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1 SECTION 1. Section 10-5-2, the "Definitions" Section of the Art in  
2 Municipal Places Ordinance, is hereby amended as follows:

3 "§ 10-5-2 DEFINITIONS.

4 For the purpose of this article, the following definitions shall apply  
5 unless the context clearly indicates or requires a different meaning.

6 BOARD. The Albuquerque Arts Board established by this article.

7 CAPITAL IMPROVEMENTS PROGRAM. All capital projects of the city.

8 GENERAL PROGRAM CATEGORY. Each separate question or purpose  
9 submitted to the voters in a bond election or any purpose for which a bond  
10 ordinance authorizing revenue bonds is approved.

11 MAYOR. The Mayor or the Mayor's designated representative.

12 WORK OF ART. Any work of visual art, including but not limited to, a  
13 drawing, painting, mural, fresco, sculpture, mosaic, photograph, work of  
14 calligraphy, work of graphic art (including an etching), works in clay, textile,  
15 fiber, wood, metal, plastic, glass, and like materials, [digital media, temporary  
16 installations,] or mixed media (including a collage, assemblage, or any  
17 combination of the foregoing art media). For projects which involve no  
18 structures, WORK OF ART may include a combination of landscaping and  
19 landscape design (including some natural and manufactured materials such as  
20 rocks, fountains, reflecting pools, sculpture, screens, benches, and other types  
21 of street furniture). Except as provided herein, the term WORK OF ART does  
22 not include environmental landscaping or the performing or literary arts such  
23 as dance, voice, music or poetry unless expressed in a manner defined  
24 above."

25 SECTION 2. Section 10-5-5, the "Funds for the Acquisition of Art for  
26 Municipal Property" Section of the Art in Municipal Places Ordinance, is  
27 hereby amended as follows:

28 "§ 10-5-5 FUNDS FOR THE ACQUISITION OF ART FOR MUNICIPAL  
29 PROPERTY.

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1 (A) Projects in the Capital Improvement Program shall include an  
2 amount for works of art equal to one [and one-half] percent of each bond  
3 purpose. Provided, however, that if:

- 4 (1) The bond election ordinance; or
  - 5 (2) The bond ordinance authorizing revenue bonds; or
  - 6 (3) Other appropriate laws or regulations; or
  - 7 (4) An official interpretation by another governmental
- 8 entity regarding allowable uses for funds which it is providing for the project,  
9 precludes art as an expenditure of funds, then the amount of funds so  
10 restricted shall be excluded from the total project cost in calculating the  
11 amount to be committed to works of art.

12 (B) Funds generated as described in division (A) above shall be  
13 budgeted as part of the Capital Improvements Program budget. Additional  
14 private or public funds for works of art may be added to these funds and shall  
15 be budgeted in a similar manner. Such funds may be earmarked for particular  
16 projects.

17 (C) The public art program shall expend no less than ~~[15%]~~ [25%]  
18 but no more than ~~[20%]~~ [33%] of the total amount allocated to the public art  
19 program for the administrative costs of the program and to restore and  
20 conserve public works of art to protect public investment. The appropriation  
21 will be made at the same time as the appropriation for all projects within the  
22 Capital Improvement Program.

23 (D) Progress payments may be made to the artist for works of art  
24 which have been approved by the Mayor. Such payments may reimburse the  
25 artist for the cost of materials or for services which have already been  
26 performed. At least ~~[25%]~~ [15%] of the total amount to be paid to the artist  
27 shall not be disbursed to the artist until the work of art is formally accepted  
28 by the Mayor.

29 (E) Nothing contained herein shall preclude funding the  
30 acquisition of art for municipal property in other ways."

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1 SECTION 3. Section 10-5-6, the "General Requirements for Art Selection"  
2 Section of the Art in Municipal Places Ordinance, is hereby amended as  
3 follows:

4 "§ 10-5-6 GENERAL REQUIREMENTS FOR ART SELECTION.

5 (A) The work of art may be an integral part of a structure,  
6 attached to a structure or detached from the structure within or outside of it.  
7 It may also be located on publicly-owned property where there are no  
8 structures.

