

# THE NATIONAL OPERA CENTER AMERICA

## ARTS & INFRASTRUCTURE SUPPORTING ART IN PUBLIC TRANSPORTATION PROJECTS

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### ACTION NEEDED

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We urge Congress to:

- Provide flexibility through infrastructure legislation to state transit authorities to permit the incorporation of art into federally-funded transit facilities.

### TALKING POINTS

- Until December 2015, federal law allowed the Federal Transit Administration (FTA) to support project costs associated with art, including the employment of an artist as a member of a design team, provided that the artistic elements were *integrated into the* facility or served a *functional* transit-related purpose.
- In December 2015, Congress passed the *Fixing America's Surface Transportation (FAST) Act*, P.L. 114-94 to reauthorize highway and transit programs for five years, lasting until 2020. **This law established a new prohibition on the use of FTA funds. These funds could no longer be used for the "incremental costs of incorporating art or non-functional landscaping into facilities, including the costs of an artist on the design team."** (49 U.S.C. 5323(h)(2) as amended by FAST.)
- **This blanket prohibition on art applies to all FTA programs and grants**, including all programs authorized under Chapter 53 of Title 49, U.S.C. and other programs for which FTA serves as the grant making agency (e.g. TIGER).
- Many past projects that incorporated art into transit facilities—which communities have come to expect and eagerly anticipate—are now no longer eligible uses of funding. **This blanket restriction severely limits the ability to continue to construct art in transit projects, especially because local funds to match federal FTA funds also face the same federal restrictions and prohibitions.**
- **In cities large and small across America, transit agencies employ artists to enhance transit projects**, including to aid in their design, improve flow and safety, increase ridership, facilitate communication and community pride, and boost economic activity through tourism, to name a few.

*For example, the Maryland Transit Administration works with artists on proposals to incorporate artwork into new stations that highlight the cultural vitality of the region—and reflect the artistic, cultural, and historical interests of the community. In Washington State, the Sound Transit works with artists to create welcoming and engaging environments for riders. In North Carolina, the Charlotte Area Transit System integrates art into most major projects, including stations and surrounding areas, park and ride lots, transportation centers, maintenance facilities, and passenger amenities to provide efficient, cost-effective public transportation that creates vibrant and well-utilized mass transit commuter and passenger options.*

## BACKGROUND

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The new federal policy restricting transit funding for art is sweeping and significant. Further, it continues a steady progression of funding restrictions on public art.

In the previous highway reauthorization, *Moving Ahead for Progress in the 21st Century Act* (MAP-21), another significant change occurred, in that “stand-alone” art was prohibited. Prior to that legislation, federal transit law permitted the use of FTA grant funds for costs associated with including art in public transportation projects. This permitted use was one of several types of projects termed “transit enhancements.” Communities all across the nation created innovative projects through art, which proved to be a vital component in public transportation, encouraging use, revitalizing neighborhoods, mitigating crime, and driving tourism.

Beginning in 2013, federal transit law no longer included art as an eligible project expense. In implementation, that meant that works of art not integral to a facility, such as sculptures, would no longer be eligible, but in practice, transit agencies could continue to use FTA funds to support the employment of an artist as a member of a design team, or other costs associated with art, provided that the artistic elements were integrated into the facility or served a functional transit-related purpose.

However, with enactment of the FAST Act, Congress established yet another barrier, escalating the gradual restrictions to an outright prohibition. These restrictions on art apply only for transit projects, which include bus, subway, light rail, commuter rail, trolley, and ferry projects, and are deeply concerning to the public art field, transit agencies, and communities in every state.