



Civic Arts Commission  
Office of Economic Development

**Civic Arts Commission  
Public Art Committee  
Friday, May 14, 2021 at 3:00 p.m.**

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY  
THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the Civic Arts Commission will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/86089984060>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen. To join by phone: Dial **1-669-900-9128** and enter Meeting ID: **860 8998 4060**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.

To submit an e-mail comment during the meeting to be read aloud during public comment, email [civicarts@cityofberkeley.info](mailto:civicarts@cityofberkeley.info) with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply.

**Agenda**

- 1. CALL TO ORDER AND ROLL CALL**
- 2. PUBLIC COMMENT**
- 3. CHAIR'S REPORT**
- 4. DISCUSSION ITEMS WITH POSSIBLE ACTION**

- a) Utility Box Murals
- b) Design for *Earth Song* sign with bell by Wang Po Shu (Attachment 1)
- c) Donation of framed artwork from the Civic Center Exhibition: Artist Tony Kay, *Evidence*, 2018, 25 ¼ x 31 ¼ inches, Photocollage, archival pigment print, Value \$650 (Attachment 2)
- d) Draft Public Art Ordinance (Attachment 3)

## 5. **STAFF REPORT**

- a) Update on Rumford Statue lighting, waxing, and interventions
- b) Update on standard plaque template

## 6. **ADJOURNMENT**

### **Attachments:**

1. Design for *Earth Song* sign with bell by Wang Po Shu
2. Artwork by Tony Kay, *Evidence*
3. Draft Public Art Ordinance

Staff Contact:

Jennifer Lovvorn  
Secretary to the Civic Arts Commission  
Berkeley, CA 94704  
(510) 981-7533  
[jlovvorn@cityofberkeley.info](mailto:jlovvorn@cityofberkeley.info)

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the Civic Arts Office located at 2180 Milvia Street, First Floor, Berkeley, CA 94704.