9 (B) In addition to any other placements permitted by law, a work  
10 of art may be placed on a privately-owned freestanding sign or on an exterior  
11 wall under a lease - or other written agreement appropriate to the  
12 circumstances - between the city and the owner of the sign or wall. Unless  
13 otherwise prescribed by the terms of a lease or written agreement, the City  
14 ~~[Cultural Services]~~ Department ~~[of Arts and Culture, Public Art Urban~~  
15 ~~Enhancement Division]~~ shall maintain the sign ~~[or mural]~~ during the  
16 ~~[contractually established]~~ duration of the art project, and shall remove the  
17 work of art immediately upon termination.

18 (C) Any work of art which is chosen must comply with the  
19 following standards in addition to any guidelines established by the Mayor:

20 (1) The work of art must be located in a public place with  
21 public visibility and impact.

22 (2) The work of art, ~~[or the archival documentation of~~  
23 ~~digital or temporary works of art,]~~ shall have a permanence at least  
24 comparable to the lifetime of the bond funding the work of art and shall be  
25 likely to remain a thing of value for this time period.

26 (3) The work of art shall enhance the environment of the  
27 city.

28 (D) The Board shall recommend an artist, a design proposal  
29 and/or a completed work of art, which shall be selected in a manner  
30 consistent with the guidelines promulgated by the Mayor. The Board may  
31 recommend purchasing a completed work of art, commissioning a work of

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1 art, holding a competition to select a work of art, or creating some other  
2 timely and appropriate mode of selection. The Board through [~~Capital~~  
3 ~~Improvement Program~~] [public art program] staff shall consult with the user  
4 agency and project design consultants, if applicable, and involve them in the  
5 planning process in the manner that appears most feasible. The Mayor shall  
6 accept or reject the recommendation of the Board. If the Mayor rejects the  
7 recommendation, the Board shall make another recommendation in  
8 accordance with the standards and procedures outlined in this article.

9 (E) The Board shall make its recommendations in a timely manner  
10 in accordance with the project schedule and timetable provided by the Mayor.  
11 If the Board fails to make a recommendation within the timetable established  
12 by the Mayor, the Mayor may identify another appropriate public procedure to  
13 select an artist or work of art without receiving a recommendation from the  
14 Board unless the Board and the Mayor have mutually agreed in writing to an  
15 extension of the time period. The time period shall be extended, if necessary,  
16 if the Mayor rejects the Board's recommendation."

17 SECTION 4. Section 10-5-7, the "Administrative Responsibilities" Section  
18 of the Art in Municipal Places Ordinance, is amended as follows:

19 "§ 10-5-7 ADMINISTRATIVE RESPONSIBILITIES.

20 (A) The Chief Administrative Officer shall provide adequate  
21 staffing and administrative support for enabling the Arts Board and any of its  
22 subcommittees to carry out their duties.

23 (B) The [~~Capital Improvement Program~~] [Public Art Urban  
24 Enhancement Division of the Department of Arts and Culture] and/or user  
25 agency shall be responsible for the conservation and maintenance of all works  
26 of art in the public art program. The Mayor shall cause an annual report to be  
27 prepared on the condition and maintenance requirements of all works of art in  
28 the public art program. The report shall be delivered to the Mayor."

29 SECTION 5. SEVERABILITY. If any section, paragraph, sentence, clause,  
30 word or phrase of this Ordinance is for any reason held to be invalid or  
31 unenforceable by any court of competent jurisdiction, such decision shall not

1 affect the validity of the remaining provision of the Ordinance. The Council  
2 hereby declares that it would have passed this Ordinance and each section,  
3 paragraph, sentence, clause, word or phrase thereof irrespective of any  
4 provision being declared unconstitutional or otherwise invalid.

5 SECTION 5. COMPILATION. Sections 1, 2, 3 and 4 of this Ordinance shall  
6 amend, be incorporated in and compiled as part of the Revised Ordinances of  
7 Albuquerque, New Mexico, 1994.

8 SECTION 6. EFFECTIVE DATE This ordinance will become effective five  
9 days after publication by title and general summary.

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