative questions are answered before going into operation, the better. Do not ignore questions, especially legal ones, just because the answer isn't immediately clear. Items included in the law will be influenced partly by the attitudes of lawmakers, some of whom favor detailed legislation and others who prefer that the implementation details be left up to a government bureau.

Another factor to consider may be the need to establish a new legal structure to support administration of the program. In Hawaii, for example, there are no legal provisions for paying administrative costs out of "% for Art" money. As a result, the program is operated by limited and already overworked state foundation personnel. The law in Washington State is more comprehensive, specifying that administrative costs may be paid out of "% for Art" funds. However, the law still doesn't provide a legal mechanism to move money from the client agency to the Washington State Arts Commission, which has been forced to rely on a special grant to pay the program director's salary. Seattle has also specified that administrative costs shall be paid from art funds, but has wisely added a transfer mechanism called the Municipal Art Fund. This fund pools money from all agencies under the control of the City Comptroller who pays administrative costs as well as artist's fees.

8. Make sure that the legislation clearly specifies the percentage to be appropriated for art and whether the appropriation is mandatory or permissive.

The law must state how much money is to be included in the normal "building" or "construction" appropriation, but it should spell out clearly that, regardless of the amount specified, the money is not an additional appropriation. It is an "apportionment" or non-deductible "set aside" from already "appropriated" construction funds.

The amount to be set aside will vary depending on local conditions. 1% is usual in the United States and 2% to 4% is typical in some European countries. One recommendation comes from James Haseltine, director of the Washington State Arts Commission. "Don't go for just ½%. Our bill stipulated 1%, but we got cut back at the last second on the senate floor and had to settle for half the loaf." He adds, "Be sure the language makes it *mandatory* for a percentage to be spent and that a ceiling is not set. Avoid language like 'up to 1%. At least 1%' is preferable."

In some jurisdictions the law is not mandatory. As a result many building projects that should include funds for art often do not because each project rests on the goodwill of an individual or department rather than a mandatory program. Some permissive laws work very well, while others vary.

Texas passed a 1% bill in 1973. The law stated that "state agencies may request" art as part of building costs. The law has had no increased impact since state agencies could have requested funds without the bill. Philadelphia and San Francisco also have permissive ordinances.

Iowa submitted a 1% bill in 1974 which did not get through the legislative process. But, a stop-gap measure was adopted until a new bill can be planned which specifies that each appropriation for a new state building receives an amendment for ½% for purchase of works of art for the proposed building.

In Illinois the procedure is being handled by the Capital Development Board, which is the agency in charge of state buildings. The Board's authority, however, is by administrative agreement only and, thus, the Board does not have any particular responsibility, although this arrangement could produce results.

The bill pending in California requires that the Governor request funds each session for works of art for new state buildings, which is an interesting new approach. However, the level of the request rests with the governor. It could be \$1 or \$100,000. Assemblyman Sieroty's bill (co-authored by Senator Gregorio) is still in a state of amendment.

9. Decide who will be responsible for managing the program.

Responsibilities for managing the program are usually divided among four individuals and groups.

The **arts commission** concentrates on administration of the program perhaps along with another agency like finance or budget or the comptroller's office. In Baltimore in 1963, a separate Civic Design Commission was created to operate the program. At that time they believed a special commission would be more interested and better equipped to operate the program than would any other city or state department. Today all fifty states and many cities and counties have arts commissions which could assume this special responsibility.

The administrating agency should focus on coordination and stimulation, however, and not on control. An important aspect may involve continuing communication with artists, architects and contracting agencies to see if program objectives and procedures need changing. Some functions might be:

- periodic review of other agency construction budgets and identifying targets for art projects,
- coordinating artist and art selection juries with the contracting agencies and giving final approval to selections for purchase or commission,
- preparing artist/contracting agency and artist/architect agreements,
- making periodic inspections of projects and authorizing payments to artists, but not writing the check,
- and evaluating the program to see if the objectives are being met.

The **contracting agency** is the client having the artwork created. The agency should contract directly with the artist rather than with the arts commission or the architect. Although in some cases the artist

is subcontracted under the architect, the programs seem to operate more smoothly if the contracting agency controls the payments and relies on the arts commission or the architect to certify the completion of the work.

The **project architect** coordinates the artist's design with his own building design. If the art is part of the architecture, coordination becomes more complex. If the artwork is created after the building or architectural design is finished, however, the architect's responsibilities change.

In some cases the architect is primarily responsible for recommending the artist. This has advantages in terms of coordination, but is seen by some artists as favoritism. Architects may feel they know which artist would best capture the spirit of their building, but the architect rarely knows all of the artists in the city or state.

The architect may also be responsible for certifying payments to artists. But, because some projects may not involve architects, authorizations should be vested in the contracting agency, with participation from the architect or arts commission in the event that the agency needs assistance.

Although some people believe the program could be run the way architects and agencies currently operate, without the arts commission acting as intermediary, it is possible to lose sight of the objectives of the program, and the attitudes and abilities of the people involved. The arts commission is the only constant element in the program, and may be the only element that understands and has a stake in the future of art in architecture and in public places as a stable, growing influence for the artist.

The artist, as outlined in the artist contracting agency agreement, must take responsibility for negotiating and carrying out the contracts.

Alaska reports that the greatest difficulty for the state arts agency so far has been to help artists gear up for these types of commissions, since most have not had the opportunity to receive large scale commissions. The Alaska Council is developing a way to assist architects, clients and artists in dealing with major proposal and contractual questions and commitments. The Council director believes that all partners in the project must have patience and must learn from each other.

The appendix to this book contains complete contracts and agreements showing how responsibilities have been split by various states and cities. How these responsibilities are divided will depend on both the management style and the practical relationships that exist among administrative elements, keeping in mind that primary responsibility for an activity or function should rest with only one person or group. In Baltimore, for instance, most of the artist selection responsibility is placed upon the architect and the contracting agency, which submits the selected artist to a Design Commission for approval. In Washington State, however, the selection of artists may rest primarily within the context of a number of rotating five-person juries. In Baltimore accountability is narrow but the process is quick. In Washington accountability is spread among a group of jurors, but the process is lengthy.

Selecting the artist is probably the most controversial task. As programs expand, public accountability may become more important, causing autocratic selection procedures to develop into a broader and more complex system of checks and balances.

10. Investigate the options for selecting an artist and for purchasing each artwork.

Artist selection and selecting artworks are, for all practical purposes, integral processes which can be examined as one. Generally the two processes fall into three categories:

1. Purchasing a completed work of art
2. Commissioning an artist to produce artwork
3. Holding a competition or request for project proposals to produce artworks for a specific site.

Although all artworks are ultimately "purchased" from the artist, the word purchase, as it is used in category one, is meant to show the difference between a direct purchase and selecting an artist to create a new work on contract or inviting an artist to submit a competitive proposal along with other artists outlining a possible new work for a specific location.

Using the **purchase method** the contracting agency, arts commission or other client selects a completed work from the artist, therefore the final design is already known and willingly accepted. This technique is the least hazardous and most reliably controlled, but it may offer less chance for integrating the art with the architecture. It also provides almost no opportunity for broad participation in the creative process. Although it is often possible to successfully match a work of art and its surroundings, purchased art is usually treated as a separate visual element.

The **commission method** can have the advantage of creative participation and involvement for the architect, the contracting agency, the arts commission and the public, since the design problem is open ended. With the commission technique, many artists may be interviewed or their work examined by a selection committee. The main difference between this and the purchase method is that no product exists at the time of commissioning — the outcome is unknown.

When a client commissions an artist to create a new piece of artwork, the hazards of the communication and creative process are always present. In dealing with public art specifically, an artist could produce a work that meets public resistance, since the process cannot be carefully controlled by the contracting agency. Although some believe the artist should not concern himself with public acceptance, those using this method should be aware of this potential situation.

Method number three, **competition**, offers many of the benefits of both the purchase and the commission techniques. The competition is different from the commission technique in that a jury or selection committee normally sets some parameters or specifications for a work which are then used to solicit proposals from artists. Some competitions are open to everyone and some are by special invitation only. When invited to submit a proposal, artists are often paid for submissions. For example, if three artists were asked to submit ideas for the creation of a free standing sculpture that is not to cost more than \$20,000, to be placed in a plaza measuring forty feet square in front of an elementary school, each artist may receive a cash fee for his submission. The amount would normally vary depending on the complexity and detail of the submittal requirements. Ultimately, one artist would

most likely be selected based on the proposal which may include, scale models, drawings or some other representational medium.

The advantages of this method are many. First, it usually provides the control of the purchase technique since usually at least one of the many proposals is normally acceptable to a jury. Second, it allows some participation in the selection of a conceptual design and, subsequently additional involvement in final execution of the design. Third, it provides excitement and creative activity without the hazards of having to accept the unknown eventualities of a commission. Many creative and imaginative ideas can result from competition and the unestablished artists often have the chance to be seen whether or not their works are selected.

A primary disadvantage of the competition technique is the cost. Since juries and payments to artists are often involved, this technique can be expensive as well as time consuming. Accountability, however, is spread more broadly, thereby having a positive effect on the perceived trust and reliability of the program administration.

Most states set as a program objective reaching and involving as many artists as possible. As a result, guidelines for selecting and purchasing usually permit a number of techniques.

Alaska requires an art selection committee made up of the architect of the Division of Buildings in consultation with the office of the Alaska State Council on the Arts, the architect of the project and the chief administrator of the principal use group of the building.

In Washington State the selection procedure involves four regions with one five-member panel per region. Each panel reviews and selects artworks within its own region. Panelists are selected by the Washington State Arts Commission and include one architect, two visual artists, and either an art educator, an art historian or museum curator, and one representative from the region in which the work is to be placed. A community representative joins the panel when that community's project is being considered.

In February, 1976, Washington completed its first round of art selection. Artists were reached by advertising 30 different state projects in the general news media and by a special Arts Commission announcement called the Art Bulletin. Anyone could submit a proposal based on outline specifications for each project. Although the locations for the art were recommended by the agencies and project architects, the actual artworks were selected through open competitions by the regional panels. In many cases the selection panels narrowed the proposals down to two or three entries and then left the final choice to the contracting agency, which had the option to consult with the architect and participating community group. The people involved in the Washington State process felt the opportunity to participate was valuable and helpful in acquainting them with the variety of possibilities in the overall selection process.

In their first round of 29 projects the Washington selection panels reviewed 412

proposals and awarded some 43 commissions and purchases totaling about \$190,000.

The Baltimore selection panel, known as the Civic Design Commission, also has five members, including one representative of the Baltimore Museum of Art, one from the Baltimore Chapter of the American Institute of Architects, a professional engineer, a Maryland artist or art professor, and one local citizen. While Washington legislation leaves the selection and length of a juror's term up to the Arts Commission, which has set the term at six months, Baltimore specifies in the law that, when the Design Commission was formed, one juror would have a four-year term, one a three-year term, one a two-year term, and two panelists would each have one-year terms. Thereafter, as terms expired, all subsequent appointments would last a full four years.

Hawaii's selection method is perhaps the least restrictive and most flexible, but it is also the least publicly-accountable method. Their legislation merely specifies that "the selection of artists, reviewing of design, execution and placement, and the acceptance of works of art shall be the responsibility of the state comptroller and the State Foundation on Culture and the Arts." According to Alfred Preis, Foundation Director, about half the artworks are purchases. The rest are direct commissions with very little emphasis on competition.

In Oregon, three agencies, the Oregon Arts Commission, the Department of General Services and the Capitol Planning Commission are jointly responsible for selection, placement and acceptance of all works of art pursuant to the Act.

Oregon's Peter Hero offers an interesting twist to the direct purchase method. He says, "perhaps the user group of the building could choose smaller pieces such as graphics from a 'catalogue' pre-selected by a screening committee. For example, a jury might purchase 25 different works of art but let user individuals

or groups choose what they want in their spaces. This directly involves the people who look at the art every day while still maintaining quality control." Remember, however, that this approach would require publishing catalogues, sorting catalogued artworks, a purchasing system and method of distribution, and so on.

11. In writing legislation for a city or county, look into establishing a public artists file or archive as a resource in selecting artists.

