

## **CONDITIONS OF USE FOR THIS PDF**

The images contained within this PDF may be used for private study, scholarship, and research only. They may not be published in print, posted on the internet, or exhibited. They may not be donated, sold, or otherwise transferred to another individual or repository without the written permission of The Museum of Modern Art Archives.

When publication is intended, publication-quality images must be obtained from SCALA Group, the Museum's agent for licensing and distribution of images to outside publishers and researchers.

If you wish to quote any of this material in a publication, an application for permission to publish must be submitted to the MoMA Archives. This stipulation also applies to dissertations and theses. All references to materials should cite the archival collection and folder, and acknowledge "The Museum of Modern Art Archives, New York."

Whether publishing an image or quoting text, you are responsible for obtaining any consents or permissions which may be necessary in connection with any use of the archival materials, including, without limitation, any necessary authorizations from the copyright holder thereof or from any individual depicted therein.

In requesting and accepting this reproduction, you are agreeing to indemnify and hold harmless The Museum of Modern Art, its agents and employees against all claims, demands, costs and expenses incurred by copyright infringement or any other legal or regulatory cause of action arising from the use of this material.

### **NOTICE: WARNING CONCERNING COPYRIGHT RESTRICTIONS**

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or reproduction is not to be "used for any purpose other than private study, scholarship, or research." If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of "fair use," that user may be liable for copyright infringement.

FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

SY  
 APR  
 to si  
 Eos  
 poor  
 inter  
 TAUK  
 produ  
 have be  
 another  
 Captain  
 GEMINI  
 Brooke  
 Prewitt  
 A...

is due to  
 screenplay written by  
 "Johnny on the Pony," a black comedy

Part II / 3

THURSDAY, MAY 20, 1987

# A Troubled Fishing Village

Time is catching up with Sheepshead Bay. As more new buildings go up, the fishermen are more worried they will be squeezed out.



Brand-new condominiums are going up on Emmons Avenue in place of parking lots for the fishing boats. Newsday Photos / Daniel Sheehan

By Jerry Morgan

**T**HE LIGHTS create a false dawn along Emmons Avenue. In their glare, men in jeans and ...

across Emmons to the boats at the city-owned docks: Blue Skies IV, America V, Brooklyn V, Pilot II, America II.  
 Fathers and sons, fishing ...

The Museum of Modern Art Archives, NY	Collection:	Series Folder:
	Burton	II.144

er  
and  
rite to  
same,  
ids-

entice passersby and cruising drivers: "Blackfish," "mackerel," they yell, trying to attract customers to their fishing boats. "Free bait, free rods," they cajole. At 5:30 in the morning, the parking spaces along the Emmons Avenue divider are already filled. People begin to drift from the dirt parking lots

men, fishing rods in one hand, the end of a huge cooler in the other; a husband and wife, each with a rod and plastic bucket, pick out a boat. Some people head for a favorite craft; others seek a boat less crowded, so they can find a fishing spot they like. Emmons Avenue, at night brash and alive in neon lights, is ordinary in the gray light of morning. The neon

## One More Enterprise In Danger

Mike's Fishing Tackle and Bait opens at 4:30 a.m. in season, so the early birds can get their worms.

Fishermen come in to the old-fashioned store for rod handles, lures, filleting knives, caps, rods, reels, a can of soda. Boat crews buy packages of empty dog-food bags in which to pack customers' catches.

Mike's has been in Sheepshead Bay for 44 years, but its future is in litigation. The lease on the one-story store expired in February, 1986, and owner Mike Maffai has been fighting in court to stay open. Now he hopes to make it through this season, which ends in October. He has tried to buy the store. "I offered them \$250,000, but they turned it down," Maffai said.

"Them" is Litas Investing Co., of Richmond Hill, which paid \$11 million in 1979 to restaurateur Frederick Lundy's estate for the land he had owned along Emmons Avenue from 19th to 28th Street fronting the bay.



Mike Maffai has had a store in Sheepshead Bay for 44 years, but now his lease has expired.

A spokesman for Litas said the land Litas bought from the estate has been sold. The land Mike's is on is in contract to be sold, with the sale delayed until the legal issues are settled, the spokesman said.

The city Public Development Corp. is expected to solicit new bids next month for a floating restaurant as well as a parking garage, commercial space and housing on the last major open tract, which happens to be the one on which Mike's is located.

It is development that Lundy sought to avoid, by buying the land from store owners and leasing it back to them.

"Lundy thought he would live forever," Maffai said, with a trace of bitterness. "When we negotiated the last ten-year lease, I asked him for an option for another ten to fifteen years, but he said, 'We'll talk about it at the time.' He was eighty-three then." They didn't. The reclusive Lundy, who lived above the huge stucco and red tile restaurant

that now sits beached, torpedoed by time and economics, died in 1977, and his estate sold the land to Litas. But "He would have" are common on the street among those who feel threatened by current plans and who believe Lundy would have kept the old ways going. Maffai, whose sons John and Charlie work with him, isn't sure what will happen if he is has to close or move the store. "We can't support three families if the store is on a side street," he said.

— Morgan

NEWSDAY, WEDNESDAY, MAY 20, 1987

4 / Part II NY

SY  
ARIF  
to su  
Focu  
posi  
inte,  
TAUR  
prod  
have be  
another  
Capricorn  
GEMINI  
people, w  
Recent  
Previous  
Art

FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



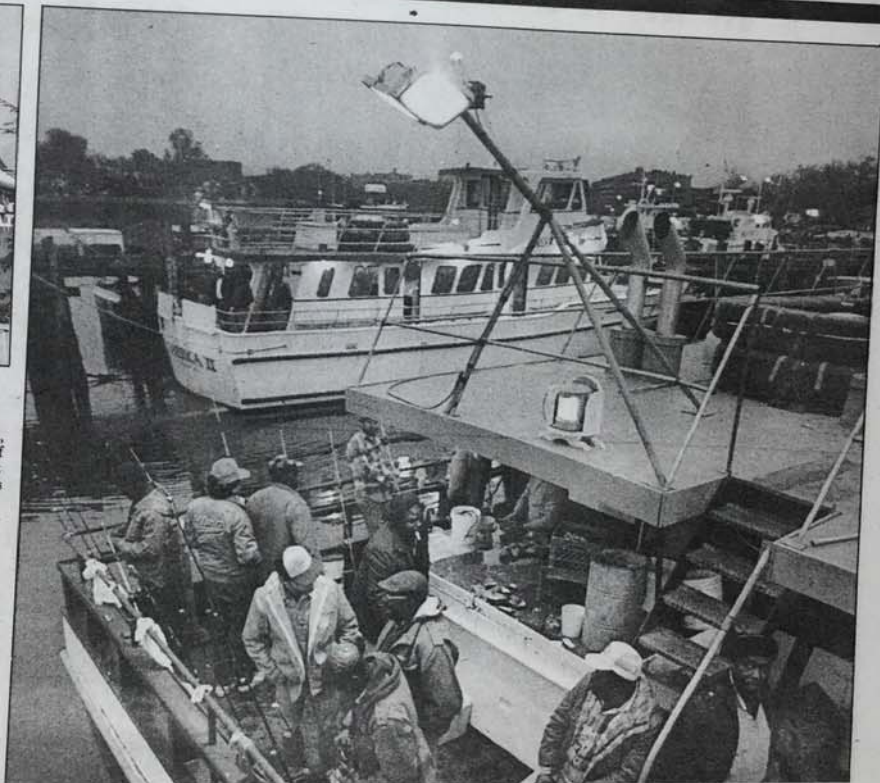
Frederick Lundy's restaurant is now closed and decaying.

red lobster over Randazzo's is still, shut off during the day. The row of clam houses and restaurants that faces the docks looks as downcast as the sky is overcast.

Only Mike's Tackle and Bait, at 2201, is open. In front of Mike's, Stuart Lande sells coffee, sandwiches, sodas from his truck. "Want me to put a hole in the top?" Lande asks, experienced in the ways of rocking boats and spilling coffee.

It is Saturday morning at the beginning of another fishing season at Sheepshead Bay. After the first burst of action, when a half-dozen of the larger boats leave at 6 a.m., activity on the docks slows. A few boats go out every hour on the hour. The half-day boats return at noon, go out again at 1 p.m.

By 3 p.m., crowds appear, waiting to buy the catch from the



of  
and  
rite to  
one,  
ids-

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

DEPARTMENT OF CULTURAL AFFAIRS  
CITY OF NEW YORK  
BESS MYERSON, COMMISSIONER  
2 COLUMBUS CIRCLE  
NEW YORK, NEW YORK 10019



restlessly from dock to dock, moving the boats pull in, looking to buy the freshest fish at the best price.

For more than 60 years, people have been coming to Sheepshead Bay to catch the fish, buy the fish, or eat fish in one of the restaurants along the bay.

But this is an unsettled time for the fishing fleet, as redevelopment begins to change the look of the bayfront.

Now boat captains, some of whose fathers also were captains, worry about losing the dirt parking lots they have had for only a half-dozen years, but consider vital. They say that any sharp reduction in parking could mean the end of the fleet. And that threatens both the local businesses and a tradition — a day of fishing — for thousands of New Yorkers, many of whom have come here for years.

The lease on Mike's Tackle and Bait expired more than a year ago and the store may close after 44 years and ownership by three generations of the Maffai family. Low-rise office buildings and three-story condominiums now occupy land that used to be parking lots for the fishing boats.

"Sure, we are afraid every day about the parking. Nobody is going to take the subway out here at four a.m. to catch a six o'clock boat," said Tom Marconi, captain of the Pilot II. "If they do away with the parking, it could be the end for most of the fleet, because how are people going to get here?"

The development of Sheepshead Bay is what restaurateur Frederick William Irving Lundy managed to forestall for decades. He wanted to keep Sheepshead Bay a quaint fishing village with restaurants, clam bars, bait shops and fishing boats. It was a concept Lundy developed in the 1920s, when he traded land he owned along the water to the city for sites inland, because the city wanted to build new docks to help the fleet prosper.



Day-trippers eager to fish crowd the deck of the Pilot II out of Sheepshead Bay as it gets underway.

As a result of that deal, Lundy, who owned the huge, now closed, restaurant that still bears the family name, and who was also a real estate investor, held most of the land on Emmons from 19th to 28th Streets.

**T**HE RECLUSIVE Lundy bought land from storeowners, then gave them long leases at relatively low rents to make it easy for them to stay in business. "You took care of everything — taxes, maintenance, everything. All he wanted was a check at the end of the month," said Mike Maffai, owner of Mike's. "He called you; you couldn't call him."

But Lundy's death in 1977 left his estate with large tracts of already assembled land, an attractive package that the estate sold in 1979 to Litas Investing Co. of Richmond Hill, for \$11 million, and which the company has been selling off to developers.

It wasn't until Lundy's death, said Maurice Kolodin, chairman of Community Board 15, that a deal was made with the estate and with Litas to allow captains to rent vacant lots to alleviate parking problems created by fishermen, who double-parked or parked illegally.

Now, the city's Public Development Corporation is seeking bids from developers for a floating restaurant, a

parking garage with retail space and housing fronting the bay. This plan is a revised version of an earlier one that proposed a large, floating retail pier similar to the one at South Street Seaport, but agency officials said earlier this month they had scaled down the plan to preserve the waterfront.

James Stuckey, the development corporation's president, said new retail space would be incorporated in a public parking garage.

Stuckey said he understood the fears of the fishermen. "We've found people in small business, including fishermen, get nervous when large development is going on around them."

—Continued on Page 12

NEWSDAY, WEDNESDAY, MAY 20, 1987

NY

Part II / 5

FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

DEPARTMENT OF CULTURAL AFFAIRS  
CITY OF NEW YORK  
BESS MYERSON, COMMISSIONER

2 COLUMBUS CIRCLE  
NEW YORK, NEW YORK 10019

TELEPHONE 212 974 1150

PERCENT FOR ART PROGRAM



Percent for Art Program  
Community Profile

Project: Sheepshead Bay Fishing Piers  
Piers 1-9 at Emmons Avenue between East 21st

① Sheepshead Bay Piers from Manhattan Beach



② Pedestrian bridge across Sheepshead Bay from Emmons Avenue to Manhattan Beach.



③ Bulkhead Pier 10 to Pedestrian Bridge.



④ Side view



⑤ One of piers from Esplanade



⑥ View of pier



⑦ Detail of access stairs for boat.



