



Civic Arts Commission
Office of Economic Development

**Civic Arts Commission
Public Art Committee
Thursday, April 22, 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 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) Discuss Public Art for Aquatic Park
 - (i) Council Member Terry Taplin — Investment of art funds in Aquatic Park generally
 - (ii) Scott Ferris — Requesting matching funds of \$35,000 to provide for a tile art project at the concrete wall at the pedestrian/bike path in Aquatic Park. Parks is committing \$35,000 for a proposed total budget of \$70,000 (Attachment 1)
- b) Discuss Utility Box Murals: Need for Condition Assessment and Plan for Removal or Replacement — Civic Art Staff and John Caner
- c) Presentation of Civic Art Grant Funded Mural Tile Border Project by Priscilla Hine and Request for Funds for Completion
- d) Draft Public Art Ordinance and Discussion of Talking Points (Attachment 2)
- e) Public Art Budgets for Fiscal Year 2022 (Attachment 3)

5. STAFF REPORT

6. ADJOURNMENT

Attachments:

1. Concrete wall along pedestrian/bike path in Aquatic Park
2. Draft Public Art Ordinance
3. Public Art Budgets for Fiscal Year 2022

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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.

Attachment 1: CEMENT WALL AND CEMENT SEATING ELEMENTS AT AQUATIC PARK



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.

PRIVATE PERCENT FOR ART FUND BUDGET - FY22		Budget
FUND 148		
Date: 4/20/21		
FY22 FUNDING		
ESTIMATED CARRY FORWARD BALANCE FROM PRIOR YEARS		\$ 772,610.49
Committed Art Carry Forward from FY21	\$ 545,209.20	
Admin Carry Forward from FY21	\$ 140,961.60	
Conservation Carry Forward from FY21	\$ 37,508.15	
Uncommitted Art Carry Forward from FY21	\$ 48,931.54	
IN-LIEU PAYMENTS IN FY21		\$ -
ON-SITE ART ADMIN FEES IN FY21		\$ -
TOTAL FUNDS AVAILABLE FOR FY22		\$ 772,610.49
FY22 PRIVATE PERCENT FOR ART ADMINISTRATION FUNDING		Budget
Carryforward of balance from FY21		\$ 140,961.60
Admin Costs Projected FY22		\$ (22,380.00)
Subtotal (Carryforward to future fiscal year)		\$ 118,581.60
FY22 BUDGET PROJECTS		Budget
CONSERVATION PROJECTS		
Carry forward balance prior Conservation Set Aside		\$ 37,508.15
Conservation Set Aside (10%) FY22		\$ -
In Berkeley by Nancy Selvin Tile Installation	Rough order of magnitude	\$ (15,000.00)
Subtotal for use on general conservation and maintenance in FY22		\$ 22,508.15
PUBLIC ART PROJECTS APPROVED AND COMMITTED IN FY21		Budget
Contract with Wang Po Shu - Earthsong Bell Sign	Rough Order of Magnitude Estimate	\$ 20,000.00
Mildred Howard Sculpture	For installation in triangle at MLK and Adeline	\$ 210,000.00
Homeless Social Practice Project		\$ 15,000.00
Covid-19 Recovery Temporary Art Projects	Approximately 25-30 projects @ up to \$10,000/each (budgets vary)	\$ 200,000.00
Jean LaMarr Design Contract for Ohlone Mural Project Additions	Design Contract	\$ 6,800.00
Fabrication Contract Ohlone Mural Project Additions	Fabrication Contract Carved Seating, Grinding Rock	\$ 27,200.00
Cube Space carry forward 2 Artist's fees approved in FY21	Scheduled projects delayed due to COVID	\$ 2,000.00
Cube Space carry forward contingency	For supplies & equipment	\$ 4,179.20
Installation of Queen Sculpture	Rough Order of Magnitude Estimate	\$ 20,000.00
Graphic Design (Exhibition Announcements + Signage)		\$ 2,030.00
Photography of public art projects		\$ 5,000.00
Artwork Preparator to Install Purchased Works		\$ 3,000.00
Memorial for Irish Students Killed in Balcony Collapse (Contribution to support project)		\$ 30,000.00
Subtotal of Committed Projects Carried Forward into FY21	\$ 545,209.20	
Nes FY22 Projects		
CUBE SPACE		
Cube Space Curator	Leila Weefur -- Additional 4 Exhibitions + Supplies Allocation	\$ 11,200.00
Cube Space Artist Fees	4 Exhibitions @ \$1,000 each	\$ 4,000.00
Vinyl Signage (4 Exhibitions)	6 Exhibitions @ \$200 each + 500 extra for flexibility	\$ 1,700.00
Additional photography of public art projects		\$ 5,000.00
Public Art Archive Database (Cloud-Based)	Annual cost	\$ 348.00
BART Plaza Sound Compositions	Selection of 4 sound installations at \$5,000/each	\$ 20,000.00
FY22 Contingency + Unallocated Balance	If not needed, will roll over to next year's budget process	\$ 6,683.54
Subtotal FY22 Projects	\$ 48,931.54	
TOTALS FY22 New Art Projects		\$ 594,140.74
Remaining Balance		\$ (0.00)

PUBLIC ART FUND BUDGET - FY22		Budget
Fund 150		
Date: 4/20/21		
FY21 FUNDING	Description	Amount
Estimated Carryforward balance from FY21		\$ 99,148.23
Minus Administration Portion Carried Forward (.5% per Resolution)		\$ (18,992.13)
FY22 Total 1.5% Allocation		\$ 64,367.00
Minus Administration Portion (.5% per Resolution)		\$ (21,241.11)
TOTAL FUNDS AVAILABLE FOR FY22		\$ 123,281.99
FY21 PUBLIC ART FUND ADMINISTRATION FUNDING		
Carryforward of balance from FY21		\$ 18,992.13
Administration Portion of FY22 Allocation (.5% per Resolution)		\$ 21,241.11
Projected Admin Costs FY22		\$ -
Subtotal (Carryforward to future fiscal years)		\$ 40,233.24
FY21 PROJECT ALLOCATIONS CARRIED FORWARD TO FY22		Amount
Civic Center Artwork Purchases		\$ 30,000.00
Council Referral for City Flag	Rough order of magnitude estimate	\$ 25,000.00
Conservation and Installation of Turtles & Medallions	Rough order of magnitude estimate	\$ 25,000.00
BART Plaza Ambient Sound Installation Commission	1 Artist @ \$4K ea. (Already Selected-Spiritual Technology)	\$ 4,000.00
BART Plaza Artwork Plaques	3 signs at \$200 ea.	\$ 600.00
Aquatic Park tile placemaking project (wall and cement benches)	Parks providing matching funds of \$35,000	\$ 35,000.00
Contingency		\$ 3,681.99
Subtotal		\$ 123,281.99
Remaining Balance		\$ -