

**CITY OF BALTIMORE
COUNCIL BILL 07-0596
(First Reader)**

Introduced by: The Council President

At the request of: The Administration (Baltimore Office of Promotion and the Arts)

Introduced and read first time: February 26, 2007

Assigned to: Judiciary and Legislative Investigations Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Planing Commission, Department of Public Works, Department of Recreation and Parks, Department of Finance, Baltimore City Parking Authority Board, Baltimore Development Corporation, Department of Transportation, Baltimore Office of Promotion and the Arts

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **1% for Public Art**

3 FOR the purpose of establishing a Public Art Commission; providing for its composition,
4 functions, powers, and duties; requiring the allocation of certain construction-project funds to
5 be used for artwork; defining certain terms; abolishing the Civic Design Commission; and
6 generally relating to public construction projects.

7 BY repealing

8 Article 5 - Finance, Property, and Procurement

9 Section(s) 21-1 through 21-8, inclusive, and the subtitle

10 "Subtitle 21. Ornamentation on Municipal Projects"

11 Baltimore City Code

12 (Edition 2000)

13 BY adding

14 Article 5 - Finance, Property, and Procurement

15 Section(s) 21-1 through 21-31, inclusive, to be under the new subtitle

16 "Subtitle 21. Public Art"

17 Baltimore City Code

18 (Edition 2000)

19 BY repealing

20 Article 8 - Ethics

21 Section(s) 7-8(5)

22 Baltimore City Code

23 BY renumbering

24 Article 8 - Ethics

25 Section(s) 7-8(35) to be Section 7-8(36)

26 Baltimore City Code

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

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1 BY adding
2 Article 8 - Ethics
3 Section(s) 7-8(35)
4 Baltimore City Code

5 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
6 following provisions of the City Code are repealed:

7 Article 5 - Finance, Property, and Procurement
8 Section(s) 21-1 through 21-8, inclusive, and the subtitle
9 “Subtitle 21. Ornamentation on Municipal Projects”
10 Baltimore City Code
11 (Edition 2000)

12 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the Laws of Baltimore City read as
13 follows:

14 **Baltimore City Code**

15 **Article 5. Finance, Property, and Procurement**

16 **SUBTITLE 21. PUBLIC ART**

17 ***PART I. GENERAL PROVISIONS***

18 **§ 21-1. FINDINGS; PURPOSE.**

19 (A) *FINDINGS.*

20 PUBLIC ART HAS ENABLED PEOPLE IN ALL SOCIETIES TO UNDERSTAND BETTER THEIR
21 COMMUNITIES AND INDIVIDUAL LIVES.

22 (B) *PURPOSE.*

23 THE CITY OF BALTIMORE, NAMED THE “MONUMENTAL CITY” OVER 175 YEARS AGO,
24 WISHES TO EXPAND PUBLIC EXPERIENCE WITH VISUAL ART BY CREATING A PUBLIC
25 ARTWORK PROGRAM THAT:

26 (1) ENCOURAGES THE DIRECT COMMISSION OF ARTWORK FOR MUNICIPALLY
27 SUPPORTED PROJECTS; AND

28 (2) ENGAGES THE INDIVIDUAL AND COLLECTIVE IMAGINATION OF ARTISTS WHO
29 CREATE ARTWORK FOR PUBLIC PLACES.

30 (C) *INTENT.*

31 TO THAT END, IT IS INTENDED THAT:

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1 (1) THE PUBLIC ARTWORK PROGRAM ENCOMPASS THE BROADEST POSSIBLE RANGE
2 AND VARIETY OF EXPRESSION, MEDIA, AND MATERIALS; AND

3 (2) SELECTIONS OF ARTISTS AND ARTWORK REFLECT A STANDARD OF EXCELLENCE
4 AND THE CULTURAL AND ETHNIC DIVERSITY OF THE CITY.

5 **§ 21-2. DEFINITIONS.**

6 (A) *IN GENERAL.*

7 IN THIS SUBTITLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

8 (B) *ARTWORK ALLOCATION.*

9 “ARTWORK ALLOCATION” MEANS THE AMOUNT REQUIRED BY § 21-16 OF THIS SUBTITLE
10 TO BE ALLOCATED TO ARTWORK.

