



Civic Arts Commission  
Office of Economic Development

## **Agenda**

### **Civic Arts Commission**

### **Public Art Subcommittee**

Thursday, February 20, 2020 at 9:00-10:30 a.m.  
2180 Milvia Street, 5th Floor, Pepperwood Room, Berkeley, CA 94704

*Please refrain from wearing scented products to public meetings*

**1. CALL TO ORDER AND ROLL CALL**

**2. PUBLIC COMMENT**

**3. DISCUSSION ITEMS WITH POSSIBLE ACTION**

- a) Issue concerning “The Opening Circle” artwork at Cesar Chavez Park – Martin Nicolaus, Chavez Park Conservancy (Attachment 1)
- b) 2542 Durant – Final Art Plan (Attachment 2)
- c) Public Art in Parks – Discuss possible sites for new art with staff from Parks Recreation & Waterfront Department
- d) Community Proposal of Mural Extension at University Avenue underpass
- e) 1.5% for Public Art Policy – Discuss Ordinance Language (Attachment 3)
- f) Revisions to “Public Art on Private Development” Ordinance and Guidelines
- g) Possible purchase of three framed artworks from “Some Speechless Thing” at Berkeley Art Center

**4. CHAIR’S REPORT**

**5. STAFF REPORT**

- a) Recent art vandalism abatement (Attachment 4)
- b) BART Sound Installation and Equipment Cabinet
- c) New framed artwork installed

**6. ADJOURNMENT**

**Attachments:**

- 1. “Good Fences Make Good Neighbors” Report from Chavez Park Conservancy
- 2. 2542 Durant – Final Art Plan
- 3. 1.5% for Public Art Draft Ordinance Language
- 4. Documentation of Vandalism Abatement

Staff Contact:

Jennifer Lovvorn

Secretary to the Civic Arts Commission

Berkeley, CA 94704

Phone: (510) 981-7533

TDD: (510) 981-6903

Email: [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**

***This meeting is being held in a wheelchair accessible location. 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.***

**To: Parks and Waterfront Department  
Parks and Waterfront Commission  
Civic Arts Commission  
Golden Gate Audubon Society**

From: Martin Nicolaus, Chavez Park Conservancy

Date: February 2 2020

## **Good Fences Make Good Neighbors**

*Time to Upgrade Burrowing Owl Protection and Public Art Access at Cesar Chavez Park*

Almost a decade ago, a public art installation went up in the northeast corner of Cesar Chavez Park. Installed with the cooperation of the Parks and Waterfront Department, the Civic Arts Commission, and the Audubon Society, it consists of low profile concrete benches and partial walls running from north to south. A circular seating structure, the “Open Circle” or “Opening Circle,” is the principal feature. It sits on a promontory on the south end. It was designed as an observatory, outdoor classroom, and social meeting place. In the common language of park visitors, it's known as “The Spiral.”

The installation was superimposed on a portion of the park which, a quarter century ago, was a winter gathering place for migratory Burrowing Owls. According to some old-timers, the owls there could be so numerous that one had to be careful not to step on one. Visitors remember that sometimes dogs would hunt and kill them there. In recognition of the site's role as historic wintering place for owls, the joint commission that designed the artwork avoided high structures that might provide perches for raptors that threatened the ground-dwelling owls from the air. The installation also included an Art-Deco fence with gates that can be closed during the owl wintering season to bar public access to the whole area, including the spiral seating structure. The enclosed area was labeled the Burrowing Owl preserve or sanctuary. The Parks administration is responsible for landscape maintenance in the enclosed area and for closing and opening the gates seasonally.

The configuration of the fence looked like a reasonable compromise between art appreciation and bird stewardship at the time it was created. However, a decade later, some persistent issues have arisen that call for a rethink of the fence design. The dominant change in circumstances from a decade ago is the decline in Burrowing Owl numbers inside the fenced area. Where once these birds were seen in dense numbers, in recent years they have been rare or absent there. In the winter of 2017-18, there was not a single Burrowing Owl spotted anywhere in the park. In the winter of 2018-2019, only one owl roosted inside the fenced area, in the rocks on its east shore, for the season. In the current winter, one owl was seen inside the fence, also in the northern half, for two or three days in December and then disappeared. No owls have been seen for the past five years or more in the southern portion of the fenced area.

The decline in Burrowing Owl visits to the park is part of a general statewide and nationwide decline in Burrowing Owl numbers. Nothing is gained by moaning and hand-wringing about this sad trend. It is properly a call to action. If we want to see more Burrowing Owls in the fenced area, we have to step up our stewardship to protect the birds and make them feel safe there. Bird protection requires taking a hard look at the design of the surrounding Art Deco fence. In a word, the fence is decorative, but not functional. The fence is too low and the gaps between its wires are too wide to keep out off-leash dogs.

There have been numerous cases, several of them recorded on video, of dogs slipping through or leaping over the fence and invading the supposed sanctuary. The inadequacy of the fence is a common observation among regular park visitors and raises persistent questions about the responsible parties' commitment to owl stewardship.

While the fence is too little in most of its length, it is too much on the southern end, where it blocks public access to the Spiral, the outdoor seating area. The gate on the southern end is no more barrier to dogs than the fence along the rest of its length. It is, however, a barrier to park visitors who would like to use the Spiral during the winter months. Among these visitors are birders, who realize that the Spiral, situated on a promontory into the bay, provides by far the best observatory for viewing the seasonal abundance of bird life on the North Basin cove. Moreover, the Spiral is the only vantage point from which the rip-rap on the east side of the Burrowing Owl preserve can be viewed. In the winter of 2018-2019, the lone Burrowing Owl that spent the season in the preserve was first spotted from the Spiral by a Burrowing Owl docent who stepped across the southern gate. If winter access to the Spiral remains blocked, an accurate report on Burrowing Owl numbers in the owl preserve cannot be rendered. Park visitors cannot grow in respect for and appreciation of birds they cannot see.

The resolution of these issues is not difficult and it is not expensive, but it requires good will and cooperation among the stakeholders: the Parks governance, the Arts Commission, and the Audubon Society. Two things need to happen, namely:

- (1) The existing decorative fence and gate on the southern end needs to be relocated about thirty feet northward so that park visitors can have access to the Spiral year round, while still blocking visitor access to the remainder of the owl preserve during the winter season. No new material would have to be purchased. The labor involved to move the fence is about two hours for two workers.
- (2) The existing decorative fence along its entire length, as reconfigured, needs to be backed up with a four foot high green plastic fence, of the type commonly used for temporary garden installations. Both the plastic and the metal stakes for holding it up are standard items in the Parks Department inventory. This fence needs to go up in early October, when the first owls have arrived in the past, and can come down again in mid-March, when all owls on record have migrated back north. Audubon Society and Chavez Park Conservancy volunteers can assist Parks staff in erecting and taking down this temporary fence.

Nature is in constant flux, and we who want to be its stewards have to improve our game to keep up. When birds are in danger, it isn't enough to grieve. We must act. If we want to see the Burrowing Owls gather in the sanctuary that we have intended for them, we need to make the area safe for their seasonal residence. Other Parks administrations understand this and immediately put up temporary fences for visiting owls. We can do no less. Moreover, owl stewardship need not interfere with park visitors' enjoyment of the public art that private donors have paid for and the City has installed there. Owl protection, art appreciation, and the birding experience can all be enhanced by keeping the beautiful Open Circle outdoor classroom ("the Spiral") open to the public year round. It's a win-win for all parties concerned.