In order to accommodate a variety of selection techniques, the Washington State Arts Commission encouraged artists to submit slides of their work to a public art archive maintained by the University of Washington's Henry Gallery, where the works would be available for viewing. This is an approach patterned after Philadelphia's "Artist's File" and, although the Philadelphia File has not proven very successful because of lack of artist response, the Washington File has a different problem. Since the gallery is located in Seattle, neither out-of-town artists nor competition jurors find it convenient

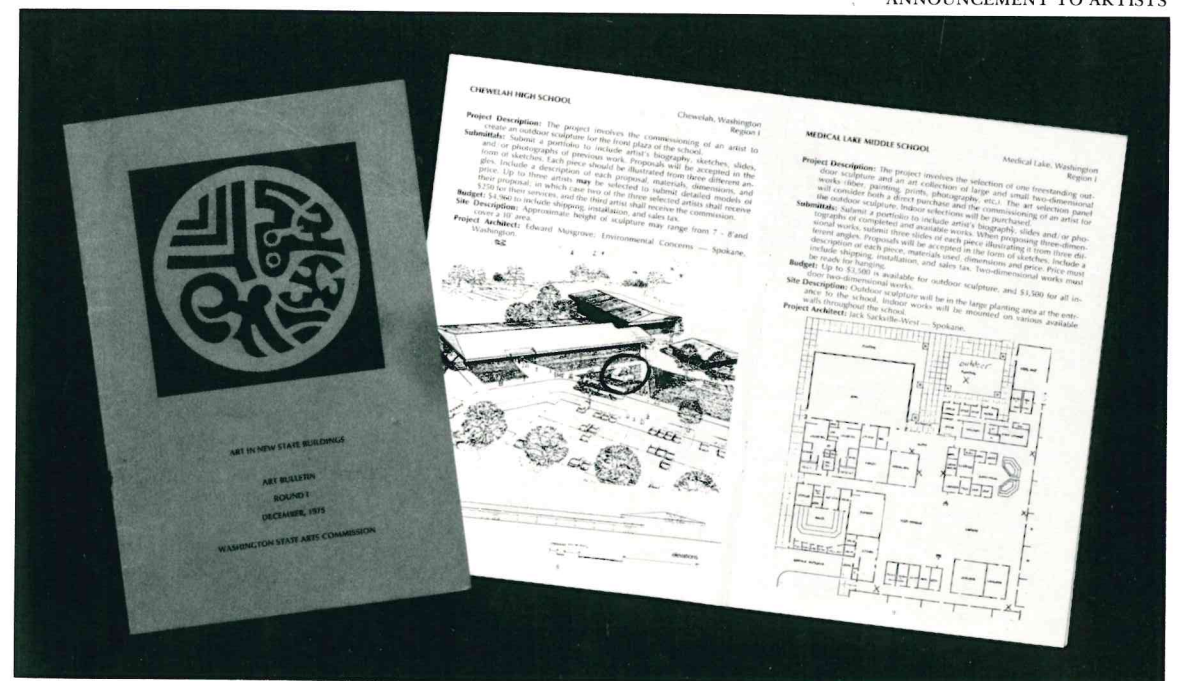
because it is stacked with Seattle resources and has been of less value in other parts of the state. What may seem appropriate for a city may be nonfunctional on a state level.

In Oregon the Portland Center for Visual Arts maintains a slide archive for the Oregon Arts Commission and, as a component in OAC's public art programs, represents artists from the entire state. The key is close cooperation between the state agency and the archive. The Portland Center for Visual Arts will also photograph works if the artist cannot do so.

12. Although programs should recognize both established and relatively unknown artists, concentrate on quality rather than personality.

Ideally, artists should not be commissioned on the basis of *reputation* (which often amounts to a reward for past work) or *potential* (which is sometimes a gratuitous effort to help unknowns). While the desire to reward or encourage the artist is of value, the main objective should be to fit the appropriate artist to the kind of

TYPICAL WASHINGTON STATE ART BULLETIN ANNOUNCEMENT TO ARTISTS



art best suited to the environment in which it will be placed.

Avoid the false notion that a younger or less established artist will produce more art for less money. On the other hand, also resist the idea that the artist with a high reputation will automatically produce great art. Selections should never be evaluated on the basis of man hours expended or square inches of material used.

13. Encourage community participation and develop techniques to facilitate involvement by both art professionals and non-professionals.

Most art selection panels are composed of a majority of design professionals. In choosing panels other interest areas should also be taken into consideration. Panels should include art professionals, responsible government representatives, members of contracting agencies and the community. Participation by non-professionals should be encouraged, with direction and organization provided to guide people toward decisions.

Although community participation can create a climate for "uneducated personal taste" to dominate, if handled properly, the selection process may become a much needed forum for community discussion. Public art and architecture as a process can become an important technique for organizing community energy around a positive issue rather than a negative crisis.

14. Take into consideration that most programs allow artists to be selected from both within and outside the geographical region affected by the law.

It is possible that within the next few years of high percentage of states will have "% for Art" legislation on the books. If states restrict interstate trade by limiting commissions to resident artists, they may find that their own artists are unwelcome in neighboring states. Then, too, there are art forms that require knowledge of a specific technique not familiar to local artists. At the present time no states have strict residency requirements, although many give priority to local and regional artists.

15. Select an artist according to whether the art will be integrated with the architecture or separate from it.

Many believe the "% for Art" program should advocate an integrated art and architecture which joins artist and architect as a team to create works that become a part of the building design. Others believe that integrated art may be desirable but not essential to the program, or even feasible in particular projects.

The team approach has the advantage of bringing the artist's ideas into the project at an early point. Hopefully it could lead to the artist having input from the architect as to what is being planned in total feeling, materials, and environment.

Supporters of the idea of integrated art and architecture believe that artist selection must occur as early in the project as possible, preferably when the project architect is chosen. No commitment to artists should be formalized however, until money has been "earmarked" or deposited into an escrow account like Seattle's Art Fund.

An advantage of integrated art can be the replacement of less interesting architectural units with exciting arts com-

ponents executed at reasonable cost. This can be done only with special close cooperation and understanding between architect and artist.

There are many examples of this cooperative approach in both business and government buildings. One of the most fascinating is in Quebec City, Canada.

The Quebec Theater, built a few years ago, was to have an ordinary lobby in a very fine new Provincial Center. The architect found an artist to sculpt the entire interior wall space of the lobby which surrounds three sides of the theater and is about four stories high.

The art work cost only \$5,000 more than the least expensive wall covering, and gave a special architectural quality to the \$12 million structure that resulted in an exceptional public building. This all occurred before Quebec passed "1% for Art" legislation, but was a prime example for passing such a bill.

In discussing art in architecture, sculpture, mosaics, paintings or murals usually come to mind. Many of the laws, however, also include craftsmen. Architects and clients should also think in small or multiple units. Wood workers could do doors and walls, glassblowers create special lighting units, jewelers execute door hardware, ceramists create floors and restrooms.

Peter Hero of Oregon calls for caution. "This integrated approach always sounds 'neat' and I laud the concept, *but*—most projects, by far, involve the artist after many elements of the building have been let for bid. Many things simply can not be changed except at (1) delay of project (2) greater cost. Too often it takes a unique situation to pursue structurally-integrated collaborative projects."

Other areas that might cause problems when integrating art and architecture include design/artwork coordination, administrative costs of architect's

time, resistance from architects or artists who can't or don't want to work too closely together, construction coordination with general contractors, and usual insurance liability and on-the-job construction problems with the various building trades.

16. Organize an effective way of transferring money from the contracting agency to the artist.

In the beginning a "% for Art" program creates enormous pressure on the coordinating agency (usually the arts commission) to be responsive to the artists and the contracting agencies. However, since management resources are often scarce, the number of contracting agencies and projects will also be limited. On the other hand experience shows that programs begin slowly but soon snowball until the sheer number of projects and agencies involved turns into a complex management problem.

One frequently encountered problem is managing the money that flows from the agency to the artist. With small programs, the tendency is to work out payment informally, but it is wise to have an efficient way of transferring money quickly. The city of Seattle, for example, uses its Municipal Art Fund. When an agency makes a request of the Office of Management and Budget for authorization or appropriations for construction projects, an amount of 1% is automatically deposited into the Art Fund by the City Comptroller. When the Arts Commission authorizes payment, the City Comptroller draws warrants upon the fund.

According to the Seattle Arts Commission's operating guidelines when the city ordinance was written, it was believed the Municipal Arts Fund could be used as a general account for the collection of arts funds from all departments. However, due primarily to legal restrictions, the comptroller now maintains separate accounts for each individual department. Under this current approach, each city department

has its own micro "art fund" that accumulates money, which can only be used by that department or agency.

One administrative matter to remember is that artists are usually one-person shops operating on a very narrow margin. Most architecturally-oriented art requires expensive materials which are needed at the beginning of a project. If acquisition rules and procedures demand a finished product before payment, most artists will be precluded from participation. Therefore, procedures should be established to assure prepayment for materials and expenses. In addition, when an artist is required to submit a model or advanced design there should be reimbursement from the client.

One approach in use in Alaska is to solicit proposals from two artists for a project. Each artist submits plans for which they receive 5% of the value of the commission. This pays for their efforts even if the commission is not awarded to one or both.

17. Decide whether money "set aside" for one project should be allowed to finance artworks for other unrelated projects.

King County in Washington has an ordinance specifically stating that money is to be used either for art which may be an integral part of the project, or placed in or about the project or *other public facility*. Monies authorized and/or appropriated as part of one project, but not required in total or in part, may be accumulated and expanded for art in other county projects.

In Oregon, if 1% funds for a particular building are not totally expended, they can either be spent to acquire art for existing buildings or transferred to another 1% project.

Seattle's operating guidelines are similar. They say, "The funds in the Municipal Art Fund can then be used for artwork to be placed on any municipal property, *generally* on property under the jurisdiction of the department involved."

In a test of these guidelines, the Seattle City Attorney found that Seattle City Light could validly acquire and maintain artworks by appropriate interdepartmental permit on municipal property not under its jurisdiction, as long as the necessary connection between the disbursement and the Department's functions are maintained.

The cities of Tacoma and Everett, Washington both have narrower positions. Their legislation states that if all the money from one project is not used for the project, it can be spent for art on any other city construction project, prefacing that section of their ordinance with the statement, "unless precluded by applicable laws." The point there is that applicable laws should be checked with the city attorney or attorney general before legislation is drafted. Don't wait until the issue is raised by someone else.

In Hawaii the state comptroller questioned the State Foundation on Culture and the Arts' use of funds from one building as a way of financing artworks for other public buildings that had already been completed but had no % for art appropriation. The Hawaii law states, "In case the amount (1%) shall not be required in toto or in part for any project, such unrequired amounts may be accumulated for other projects." Nevertheless, the Hawaii attorney general unlike in Oregon, decided it was the intent of the legislation that 1% be set aside from each appropriation and used *only* with that particular building.

The question of whether or not to establish an "art fund" or money pool for a more flexible system may depend on the expectations and desires of city or state departments as well as on existing laws. While the words of a law can establish almost anything, it is best to work out administrative understanding with potential contracting agencies. In Seattle the ordinance directs all city departments to inform the Seattle Arts Commission whenever a construction project has received an appropriation. Many departments, however, were unaware of the ordinance or their responsibilities. Such a problem can be remedied by a letter of agreement made with each city department or state agency outlining the implementation proce-

dures. Because of the "pooling" approach, Seattle is also in the process of developing an "arts plan" combining artist, contracting agency and community ideas and needs as a way to set goals and intended locations for artworks throughout the city.

18. Determine how much it should cost to administer the program, and how administrative costs should be paid.

The total administrative cost of the Washington program is about 8% of the total outlay to artists. Almost 5% of that amount, however, is covered by a special grant and state funds which pay the salary of a program director and associated costs. Therefore, only the remaining 3% which is for jury expenses, comes out of the "% for Art" funds.

In business terms 8% is a small price to pay for a program that in the State of Washington could generate about \$350,000 per year in work opportunities for artists. This percentage, of course, can vary from year to year. If the total funds available were to increase, administrative percentage could decrease. The reverse is also true, project funds could decrease but require just as much administration.

Still, keep in mind that without proper administrative procedures the best planned program may fail to be implemented. Another factor to remember is that the funds being used are public funds, which means that the agencies spending them are publicly accountable.

It is a full time job to keep track of what projects are planned and how much money should be going into them, what works are already in progress and what their various stages of development are, whether all of the region's artists are being reached by the programs, whether the selection methods are working effectively, whether the local community is becoming involved, whether payments are being made to artists and architects, whether disputes between building contractors and artists are being settled, and so on.

A typical "% for Art" project coordinator will: 1) handle budgets and contracts, which are very time consuming but will save pain and anguish later, 2) coordinate jury activities and schedules, 3) have to respond to angry people who "just heard about the competition," 4) coordinate mutual efforts of artists, architects, and jury, 5) intermediate problems between client and artist, 6) interpret policy issues to interested parties, 7) document contract negotiations, 8) document art works purchased, 9) perform other tasks as required by circumstances or requests by artists, the legal structure, clients, the government or interested other parties.

The Washington State Arts commission director believes that administering the art program is much more difficult than it looks. He warns others thinking of legislation, "be sure you can set up a staff to handle the implementation, which can be *very complex*. Though our laws says administration by the Arts Commission can come out of the art fund, we have found no legal way to do this, since the appropriations remain in dozens of state agencies that can't transfer pieces of capital appropriations to us. Even if they could, it would be a tenuous situation and an accounting and administrative nightmare, as well as a drain on an already small fund. We secured a special position for the administration of the program and are now ready to go—after a delay of 6 months."