11 (C) *ARTWORK.*

12 “ARTWORK” MEANS WORKS OF ART THAT ARE:

13 (1) PRODUCED BY PROFESSIONAL VISUAL ARTISTS; AND

14 (2) AFFIXED TO, MADE A FUNCTIONAL PART OF, OR SITED IN, ON, OR NEAR A PUBLIC
15 WORK.

16 (D) *BID.*

17 “BID” MEANS A RESPONSE TO:

18 (1) AN INVITATION TO BID; OR

19 (2) A REQUEST FOR PROPOSALS.

20 (E) *COMMISSION.*

21 “COMMISSION” MEANS THE PUBLIC ART COMMISSION .

22 (F) *CONSTRUCTION COSTS.*

23 (1) *GENERAL.*

24 “CONSTRUCTION COSTS” MEANS, EXCEPT AS OTHERWISE PROVIDED IN THIS
25 SUBSECTION, THE TOTAL APPROPRIATION FOR A CONSTRUCTION PROJECT.

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1 (2) *INCLUSIONS.*

2 “CONSTRUCTION COSTS” INCLUDES:

3 (I) DEMOLITION COSTS; AND

4 (II) EQUIPMENT COSTS.

5 (3) *EXCLUSIONS.*

6 “CONSTRUCTION COSTS” DOES NOT INCLUDE:

7 (I) REAL PROPERTY ACQUISITION COSTS;

8 (II) SOIL REMEDIATION COSTS; OR

9 (III) ARCHITECTURAL OR ENGINEERING FEES.

10 (G) *CONSTRUCTION PROJECT; PROJECT.*

11 “CONSTRUCTION PROJECT” OR “PROJECT” MEANS, EXCEPT AS OTHERWISE PROVIDED IN
12 THIS SUBSECTION, ANY CAPITAL IMPROVEMENT PROJECT THAT:

13 (1) INVOLVES THE CONSTRUCTION, RECONSTRUCTION, OR RENOVATION OF ALL OR
14 PART OF ANY PUBLICLY-OWNED PROPERTY IN THE CITY, INCLUDING ANY
15 BUILDING, PARKING FACILITY, PARK, UTILITY, BRIDGE, STREET, HIGHWAY,
16 FOOTWAY, BIKEWAY, OR OTHER STRUCTURE OR PUBLIC WORK;

17 (2) EXCEEDS \$100,000 IN ELIGIBLE CONSTRUCTION COSTS;

18 (3) IS REQUIRED BY LAW TO BE PUBLICLY BID; AND

19 (4) IS TO BE PAID FOR WHOLLY OR IN PART BY THE CITY.

20 (H) *INCLUDES; INCLUDING.*

21 “INCLUDES” OR “INCLUDING” MEANS BY WAY OF ILLUSTRATION AND NOT BY WAY OF
22 LIMITATION.

23 (I) *MAINTENANCE OF ARTWORK.*

24 “MAINTENANCE OF ARTWORK” MEANS THE MAINTENANCE, PRESERVATION, AND
25 CONSERVATION OF, INCLUDING CURATORIAL SERVICES FOR, ARTWORK OWNED BY THE
26 CITY, WHETHER CREATED UNDER THIS SUBTITLE OR OTHERWISE OBTAINED.

27 **§§ 21-3 TO 21-5. {RESERVED}**

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PART II. PUBLIC ART COMMISSION

§ 21-6. COMMISSION ESTABLISHED.

THERE IS A PUBLIC ART COMMISSION .

§ 21-7. COMPOSITION.

(A) IN GENERAL.

THE COMMISSION CONSISTS OF 9 MEMBERS, AS FOLLOWS:

(1) 8 APPOINTED BY THE MAYOR AND APPROVED BY THE CITY COUNCIL UNDER ARTICLE IV, § 6 OF THE CITY CHARTER; AND

(2) 1 APPOINTED BY THE PRESIDENT OF THE CITY COUNCIL.

(B) QUALIFICATIONS.

