

HCR

9

COMMITTEE REPORT
SENATE

FURTHER:

Date: _____

Mr. President:

The Committee on _____ has had _____

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
- new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

SENATE AMENDMENT

By SENATE JUDICIARY COMMITTEE

To: _____ SENATE BILL No. _____

To: _____ HOUSE BILL No. CSUC2 9(SA)

PAGE: 2 LINE: 7

Delete "1984" and insert "1985"

- ACK - Most happy to meet

16 February 1984

Senator Bill Ray
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

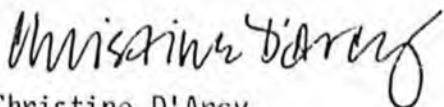
Dear Senator Ray:

Several parts of the Department of Transportation and Public Facilities have contacted our office for information regarding Robert Murray's sculpture Nimbus now installed outside the Juneau Court and Office Building. They have asked that I provide you with similar information. It is enclosed.

The Alaska State Council on the Arts may be in a position to assist your office regarding this piece. Please let me know if we can. I will be in Juneau for meetings on February 29 and could arrange to meet with you staff as well.

I look forward to hearing from you.

Sincerely,



Christine D'Arcy
Executive Director

CD:mt
enclosure

D.1.

Alaska State Council on the Arts

619 Warehouse Avenue, Suite 220/Anchorage, Alaska 99501/(907) 279-1558

Juneau Courthouse Sculpture Project

The following is a listing in order of the events and actions to date concerning the commissioning of a sculpture for the Juneau Courthouse Plaza.

1. In July, 1974 Lou Cassetta, architect of the Juneau Courthouse, met with Roy Helms of the ASCA to discuss possible matching funding from the National Endowment for the Arts for works of art in conjunction with the new building. Under consideration at that time was the restoration of a totem pole, the construction of display cases for museum pieces in the lobby of the building, and a piece of sculpture in or adjacent to the plaza. (re.: July 24, 1974 letter from Lou Cassetta to Arthur Snowden II)
2. By the time the application was filed the inclusion of the totem pole was set aside since this would not be a new work of art, but a restoration, and fibre wall hangings were included for the four court rooms.
3. The National Endowment responded on November 6, 1974 indicating that they could only consider funding for one project, the sculpture for the plaza. (Letter from Richard Koshalek, November 6, 1974).
4. The Court System confirmed that there was no conflict between the guidelines of the National Endowment for the Arts and the legislative appropriation limitations. The manner in which to spend \$25,000 for works of art was left to the discretion of the Court System by the Legislature. (Letter of August 5, 1974 from Arthur Snowden, II to Lucian Cassetta.)
5. In December, 1974 the project application to the National Endowment was changed to include only the plaza sculpture. A total of \$10,000 was applied for with \$10,000 matching pledged by the Alaska Court System. (Letter of December 13, 1974 from Roy Helms to David Bancroft).
6. On August 18, 1975 Brian O'Doherty, Director of the Visual Arts Programs of the National Endowment indicated a reluctance on the part of the review panel to consider a sculpture project with such a low budget. He indicated that they would be willing to fund \$20,000 if there were \$20,000 matching available.
7. The Alaska State Council on the Arts was approached by the Alaska State Court System on August 20, 1975 for the additional \$10,000. This was approved by telephone conference on August 29, 1975 of the Visual Arts Committee and the Executive Committee.
8. On June 28, 1976, a grant was awarded to the Alaska State Council on the Arts from the National Endowment for the Arts in the amount of \$20,000 for the Juneau Sculpture Project. The grant conditions included adherence to the guidelines under which the Alaska State Council on the Arts applied which included:

- g. The committee eventually voted and unanimously selected the following three artists in the ranked preference listed
1. Robert Murray. 2. Cliff Westermann. 3. Robert Breer.
12. Robert Murray was contacted and was willing to undertake the commission. A contract between Arts Alaska, Inc. and Robert Murray was negotiated effective 23 December, 1976.
13. Robert Murray visited the site on 18 January 1977, met with Justices Boochever, Connor, and Stewart to discuss the proposed sculpture, the desired changes in the concrete pad in the plaza, and desired alterations to the surrounding buildings for long-term planning purposes.
14. It is intended that the model for the sculpture will be ready for review by the committee in mid-June, 1977. At that time the three Alaskan members of the selection committee will meet with Murray in Juneau to review the plans and approve or disapprove the proposed sculpture.

ADDENDUM: Criterion outlined relative to the site and the selection process

1. The sculpture will be viewed from all sides and heights, including above and below.
2. If the sculpture is to be centered in the circular central space in the plaza a net diameter of 20' is possible.
3. Consideration needs to be given to the "gray" nature of the climate in Juneau. The material and finish would desirably be highly reflective or brightly colored.
4. There is a potential of strong winds from all directions which should be taken into consideration when considering large, flat surfaces.
5. The work of art to be commissioned is to be of national or regional significance. This was interpreted to the committee as meaning that the artist selected should have a demonstrated record of nationally or regionally recognized work as a contemporary sculptor.
6. The general vicinity of the plaza is "busy" visually with closely built structures of varying heights and colors. It was agreed that a "busy" sculpture would not be appropriate and this was kept in mind when reviewing artists.
7. A variety of philosophies about the proposed nature of the to-be-commissioned work were suggested including consideration of "strength" as descriptive of the Court System and accessibility to the community (especially the children of the community).