Attachment: Photos



Fig. 1: Current Configuration of Burrowing Owl Winter Season Sanctuary, Northeast Corner of Cesar Chavez Park



Fig. 2a: Metal Plaque Dedicating Public Artwork, Set Into Paved Path At Entrance To Spiral

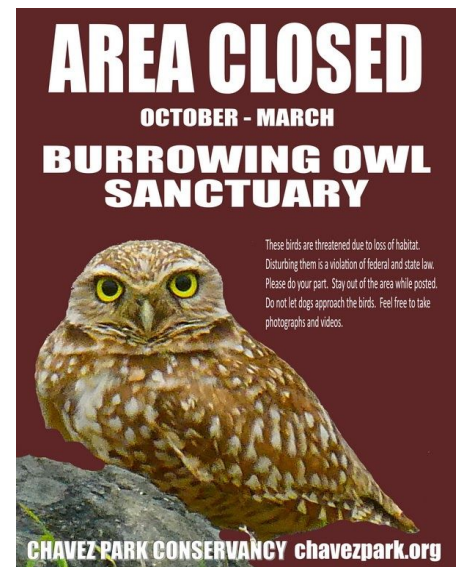
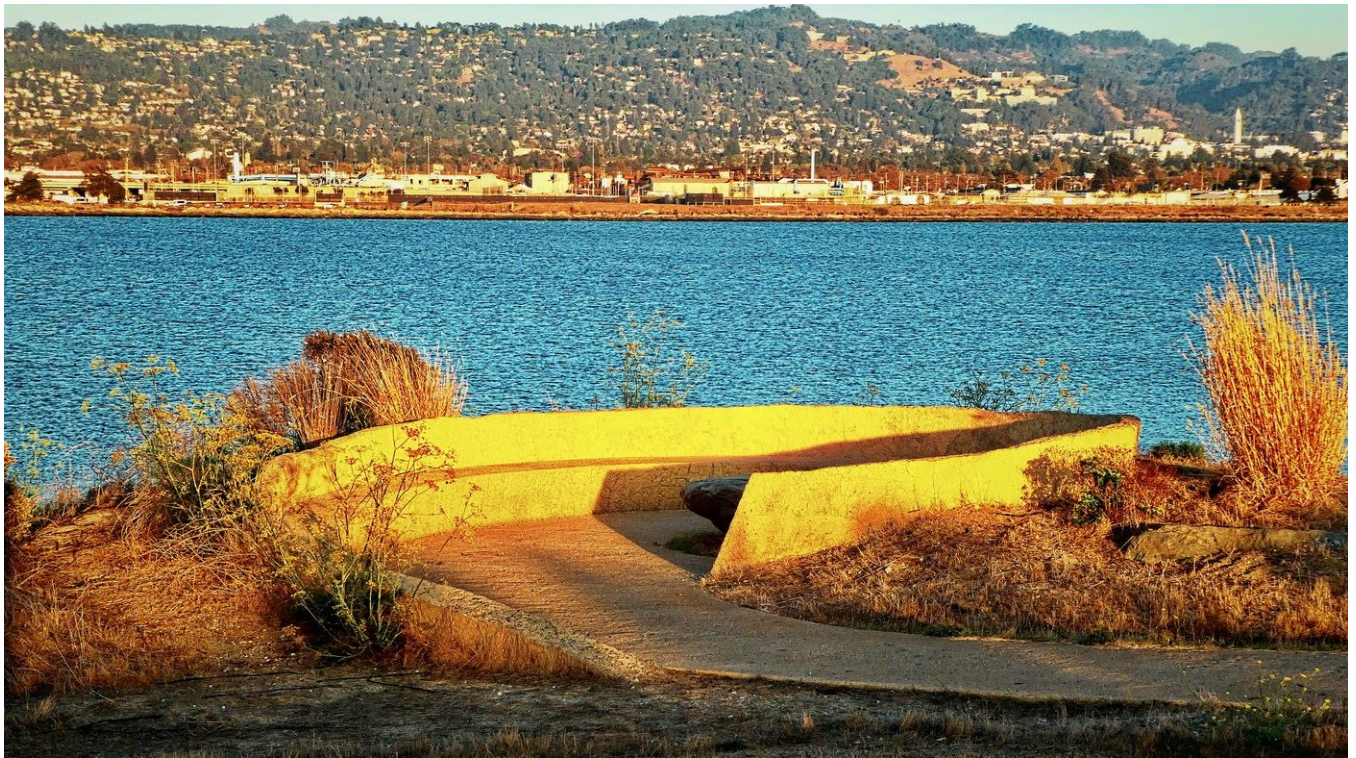
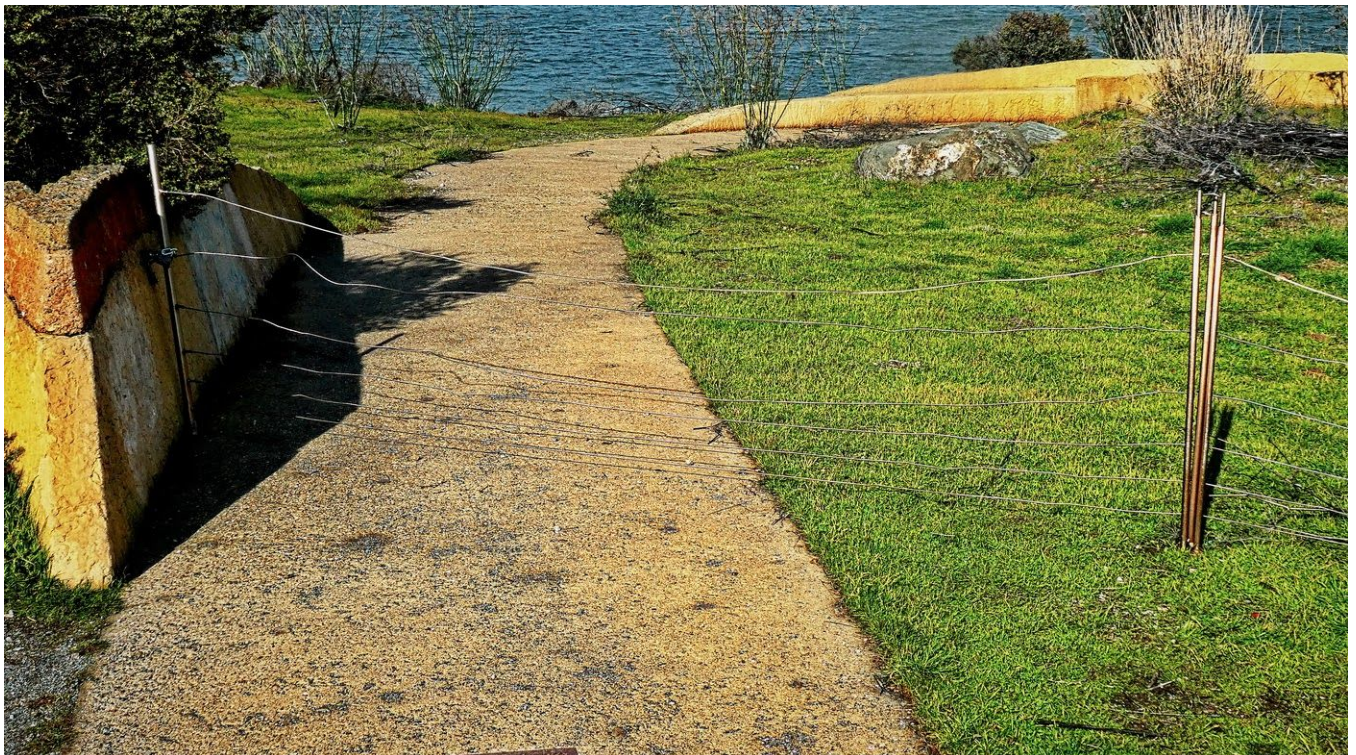