(1) OF THE MEMBERS APPOINTED BY THE MAYOR:

(i) 1 MUST BE A PROFESSIONAL VISUAL ARTIST;

(ii) 1 MUST BE A CURATOR OR ART HISTORIAN FROM AN ESTABLISHED BALTIMORE ARTS OR EDUCATIONAL INSTITUTION;

(iii) 1 MUST BE A LICENSED ARCHITECT;

(iv) 1 MUST BE A LICENSED ENGINEER; AND

(v) 4 MUST BE PERSONS CHOSEN FROM RELATED DISCIPLINES, SUCH AS LANDSCAPE ARCHITECTS, DESIGN PROFESSIONALS, URBAN PLANNERS, CONSERVATORS, ART EDUCATORS, ART ADMINISTRATORS, AND CITIZENS INTERESTED IN CIVIC IMPROVEMENT.

(2) ALL MEMBERS MUST RESIDE OR WORK IN THE CITY.

§ 21-8. COMPENSATION AND EXPENSES; STAFF.

(A) COMPENSATION; EXPENSES.

THE MEMBERS OF THE COMMISSION:

(1) RECEIVE NO COMPENSATION FOR THEIR SERVICE ON THE COMMISSION; BUT

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1 (2) ARE ENTITLED TO REIMBURSEMENT FOR NECESSARY AND PROPER EXPENSES
2 INCURRED IN PERFORMING THEIR DUTIES ON THE COMMISSION.

3 (B) *STAFF.*

4 THE COMMISSION AND ITS PROGRAMS SHALL BE STAFFED BY THE BALTIMORE OFFICE OF
5 PROMOTION & THE ARTS.

6 **§ 21-9. GENERAL FUNCTIONS AND DUTIES.**

7 THE COMMISSION SHALL:

- 8 (1) ADMINISTER THE PUBLIC ARTWORK PROGRAM ESTABLISHED BY THIS SUBTITLE;
- 9 (2) GENERALLY PROMOTE AND ENCOURAGE PUBLIC ART IN THE CITY OF BALTIMORE; AND
- 10 (3) WORK COOPERATIVELY WITH STATE AND FEDERAL OFFICES TO ENCOURAGE PUBLIC
11 ART.

12 **§ 21-10. RULES AND REGULATIONS.**

13 (A) *COMMISSION TO ADOPT.*

14 THE COMMISSION SHALL ADOPT RULES AND REGULATIONS TO CARRY OUT THIS SUBTITLE.

15 (B) *REQUIRED COVERAGE.*

16 THE COMMISSION’S RULES AND REGULATIONS SHALL INCLUDE PROCEDURES AND
17 GUIDELINES FOR:

- 18 (1) DETERMINING WHETHER AND TO WHAT EXTENT ARTWORK IS APPROPRIATE FOR A
19 PARTICULAR CONSTRUCTION PROJECT;.
- 20 (2) SELECTING ARTISTS AND ARTWORK FOR A PARTICULAR PROJECT;
- 21 (3) SUBMITTING ARTWORK PROPOSALS TO THE COMMISSION FOR APPROVAL; AND
- 22 (4) ALLOCATING FUNDS FOR:
- 23 (I) THE CREATION OF NEW ARTWORK;
- 24 (II) THE MAINTENANCE OF EXISTING ARTWORK; AND
- 25 (III) THE PERFORMANCE OF THE COMMISSION’S OTHER FUNCTIONS AND DUTIES
26 UNDER THIS SUBTITLE.

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1 (C) *FILING WITH LEGISLATIVE REFERENCE.*

2 A COPY OF ALL RULES AND REGULATIONS MUST BE FILED WITH THE DEPARTMENT OF
3 LEGISLATIVE REFERENCE BEFORE THEY TAKE EFFECT.

4 **§ 21-11. AGENCY LIAISONS.**

5 (A) *DESIGNATION.*

6 EACH OF THE FOLLOWING AGENCIES SHALL DESIGNATE AN AGENCY LIAISON TO THE
7 COMMISSION:

8 (1) BALTIMORE DEVELOPMENT CORPORATION.

9 (2) PARKING AUTHORITY.

10 (3) PLANNING DEPARTMENT.