FILE WITH MEK —

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

P.O. BOX 1467
JUNEAU, ALASKA 99802

SOUTHEAST REGION

(907) 364-4360

February 22, 1984

Re: Nimbus

The Honorable Bill Ray
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Ray:

In response to your recent request on relocating Nimbus, the following is offered:

- The Department of Administration is the State agency with "ownership" of the Juneau Court and Office Building.
- The Department of Transportation & Public Facilities would be the agency charged with relocating the artwork if this project is funded by the legislature. We would of course, do the work for the Department of Administration (since they are the "owners") and would follow recommendation and guidance of the Alaska State Council on the Arts. Also, we would expect to have to obtain the approval of the agency responsible for the site of relocation.
- Our ball park cost estimate to relocate Nimbus in downtown Juneau is \$30,000 to \$70,000. This estimate includes a 40% contingency (+ or -) for unknowns, such as major site preparation work that might be required at a new location. If this range of costs is acceptable, we are prepared to refine the costs further.
- Consideration should be given to a replacement art piece. I would expect the Alaska Council on the Arts could provide guidance on this issue.

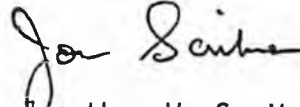
The Honorable Bill Ray

-2-

February 22, 1984

- I do not find any contractual obligations which would prevent the relocation of this art work.

Sincerely,



Jonathan W. Scribner
Deputy Commissioner

sh

cc: Christine D'Arcy, Executive Director
Alaska State Council on the Arts

Ray Gillespie, Legislative Assistant
Office of the Governor

Anselm Staack, Deputy Commissioner
Department of Administration

February 8, 1984

M E M O R A N D U M

TO: Arthur H. Snowden, II
Administrative Director
Alaska Court System

FROM: Karla Forsythe, General Counsel *KLF*
Alaska Court System

SUBJECT: Nimbus

You asked me to outline the court system's authority over Nimbus, in response to a request from Sen. Bill Ray.

I have reviewed documents provided to me by Gerry Dubie, Manager of Material Operations for the court system. Assuming that these documents accurately reconstruct the sculpture's acquisition, they show that the Alaska Court System has no ongoing responsibility for Nimbus. Questions about its relocation should be addressed to the Department of Transportation and Public Facilities.

The Alaska Court System does not own Nimbus

Under the terms of the contract commissioning Nimbus, Arts Alaska, Inc. originally held the copyright and owned the sculpture. [See attached copy of the contract.]

The issue of who should be considered the permanent owner of Nimbus was raised in a May 15, 1978, letter which you wrote to Roy Helms, Executive Director of the Alaska State Council on the Arts (ASCA). You stated:

Its ownership should be vested in the State of Alaska . . . the Court system is merely a tenant in that building. [See attached letter.]

Mr. Helms then asked Tom Main (Assistant Director, Department of Administration, General Supply and Services) who should own the sculpture. Mr. Main responded:

February 8, 1984
Nimbus

We agree with Mr. Snowden and you that the Murray Sculpture should be considered a permanent appurtenance to the Juneau Court and Office Building. [See attached copy of June 16, 1978, memorandum.]

Mr. Main noted that the Department of Transportation and Public Facilities is responsible for state-owned buildings.

The Board of Directors of Arts Alaska, Inc. transferred ownership of Nimbus in a June 28, 1978, letter to Donald Harris, Commissioner, Department of Transportation and Public Facilities, stating:

This letter is to transfer ownership of this work of art from Art: Alaska, Inc. to the State of Alaska. [Emphasis added, see attached copy.]

Statutes

The relevant Alaska statutes place the responsibility for decisions about Nimbus with the Department of Transportation and Public Facilities and not with the court system.

The provisions of AS 22.05.025, enacted in 1980 to give the supreme court authority over all matters relating to the operation of court facilities, clarify that the court system is not the owner. The statute defines court facility as "a state facility in which 75 per cent or more of the net usable space is occupied by the court system and other justice-related agencies." The most recent occupancy status report (copy attached) shows 6.35% of space in the Juneau Court Building allocated to the Department of Law, 2.12% to Public Safety, and 55.28% to the court system, for a total of 63.75 per cent occupied by the court and justice-related agencies.

Additionally, Nimbus does not fall under the court's authority because it is a public work of art and not a court facility. In 1975 the legislature enacted AS 35.27.-010 requiring works of arts in public buildings, including court buildings. The statute allocates a primary role to the Department of Transportation and Public Facilities, including approval of the artist by the department's architect (in this case Lou Cassetta). Although the documents provided to me do

not mention the department until the 1978 transfer of ownership, at the time the Juneau court and office building was under construction, DOTPF was the primary agency with authority to plan for a work of art, as well as the sole agency with authority to construct the building.

Court Involvement

In 1977 the court system contributed \$10,000 to Arts Alaska for a Juneau sculpture, with \$20,000 contributed from a National Endowment grant, and \$10,000 contributed by ASCA. The art in public places statute requires consultation with the principal user of the building, and Justice Boochever was one of six members of the selection committee. Along with Justice Connor and Judge Stewart, he met with the artist in January 1977 to discuss the proposal. At the artist's request, the court system authorized a minor redesign of the plaza to remove concrete benches from two sides of the site and to widen the approach ramp, at a cost of \$1300, and a minor reworking of the footings, both of which were absorbed in the appropriation for the project. After installation, the court system's involvement ended.

Recommendation

Neither the documents nor the relevant statutes point to an established procedure for relocating a public work of art. The contract between Arts Alaska, Inc. and the artist is also silent on this subject. However, Appendix A, Section O, provides that a program of regular maintenance will be planned that is acceptable to the artist.

Under AS 35.10.070, the Department of Transportation and Public Facilities is authorized to gather, investigate and compile information concerning the use, construction and maintenance of public works, and to make recommendations. Under AS 35.05.040, DOTPF is authorized to dispose of property rights, and to exercise any other powers necessary to carry out its duties under law. Since any formal action can be undertaken only by DOTPF, you might suggest that Sen. Ray consider requesting a DOTPF study of relocation alternatives and costs. At the same time, the department may wish to solicit an attorney general's opinion about whether a design modification at the artist's behest incorporates the physical setting in the artist's copyright, and if so, how this affects the prospects for relocation (issue raised in attached letter from Christine D'Arcy). The NEH grant and the 1974 legislative appropriation for a work of art in the plaza should also be reviewed.