In most cases state programs will cost more to administer than city programs because of the broader geography and number of people involved in the selection process. However, the type of selection process will also affect the cost. If more purchases than commissions were made, the administrative cost would be less. If the program includes competitions, the cost goes up considerably, as does the amount of time spent in coordinating the artists entries and the various jurors.

Administrative techniques used are often limited by the administrative resources available. In order to keep costs down or operate with limited personnel, there is a tendency to purchase works

rather than hold competitions. This may not be the best way to reach artists, to get the best artworks or to serve the public. It also limits community participation, which is an important part of the concept of public art. A program that includes competitions may require a full or part-time staff, depending on both the art budget and the selection techniques employed. Still, it is important to balance methods of selecting art in order to achieve a quality program.

A nuance in terminology used in the Oregon selection process might be of interest. A competition can be used to commission new works or to purchase existing pieces. In April, 1976 the Oregon Commission advertised "a purchase program for art to be placed in the capitol building." Slides were submitted, screened by a jury and works contracted for sale.

19. Resolve the long-term problems of conservation and maintenance. They affect both contracting agency and artist.

When an artwork is first installed no one can be sure about how it will hold up under the physical elements, possible vandalism or the effect of a move. Someone, nevertheless, must assume the responsibility for maintenance and security.

One approach is to view the artworks as chattel like light fixtures, furniture and other non-capital expenditures which belong to the specific agency whose budget pays for them. The agency is responsible for their care and control. Another view is similar to a pool of resources, like an auto pool where a central agency maintains the cars and control their use for some central point.

It is usually the responsibility of the contracting agency to maintain the artworks. The agency would be most concerned about maintenance since it paid for the artwork (at least it comes from the agency's budget). Complications might occur if general maintenance is performed by another agency or contracting service. If this is the case then liabilities should be spelled out in the maintenance contract.

Artworks, especially exterior pieces, need to be cleaned and perhaps painted occasionally or even repaired as a result of natural damage such as falling tree limbs, blowing rocks or wind. Many artists are adamant about having the first right of refusal in the event repairs are necessary. Even though some people believe the artwork should be treated in the same way as any other building or site amenity, the artist may disagree.

The important point is that a professional conservator should do the repair in consultation with the artist. In Washington State Arts Commission contracts, reference is made to the agency responsible for repair. The contracts read:

"The OWNER may, at its option, hire a professional conservator to repair any said damage. The OWNER shall consult the Washington State Arts Commission before undertaking conservation, restoration or repairs.

Where possible, the ARTIST shall be consulted as to his/her recommendations with regard to all repairs and restorations which are made during the lifetime of the ARTIST. To the extent practicable and in accord with accepted principles of professional conservation, the ARTIST may be given the opportunity to accomplish said repairs and restorations."

Moving an artwork may involve complications, especially if the piece changes ownership or is placed on the property of an agency that may not have any financial stake in the work. Such conditions must be negotiated in the contract. In addition, someone must assume the responsibility for proper care of the work during moving operations.

In some cases, copyrights may be involved, especially if the work is sold. The problem of artist's royalties should be worked out in the artist's contract. It is also possible to consider a buy-back clause in the event a building is demolished, since the artist may wish to reclaim the work rather than see it destroyed. Seattle's artist/contracting agency agreements stipulate that the artist will get 15% of the appreciated value of the work of art if the

city sells it, that the artist has the right to approve or personally undertake repairs on the work of art, that the artist retains the right of reproduction and that the artist can borrow his piece for 60 days every five years for exhibition elsewhere.

These contract provisions help to protect the artist and also point out the main orientation of art as separate from architecture in the Seattle program. In a purely integrated "% for Art" program the work would become a part of the architecture, posing a different relationship between artists and the contracting agency.

20. Anticipate the fact that some art is bound to evoke negative reactions from part of the public, an issue that may cause frustration for the arts administrator and the artist.

The real issue is quality. While some people might not like abstract art, others will be upset to see a representational piece. As in the architecture itself, it is impossible to have a public work that pleases all. The key is to have a good selection jury with broad shoulders.

Public art selection is not a new problem. James Haseltine of the Washington State Arts Commission believes, however, that the artist and arts administrator must both learn to develop a clearer notion of public art. If they don't others will develop it for them.

21. Develop public and legislative support for the "% for Art" program.

People normally support an idea or movement for two basic reasons: they *know about* the idea; and they *believe* in its merit. These are elementary principles that are fundamental to success in developing support for a "% for Art" law.

A single person or a single organization like Artists Equity may initiate action to get "% Art" legislation passed. But it usually takes broad-based support to get such a bill through the legislative process,

be it a state legislature, a city council or a county board.

According to the Baltimore and Philadelphia experiences, interest in the idea should originate with broad-based, grassroots support and have approval and backing of professional architects and artists. According to Bennard Perlman,

"It is advisable to form a *steering committee* which also embraces representatives from local institutions such as museums, art schools, colleges and universities. Added to these should be representatives of local business, civic leaders, officers of leading department stores and civic groups and clubs."

The purpose of a steering committee is twofold: to generate additional support for the proposed legislation and to identify a sympathetic legislative sponsor. For a city, a single councilman or alderman might prove sufficient, but it is better if the ordinance is co-sponsored and has bipartisan support. In Seattle the bill had broad support from a well organized arts community made up of leading citizens.

The same is true of state-centered legislation where a steering committee or committees will effectively extend the ability to develop widespread support. A 1975 Oregon Art in Public Places bill was sponsored by eleven out of the thirty senators and seventeen of the sixty representatives because of the work of the Oregon Committee for Art in Public Places. The committee suggests that the following activities are useful in generating support.

1. Write a letter to your senators and representatives asking for his or her support of the bill.
2. Get your friends and neighbors to do the same. Use your telephone.
3. Develop a newsletter or promotional fact sheet on the bill and send copies to the members of any organizations you belong to, requesting their support.

Those are the most basic steps. The fact remains that this bill has the same problem in being accepted by the governing body as any other bill. The backers of "% for Art" will need to use the same lobbying techniques and the same type of sales campaign as for any other legislative action. If the backers of "% for Art" do not

have the experience, they should ask for help. There is sure to be some one with experience who will assist with the campaign.

22. Demonstrate the importance of the program by showing its benefits.

What are the best ways to convince someone that the "% for Art" idea is important? A famous writer once counseled his students, "If you want to persuade someone to believe your message, you need to do two things: First, *show* them don't *tell* them, and secondly, only show them what is *important*."

Compelling reasons or obvious benefits that will demonstrate the merits of idea and that are defensible by the lawmakers are essential. The benefits, many of which are developed in Part I of this book, may be social, economic, functional or spiritual, but they must be tangible as well as philosophical. While facts relevant to the problem are of primary value, precedents and quotations by legislators or important officials in some other states are also generally used.

A great percentage of projects involve schools, and statements made by respected school officials, like one by former Baltimore Superintendent of Schools, Dr. Laurence G. Paquin, can be persuasive. In support of the Baltimore bill, Paquin states,

"Some people might wonder if such expenditures for esthetic reasons can be justified, in the face of other critical needs of the school—needs such as lighting, new windows, new floor coverings, new facilities and the like. It seems to me that those who might take this view are missing an important point. Children, like adults, react to the environment in which they find themselves. It seems eminently logical and desirable that every effort be made to raise environmental standards—and by so doing raise the level of taste in matters of artistic expression. Schools should be most

receptive to the idea of providing art forms which can stimulate and excite youngsters and perhaps awaken an emotion which they might not otherwise experience."

In Washington State this quote was helpful in gaining valuable support from their own State Superintendent of Schools.

23. Stress the benefits of the legislation.

If the benefits of legislation are obvious and compelling, the feelings of need will follow naturally. But remember that people will respond best to their own idea of what is beneficial. The philanthropist may not be quite so interested in economic stimulation as the labor leader. Artists may be more concerned with the quality of art, whereas the city councilman or state legislator might also worry about where artworks will be located with reference to voting district.

It is useful to have a one-page fact sheet explaining (1) the purpose, (2) potential effects, (3) precedents and benefits of the bill, and include a back-up sheet listing supporters of the proposed legislation as well as any studies, surveys or concise statistical data showing legislators that the idea has broad-based interest in their particular state or city. It may even be useful to conduct some original research in the state or city. The potential benefits may justify spending a little time and seed money or research.

In addition to these tangible efforts, nothing can substitute for knowing the personalities and dispositions of the lawmakers. Don't, however, try to second-guess legislators. Instead, ask questions. Find out how they feel about the subject. Find out who the bill's friends and opponents are, and why. Try to get bipartisan sponsorship and active support from the governor, mayor or county executive. In most cases, timing will be important. However, don't be too timid. Like any good salesman, be persistent without being pushy. When legislators discover that they are dealing with people who mean business and have broad based support, they will listen.

CONCLUSION

The "% for Art" concept is a complex one because it is an attempt to join the efforts and imaginations of so many people and groups. All participants — artists, architects, the public, government agencies, arts commissions, building contractors and legislators — have their own viewpoints about the priorities of the program. Some believe the main objective should be to improve the quality of architecture and the urban environment, some want to aid the artist and still others are concerned about building a collection of significant artworks.

It is important to remember that "% for Art" programs can satisfy a variety of needs at the same time even though some will be lower than others on the priority scale. Setting a single main objective does not mean ignoring other objectives.

This book was written to help make decisions about program objectives by outlining alternatives. There is no best way to organize a program. There are no right answers. But some decisions and choices fit the needs of the people and groups involved better than others.

The best programs are those that do not try to do all things for all people. By clarifying objectives and priorities there is a much greater possibility that the program will be effective for both artist and public, no matter where the emphasis is placed.

APPENDIX:
WHAT SOME
COMMUNITIES
HAVE DONE



CS FOR HOUSE BILL NO. 133 (Finance)
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to art works for public buildings and facilities; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF
ALASKA:

*Section 1. AS 35 is amended by adding a new chapter to read:

CHAPTER 27. ART WORKS IN PUBLIC BUILDINGS AND FACILITIES.

Sec. 35.27.010. PURPOSE. The state recognizes its responsibility to foster culture and the arts and the necessity for the viable development of its artists and craftsmen. The legislature declares it to be a state policy that a portion of appropriations for capital expenditures be set aside for the acquisition of works of art to be used for state buildings and other public facilities.

Sec. 35.27.020. ART REQUIREMENTS FOR PUBLIC BUILDINGS AND FACILITIES. (a) Plans for public buildings and facilities constructed after June 30, 1975 and for remodeling or renovation after June 30, 1975 where the total cost of the remodeling or renovation exceeds \$250,000 shall contain provisions for the inclusion of works of art including but not limited to sculptures, paintings, murals, or objects relating to Native art.

(b) The department, before preparing plans and specifications for public works and facilities, shall consult with the Alaska State Council on the Arts regarding the desirability of inclusion of works of art.

(c) At least one per cent of the overall construction cost of a building or facility approved for construction by the legislature subsequent to the enactment date of this chapter will be reserved for the following purposes: the design, construction, mounting and administration of works of art in the public building or public facility.

(d) Public buildings and facilities with an overall construction cost of less than \$250,000 are exempt from the requirements of this chapter unless inclusion of works of art in their design and construction is specifically authorized by the department.

(e) The artist who executes these works of art shall be selected by the architect for the department with the approval of the department, after consultation with the Alaska State Council on the Arts and the principal user of the public buildings or facilities.

Sec. 35.27.030. DEFINITIONS. In this chapter

(1) "department" means the Department of Public Works;

(2) "public facilities" includes, but is not limited to, the vessels of the state ferry system.

*Sec. 2. This Act takes effect July 1, 1975.

METROPOLITAN DADE COUNTY, FLORIDA
ORDINANCE NO. 73-77

ORDINANCE RELATING TO ART IN PUBLIC BUILDINGS; REQUIRING THE ACQUISITION OF WORKS OF ART TO BE INCLUDED IN ALL BUILDINGS HEREAFTER CONSTRUCTED BY METROPOLITAN DADE COUNTY AND BY MUNICIPALITIES IN DADE COUNTY; PROVIDING DEFINITION OF WORK OF ART; PROVIDING WAIVER OF REQUIREMENTS; PROVIDING SELECTION OF ARTISTS BY COUNTY MANAGER; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF DADE COUNTY, FLORIDA:

Section 1. All appropriations for the original construction of governmental buildings by Metropolitan Dade County and by municipalities in Dade County shall include an amount of not less than one and one half percent (1½%) of the total appropriation for the construction of said buildings to be used for the acquisition of works of art. Said works of art may be an integral part of the structure, attached to the structure or attached within or outside the structure.

Section 2. *Waiver of Requirements:* The requirements of Section 1 may be waived by Resolution of the Board of County Commissioners of Metropolitan Dade County when and if it appears to said Board that a construction project covered hereunder is not appropriate for application of the above requirements.

