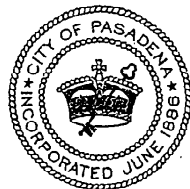


## **Attachment A**



PLANNING & DEVELOPMENT DEPARTMENT  
NORTHWEST PROGRAMS DIVISION

June 12, 2009

Mayor Bill Bogaard and Members of the City Council  
100 North Garfield Avenue, Room 236  
Pasadena, CA 91105

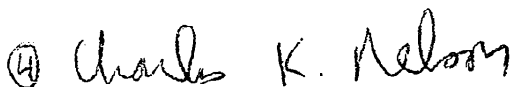
Subject: Joint Recommendation to remove public art exemption requirement from the  
Northwest Enterprise Zone

Dear Mayor Bogaard and Members of the City Council:

A quorum of the Northwest Commission, Fair Oaks Avenue Project Area Committee and the Lincoln Avenue Project Area Committee made a motion to recommend the removal of the public art exemption for the Northwest Enterprise Zone, including designating funding from Northwest projects paying into the Cultural Trust Fund to be directed to the Northwest Area.

At the 2006 Cultural Nexus Master Plan meetings, the community voiced concern over the lack of private development public art projects in the Northwest. As a result, the removal of the public art exemption for the Northwest Enterprise Zone was identified as a key priority in the Master Plan. In early 2009, Cultural Affairs staff was invited to make informal presentations to the Northwest Commission, the Fair Oaks Avenue and the Lincoln Avenue Project Area Committees. Staff was then requested to schedule a joint meeting of the Northwest Commission, appointed representatives from the Lincoln and Fair Oaks PAC and the Arts & Culture Commission's Community Development Subcommittee. The consensus decision was for the respective bodies to forward a recommendation to the City Council to initiate a code amendment to include the Northwest area in the current Private Development Public Art Program Guidelines.

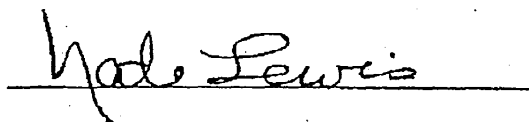
Respectfully Submitted,



Daniel Sharp, Chair  
Northwest Commission



Ralph Poole, Chair  
Fair Oaks Avenue Project Area Committee

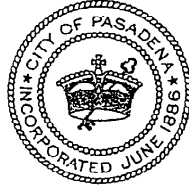


Nate Lewis, Chair  
Lincoln Avenue Project Area Committee

VCG:vcg

cc: Michael J. Beck, City Manager  
Richard Bruckner, Director of Planning & Development  
Stephanie DeWolfe, Deputy Director of Planning & Development  
Rochelle Branch, Cultural Affairs Manager  
Lola Osborne, Northwest Programs Manager

## **Attachment B**



PLANNING & DEVELOPMENT DEPARTMENT  
CULTURAL AFFAIRS DIVISION

August 10, 2009

Mayor Bill Bogaard and Members of the City Council  
100 North Garfield Avenue, Room 236  
Pasadena, CA 91105

Subject: Recommendation to remove public art exemption requirement from the  
Northwest Enterprise Zone

Dear Mayor Bogaard and Members of the City Council:

On July 7, 2009 a quorum of the Arts & Culture Commission approved sending a recommendation to City Council regarding the elimination of the Public Art Program Exemption for Northwest Pasadena.

At the May 14, 2009 joint meeting of the Northwest Commission and the Community Development Subcommittee of the Arts & Culture Commission, which included representatives from the Fair Oaks Avenue and Lincoln Avenue Project Committee Areas, the issue of the City's existing public art program exemption for Northwest Pasadena was discussed. The consensus decision was for the respective bodies to forward a recommendation to City Council to initiate an amendment to the City's Zoning Code to allow for a percent-for-art requirement in Northwest Pasadena, in effect eliminating the current exemption.

Staff will bring to Council an agenda report with this recommendation in Fall, 2009.

Respectfully submitted,

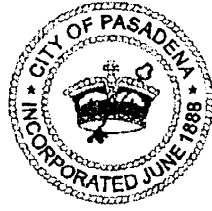
A handwritten signature in cursive script that reads "Dale Oliver / reb".