Arts Alaska, Inc.

619 Warehouse Avenue • Suite 220
Anchorage, Alaska 99501 • (907)279-1558

SERVICE CONTRACT

This contract, effective as of the 23rd day of December, 1976, between Arts Alaska, Inc. (hereinafter called the "Corporation"), and Robert Murry (hereinafter called the "Artist").

WITNESSETH THAT: Whereas the Corporation is entering into this contract for professional services; and Whereas, the Corporation has the authority to enter into this contract by the approval of the Board of Directors of Arts Alaska, Inc.;

NOW THEREFORE, the parties hereto agree as follows:

Article I. The Services to be Performed.

The Artist is hereby commissioned to undertake and complete a metal sculpture for the Juneau courthouse plaza per the design to be submitted to the Alaska State Council on the Arts and reviewed by the judging panel. The work of art will be delivered and installed at the site at the expense of the Artist.

All materials used shall be selected, applied and treated in order to be reasonably protected against damage. Full instructions will be provided for the continued maintenance of the work of art.

The Artist will view the site of the planned space for the work of art at his own expense, prior to beginning the project.

The artist will be invited to participate in the unveiling ceremony. All

costs for such participation will be the responsibility of the Artist should he choose to participate.

Article II. The Period of Performance.

The period of performance under this contract shall commence on January 1, 1977, and expire on September 1, 1978. Performance may be extended for additional periods by the mutual written agreement of the parties.

Article III. Consideration.

In full consideration of the Artist's performance hereunder, the Corporation shall pay the Artist a total amount for the completed and accepted Work of Art of FORTY THOUSAND AND NO/100 DOLLARS (\$40,000), and not more.

From the above amount, the Artist shall arrange and pay, or otherwise provide for all services, supplies and equipment for services, labor, materials, travel, hotel and subsistence, transportation, storage, fees, rentals, insurances, taxes, and all other cost and expenses required to complete the Project to the satisfaction of the Corporation.

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

\$4,000 at the signing of the contract.

\$16,000 when the proposal submitted by the Artist is approved by the selected panel.

\$16,000 when notified that the piece is fabricated and ready for shipment.

\$4,000 upon final installation and acceptance by the State of Alaska.

Article IV. Additional Contract Provisions.

Appendix A attached hereto and made a part hereof sets forth special

conditions for the project.

Appendix B attached hereto and made a part hereof sets forth additional general provisions of this contract.

Article V. Changes.

Appendix C attached hereto and made a part hereof, sets forth any changes or additions that were made in this contract prior to its execution. (If appendix C is not attached hereto, there have been no such changes or additions).

Article VI. Special and General Conditions for the Project.

All articles of the attached General Conditions for the project shall be part of this agreement as if written herein in full.

By signing, the Artist declares that he has read and is in accord with the agreement and the terms identified in the General Conditions. If countersigned, this contract shall serve as an instrument of agreement.

IN WITNESS WHEREOF, the parties have executed this contract.

ARTIST

By: Robert Murray

DATE: 18 Jan. 77

Permanent address of artist

First floor
66 Grand St.

New York, N.Y. 10013

Social Security # 092-42-3051

ARTS ALASKA, INC.

By: R. W. Hill
Executive Director

DATE: 12/23/76

APPENDIX A

Special Conditions for the Project

- A. The Artist will visit the project site to survey and evaluate its visual, environmental and background characteristics.
- B. After consideration of the desires, views and expectations of the selection committee a written outline description of the work-of-art as you envision it along with drawings and/or maquettes showing the intended form, shall be prepared and submitted with a site plan noting the proposed location of the sculpture.
- C. Site preparation specifications will be provided at such time as the proposal is accepted by the committee.
- D. The Selection Committee will review the proposal and recommend acceptance and/or modifications. Upon their acceptance the project will proceed as outlined. Should agreement not be accomplished this contract can be terminated by the Board of Directors of Arts Alaska, Inc. In such event the total compensation to the Artist will be the initial payment of \$4,000.
- E. The Artist is required to meet with the Selection Committee at the time of the review of the proposal. All expenses for travel and per diem related to this meeting will be paid by the Corporation or the Alaska State Court System.
- F. The Artist will obtain and pay, or otherwise provide for the services of professional consultants to assist in the preparation and documentation of data related to stress, climatic and organic damage, and firm and secure mounting.
- G. The Artist will provide all required facilities, equipment and labor to transport and to install the sculpture. After the installation all debris shall be removed from the site and all damage to the surrounding areas shall be repaired and rendered invisible.

APPENDIX B

General Conditions for the Project

- A. In the performance of the Project, the Artist shall be obligated to observe and conform to all applicable codes, ordinances, regulations, statutes and laws. *The Corporation will provide the Artist with copies of any such restrictive codes, etc.*
- B. Portions of the Project may be sublet by the Artist at his expense, subject to prior written approval by the Corporation. Approval shall not be unreasonably withheld. All work shall be undertaken by the Artist personally or under his personal supervision.
- C. The Work on the Project shall commence immediately after signing of the agreement by all parties concerned and shall be pursued with reasonable dispatch and without interruptions, except when caused by forces beyond the Artist's control. It shall be so organized as to assure completion of the Project on or before the date stated in the agreement.
- D. All payments on account of the Project shall be subject to the receipt of a signed request for payment from the Artist, certifying that the work under this agreement is progressing as planned and in accordance with the agreement.
- E. Final payment will be made only when the completed work of art has been accepted by the Corporation with the concurrence of the Project Selection Committee.
- F. Actual payment process may take up to two weeks before transmittal of payment to the Artist.
- G. The Corporation 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 the Artist. *The Corporation will be responsible for storage charges incurred during such delay.*
- H. 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 the Artist will submit to the Corporation all work performed up to the effective date of cancellation in an orderly manner, and every effort will be considered for completing the work per the original design.~~
- I. The Corporation 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 the Board of Directors where required.