Section 3. *Definitions.* For the purpose of this Ordinance, the term "works of art" is defined hereby as the application of skill and taste to production of tangible objects according to aesthetic principles including, but not limited to, paintings, sculpture, engravings, carvings, frescos, mobiles, murals, collages, mosaics, statues, bas-reliefs, tapestries, photographs and drawings.

Section 4. The selection of, commissioning of, artists or craftsmen, reviewing of design, and the acceptance of works of art shall be the responsibility of the County Manager of Metropolitan Dade County.

Section 5. It is the intention of the County Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Metropolitan Dade County, Florida; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section", "article", or other appropriate word.

Section 6. *Severability.* If any section, subsection, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 7. The provisions of this ordinance shall become effective sixty (60) days after the date of its enactment.

PASSED AND ADOPTED: Sep. 18, 1973

Approved by County Attorney
as to form and legal sufficiency

A BILL FOR AN ACT
RELATING TO WORKS OF ART FOR
STATE BUILDINGS
BE IT ENACTED BY THE LEGISLATURE
OF THE STATE OF HAWAII:

SECTION 1. *Purpose.* The State has recognized its responsibility to foster culture and the arts and its interest in the viable development of her artists and craftsmen by the establishment of the State foundation on culture and the arts. The legislature declares it to be a State policy that a portion of appropriations for capital expenditures be set aside for the acquisition of works of art to be used for State buildings.

SECTION 2. Chapter 9, Revised Laws of Hawaii 1955, as amended, is hereby amended by adding a new section to read as follows:

"Sec. 9-5.6. *Art in State buildings.* All appropriations for the original construction of any State building shall include, as a non-deductible item, an amount of one percent of the appropriation for the acquisition of works of art which may be an integral part of the structure, attached to the structure, detached within or outside of the structure, or can be exhibited in other public facilities. In case the amount shall not be required in toto or in part for any project, such unrequired amounts may be accumulated and expended for other projects.

"The comptroller shall, in consultation with the State foundation on culture and the arts, determine the amount to be made available for the purchase of works of art for each project, and payments therefor shall be made, after acceptance, in accordance with law.

"The selection of, commissioning of artist for, reviewing of design, execution and placement of, and the acceptance of works of art shall be the responsibility of the comptroller and the State foundation on culture and the arts."

SECTION 3. This Act shall take effect upon its approval.

APPROVED THIS 12th day of June, 1967

GOVERNOR OF THE STATE OF HAWAII

STATE OF HAWAII LETTER OF AGREEMENT
BETWEEN ARTIST AND CONTRACTING AGENCY

We are happy to inform you that the State Foundation on Culture and the Arts (SFCA), in collaboration with the State Comptroller, as provided under Act 298 of 1967, wishes to commission you to undertake the subject project, described below, and hereinafter called the Project.

Scope of the Project:

Described in general terms, the Project shall consist of the design, fabrication and installation of a cluster of suspended sculptures, hereinafter called the Work-of-Art.

In more specific terms the Work-of-Art shall consist—as integral part of the whole Project—of the largest number of the largest and most detailed—within the limits and terms of this Agreement feasible—interrelated parts of a cluster of suspended sculptures, appropriate in scale, form and material to the two-story high interior of the Cafeteria in the Student Center, Leeward Community College.

The work under the Project shall proceed through and be composed of the following phases:

- | | |
|---|------------------------------|
| 1. <i>Conceptual Phase</i> | 3. <i>Construction Phase</i> |
| a. Site Investigations | a. Mobilization Work |
| b. Visual Site Survey | b. Fabrication Work |
| c. Characterization Report | c. Finishing of Work |
| 2. <i>Design Phase</i> | 4. <i>Installation Phase</i> |
| a. Conceptual Design Presentation | a. Structural Work |
| b. Specifications and Cost Investigations | b. Installation Work |
| c. Final Design Presentation | c. Finishing of Site Work |

For more detailed description of the phases of the Project, see the Special Conditions for the Project, attached hereto and incorporated herein.

Time of the Project:

The Project shall commence upon signing of this Agreement and shall be completed on or before June 30, 1974.

Cost of the Project:

The total amount to be paid to you under this Agreement for the completed and accepted Project shall be TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00), and not more.

From the above amount, you shall arrange and pay, or otherwise provide for all services, labor, materials, scaffolding and equipment for the completion of the Work-of-Art; transportation, storage, fees, rentals, insurances, taxes, and all other cost and expenses required to complete the Project in place to the satisfaction of the SFCA.

Payment for the Project:

Payment on account of the Cost of the Project shall be made as follows:

- a. The first payment shall be FIVE PERCENT (5%) of the total Cost of the Project, and shall be due and payable upon completion and acceptance of the Conceptual Phase of the Project;
- b. The second payment shall be FORTY PERCENT (40%) of the total Cost of the Project, from which the previous payment shall be deducted, and shall be due and payable upon completion and acceptance of the Design Phase of the Project;
- c. The third payment shall be SEVENTY PERCENT (70%) of the total Cost of the Project, from which the aggregate of all previous payments shall be deducted, and shall be due and payable upon completion and acceptance of the Construction Phase of the Project; and
- d. The fourth and final payment shall be ONE HUNDRED PERCENT (100%) of the total Cost of the Project, from which the aggregate of all previous payments shall be deducted, and shall be due and payable upon completion of the Installation Phase of the Project and acceptance by the SFCA.

Special and General Conditions for the Project:

All articles of the attached Special Conditions and General Conditions for the Project shall be part of this Agreement as if written herein in full.

If the terms of this Agreement outlined above and in the attached Special Conditions and General Conditions meet with your approval, please indicate by signing in the provided space.

By signing, you declare that you have read and are in accord with this Agreement and the terms identified in the Special Conditions and the General Conditions. If countersigned, this letter, including the Special Conditions and the General Conditions as deposited in the SFCA and as hereto attached, shall serve as a Letter of Agreement.

A. Special Conditions for the Project:

1. CONCEPTUAL PHASE

a. Site Investigations

All base plans and drawings, relating to the future location of the Work-of-Art, shall be obtained from the project designer (architect, landscape architect, engineer, DAGS, etc.).

All necessary investigations as to the bearing strength of and other conditions for installation of the compression ring of the roof shall be undertaken with the assistance of the project designer.

b. Visual Site Survey

The base plans and project drawings shall be carefully explained to the project advisory committee, designated by the SFCA.

c. Characterization Report

The desires and views of the project advisory committee shall be obtained by you through discussions on the scope, size, scale, and nature; the environmental role, symbolic meaning and aesthetic purpose; the type, texture, color, finish and other characteristics of its materials; and safety and maintenance features of the proposed Work-of-Art.

Giving careful consideration to the above expectations and to the wishes and points of view of the project advisory committee, a written outline description of the Work-of-Art—as you envision it—shall be prepared by you and submitted to the SFCA for approval. It shall be accompanied by a site plan, noting the proposed location of the Work-of-Art and the conditions of the site which may favorably or unfavorably affect it. The written report may be supported and partly replaced by sketch drawings, models, snapshots or other visualizing aids.

In the event there are irreconcilable differences between you and the project advisory committee, the SFCA may accept the Conceptual Phase of the Project as completed, terminate the agreement, and make payment therefore as previously provided in the agreement under Payment for the Project: first payment.

2. DESIGN PHASE

a. Conceptual Design Presentation

After the written outline description of the general concept of the Work-of-Art has been accepted and approved by the SFCA, drawings and/or maquettes shall be prepared showing the intended form, the proposed site, and the chosen colors and materials of the Work-of-Art. They shall be accompanied by a site plan, indicating site conditions of importance and other features which may affect the Work-of-Art and its visual relations to environmental elements.

You shall obtain favorable recommendation from the project advisory committee before submitting the conceptual design presentation to the SFCA for approval.

b. Specifications and Cost Investigations

After approval of the Conceptual Design Presentation by the SFCA, but before commencing any other work on the Project, studies shall be undertaken to determine that the Work-of-Art will be firm and secure; permanent and resistant to mechanical, climatic and organic damage; safe to the general public; compatible with established or reasonably expectable master plan features; and customary maintenance activities; and that the Project can be completed within the total amount stated under Cost of the Project.

Any recommendation for changes in scope, size, technique or materials, resulting from the above studies, shall be accompanied by detailed cost estimates.

If required by you or the SFCA, you shall obtain and pay or otherwise provide for the services of professional consultants (architect, engineer, estimator, etc.) to assist in the preparation and documentation of the above studies.

c. Final Design Presentation

After acceptance of the submitted studies and the approval by the SFCA of recommended changes to the Conceptual Design Presentation, you shall prepare scale drawings and/or models, installation plans and outlined specifications, showing the final location, foundation, base or support, size, form, structure, material(s), color(s), and finish(es) of the Work-of-Art, and submit them to the SFCA for approval.

In the case of substantial differences between the previously approved Conceptual Design Presentation and the Final Design Presentation, favorable recommendation from the project advisory committee shall be sought and obtained before submitting the Final Design Presentation to the SFCA. After the approval of the Final Design Presentation by the SFCA, no substantial changes may be made to the Work-of-Art without written approval by the SFCA.

3. CONSTRUCTION PHASE

a. Mobilization Work

Upon acceptance of the Final Design Presentation by the SFCA, a memorandum describing the construction program and construction schedule shall be prepared and submitted to the SFCA for approval.

The construction program shall describe what materials will be acquired and from where; whether sub-contractors or other collaborators shall participate and who they shall be; whether other structural and technical processes shall be employed and what they shall be; what phases the work will be divided into and where each phase will be performed.

The construction schedule shall estimate when the various phases of the work will be commenced and concluded.

Detailed construction drawings, specifications, sub-contracts, and shop drawings shall be prepared by you or obtained from your sub-contractor and shall be submitted to the SFCA for approval before commencement of any fabrication.

b. Fabrication Work

All formwork, backs, grounds, framing and supports, and other labor and materials required for the fabrication, construction and anchoring of the Work-of-Art shall be precisely shaped, true, strong, and executed according to the best methods and workmanship.

All materials used shall be selected, applied and treated in order to be reasonably protected against any damage from insects, fungus, corrosion, efflorescence, discoloration, and from structural, mechanical, seismic, electrolytic, chemical or other causes.

The SFCA shall be informed in sufficient time when the various phases of the work—especially those which will be rendered inaccessible by subsequent work phases—will be completed and may be seen. However, regardless of whether the work-in-progress has been or has not been seen by the SFCA, you shall not be relieved from your responsibilities under the agreement.

c. *Finishing of Work*

Before the application of finishing treatment begins, and after the conclusion of the finishing treatment but before the installation and/or unveiling, the SFCA shall be given the opportunity to inspect the work and to accept the completion of the Construction Phase of the Project.

4. INSTALLATION PHASE

a. *Structural Work*

Since the Work-of-Art is to be attached to the roof dome, the advice and collaboration of the project designer shall be secured by you in order to determine what structural and/or technical work will be required to firmly install the work without injuring the surrounding area or the public.

b. *Installation Work*

You will provide all required facilities, scaffolding, equipment and labor to transport and to install the Work-of-Art. You will take all necessary precautions to prevent any damage to it or to adjacent property and environment.

The Work-of-Art shall be installed, anchored and secured in place, with all means of attachment concealed and rendered invisible, unless they are part of the Work-of-Art as manifested in the approval Final Design Presentation.

c. *Finishing of Site Work*

After the installation of the Work-of-Art, all debris shall be removed from the site and all damage to the surrounding areas shall be repaired and rendered invisible.

And finally, you will, in cooperation with the project advisory committee, prepare and participate in the unveiling ceremony, in which the Work-of-Art will be presented to the public.

B. General Conditions for the Project:

Laws to be Observed: In the performance of the Project, you shall be obligated to observe and conform to all applicable codes, ordinances, regulations, statutes and laws.

Subcontracting: Portions of the Project, such as the use of bulldozers and other earthmoving equipment, cranes and other lifting, holding and transportation devices, scaffoldings and temporary fencing, pouring and pre-casting of concrete, welding of metal, electrical and plumbing work, and other phases of the Project, provided they will not substantially affect the design, appearance or visual quality of the Work-of-Art, may be sublet by you at your expenses, subject to prior written approval by the SFCA. Approval shall not be unreasonably withheld. All work shall be undertaken by you personally or under your personal supervision.

Progress of the Project: The work on the Project shall commence immediately after signing of this Agreement by all parties concerned and shall be pursued with reasonable dispatch and without interruptions, except when caused by strikes or other forces beyond your control. It shall be so organized as to assure completion of the Project on or before the date stated in this Agreement.

All questions pertaining to the Project shall be brought immediately to the attention of the SFCA.

Payments for the Project: All payments on account of the Project shall be subject to the receipt of a signed request for payment from you, certifying that the work under this Agreement has been performed in accordance with the agreement, and that just payment has not been previously received, and upon approval by the executive director of the SFCA.

