

**Meeting Date:** 7/15/2014

**Report Type:** Consent

**Report ID:** 2014-00462

**Title:** Approval of Artwork Designs for the Capitol Box Public Art Project

**Location:** District 4

**Recommendation:** Pass a Motion 1) approving the artwork designs (“Artworks”) depicted in Attachment 3 for placement on designated utility boxes in the downtown area as part of the Capitol Box Public Art Project; and 2) authorizing the City Manager or his designee to enter into an agreement with the Capitol Area Development Authority for the installation of the Artworks on the designated utility boxes at zero cost to the City.

**Contact:** Shelly Willis, Executive Director, (916) 808-3971, Sacramento Metropolitan Arts Commission

**Presenter:** None

**Department:** Convention and Cultural Services

**Division:** Metro Arts-APP

**Dept ID:** 17001821

**Attachments:**

1-Description/Analysis

2-CADA / City Contract

3-Artist Name, Artwork, and Location of Utility Box

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**City Attorney Review**

Approved as to Form

Kourtney Burdick

7/8/2014 4:44:34 PM

**Approvals/Acknowledgements**

Department Director or Designee: Rebecca Bitter - 6/27/2014 9:01:48 AM

## Description/Analysis

**Issue Detail:** This report recommends Council authorize the placement of the 28 designs (the “Artworks”) identified in Attachment 3 on designated utility boxes in the downtown area as part of the Capitol Box Public Art Project. The Capitol Area Development Agency (“CADA”), as explained in the proposed agreement in Attachment 2, has agreed to fund and manage the installation of the Artworks as well as fund and maintain the Artworks, indefinitely, until the City requests their removal.

**Policy Considerations:** The Sacramento Metropolitan Arts Commission (the “Commission”) approval of the designs for the Capitol Box Public Art Project meets standard Art in Public Places policies and procedures and the goal of site-specific public art.

**Economic Impacts:** None.

**Environmental Considerations:** Under the California Environmental Quality Act (CEQA) guidelines, Title 14, Section 15378(b), continuing administrative activities do not constitute a project and are therefore exempt from CEQA review.

**Sustainability:** Not applicable.

**Commission/Committee Action:** In accordance with City Code section 2.84.080(E), the Commission has the authority to make recommendations to the City on all works of art to be acquired by the City either by purchase or gift. For the Capitol Box Public Art Project, staff issued a Request for Qualifications (RFQ), inviting qualified artists residing in Sacramento to apply to participate in the project. At staff’s request, a panel of the Commission met to consider the applications. The panel identified 20 artists who were qualified to submit design proposals for the project, based on their past experience with public art. Those artists then submitted their artwork proposals, and on April 21, 2014, the Commission approved all Artworks that were submitted, recommending them to the City for placement on City utility boxes.

**Rationale for Recommendation:** The goals of the Capitol Box Public Art Project are to:

- Beautify the capitol area in an effort to enhance the enjoyment and quality of life for City residents and visitors;
- Encourage revitalization of the area;
- Increase pedestrian activity in the area;
- Increase the public’s experience of contemporary art;
- Create a more vibrant art scene;
- Transform utility boxes into works of art; and
- Discourage graffiti tagging of public property.

The Artworks are being recommended for approval because:

- They further the goals of the project, as identified above;
- They are visually interesting, appealing and engaging on many levels;
- They represent a high quality of craftsmanship; and
- The artists have the ability and experience to complete the designs as proposed.

If approved by council, the Artworks will be transferred to vinyl and professionally affixed to the designated utility boxes. The vinyl pieces will be adhered to the box so as to give the illusion that the Artwork was painted directly onto the box. The City will own the Artworks and, accordingly, retains the right to remove them at any time. The artists have been compensated for their work.

By approving the placement of the Artworks, the City does not intend to create a forum for public expression, but rather is expressing its own government speech. The City has driven the artist- and art-selection process from the beginning, putting out an RFQ to artists and working with the Commission to select the artists and review their design proposals, consistent with the Commission's authority to make recommendations on all works of art to be acquired by the City either by purchase or gift. The city council has final approval authority over the Artworks and the designation of the utility boxes on which the Artworks will be placed.

**Financial Considerations:** Through the proposed agreement, CADA will fund the installation of the Artworks, their ongoing maintenance, and will reimburse the City its costs in managing and facilitating the City's artist selection and design approval process, in an amount up to, but not-to-exceed, \$1,500.

**Local Business Enterprise (LBE):** CADA is a joint powers agency located in downtown Sacramento.



Requires Council Approval:  No  YES Meeting: 7/15/14

Real Estate  Other Party Signature Needed  Recording Requested

General Information

Type: Professional Services	PO Type: Select PO Type	Attachment: Original No.:
\$ Not to Exceed: (\$ 1,500) <i>reimbursed to city</i>		Original Doc Number:
Other Party: Capital Area Development Authority (CADA)		Certified Copies of Document::
Project Name: Capitol Box Public Art Project		Deed: <input checked="" type="checkbox"/> None <input type="checkbox"/> Included <input type="checkbox"/> Separate
Project Number: 17001811	Bid Transaction #:	E/SBE-DBE-M/WBE:

Department Information

Department: CCL Division: Metro Arts  
 Project Mgr: Shelly Willis Supervisor: Shelly Willis  
 Contract Services: Mike Kerton Date: 6/25/14 Division Mgr: Shelly Willis  
 Phone Number: 808 3982 Org Number: 17001811  
 Comment:

Review and Signature Routing

Department	Signature or Initial	Date
Project Mgr:		
Accounting:		
Contract Services:	<i>mk</i>	<i>6/25/14</i>
Supervisor:		
Division Manager:		

City Attorney	Signature or Initial	Date
City Attorney:	<i>VCB</i>	<i>6/25/14</i>

Send Interoffice Mail  Notify for Pick Up

Authorization	Signature or Initial	Date
<i>REBECCA BITTER</i> Choose Director		
Department Director:		
City Mgr: yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		

**For City Clerk Processing**

**Finalized:**  
Initial: \_\_\_\_\_  
Date: \_\_\_\_\_

**Imaged:**  
Initial: \_\_\_\_\_  
Date: \_\_\_\_\_

**Received:**  
(City Clerk Stamp Here)

Department: Convention, Culture & Leisure  
Division: Administration

## PRODUCTION AND INSTALLATION OF CITY ARTWORK

This **Agreement**, dated \_\_\_\_\_, 2014, for purposes of identification only, is between the Capital Area Development Authority, a California joint powers agency (“**CADA**”), and the City of Sacramento, a California municipal corporation (the “**City**”).

### Recitals

- A. CADA is a joint powers agency who manages the State of California’s residential and commercial properties in downtown Sacramento, between 7th and 17th Streets and L and S Streets—an area referred to as the “Capitol Area.” In addition to managing these properties, CADA also works to enhance the Capitol Area for the enjoyment of the state workforce, local residents, and visitors to the State Capitol.
- B. The City owns and maintains several utility boxes within the Capitol Area.
- C. CADA and the City would like to work together to decorate the utility boxes identified in Exhibit A with artistic images (“**Artwork**”), in an effort to beautify the Capitol Area and enhance the enjoyment and quality of life for City residents and visitors. The parties intend for the City to retain ultimate control over the Artwork designs and the location of their placement, while CADA will fund the project (referred in total as the “**Capitol Box Public Art Project**”), including paying the artists (“**Artists**”) for their designs and reimbursing the City for its staff time in managing the artist-selection and design-approval process, as well as manage the logistics of installation. Ultimately, the Artwork is to be printed on vinyl and wrapped around the designated utility boxes.

The City Council has approved the Artwork identified in Exhibit A for placement on the designated utility boxes.

- D. CADA has previously entered into contracts with the selected artists using the form of contract attached as Exhibit B (the "Artist Contract").

***Based on the facts set forth in the foregoing recitals, the City and CADA agree as follows:***

### **Section 1. CADA Responsibilities.**

At a cost of zero dollars to the City, CADA agrees to do the following:

- (a) *Commission Artists.* CADA agrees to furnish all tools, equipment, apparatus, facilities, labor, material, compensation, and transportation necessary to commission the artists (“**Artist**”).

identified in Exhibit A to produce the Artwork for inclusion in the Capitol Box Public Art Project. To this end, CADA agrees to, among other things:

(1) *Originality of Artwork.* Secure warranties from each Artist, warranting that their Artwork is original and solely the product of Artist's own creative efforts and does not infringe the rights of any person or entity. Artist shall also warrant that the work is original, an edition of one, and that the Artist shall not sell, license, perform, or reproduce a substantially similar copy of the Artwork without the prior written consent of CADA and the City. Nothing herein, however, shall prevent the Artist from creating future works in her style and manner of working. City agrees that Section 6 of the Artist Contract fully satisfies this requirement.

(2) *Copyright.* Secure agreement from the Artist to authorize the City and CADA, individually and together, and their assigns, to make photographs, drawings, and other two-dimensional reproductions of the Artwork without prior consent of Artist if used solely for non-commercial purposes, advertising, descriptive brochures, and similar purposes. All reproductions by City and CADA shall contain a copyright notice substantially in the following form: "©, Artist's name, date", in such a manner and location as shall comply with the U.S. Copyright laws. City agrees that Section 5 of the Artist Contract fully satisfies this requirement.

(3) *Waiver of VARA and CAPA Rights.* Secure written waivers in favor of the City from each Artist of the following:

As to the City, but excluding Artist's rights as to third parties, Artist shall waive any and all rights Artist may have with respect to the Artwork under the federal Visual CADAs Rights Act of 1990 (17 U.S.C. §§106A and 113(d)), the California Art Preservation Act (Cal. Civil Code §§987 et seq.), and any other local, state, federal or international laws that convey rights of the same nature as those conveyed under 17 U.S.C. §106A, Cal. Civil Code §§987 et seq., or any other type of moral right protecting the integrity of works of art.

(4) *Indemnity.* City acknowledges that CADA has secured indemnity from the Artist in favor of the City, pursuant to Section 2 of the Artist Contract.

(b) *Artwork Installation.* CADA agrees to furnish all tools, equipment, apparatus, facilities, labor, material, and transportation necessary to transfer the Artwork to vinyl and install it on the utility boxes identified by the City, noted in Exhibit A, in a good and workmanlike manner to the satisfaction of the City. The Artwork is to be installed on a schedule

determined by the City. CADA is not to install any Artwork without first receiving a written notice to proceed from the City for that particular piece. CADA must install each Artwork within 30 days of receipt of the City's notice to proceed.

- (1) *Restoration of Installation Site.* CADA agrees and warrants that within 30 days after the Artwork is accepted by the City, and again within 30 days after the Artwork is removed, CADA shall restore the installation site (including the surrounding area affected by the installation of the Artwork) to a state and condition that is substantially similar to that which existed when the installation began. CADA further agrees and warrants that, within the period specified herein, CADA shall repair or replace, as is determined necessary by City, and to the reasonable satisfaction of City, all property (real, personal or otherwise), which has been damaged, injured or otherwise adversely affected by the acts or omissions of CADA, CADA's agents, contractors, or employees. CADA shall be solely responsible for all expenses and costs that may be necessary to comply with the requirements of this paragraph, and City shall have no responsibility or liability therefore.
  - (2) *Artwork Free from Defects.* CADA, at its cost, shall warrant and maintain the Artwork free from all faults or defects related to material or workmanship during the period of exhibition. CADA, at its cost, shall maintain and repair the Artwork so as to keep it in a clean presentable condition, mirroring each artist's original rendering as depicted in Exhibit A.
  - (3) *Compliance with all Laws.* CADA agrees to fabricate and install the Artwork in conformance with all applicable laws, including obtaining all necessary permits.
- (c) *Transfer of Title of Artwork.* Title of the vinyl reproduction of the Artwork shall pass to the City upon installation. The City authorizes CADA to make photographs, drawings, and other two-dimensional reproductions of the vinyl Artwork without the prior consent of the City if used solely for non-commercial purposes, advertising, descriptive brochures, and similar purposes.
- (d) *Artwork Removal.* Upon request of the City, CADA shall remove the Artwork to the satisfaction of the City, restoring the utility boxes and the surrounding landscape to a condition that is acceptable to the City.
- (e) *Reimbursement of City Expenses.* CADA agrees to reimburse the City for its costs in managing and facilitating the City's artist-selection and design-approval process, in an amount up to, but not to exceed, \$1,500.

**Section 2. Time of Performance; Documentation of Artwork.**

Time is of the essence in this Agreement. CADA shall dedicate such time and effort as is necessary to fulfill CADA's obligations to completely finish and install the Artwork to the satisfaction of City within the timelines set forth herein, except as the Artwork may be delayed by circumstances described in section 9, below. City shall make its staff and contractors reasonably available to CADA for consultation and assistance in order to achieve the purposes of this Agreement.

**Section 3. Performance Made Impossible.**

In the event it becomes impossible for CADA to complete the installation of the Artwork, this Agreement may be terminated by either party. City shall thereafter have no obligation to CADA, and CADA shall have no further or additional claims against City with respect to the Artwork or such portion thereof as may be completed, or the Artist's design proposal, or with respect to any matter whatsoever pertaining to, affected by, or embodied in this Agreement.

