

RESOLUTION NO. 18-____

Resolution Of The City Council Of The City Of Emeryville Accepting As Complete *Shellmound Gateway*, A Public Art Installation By Rosario Marquardt And Roberto Behar Of R&R Studios, Located On Shellmound Street Under The Powell Street Bridge

WHEREAS, Section 3-2.404 of the Emeryville Municipal Code establishes the Emeryville Public Art Fund to implement the Art in Public Places Program; and

WHEREAS, Article 4 of Chapter 2 of Title 3 of the Emeryville Municipal Code establishes the Contributions for the Art in Public Places Program (“Public Art Ordinance”); and

WHEREAS, in September 2013, the City Council authorized the release of a Request For Qualifications (RFQ) to include the Public Art Committee (PAC) recommended terms for the use of the Art in Public Places Fee in solicitation of an art work enhancing the pedestrian environment under the Powell Street Bridge at Shellmound Street inclusive of additional lighting (the “Project”) and a District Art Plan inclusive of the project and surrounding area (the “Plan”); and

WHEREAS, on April 7, 2015 the City Council approved a resolution consistent with the PAC’s recommendation to approve the conceptual design proposal for *Electric Rainbow* by Roberto Behar and Rosario Marquardt (R&R Studios) for the Project; authorizing the City Manager to enter into an agreement with R&R Studios in an amount not to exceed \$285,000 to fund the final design, fabrication, transportation and installation of the artwork and the research and production of two “Imaging and Themes” documents, one for public improvements and one making suggestions for adjacent private development, which will provide a conceptual framework for future public art and landscaping elements in the Shellmound District (the “Contract”); and

WHEREAS, from August to November 2015, R&R Studios further developed design documents for *Electric Rainbow*, and during this time concerns relating to pigeon roosting and traffic control during general maintenance led to extensive re-evaluation of the design; and

WHEREAS, on April 14, 2016 the PAC recommended abandonment of the *Electric Rainbow* concept design for the Project; and

WHEREAS, on September 20, 2016, the City Council approved resolutions (Nos. 16-134, 16-135) accepting a revised proposal from R&R Studios for the Project, replacing *Electric Rainbow* with *Shellmound Gateway*; adopting the Plan, and authorizing the City Manager to execute an amendment to the Contract revising the Scope of Work to reflect the revised proposal and amending the project schedule; and

WHEREAS, on December 12, 2017 R&R Studios completed installation of *Shellmound Gateway*; now therefore be it

RESOLVED, that the City Council hereby makes the following findings in support of its acceptance of *Shellmound Gateway*, as required by Section 6.4 of the Contract:

- (1) That all approvals required under Sections 5.2, 5.4, 5.5, and 5.6 of the Contract have been obtained by R&R Studios;
- (2) That the installation of *Shellmound Gateway* conforms to the specifications for the Art Work approved by the City Council pursuant to Section 5.4 of the Contract;
- (3) That *Shellmound Gateway* was installed on a timely basis;
- (4) That *Shellmound Gateway* has been reviewed and accepted by the City's project manager and is recommended for approval by the City Council;
- (5) That *Shellmound Gateway* is in substantial compliance with all other terms and conditions contained in the Contract;
- (6) That R&R Studios has provided the City with documentation and a final maintenance plan for *Shellmound Gateway* that addresses the following elements:
 - a. A written report for the City's files including complete information regarding the intent of *Shellmound Gateway* and the scale, materials, and processes used in the fabrication and installation of the artwork.
 - b. Final written specifications and recommendations for maintenance of *Shellmound Gateway* including an estimate of annual maintenance costs.
 - c. One set of digital images for program and archival purposes, showing fabrication, installation, and completed phases of *Shellmound Gateway*.
 - d. Materials list, the manufacturer's technical sheets and/or specifications for the materials and a written description of the regular maintenance needs of *Shellmound Gateway*;

and be it further

RESOLVED, that the City Council hereby accepts as complete R&R Studio's *Shellmound Gateway* located on Shellmound Street under the Powell Street Bridge, as depicted in Exhibit A attached to this Resolution, to be maintained through the City's Art in Public Places Program and insured by the City against damages.

ADOPTED by the City Council of the City of Emeryville at a regular meeting held Tuesday, January 16, 2018 by the following vote:

AYES: _____
NOES: _____
ABSTAIN: _____
ABSENT: _____

ATTEST:

CITY CLERK

MAYOR

APPROVED AS TO FORM:



CITY ATTORNEY