Fig. 2b: Temporary Sign Marking Burrowing Owl Protected Area, Affixed To Fence



**Fig. 3: Open Circle Seating Area (“Spiral”)**



**Fig 4: South Gate Closed, Blocking Public Access to Spiral During Winter Season**



**Fig. 5: Art Deco Fence Is Not an Effective Barrier to Dogs**



**Fig. 6: Burrowing Owl Victim of Off-leash Dog 11/27/16**



**Fig. 7: Off-Leash Dog Leaps into Burrowing Owl Sanctuary on North Side**



**Fig. 8: Off-leash Dogs that Entered on North Side Roam Burrowing Owl Sanctuary**





**Fig. 9: Off-leash Dog Entered Burrowing Owl Sanctuary Through South Gate**



**Fig. 10: The Spiral is the Only Vantage Point with a View of the East Shore of the Owl Sanctuary Where a Burrowing Owl Roosted in the Rip-Rap During the 2018-2019 Winter Season**



**Fig. 11: The Spiral is the Best Observation Point for Viewing Bird Life Along East Side of Park. It Should be Open to the Public All Year**



**Fig. 12: An Example of a Temporary Fence to Protect Burrowing Owl Sanctuary. Materials are Readily Available and Esthetic Impact is Minimal**



**Fig. 13: Relocating the Art Deco Fence on the South Side Would Allow All-Year Public Access to Spiral and Require No Additional Materials**

# **FINAL PUBLIC ART PLAN**

**2542 DURANT AVENUE**

February 14, 2020

## E D U C A T I O N

**Rhode Island School of Design, Providence RI (RISD)**  
Bachelors of Fine Arts, Sculpture 2007

**Brown University** Liberal Arts Courses 2005

**Haystack Mountain School of Crafts** Summer Course 2006  
(Blacksmithing and Mechanisms)

**Peters Valley Craft Center** Summer Courses 2005  
(Blacksmithing and Basket Weaving)

E X H I B I T I O N S  
A W A R D S

**To The Moon** 2017  
Curation by Colin Bliss and Will Reeves  
The Wurks, Providence RI

**Interstice: Memory, Mind & Alzheimer's Disease** 2015  
Curation by Peter J. Snyder and Babette Allina  
Cohen Gallery, The Granoff Center for Creative Arts, Brown University, Providence RI

**The Observatory Project** 2012  
Curation by Babette Allina and Mikhail Mansion  
Ladd Observatory, Brown University, Providence RI

**Expose** (*RK Projects*) 2012  
Eastern Butcher Block Factory, Providence RI

**De/Construct II** 2009  
150 Chestnut St. Providence, RI (Nominated for best exhibition in New England)

**Structures of Space and Light** 2009  
The Hope Artist Villiage, Pawtucket RI

**We Found Space: Senior Sculpture Thesis Exhibition** 2007  
22 Conduit St. Central Falls, RI

**Cast It, Mold It** 2007  
Benson Hall Gallery

**Sculpture Exhibition** 2007  
Woods-Gerry Gallery

**ROCK PAPERS SCREENS** 2007  
Benson Hall Gallery

**Sculpture Undergraduate Exhibitions**  
Fall 2004, Spring 2005, Fall 2005, and Spring 2006  
191 Westminster Street

**Steel Yard Public Projects** 2007-2012  
*Hand Forge Municipal Cans for Bristol, RI* 2009 and 2010  
At request of the township and then again.  
*International Charter School of Pawtucket Garden* 2008  
Collection of Sculptural objects to be placed in the garden.  
*Rack-a-gami for RISD and town of Warren* 2007  
Design and fabricated a series of bike racks.

**Nominated for Windgate Fellowship** 2007  
One of two seniors to represent RISD in a national competition

**THE STEEL YARD APPRENTICESHIP PROGRAM IN TRADITIONAL OCCUPATIONAL ART** 2007  
RISCA grant to study timber framing with Tim Whitehouse

## EXPERIENCE

### **The Wurks** 2009 – present

Is a space I help found. Based in Providence RI, The Wurks is a collaboratively managed artist's workspace located in Providence's historic mill district. Our space houses communal wood and metal fabrication shops, a print shop, and an exhibition space, as well as sizable studio spaces for both individual artists and groups. The Wurks exists as a place for a diverse group of artists and designers to foster a community of hard work and forward thinking in the Ocean State. Our aim is to provide the conceptual support and the physical equipment necessary for Rhode Island creatives to realize and share their wild visions.

### **RISD CRITIC** 2016-present

Primarily Teach introduction to materials to incoming graduate students.

### **ID METAL SHOP TECHNICIAN RISD** 2012-present

Oversee and Manage the metal shop of the Industrial Design Program. It is a large machine shop with some sheet and bar forming equipment. Primary duties include assisting faculty and students with classes and projects as well as managing and maintaining the equipment and space. Also manage the budget and oversee eighteen student employees.

### **RISD MUSEUM** 2010-2012

Responsible for art handling and installation of paintings, sculptures, and antiquities. Worked extensively on the permanent collection of ancient greek and roman works, permanent collection of medieval and gothic works, Linda Bengalis retrospective, ect. Primarily responsible for any metal mounts, fixtures, displays both in consultation of design and creation of.

### **ARTIST ASSISTANCE** 2008-present

These are a list of artist that I've worked for either consulting, custom fabrication, public installation, and exhibition design/handling/installation.

Doug Borkman  
Alba Corrado  
Adrienne Evans  
Jonathan Glat  
Brower Hatcher  
Megan and Murray McMillian  
Jeff Hesser

Katie Koti  
Lucky Leone  
Allison Paschke  
Denis Pelliteer  
Merlin Szasz  
Farzin Lotfi-Jam  
Dan Clayman

### **The Steel Yard, Teacher** Summer 2007-2012

Have taught introduction to Blacksmithing. I have assisted Andy Donner during his month and a half blacksmithing class and Josh Dow and the Iron Guild's iron casting class at the Steel Yard during the summer, as well as a major contributor to the annual Halloween Iron Pour spectacular. In the past I to managed open studios where maintain many of my responsibilities as a metal shop monitor

### **Zuerner Design, Designer and Fabricator** Summer 2007- 2009

Assist in designing custom furniture, and print and web graphic design. I assist with the manufacture and installation of our custom works. Shop specializes in furniture, cabinets, and other architectural mill work. Currently company is becoming more of an in-house interior architectural firm with both metal and wood working capabilities.

### **Penland School of Craft, Teaching Assistant for both Iron and Wood** Summer 2007

Responsibilities included facilitating faculty, Marc Maiorana and Peter Galbert, and students. Preparing demonstrations and exhibiting and proper safety procedure. Responsible for maintenance of the tools and space in both the Iron Studio and Wood Studio. Also gave slide lecture of my work to the school.

