

ORDINANCE NO. 95-20

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, AMENDING CHAPTER 1, ARTICLE V, SECTION 1-88, OF THE BROWARD COUNTY CODE OF ORDINANCES, RELATING TO ART IN PUBLIC PLACES PROGRAM: PROVIDING FOR NAME CHANGE FROM ART IN PUBLIC PLACES PROGRAM TO PUBLIC ART AND DESIGN PROGRAM; PROVIDING FOR ART ALLOCATION AND METHOD OF CALCULATION; PROVIDING FOR MAINTENANCE AND PROJECT MANAGEMENT FUNDS; PROVIDING FOR POOLING OF RESOURCES; PROVIDING FOR PARTNERSHIPS WITH OTHER PUBLIC AND PRIVATE ENTITIES FOR PUBLIC ART; PROVIDING APPLICABILITY TO CAPITAL PROJECTS: PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE: AND PROVIDING FOR AN EFFECTIVE DATE.

(Sponsored by Commissioner Lori Nance Parrish)

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

SECTION 1. SECTION 1-88, BROWARD COUNTY CODE, is hereby amended to read as follows:

Sec. 1-88. ~~Art in Public Art and Design places.~~

(a) ~~Art in Public Places~~ Art and Design Program.

(i) ~~All appropriations for the construction or renovation of a public place shall include an amount of money from the capital improvement fund to be determined by multiplying by up to one dollar (\$1.00) by the square footage of the public building being constructed or the square footage of that portion of the public building being renovated for the acquisition of works of art for that particular public building in accordance with the annual plan recommended by the art in public places board as set forth below. Moneys, other than bond funds, appropriated hereunder may be used in accordance with the requirements of this section for acquiring and commissioning works of art for public buildings and for the administrative expenses incidental to the administration of the art in public places program. Such appropriations shall be deposited in the art in public places trust fund. Bond funds shall be appropriated and accounted for in the bond capital project accounts.~~ Appropriations for county capital improvement projects, including eligible bond projects, eligible grant-funded projects, other eligible capital projects funded from other sources, and unincorporated road projects, shall include an amount equal to two percent (2%) of the total eligible construction costs, to be used for artist design services and for the selection, acquisition and display of artworks, for related education programs, for the maintenance of county artworks, and for the administration of the public art and design program. Appropriations for highway and arterial road project, less projects in the unincorporated areas, shall include an amount equal to one percent (1%) of the total eligible constructions costs. Bond funds shall be appropriated and accounted for in the bond capital project accounts. Artist involvement is optional for county

capital projects of less than \$200,000; however the projects are subject to the public art calculation and funds will be pooled for other art projects. All county agencies may opt to participate in the public art and design program for any county capital project not required by this ordinance.

- (2) (To the extent the total appropriation is not used for the acquisition of works of art for the public places for which it was appropriated, the remainder shall be retained in the trust fund to supplement other appropriations for the acquisition of works of art under this section or to place works of art in, at or near public buildings that are already in existence. In the event a work of art or a monetary gift is donated to the county for a particular public building, the appropriation requirement for that particular building shall be deemed satisfied in an amount equal either to the value of the work of art as determined by the art in public places board, or the amount of the monetary gift. Funds appropriated for one capital improvement project, but not deemed necessary or appropriate by the Council in whole or in part for that project, may be expended on other public art projects approved under the annual Public Art and Design Plan, subject to any bond restrictions, local or grant restrictions. The monies appropriated under this ordinance may be used for artist design services, for the development of design concepts and models, for the selection, acquisition, purchase, commissioning, placement, installation, exhibition, and display of artworks. Artworks may be temporary or permanent, may be integral to the architecture or may be incorporated into the county's capital construction project. Integration of the artists' design concepts into the project architecture should be ensured, insofar as is feasible, by the concurrent selection of the artist(s) with the architect or project designer.
- (3) In the case of any county capital project which involves the use of grant or county bond proceeds issued after the effective date of this ordinance, amounts for artist design services and artworks described in this ordinance shall be used for projects and capital purposes consistent with state and federal laws, the resolutions and/or ordinances approved by the voters or board of county commissioners, as applicable. All capital improvement project bond ordinances, resolutions, or grant applications approved after the effective date of this ordinance shall make specific reference to the provisions of this ordinance.
- (4) Unless restricted by the board of county commissioners, any applicable bond resolution or ordinance, local, state or federal law, or the conditions of a grant authority, monies generated under this ordinance may be pooled by the Council and expended for any public art and design project in the county, subject to the approved annual Public Art Plan. There shall be no general requirement that monies be expended on the specific projects that generated the monies unless as stated herein. Pooled funds may be used as seed money for artists' fees to initiate partnerships with private and other public entities to provide public art and aesthetic enhancements in Broward County, pursuant to a written agreement.
- (5) All county agencies shall, from the effective date of this ordinance, include in all applications for funding for capital improvement projects to outside organizations or governmental agencies, an amount equal to two percent (2%) of eligible construction costs for artist design services and artworks as specified herein.
- (6) The minimum amount to be appropriated for artist design services and artworks shall be the total eligible construction costs multiplied by 0.02. This calculation shall be made by the coun-

ty agency prior to the time of the _____ for the county's capital program.