Final Payment is subject to section 103-53 and Chapter 40, Hawaii Revised Statutes, requiring that before final payment may be issued, a State of Hawaii Tax Clearance must be furnished by you, proving that you owe no taxes.

If you elect, and if authorized by you, the SFCA may deduct 4% of the total Project cost from your final payment for your Hawaii State General Excise Tax and make it payable to the Hawaii State Tax Office.

Actual payment process, as result of the official State audits and accounting practices and procedures, may take up to five weeks before transmittal of payment to you.

Suspension of Termination of Agreement: The SFCA reserves the right to suspend at any time and for any reason for any given or indefinite time the services to be rendered under this Agreement upon written notice to you.

In addition, the work under this Agreement may be terminated by either party, subject to a written notice submitted fourteen (14) days before termination, provided that attempts to reconcile the reason for cancellation have been undertaken but have failed. Upon termination, payment on account of the Project shall be made in proportion to the work completed, provided you will submit to the SFCA all work performed up to the effective date of cancellation in an orderly manner.

Alterations to the Project: The SFCA shall not be liable for payment for any additional services, unless such services and the cost thereof have been previously approved in writing. Any term of this Agreement may be amended by a written amendment to the Agreement, signed by both parties, subject to the authorization of State officials where required.

Rights to the Work-of-Art: All drawings, models or maquettes shall remain your property. The copyright in the Work-of-Art, however, belongs to the State, and no more copies than are required in the Project may be made or caused to be made by you without prior written approval from the SFCA.

Guarantee of Work: All aspects of the Project shall be guaranteed by you against faulty execution or defective or inferior materials, equipment or workmanship for one (1) calendar year after completion and acceptance of the Project by the State, during which period the Work-of-Art shall be repaired, restored or replaced at your expense.

Status: It is understood that under the terms of the Letter of Agreement, you are an "Independent Contractor" who shall indemnify and save harmless the SFCA and the State from and against any and all manner of actions, liabilities, and claims of any person arising out of or in connection with the performance of the services to be performed by you under this Letter of Agreement. Any work under this Agreement shall not be construed as employment with the State and shall not entitle you to vacation, sick leave, retirement, or other benefits afforded State employees.

You will also be required to obtain, post and pay for your gross income license and be responsible for payment of income, social security, and other taxes. (See *Payments for the Project.*)

Personal Liability and Property Damage Insurance of not less than \$250,000.00 and \$100,000.00, respectively, will be obtained and paid for by you in order to protect you and the State of Hawaii against all claims arising from any cause prior to the final acceptance of the completed project by the State.

Assignability: You shall not assign or transfer any interest in this Agreement without the prior written consent of the SFCA; provided, however, that claims for money due or to become due from the SFCA under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the SFCA.

Waiver: It is expressly understood and agreed that no waiver granted by the SFCA on account of any violation of any covenant, term or condition of this Agreement shall constitute or be construed in any manner as a waiver of the covenant, term or condition, or the right to enforce the same as to any other or further violation.

Disputes: Any dispute concerning the matter of fact arising under this Agreement, which is not disposed of by agreement, shall be decided by the SFCA, which decision shall be reasonable when all of the circumstances are taken into consideration. The SFCA shall reduce its decision to writing and mail or otherwise furnish copies thereof to you. Such decision shall be final and conclusive. Pending final decision of the dispute hereunder, you shall, at the request of the SFCA, proceed diligently with the performance of this Agreement.

Death or Disability: In the event that you die before the date fixed for completion or become permanently incapacitated and/or unable to complete the work on this Project, the SFCA may within thirty (30) days after notice thereof, elect in writing to pay a proportionate share of the agreed price for work completed to the satisfaction of the SFCA, and acquire the unfinished work. This Agreement shall then be cancelled and the SFCA be entitled to the return of such part of the price above the proportionate share, as you have already been paid.

CITY OF SEATTLE ORDINANCE

In order to make the City of Seattle as beautiful and unique as our natural setting, the City Council passed in law on June 30, 1973 an ordinance requiring that at least one percent of eligible funds in the construction budgets of capital projects be used to purchase and install works of art in public places.

Seattle joins Philadelphia, Baltimore, San Francisco and other major cities with this historic decision. This ordinance, together with other proposed programs relating to our cultural environment, is gaining Seattle nation-wide recognition and admiration as a city committed to artistic and environmental excellence. Artists are now being asked to accept new responsibilities and will be involved in the problem solving team the city relies upon to meet its responsibilities to all citizens.

1974 will be the first year of operation for this program. The City's goal is to foster and encourage a continuing growth of citizens' awareness of, and pride in, their own and their city's identity.

ORDINANCE 102210

AN ORDINANCE authorizing allocation of certain funds for art in the construction of public works; providing for a review of suitable capital projects and for an artist selection process; and establishing a special fund designated "Municipal Arts Fund."

Be it Ordained by the City of Seattle as follows:

Section 1. Purpose. The City of Seattle accepts a responsibility for expanding experience with visual art. Such art has enabled people in all societies better to understand their communities and individual lives. Artists capable of creating art for public places must be encouraged and Seattle's standing as a regional leader in public art enhanced. A policy is therefore established to direct the inclusion of works of art in public works of the City.

Section 2. Definitions.

(a) "Commission" means the Seattle Arts Commission.
(b) "Construction project" means any capital project paid for wholly or in part by The City of Seattle to construct or remodel any building, decorative or commemorative structure, park, street, sidewalk, parking facility or utility or any portion thereof within the limits of The City of Seattle.

(c) "Capital improvement program" means the City's program bearing that name for advance planning of capital developments.

Section 3. Funds for works of art.

(a) Requests for Appropriations. All City department heads, together with the Director of the Office of Management and Budget, shall include in all estimates of necessary expenditures and all requests for authorizations or appropriations for construction projects, an amount for works of art equal to at least one percent (1%) of the total cost of any such construction project as estimated in the capital improvement program for the year in which such estimate or request is made. If the source of funding or other appropriate law with respect to any particular project precludes art as an object of expenditure of funds, the amount of funds so restricted shall be excluded from the total project cost in making the aforesaid calculation.

(b) Legislative authorization. The legislative authority may make appropriations for works of art to be selected and implemented by the Commission in connection with construction projects as provided in Sections 4, 5 and 6 hereof and may also provide for the appropriation of funds to the "Municipal Arts Fund" established in Section 6 hereof for works of art to be selected and implemented by said Commission as provided in Sections 4, 5 and 6 hereof.

Section 4. Commission authority. To carry out its responsibilities hereunder, the Commission shall:

(a) Make periodic reviews, at least annually, of all City capital improvement program projects with the Mayor, the Board of Public Works and appropriate City department heads or their designated representatives for the purpose of making recommendations to the legislative authority of the City as to appropriations for works of art.

(b) Determine a method or methods of selection and commissioning of artists with respect to the design, execution and placement of works of art for which appropriations have been made, and pursuant to such method or methods, select and commission artists by contract for such purposes.

(c) Determine the specific location and/or amounts to be expended on works of art in those cases in which the legislative authority has not done so.

(d) Require that any proposed work of art requiring extraordinary operation or maintenance expenses receive prior approval of the department head involved.

(e) Determine the placement of works of art consistent with the provisions of Section 5 hereof.

(f) Authorize payments for the design, execution and placement of works of art from appropriations for works of art in connection with specific construction projects or from appropriations to the Municipal Arts Fund.

(g) Promulgate rules and regulations, in consultation with the Design Commission, to facilitate the implementation of its responsibilities hereunder and shall consult with the Design Commission in carrying out such responsibilities.

Section 5. Placement. Works of art selected and implemented pursuant to the provisions of this ordinance and any amendment thereto may be placed in, on or about any municipal construction project or other municipally-owned, leased or rented property. They may be attached or detached within or about such property, and may be either temporary or permanent. Placement of works of art shall be authorized by the Commission, and City officers responsible for the design and construction of such projects shall make appropriate space available for the placement of works of art.

Section 6. Fund and payments. There is established in the City Treasury a special fund designated "Municipal Arts Fund" into which funds appropriated as contemplated by Section 3(b) hereof shall be deposited. Each disbursement from such Fund or from other appropriations for works of art shall be authorized by the Commission, shall be expressly designated as to payee and to purpose, and the City Comptroller shall draw and the City Treasurer shall pay warrants upon such fund or other appropriations upon vouchers or approvals therefor approved by the Executive Secretary of the Commission.

Section 7. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the City Charter.

Passed by the City Council the 21 day of May, 1973, and signed by me in open session in authentication of its passage this 21st day of May, 1973.

Approved by me this 31 day of
Filed by me this 31 day of

(SEAL)

Published _____

President of the City Council,
May, 1973
May, 1973 Mayor,
Attest:
City Comptroller and City Clerk.

By _____
Deputy Clerk.

ORDINANCE 105389

AN ORDINANCE relating to the allocation of certain funds for art in the construction of public works; amending Sections 2, 3, 4 and 5, and repealing Section 6 of Ordinance 102210 to modify the process for selecting, funding and placing works of art in public places.

Be it Ordained by the City of Seattle as follows:

Section 1. That Section 2 of Ordinance 102210 is amended to read as follows:

Section 2. Definitions.

(a) "Commission" means the Seattle Arts Commission.

(b) "Construction Project" means any capital project paid for wholly or in part by The City of Seattle to construct or remodel any building, structure, park, utility, street, sidewalk, or parking facility, or any portion thereof, within the limits of The City of Seattle.

(c) "Eligible Fund" means a source fund for construction projects from which art is not precluded as an object of expenditure.

(d) "Municipal Arts Plan" means the plan required by Section 4(a) of this ordinance.

Section 2. That Section 3 of Ordinance 102210 is amended to read as follows:

Section 3. Funds for works of art. All requests for appropriations for construction projects from eligible funds shall include an amount equal to one percent (1%) of the estimated cost of such project for works of art and shall be accompanied by a request from the Arts Commission for authorization to expend such funds after the same have been deposited in the Municipal Arts Fund. When the City Council approves any such request, including the one percent (1%) for works of art, the appropriation for such construction project shall be made and the same shall include an appropriation of funds for works of art, at the rate of one percent (%) of project cost to be deposited into the appropriate account of the Municipal Art Fund. Money collected in the Municipal Arts Fund shall be expended by the Arts Commission for projects as prescribed by the *Municipal Arts Plan*, and any unexpended funds shall be carried over automatically for a period of three years, and upon request of the Arts Commission, carried over for an additional two years. Any funds carried over for three (3) years, or upon special request for five (5) years, and still unexpended at the expiration of such period shall be transferred to the General Fund for general art purposes only; provided that, funds derived from revenue or general obligation bond issues or from utility revenues or other special purpose or dedicated funds shall revert to the funds from which appropriated at the expiration of said three (3) or five (5) year period.

Section 3. That Section 4 of Ordinance 102210 is amended to read as follows:

Section 4. Commission Authority. To carry out its responsibilities hereunder, the Commission shall:

(a) Prepare, adopt and amend with the Major's approval a plan and guidelines to carry out the City's art program, which shall include, but not be limited to a method or methods for the selection of artists or works of art and for placement of works of art.

(b) Authorize purchase of works of art or commission the design, execution and/or placement of works of art and provide payment therefor from the Municipal Arts Fund. The Commission shall advise the department responsible for a particular construction project of the Commission's decision regarding the design, execution and/or placement of a work of art in connection with such construction project.

(c) Require that any proposed work of art requiring extraordinary operation or maintenance expenses shall receive prior approval of the department head responsible for such operation or maintenance.

(d) Promulgate rules and regulations consistent with this ordinance to facilitate the implementation of its responsibilities hereunder.

Section 4. That Section 5 of Ordinance 102210 is amended to read as follows:

Section 5. Municipal Arts Fund. There is established in the City Treasury a special fund designated "Municipal Arts Fund" into which shall be deposited funds appropriated as contemplated by Section 3 hereof, together with such other funds as the City Council shall appropriate for works of art, and from which expenditures may be made for specific works of art or for works of art in accordance with the plan specified in Section 4(a) hereof. Separate accounts shall be established within the Municipal Arts Fund to segregate receipts by source or, when so directed by the City Council, for specific works of art. Disbursements from such fund shall be made in connection with projects approved by the Commission on vouchers approved by the Executive Secretary of the Arts Commission or such other person as may be directed by ordinance for specific projects, and the City Comptroller shall draw and the City Treasurer shall pay the necessary warrants and make the necessary transfers.

Section 5. That Section 6 of Ordinance 102210 is hereby repealed.

IMPLEMENTATION OF THE "1% FOR ART" ORDINANCE IN THE CITY OF SEATTLE

The art ordinance in Seattle was passed by the City Council with the express purpose of expanding the City's experience of the visual arts and of encouraging artists capable of creating art for public places. This commitment is a straightforward and basically simple one. Its implementation is more complex.