**Section 4. Condition of Artwork.**

CADA shall be solely responsible for maintaining the Artwork, in accordance with section 1 of this Agreement. City agrees that it will not intentionally destroy, damage, alter, modify or change the Artwork in any way. If an alteration should occur, either intentionally or unintentionally, CADA shall promptly ensure the Artwork is no longer be represented as the work of the Artist without his or her written permission. This does not preclude the City's right to move or remove the Artwork from display or deaccession the Artwork.

**Section 5. Artwork Authorship.**

The Artist shall retain the copyright to the Artwork and the right to claim authorship of the Artwork. In the event the Artwork is substantially damaged or altered, CADA shall ensure the Artwork is no longer represented as Artist's Artwork if instructed to do so by either the City or the Artist.

**Section 6. CADA Payment of Contractors and Employees.**

In the event CADA hires or contracts with employees, subcontractors, or material suppliers, CADA shall pay these employees, subcontractors, or material suppliers. All subcontractors shall be properly licensed pursuant to the Contractors State License Law (Business and Professions Code sections 7000 et seq.). Before performing any work, each subcontractor shall provide to the City and CADA evidence that the subcontractor has workers' compensation insurance coverage if this insurance is required by state law.

## **Section 7. Indemnity.**

CADA shall defend, hold harmless and indemnify City, their officers and employees, and each and every one of them, from and against any and all claims, actions, damages, costs, liabilities, demands, losses, judgments, penalties and expenses of every type and description, including, but not limited to, any fees and/or costs reasonably incurred by City's staff attorneys or outside attorneys and any fees and expenses incurred in enforcing this provision (hereafter collectively referred to as "Claims"), including but not limited to Claims arising from personal injury or death, damage to personal, real or intellectual property or the environment, contractual or other economic damages, or regulatory penalties, that arise out of, pertain to or relate solely to any negligent act or omission, recklessness or willful misconduct of CADA, its subcontractors or agents, and their respective officers and employees, in connection with performance of or failure to perform this Agreement, whether or not such Claims are litigated, settled or reduced to judgment; provided that the foregoing indemnity does not apply to liability for damages for death or bodily injury to persons, injury to property, or other loss, damage or expense to the extent arising from the negligence or willful misconduct of City, their subcontractors or agents, and their respective officers and employees. The existence or acceptance by City of any of the insurance policies or coverages described in this Agreement shall not affect or limit any of City's rights under this section, nor shall the limits of such insurance limit the liability of CADA hereunder. The provisions of this section shall survive any expiration or termination of this Agreement.

## **Section 8. Insurance.**

During the entire term of this Agreement, CADA, at zero cost to the City, shall maintain the insurance coverage described in this section or provide evidence of self-insurance that satisfy the requirements herein.

It is understood and agreed by the CADA that its liability to the City shall not in any way be limited to or affected by the amount of insurance coverage required or carried by the CADA in connection with this Agreement.

### *(a) Minimum Scope & Limits of Insurance Coverage*

- (1) Commercial General Liability Insurance, providing coverage at least as broad as ISO CGL Form 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less than one million dollars (\$1,000,000) per occurrence. The policy shall provide contractual liability and products and completed operations coverage for the term of the policy.
- (2) Automobile Liability Insurance providing coverage at least as broad as ISO Form CA

00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less than one million dollars (\$1,000,000) per occurrence. The policy shall provide coverage for owned, non-owned and/or hired autos as appropriate to the operations of the CADA.

No automobile liability insurance shall be required if CADA completes the following certification:

"I certify that a motor vehicle will not be used in the performance of any work or services under this agreement." WS (CADA initials)

- (3) Workers' Compensation Insurance with statutory limits, and Employers' Liability Insurance with limits of not less than one million dollars (\$1,000,000). The Worker's Compensation policy shall include a waiver of subrogation for contracts involving construction or maintenance, or if required by the City by selecting the option below:

WS Workers' Compensation waiver of subrogation in favor of the City is required for all work performed by the CADA.

No Workers' Compensation insurance shall be required if CADA completes the following certification:

"I certify that my business has no employees, and that I do not employ anyone. I am exempt from the legal requirements to provide Workers' Compensation insurance." WS (CADA initials)

- (4) Professional Liability Insurance providing coverage on a claims made basis for errors, omissions or malpractice with limits of not less than one million (\$1,000,000) dollars if required by the City by selecting the option below:

\_\_\_\_\_ Professional liability insurance is required and must be continued for at least \_\_\_\_\_ year(s) following the completion of all Services and Additional Services under this Agreement.

(b) Additional Insured Coverage

- (1) Commercial General Liability Insurance: The City, their officials, employees and volunteers shall be covered by policy terms or endorsement as additional insureds as respects general liability arising out of activities performed by or on behalf of CADA, products and completed operations of CADA, and premises owned, leased or

used by CADA. The general liability additional insured endorsement must be signed by an authorized representative of the insurance carrier for contracts involving construction or maintenance, or if required by the City by selecting the option below:

\_\_\_\_\_ Additional insured endorsement must be signed by an authorized representative of the insurance carrier.

If the policy includes a blanket additional insured endorsement or contractual additional insured coverage, the above signature requirement may be fulfilled by submitting that document with a signed declaration page referencing the blanket endorsement or policy form.

- (2) Automobile Liability Insurance: The City, their officials, employees and volunteers shall be covered by policy terms or endorsement as additional insureds as respects auto liability.

(c) Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

- (1) Except for professional liability, CADA's insurance coverage shall be primary insurance as respects City, their officials, employees and volunteers. Any insurance or self-insurance maintained by City, their officials, employees or volunteers shall be in excess of CADA's insurance and shall not contribute with it.
- (2) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, their officials, employees or volunteers.
- (3) Coverage shall state that CADA's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- (4) City will be provided with thirty (30) days written notice of cancellation or material change in the policy language or terms.

(d) Acceptability of Insurance

Insurance shall be placed with insurers with a Bests' rating of not less than A:V. Self-insured retentions, policy terms or other variations that do not comply with the requirements of this section must be declared to and approved by the City's Risk Management Division in writing prior to execution of this Agreement.

(e) Verification of Coverage

- (1) CADA shall furnish City with certificates and required endorsements evidencing the insurance required. The certificates and endorsements shall be forwarded to the APP Administrator. Copies of policies shall be delivered to the City on demand. Certificates of insurance shall be signed by an authorized representative of the insurance carrier.
- (2) The City may withdraw its offer of contract or terminate this Agreement if the certificates of insurance and endorsements required have not been provided prior to execution of this Agreement or when demanded by City. The City may withhold payments to CADA and/or terminate the Agreement if the insurance is canceled or CADA otherwise ceases to be insured as required herein.

(f) Subcontractors

CADA shall require and verify that all subcontractors maintain insurance coverage that meets the minimum scope and limits of insurance coverage specified in subparagraph A, above.

**Section 9. Excuse from Performance.**

In the event CADA's performance of any of his obligations or undertakings under this Agreement is delayed, interrupted, or prevented by an act of God, unforeseen conditions, unusually severe weather, or occurrences that are beyond the control of either party to this Agreement, CADA shall be excused from any further performance for whatever period of time after the occurrence necessary to remedy the effects of that occurrence. CADA shall notify City in writing within ten (10) days after any occurrence described in this section that may delay CADA performance. City shall amend the Schedule when, in its determination, CADA's performance has been excused, and the delay or interruption has resulted in a material change in the time for performance.

In the event that the installation site has not been adequately prepared for receipt of the Artwork as scheduled, or delivery or installation is delayed due to a material failure on the part of the City or its subcontractors, then the City shall promptly act to address the problem(s) identified by CADA. In such events, timelines for performance by CADA shall be extended as needed, provided, that none of the delays are caused in whole or in part by CADA. Site preparation by City shall not include site measurements, which shall be the sole responsibility of CADA.

**Section 10. Term; Suspension; Termination.**

- (a) This Agreement shall become effective on the date that it is approved by both parties, set forth on the first page of the Agreement, and shall continue in effect until both parties have fully performed their respective obligations under this Agreement, unless sooner terminated as provided herein.
- (b) City shall have the right at any time to temporarily suspend CADA's performance hereunder, in whole or in part, by giving a written notice of suspension to CADA. If City gives such notice of suspension, CADA shall immediately suspend its activities under this Agreement, as specified in such notice.
- (c) City shall have the right to terminate this Agreement at any time by giving a written notice of termination to CADA. If City gives such notice of termination, CADA shall immediately cease rendering services pursuant to this Agreement. City shall not in any manner be liable for lost profits that might have been made by CADA had the Agreement not been terminated nor shall the City be liable for the value of services rendered by CADA prior to the termination.

**Section 11. Notices.**

Any notice required under this Agreement or by reason of the application of any law will be deemed to have been given by either party when deposited in the U.S. mail, postage prepaid and addressed as follows:

If to CADA: Capitol Area Development Authority  
1522 14th Street  
Sacramento, CA 95814-5958  
Telephone: (916) 322-2114  
Fax: (916) 441-1804

If to the City: Sacramento Metropolitan Arts Commission  
300 Richards Blvd., 2nd Floor  
Sacramento, CA 95811  
916-808-3971

**Section 12. Exhibits.**

All exhibits referred to herein are attached hereto and are by this reference incorporated as if set forth fully herein.

**Section 13. Entire Agreement.**

This document, including all Exhibits, contains the entire agreement between the parties and supersedes whatever oral or written understanding they may have had prior to the execution of this Agreement. No alteration to the terms of this Agreement shall be valid unless approved in writing by the parties, in accordance with applicable provisions of the Sacramento City Code.

**Section 14. Severability.**

If any portion of this Agreement or the application thereof to any person or circumstance shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

**Section 15. No Waiver.**

Neither City acceptance of, or payment for, any work performed by CADA, nor any waiver by either party of any default, breach or condition precedent, shall be construed as a waiver of any provision of this Agreement, nor as a waiver of any other default, breach or condition precedent or any other right hereunder.

**Section 16. Choice of Law; Venue.**

This Agreement shall be governed, construed and enforced in accordance with the laws of the State of California. Venue of any litigation arising out of or connected with this Agreement shall lie exclusively in the state trial court or Federal District Court located in Sacramento County in the State of California, and the parties consent to jurisdiction over their persons and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.

**Section 17. Assignment Prohibited.** The expertise and experience of CADA are material considerations for this Agreement. CADA shall not assign any right or obligation pursuant to this Agreement without the written consent of the City. Any attempted or purported assignment without City's written consent shall be void and of no effect.

**Section 18. Binding Effect.** This Agreement shall be binding on the heirs, executors, administrators, successors and assigns of the parties, subject to the provisions of Section 17, above.

**Section 19. Effective Date.** This agreement is effective on the date both parties have signed it, as indicated by the dates in the signature blocks below.

*(Signature Page Follows)*

**CITY OF SACRAMENTO**

A Municipal Corporation

By: \_\_\_\_\_  
Rebecca Bitter, Interim Director  
Convention, Culture and Leisure Department

For: John F. Shirey, City Manager

Date: \_\_\_\_\_

**CADA:**

A Joint Powers Agency

By: Wendy J. Smedley  
Title: Executive Director

Date: 6/24/14

**APPROVED TO AS FORM:**

Kourtney R. Burdick

Kourtney Burdick, Deputy City Attorney

**ATTEST:**

\_\_\_\_\_

City Clerk

**Attachments**

- Exhibit A – Artist, Artwork, and Location of Utility Box
- Exhibit B – Artist Contract