### **ADA Disclaimer**

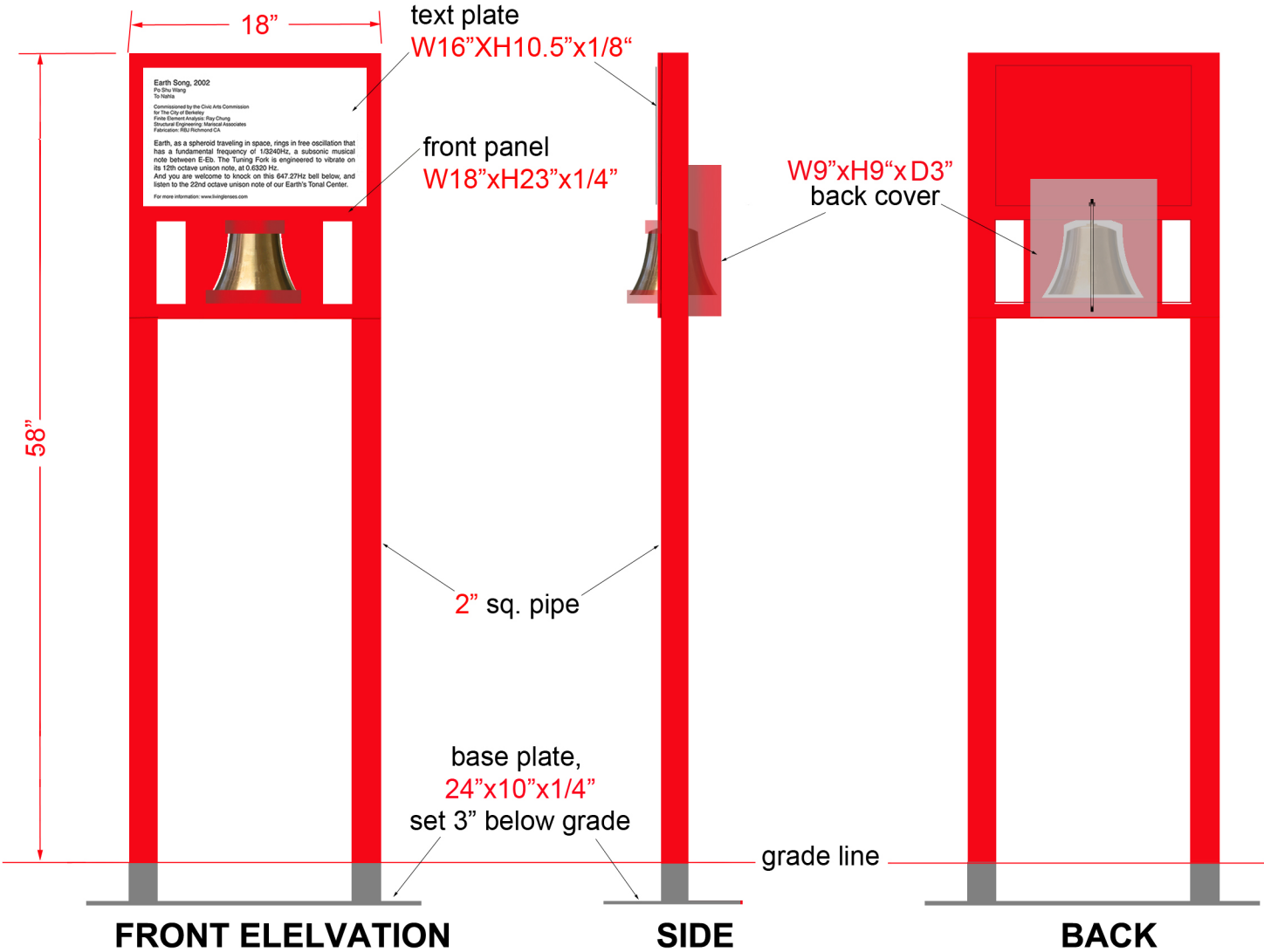
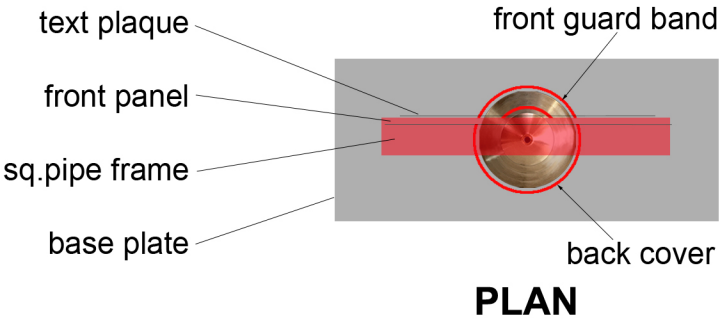
**To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.**

# SINAGE AND STAND DESIGN 3

Scale 1":1'0"

Material: Steel

Finish: Painted to match Tuning Fork



**Po Shu Wang**  
***Earth Song (To Nahla)***  
**2002**  
**Painted Steel**

Our Earth rings in free oscillation at an extremely low frequency equivalent to a musical half note between E and E-flat, and at a pitch far below audible range for humans. *Earth Song* is engineered to vibrate in unison with the tonal resonance of our planet. As a tuning fork for environmental vibrations, *Earth Song* is activated continuously with energy provided by the phenomena in its immediate environment—movement of BART trains, automobile and pedestrian traffic, and natural forces—all the while converting vibrations into the fundamental pitch of the Earth.

Pedestrians may ring the bell below which is tuned to resonate in melodic unison with our Earth.

Commissioned for the Civic Art Collection of the City of Berkeley.







# DRAFT BERKELEY PUBLIC ART FUNDING ORDINANCE

## ORDINANCE NO. X,XXX

### **Berkeley Municipal Code Chapter 6.14: VISUAL ART IN PUBLIC PLACES [Or Title 7: FINANCE, REVENUE & TAXES?]**

#### **APPROPRIATION FOR PUBLIC ART**

##### **(1). Purpose.**

The City of Berkeley believes that the cultivation and development of a livable city is enhanced by the presence of public art and creative expressions available for the enjoyment of all members of the community. Public art enhances community vitality, fosters a sense of belonging, and provides opportunities to meaningfully involve community members in the design of their environment. Furthermore, public art provides professional opportunities for artists, which contributes to the economic sustainability of the arts community. The City of Berkeley is committed to strengthening its municipal public art program by enhancing the funds available for public art and ensuring flexibility to provide equitable public art experiences in the City of Berkeley that are timely, meaningful, and relevant. Therefore, it is the purpose of this Chapter and the policy of this City to provide for the allocation of two percent (2%) of the cost of construction associated with municipal capital improvement projects to be paid into the Public Art Fund, which shall be used for art and cultural enrichment of public buildings, parks, streets, and other public spaces in the City of Berkeley.