The ordinance provides that at least one percent of the budget requests for municipal construction projects in the Capital Improvement Program (where those projects are within the city limits) be set aside for the selection, acquisition and/or installation of works of art in public places on municipally owned property.

The information that follows is designed to summarize some of the requirements of the ordinance and to explain some of the administrative procedures that the City and the Seattle Arts Commission will follow—including a description of how and at what point artists become directly involved.

Seattle Arts Commission

The Seattle art ordinance gives the Seattle Arts Commission a very large share of the responsibility for its implementation. The responsibilities include working directly with City departments whose budgets contain the construction projects and therefore the art funds. The responsibilities also include establishing procedures for the selection of artists and making such selections; and determining, in many cases, the specific location, placement and amount of money to be spent on works of art.

The Commission has established a five-member "Art in Public Places Committee" whose primary responsibility is to make recommendations to the entire Commission regarding its duties as specified in the ordinance. The Committee is chaired by Anne Gerber, and includes Mrs. Frederic Blanchett, Chris Kirk and Mrs. Bagley Wright. Anne Focke is employed by the Commission to provide the administrative staff support for the program. She can be reached at the Commission office, 583-6420, on Tuesday, Wednesday and Thursday.

Funds for Artwork

Funds for artwork within any given year are generated by construction projects planned and funded through individual City departments. The art ordinance directs departments to set aside, within these budgets, an amount for works of art equal to at least one percent of the total cost of the project. The City Council retains the right to make the final decision as to whether this amount shall indeed be included in the project budget. The Council has, however, passed a resolution strongly stating their commitment to the purposes of the ordinance.

Funds for City construction projects come from many sources. Some funds are generated directly by the City of Seattle, through property taxes, license fees and utility revenues—water, light, sewer, etc. Any project supported by these funds must follow the requirements of the art ordinance. However, funds for many (or, even most) City construction projects come from other sources, such as bond issues or state and federal matching grants. These funds often have legal restrictions on their use which either preclude an art budget, or at least make it necessary to prove the appropriateness of artwork in each specific project, on a case by case basis. These restrictions are effective now even though the Seattle art ordinance was passed in June, 1973.

In the case of a bond issue, like the Forward Thrust Bond Resolution passed in 1968, the voters gave permission to use the funds raised for very specific purposes, and unless allowance for art expenditures was made at the time of passage, they can't be added later. (There is strongly stated concern for beautification and aesthetics in the Forward Thrust Parks Resolution which supports the inclusion of artwork in those projects.)

In a similar way, unless a grant request to state and federal funding agencies initially includes an art budget, it is very difficult to change the specified use of the grant funds and include an art budget later. Even though we will be arguing for the inclusion of art in as many projects as possible, there is a real need to make sure that future bond issues and grant requests include an amount for art.

Seattle City Departments

Almost all City departments have construction projects at one time or another, but we, obviously, will be working primarily with those departments undertaking the most construction: City Light, the Water Department, the Department of Parks and Recreation, the Engineering Department (sewer, transportation) and the Building Department.

City departments are developing methods to ensure that the Seattle Arts Commission is regularly informed of proposed construction projects, and of their sources of funding. This is handled in various ways depending on the procedures of the particular department. City departments are required to send to the Arts Commission copies of departmental appropriation requests (requests made to City Council asking permission to spend money on construction projects.) In some cases a regular report is sent to the Commission by the department.

Once the eligibility of specific funds has been determined, the department and the Arts Commission have two options:

1) They can decide to spend the art funds generated by a particular construction project on a work of art for that project. For example, if the Water Department undertook the construction of a new building, the art budget might be spent on a work of art for the courtyard of that building.

2) A department can also decide to set aside art funds from specific projects, letting them accumulate in a special departmental arts account. This can be a special advantage where the construction budget is small or where the project doesn't lend itself to the addition of artwork. An example of this is sewer replacement projects in the Engineering Department—small projects under the streets scattered around the city.

The art ordinance provides for the establishment of a Municipal Arts Fund. At the time the ordinance was written, it was felt that this fund could be used as a general account for the collection of art funds from all departments. Due primarily to legal restrictions, the funds will generally remain within each individual department. Each department, essentially, will have its own "Art Fund", which will collect the art monies as they accumulate. The funds in these accounts can then be used for artwork to be placed on any municipal property, generally on property under the jurisdiction of the department involved. In most instances, these funds can be carried over from one year to the next.

Funds generated by the "1% for Art" ordinance cannot be used for ongoing operation or maintenance of artwork acquired. Since these expenses will be incorporated into the annual budget of a city department, the head of that department must approve any artwork requiring extraordinary operation or maintenance expenses. The department will provide assistance in developing guidelines for maintenance limitations in the definition of specific art projects.

Expenses related to the artwork are paid by the department, but must have the approval of the Seattle Arts Commission. These expenses, covered by the "1% for Art" funds, include the purchase of artwork, commissioning of artists by contract, installation and site preparation, jury and administration costs.

Definition of Art Projects/Procedures for Artist Selection

The Seattle Arts Commission has established and approved a set of "Procedures for Selecting Artwork within Municipal Projects." These are available at the Commission office. The following is a summary of the way these procedures are put into effect.

Once a department has funds available for artwork, a specific art project must be defined. In this definition, the Art in Public Places Committee of the Seattle Arts Commission works closely with representatives of the department. They also rely on the advice of representatives of the Seattle Design Commission, the Board of Public Works, and, if the artwork is to be part of a construction project, the architect of that project. (This group is called the "Standing Committee" of representatives in the Commission's procedures.)

The location of the artwork must be determined both in terms of the general municipal facility and the specific site within that facility. Specifications for the desired artwork must be defined, such as medium (painting, sculpture, prints, electronics, etc.) size restrictions, and maintenance limitations. An appropriate budget amount must be agreed upon, including a general breakdown as to its use—i.e. amount for the artwork, and amount for the necessary supportive activities.

It must be determined whether completed artwork will be purchased directly, or whether work will be commissioned, and whether the method for selecting an artist will be 1) an open competition, 2) a limited competition, or 3) direct selection. The "Standing Committee" must also decide whether or not the project should be limited to Washington State artists—the procedures state that "at least 50% of the artists selected must be residents of the State of Washington." (A definition of residency is included in the procedures.)

If the artwork is to be part of a construction project, the Standing Committee must determine at what point in the design process to involve the artist. The Seattle Arts Commission is committed, through its "Procedures," to involving the artist as early as possible.

The Standing Committee shall also recommend a jury—its size (between one and five members) and its composition. The only requirement in terms of jury composition is that at least one member of the jury be an artist. The jury will often be given some responsibility in the definition of the project, for instance in the selection of the proper medium. The jury's decision shall be considered final, with the Department head's veto being limited to "proven technical infeasibility."

A project prospectus or program is drawn up on the basis of the above considerations. This program requires the approval of both the Department head and the Seattle Arts Commission. The Board of Public Works requires the department to advertise for one day in a major Seattle paper. The Arts Commission will publish a notice in *The Arts*. The Arts Commission will also send press releases to all major publications in the area, and will be responsible for individual mailings to all artists registered as being interested in participating in "1% for Art" projects.

Responsibilities of Interested Artists/Archives of Northwest Artists

The Seattle Arts Commission is extremely interested in guaranteeing that any interested artist will be considered for each project. An important aspect of making this possible is the establishment of an information resource available to the jury and including slides and photographs of work and biographical material about each artist. A permanent resource of this kind is definitely preferable to requesting submission of this information on a project-by-project basis.

The Henry Gallery at the University of Washington is building the Archives of Northwest Artists. To avoid duplicating this effort, the Seattle Arts Commission is purchasing services from the Henry Gallery in the creation and maintenance of a program within the archives to service our "1% for Art" program. This will make it possible to guarantee that the necessary information about interested artists is readily available.

Any artist interested in participating in future "1% for Art" projects with the City of Seattle should notify the Seattle Arts Commission through the Director of Art in Public Places by mail (305 Harrison). The notification should include name, address, phone number and a very brief indication of media used. This puts the artist on the Commission's mailing list and establishes direct contact between the artist and the Commission which administers the program. Slides, photographs and biographical materials should be sent to the Henry Gallery Archives. Instructions indicating kinds of information requested and preferred methods for labeling slides is attached. Questions regarding Seattle's "1% for Art" program should be directed to the Commission's Director of Art in Public Places, not the Henry Gallery.

In order to guarantee that the most recent work is considered, the artist should periodically update the materials at the Henry Gallery. Although the Commission will periodically send out a reminder, this updating is the responsibility of the artist. The Henry Gallery has established a cross-referencing system, making it possible for "1% for Art" juries to have access to additional information on interested artists already on file in the archives. A similar system makes it possible for artists interested in the "1% for Art" to be considered by other users of the archives—i. e. architects, reviewers and critics, other arts commission, etc.

This accumulated resource at the Henry Gallery will be an important part of all methods for selecting artists. In the case of an open competition, artists will be asked to submit a specific proposal according to publicized guidelines; the information in the archives will be used by the jury to provide supporting information such as previous work and experience. In the case of both a limited competition and the direct selection or purchase, the jury will base their selection in part on a review of the information on all interested artists in the archives.

As previously indicated, interested artists will be notified prior to any "1% for Art" project, regardless of the particular selection procedures used. This will allow updating of archives information before each project if the artist considers this necessary.

It should also be noted that the archives described above include solely Northwest artists, and when a project allows consideration of artists in other parts of the country, other resources must be used.

Procedures Following the Selection of an Artist

The Seattle Arts Commission recognizes that even after funds have been identified, an art project defined and an artist selected, the program will have only begun. Where work is to be commissioned, contracts must be written—contracts requiring the signatures of the artist, the head of the department involved, and the director of the Seattle Arts Commission. Project schedules will be developed and must be met. Questions concerning rights to work (ownership, reproduction rights, etc.) must be defined and answered.

The Seattle Arts Commission has had very little experience, so far, in moving through these areas with specific projects. Although we can anticipate some of the needs and problems, we know that our knowledge and understanding will greatly increase as we undertake each individual project.

This summary of the implementation of the Seattle "1% for Art" ordinance will continually be revised and expanded.

PROCEDURES FOR REGISTRATION IN THE "1% FOR ART" PROGRAM, CITY OF SEATTLE

Seattle's "1% for Art" program is administered by the Seattle Arts Commission, and artist registration is accomplished by notifying them by mail. The information required is the artist's name, current address and phone number, and an indication of the artist's media (i.e. painting, sculpture, prints, etc.). This puts the artist on the commission's mailing list and on the mailing list of *The Arts*, the newsletter of the Seattle and the King County Arts Commissions, where notice of all upcoming projects will be published. A summary biographical form will be provided by the Seattle Arts Commission upon registration, which should be filled out and returned to the commission. Ultimately, this form will be on file at the Henry Gallery. Registration can be taken care of either by the artist or by the artist's agent. All questions regarding Seattle's "1% for Art" program should be directed to the commission.

The commission is working with the Henry Gallery in the development of an artist information resource for use by "1% for Art" juries, in conjunction with the gallery's Archives of Northwest Art. A second part of registration involves submitting the following materials to the Henry Gallery:

- I. A complete biographical resume, if the artist desires to submit one in addition to the form mentioned above.
- II. Five or more slides (35 mm. - 2 x 2 inches) of recent work. The front of the slide should be annotated with the following information:
 1. Artist's last name first, upper left corner
 2. Title
 3. Medium
 4. Year executed
 5. Dimensions (height x width x depth)
 6. Present location of the work

If more than five slides are submitted, the additional ones will go into the general archives slide file. The five slides to be considered by the "1% for Art" juries should be marked "1%", in pencil.

Five or more photographs may be submitted instead of slides. Clippings and exhibition notices are also helpful.

The slides and biographical information should both be updated periodically. This can be done by mail, or by visiting the Henry Gallery. The archives are open for this purpose on Thursday and Friday, from Noon to 4 p.m.

Material submitted to the archives cannot be returned. The Henry Gallery will make every effort to provide for its proper access and storage.

SEATTLE ARTS COMMISSION 583-6420

305 Harrison

Seattle, Washington 98109

ARCHIVES OF NORTHWEST ART 543-2280

Henry Gallery, University of Washington

Seattle, Washington 98195

BIOGRAPHICAL SUMMARY
SEATTLE'S "1% FOR ART" PROGRAM

Name _____ Date _____
 Address _____
 _____ Telephone _____
 Media _____ Gallery affiliation _____
 Education _____

In the space below please list what you feel to be the most significant additions to your biography in such areas as exhibitions, awards, commissions, collections, work in public places, catalogs and other published works, professional experience, etc. Please contain summary to this page. A more complete biography can also be filed.

Please return to "1% for Art," Seattle Arts Commission, 305 Harrison, Seattle 98109

AGREEMENT BETWEEN THE CITY OF SEATTLE AND ARTIST

THIS AGREEMENT, dated _____, 1974, between the City of Seattle, acting by and through the Seattle Arts Commission and the (City Department), hereinafter referred to as "City", and _____, hereinafter referred to as "Artist."