- J. All drawings, models or maquettes shall remain the Artist's property. The copyright in the Work of Art, however, belongs to the Corporation, and no more copies than are required in the Project may be made ~~or caused to be made by anyone without prior written approval from the Corporation.~~
ent Rbt
- K. All aspects of the Project shall be guaranteed by the Artist 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 Corporation, during which period the Work of Art shall be repaired, restored or replaced at the Artist's expense, *with the exception of the painted surface.*
ent Rbt
- L. It is understood that under the terms of the Contract, the Artist is an "Independent Contractor" who shall indemnify and save harmless the Corporation and the State of Alaska 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 the Artist under this Contract. Any work under this Agreement shall not be construed as employment with the State of Alaska or Arts Alaska, Inc. The Artist will be required to obtain and pay for his gross income license and be responsible for payment of income, social security, and other taxes.
- M. The artist shall not assign or transfer any interest in this Agreement without the prior written consent of the Corporation; provided, however, that claims for money due or to become due from The Corporation 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 Corporation.
- N. In the event tht the Artist dies before the date fixed for completion or becomes permanently incapacitated and/or unable to complete the work on the Project, ~~the Corporation 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 Corporation, and acquire the unfinished work. This Agreement shall then be cancelled and the Corporation be entitled to the return of such part of the price above the proportionate share, as the Artist has already been paid.~~ *the heirs or executor will make every effort to complete the project per the original design.*
ent Rbt
- O. *A program of regular maintenance will be planned by the Corporation for the State of Alaska that is acceptable to the artist.*
ent Rbt

- J. All drawings, models or maquettes shall remain the Artist's property. The copyright in the Work of Art, however, belongs to the Corporation, and no more copies than are required in the Project may be made.
- K. All aspects of the Project shall be guaranteed by the Artist 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 Corporation, during which period the Work of Art shall be repaired, restored or replaced at the Artist's expense, with the exception of the painted surface.
- L. It is understood that under the terms of the Contract, the Artist is an "Independent Contractor" who shall indemnify and save harmless the Corporation and the State of Alaska 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 the Artist under this Contract. Any work under this Agreement shall not be construed as employment with the State of Alaska or Arts Alaska, Inc. The Artist will be required to obtain and pay for his gross income license and be responsible for payment of income, social security, and other taxes.
- M. The artist shall not assign or transfer any interest in this Agreement without the prior written consent of the Corporation; provided, however, that claims for money due or to become due from the Corporation 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 Corporation.
- N. In the event that the Artist dies before the date fixed for completion or becomes permanently incapacitated and/or unable to complete the work on the Project, the heirs or executors will make every effort to complete the project per the original design.
- O. A program of regular maintenance will be planned by the Corporation for the State of Alaska that is acceptable to the Artist.



RECEIVED
MAY 1 1978

STATE ARTS COUNCIL

Alaska Court System

State of Alaska

303 "K" STREET
ANCHORAGE, ALASKA
99501

ARTHUR H. SNOWDEN II
ADMINISTRATIVE DIRECTOR

(907) 274-8611

May 15, 1978

Mr. Roy H. Helms
Executive Director
Alaska State Council on the Arts
619 Warehouse Avenue, Suite 220
Anchorage, AK 99501

Dear Mr. Helms:

This is in response to your recent letter (received in this office on May 5) discussing ownership of the four fibre wallhangings in Juneau and the Murray sculpture.

I agree with your position that the fibre wallhangings are owned by the Alaska State Council on the Arts for placement in the Alaska Contemporary Art Bank for permanent loan to the Alaska Court System. You should, therefore, proceed to tag and identify these pieces.

I disagree with your understanding that the Murray sculpture is to be the property of the Alaska Court System. The Court System, like the Alaska State Council on the Arts, contributed money toward the creation of this art form. Its ownership should be vested in the State of Alaska. Whether it would be most appropriately placed in the Contemporary Art Bank or the Department of Administration is inconsequential to me. My preference would, of course, be the Contemporary Art Bank. If this approach is not taken, however, the next best placement would be the Department of Administration, which is the owner of the Juneau Court and Office Building. The Court System is merely a tenant in that building.

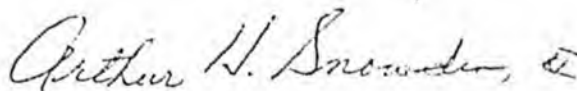
I would imagine that this type of question will be raised many times in the future because of the Arts in Public Places law. Therefore, a solution should be provided as a guideline for all future art works.

I would be most happy to assist you in the ultimate resolution of this question.

Mr. Roy H. Helms - 2
May 15, 1978

In closing, let me assure you we will continue to assist the Council and the Executive Branch through our staff help, toward the success of the State's sculpture project.

Sincerely yours,



Arthur H. Snowden, II
Administrative Director

AHS/bd

cc: Chief Justice Boochever
Susan Burke
Rick Barrier
Jim Babb

The Red Dog mine once operating will bring the regions valuation to a point where a sufficient tax base will exist for borough formation.

What State controls and oversight are contained in HB 377?

1. Authority Formation has to be approved by the Governor.
2. Three of the eight members of the Authority Board of Governors will be selected by the Governor from his cabinet.
3. Any bond sale must have advance approval of the State Bond Committee (the Commissioners of Commerce, Revenue, and Administration).
4. Financial records of the Authority are subject to audit by the Legislative Auditor; records must be established and maintained in a manner approved by the Legislative Auditor.

STATE
of ALASKA

MEMORANDUM

D.