⑧ End of pier



lease their berths from the Department of Ports, International Trade and Commerce. According to the Office of Property Management at PITC, there has been a recent surge in requests for moorings at Sheepshead Bay as news of the upcoming renovation spreads. All of the boats are "party boats", taking individuals and groups out for recreational fishing in the waters from Sandy Hook, N.J. to the Rockaways. The season begins in March and runs through the end of December or early January.

\*PDC is exploring developing Pier 10 as mooring for tour boats and a floating barge restaurant.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

DEPARTMENT OF CULTURAL AFFAIRS  
CITY OF NEW YORK  
BESS MYERSON, COMMISSIONER  
2 COLUMBUS CIRCLE  
NEW YORK, NEW YORK 10019  
TELEPHONE 212 974 1150



PERCENT FOR ART PROGRAM

Percent for Art Program  
Community Profile

Project: Sheepshead Bay Fishing Piers  
Piers 1-9 at Emmons Avenue between East 21st  
and 27th Street

Architect: Michael J. Koenen

Allocation: \$39,000

Sheepshead Bay is one of New York's great waterfront recreation areas, known for its fishing boats and restaurants. The fishing fleet, which gives the area its special character, is moored at the city-owned piers along Emmons Avenue. Built in 1936, the ten concrete piers are being renovated by the Public Development Corporation as part of a larger commercial development project to strengthen the area.

Project Information: The rehabilitation of Piers 1-9\* will include the installation of new pavements, pedestrian and security lighting, new railings, special signage, water, electricity and utility connections for each vessel. The architect will provide the planning, design and engineering services for these capital improvements, the nature and extent of which will be determined during the design phase. In addition, the architect will work with an artist chosen through the Percent for Art Program. This artist may be involved in one or a combination of elements integral to the piers such as paving insets, decorative railings, seating, or lighting.

There are now 29 boats moored at the piers. The boat owners lease their berths from the Department of Ports, International Trade and Commerce. According to the Office of Property Management at PITC, there has been a recent surge in requests for moorings at Sheepshead Bay as news of the upcoming renovation spreads. All of the boats are "party boats", taking individuals and groups out for recreational fishing in the waters from Sandy Hook, N.J. to the Rockaways. The season begins in March and runs through the end of December or early January.

\*PDC is exploring developing Pier 10 as mooring for four boats and a floating barge restaurant.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

Neighborhood Background (Brooklyn Community District #15):

Sheepshead Bay is named for the "sheepshead", a fish once popular in the area. First populated in the 17th century (part of the town of Gravesend), the neighborhood saw action during the Revolutionary battles of Long Island. In the 1880's, Sheepshead Bay became known for its race track, spacious mansions, hotels and restaurants. In the 1920's, the silent screen stars of Vitagraph Studios built their mediterranean style houses along Ocean Avenue. At the same time, middle-class housing development began. The Belt Parkway opened in 1940, connecting the area to Manhattan on one side and Long Island on the other.

In the 1950's and 1960's, the present character of the neighborhood was established - predominantly middle-class and residential. Today the population of the area is mostly middle- and upper middle-class. The majority of the residents are between 18 and 64 years of age. The housing stock consists of one- and two- family houses with some moderately sized apartment buildings. (See attached statistics from Community District Needs Statement.)

Across from the pier site, Emmons Avenue is filled with businesses including many restaurants. Lundy's, the largest (seats 2,600) and most famous, has been closed since 1979. A series of apartment complexes are under construction across Emmons Avenue at the eastern end of the site. A wooden footbridge connects Emmons Avenue with the quiet and exclusive neighborhood of Manhattan Beach and the Kingsborough Community College campus (CUNY) across the bay.

Sources:

Brooklyn Community District Needs Statement for Fiscal Year 1987, The City of New York, 1985, pp. 217-225.

Nanette Rainone et al. Brooklyn Neighborhood Book. Fund for the Borough of Brooklyn, Inc., 1985. pp. 65-67.

Scope of Services. Sheepshead Bay Fishing Piers Improvements. Prepared by PDC.

Conversations with the Office of Property Management, Department of Ports, International Trade and Commerce.

Conversations with PDC.

Conversations with Brooklyn Community Board #15

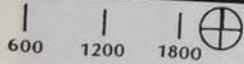
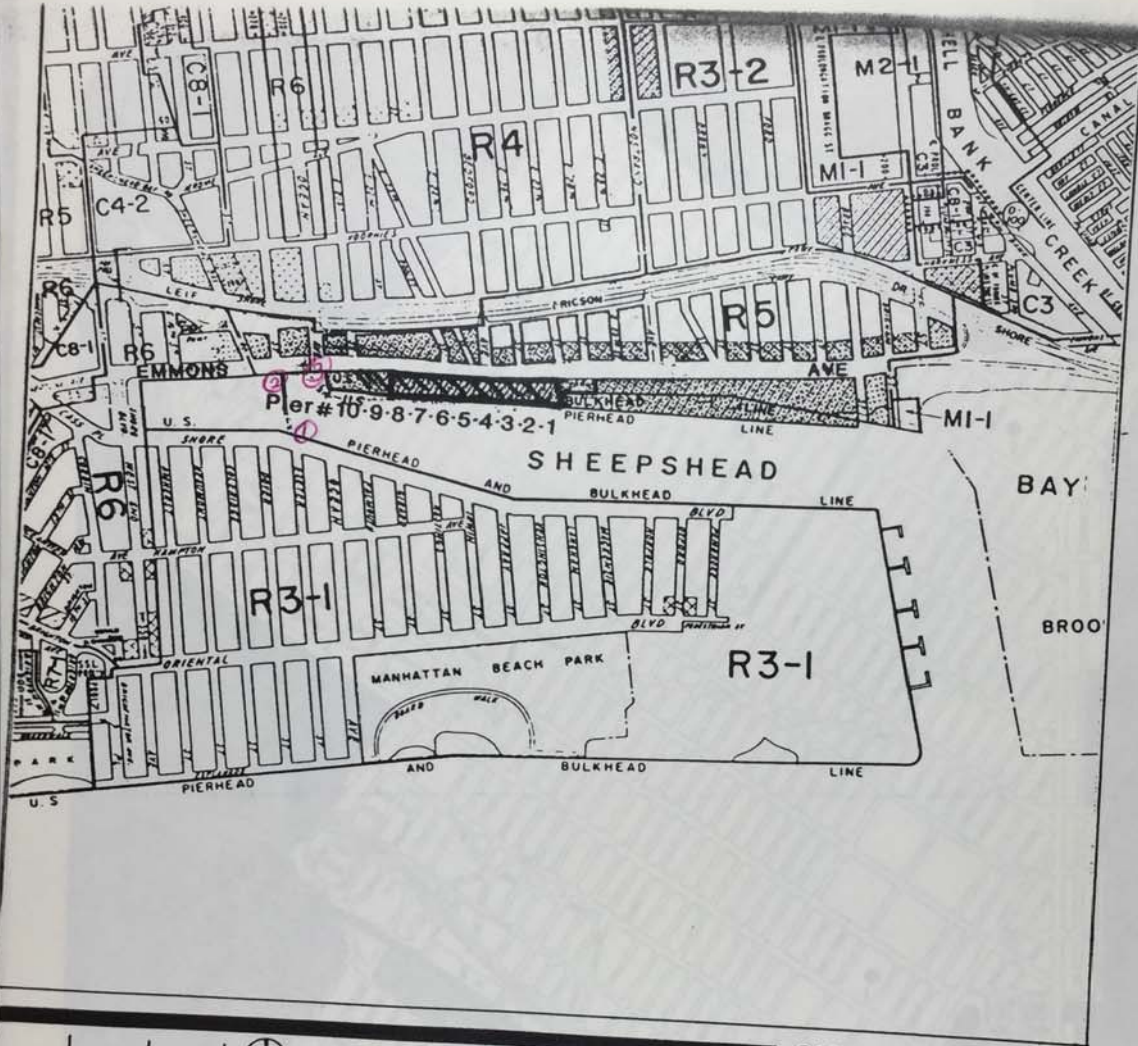
Conversations with The Sheepshead Bay Boat Owners Assoc.

