Date: March 30, 2023

To: Joint Ways & Means Subcommittee on Transportation and Economic Development

From: Mark Gharst, Business Oregon

RE: Follow-up to day four budget presentation questions

Co-Chair Gomberg and Co-Chair Woods,

Please accept the following agency responses to committee questions asked during Business Oregon's budget presentation on March 27, 2023.

Mark Gharst
503-991-2192 or mark.gharst@biz.oregon.gov

Representative Mannix: Is the Oregon Department of Transportation (ODOT) subject to the Percent for Art[1] program on their infrastructure programs?

Answer: The Percent for Art program is found in ORS 276.073 to 276.090 and applies to all new construction or remodeling of state buildings with a cost of at least $100,000 unless mechanical systems compose more than 75% of the project cost. Any state building that meets the criteria would fall under the art acquisition program. ORS 276.073 (b) defines "state building" to **not** include the following items, many of which could apply to an ODOT infrastructure project:

> "Motor pools, heating plants, parking lots, maintenance sheds, highways, bridges, sewers, fishponds, fishways, service facilities at state parks and highway rest areas and similar nonarchitectural structures or improvements."

Representative Mannix: Are ODOT infrastructure projects not included due to a statutory or constitutional issue?

Answer: This question may be better directed to ODOT, but the Oregon Constitution does have limitations on the use of fuel and vehicle taxes when projects are funded with those monies.

Representative Mannix: Do other states require art investments as a part of transportation projects?

Answer: Business Oregon reached out to the National Assembly of State Arts Agencies (NASAA). States with percent for art programs include publicly accessible transportation facilities either implicitly or explicitly but generally exclude highways and bridges. Their researcher only found one state, Oklahoma, that includes road, highway, turnpike and bridge construction projects, although he was unsure if it was mandatory. More information is available here[2].

---

[1] https://www.oregonartscommission.org/services/about-percent-art-public-places-program
[2] https://nasaa-arts.org/wp-content/uploads/2023/01/Arts-in-Transportation-Strategy-Sampler.pdf