EXHIBIT A

Artist Name, Artwork, and Location of Utility Box

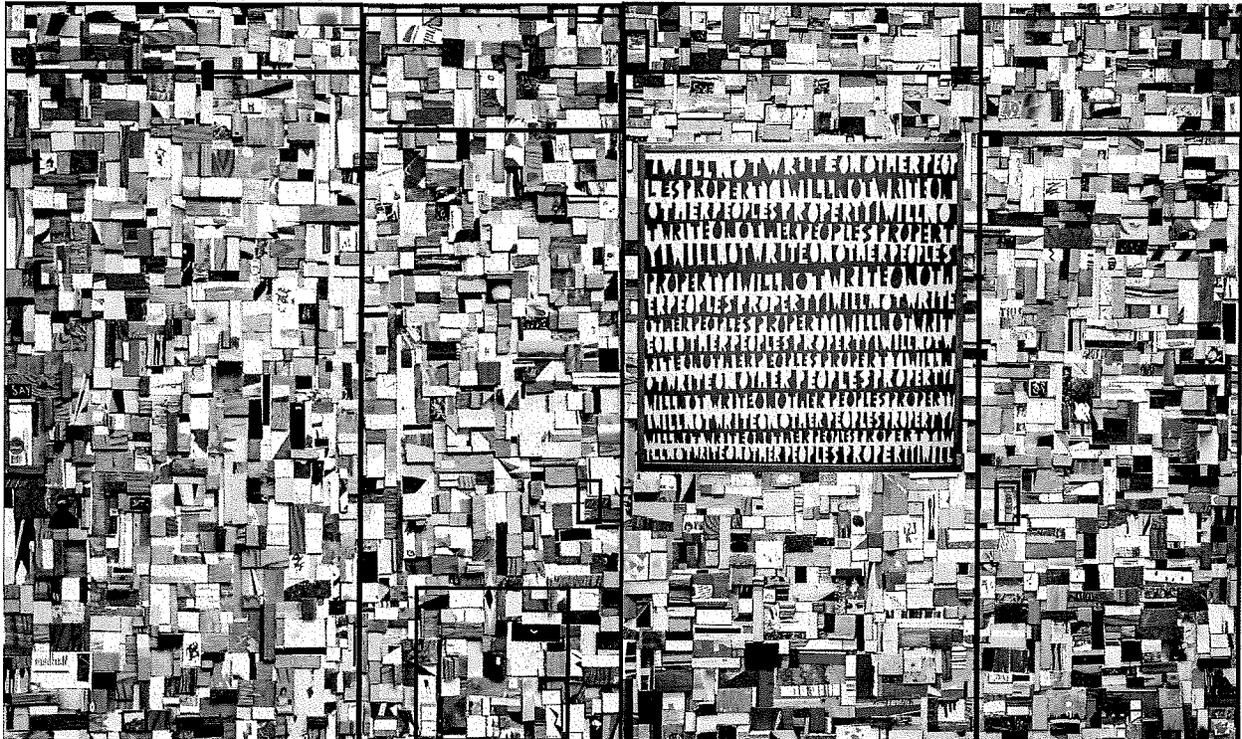
Artist: Laura Caron. Location: 12th & P



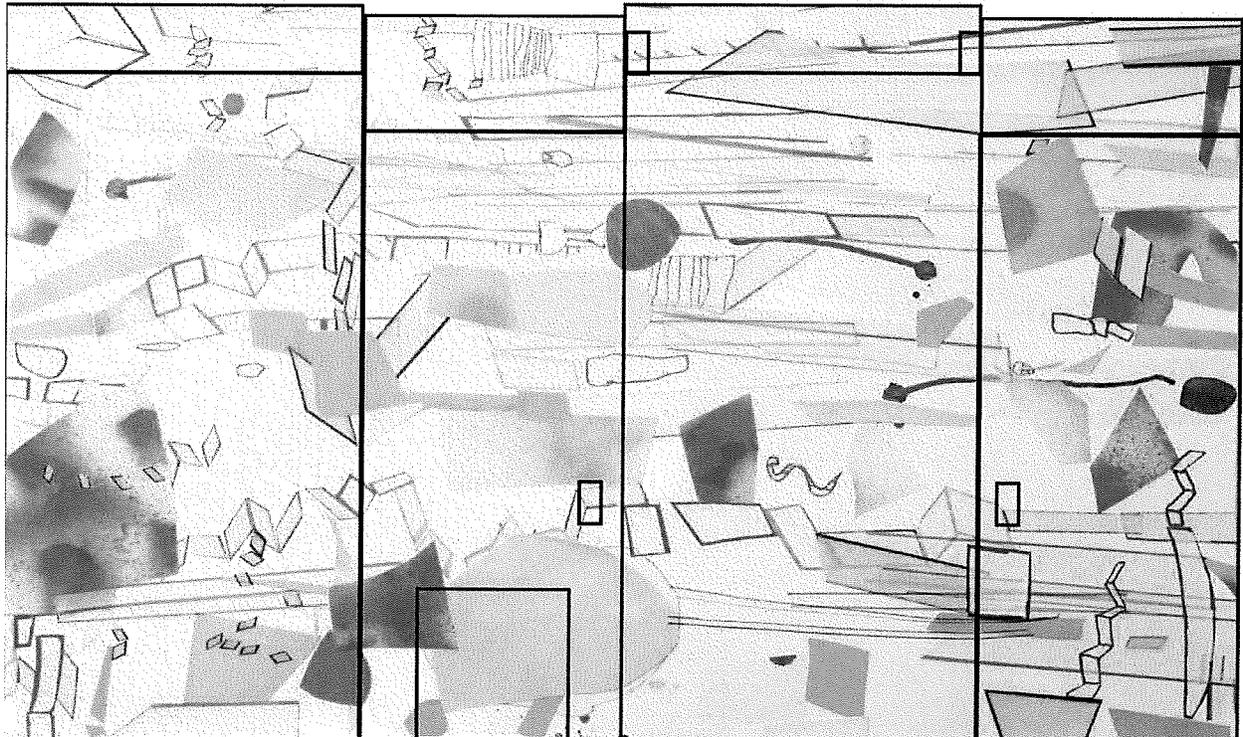
Artist: Laura Caron. Location: 5th & Capitol



Artist: Nathan Cordero. Location: 16th & P



Artist: Julia Couzens. 12th & Q



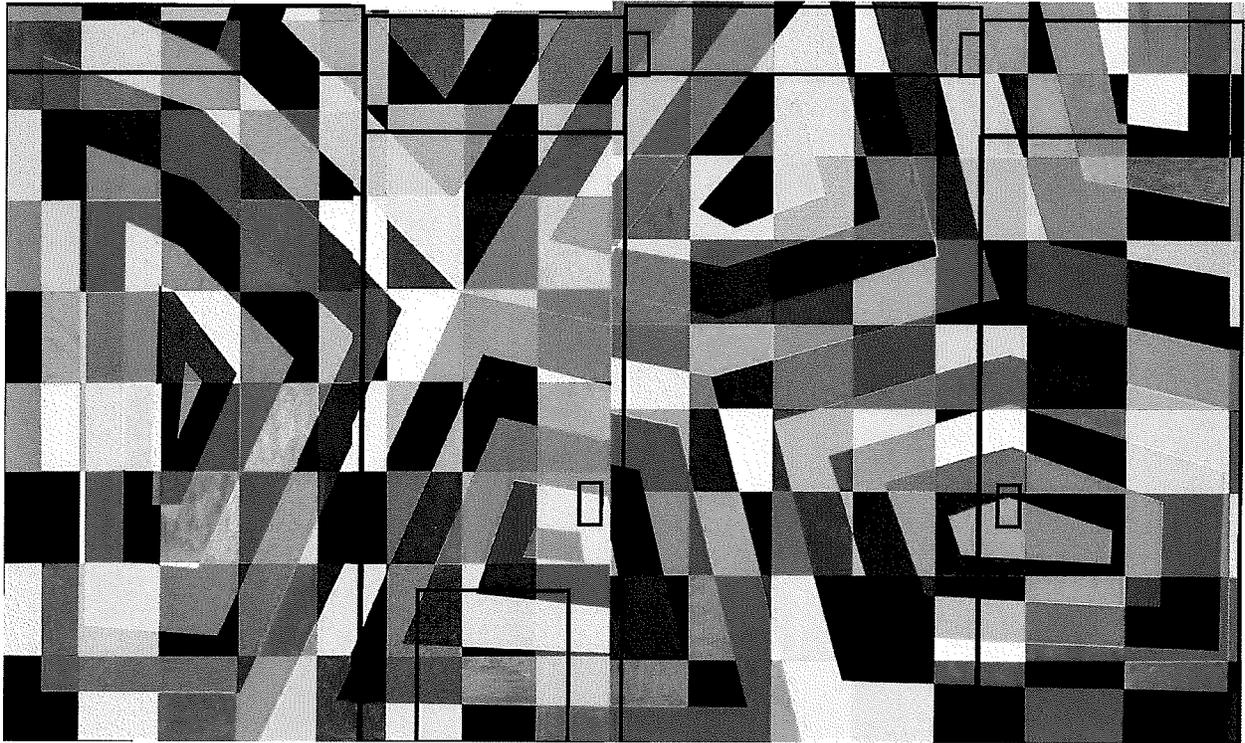
Artist: Rodante Declarador. Location: 15th & K



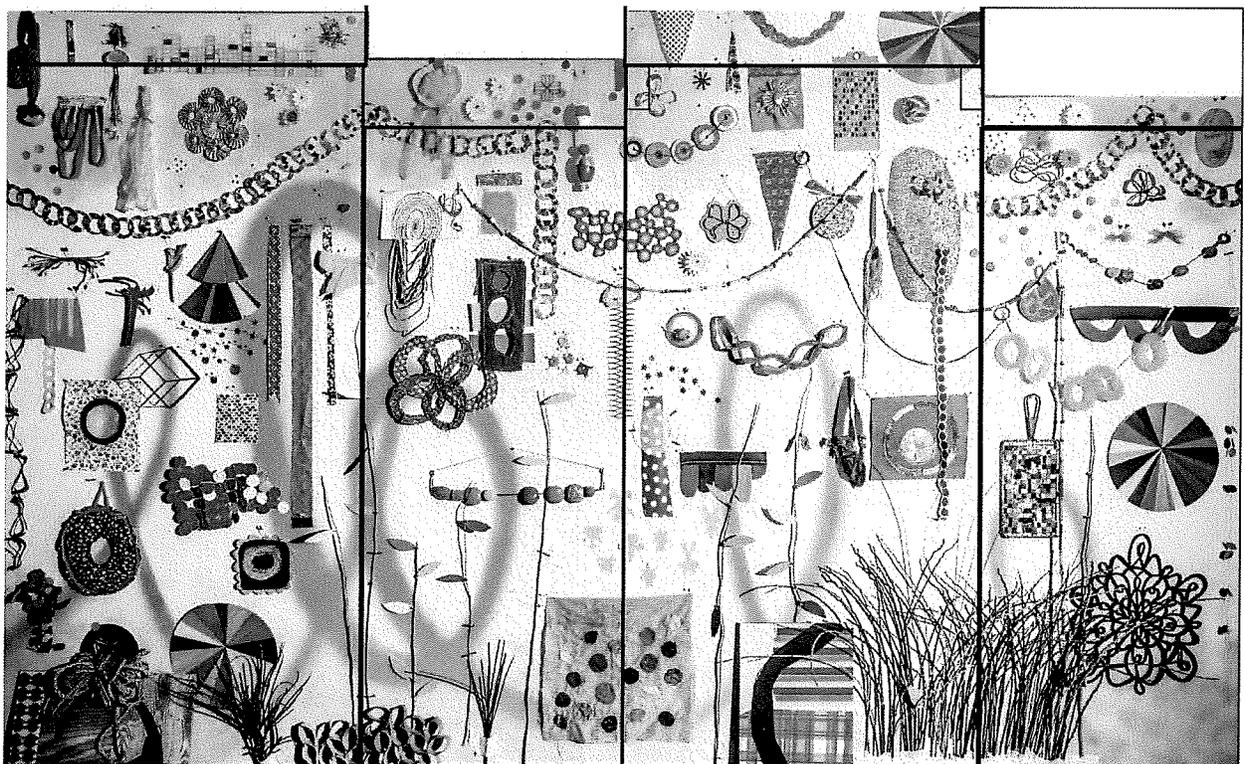
Artist: Roma Devanbu. Location: 16th & S



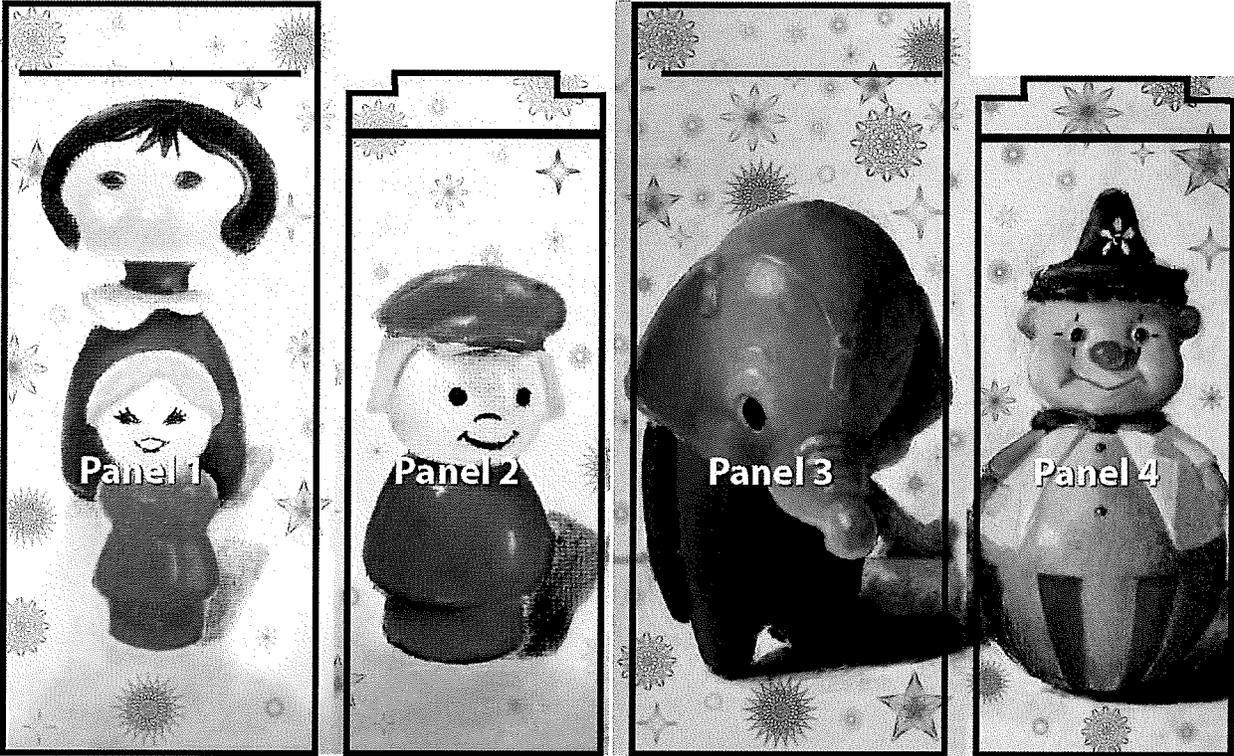
Artist: Mark Emerson. Location: 15<sup>th</sup> & S