Dale Oliver, Chair  
Arts & Culture Commission

Cc: Michael J. Beck, City Manager  
Richard Bruckner, Director of Planning & Development  
Stephanie DeWolfe, Deputy Director of Planning & Development  
Lola Osborne, Northwest Programs Manager  
Rochelle Branch, Cultural Affairs Manager

## **Attachment C**

# CITY OF PASADENA PUBLIC ART PROGRAM



## GUIDELINES FOR NEW PRIVATE DEVELOPMENT

*A division of the City of Pasadena Planning and Development Department, Cultural Affairs supports the arts, culture, cultural heritage, design and film in Pasadena. Other programs managed by Cultural Affairs include "Cultural Pasadena" (a cultural tourism initiative), Grants, Public Art, and ArtNight Pasadena.*

### **MANDATE**

In the Downtown Old Pasadena Redevelopment areas and in the Northwest Community Plan Area, eligible projects subject to the Public Art Requirement must meet the all of the following thresholds:

- Building permit valuation of \$500,000 or more
- New construction and/or renovation
- Multi-family residential, commercial, or mixed-use projects (or Industrial for Northwest Pasadena only)

Projects meeting these thresholds must dedicate at least one percent of the building valuation to public art. Of that amount, 25% is directed to the City's Cultural Trust fund in support of cultural resources in Pasadena; 75% is allocated to an on-site public art project. The full 1% mandate may be paid to the Cultural Trust Fund in-lieu of public art.

Within the City of Pasadena, but outside of the Downtown and Old Pasadena Redevelopment areas, eligible projects subject to the Public Art Requirement (Public Art Ordinance No. 6240) must meet all of the following thresholds:

- New construction of commercial, industrial, or mixed use projects
- 25,000 square feet or more

Projects meeting these thresholds must dedicate at least one percent of the building valuation to public art. Of that amount, 20% is directed to the City's Cultural Trust fund in support of cultural resources in Pasadena; 80% is allocated to an on-site public art project. The full 1% mandate may be paid to the Cultural Trust Fund in-lieu of public art.

### **PURPOSE**

The purpose of this program is to promote public art and art in public places as a cultural resource for the community and act as a mechanism to enhance the

commercial vitality and economic stability of the City. The public art mandate may be satisfied by financing cultural and artistic facilities, programs or artwork at or in the immediate vicinity of the site, or by depositing the funds in the Cultural Trust Fund at the discretion of the Arts Commission.

### **EFFECTIVE DATE**

May 1, 2010. All projects that may have applied for PPR approval, but have not received review are obligated to these guidelines.

### **FINANCIAL OBLIGATION**

The Public Art Program financial requirement shall be based on the building permit valuation. Land costs and off-site improvements are excluded from development costs. Developers are strongly encouraged to exceed the minimum public art requirement and fund a public art project that appropriately enhances the site and the surrounding community.

A preliminary art budget will be calculated using estimated development costs. The total budget for the Public Art Program shall be determined no later than 30 days after funding of the developer's construction financing. If the final project cost (based on the building permit valuation) is higher than the cost figure used to calculate the preliminary art budget, the art budget must be increased as necessary to equal the 1% mandate. The art budget will be submitted by the developer for staff review and approval prior to concept review by the Design Commission.

25% of the mandated 1% fee will be automatically placed in the Cultural Trust Fund (see below) if the project is in the Downtown or Old Pasadena Redevelopment districts or in the Northwest Community Plan Area. Applicable projects outside of those districts are assessed 20%.

The public art mandate is applicable to construction owned by for-profit as well as non-profit developers.

### **GOALS AND OBJECTIVES**

Art is the evolving permanent record of what we hold important. Pasadena's Public Art Program is intended to reflect and communicate our values and enhance life in our community. It is the stated intent of the Public Art Program to create a more unique and human city, engage our citizens and visitors, and enhance the built urban environment. These goals shall be realized through:

1. The commissioning of artists of the highest artistic merit, who are sensitive to the city's cultural diversity, recognize the values and contributions of various cultures, and can contribute to the characteristics, aspirations and unique expressions of Pasadena's values;
2. The encouragement of local artistic endeavors and support of local artists;



3. The encouragement of public dialogue and interaction with art in public places, through appropriate education forums and public meetings, and programs;
4. The inclusion of a broad range of works of art, reflective of the overall diversity of current works in the field of visual and performing arts;
5. The commissioning of works of art varying in genre, style, scale, medium, form and intent, and reflective of trends and disciplines in art on a local, regional, national and international arts level.
6. The broad distribution of commissions among artists;
7. The broad geographic distribution of works of art in the City of Pasadena;
8. The encouragement of design teams to include artists, architects, engineers, landscape architects and other public space and design professionals.