11 (4) PUBLIC WORKS DEPARTMENT.

12 (5) RECREATION AND PARKS DEPARTMENT.

13 (6) TRANSPORTATION DEPARTMENT.

14 (B) *PERIODIC REVIEW.*

15 EACH AGENCY LIAISON SHALL MEET PERIODICALLY WITH THE COMMISSION STAFF TO
16 REVIEW THE AGENCY'S ONGOING AND PROPOSED CAPITAL PROJECTS.

17 **§§ 21-12 TO 21-15. {RESERVED}**

18 ***PART III. ARTWORK ALLOCATION***

19 **§ 21-16. AMOUNT REQUIRED.**

20 (A) *"ELIGIBLE FUNDS" DEFINED.*

21 IN THIS SECTION, "ELIGIBLE FUNDS" MEANS ANY FUNDS AVAILABLE FOR CONSTRUCTION
22 COSTS AND NOT PRECLUDED FROM BEING USED FOR ARTWORK.

23 (B) *MINIMUM ALLOCATION – GENERAL.*

24 EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AT LEAST 1% OF ALL ELIGIBLE
25 FUNDS FOR A CONSTRUCTION PROJECT SHALL BE ALLOCATED FOR:

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- 1 (1) ARTWORK FOR THAT PROJECT; OR
- 2 (2) OTHER PUBLIC ART USES AS AUTHORIZED BY THIS SUBTITLE.

3 (C) *MINIMUM ALLOCATION – WATER AND WASTEWATER UTILITY WORK.*

4 FOR WATER OR WASTEWATER UTILITY PROJECTS, THE COMMISSION SHALL DETERMINE, ON
5 A CASE-BY-CASE BASIS AFTER CONSULTATION WITH THE DEPARTMENT OF PUBLIC WORKS,
6 WHETHER AND TO WHAT EXTENT ELIGIBLE FUNDS FOR THAT PROJECT MAY BE ALLOCATED
7 FOR ARTWORK OR OTHER PUBLIC ART USES. IF THE COMMISSION AND THE DEPARTMENT
8 OF PUBLIC WORKS DISAGREE AS TO WHETHER OR TO WHAT EXTENT ELIGIBLE FUNDS MAY
9 BE ALLOCATED, THE DIRECTOR OF PUBLIC WORKS MAKES THE FINAL DECISION.

10 **§ 21-17. GRANT AND OTHER FUNDING REQUESTS.**

11 IN APPLYING FOR GRANTS OR OTHER FUNDING FOR A CONSTRUCTION PROJECT, A CITY
12 AGENCY SHALL REQUEST THAT:

- 13 (1) TO THE FULLEST EXTENT PRACTICABLE, THE GRANT OR OTHER FUNDING BE IN THE
14 FORM OF “ELIGIBLE FUNDS”, AS THAT TERM IS DEFINED IN § 21-16 OF THIS SUBTITLE;
15 AND
- 16 (2) THE GRANT OR OTHER FUNDING INCLUDE AN ADDITIONAL 1% OF THOSE ELIGIBLE
17 FUNDS FOR ARTWORK.

18 **§ 21-18. PRELIMINARY DETERMINATIONS.**

19 (A) *CONSULTATION WITH AGENCY.*

- 20 (1) EACH CITY AGENCY SHALL CONSULT WITH THE COMMISSION ON THE APPLICATION OF
21 THIS SUBTITLE TO ANY CONSTRUCTION PROJECT BEING PROPOSED BY THAT AGENCY.
- 22 (2) THIS CONSULTATION SHALL OCCUR:
 - 23 (I) AS EARLY AS POSSIBLE IN THE DESIGN STAGE; AND
 - 24 (II) IN ANY EVENT, BEFORE THE PROJECT IS ADVERTISED FOR BID.