Prepared by Mary Prevo.

11/21/86

FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



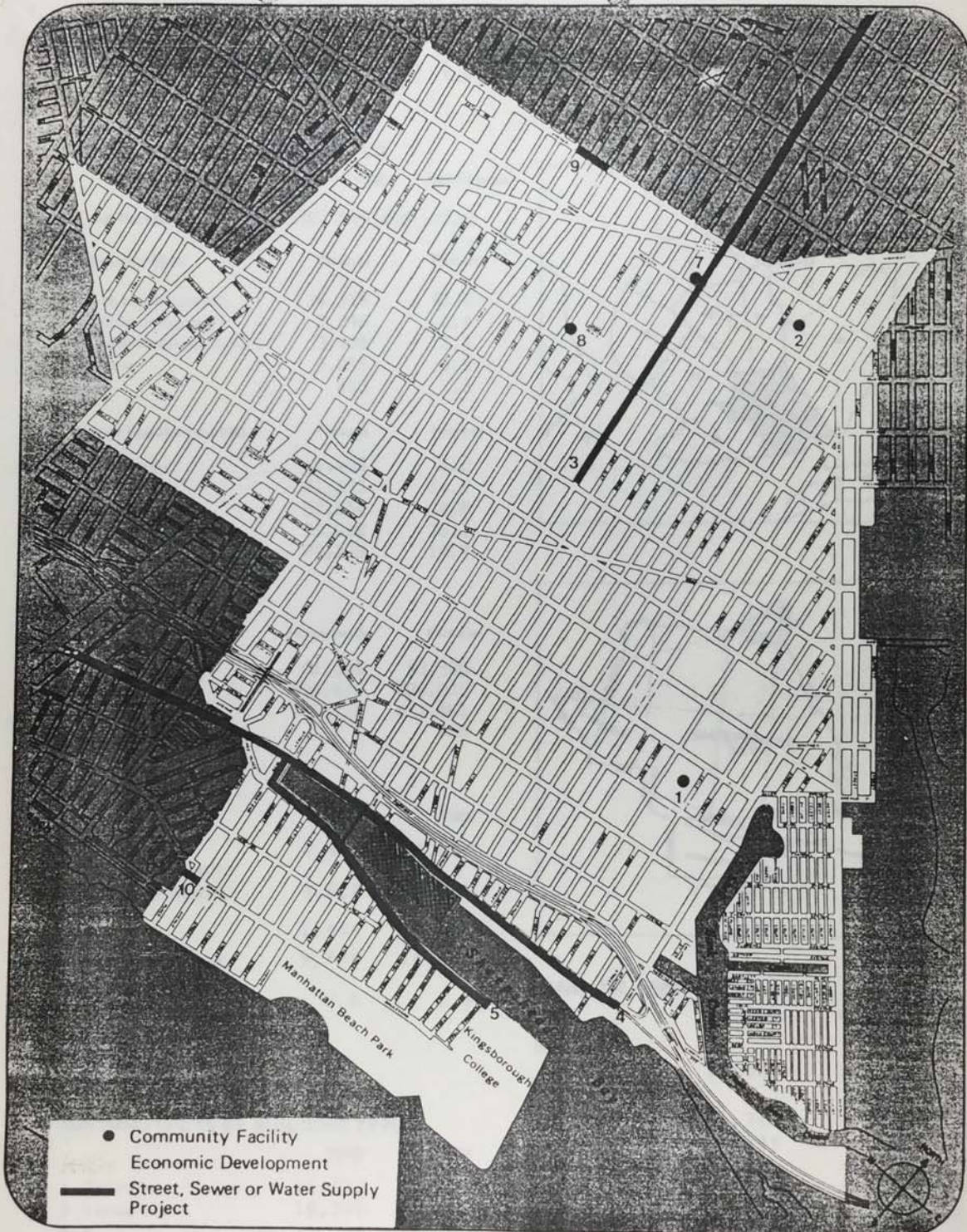
SHEEPSHEAD BAY  
BROOKLYN, N.Y.