### **EXEMPTIONS**

The following categories of projects are exempt from these guidelines as set forth in the Public Art Ordinance:

1. Projects having a fully executed Owner Participation Agreement (“OPA”) or Disposition and Development Agreement (“DDA”) or Development Agreement, or a Vesting Tentative Map approved prior to the effective date and use of the guidelines.
2. Projects within the boundaries of a master plan or planned development zone approved prior to the effective date and use of the guidelines.
3. Projects for which a building permit was issued prior to the effective date of applicable guidelines.

### **ELIGIBLE SITES**

In the case that the public art is a visual art element or object, it shall be sited either on, or in the environment of the project. However if the public art element is located in the interior of a structure, it should be located in an area which is open and accessible to the public, which is considered to be a minimum of five days a week during normal business hours.

In the case of cultural arts programming or facilities, the program or facility shall be accessible to the general public. The participant agrees to take all steps and

execute and record all reasonable documents necessary to assure the right of public access to the art site.

### **REVIEW AND APPROVAL PROCESS**

Prospective developers will be notified of the Public Art Program requirements. For those projects 25,000 square feet or more, the developer will be notified of the requirements at the Predevelopment Plan Review ("PPR). Developers of smaller projects will be notified at the time of application for Design Review.

Notification will convey basic requirements of the Public Art Program and stress the need for an art consultant and the artist(s) to be an integral part of the project design team from the inception of the project.

A project may receive Concept Design approval from Design Commission only if the applicant has applied for Art Concept approval through the Arts Commission. Review by Arts Commission must occur within 45 days of Design approval. Application for Final Design approval is not possible without an approved Art Concept. Application for Final Art Plan approval must occur within 45 days of Final Design approval. Construction documents will not be approved without approval of both the Art Plan and Final Design, and a Certificate of Occupancy (COO) will not be issued until the art project is complete and approved by staff. After 45 days all permit processing will be halted until application for review within 30 days.

The following is the procedure to be followed in the development of on-site permanent public art projects:

1. The project contact will meet with the Public Art Coordinator prior to submitting concept design plans.
2. The developer must contract the services of an art consultant for any public art project valued at more than \$25,000 (if the funds are not placed in full in the Cultural Trust Fund). Staff can provide a list of consultants pre-approved via a bi-ennial process. Any consultant not on the approved list must produce materials demonstrating the individual's experience and competency as an art consultant and must be approved by the Public Art Coordinator staff. The developer may request exemption only by written request for consideration by Arts Commission prior to submission of Concept Art Plan for Arts Commission review. The developer may act as consultant only at the approval of Arts Commission at the recommendation of the Executive Director for the Arts. Approval is by written request prior to submission of art concept.
3. Cultural Affairs may be contracted for consulting services at a competitive market fee.

4. A Concept Art Plan and list of artist(s) will be presented by the art consultant to the Arts Commission. The art consultant will present to Arts Commission a proposed artist(s) and Concept Art Plan. The art consultant has the option of presenting more than one artist concept for the same project to better ensure approval. Presentation materials must include slides of artist's work, sketches, drawings and a written text narrative of the Public Art Concept. Total compensation to an artist(s) for development of an art concept may not be more than 5% of the on-site budget (after fees are paid) unless the owner chooses to supplement compensation to the artist.

The proposed Concept Art Plan and artist(s) will be reviewed using the following criteria as applied to supporting documentation and past projects: Artistic quality (vision, originality and craftsmanship); Context (architectural, historical, geographical and socio-cultural context of the site); quality and permanency of materials (if ephemeral material: is appropriate documentation included?); maintenance; safety; diversity of artists (gender, race, culture) representation in the existing collection of publicly-accessible artworks; and diversity of artworks (media, scale, style, intention) in the existing collection of publicly accessible artworks. The Concept Art Plan must relate to the overall development concept. The work of each proposed artist must bear a discernable relationship to the proposed concept.