### **RISD, Foundry and Woodshop Technician Assistant/ Monitor** 2004 – 2007

Responsibilities included facilitating faculty and students, demonstrations of tools and proper safety, maintenance of the tools and space in both the sculpture woodshop and foundry. I also manage and run open bronze pours.

### **RISD, Resident Assistant for Freshmen and Pre-College** 2004 - 2007

Responsible for 15-20 high school and college freshmen, acting as a community leader, supporter, mediator, friend, and event organizer. Around people all the time and always helping.

### **RISD, Teacher Assistant Jeff Hesser** 2005-2007

Figure modeling class: 3-D Kinetic Anatomy, and Advanced Figure Sculpture

### **RISD, Teacher Assistant Alba Corrado** 2006, 2007

Intermediate and Advanced Figure modeling, Freshmen 3-D Foundation

### **RISD, Teacher Assistant Bryce Hobbs** 2004

Freshmen Foundation Drawing

## S K I L L S

**Steel:** Proficient at Stick welding, MIG welding, TIG welding (stainless, aluminum bronze, steel), Oxygen and Acetylene cutting and welding, plasmas cutting. Fluent in industrial fabrication equipment (brake, slip roll, shear, ect.) as well as both manual and CNC machining (vertical mill and metal lathe). I have 15 years of blacksmithing experience.

**Mold Making:** block and case mold for ceramic production (porcelain), plaster waste molds, rubber molds, lost wax ceramic shell, lost wax standard investment, Pattern boards and core boxes, wood molds. All scales from monumental to jewelry.

**Modeling/Prototyping:** I have 15+ years experience with a variety of life size busts, figures from 2" to ¾ lifesize, as well as developing prototypes of products and consumer goods. Foam (styrene, urethanes, ect.), Clay (oil and water based, wood).

**Woodworking:** from general carpentry to fine cabinetry and furniture, I am well versed in all machine tools (joiner, planer, table saw, shaper, radial arm saw, lathe) and have experience in timber framing, coppering, steam bending, pattern making and hand joinery

**Computer:** 5 Years+ SolidWorks and well versed in G-Code and several CAM packages. 10+ Years of Adobe Suite and Microsoft Office and Goggle Applications.

# 2542 DURANT AVENUE

## FINAL PUBLIC ART PLAN

### CONSTRUCTION BUDGET FOR ART

Cost of Art (including design, fabrication and installation)	\$42,185.00
Art Consultant Fee	4,200.00

### ARTWORK MATERIALS

The sculptures will be cast from raw grey iron. It was selected because of its castability and durability. This is the same material used for many outdoor street applications like tree grates. Because of its high carbon content and the presence of silicon, cast iron has excellent castability. It is durable with excellent resistance to wear and weather and require no maintenance.

### RELATIONSHIP BETWEEN ARTWORK AND THE SITE

- **Artwork function:**

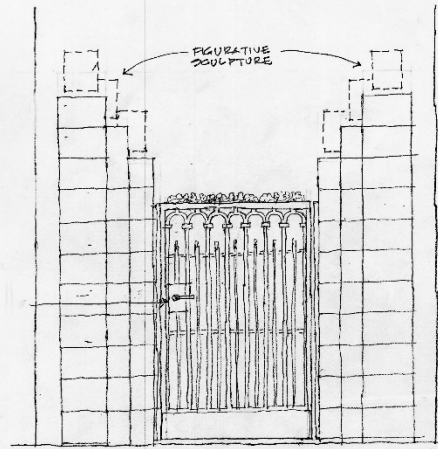
The purpose of the artwork is to create a sense of entry for passersby, residents, and visitors to the housing units. Three pairs of pillars mark the entrance path. They will be topped with repetitive, identical sculptures. The pairs of pillars descend in height as the pathway narrows to create a false perspective which will serve to visually draw people into the entrance court and elevator lobby of the building.

The developer was interested in a figurative work of art. The artist suggested celebrating the native California Valley Quail as the subject for his sculptures. Quail were once so common in the area that the Peralta family (owners of Rancho San Antonio which included Berkeley) named the creek where they built one of their original homes “Condornices” Creek, meaning “quails.”

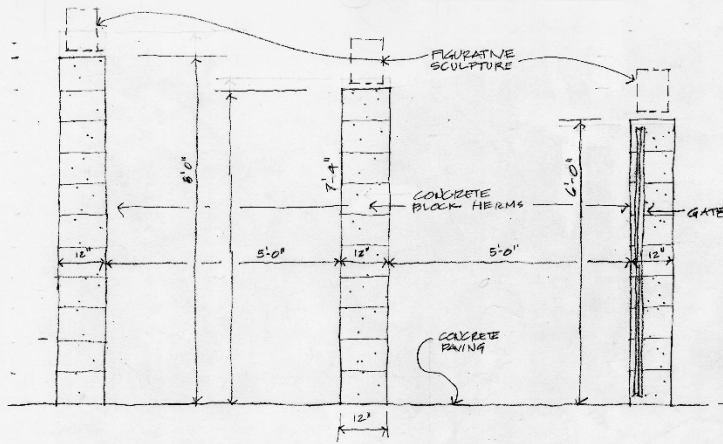
- **Conservation and Maintenance:**

Because the sculptures will be cast in a durable metal, a cast iron alloy, and solidly attached to the tops of the concrete block columns, no maintenance will be required. They will acquire a patina with age.