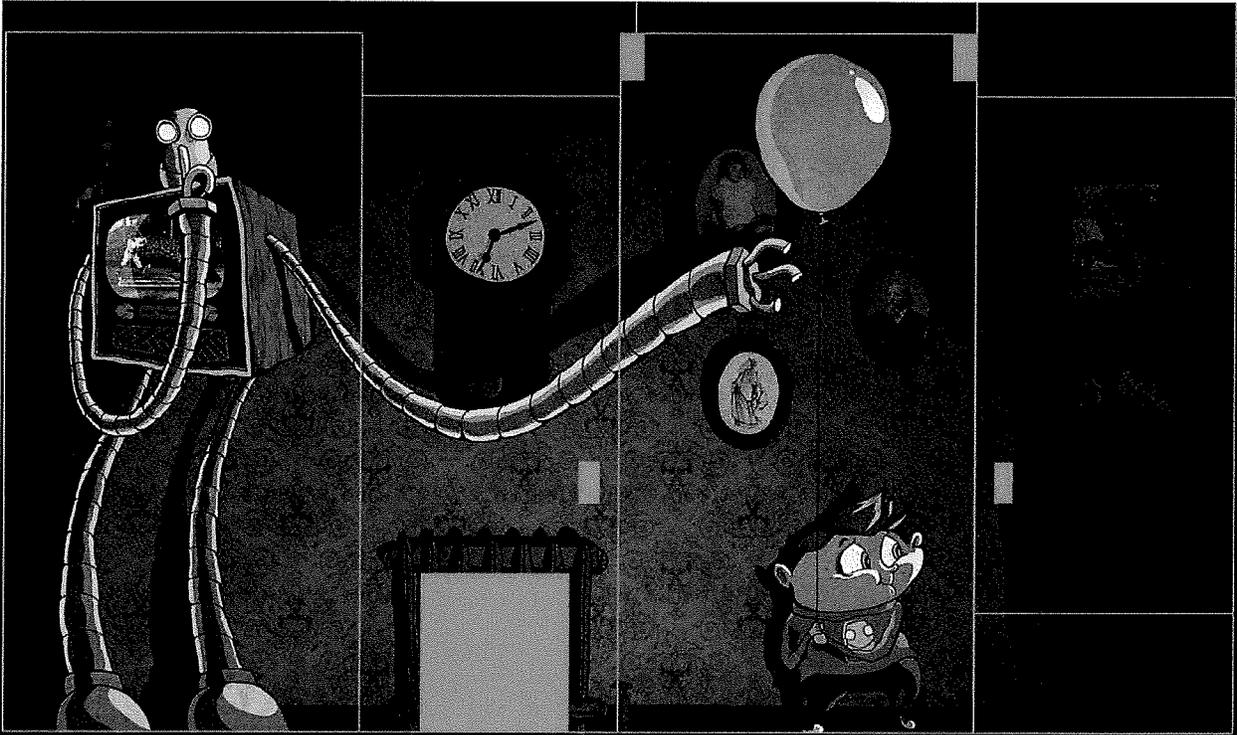
Artist: Gioia Fonda. Location: 9<sup>th</sup> & O



Artist: Sandy Hernandez. Location: 15<sup>th</sup> & N.



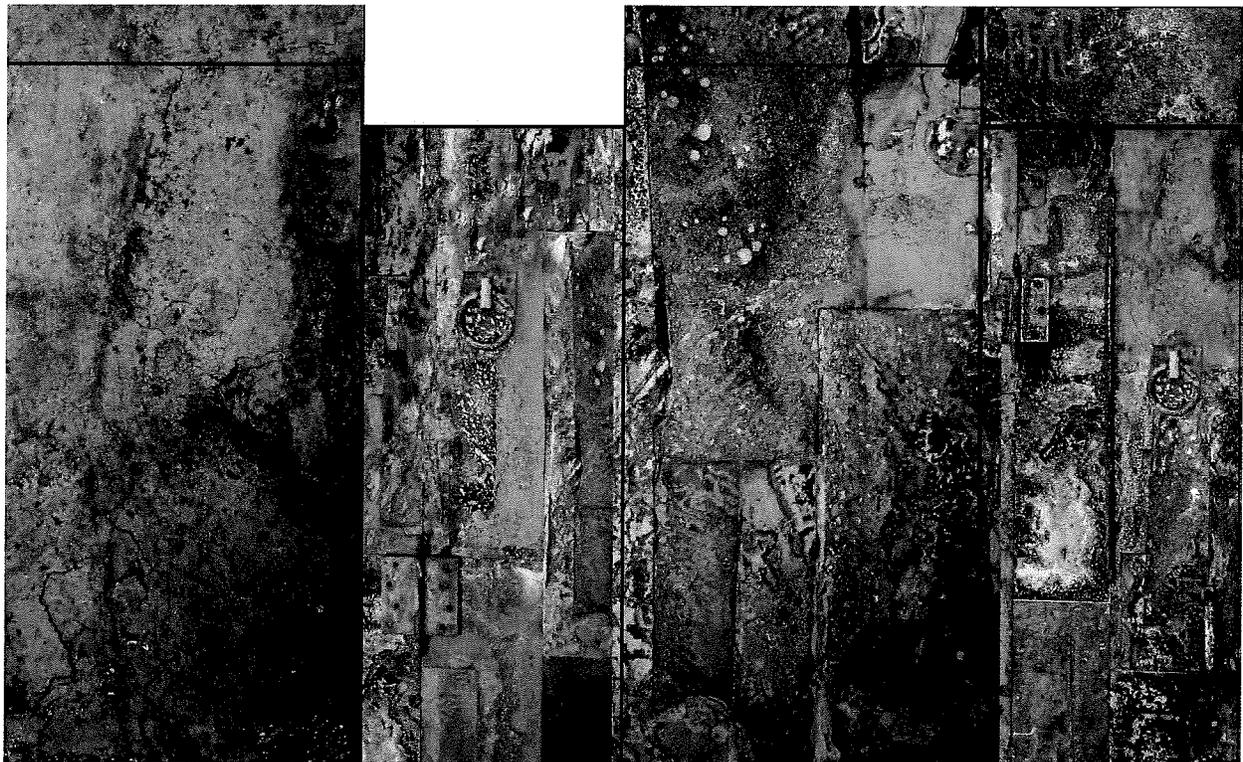
Artist: Erik Hosino. Location: 16<sup>th</sup> & Q



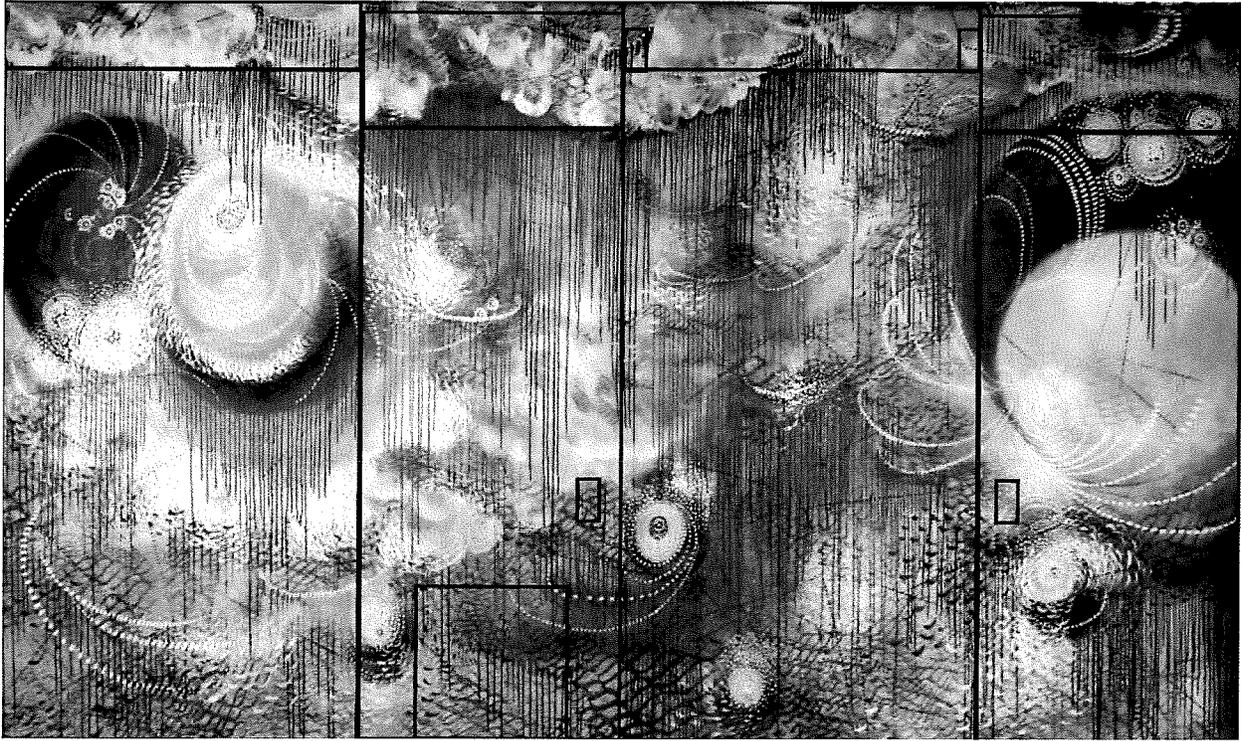
Artist: Erik Hosino. Location: 3<sup>rd</sup> & Capitol



Artist: William Ishmael. Location: 16<sup>th</sup> & Capitol



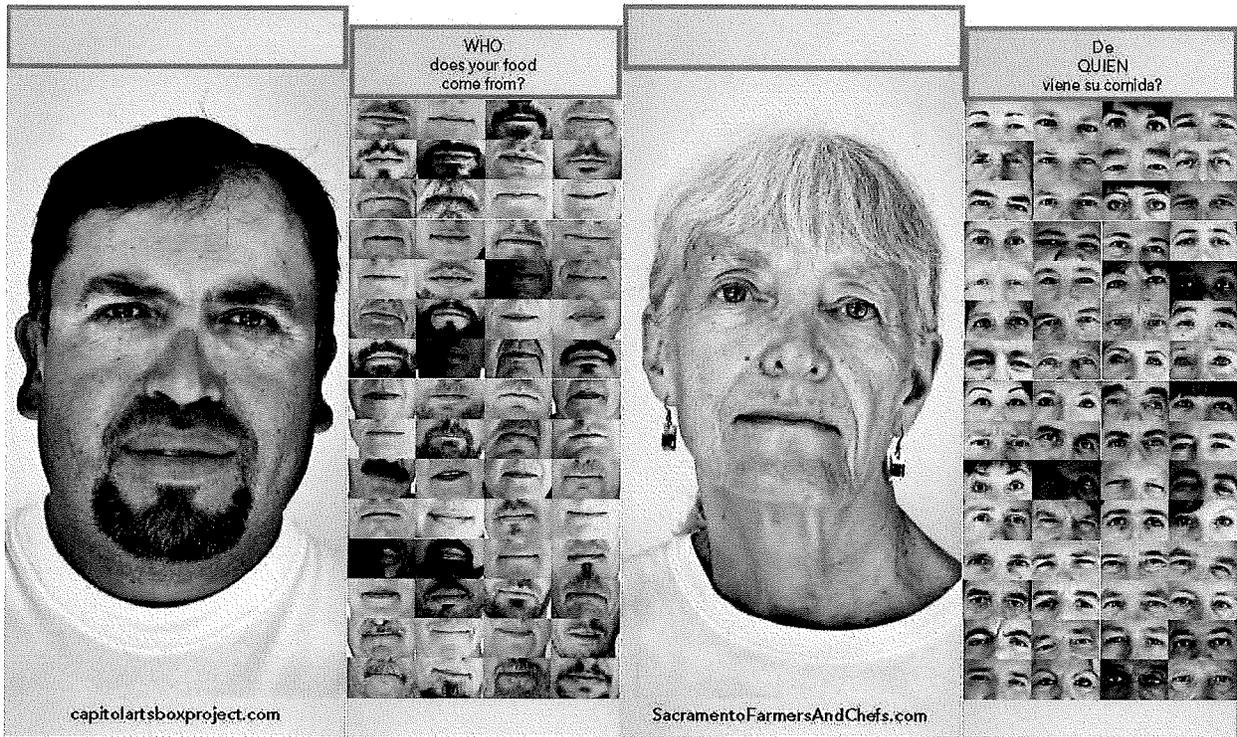
Artist: Brenda Louie. Location: 7<sup>th</sup> & N