25 (B) *DETERMINATION.*

26 BASED ON THE CONSULTATION, THE COMMISSION SHALL DETERMINE WITHIN 90 DAYS:

- 27 (1) THE AGGREGATE AMOUNT OF THE ARTWORK ALLOCATION REQUIRED BY § 21-16
28 OF THIS SUBTITLE; AND

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1 (2) AT LEAST PRELIMINARILY, THE EXTENT TO WHICH ALL OR PART OF THAT
2 AGGREGATE AMOUNT CAN AND SHOULD BE USED FOR:

3 (I) ARTWORK FOR THAT PROJECT; OR

4 (II) OTHER PUBLIC ART USES AS AUTHORIZED BY THIS SUBTITLE.

5 **§ 21-19. INCORPORATION INTO CONTRACT SPECIFICATIONS.**

6 THE CONTRACT SPECIFICATIONS IN THE INVITATION TO BID OR REQUEST FOR PROPOSALS
7 SHALL INCORPORATE:

8 (1) THE REQUIREMENTS OF THIS SUBTITLE; AND

9 (2) THE COMMISSION'S DETERMINATIONS UNDER § 21-18(B)(1) AND (2) OF THIS SUBTITLE.

10 **§ 21-20. ALLOCATION OF FUNDS.**

11 ON THE AWARD OF A CONTRACT FOR THE PROJECT, THE CONTRACTING AGENCY SHALL NOTIFY
12 THE DEPARTMENT OF FINANCE THAT THE AGGREGATE AMOUNT OF THE ARTWORK
13 ALLOCATION, AS DETERMINED UNDER § 21-18(B) OF THIS SUBTITLE, SHALL BE TRANSFERRED
14 AS IT BECOME AVAILABLE TO A CAPITAL ACCOUNT TO BE USED FOR PURPOSES OF THIS
15 SUBTITLE.

16 **§§ 21-21 TO 21-25. {RESERVED}**

17 ***PART IV. ARTWORK FOR PROJECT***

18 **§ 21-26. SCOPE OF PART.**

19 THIS PART IV APPLIES TO THE EXTENT THAT SOME OR ALL OF AN ARTWORK ALLOCATION IS
20 USED FOR ARTWORK FOR THE PROJECT THAT GENERATED THE ALLOCATION.

21 **§ 21-27. PREPARATION OF PROPOSAL.**

22 (A) *ARTIST AND SITE SELECTION.*

23 (1) AS SOON AS PRACTICABLE, THE COMMISSION SHALL CONSULT WITH THE
24 CONTRACTING AGENCY ABOUT ARTIST AND SITE SELECTION.

25 (2) THE COMMISSION THEN SHALL:

26 (I) IDENTIFY, APPROVE, AND ENGAGE AN APPROPRIATE ARTIST OR ARTISTS
27 THROUGH AN RFQ OR RFP PROCESS; AND

28 (II) DETERMINE AN APPROPRIATE SITE FOR THE ARTWORK.

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1 (B) *PROPOSAL.*

2 THE ARTIST SHALL PREPARE A PROPOSAL AND SUBMIT IT TO THE COMMISSION FOR ITS
3 REVIEW AND APPROVAL.

4 **§ 21-28. COMMISSION REVIEW AND ACTION.**

5 (A) *COMMISSION TO REVIEW.*

6 THE COMMISSION SHALL REVIEW THE PROPOSAL IN AN OPEN SESSION AT WHICH THE
7 PUBLIC IS INVITED TO ATTEND AND COMMENT.

8 (B) *COMMISSION ACTION.*

9 THE COMMISSION MAY:

- 10 (1) PRELIMINARILY APPROVE THE PROPOSAL, SUBJECT TO MODIFICATIONS;
- 11 (2) FINALLY APPROVE THE PROPOSAL AS SUBMITTED OR AS LATER MODIFIED;
- 12 (3) DISAPPROVE THE PROPOSAL, WITH OR WITHOUT PREJUDICE TO SUBMIT A NEW
13 PROPOSAL; OR
- 14 (4) TAKE ANY OTHER ACTION IT CONSIDERS NECESSARY OR APPROPRIATE UNDER THE
15 CIRCUMSTANCES.