##### **(2). Public Art Fund Allocation.**

(a) It shall be City policy to set aside two percent (2%) of its capital improvement project (CIP) budgets, as defined in this section, for the purpose of providing public art. Except as provided in this section, all CIP projects shall be subject to this policy, including but not limited to buildings, shelters, parking garages and lots, restrooms, small structures, parks, medians, landscaping, plazas, gateways, bridges, walls, tunnels, street and road construction. CIP projects include new construction, as well as renovations and alterations. Salaries and benefits of public employees supporting CIP projects shall not be included in the CIP budget subject to this ordinance. This policy shall apply to all capital improvement projects included in the annual capital improvement program (CIP) budget, as well as capital improvement projects funded through any amendment to the annual appropriation ordinance.

(b) The following CIP projects are excluded from this policy:

- (i) ADA compliance projects (not including projects where ADA compliance is a portion of a larger project).
- (ii) Emergency repair projects.
- (iii) Cyclical replacement and repair of trails, outdoor furnishings, or fencing.

- (iv) Studies and environmental review.
- (v) Roof replacement (not including projects where roof replacement is a portion of a larger project).
- (vi) Mechanical, security, A/V equipment, and HVAC, upgrades and repairs (not including projects where these are a portion of a larger project).
- (vii) Utilities projects, except where the project includes construction or reconstruction of a building.
- (viii) Vehicle repair and replacement.
- (ix) IT purchases and installations.
- (x) Seismic upgrades and waterproofing (not including projects where these are a portion of a larger project).
- (xi) Projects where the majority (more than 50%) of the cost is allocated to elements located underground.
- (xii) Projects where prohibited by federal or state law, including projects or portions of projects funded by grants from non-city sources that prohibit expenditure of funds for art.

**(3) Reasonable efforts to include funds for public art.**

(a) City staff shall use reasonable efforts to obtain appropriate approvals from any funding source for any capital improvement project, to allow use of two percent (2%) of such funds for the acquisition of public art as provided in this title. Such efforts shall include, without limitation, identifying public art in grant applications for capital improvement projects, efforts to include expenditures for public art in developer funded infrastructure projects, and efforts to allocate for public art in developer-constructed infrastructure and public facilities.

(b) If the city enters into an agreement with another public entity, whereby city funds are transferred to such other public entity for the capital improvement project that would otherwise be deemed subject to the public art requirements under this title, city staff shall use reasonable efforts to include in such agreement, whenever it is lawful to do so, a requirement that the recipient entity or its successor in interest shall take appropriate measures to insure that not less than two percent (2%) percent of the city funds so transferred are expended for acquisition of public art.

(c) Before proposing a bond issue or making a request for an appropriation for the construction of any of the projects set forth in this Chapter, the officer, board or commission concerned shall add thereto for the Public Art allocation associated with the proposed CIP project, two percent (2%) of the gross estimated construction cost. Where funding eligibility is

limited by law or funding agency rules, the Public Art allocation shall be based upon two percent of eligible construction costs.

(d) Nothing in this section is intended to prohibit the city council from adopting an ordinance or resolution establishing a public art contribution for any project otherwise excluded from this policy or setting the public art contribution for any project at greater than two percent of the CIP budget.

(e) Aggregation of Funds. Funds shall be deposited into the Public Art Fund. Per BMC Chapter 6.14, the Civic Art Commission shall determine public or publically-accessible sites for art funded by the two percent for art policy. Funds may be expended on public art at any appropriate site within the city. Funds from two or more CIP projects may be pooled to fund a single work of art. Funds may be used for permanent or temporary public art.

(f) The Civic Arts Commission shall adopt administrative regulations to implement this section.