Artist: Janine Maparunga. Location: 16<sup>th</sup> & K



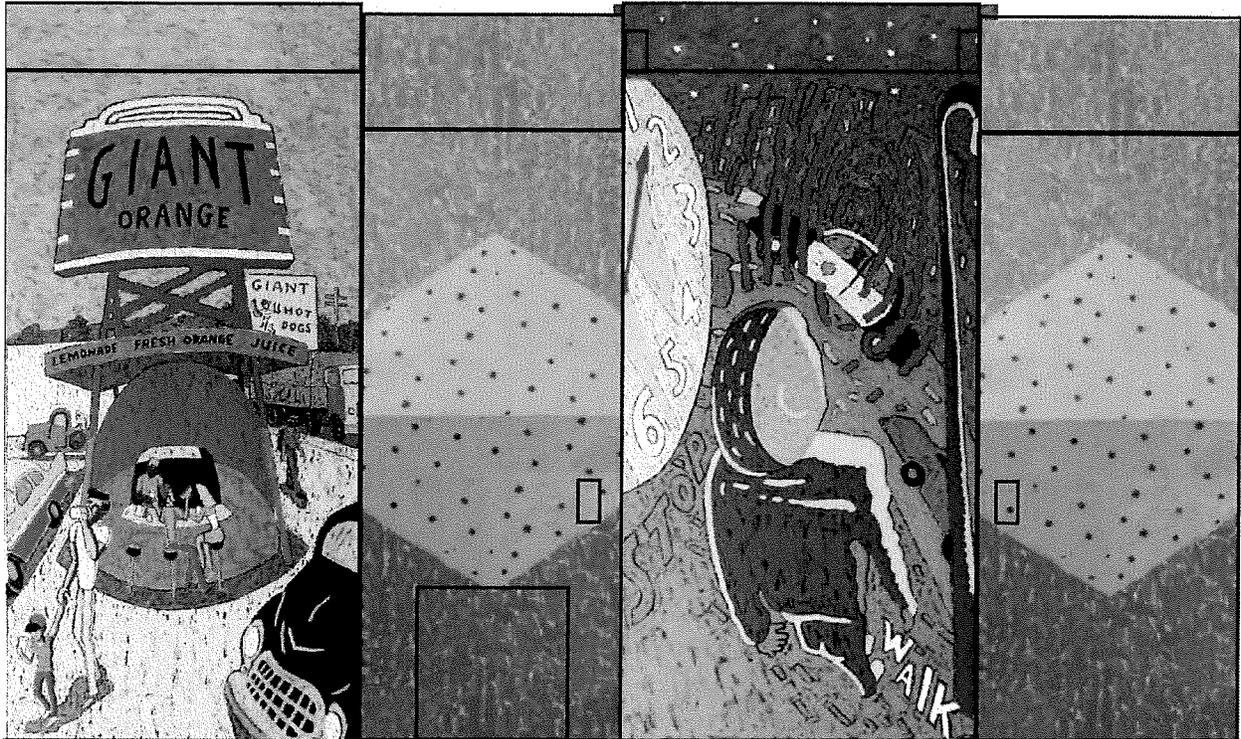
Artist: Janine Maparunga. Location: 9<sup>th</sup> & Capitol



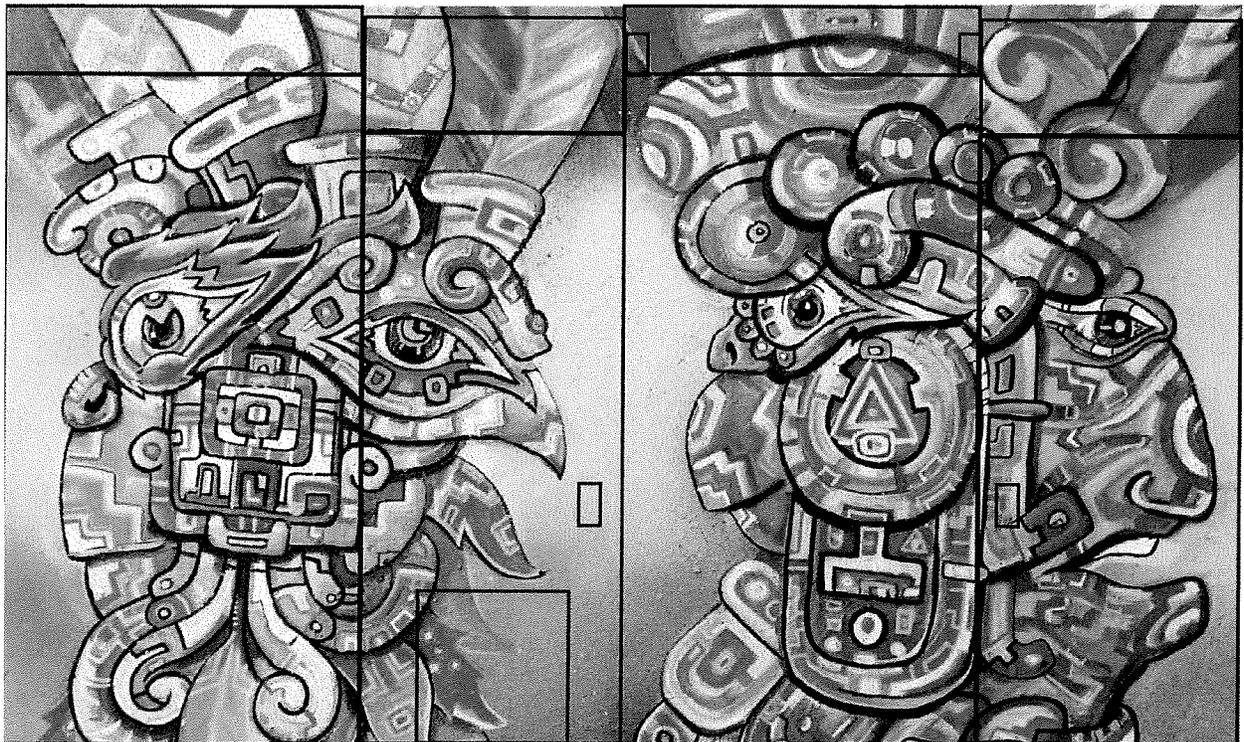
Artist: Jim Piskoti. Location: 16<sup>th</sup> & L



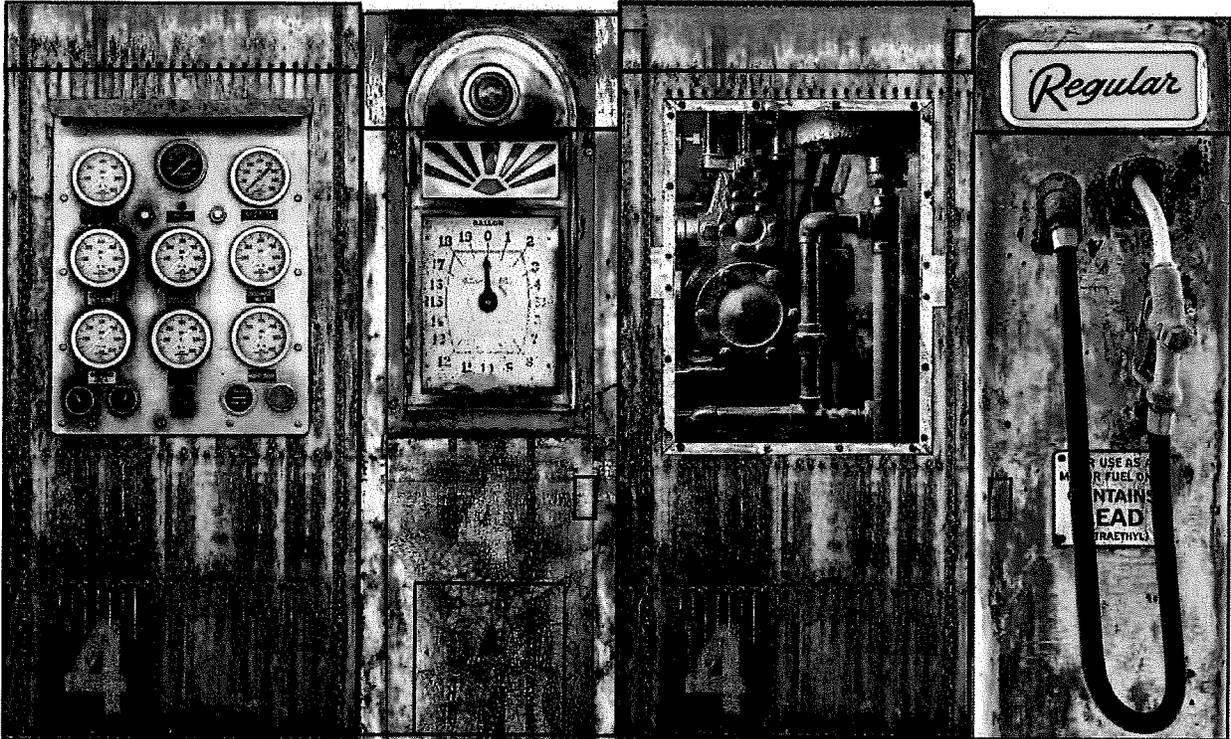
Artist: Jim Piskoti. Location: 8<sup>th</sup> & Capitol



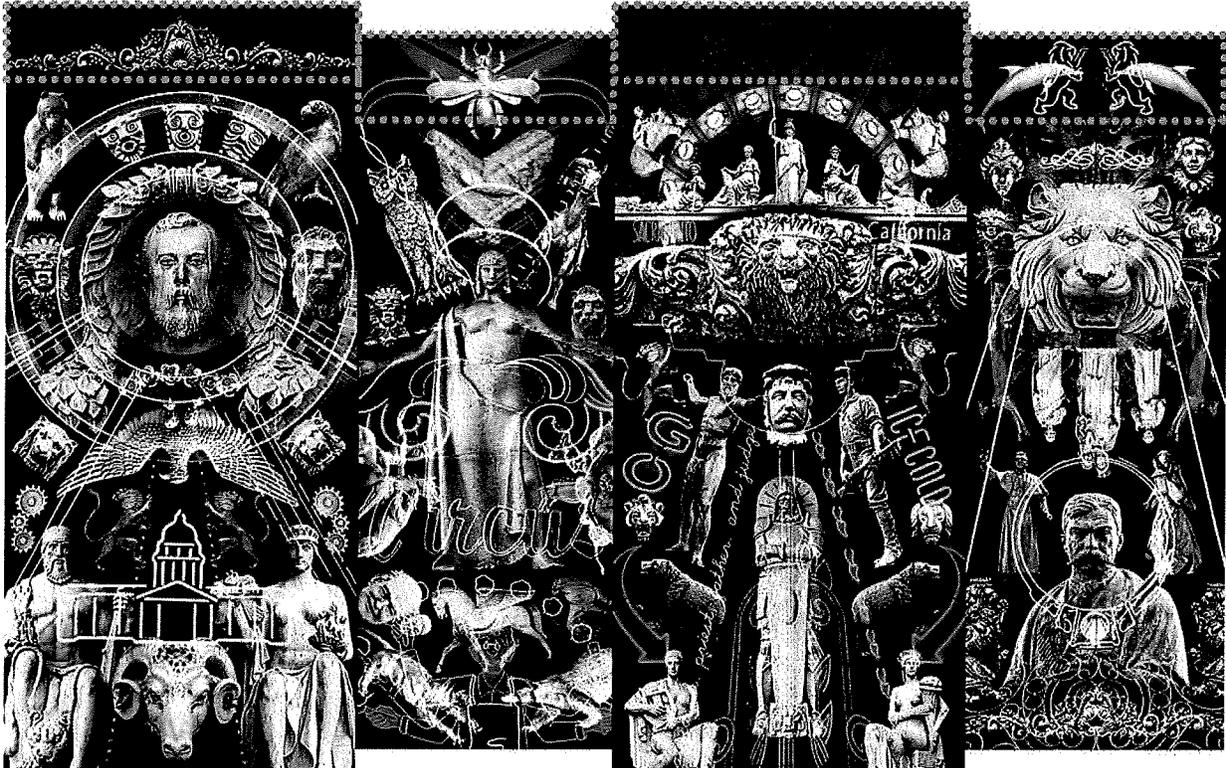
Artist: Arturo Romero. Location: 15<sup>th</sup> & Q