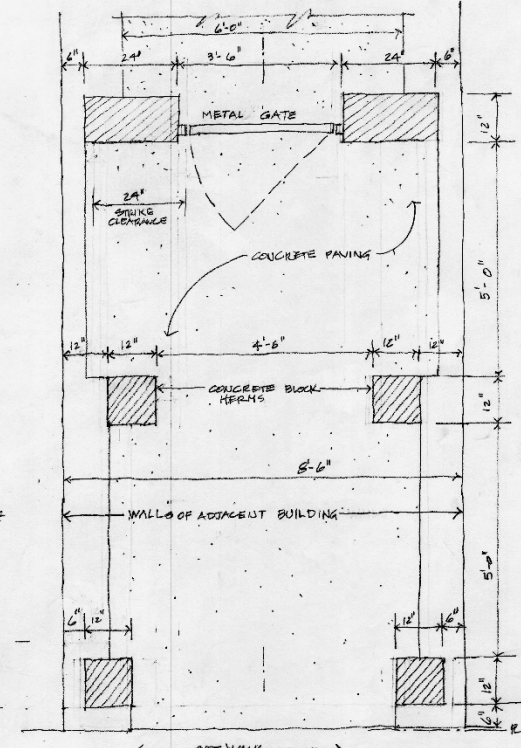




3 GATEWAY NORTH ELEVATION  
 $\frac{3}{4}'' = 1'-0''$



2 GATEWAY SECTION  
 $\frac{3}{4}'' = 1'-0''$



1 GATEWAY PLAN  
 $\frac{3}{4}'' = 1'-0''$

ARTWORK LOCATION ON PILLARS

PACKED  
LEAD FIBER

S.S. NUT

GILDED BRONZE FEATHER

GILDING ON EYE

CAST IRON BODY

S.S. THREADED ROD

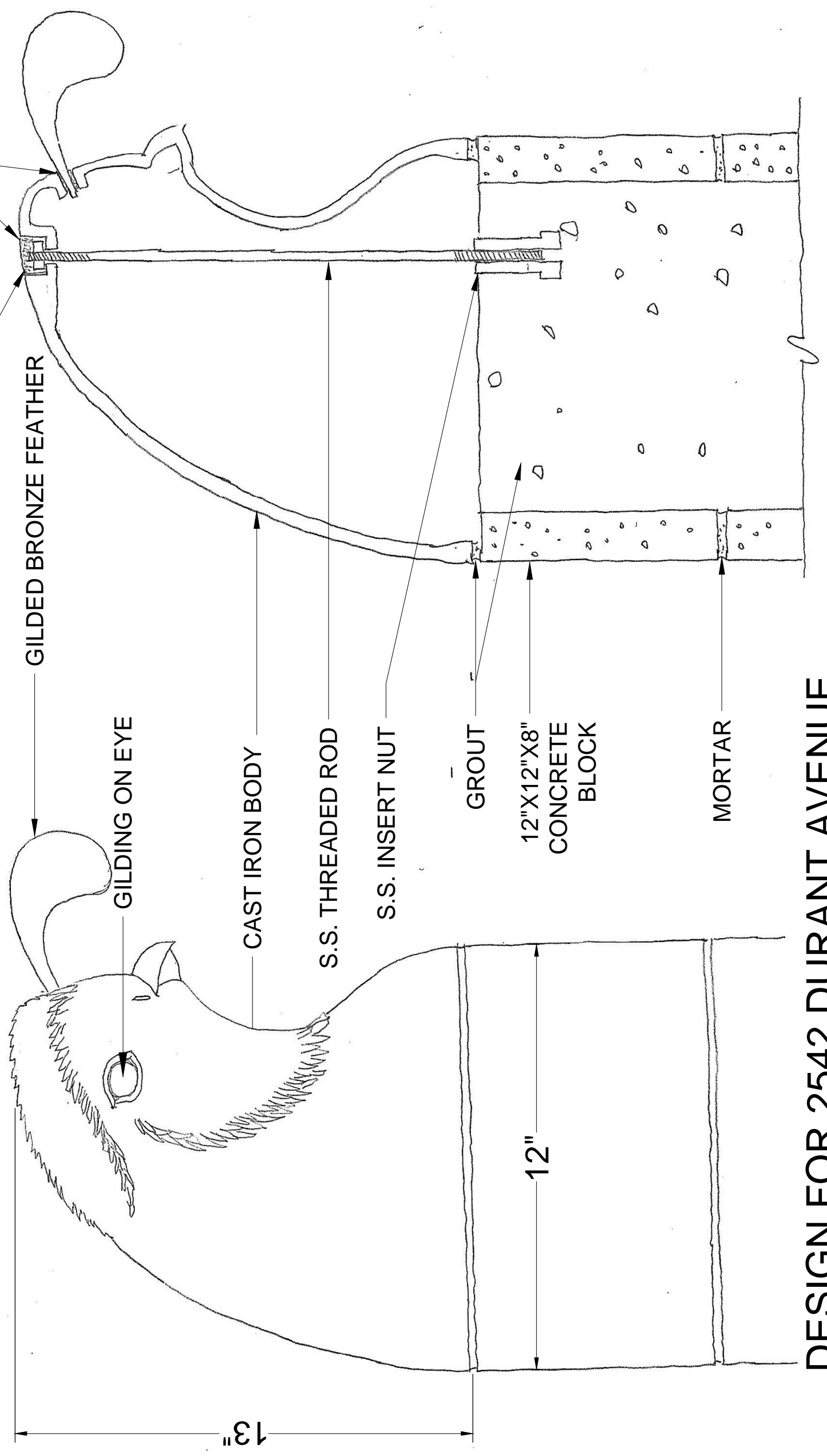
S.S. INSERT NUT

GROUT

12"X12"X8"  
CONCRETE  
BLOCK

MORTAR

NOTE: STEEL REINFORCING NOT SHOWN



DESIGN FOR 2542 DURANT AVENUE,  
BERKELEY, CA

WILLIAM C. REEVES

**ART AGREEMENT** made February 13, 2020

Between the **OWNER:**  
John T. and Marley Lyman  
P.O. Box 10608  
San Rafael, CA 94912  
(415)258-8528

And the **ARTIST:**  
William Reeves  
33 Acorn Street  
Providence, RI 02903  
(401)787-2728  
wreeves@risd.edu

**ARTIST’S RESPONSIBILITIES:**

ARTIST to create a unique work of art, description as follows:

Figurative sculpture with six (6) metal castings to be mounted on top of gateway pillars at **2542 Durant Avenue in Berkeley, California** (see attached sketch FIGURE 1).

The ARTIST will communicate with the OWNER’S REPRESENTATIVE, Suzy R. Locke & Associates to review schedule and progress of the artwork deliverables. ARTIST is to complete the project within the time limits established by the OWNER or their REPRESENTATIVE.

**DELIVERABLES, APPROXIMATE TIME NECESSARY, AND PAYMENTS DUE:**

<b>Contract approval</b>		\$ 1,050	2.5%
<b>Maquette</b>	30 days	\$ 2,100	5%
<b>Clay modeling/sculpting</b>	60 days	\$ 5,250	12.5%
<b>Mold making</b>	30 days	\$ 2,100	5%
<b>Casting</b>			
Including casting materials, metals and finishing			
50% completion	90 days	\$10,500	25%
100% completion	90 days	\$10,500	25%

**Installation\***

including cast-in-place attachments,  
Insurance and shipping

60 days	\$10,500	25%
	<b>\$42,000</b>	<b>100%</b>

\* Concrete block posts and electrical work by others.

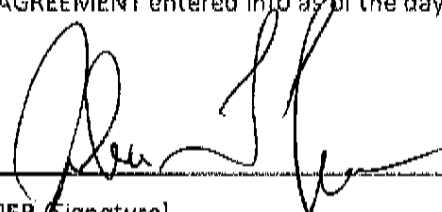
**OWNER'S RESPONSIBILITIES:**

OWNER will keep ARTIST informed concerning construction schedule and establish ARTIST due dates for each deliverable. Upon approval of each deliverable listed above, OWNER will send payment within 30 days.

**TERMINATION:**

In the event of abandonment of the project by the OWNER, ARTIST will be compensated for the completed portions of the work.

This AGREEMENT entered into as of the day and year written above.


2-14-20

---

OWNER (Signature)

John T. and Marley Lyman

(Printed name)