TO Roy H. Helms, Executive Director
Alaska State Council on the Arts
619 Warehouse Avenue, Suite 220
Anchorage, Alaska 99501

DATE June 16, 1978

FILE NO

TELEPHONE NO

FROM Tom E. Main, Assistant Director
Division of General Services & Supply
Anchorage

SUBJECT Ownership of Permanent Art Works

Tom

Thank you for your June 12 memo, subject as above.

We agree with Mr. Snowden and you that the Murray Sculpture should be considered a permanent appurtenance to the Juneau Court and Office Building.

Actually, the Department of Transportation and Public Facilities is responsible for State-owned buildings. You should advise them of the addition and its cost so they can take appropriate action to maintain and insure the sculpture.

cc: Arthur H. Snowden, II
R. Bradley
R. Head

RECEIVED
June 19 1978

STATE ARTS COUNCIL

Arts Alaska, Inc.

619 Warehouse Avenue • Suite 220
Anchorage, Alaska 99501 • (907)279-1558
272-3429

June 28, 1978

Mr. Donald Harris, Commissioner
Department of Transportation and Public Facilities
Pouch Z
Juneau, Alaska 99811

Dear Mr. Harris:

The Board of Directors of Arts Alaska, Inc. is pleased to notify the State of Alaska, Department of Transportation and Public Facilities, that the sculpture "Nimbus" by Robert Murray is nearing completion and installation on the plaza adjoining the Juneau Court and Office Building.

This letter is to transfer ownership of this work of art from Arts Alaska, Inc. to the State of Alaska.

For your documentation and insurance purposes, the value of the sculpture is \$40,000. The artist will write to you soon with the information your department needs for long term maintenance.

We are pleased to have been of assistance in this project and congratulate the State of Alaska on developing the project that has resulted in this fine piece of art. It is significant that this exciting sculpture of international interest and importance is located in Alaska's capital.

Sincerely,



Helen Walker
President

cc: Alaska Court System
Alaska State Council on the Arts
Department of Administration

HW/mbj

OCCUPANCY STATUS REPORT
- Memo Billing -
JUNEAU COURT & OFFICE BUILDING

TO: Agencies Listed Below

ASHA - 734 - Issue VII-

<u>DEPARTMENT</u>	<u>FLOOR</u>	<u>SQ. FT</u>	<u>NET SQ. FT.</u>	<u>% OF TOTAL</u>	<u>FY 84 ASHA PAYMENT</u>	
01	Office of the Governor	4th	3,719			
		5th	5,947	10,666	19.34	\$138,250.34
03	Law	3rd	3,497	3,497	6.34	45,564.34
06	Health & Social Services	3rd	2,389	2,389	4.33	31,233.34
12	Public Safety	Ground	1,168	1,168	2.12	15,476.34
31	Legislative Affairs Agency	6th	6,947	6,947	12.59	90,124.34
✓41	Alaska Court System	Basement	628			
		Ground	4,901			
		1st	6,947			
		2nd	6,947			
		3rd	1,061			
		4th	3,058			
		7th	6,947	30,489	55.28	394,493.34
TOTALS				55,156	100.00%	\$715,142.04

November 12, 1982

Approved by: _____

Maria Iverson
Contracting Officer

MI/RT/rmm

1/6.135/7/GSOCST

cc: Director, Division of Risk Management (MS 0218)
Director, Southeastern Region (H & O) DOT/PF (MS: 2506)

RECEIVED

NOV 29 1982

OFFICE OF MATERIEL OPERATIONS
& PURCHASING Alaska Court System

TO: Senator Ray
FROM: Paula d. Scavera
DATE: January 30, 1984
RE: SCSCS HCR 9 (State Affairs)

Every session since "Nimbus" was erected this resolution has been introduced and now this resolution is in Judiciary Committee.

Analysis

A committee shall be established to make recommendations to the legislature on or before March 1, 1984 on a veterans memorial by an Alaskan artist to erected in Juneau. The committee shall recommend:

1. at least three options for a type of memorial with estimated costs;
2. appropriate sites for location, which include the current location of "Nimbus"
3. time frame for construction

Also that public contributions be accepted to help pay the cost of the memorial.

~~STATE~~ OF ALASKA
THE LEGISLATURE

POUCH V STATE CAPITOL
JUNEAU ALASKA 99811
907-465-3600

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 13, 1983

SUBJECT: Copyright implications for the removal of
"Nimbus"

TO: Senator Vic Fischer
Chairman, Senate State Affairs Committee

FROM: *EHA* Linn H. Asper
Legislative Counsel

You have asked for an opinion on copyright law provisions that would affect the HCR 9 proposal to remove the sculpture "Nimbus" from its present location in front of the State Court and Office Building in Juneau. In the material I was given as background information to this request is a 1978 memorandum from Robert Wade, general counsel of the National Endowment for the Humanities, to Jack Chenoweth, formerly of this office. (Copy attached.) In that memorandum, Mr. Wade indicates that there are no conditions in the N.E.H. grant for "Nimbus" that would prevent the state from removing or relocating the sculpture. Mr. Wade did, however, indicate that the creator of the work might be able to object to the removal of "Nimbus" under the federal copyright laws (17 U.S.C. 106(5)). The referenced section gives the owner of the copyright on a sculptural work the exclusive right to authorize the public display of the copyrighted work. Although the federal law stating this right is of recent origin and the extent of the exclusive display right has not yet been determined in the courts, it might well be interpreted to give an artist the right to prevent the destruction, removal, or relocation of a copyrighted work of art.