WHEREAS, the City is now implementing a public art program as set forth by Ordinance 102210 allocating certain funds for the establishment of artworks in public places and authorizing the Seattle Arts Commission to make payments for the design, execution and placement of works and payments for the support of an artist-selection process, and

WHEREAS, the (City Department) has allocated funds for the selection, execution and placement of artworks in (specific location), hereinafter referred to as the _____ Project; and

WHEREAS, the Artist has created the following work of art:

Title: _____
 Date: _____
 Dimensions: _____
 Media: _____

Hereinafter the above described work of art shall be referred to as the "Work"; and

WHEREAS, the Work as selected for purchase by the City through procedures duly adopted by the City, and the Artist is willing to sell the Work, and both parties wish the integrity and clarity of the Artist's ideas and statements in the Work to be maintained;

NOW THEREFORE, the parties mutually agree as follows:

1. The Artist shall sell the Work to the City, subject to the conditions herein, for the price of ____ . receipt of which is hereby acknowledged.
2. *Sales Taxes.* Sales taxes shall be payable by the City in addition to the actual final cost set forth above.
3. *Notice.* A public notice including the Artist's name and mention of the City's ownership shall be publicly displayed and identified with the Work, and shall be paid for by the City.
4. *Use.* The Work shall be properly installed and displayed by the City at the _____ which is a facility frequented by and open to the general public. The Artist shall be notified if the Work is to be relocated, and in any case the Work shall remain in a location frequented by and open to the general public for a minimum of two years from the date of this Agreement.

5. *Non-destruction/alteration/maintenance.* The City agrees that it will not intentionally destroy, damage, alter, modify or change the Work in any way whatsoever. If any alteration of any kind occurs to the Work after it has been finally completed and installed by the Artist, whether such change is intentional or accidental and whether done by the City or others, then the Work will no longer be represented to be the Work of the Artist without his/her written consent. The City agrees to see that the Work is properly maintained and protected.

6. *Repairs.* All repairs and restorations which are made during the lifetime of the Artist shall have his/her approval. To the extent practical, he/she shall be given the opportunity to accomplish said repairs and restorations at a reasonable fee.

7. *Disposition.* While recognizing that the City does not currently have the legal mechanism permitting the sale of works of art, the City agrees that if in the future the City does sell the Work, the City shall pay the Artist a sum equal to Fifteen Percent (15%) of the appreciated value of the Work.

8. *Waiver.* The Artist agrees to notify the City of changes in his/her address and failure to do so shall be deemed a waiver of the Artist's rights in Paragraph 6 and 7 above.

9. *Records.* The City agrees to maintain on permanent file a record of this Agreement and of the location, condition and disposition of the Work.

10. *Reproduction.* The Artist hereby reserves all rights to copy or reproduce the Work, but shall not unreasonably refuse the City permission to reproduce the Work. The Artist also reserves all rights under any copyright laws to which the Work may be subject.

11. *Possession.* The Artist and the City agree that the Artist shall have the right to possession of the Work for a period not to exceed sixty (60) days for the purpose of exhibition of the Work to the public, at no expense to the City. The Artist shall provide proof of sufficient insurance and pre-paid transportation. The Artist shall have such right of possession for one period not to exceed sixty days every five years.

12. *Changes.* All Changes in this Agreement shall require written agreement signed by all parties.

SIGNED THIS ____ day of _____, 1974.

For Seattle Arts Commission

 John W. Blaine

For City Department

 Department Head

Date: _____

 Artist

Date: _____

 Artist's Address

STATE OF WASHINGTON
ENGROSSED SUBSTITUTE SENATE BILL NO. 3146

State of Washington
43rd Legislature
3rd Extraordinary Session

By Committee on State Government
(Originally sponsored by
Senators Whetzel, Durkan
and Dore)

Read first time January 29, 1974, and passed to second reading.

AN ACT Relating to public buildings; adding a new section to chapter 43.17 RCW; adding a new section to chapter 43.19 RCW; adding a new section to chapter 28B.10 RCW; adding a new section to chapter 28A.58 RCW; and creating a new section.

Be it enacted by the legislature of the State of Washington:

NEW SECTION. Section 1. The legislature recognizes this state's responsibility to foster culture and the arts and its interest in the viable development of her artists and craftsmen by the establishment of the Washington state arts commission. The legislature declares it to be a policy of this state that a portion of appropriations for capital expenditures be set aside for the acquisition of works of art to be used for public buildings.

NEW SECTION. Sec. 2. There is added to chapter 43.17 RCW a new section to read as follows:

All state agencies or departments shall expend, as a nondeductible item, out of any moneys appropriated for the original construction of any state building, an amount of one-half of one percent of the appropriation for the acquisition of works of art which may be an integral part of the structure, attached to the structure, detached within or outside of the structure, or can be exhibited by the agency in other public facilities: **PROVIDED, That if the accepted construction bid is under ninety percent of the appropriation, the expenditure for the works of art as provided herein shall be reduced pro tanto.* In case the amount shall not be required in toto or in part for any project, such unrequired amounts may be accumulated and expended for art in other projects of the agency. Expenditures for works of art as provided for herein shall be contracted for separately from all other items in the original construction of any state building. In addition to the cost of the works of art the one-half of one percent of the appropriation as provided herein shall be used to provide for the administration by the contracting agency, the architect and Washington state arts commission and all costs for installation of the works of art. For the purpose of this section building shall not include highway construction sheds, warehouses or other buildings of a temporary nature.

NEW SECTION. Sec. 3. There is added to chapter 43.19 RCW a new section to read as follows:

The Washington state arts commission shall. **in consultation with the state capitol committee,* determine the amount to be made available for the purchase of art for each project under supervision of the director of general administration, and payments therefor shall be made in accordance with law. The selection of, commissioning of artist for, reviewing of design, execution and placement of, and the acceptance of works of art for such project shall be the responsibility of the Washington state arts commission **in consultation with the state capitol committee.*

NEW SECTION. Sec. 4. There is added to chapter 28B.10 RCW a new section to read as follows:

The Washington state arts commission shall, in consultation with the boards of regents of the University of Washington and Washington State University and with the boards of trustees of the state colleges and community college districts, determine the amount to be made available for the purchases of art for each project under the supervision of such boards of regents or trustees, and payment therefor shall be made in accordance with law. The selection of, commissioning of artist for, reviewing of design, execution and placement of, and the acceptance of works of art for such project shall be the responsibility of the Washington state arts commission in consultation with the board of regents or trustees having supervision of such project.

NEW SECTION. Sec. 5. There is added to chapter 28A.58 RCW a new section to read as follows:

The state board of education and superintendent of public instruction shall allocate, as a nondeductible item, out of any moneys appropriated for state assistance to school districts for the original construction of any school plant facility the amount of one-half of one percent of the appropriation for the acquisition of works of art which may be an integral part of the structure, attached to the structure, detached within or outside of the structure, or can be exhibited in other public facilities by the school district: **PROVIDED, That if the accepted construction bid is under ninety percent of the appropriation, the expenditure for the works of art as provided herein shall be reduced pro tanto.* In case the amount shall not be required in toto or in part for any project, such unrequired amounts may be accumulated and expended for art in other projects of the school district. The Washington state arts commission shall, in consultation with the superintendent of public instruction, determine the amount to be made available for the purchase of works of art for each such project, and payments therefor shall be made in accordance with law. The selection of, commissioning of artist for, reviewing of

**Indicates a portion of the bill which was vetoed by the Governor.*

design, execution and placement of, and the acceptance of works of art shall be the responsibility of the Washington state arts commission in consultation with the superintendent of public instruction and the school district board of directors. Expenditures for works of art as provided for herein shall be contracted for separately from all other items in the original construction of any state building. In addition to the cost of the works of art the one-half of one percent of the appropriation as provided herein shall be used to provide for the administration by the contracting agency, the architect, and Washington state arts commission and all costs for installation of the work of art. For the purpose of this section building shall not include sheds, warehouses or other buildings of a temporary nature.

Passed the Senate April 23, 1974.

Passed the House April 20, 1974.

Approved May 5, 1974
with the exception of
certain items which are
vetoed.

GENERAL GUIDELINES FOR IMPLEMENTING
LEGISLATION ALLOCATING ½ OF 1% OF
STATE APPROPRIATIONS FOR
WORKS OF ART IN NEW BUILDINGS

Adopted by the Washington State Arts Commission
on January 18, 1975

I. Purpose of The Act

Engrossed Substitute Senate Bill No. 3146, Chapter 176, Washington Laws, 1974, 1st Ex. Sess. (43rd Legis., 3rd Ex. S.) This law applies to appropriations passed during the 1974 Special Session. The effective date of the statute is July 1, 1974. All quotations below are from the Act.

The Legislation declares "it to be a policy of this state that a portion of appropriations for capital expenditures be set aside for the acquisition of works of art to be used for public buildings" in recognition of "this state's responsibility to foster culture and the arts and its interest in the viable development of her artists and craftsmen....."

The sponsors of the bill identified four main reasons for the Act:

- Establish by legislative act what has been an informal policy.
- Define responsibilities among agencies.
- Assist artists of the state and prevent their leaving the state for work after receiving an education here.
- Enhance public buildings for the benefit of the public, tourists and students.

II. Definitions

- A. "Works of art": For the purposes of this Act, all forms of original creations of visual art, including:
1. Sculpture: in the round, bas relief, high relief, mobile, fountain, kinetic, electronic, etc., in any material or combination of materials
 2. Painting: all media, including portable and permanently affixed works, such as murals
 3. Graphic arts: printmaking and drawing
 4. Mosaics
 5. Photography
 6. Crafts: in clay, fiber and textiles, wood, metal, plastics and other materials.
 7. Calligraphy
 8. Mixed media: any combination of forms or media, including collage

B. "Artist": A practitioner in the visual arts, generally recognized by critics and his or her peers as a professional who produces work as described above and who is not the project architect or a member of the architectural firm.

C. "Appropriation": State funds from whatever source. A number of Federal agencies require, allow, or encourage a portion of construction funds to be used for works of art. State agencies should confer with their Federal funding source for guidance.

D. "Original construction of any state building": New buildings or additions, such as wings or stories, to existing buildings, but not remodeling or renovation of existing buildings. Excluded are "highway construction sheds, warehouses or other buildings of a temporary nature."

E. "Architect": The person or firm (architect, landscape architect, interior designer, or other design professional) designing the project to which the ½ of 1% provision applies.

III. Inclusions and Exclusions

A. *Inclusions*: The portion of the capital appropriation reserved for works of art may be expended for the following:

1. The cost of the work of art: generally, if the artist is commissioned to produce a new work, the following are taken into account in the contract:
 - a. Artist's professional design fee
 - b. Labor of assistants, and materials required for production of the work
 - c. Studio and operating costs of the artist, including rent, depreciation, utilities, communications, insurance, and other direct and indirect costs
 - d. Travel of the artist for site visitation and research
 - e. Transportation of the work to the site
 - f. Installation of the completed work
 - g. Sales tax
2. Identification plaques and labels.
3. Waterworks and electrical and mechanical devices or equipment which are integral parts of the work of art.
4. Frames, mats, or pedestals necessary for the proper presentation of the works of art.
5. Administration by the architect, contracting agency and the Washington State Arts Commission (Cf. IX.).

B. *Exclusions*: The portion of the capital appropriation reserved for works of art may *not* be expended for the following:

1. Reproductions by mechanical or other means, of original works of art. Included, however, may be limited editions, controlled by the artist, of original prints, cast sculpture, photographs, etc.
2. Decorative, ornamental, or functional elements which are designed by the building architect or consultants engaged by the architect.
3. Those elements generally considered to be components of a landscape architectural design: plant materials, pools, paths, benches, receptacles, fixtures, planters, etc. (Cf. VII. B).
4. "Art objects" which are mass produced or of standard design, such as playground sculpture or fountains.
5. Directional, or other functional elements, such as supergraphics, signing, color coding, maps, etc., except where a recognized calligrapher is employed.
6. Those items which are required to fulfill the basic purpose of the agency. Examples would be works of art in the collection of a state museum, or works of art fulfilling an interpretive or educational role in a state park, the state library, or a college or university art museum or gallery.
7. Preparation of the site necessary to receive the work of art.
8. Electrical, water, or mechanical service for activation of the work (Cf. III. 3. above).
9. Exhibitions and educational aspects (Cf. VII. D).
10. In connection with the works of art, before or after they are installed: lighting, registration, dedication, unveiling, insurance, security, publicity or publications, and maintenance (preservation, conservation, restoration, repair).

IV. Scope and Nature of Expenditures

"All state agencies shall expend, as a nondeductible item, out of any moneys appropriated for the original construction of any state building, an amount of one-half of one percent of the appropriation for the acquisition of works of art which may be an integral part of the structure, attached to the structure, detached within or outside the structure, or can be exhibited by the agency in other public facilities."