5. Following the approval of the Concept Art Plan, the artist/team will refine project objectives and the conceptualized art project. The art consultant will return to the Arts Commission with a Final Art Plan (including final narrative, budget, anticipated maintenance plan and installation calendar) and a two- or three-dimensional maquette, with samples and dimensions. This budget must detail art consultant fees, artist fees, fabrication and installation expenses. Any additional project monies, such as additional construction funds, must be detailed as well. Submission of the proposed Final Art Plan for Arts Commission approval must take place within 45 days of approval of Final Design for the project. If not submitted within 45 days, all permits may be denied or cancelled. No certification of occupancy for a project as defined in section 17.78.020 of the Public Art Ordinance shall be issued until there has been written approval of the Art Plan by the Public Art Coordinator. Any changes to the approved Final Art Plan and budget must be submitted for approval by the Arts Commission.

#### **ELIGIBLE ART WORK: PERMANENT ARTWORK**

The Public Art Program shall be receptive to the broadest definitions of art and will encourage imaginative interpretations of all media. Only artist-designed and produced unique artworks are considered: limited editions, copies, and pre-sold artworks are not eligible. The possible media and materials may be used, but to which it is not limited:

- a. Original three-dimensional artwork of all kinds;
- b. Original two-dimensional artwork of any kind, including applied murals or portable paintings, photography, etc.
- c. Environmental artworks;
- d. Any combination of media art;
- e. Fixtures such as gates, streetlights, signage, public benches, paving, walkways, bus shelters, etc., may be contracted to artists for unique or limited edition.

**ELIGIBLE ARTWORK: CULTURAL PROGRAMMING**

On-site cultural programming may include, but is not limited to:

- a. Performing Arts: Dance, music, theatre;
- b. Literary Arts: Poetry readings, storytelling;
- c. Media Arts: Film, video, screenings and installations;
- d. Education: Lectures, presentations and hands-on experiences;
- e. Special Events: Festivals and celebrations;
- f. Artists-in-residence programs may be eligible if the product of the residency program involves or is available to the public.

When a developer elects to provide on-site programming, a Concept Art Plan should include proposed site, program subject, intended audience, and budget (including staff needs and media/outreach). A Final Art Plan will include a complete articulation of the first performance series/exhibition program and a program budget for the entire mandated amount. For on-site programming, collaborations with existing cultural institutions are strongly encouraged. In the case of facilities, which are intended to host public programming (museums, etc.), these monies must be applied to additional programming beyond the existing scope of the organization.

For such programming the complete public art requirement will be deposited with the City and the developer will annually submit a proposed program and budget for approval by the Arts Commission. Funds will be issued as reimbursement to the pre-approved programming. On-site cultural programming may be renegotiated and converted to another form of public art, but will be subject to the same approval process as outlined in these guidelines.

**ELIGIBLE: CULTURAL FACILITIES:**

On-site Art Spaces or Cultural Facilities may include, but are not limited to:

- a. Artist studios or rehearsal space;
- b. Exhibition space; theatre/performance space, media arts space
- c. Arts administration space for arts organizations.

The availability of exhibition or performance space as well as studio and administrative space is as necessary to the complete creative process as direct support given for the creative effort. Therefore, in certain locations it may be more desirable to make space available for the creation, performance or exhibition of art rather than to commission art. Specific plans, the Pasadena Cultural Plan (anticipated in 2003), staff, and Arts Commission can assist the developer in determining the most appropriate cultural use for a site.

Eligible components include gallery/exhibition space, performance spaces, artist studio spaces, arts education facilities, artist work/live space, etc. A successful Final Art Plan will also include a plan for limited public access.

### **CRITERIA FOR ELIGIBLE ARTISTS**

It is the Arts Commission's goal that the most appropriate use of public art monies be to commission the highest quality artwork possible and consequently there is no overall policy about residency requirements for artists. It is hoped that as the program matures, the collection of public art in Pasadena will include works by local, regional, national and international repute, and inclusive of artists at varying points in their careers. Developers are strongly encouraged to consider Pasadena artists.

Regarding visual artists, the mission of this program is best supported by artists working in the public realm with demonstrated past experience or proven technical and esthetic ability to successfully create artwork responsive to the site and community. Proposed artists will be reviewed based on a proposed art concept, but also on education, gallery affiliation and previous work.