Despite what has been stated above, it is my opinion, based on the information available to me at this time, that the state need not be concerned about any objection to the removal of "Nimbus" that might be raised by the artist. This is so because the contract between the artist and Arts Alaska, Inc. clearly states that the copyright to "Nimbus" belongs to Arts Alaska, Inc. (Contract, Appendix B,

Director Vic Fischer
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section J., copy attached.) Since the copyright was purchased along with the sculpture by Arts Alaska, Inc., the artist has no cause to object under federal law, which states that the exclusive rights referred to above belong to the "owner of copyright". On the other hand, as owner of the copyright, Arts Alaska, Inc., a nonprofit corporation affiliated with the Alaska State Council on the Arts, can object to the proposal to remove "Nimbus" and might be able to prevent the move under the copyright law previously referred to. I assume that Arts Alaska as a quasi-state agency is less likely to object than the artist, but you should be aware of the possibility. In view of the N.E.H. interest in the sculpture and the Arts Alaska, Inc. copyright rights, it would be advisable to relocate, rather than store or destroy "Nimbus" and the committee that is to investigate this matter if HCR 9 is passed should consult with Arts Alaska, Inc., the Alaska State Council on the Arts, and the National Endowment for the Humanities before making its recommendations to the legislature.

LHA:ljb
26/001

J. All drawings, models or maquettes shall remain the Artist's property. The copyright in the Work of Art, however, belongs to the Corporation, and no more copies than are required in the Project may be made or ~~used to be made by anyone without prior written approval from the Corporation.~~

K. All aspects of the Project shall be guaranteed by the Artist 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 Corporation, during which period the Work of Art shall be repaired, restored or replaced at the Artist's expense, *with the exception of the painted surface.*

L. It is understood that under the terms of the Contract, the Artist is an "Independent Contractor" who shall indemnify and save harmless the Corporation and the State of Alaska 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 the Artist under this Contract. Any work under this Agreement shall not be construed as employment with the State of Alaska or Arts Alaska, Inc. The Artist will be required to obtain and pay for his gross income license and be responsible for payment of income, social security, and other taxes.

M. The artist shall not assign or transfer any interest in this Agreement without the prior written consent of the Corporation; provided, however, that claims for money due or to become due from The Corporation 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 Corporation.

N. In the event that the Artist dies before the date fixed for completion or becomes permanently incapacitated and/or unable to complete the work on the Project, ~~the Corporation shall within thirty (30) days of notification thereof, elect in writing to pay a proportionate share of the agreed price for work completed to the satisfaction of the Corporation, and acquire the unfinished work. This Agreement shall then be cancelled and the Corporation be entitled to the return of such part of the price above the proportionate share, as the Artist has already been paid.~~ *the heirs or executors will make every effort to complete the project per the original design.*

O. A program of regular maintenance will be planned by the Corporation for the State of Alaska that is acceptable to the artist.

Rbt

Rbt

Rbt

Rbt

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE

SENATOR VIC FISCHER, CHAIRMAN

POUCH V, JUNEAU 99811

(A27) 465-4954



MEMORANDUM

TO: Senator Vic Fischer

FROM: Nancy Schaufelberger
Committee Staff *Nancy*

DATE: May 16, 1983

SUBJ: HCR 9--Removal of "Nimbus" and replacing it with a veteran's memorial.

BACKGROUND

In 1974 the Alaska Court System, the Alaska State Council on the Arts (ASCA) and the National Endowment for the Arts (NEA) agreed on a project application under the NEA's Art in Public Places Program to commission a contemporary sculpture for the courtyard of the new Juneau Court Building.

The NEA agreed to provide \$20,000 in grant funding if matching monies were made available by the state--the Alaska Court System agreed to provide \$10,000 and ASCA the other \$10,000. A selection committee was established consisting of representatives from the Alaskan community and those selected by the NEA. After following established grant guidelines and procedures, the committee voted, and unanimously selected Mr. Robert Murray as the artist of first preference.

NEA

On May 13, I spoke with Stacy Paleologos, Consultant to the Art in Public Places Program, at the NEA to inquire about the implications of replacing "Nimbus." Ms. Paleologos was very familiar with the sculpture, and the controversy surrounding it, and offered the following comments.

She indicated that the grant was given for a permanent work of art and to move it (which might possibly destroy it) would go outside the guidelines and would be considered a serious violation of the grant provisions by the NEA. She further indicated that moving "Nimbus" would warrant action of some kind by the NEA, possibly even repayment of the federal grant portion by the state. Additionally, Ms. Paleologos indicated that the NEA was very satisfied with the piece in question, and has included it in their pictorial book on art in public places.

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May 16, 1983

VETERAN'S MEMORIALS

As another point, it is interesting to note that Juneau already has a memorial to veterans--the local library. According to library records when the present library was opened in 1951 it was named Juneau Memorial Library and dedicated to those who served in the wars.

Also, more recently, Chapter 30, SLA 1981, created a memorial to Alaska veterans in Denali State Park near the Parks Highway. \$200,000 was appropriated for this purpose and the memorial should be completed this summer.

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS FOR HOUSE CONCURRENT RESOLUTION NO. 9 (Finance) on
Title Calling for erection of a suitable memorial to honor veterans of all wars involving
the United States on the site presently occupied by "Nimbus".

Requested by: Senate State Affairs Committee Date: 05/13/83

II. FISCAL DETAIL

Agency Affected Legislature

Program Category Affected General Government

BRU, Program, Or Subprogram(s) Affected Legislative Council

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES		2.5				
200 TRAVEL		6.7				
300 CONTRACTUAL		0.5				
400 COMMODITIES		0.2				
500 EQUIPMENT						
600 LAND & STRUCTURE						
700 GRANTS, CLAIMS, ETC.						
TOTAL		9.9				

FUNDING (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND		9.9				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME						
PART TIME						
TEMPORARY		1				

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Assumption 1: Temporary/part-time clerical - @\$10.30/hr x 4 hrs daily for 60 working days = \$2,472.00

Assumption 2: 3 meetings - Travel 4 roundtrip tickets for 4 members from Anchorage to Jnu = \$3,840.00
Per diem @\$80 x 4 members for 2 days x 3 meetings ----- = \$1,920.00
Per diem @\$80 x 4 members for 1 day x 3 meetings ----- = \$ 960.00 \$2,880.00
Total Travel & per diem \$6,720.00

Assumption 3: An office in the Capitol will be used at no charge. Credit card toll calls \$500.00

Assumption 4: Office supplies, etc. ----- \$200.00

Assumption 5: Use existing legislative office equipment at no charge.