An amount equal to fifteen percent (15%) of the eligible public art allocation of the construction project (which is 0.003 of the total eligible construction costs) may be used for project support and community _____ activities. For public-owned property this may include staffing, artist selection-related costs, consultants, _____ costs, identifying plaques, project documentation, publicity, community education activities and other purposes as may be deemed appropriate for the administration of the program.

An amount equal to fifteen percent (15%) of the eligible public art allocation of the construction project (which is 0.003 of the total eligible construction costs) shall be set aside in a separate account within the trust fund for curatorial services and the preservation and maintenance of county artworks. The Division shall require that any artworks needing extraordinary operations or maintenance costs be reviewed by the appropriate county agency director prior to recommendation to the board of county commissioners. The Division shall also be responsible for conducting an insurance and maintenance survey, updated at least every five _____ years, of the condition of county artworks. This survey shall include a condition report on each work, prioritized recommendations for the restoration or repair and maintenance of artworks, and estimated costs. Such repair and maintenance shall comply with any contractual obligations which may have been entered into by the county in the acquisition of the artworks. Expenditures of monies in the art maintenance and project support accounts shall be annually recommended by the Division and included in the annual budget submitted to the board of county commissioners. Funds in the maintenance and conservation account not expended by the end of the close of any fiscal year shall be carried forward.

Definitions. For the purpose of this section, the following words or terms are defined as follows:

“ ” _____ Artwork means works in a variety of media produced by professional visual artists. The public art and design program should encompass the broadest possible range of expression, media and materials. Works may be permanent, temporary or functional.

_____ Council means the Broward Cultural Affairs Council

_____ County Capital Project means any capital improvement project paid for wholly or in part by funds _____ Broward County, to construct or renovate any park, highway or arterial, road beautification, bridge or causeway,

beach restoration, sidewalk, bikeway, above grade utility, and to construct or renovate any building, less detention facility.

Division means the Cultural Affairs Division of Broward County, Florida.

Eligible Construction Costs means the total capital project appropriation, including engineering and design, less demolition costs, equipment costs, real property acquisition costs and soil remediation costs.

Equipment costs means, for the purposes of the public art and design calculation, those costs for the acquisition of mechanical equipment of standard manufacture. Custom designed equipment or equipment that creates a new use for a building or facility will be subject to the public art and design calculation.

Renovation shall mean and include major redesign of a facility or system or a portion of a facility or system which is included in the county's capital program budget and which requires a building permit from the appropriate governmental jurisdiction. Renovation shall also include expansion or upgrading the capacity of the facility or system, enlarging the facility or create new use for the facility. It shall not include repairs, maintenance, installation of mechanical equipment, or modifications required solely for ADA compliance.

Trust fund shall mean and include all gifts and donations, in the public art and design trust fund created by subsection (c) hereof.

_____ Art and Design Trust Fund.

Created. There is hereby created _____ public art and design trust fund consisting of all funds appropriated and deposited to the trust fund in connection with the construction or renovation of a facility or system pursuant to subsection (a). The trust fund is also authorized to accept gifts, grants and donations made to Broward County for works of art.

Term of existence. The Broward County _____ Public Art and Design Trust Fund Account shall be self-perpetuating from year to year unless specifically terminated by the board of county commissioners.

Trust assets. All appropriations, gifts, grants and awards of money or property received hereunder from either public or private donors shall be placed in trust for and inure to the use and benefit of Broward County for _____ public art and design purposes; and said property and funds shall be expended, utilized and disbursed pursuant to the provisions of this section.

Appropriations and donations.

Eligible monies appropriated pursuant to this ordinance shall be transferred by the County Administrator or his or her designee to a trust fund into which monies generated under section _____ hereof shall be deposited. This transfer shall take place within thirty (30) days of the original project appropriation to the Board of County Commissioners. All appropriations, gifts, grants and awards of _____ monies hereunder shall be deposited in an interest-bear-

ing account entitled the Broward County ~~Public Places Art and Design~~ Trust Fund Account, which shall be a separate account established and maintained apart from the general revenue funds and accounts of Broward County. All interest in said account shall accrue to the use and benefit of the trust fund account.

- (b) Monies obtained hereunder may be accepted on behalf of Broward County by the Broward Cultural Affairs Council and upon receipt of said monies shall cause same to be credited to the Broward County ~~Public Places Art and Design~~ Trust Fund Account.
- (c) Funds deposited or credited to the Broward County ~~Public Places Art and Design~~ Trust Fund Account except funds for maintenance and conservation of county artworks and not expended or obligated by the close of any fiscal year shall be carried over automatically for a period of three years beyond the close of the county construction project. or upon request of the Council, carried over for an additional two (2) years. Any funds carried over for three (3) years, or request 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 other restricted sources shall revert to the funds from which originally appropriated at the expiration of said three or five (5) year period. or if project is canceled, as applicable.
- (d) Any gifts, grants and awards received subject to a condition shall be expended strictly in accordance with such condition.

SECTION 2.

If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions **of** this Ordinance.

SECTION 3. INCLUSION IN CODE.

It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall be come and be made a part of the Broward County Code; and that the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 4. EFFECTIVE DATE. **THIS ORDINANCE SHALL BECOME EFFECTIVE AS PROVIDED BY LAW.**

ENACTED APRIL 1995

FILED WITH DEPARTMENT OF STATE APRIL 26, 1995

EFFECTIVE MAY 1995