Not eligible to be selected for commissions are members of the design team or their immediate families including the project architects or consulting architectural firms, members of the selection team, members of the City of Pasadena Arts Commission or their immediate families, or City staff.

### **CONTRACTS AND COMPENSATION**

A written agreement between the art consultant and the developer must be submitted within 30 days after execution and prior to submission of materials for review of the Concept Design by Design Commission. The agreement must include a payment schedule directly related to scope of work.

All financial arrangements are negotiated between the developer, art consultant and the artist and should be verified in a written agreement, which will include a payment schedule directly related to scope of work. A copy of the executed agreement between the developer and the artist(s) shall be submitted to the Public Art Coordinator within thirty (30) days after execution and prior to submission of materials for review of Final Art Plan by Arts Commission. Prior to submission of a Final Art Plan for approval, a final budget must be submitted for

staff review and approval. After approval, a Final Art Plan, including the approved budget, may be submitted to Arts Commission.

Before a developer may obtain an occupancy permit, the developer will submit a final report including a final budget. Upon receipt by staff, the developer will receive a final compliance letter, thereby allowing the owner access to an occupancy permit.

Regarding projects for which the Concept Art Plan is approved but a proposed Final Art Plan is not, or should the developer choose to quit the Concept Art Plan, the full mandate is deposited in the Cultural Trust, or the developer shall submit a new Concept Art Plan for review by the Arts Commission. All costs incurred by the developer for development of the original concept are born by the developer, and the original mandate must be honored.

#### **ARTWORK: ELIGIBLE COSTS**

All direct expenses to create the artwork are eligible, as well as the following:

1. Structural elements to mount, display or secure the art work(s);
2. Artist budget including:
  - a. Professional fees for the artist(s);
  - b. Additional labor and contracted services required for the production and installation of the work;
  - c. Any required permit or certificate fees;
  - d. Artist's operating expenses related to the project (including additional insurance as necessary, legal fees, etc);
  - e. Pre-approved travel expenses directly related to the project;
  - f. Transportation of the work to the site;
  - g. Installation of the work;
  - h. Identification and didactic information.

#### **ADMINISTRATOR: ELIGIBLE COSTS**

1. Art Consultant fees shall not exceed 10% of the on-site budget and not more than the artist design fee.
2. Direct and indirect administrative costs of the Public Art Coordinator up to 25% of the 1% charged against the deposit in the Cultural Trust Fund.

#### **NON-ELIGIBLE COSTS**

Services or utilities necessary to operate, maintain or conserve the artwork over time;

#### **PUBLIC ART BUDGET**

Any proposed public art project that includes facade treatments, hardscapes or functional elements, must differentiate between the original construction budget

portion for these surface areas and the on-site public art budget. The public art budget is to enhance the original construction budget, not replace it. The funds normally apportioned for materials, finishing and installation of these surface areas must be added to the public art budget. Documentation of these added funds must be submitted for approval to the Arts Commission as a part of the Final Art Plan.

### **NOT ELIGIBLE AS ARTWORKS**

The following items are not considered artworks in regards to this program:

1. Objects which are mass-produced from a standard design such as playground equipment, flags, banners or fountains;
2. Reproductions, by mechanical or other means, of original art works;
3. Mass-produced directional elements or signage (except when an integral element of the original artwork) and super graphics.
4. Decorative, ornamental or functional elements which are designed by the building architect (not an element commissioned for the purpose of creating a unique work by an artist);
5. Historic, architectural or art restoration/preservation efforts of building facades, architectural details or existing artworks.

### **ARTWORK OWNERSHIP AND MAINTENANCE**

The artwork may be a permanent on-site improvement, a permanent improvement to a site near the developer's site, a temporary improvement, regularly scheduled events or a permanent cultural facility. When the art is situated at or on property or facilities owned or occupied by the City, the developer will retain ownership of the artwork and assume continued maintenance of artwork. Maintenance stipulations will be recorded in the OPA or DDA under covenants affecting real property. In the event that the developer chooses to place the artwork at a site he does not own, the developer will negotiate ownership and maintenance directly with the recipient. The City shall be notified of all legal agreements prior to submission of the Final Art Plan for approval by the Arts Commission.