IV. DATE 05-13-83 PREPARED BY Wally Harrison, Director, Admin. Services

AGENCY Legislative Affairs Agency

Original: Legislative Finance PHONE 465-3850

cc: Budget and Management
Prime Sponsor (First Legislature Named)

33-001 (Rev. 12/82)

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE

SENATOR VIC FISCHER, CHAIRMAN

POUCH V, JUNEAU 99811

(907) 465-4954



May 31, 1983
3:00 p.m.

Butrovich Room

Members Present

Senator Vic Fischer, Chair
Senator Bill Ray, Vice-Chair
Senator Arliss Sturgulewski
Senator Pat Rodey
Senator Tim Kelly

Agenda

HB 289 Time for opening the polls on election day
HB 306 Veterans burial benefits
HB 406 National Guard reenlistment bonus
HCR 9 Veterans' memorial

HB 289 Time for opening the polls on election day

Neil Phelps Muhson, aide to Speaker Hayes (prime sponsor), testified for the bill.

Mary Lou Meiners, Director of the Division of Elections, testified for the bill as it would allow people to vote on the way to work.

Ginny Chitwood, Alaska Municipal League, testified that municipalities wanted to set the poll hours for municipal elections.

Senator Ray asked if the bill applied to municipalities. He suggested that a committee substitute be drafted to allow community input into the time for opening the polls in non-statewide elections.

Senator Fischer directed staff to prepare a committee substitute.

HB 306 Veterans burial benefits

Linda Edgewater, aide to Representative Liska (prime sponsor) testified for the bill. She said the bill is designed to correct a situation where survivors are denied federal veterans benefits if they are eligible for a lesser state benefit.

Paul Arnoldt, Director of the Division of Business Loans and Veteran's Affairs, testified for the bill. He reiterated the testimony of the previous witness.

Senator Rodey moved and asked unanimous consent that the bill pass from committee with individual recommendations. There was no objection.

HB 406 National Guard reenlistment bonus

Richard Roundtree, Department of Military Affairs, testified for the bill. He said the bill merely clarifies the intent of the existing law.

Senator Fischer asked if the bill granted additional benefits. The witness said "no".

Senator Kelly moved and asked unanimous consent that the bill pass from committee with individual recommendations. There was no objection.

HCR 9 Veteran's memorial

Committee staff presented a committee substitute for consideration.

Senator Ray objected to the resolution on the grounds that the sculpture "Nimbus" belongs to the court system and is not under the control of the Legislature. He said that a constitutional separation of powers question may be involved. He further suggested an amendment which would clarify that the memorial would honor veterans of undeclared wars, such as Vietnam and Korea, as well as declared wars.

Senator Rodey moved and asked unanimous consent for the committee to adopt the committee substitute as amended. There was no objection. He then moved and asked unanimous consent for the committee substitute to move from committee. There was no objection.

The meeting adjourned at 3:30 p.m.



12 May 1983

Nancy Schaufelberger
Senator Vic Fischer's Office
Pouch V
Juneau, Alaska 99811

Dear Nancy:

As we discussed on the telephone yesterday and this morning, I have enclosed some background information on Nimbus, the sculpture by Robert Murray in front of the Court Building in Juneau. The outline includes details of who was involved in actually getting a piece of sculpture for the site as well as the steps which were taken and funds which were granted to select and pay the artist. You can see that planning began in 1974. The piece was permanently installed in June, 1978.

I understand that House Concurrent Resolution 9 calls for the organization of a task force to study ways to remove Nimbus and plan for the installation of a war memorial on the Court Plaza Site. The Director of the State Arts Council is named in the resolution as a member of the task force.

There are several issues at stake regarding the removal of Nimbus:

- no one will argue against the creation of a war memorial only against the removal of another creative work on the same site. The State Arts Council and its Public Art Panel would happily provide technical assistance on the selection of an alternative site should that be an option
- the actual Juneau Court Building Plaza was redesigned for the installation of Nimbus. Murray asked that the "downhill" side of the plaza be opened up to allow for a broader view of his work. Therefore, his piece incorporates the plaza and is, as I understand it, protected by his copyright. Copies of the drawings and construction documents are in our office and can be obtained from Mr. Murray.
- is it appropriate for the Legislature to censor, in

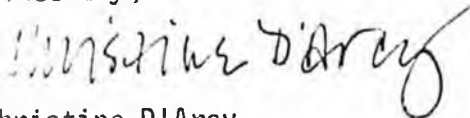
Alaska State Council on the Arts

619 Warehouse Avenue, Suite 220/Anchorage, Alaska 99501/(907) 279-1558

...of artwork the public is exposed to
...individual members have different feelings
...particular work? The State Arts Council agrees
...government censorship is not a good thing.

...we only touched upon a few things regarding the piece
...public art. Please feel free to call me prior
...State Affairs meeting Tuesday when public comment on
...will be taken.