Artist: Donald Satterlee. Location: 8<sup>th</sup> & N



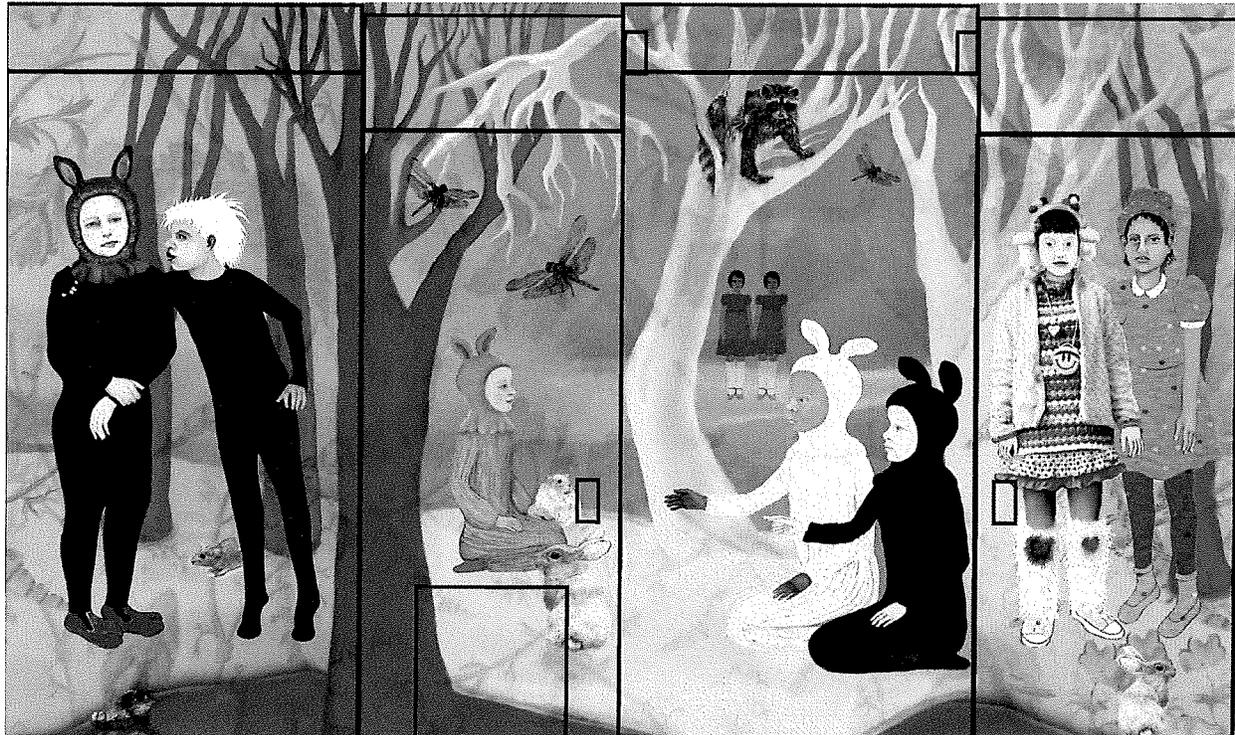
Artist: Sam Sellers. Location: 15<sup>th</sup> & L



Artist: Sam Sellers. Location: 3<sup>rd</sup> & N



Artist: Susan Silvester. Location: 10<sup>th</sup> & O



Artist: Melissa Uroff. Location: 16<sup>th</sup> & J



Artist: Melissa Uroff. Location: 6<sup>th</sup> & Capitol



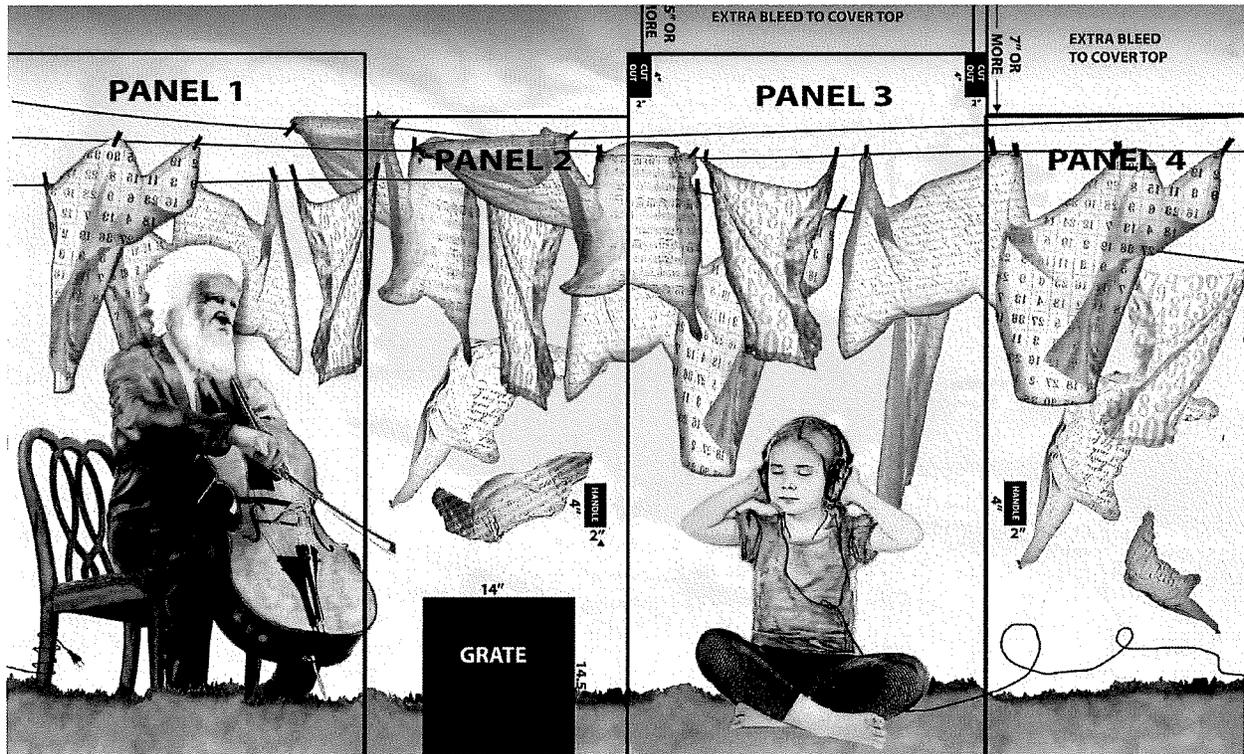
Artist: Bryan Valenzuela. Location: 8<sup>th</sup> & O



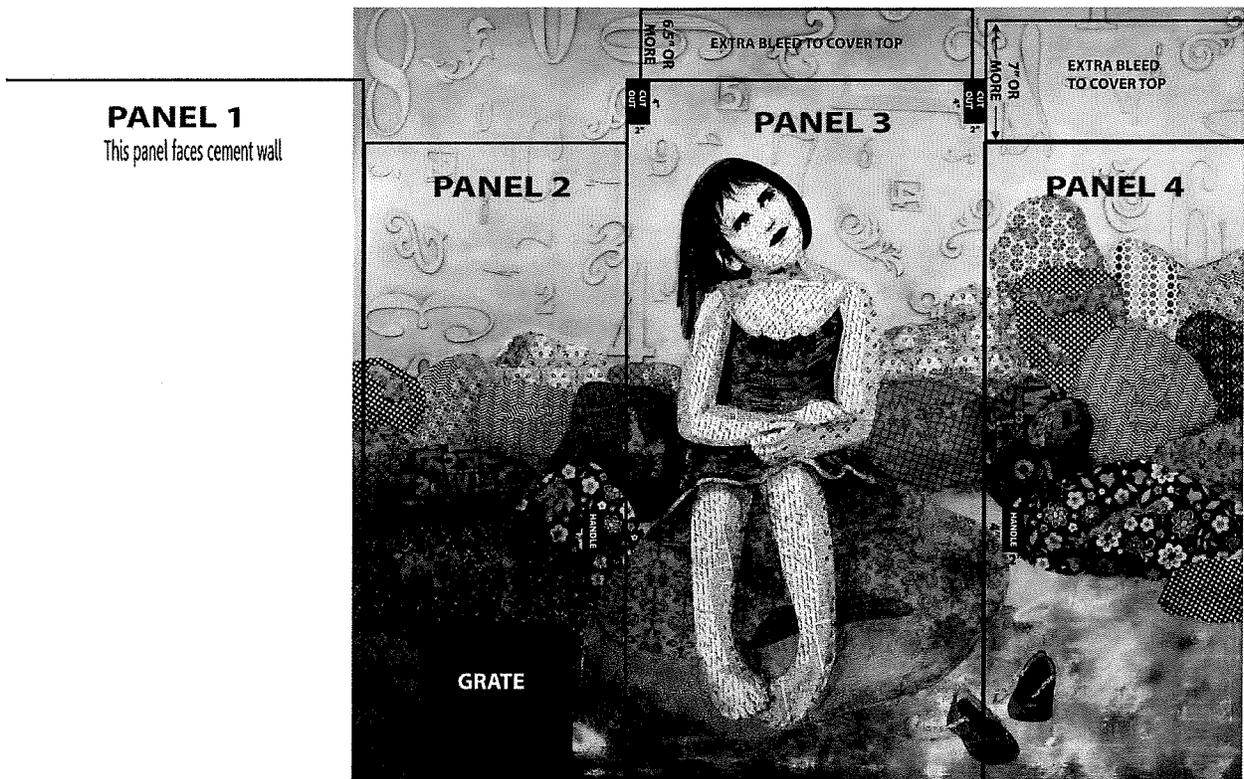
Artist: Bryan Valenzuela. Location: 7<sup>th</sup> & Capitol



Artist: Kerri Warner. Location: 15<sup>th</sup> & J



Artist: Kerri Warner. Location: 4<sup>th</sup> & Capitol



**Contract Award**  
No.

EXHIBIT B



# CONTRACT AGREEMENT

<b>Project:</b>	Utility Box Art Wrap	<b>Location:</b>	
<b>Contractor:</b>		<b>Phone/ Email:</b>	
<b>Address:</b>			

<b>Start Date</b>	<b>Completion Date</b>	<b>Release of liability</b>	<b>Total Cost of Service:</b>
2/28/2014	4/18/2014	See Terms & Conditions below	\$ 5 0 0 . 0 0

**ATTENTION:** Total cost of service not to exceed the above amount. Time is of the essence in this Agreement. Contractor shall dedicate such time and effort as is necessary to fulfill Artist's obligations to completely finish the Artwork on or before April 18, 2014. CADA shall make its staff reasonably available to Artist for consultation and assistance in order to achieve the purposes of this Agreement. Contractor shall furnish all labor, equipment and materials necessary to accomplish the following:

## TERMS AND CONDITIONS

- 1. INDEPENDENT CONTRACTOR.** Contractor and contractor's personnel is/are an independent contractor, and shall not be considered an officer, agent, or employee of Capitol Area Development Authority, the State of California or the City of Sacramento.
- 2. INDEMNIFICATION.** Contractor does hereby FOREVER release, discharge, indemnify, hold harmless, defend, exonerate, and covenant not to sue CADA, the City of Sacramento, the State of California, their officers, directors, staff, agents, successors, and assigns from, against, or with respect to any and all liability, claims, or demands of any kind or nature whatsoever, whether at law, in equity, or otherwise, which arise or may hereafter arise directly or indirectly from the Activities.

Contractor SPECIFICALLY UNDERSTANDS AND AGREES that this agreement FOREVER DISCHARGES CADA, the City of Sacramento, the State of California, their officers, directors, staff, agents, successors, and assigns from any and all liability or claims that the Volunteer may have against CADA, the City of Sacramento, the State of California, their officers, directors, staff, agents, successors, and assigns, with respect to any bodily injury, personal injury, illness, death, or property damage or loss that may result, directly or indirectly, from the Activities, whether caused by the negligence of CADA, or agents, or otherwise, and in all cases to the fullest extent permitted by applicable law.

- 3. NON ASSIGNMENT.** Without written consent of the Capitol Area Development Authority, this contract is not assignable by contractor either in whole or part. Any attempted or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no effect
- 4. METHOD OF PAYMENT.** CADA shall pay Artist **Five Hundred Dollars (\$500)**. Payments to Artist shall be made within 30 days after receipt of Artist's invoices. Artist agrees that the CADA has no obligations regarding commissions or any agreements with galleries or agents with whom Artist may have contracted. Payments to Artist will be made as follows:
  - A. \$250 hundred dollars (\$250.00) upon execution of this Agreement.
  - B. \$250 dollars (\$250.00) upon completion, approval by CADA and SMAC of design.

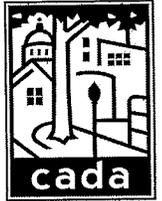
No payment will be made for any work performed until such work has been inspected by an authorized representative of Authority, and said inspector certifies that the work has been satisfactorily completed.