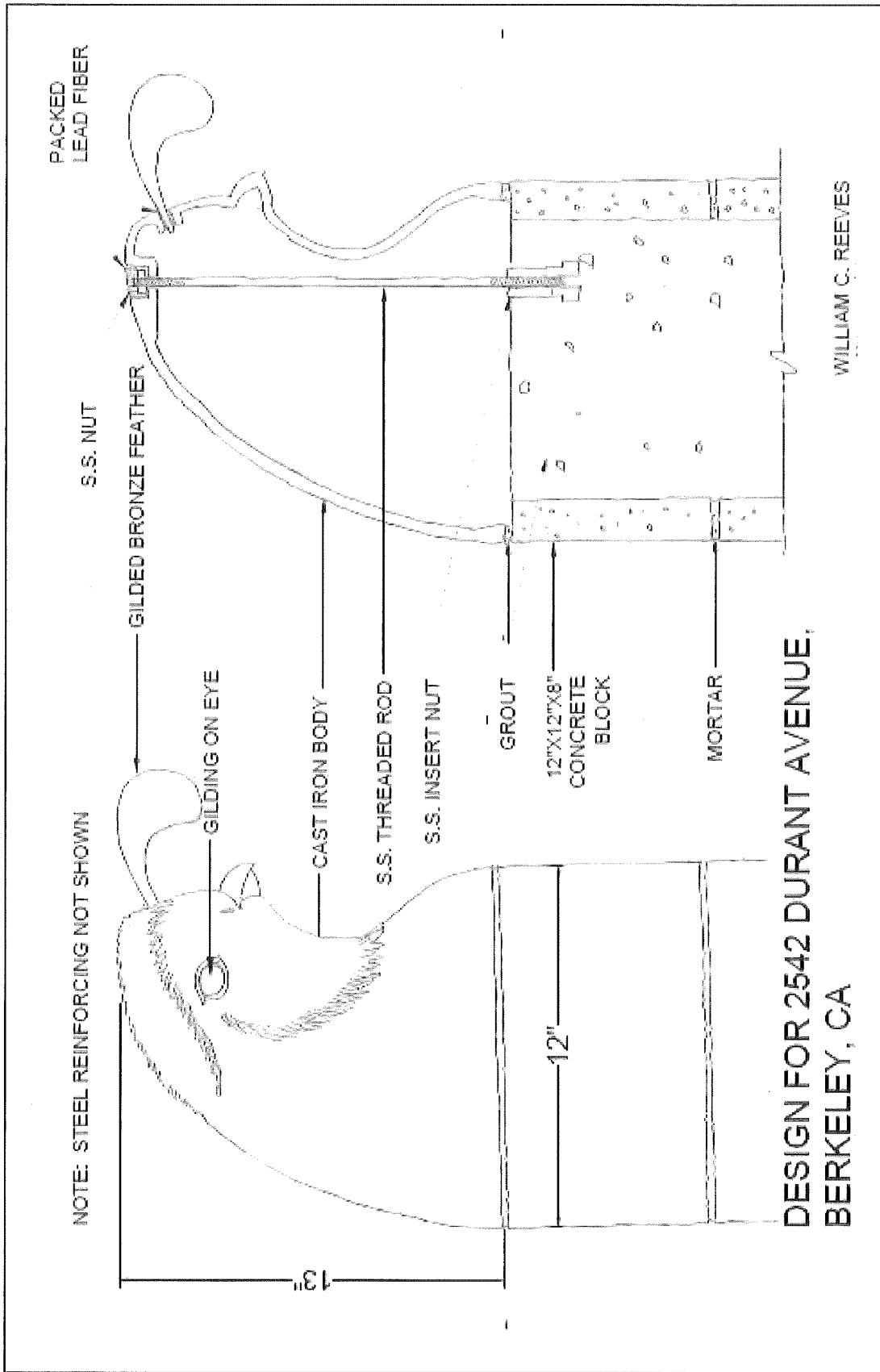
---

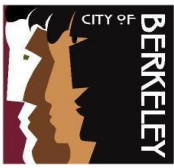
ARTIST (Signature)

William Reeves

(Printed name)

FIGURE 1





# PUBLIC ART ON PRIVATE DEVELOPMENT PROGRAM

## Allocation Declaration

Civic Arts Program  
Office of Economic Development  
City Manager's Office

**(For Use by Applicant Only)**

<b>Project Address:</b> 2542 Durant Ave. Berkeley, CA 94704	<b>Project Title:</b> 2542 Durant
<b>Description of Project:</b> 32 Unit, 5 story apartment building w/ ground floor retail	<b>Total Building Permit Valuation:</b> \$4,218,542
<b>Point of Contact (Name &amp; Title):</b> Kirk E. Peterson, Architect	<b>Organization Name &amp; Mailing Address:</b> Kirk E. Peterson & Associates, Architects 5253 College Ave., Oakland, CA, 94618
<b>Telephone:</b> (510)547-0275	<b>Email:</b> Kirk@KPAarch.com

**Declaration**

I certify that I am the property owner, authorized agent of the property owner or other person having a legal right, interest, or entitlement to the use of the property that is the subject of this declaration. I declare that I shall comply with the requirements of City of Berkeley Municipal Code Section 23C.23.050 in the manner indicated below:

- Placement of artwork(s) on the premises valued at 1% of the total building permit valuation for the development. [1% = \$ 42,185]
- A combination: include on-site publicly accessible artwork valued at less than 1% with an amount equal to 80% of the difference in value paid to the City as an in-lieu fee.
- Depositing into the City's Public Art Fund, payment of an in-lieu fee equal to 0.8% of the total building permit valuation for the development. [0.8% = \_\_\_\_\_]

**Applicant Signature:**  **Date:** September 30, 2019

**(For Use by City of Berkeley Only)**

<input type="checkbox"/> Apply an in-lieu fee of 0.8% equaling \$ _____	Authorized Signature, Title, Date:
<input type="checkbox"/> Approved for Public Art Plan	Authorized Signature, Title, Date:
<input type="checkbox"/> Apply Administrative Fee (5%) for On-Site Publicly Accessible Art	Authorized Signature, Title, Date:

Project Name: 2542 Durant

Address: 2542 Durant Ave. Berkeley, CA 94704

Development Agency/Owner's Name: John T. and Marley Lyman

Contact Person: Kirk E. Peterson

Phone: 510-547-0275

Email: kirk@kpaarch.com

Art Consultant: Suzan R. Locke

Phone: (510)547-5455

Email: suzylocke@comcast.net

Date of Use Permit application: Sept. 16, 2016

1. **Conceptual Public Art Plan** (to be included in Use Permit application)