**(4) Definitions. For purposes of this Section:**

- "Alteration" of a building, aboveground structure, or transportation improvement project shall include substantial changes to elements such as walls, partitions, or ceilings on 2/3 or more of the total floor space, excluding basements. "Substantial changes" shall include additions to, renovation of, removal of, and modification of such elements.
- "Civic Art Collection" shall mean the various artworks owned by the City under the jurisdiction of the Civic Arts Commission that are accessioned by action of the Commission into the Civic Art Collection.
- "Construction cost" shall mean the total estimated construction contract award amount, including the costs of all built-in fixtures, unless otherwise agreed to by the Civic Arts Commission. "Construction cost" shall not include movable or personal property or construction cost contingency.
- "Public Art" shall mean the acquisition and installation of original works of art (including limited editions), or temporary installation, display, or presentation of the same, on City property for aesthetic and cultural enhancement of public buildings and public spaces and engagement of the public with the creative work of artists, as approved by the Civic Arts Commission. [See notes at the end for other definition of Public Art included in the BMC]
- "Transportation improvement project" refers to Public Works projects which include both aboveground and below-ground transportation-related projects; boarding ramps; transit platforms; terminals and transportation systems with their attendant passenger amenities, such as shelters, seating, lighting, landscaping, and signage; transportation-related



structures such as maintenance and operating facilities; power substations; and street/highway-related transit improvements such as bridges and overpasses.

**(5) Administrative Fees.**

The Civic Arts Commission shall supervise and control the expenditure of all funds appropriated for public art and shall allocate up to twenty percent (20%) of said funds for all necessary and reasonable administrative costs incurred in connection therewith unless such administrative fee is limited or prohibited by the funding source.

**(6) Maintenance and Conservation Funds.**

The Civic Arts Commission may set aside and expend up to ten percent (10%) of the total public art allocation for each project for maintenance and conservation of artworks in the Civic Art Collection. When permitted by the funding source, funds set aside pursuant to this Section shall be invested in an interest-bearing account when the total of such funds set aside exceeds \$10,000.

**(7) Miscellaneous Provisions.**

(a) Construction and installation of public art shall comply with the requirements of all applicable building codes, laws, ordinances, rules and regulations.

(b) Nothing in this Section shall be construed to limit or abridge the jurisdiction of the officer, board or commission of the participating City department to supervise and control the expenditure of project funds other than the two percent (2%) allocation for public art.

(c) This ordinance shall not be applied retroactively to projects for which an public art allocation previously would not have been required, nor to those projects for which project funding has been approved by prior voter action but not yet appropriated or expended. Nor shall this ordinance be construed to allow for an increase in the total public art allocation for a project that is already underway or for which the public art allocation has already been established.

(d) Ownership. All art acquired pursuant to this chapter shall be acquired in the name of the City of Berkeley as part of the Civic Art Collection and title shall vest in the City of Berkeley.

---

***NOTES – Alternate Definitions of Public Art in Berkeley Municipal Code:***

***BMC Chapter 6.14 VISUAL ART IN PUBLIC PLACES***

A. *"Visual art in public places" means any visual work of art displayed for two weeks or more in an open City-owned area, on the exterior of any City-owned facility, in areas designated as*

*public areas, lobbies, or public assembly areas, or on non-city property if the work of art is installed or financed, whether wholly or in part, with city funds or grants procured by the City.*

*B. "Work of art" is an original work by an artist and includes, but is not limited to, functional art integrated into public improvements, sculpture, monument, mural, painting, drawing, photography, fountain, banner, mosaic, weaving, art glass, multi-media, computer-generated art, electronic and media art, video, earth art, installation art, performance and time based works of visual art, and social practice art.*

***BMC Chapter 23C.23 Percentage for Public Art on Private Projects.***

*D. "On-Site Publicly Accessible Art" means an original work by an Artist, including, but not limited to, functional art integrated into the building, landscape, or element of infrastructure, including sculpture, monument, mural, painting, drawing, photography, fountain, banner, mosaic, textile, art glass, digital media art, video, earthworks and multi-media installation, that is in a location that is accessible to and available for use by the general public during normal hours of business operation consistent with the operation and use of the premises.*