- 5. SITE AND APPLICATION OF WORK.** The location of the city traffic utility box or boxes will be provided by CADA. The artist is not responsible for any application of the actual printed artwork to the traffic utility box. Once the artwork has been completed and accepted by CADA, a professional vinyl wrap vendor, under contract with CADA, will print and apply the vinyl art wrap.
- 6. ORIGINALITY OF WORK.** Contractor warrants that the Artwork is original and is solely the product of Artist's own creative efforts and does not infringe the rights of any person or entity. Artist also warrants that, unless otherwise stipulated in writing, the Artwork is original, that it is an edition of one (1), and that Contractor shall not sell, license, perform or reproduce a substantially similar copy of the Artwork within a three (3) year period beginning from the installation of the Artwork or without the prior written consent of the CADA. However, nothing contained herein shall prevent the Artist from creating future works in her style and manner of working.
- 7. COPYRIGHT.** Contractor expressly reserves every right available to Contractor at common law or under the Federal Copyright Act to control the making and dissemination of copies or reproduction of the Artwork except as those rights are limited by this Agreement. Artist authorizes CADA and its assigns to make photographs, drawings, and other two-dimensional reproductions of the Artwork without prior consent of Contractor if used solely for non-commercial purposes, advertising, descriptive brochures, and similar purposes.
- 8. LICENSES & PERMITS.** Contractor represents and warrants to CADA that Contractor shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any applicable licenses, permits, or approvals that are legally required for Contractor to practice its profession. If Contractor is an out-of-state corporation, Contractor also warrants and represents that it possesses a valid certificate of qualification to transact business in the State of California issued by the California Secretary of State pursuant to Section 2105 of the California Corporations Code.
- 9. AMENDMENTS.** The contractor shall make no change to the work, provide any extra or additional work, or supply labor, services, or materials beyond that actually required, unless pursuant to a written order from the Authority authorizing the change. This agreement may only be

# CONTRACT AGREEMENT

Page 2 of 2

Utility Box Art Wrap



amended or modified in writing. No claim for an adjustment of the contract price will be paid unless authorized by Authority by written change order. It is integrated and curtails the complete understanding of the parties.

- 10. TERMINATION.** If contractor fails to perform the terms and conditions of this contract, Authority may terminate this contract and be relieved of payment to contractor. In the event of termination, Authority may proceed with the work in any manner deemed proper by Authority. The cost to the Authority shall be deducted from any sum due to contractor under this contract, and the balance, if any, shall be utilized to offset any and all claims against contractor.
- 11. LAWS AND REGULATIONS.** Contractor shall observe and comply with all applicable Federal, State and local laws and regulations which in any way affect the conduct of work under this contract.

**By signature below, Contractor, and/or legal guardian, as named above, accepts all provisions of this contract agreement including the Terms and Condition and any attachments.**

CAPITOL AREA DEVELOPMENT AUTHORITY

CONTRACTOR:

Approved By: \_\_\_\_\_ By: \_\_\_\_\_ Date: \_\_\_\_\_  
 Marc de la Vergne, Deputy Executive Director

Date: \_\_\_\_\_

Account #:	Contract Type:	C o n s u l t a n t
Requested By: _____ Name		Date: _____
Recorded By: _____ Contracts Manager		Date: _____
Funds Verified: _____ Accounting Officer		Date: _____
Approved By: _____ Approving Officer		Date: _____

ATTACHMENT 3  
Artist Name, Artwork, and Location of Utility Box

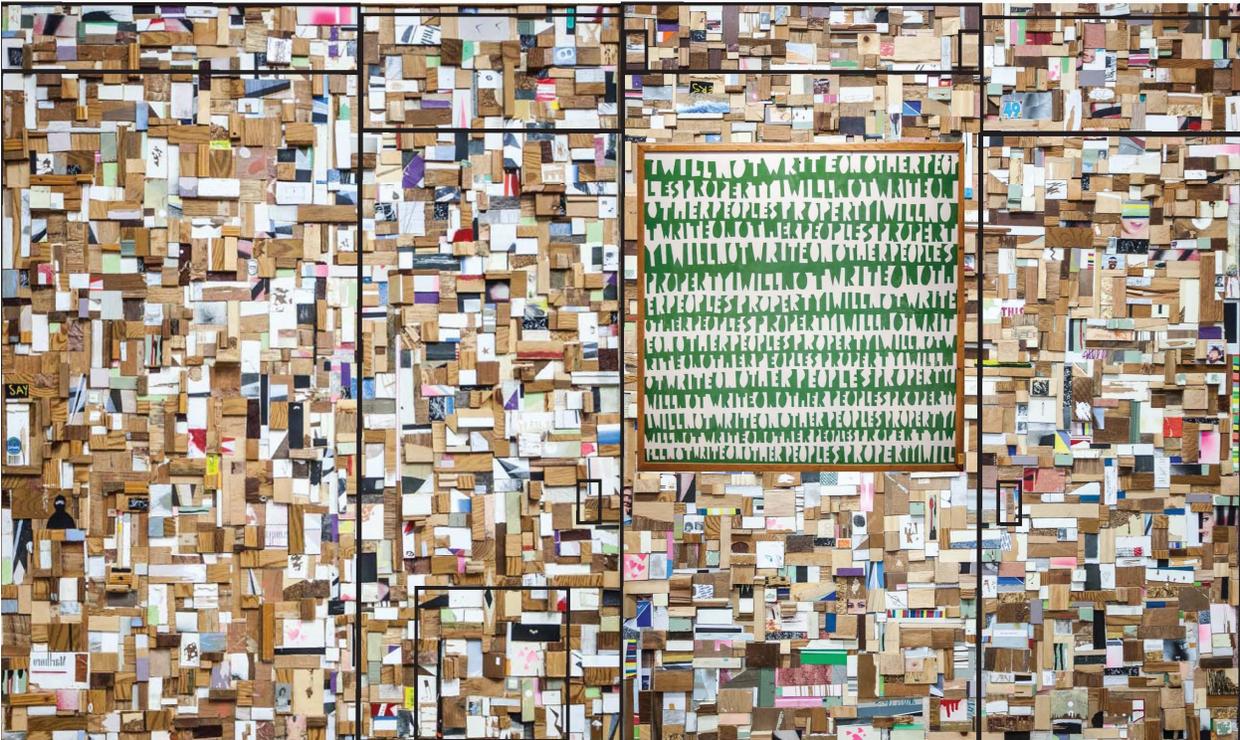
Artist: Laura Caron. Location: 12th & P



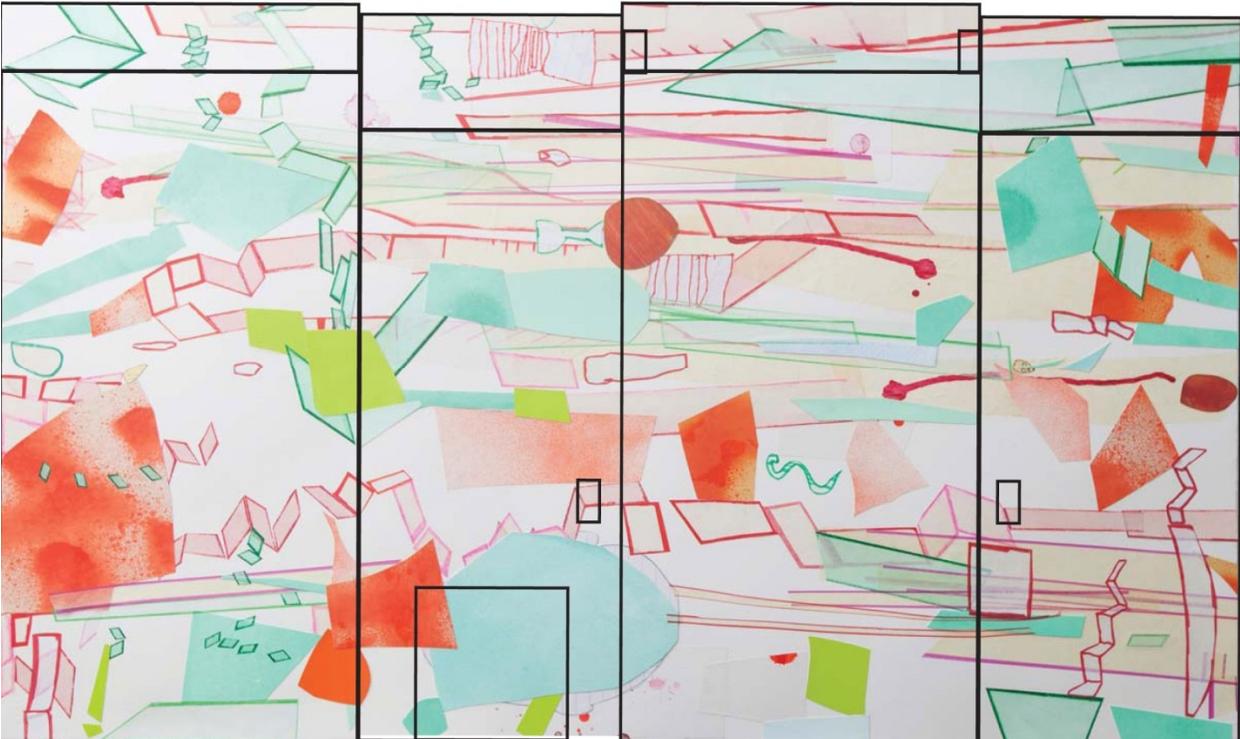
Artist: Laura Caron. Location: 5th & Capitol



Artist: Nathan Cordero. Location: 16th & P



Artist: Julia Couzens. 12th & Q



Artist: Rodante Declarador. Location: 15th & K



Artist: Roma Devanbu. Location: 16th & S



Artist: Mark Emerson. Location: 15<sup>th</sup> & S



Artist: Gioia Fonda. Location: 9<sup>th</sup> & O



Artist: Sandy Hernandez. Location: 15<sup>th</sup> & N.



Artist: Erik Hosino. Location: 16<sup>th</sup> & Q



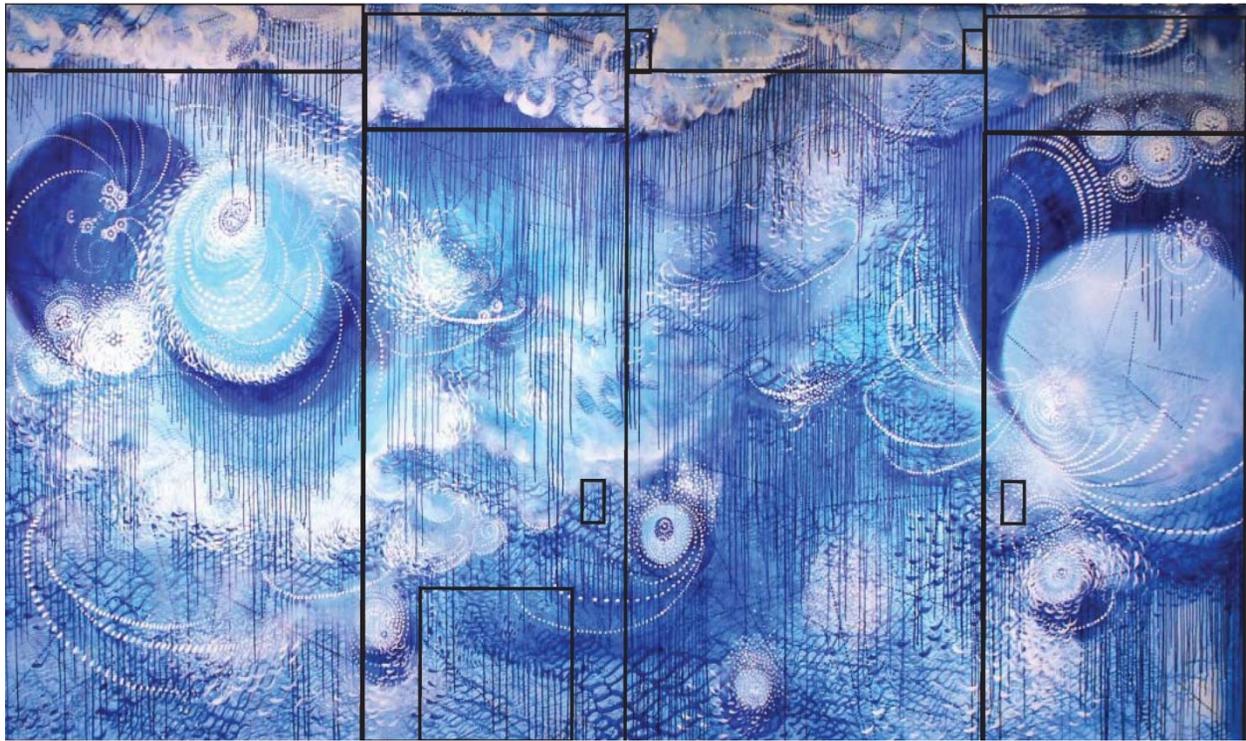
Artist: Erik Hosino. Location: 3<sup>rd</sup> & Capitol