The law provides for more or less than one-half of one percent to be expended for certain buildings: "In case the amount shall not be required in toto or in part for any project, such unrequired amounts may be accumulated and expended for art in other projects of the agency." The one-half of one percent is a required *minimum*. An agency may expend more than this amount in the aggregate within its appropriation for all original construction.

The law also states that "expenditures for works of art . . . shall be contracted for separately from all other items in the original construction of any state buildings."

"In addition to the cost of the works of art the one-half of one percent of the appropriation . . . shall be used to provide for the administration by the contracting agency, the architect and the Washington State Arts

Commission and all costs of installation of the works of art." However, since this language was incorporated when a one percent figure was envisioned, it is recommended that agencies absorb as much of the administrative cost as possible and that the administration by the architect not exceed 7½% of the cost of the works of art. Cost of architects' design services, as part of an artist-architect team, may be considered above this ceiling.

The Act applies to state buildings; state university, college and community college buildings; and the state's share of elementary and secondary school buildings.

V. Responsibilities

A. *State Arts Commission shall:*

1. "Determine the amount to be made available for the purchase of works of art for each project . . ." This will be done in consultation with the contracting agency (Department of General Administration; another state agency, if it handles its own architectural matters; the Office of Superintendent of Public Instruction; Boards of Regents of the University of Washington and Washington State University; or Boards of Trustees of the state colleges and community college districts). The architect's opinion will also be sought.

In determining whether one-half of one percent or a lesser or greater amount be earmarked for art, the following criteria will be applied:

- a. Relative degree of public access and volume of traffic at the site.
- b. Unique opportunities for incorporation of works of art.
2. Be responsible for "the selection of, commissioning of artist for, reviewing the design, execution and placement of, and acceptance of works of art" in consultation with one of the contracting agencies listed above. In addition, in the case of works of art for elementary or secondary school buildings, the Commission shall consult with the School District Board of Directors in this regard.
3. Decide, in consultation with the contracting agency and the architect whether the works should be chosen by direct selection, limited competition, or open competition.
4. Appoint a jury to choose artists to be commissioned or completed works of art to be purchased.
5. Be presented the jury's decisions for ratification.
6. Assist the contracting agency in contract negotiations with artists.

B. *The Contracting Agency shall:*

1. Upon selection of an architect for a specific project, notify those individuals or firms of the state law requiring a non-deductible allocation for works of art, and of the architect's responsibility to recommend sites for works of art and the scale and types of art he or she deems appropriate.
2. Notify the State Arts Commission of the project details.
3. Consult with the Arts Commission on the determination of percentage and selection procedures.
4. Contract with the architects for administrative and/or design services to be rendered in connection with the commissioning of works of art.
5. Contract with the artist for purchase or commissioning of works of art.
6. Be responsible for maintenance, repair and security of the work.
7. Handle public information aspects of the project, with assistance from the Arts Commission.

The Architect Shall:

1. Recommend to the Arts Commission and the contracting agency specific sites for works of art and the scale and type of work he or she deems most appropriate.
2. Act as a voting member of the jury.
3. In most cases, work closely with the artist, provide engineering and technical assistance to the artist if requested, and supervise the delivery and installation of the work under contract with the contracting agency.
4. Assure that all service requirements for the work of art are met in the design documents and that the work may be installed with relative ease.

D. *The Artist shall:*

1. Be commissioned by the contracting agency to execute and complete the work in a timely and professional manner, or transfer title of an existing work of art to the agency for incorporation in its new building.
2. Preferably deal personally with the other parties in all phases of the negotiations. However, the artists may, at their option, designate their dealers or agents to represent them in certain aspects of the project.
3. Maintain a close working relationship with the architect on commission pieces.

VI. Selection Procedures

A. Jury:

The usual method of selection shall be by a jury of a majority of art professionals appointed by the Arts Commission in consultation with the contracting agency. (In some instances, where a small amount of money is involved and/or it is not feasible to convene a formal, outside jury, a committee composed of members and/or staff of the Arts Commission may act in its stead, or other methods may be used.) The following guidelines may apply to the jury.

1. Size: The number serving shall be flexible, depending on size and complexity of the project.
2. Composition: In each jury the majority of the members shall be from the design professions. The building architect, an artist not in competition, and a representative from the contracting agency, shall be members of all juries. The remaining jury members shall be other than those directly involved in the project and may be selected from any of the following areas, in whatever combination best applies to the project.

Three-
Five- or
Seven
person jury

Should
include:
1. Project architect
2. An artist
3. Contracting agency
representative

4. through 7.
Museum director, curator,
art historian, critic,
collector, art educator,
lay members of the public,
such as state employees,
constituencies, students,
and concerned citizens.

3. Advisors: Non-voting advisors to the jury shall include the chair-person of the visual arts committee and executive director of the State Arts Commission, or their designees.
4. Remuneration: Outside jury members shall be paid honoraria according to the kind and length of their service and be reimbursed for actual and necessary travel.
5. Decision Authority: The law vests in the State Arts Commission the authority for the "selection of . . . artist . . ." and "acceptance of works of art . . .".

In cases of rejection, a jury shall reconvene and select another work.

Further, governing boards of educational institutions may review the jury's selection, if they wish, for compatibility with institutional requirements or policies.

B. Criteria for Selecting Works:

1. Style and nature: Works of any esthetic persuasions which are appropriate as art in public places and compatible in scale, material, form and content with their surroundings will be considered. Works may be participatory in nature.
2. Quality: The jury will be instructed that the consideration of highest priority is the inherent quality of the work itself.
3. Media: All visual art forms may be considered. (Cf. II. A.) Works may be either portable or permanently affixed and may serve as space dividers.
4. Elements of design: The jury and the artist will take into account the fact that, as differentiated from works in a museum context, art in public places may function as:
 - a. Focal points
 - b. Axial terminators
 - c. Modifiers or definers of specific spaces
 - d. Establishers of identity
5. Permanence: Due consideration will be given to structural and surface soundness and to permanence in terms of relative proof against theft, vandalism, weathering, or excessive maintenance or repair costs.
6. Method of acquisition: Either existing works or those commissioned specifically for the sites may be acquired.
7. Diversity: The Arts Commission will assure, in the overall program, that reasonable diversity is attained in style, scale, media, and materials represented, as well as in the places of residence of Washington artists.

C. Eligibility of Artists

1. Washington artists: Preference will be given to artists currently residing in the State of Washington, or who have resided here at least 24 of the last 36 months. It is anticipated that during the course of a biennium, two-thirds to three quarters of the commissions will be awarded to Washington artists.
2. Artists from Other Areas: In view of the fact that similar programs exist, or are planned, in other states and that some of these states have expressed interest in commissioning Washington artists, our state should reciprocate. Also, certain artists from other areas may, because of their unique talents or style, be the logical choice in certain cases. In descending order of priority, artists from the following areas will be considered:
 - a. Pacific Northwest: Oregon, Idaho, Montana, Alaska and British Columbia.
 - b. Western States: Hawaii, California, Nevada, Wyoming, Utah, Colorado, Arizona, New Mexico.
 - c. All other States and Territories.

D. Methods of Selection

1. Direct Selection: The jury selects the artist or a completed work after reviewing the Archives of Northwest Art at the Henry Gallery, University of Washington, other files and sources such as the Archives of Northwest Indian Art at the State Capitol Museum, Olympia, and/or by studio or gallery visits and interviews with artists.
2. Limited Competition: The jury, after a review similar to that described above, invites a limited number of artists to enter. Each artist entering shall be paid a fee for the necessary time and materials for research, site visitation and other travel, conferences, and production and delivery of sketches or maquettes. If, in the opinion of the jury, a satisfactory proposal is not made, the process will begin anew or another method of selection will be adopted.
3. Open Competition: Any professional artist in the designated geographical area is eligible to enter. The competition may be in one or two stages, the second stage involving a limited number of finalists who will prepare more detailed submittals, for which they will be compensated. A detailed prospectus, appropriate to the specific project, will be prepared and its availability widely publicized in the media.
4. Registration, Archives and Resources: Artists wishing to be considered for commissioning under any of the three methods outlined above will be asked to register with the Arts Commission and to submit biographical and visual material to the Archives of Northwest Art at the Henry Gallery, which will serve as the primary information resource for the program. Native American artists may submit material to the Archives of Northwest Indian Art, State Capitol Museum, Olympia.

VII. General Principles and Procedures

A. *Integration of Art and Architecture*: So that artists and architects can gain from each others' design insights and, thereby, produce a more integrated solution, all parties should strive for engagement of the artist as soon as possible after the employment of the architect.

B. *Design Services by Artists*: Architects are encouraged to contract with artists for design of lighting fixtures and systems, gates, railings, fences, doors, door knobs, drawer pulls, furniture, benches, windows, signs, maps, and other equipage, fixtures and architectural elements. The extra costs of such services may be borne by the art fund.

C. *Freedom of Expression*: All parties will refrain from any actions which could inhibit the artists in reaching creative solutions to the design problems they have been employed to solve. The artists, on their part, must be sensitive to the unique qualities of public art and the guidelines and parameters which may, of necessity, have been agreed upon.

D. *Exhibitions and Educational Aspects*: To serve various publics more fully, the contracting agencies should consider undertaking the following, funded with moneys other than those made available under the Act:

1. Exhibition of sketches and maquettes created in limited or open competitions.
2. Involvement of students and art instructors in workshops with artists creating works, especially those for educational institutions.
3. Occasional employment of an artist to design jointly, with elementary and secondary school students, a work for a school with the design motifs springing from the school's history and heritage, the cultural traditions of ethnic minorities, or simply the rich imagination of the students. A present or former Artist-in-Residence with the school could be a candidate for such a project.
4. Tours of a site involving many works, conducted by trained docents.
5. Use of state educational and other facilities by the artist in developing concepts and creating the work, so that state employees and students can witness and assist in the creative act. Such facilities might include studio space; foundries; machine welding and woodworking shops; printing and photographic facilities; etc.
6. Filming or videotaping the creation and installation of the work.

- E. *Accessibility of Information*: All parties will strive to publicize widely all aspects of the program.
- F. *Local and Lay Advice*: While firmly committed to the principle of selection of artists by authorities in the design professions, the Arts Commission is also eager for, and receptive to, advice from the general public and employees or the agency users of the building. Guidelines and procedures will be under continual review to assure that such lines of communication are open.
- G. *Conflict of Interest*: All procedures will be conducted and all decisions will be made free of any conflict of interest.
- H. *Other Art Forms*: Though the law does not provide for the commissioning of artists other than those in the visual area, agencies may wish to consider commissioning composers, choreographers, poets or other artists, to create works to be presented during the dedication of a building. The Arts Commission will be happy to suggest means of arranging such commissions.
- I. *Revision*: These guidelines, and other procedures and guidelines of more specific nature, will be periodically reviewed for possible revision.

VIII. Documentation and Evaluation

- A. *Dedication*: If a dedication or "unveiling" of the work is desired, arrangements shall be the responsibility of the contracting agency.
- B. *Documentation*:
1. *Identification*: Plaques or labels identifying the work should be permanent, unobtrusive, and well designed. Included should be the name of the artist; title of the work, if any; medium; and year completed.
 2. *Registration*: The contracting agency should maintain accession records similar to those of art museums. Copies should be filed with the State Arts Commission.
 3. *Publications*: As collections grow, contracting agencies are encouraged to publish informative folders and booklets on the works of art, such as those of the State Library and the Department of General Administration. The Arts Commission will offer editorial and professional assistance, if requested.
- C. *Evaluation*: The Arts Commission shall annually make a public report on the projects of the previous year and shall conduct periodic evaluations of the program.

IX. Financial Restraints:

The Bill was drafted with the expectation that 1% of original construction appropriations would be allocated for art. With only ½ of 1% available, certain restraints will probably be felt in implementing these guidelines. For instance, to preserve as much money as possible for the art itself administrative costs should be kept to a bare minimum by the contracting agency, the architect and the State Arts Commission. This could mean employing a greater proportion of in-state artists; holding few, if any, open competitions; using the direct selection method more than the limited selection method; keeping the architect's services below the typical 10% of the art project cost; and reducing the size of juries. Also, art employing relatively expensive materials of complex means of production - such as cast bronze - will not be employed so often. Funds from non-state sources should be encouraged to augment the program.

WESTERN STATES ARTS FOUNDATION

Incorporated in 1974, the Western States Arts Foundation is a non-profit corporation whose purpose is to expand the arts resources of the Western United States. The Foundation works in concert with state arts agencies in Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming, and is funded by public and private arts-involved organizations at local, state and national levels, as well as by the National Endowment for the Arts.

74

The Western States Arts Foundation offers a wide variety of on-going and special programs in information, performing and visual art , design, regional development, research and arts management.