Sincerely,



Christine D'Arcy
Acting Executive Director

cc: Alaska State Council on the Arts Members

enclosures

CD:mt

Juneau Courthouse Sculpture Project

This is a listing in order of the events and actions to date
the commissioning of a sculpture for the Juneau Courthouse

In July, 1974 Lou Cassetta, architect of the Juneau Courthouse, met with Roy Helms of the ASCA to discuss possible matching funding from the National Endowment for the Arts for works of art in conjunction with the new building. Under consideration at that time was the restoration of a totem pole, the construction of display cases for museum pieces in the lobby of the building, and a piece of sculpture in or adjacent to the plaza. (re.: July 24, 1974 letter from Lou Cassetta to Arthur Snowden II)

2. By the time the application was filed the inclusion of the totem pole was set aside since this would not be a new work of art, but a restoration, and fibre wall hangings were included for the four court rooms.
3. The National Endowment responded on November 6, 1974 indicating that they could only consider funding for one project, the sculpture for the plaza. (Letter from Richard Koshalek, November 6, 1974).
4. The Court System confirmed that there was no conflict between the guidelines of the National Endowment for the Arts and the legislative appropriation limitations. The manner in which to spend \$25,000 for works of art was left to the discretion of the Court System by the Legislature. (Letter of August 5, 1974 from Arthur Snowden, II to Lucian Cassetta.)
5. In December, 1974 the project application to the National Endowment was changed to include only the plaza sculpture. A total of \$10,000 was applied for with \$10,000 matching pledged by the Alaska Court System. (Letter of December 13, 1974 from Roy Helms to David Bancroft).
6. On August 18, 1975 Brian O'Doherty, Director of the Visual Arts Programs of the National Endowment indicated a reluctance on the part of the review panel to consider a sculpture project with such a low budget. He indicated that they would be willing to fund \$20,000 if there were \$20,000 matching available.
7. The Alaska State Council on the Arts was approached by the Alaska State Court System on August 20, 1975 for the additional \$10,000. This was approved by telephone conference on August 29, 1975 of the Visual Arts Committee and the Executive Committee.
8. On June 28, 1976, a grant was awarded to the Alaska State Council on the Arts from the National Endowment for the Arts in the amount of \$20,000 for the Juneau Sculpture Project. The grant conditions included adherence to the guidelines under which the Alaska State Council on the Arts applied which included:

- a. Appointment by the ASCA of three individuals with knowledge of the local area and of contemporary art to a selection committee.
 - b. Appointment by the National Endowment for the Arts of three nationally recognized experts to the selection committee.
 - c. The selection committee will be empowered to select the artist for the commission. The selection will be made on the basis of the review of previous work of artists of national or regional significance.
 - d. The selected artist will prepare a model for the project for review by the Alaskan members of the selection committee. The National Council on the Arts will also have the opportunity to review the model.
 - e. The National Council on the Arts advised that the selection process be extended widely to include artists both outside and inside the state.
9. On June 14, 1976 the ASCA granted Arts Alaska, Inc. \$10,000 from the Public Art program for the Juneau Sculpture project.
 10. On September 15, 1976 the ASCA granted Arts Alaska, Inc. \$20,000 from the National Endowment grant for the Juneau Sculpture project.
 11. On April 19, 1977 the Alaska Court System issued a check to Arts Alaska in the amount of \$10,000 for the Juneau Sculpture project.
 12. Selection procedures:
 - a. Notification of the availability of the commission was made in the press and in "The Arts in Alaska". Alaskan sculptors were encouraged to have their portfolios filed with the ASCA for review by the selection committee.
 - b. The Alaskan portion of the selection committee was appointed by the ASCA including Ron Semungetuk, Lou Cassetta, and Justice Connor.
 - c. The National Endowment portion of the selection committee was appointed to include Sebastian Adler, Museum of Contemporary Art, LaJolla, CA; Suzanne Foley, San Francisco Museum of Modern Art; and Maurice Tuchman, Los Angeles County Museum.
 - d. The committee met in Juneau at the site on November 19, 1976. (Connie Boochever substituting for Justice Connor.)
 - e. The committee first viewed the site, discussed its unique needs, and then began reviewing slides of artists work. They first reviewed the portfolios of 21 Alaskan artists. They then reviewed slides of sculptors' work from the rest of the United States.
 - f. Each of the committee members was asked to list those artists that stood out in their minds as fulfilling the criterion set forth. From this list discussion took place. (See addendum)

- g. The committee eventually voted and unanimously selected the following three artists in the ranked preference listed
 1. Robert Murray. 2. Cliff Westernmann. 3. Robert Breer.
12. Robert Murray was contacted and was willing to undertake the commission. A contract between Arts Alaska, Inc. and Robert Murray was negotiated effective 23 December, 1976.
13. Robert Murray visited the site on 18 January 1977, met with Justices Boochever, Connor, and Stewart to discuss the proposed sculpture, the desired changes in the concrete pad in the plaza, and desired alterations to the surrounding buildings for long-term planning purposes.
14. It is intended that the model for the sculpture will be ready for review by the committee in mid-June, 1977. At that time the three Alaskan members of the selection committee will meet with Murray in Juneau to review the plans and approve or disapprove the proposed sculpture.

ADDENDUM: Criterion outlined relative to the site and the selection process

1. The sculpture will be viewed from all sides and heights, including above and below.
2. If the sculpture is to be centered in the circular central space in the plaza a net diameter of 20' is possible.
3. Consideration needs to be given to the "gray" nature of the climate in Juneau. The material and finish would desirably be highly reflective or brightly colored.
4. There is a potential of strong winds from all directions which should be taken into consideration when considering large, flat surfaces.
5. The work of art to be commissioned is to be of national or regional significance. This was interpreted to the committee as meaning that the artist selected should have a demonstrated record of nationally or regionally recognized work as a contemporary sculptor.
6. The general vicinity of the plaza is "busy" visually with closely built structures of varying heights and colors. It was agreed that a "busy" sculpture would not be appropriate and this was kept in mind when reviewing artists.
7. A variety of philosophies about the proposed nature of the to-be-commissioned work were suggested including consideration of "strength" as descriptive of the Court System and accessibility to the community (especially the children of the community).