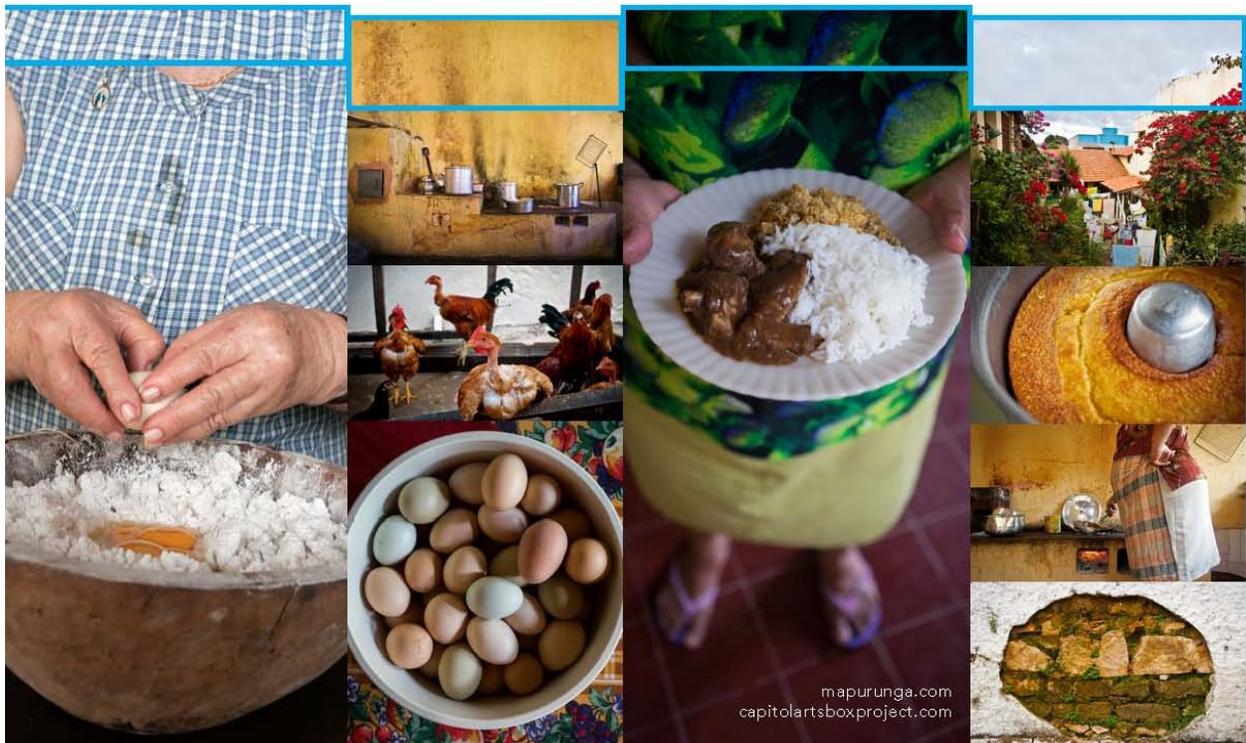
Artist: William Ishmael. Location: 16<sup>th</sup> & Capitol



Artist: Brenda Louie. Location: 7<sup>th</sup> & N



Artist: Janine Maparunga. Location: 16<sup>th</sup> & K



Artist: Janine Maparunga. Location: 9<sup>th</sup> & Capitol



Artist: Jim Piskoti. Location: 16<sup>th</sup> & L



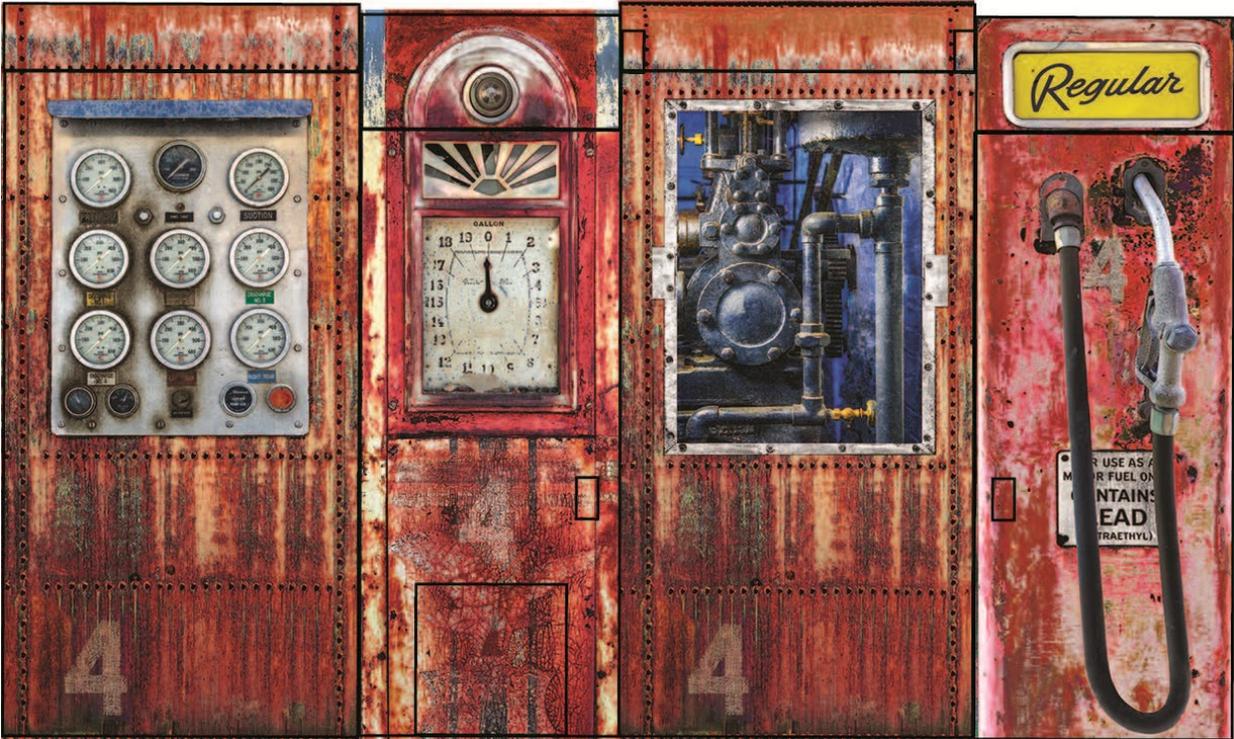
Artist: Jim Piskoti. Location: 8<sup>th</sup> & Capitol



Artist: Arturo Romero. Location: 15<sup>th</sup> & Q



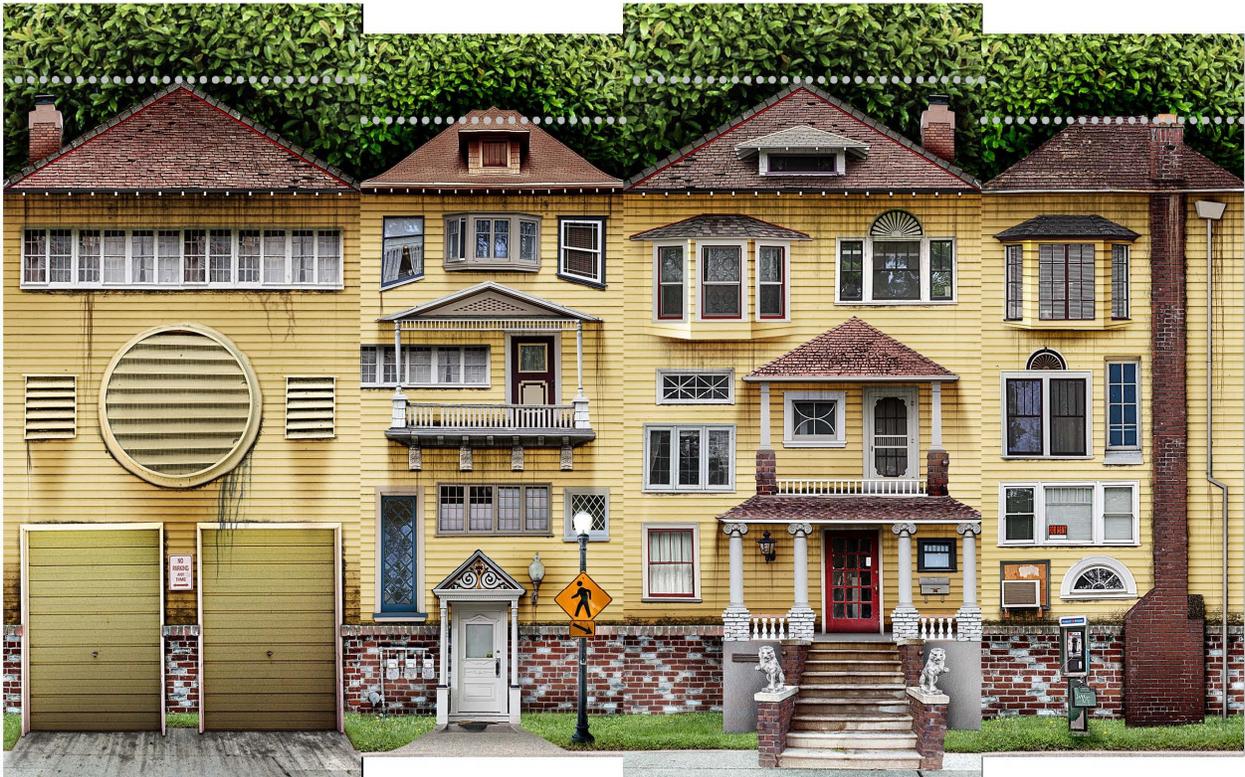
Artist: Donald Satterlee. Location: 8<sup>th</sup> & N



Artist: Sam Sellers. Location: 15<sup>th</sup> & L



Artist: Sam Sellers. Location: 3<sup>rd</sup> & N



Artist: Susan Silvester. Location: 10<sup>th</sup> & O



Artist: Melissa Uroff. Location: 16<sup>th</sup> & J



Artist: Melissa Uroff. Location: 6<sup>th</sup> & Capitol



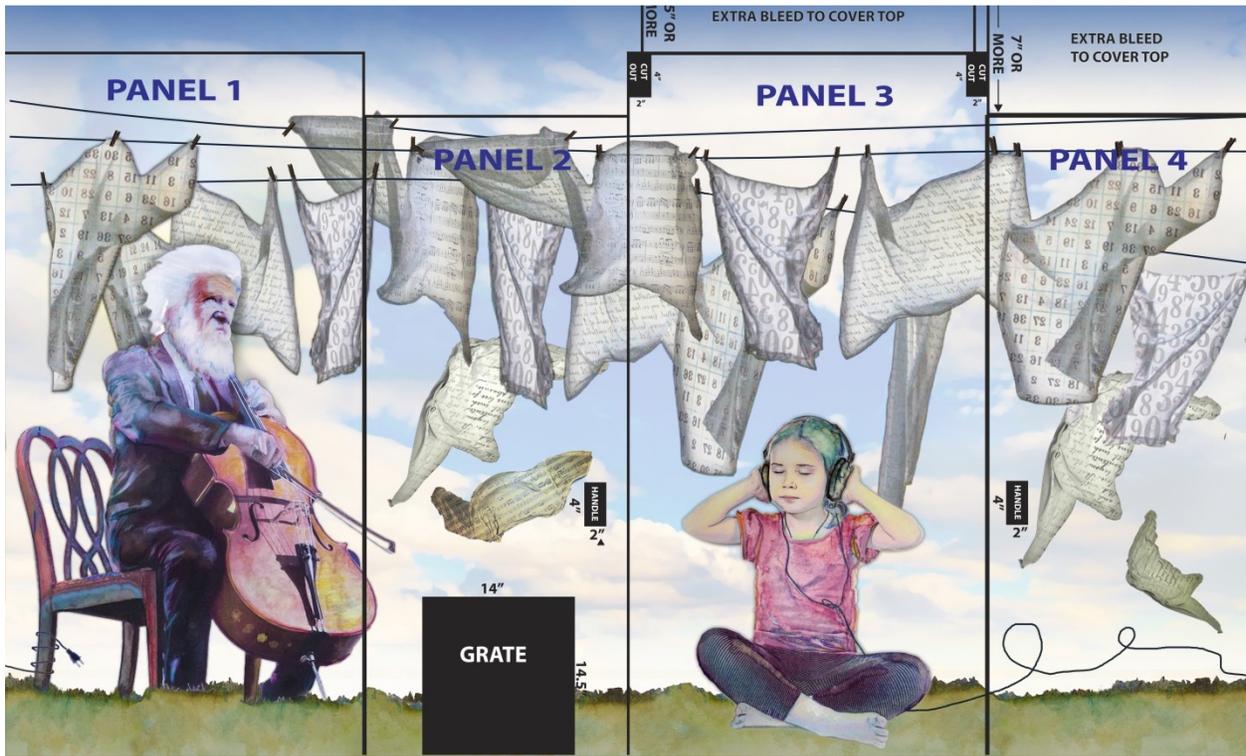
Artist: Bryan Valenzuela. Location: 8<sup>th</sup> & O



Artist: Bryan Valenzuela. Location: 7<sup>th</sup> & Capitol



Artist: Kerri Warner. Location: 15<sup>th</sup> & J



Artist: Kerri Warner. Location: 4<sup>th</sup> & Capitol