In the event the developer of the property wishes to remove the on-site artwork, the City must be notified in writing prior to its removal. The developer will be required to replace the artwork with an artwork/programming/facility of equal or greater value. The replacement artwork will be subject to the same public art selection process as the original artwork. The developer will be encouraged to notify the creator of the artwork prior to removal according to the guidelines of the California Preservation of Works of Art Act and the Federal Visual Artists Rights Act (VARA).

The artwork contract between the developer and the artist will include a maintenance plan and stipulate the length of time for which the artist is responsible for repairs (usually one-year). The artist shall retain first-refusal on repair contracts using a fair market rate. Finally, should the property be destroyed on which the artwork is situated, the artist will be given first refusal to buy the piece pursuant to the requirements of the California Preservation of Works of Art Act and the Visual Artists Rights Act (VARA).

#### **THE CULTURAL TRUST FUND**

The Cultural Trust Fund is a permanent fund that supports cultural initiatives throughout Pasadena. The Cultural Trust Fund supports organizational grants, art in public places, and special initiatives led by the Arts Commission. Not less than 25% of public art fees with a public art mandate of 1% are placed in the Cultural Trust Fund if those properties are in the Downtown or Old Pasadena Redevelopment Districts. For those assessed properties outside those districts, 20% is mandated.

The City of Pasadena recognizes the important role the arts play in creating an urban place unique among other communities. Therefore, the developer of a project which has a mandated 1% fee is strongly encouraged to explore with the service of a professional art consultant the many opportunities for unique integration of an artwork or cultural program at or near the site. If, however, the developer cannot identify an opportunity beneficial to the site and community, the developer may submit a letter to the Arts Commission, which identifies the process the developer utilized to determine that the community is best served by requesting the full 1% mandate be placed in the Cultural Trust Fund.

Revisions approved by City Council: 12/09

Revisions approved by Arts Commission: 11/18/09

Revisions approved by City Council: 7/22/02

Revisions approved by Arts Commission: 6/12/02

Revisions approved by City Council: 12/16/96

Revisions approved by Arts Commission: 11/14/96

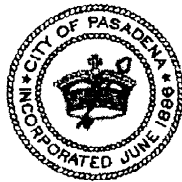
Approved by City Council: 3/2/92

Approved by Arts Commission 2/4/92

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## **Attachment D**



PLANNING & DEVELOPMENT DEPARTMENT  
NORTHWEST PROGRAMS DIVISION

February 15, 2010

Mayor Bill Bogaard and Members of the City Council  
100 North Garfield Avenue, Room 236  
Pasadena, CA 91105

Subject: Joint Recommendation to remove the public art exemption requirement from the Enterprise Zone Business Development Area, the Northwest Redevelopment Project Areas, and the Northwest Community Plan Area

Dear Mayor Bogaard and Members of the City Council:

At a special joint meeting held on June 11, 2009, a quorum of the Northwest advisory bodies (Northwest Commission, Fair Oaks Avenue, and the Lincoln Avenue Project Area Committees) made the following motions:

- (1) To recommend the removal of the public art exemption from the Enterprise Zone Business Development Area (EZBDA), the Northwest Redevelopment Project Areas, and the Northwest Community Plan Area
- (2) To exclude the designation of funds from the Northwest to the Cultural Trust Fund, and have those funds exclusively used in the Northwest Pasadena area.

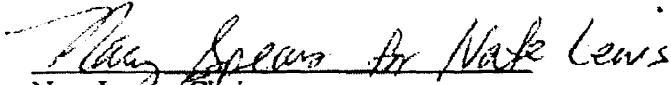
After receiving further information regarding the proposed Public Art Master Plan, the Northwest advisory bodies at their respective meetings held on January 27 and February 11, 2010, modified item #2 of the original recommendation—to support the proposed Public Art Master Plan and prioritize public art project development in the Northwest Pasadena area.

Respectfully Submitted,

Charles Nelson, Chair  
Northwest Commission



Ishmael Trone, Chair  
Fair Oaks Avenue Project Area Committee



Nate Lewis, Chair  
Lincoln Avenue Project Area Committee

VCG:vcg

cc: Michael J. Beck, City Manager  
Richard Bruckner, Director of Planning & Development  
Stephanie DeWolfe, Deputy Director of Planning & Development  
Rochelle Branch, Cultural Affairs Manager  
Lola Osborne, Northwest Programs Manager