New York City  
PUBLIC DEVELOPMENT CORPORATION

FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

Page 4  
BROOKLYN COMMUNITY DISTRICT 15

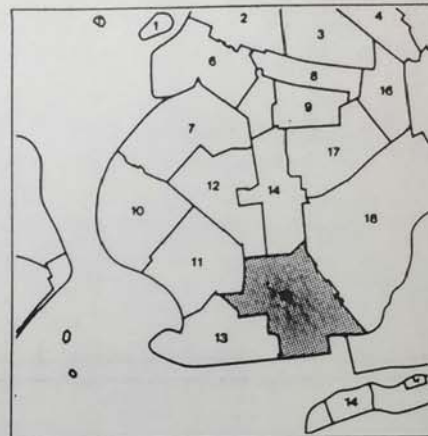


The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

## BROOKLYN COMMUNITY DISTRICT 15

### POPULATION CHARACTERISTICS

	1970	1980	Net Change
Total Population	168,355	149,490	-11.2
<b>Ethnicity 1980</b>			
	Persons		Percent
White (non-Hispanic)	138,319		92.5
Black (non-Hispanic)	2,046		1.4
Asian & American Indians	3,408		2.3
Hispanic	5,255		3.5
Other	463		.3
<b>Age of Population 1980</b>			
	Persons		Percent
0 - 4 Years	7,405		5.0
5 - 17 Years	21,273		14.2
18 - 44 Years	52,054		34.8
45 - 64 Years	39,328		26.3
65 + Years	29,398		19.7



### INCOME 1979

	Households	Families
Number	61,515	43,308
Median Income	\$15,812	\$20,005
Per Capita Income	\$ 7,728	\$ 7,491
Percent Below Poverty		7.5



### INCOME SUPPORT

	1980	1984
Public Assistance (AFDC, Home Relief)	4,465	5,012
Supplemental Security Income	3,918	3,652
Medicaid Only	1,466	1,739
<b>Total Persons Assisted</b>	<b>9,849</b>	<b>10,403</b>
Percent of District Population Aided	6.6	6.9

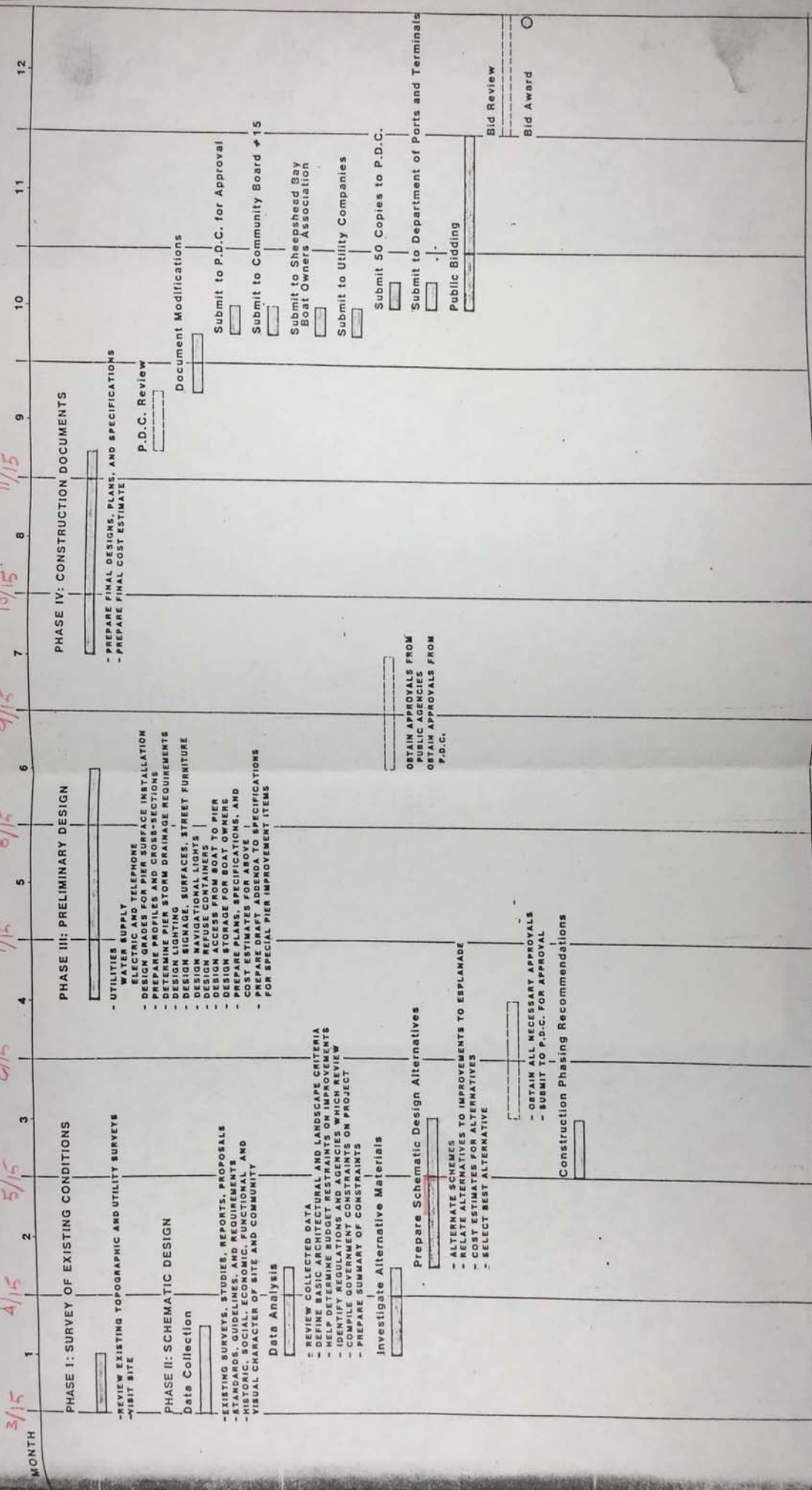
### LAND USE, 1984

	Lots	Percent
<b>Residential</b>		
1 - 2 Family	18,013	78.4
Old Law Tenements	1	0.0
Walkups	1,784	7.8
Elevator Apartments	249	1.1
Industrial	73	0.3
Commercial	1,559	6.8
Vacant Land	920	4.0
Other	377	1.6
<b>Total</b>	<b>22,976</b>	<b>100.0</b>

### HOUSING UNITS BY BUILDING TYPE

	1980	1984
1 Family	11,052	11,038
2 Family	16,360	16,360
3+ Family	33,236	33,328
<b>Total</b>	<b>60,648</b>	<b>60,726</b>