16 **§ 21-29. DISPOSITION OF ARTWORK ALLOCATION.**

17 (A) *APPROVED PROPOSAL.*

- 18 (1) ON APPROVAL OF AN ARTWORK PROPOSAL, THE COMMISSION SHALL AUTHORIZE
19 PAYMENTS TO THE ARTIST FOR THE COST FOR THE ARTWORK, AND TO PROVIDE OTHER
20 NECESSARY SERVICES, AS APPROVED AND CONTRACTED FOR BY THE COMMISSION.
- 21 (2) THE BALANCE, IF ANY, OF THE ARTWORK ALLOCATION FROM THAT PROJECT SHALL BE
22 RETAINED FOR OTHER PUBLIC ART USES AS AUTHORIZED BY THIS SUBTITLE.

23 (B) *DISAPPROVED PROPOSAL.*

24 IF THE COMMISSION DISAPPROVES A PROPOSAL AND DETERMINES NOT TO CONSIDER ANY
25 NEW ONE FOR THE PROJECT, THE FULL REMAINING AMOUNT OF THE ARTWORK
26 ALLOCATION FROM THAT PROJECT SHALL BE RETAINED FOR OTHER PUBLIC ART USES AS
27 AUTHORIZED BY THIS SUBTITLE.

28 **§ 21-30. {RESERVED}**

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PART V. PUBLIC ART USES

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§ 21-31. COMMISSION TO DETERMINE.

THE COMMISSION IS RESPONSIBLE FOR DETERMINING THE USE OF ALL ELIGIBLE FUNDS.

§ 21-32. PRIORITIES.

IN MAKING ITS DETERMINATIONS, THE COMMISSION SHALL BE GUIDED BY THE FOLLOWING PRIORITIES:

- (1) FIRST, TO PROVIDE ARTWORK FOR THE PROJECT THAT GENERATES AN ARTWORK ALLOCATION;
- (2) SECOND, TO PROVIDE SUPPORT FOR:
 - (I) NEW ARTWORK FOR OTHER PUBLIC WORKS; AND
 - (II) THE MAINTENANCE OF EXISTING ARTWORK; AND
- (3) THIRD, TO PROVIDE SUPPORT FOR THE COMMISSION’S OTHER FUNCTIONS AND DUTIES UNDER THIS SUBTITLE.

§ 21-33. AUTHORIZED USES.

THE USES TO WHICH ELIGIBLE FUNDS MAY BE USED INCLUDE, BUT ARE NOT RESTRICTED TO:

- (1) THE SELECTION, ACQUISITION, COMMISSIONING, FABRICATION, PLACEMENT, INSTALLATION, DISPLAY, AND MAINTENANCE OF ARTWORK;
- (2) THE DEVELOPMENT OF DESIGN CONCEPTS AND MODELS;
- (3) ARTIST DESIGN SERVICES;
- (4) ADMINISTRATIVE SERVICES FOR STAFFING THE COMMISSION AND ITS PROGRAMS;
- (5) OTHER PROFESSIONAL SERVICES;
- (6) PUBLICATIONS AND OTHER EDUCATIONAL ACTIVITIES;
- (7) DEDICATIONS, PLAQUES, AND LABELS; AND
- (8) SUPPORT FOR THE COMMISSION’S OTHER FUNCTIONS AND DUTIES UNDER THIS SUBTITLE.

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Article 8. Ethics

Subtitle 7. Financial Disclosure

§ 7-8. Persons required to file – Agency officials and staff.

Except as provided in § 7-10 {"Person filing with State"} of this subtitle, the following officials and employees must file the financial disclosure statements required by this subtitle:

(5) [*Civic Design Commission.*] {RESERVED}

[(i) Members of Commission.

(ii) Director.]

(35) *PUBLIC ART COMMISSION.*

(I) MEMBERS OF COMMISSION.

(II) DIRECTOR.

(36) [(35)] *Public Works Department.*

(i) Director of Public Works.

(ii) Deputy Director of Public Works.

(iii) All Bureau Heads, Division Chiefs, and Assistant Division Chiefs.

(iv) All General Superintendents.

(v) All inspectors.

SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance applies to any construction projects for which an invitation to bid or a request for proposals is issued on or after the effective date of this Ordinance.

SECTION 4. AND BE IT FURTHER ORDAINED, That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

SECTION 5. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the 30th day after the date it is enacted.