Date of Completion: \_\_\_\_\_ Approved By: \_\_\_\_\_

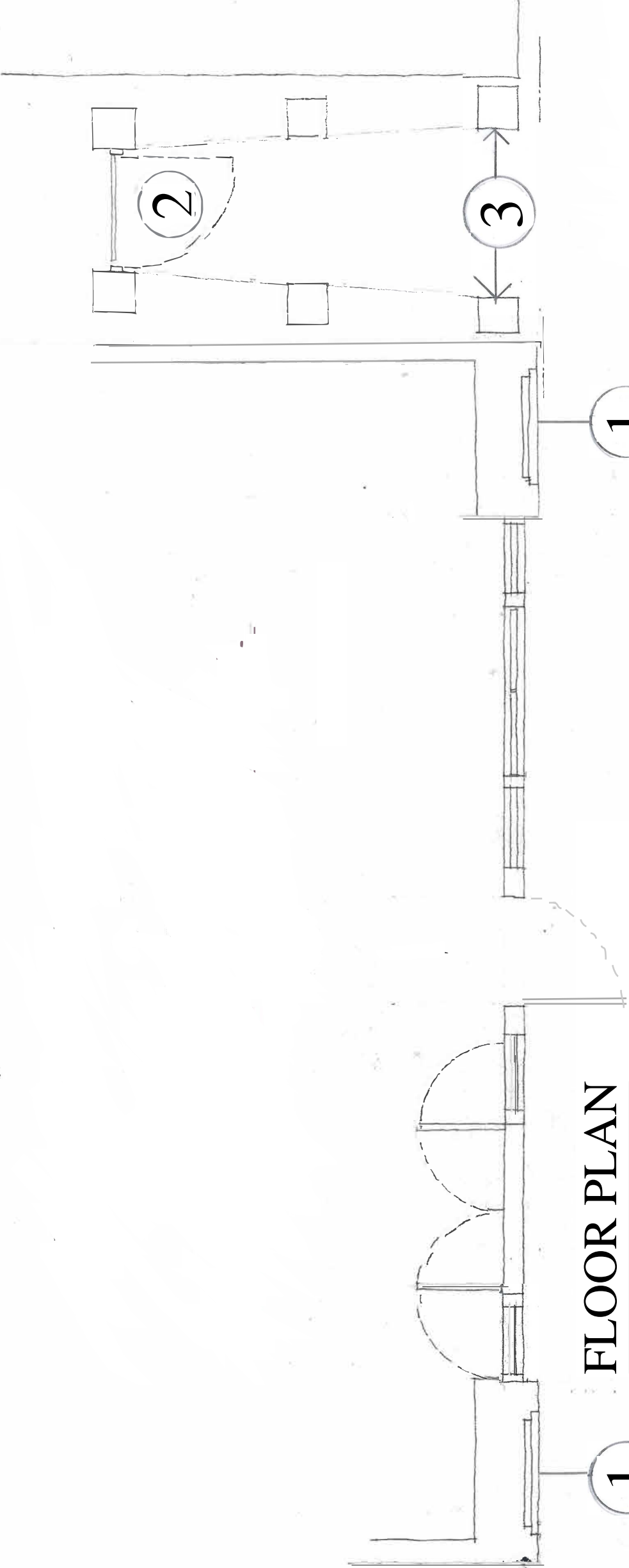
**a) Artwork medium:**

1. Mosaic tile panels
2. Metal gate
3. Sculpted gate posts—cast stone

**b) Proposed artwork location(s). Feel free to attach a map or drawing**

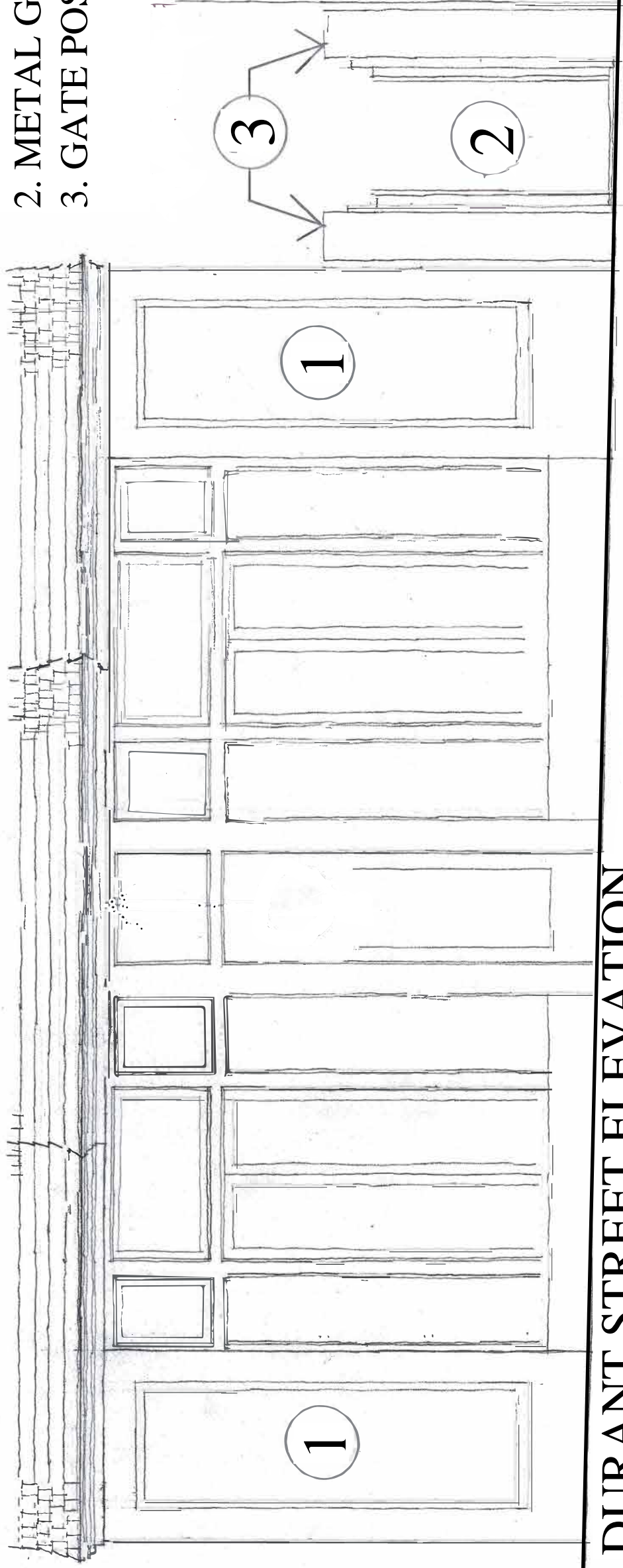
See attached Elevation and Plan with locations noted.

*—Developer shall engage the services of an approved public art consultant to proceed—*



FLOOR PLAN

- 1. MOSAIC TILE PANELS
- 2. METAL GATE
- 3. GATE POSTS



DURANT STREET ELEVATION

1% ART  
 LOCATIONS  
 2542 DURANT AVE.  
 KPA Assoc. 9•17•2019







**1.5% for Public Art Ordinance for the City of Berkeley (2020 Update) BMC ....**

Building on the established 1.5% public art program The Berkeley City Council passed as a resolution in 1999 and now being updated in 2020:

BE IT ORDAINED by the Council of the City of Berkeley to establish the Public Art Ordinance:

**Section 1. That Berkeley Municipal Code Chapter xxxx amended to read as follows:**

**Chapter xxxx  
Percentage for Public Art on Public Projects**

- 1. Purpose.**
- 2. Applicability**
- 3. Exceptions**
- 4. Definitions**
- 5. Planning**
- 6. Funding**
- 7. Management**
- 8. Offsite Works of Art**

**Section 1. xxxx Purpose**

The purpose of this Chapter is to establish a 1.5% public art requirement for public construction developments in order to provide the following benefits to the community:

- Maintain Berkeley’s art and culture for generations;
- Recognize the vital importance of the arts to the City as a whole;
- Enhance the economic sustainability of artists and arts organizations as a key to the vitality of the City of Berkeley;
- Make a lasting contribution to the intellectual, emotional and creative life of the community at large, and to create a more desirable community to live, work, and recreate.

**Section 2 Applicability**

- A. This Chapter applies in all zoning districts in the City.
- B. This Chapter applies to:
  1. New public construction projects without limitation of exemption
  2. Newly Remodeled public construction projects with 50% or more structural improvements

**Section 3. Exceptions**

This Chapter does not apply to the following project types:

- A Projects where funding allocations for public art are limited or prohibited by law or funding agency rules.

## Section 4 DEFINITIONS

**Administrative Costs** shall mean the expenditures necessary for implementation of the requirements of this Ordinance, including, but not limited to, project management, soliciting proposals, public education, promotion, maintenance and risk management.

**Annual City Public Art Plan** shall mean the annual planning document which sets forth goals and objectives for development of works of art, including, art developed in conjunction with City Construction Projects during that Fiscal Year and any expenditures from the City of Berkeley's Public Art Fund.

**Artist** shall mean a person who has completed works of art which meet contemporary artistic standards prevailing in major metropolitan areas.