Collection:	Burton
Series Folder:	II.144



PROPOSED TASK SCHEDULE  
 Sheepshead Bay Fishing Piers Modifications

FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



*FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.*

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



*FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.*

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



*FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.*

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



*FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.*

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



*FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.*

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



*FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.*

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



*FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.*

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



*FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.*

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



*FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.*

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



*FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.*

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



*FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.*

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



*FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.*

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



*FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.*

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



*FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.*

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



*FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.*

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



*FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.*

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



*FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.*

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



*FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.*

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



*FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.*

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



*FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.*

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



*FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.*

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



*FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.*

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



*FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.*

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



*FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.*

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



*FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.*

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



*FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.*

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



*FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.*

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



*FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.*

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



*FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.*

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

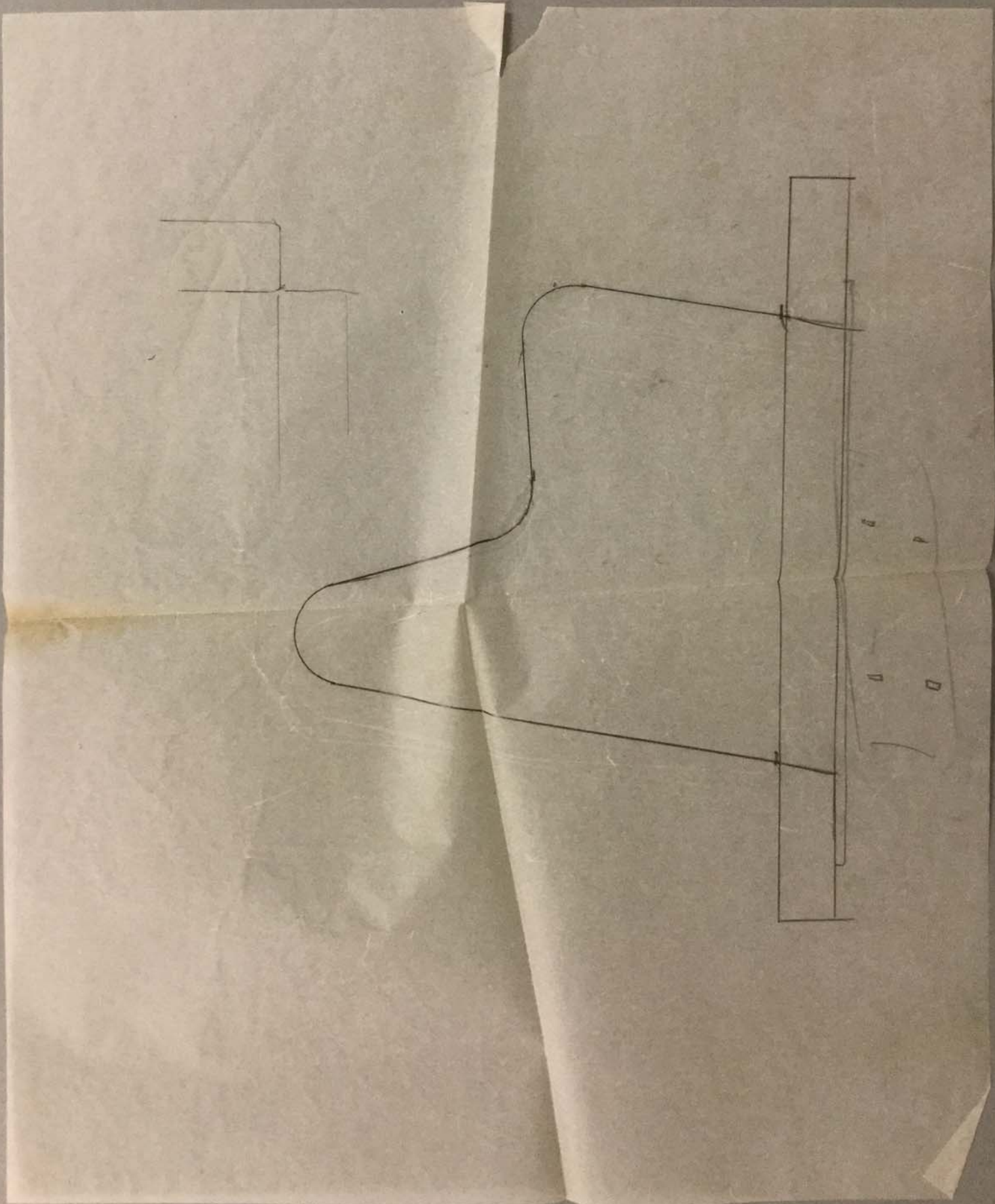


The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

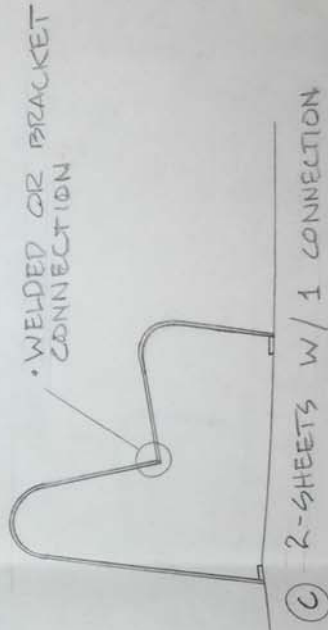
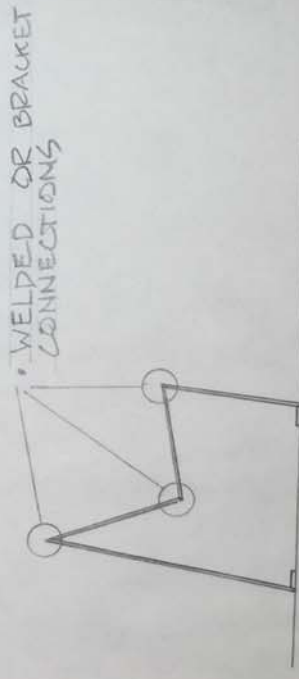
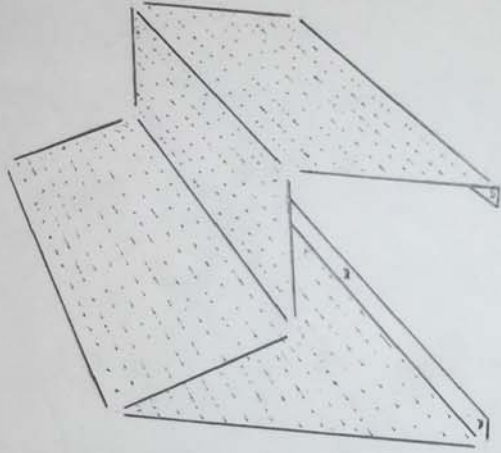
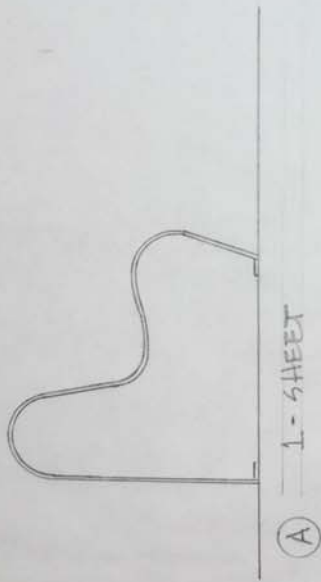


FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144



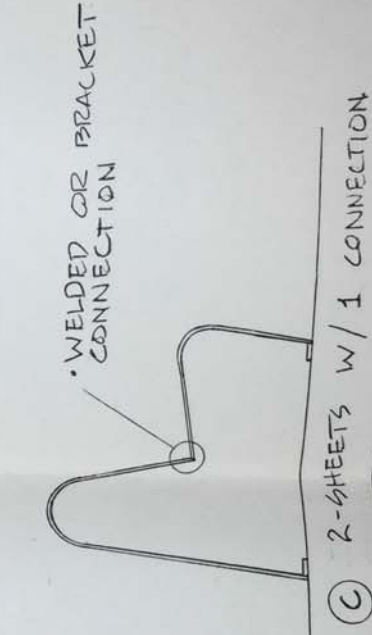
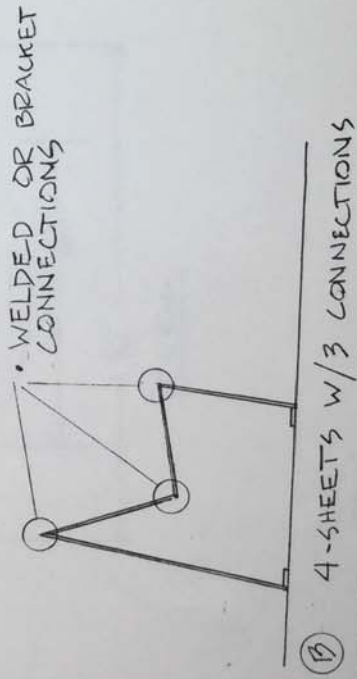
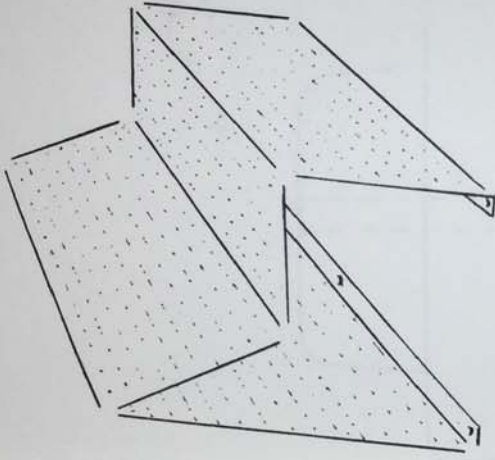
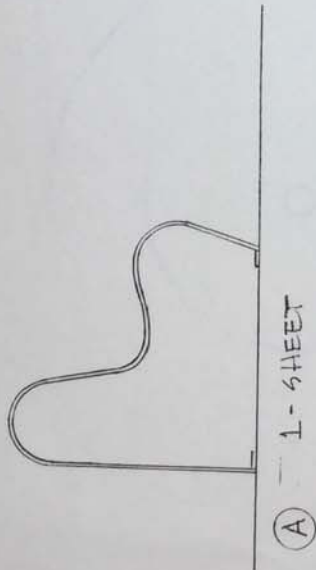
I



(C) SCOTT BURTON BENCH, SHEEPSHEAD BAY PIERS  
 PERFORATED METAL (BRUSHED STAINLESS STEEL, CLEAR-ANODIZED ALUMINUM)  
 APPROXIMATE DIMENSIONS: 36" HT, 60" L, 36" D. RADII TO BE DETERMINED  
 NOTE: GAUGE OF METAL SUFFICIENT TO ORSVIATE INTERNAL SUPPORT.  
 18 EXAMPLES. BOLT IN PLACE AT FEET, INSIDE. LEFT, RIGHT SIDES: NO DETAIL.

T.A.M. 7/15/87

I



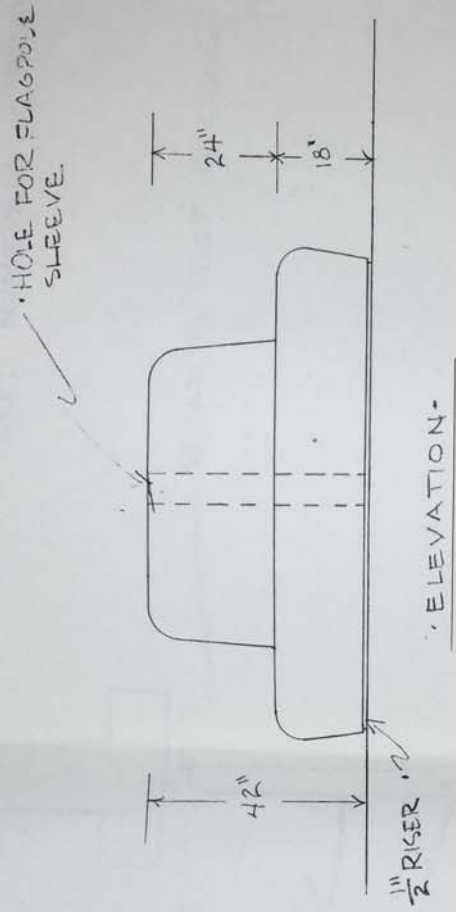
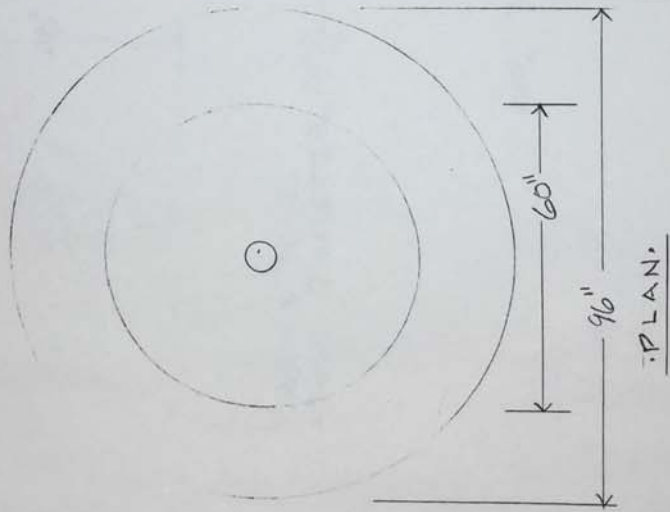
© SCOTT BURTON BENCH, SHEEPSHEAD BAY PIERS  
 PERFORATED METAL (BRUSHED STAINLESS STEEL, CLEAR-ANODIZED ALUMINUM)  
 APPROXIMATE DIMENSIONS: 36" HT, 60" L, 36" D. RADIUS TO BE DETERMINED  
 NOTE: GAUGE OF METAL SUFFICIENT TO OBVIATE INTERNAL SUPPORT.  
 18 EXAMPLES. BOLT IN PLACE AT FEET, INSIDE. LEFT, RIGHT SIDES: NO DETAIL.