**City Manager** shall mean the City Manager or his/her/their designee.

**Eligible Capital Project** shall mean all improvement to public property which fit the guidelines of the Public Art Ordinance in the City of Berkeley. All applications that are not exempted by the legislation shall be eligible. Therefore this term shall not be interpreted to include any improvement for which the source of funding, or any applicable law or regulation, prohibits or restricts the use of funds for the purpose of this ordinance.

**Project Budget** shall mean the costs attributable to constructing a public improvement subject to the terms of Ordinance, including construction, hazardous materials abatement, and procurement of goods intended for incorporation into the improvement. Project Budget shall not be interpreted to include costs associated with land use planning consultants, feasibility studies, environmental review, land acquisition costs, legal fees, architecture/engineering costs, construction management, geotechnical surveys, and historical surveys.

**Off-Site Work of Art** shall mean Works of Art as defined in Chapter 6.14 of the Berkeley Municipal Code which are acquired, created, installed, presented or displayed at a location other than the site of the Eligible Capital Projects from which funds were derived under Section 111 of this Ordinance.

**Public Art Element** shall mean a component, feature, characteristic, or portion of a public improvement incorporated for artistic purposes.

**Public Art Fund** shall mean the budget account established by the city of Berkeley for receipt of funds derived from eligible capital projects which may be expected for the purpose of incorporating artistic elements into public improvements or acquiring, creating, installing, presenting or displaying offsite works of art.

**Alteration** of a building aboveground structure, or transportation improvement project shall include substantial changes to elements such as walls, partitions, or ceilings on 50% or more of the total floor space, excluding basements.

**Substantial Changes** shall include additions to, removal of, and modification of such elements.

**Art Enrichment** shall mean the acquisition and installation of original works of art (including limited editions), or temporary installations, 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 creative work of artists, as approved by the Civic Arts Commission.

**Civic Arts Collection** shall mean the various art works owned by the City of Berkeley under the jurisdiction of the Civic Arts Commission, that are accessioned by a resolution of the Civic Arts Commission into the Civic Arts collection.

**Construction Cost** shall mean the total estimated construction contract award amount, including the costs of all built in features, unless otherwise agreed to by the Civic Arts Commission. Construction cost shall not include design, or moveable or personal property or construction cost contingency.

**Transportation improvement project** refers to Municipal Railway and Department of Public Works projects which include both aboveground and below-ground transportation-related projects; new boarding ramps; new transit platforms; new terminals and transportation systems with their attendant passenger amenities, such as shelters, seating, lighting, landscaping, and signage; new transportation-related structures such as maintenance and operating facilities; power substations; and street/highway-related transit improvements such as bridges and overpasses.

## **Section 5 ANNUAL PLANNING**

- A. As part of the City's budget projects, the Dept of Public Works shall submit to the Civic Arts Commission a report identifying all public improvements which satisfy both of the following criteria: 1) expenditures will be made from the project budget during the following budget cycle, and 2) Any project that has limited physical space will allow a contribution to an in lieu fund for public art programming in conjunction with the annual public art plan.
- B. C. D. are removed

## **Section 3 FUNDING**

- A. A sum equal to 1.5% percent of the Project Budget for each Eligible Capital Project shall be transferred to the Public Art Fund and utilized solely to develop and install a work of art integrated into the completed improvement, regardless of whether it contributes to the purpose and function of the improvement, including, but not limited to color, shape, design, texture, general appearance, or decoration, which is designed and constructed integrally with the public improvement itself. Additionally, in cases of limited physical opportunities, a 1.5% donation into the public art fund for public art programming will be an option.

- B. In addition to the amount specified in Section 111(A), above, a sum equal to one half percent (0.5%) of the Project Budget for each Eligible Capital Project shall be transferred to the Public Art Fund and utilized solely for Administrative costs.
- C. Funds designated for the Public Art Fund shall be transferred not later than the date on which the funds for the Project Budget have been encumbered.
- D. Funds designated for the Public Art Fund shall be transferred not later than the date on which the funds for the Project Budget have been encumbered.
- E. In the event that the final cost of designing and constructing the Public Art Project is less than one and one half percent (1.5%) of the Project Budget, the unused funds will be retained in the Public Art Fund and utilized for the creation of Off-Site Works of Art.
- F. In the event that the Eligible Capital Project will result in a public improvement which is in accessible to the public, such as an underground structure, or for which it is not feasible to incorporate the Public Art Element, the funds designated for the Public Art Project shall be transferred to the Public Art Fund and may be used for the creation of Off-Site works of Art.

**Section 4 MANAGEMENT OF PUBLIC ART PROJECT**

The Civic Arts Coordinator is authorized to manage the development and implementation of the Public Art Ordinance in accordance with Chapter 6.14 of the Berkeley Municipal Code governing Visual Art in Public Places. The Civic Arts Coordinator may use any reasonably efficient means and methods to design a Public Art RFQ, including, but not limited to, the following:

- A. Retain an artist to design the Public Art Project in collaboration with the architects/engineers who are responsible for designing the public improvement.
- B. Require as part of the selection process that the architects/engineers who are responsible for designing the public improvement retain an artist as a functioning member of the design team to design the Public Art Element concurrently with the design of the public improvement.
- C. Require as part of the competitive solicitation process that the contractor responsible for building the public improvement retain an artist to design the Public Art Element.

**Section 5 PUBLIC ART FUND**

- A. The City Manager shall establish budget accounts to receive funds transferred pursuant to Sections III (A) and (B), above. Monies in the Public Art Fund, if not expended in any particular Fiscal Year, shall be carried over to the next Fiscal Year,

unless the source of the funds, or applicable laws or regulations, prohibit such action. Public Works shall provide accounting documents to ensure that the funds are utilized in a manner consistent with this Ordinance.

B. Nothing herein shall be interpreted to prohibit the City from soliciting and receiving grants, donations, bequests, or gifts from any source, public or private, for deposit in the Public Art Fund to be expended in a manner consistent with this Ordinance.

C. Monies in the Public Art Fund shall not be expended for the purposes of awarding grants to artists or arts organizations under City Council Ordinance No. 55,832-N.S.

#### **Section 6. OFF-SITE WORKS OF ART**

- A. Pursuant to section 3.12.060(F) of the Berkeley Municipal Code, the Civic Arts Commission shall review and make recommendations for expenditures from the Public Art Fund for the acquisition, creation, installation, presentation or display of Off-Site Works of Art.
- B. The Civic Arts coordinator shall manage the acquisition, creation, installation, presentation and display of Off-Site Works of Art.

#### **Section 7. GRANTS**

All City departments shall include in any application for grant funds for an Eligible Capital Project an amount sufficient for the Public Art Project, unless said inclusion would be detrimental to the City.

#### **Section 8. RULES AND REGULATIONS**

It is the intent of the City Council to provide the City of Berkeley with a consistent Public Art Plan and Fund in attaining the goals of this Ordinance. In the event of dire City of Berkeley Financial hardship the Council retains the ability to arbitrate between the goals of ordinance and the financial viability of the City of Berkeley.

#### **Section 9. EFFECTIVE DATE**

This ordinance shall become effective [Date]. The foregoing Ordinance was adopted by the Berkeley City Council on [Date] by the following vote:

**BEFORE CONSERVATION**



**AFTER CONSERVATION**





**BEFORE**



**AFTER**



**BEFORE CONSERVATION**



**AFTER CONSERVATION**



**THIS IS PAINT LOSS NOT APPLIED PAINT. NO CONSERVATION YET.**