T.A.M. 7/15/87

The Museum of Modern Art Archives, NY	Collection: Burton	Series Folder: II.144
---------------------------------------	-----------------------	--------------------------

SPECIM  
SEAT

II A



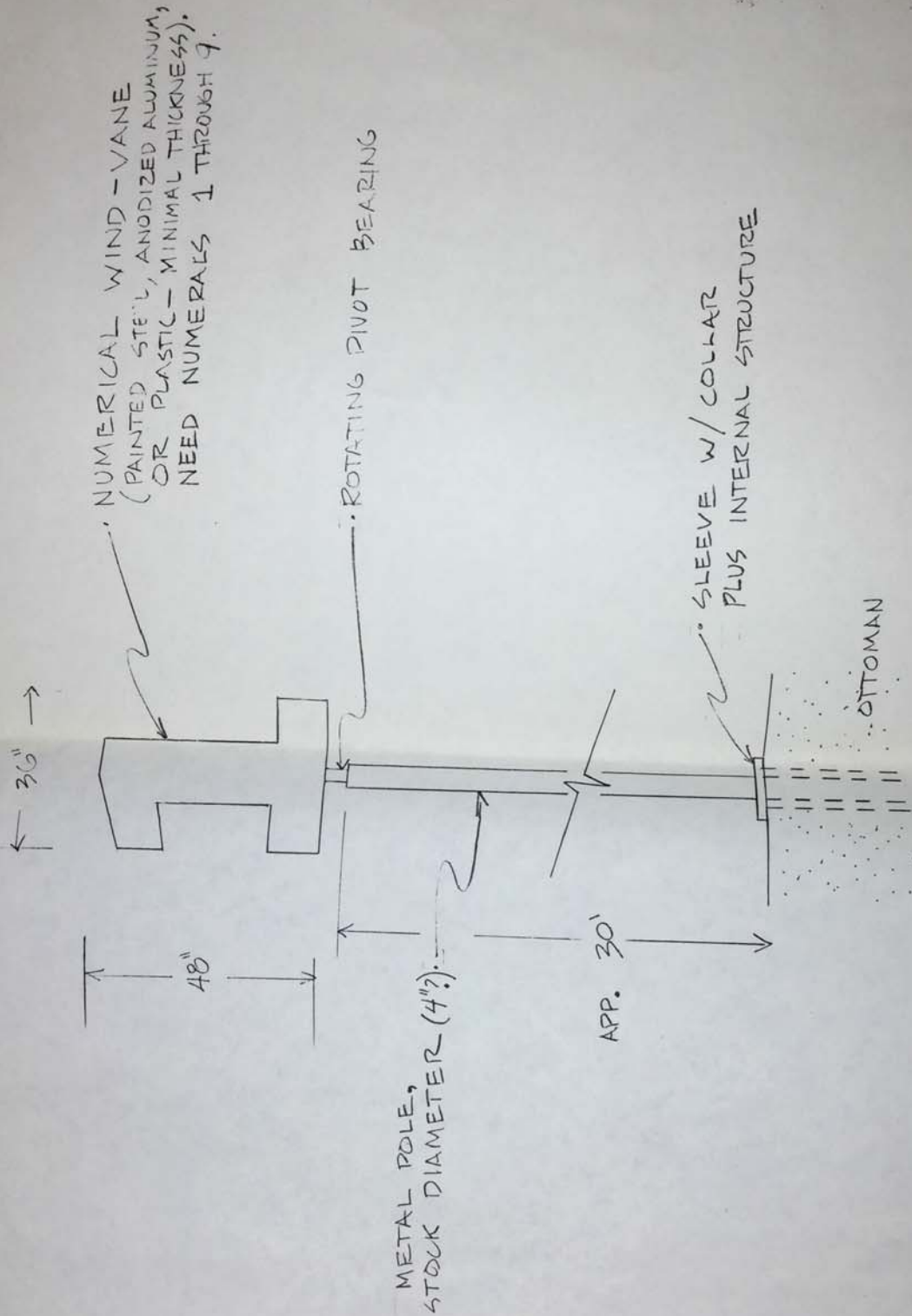
SCOTT BURTON

OTTOMAN, SHEEPSHEAD BAY PIER  
SHOULD BE WOOD, STAINED AND SEALED  
OR POLISHED TERRAZZO.

T.A.M., 7/15/87

The Museum of Modern Art Archives, NY	Collection: Burton	Series/Folder: II.144
---------------------------------------	-----------------------	--------------------------

II B



SCOTT BURTON

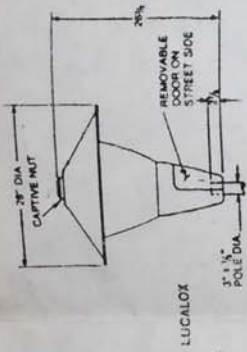
VERTICAL ELEMENT, SHEEPSHEAD BAY PIERS

TA-M. 7/15/87

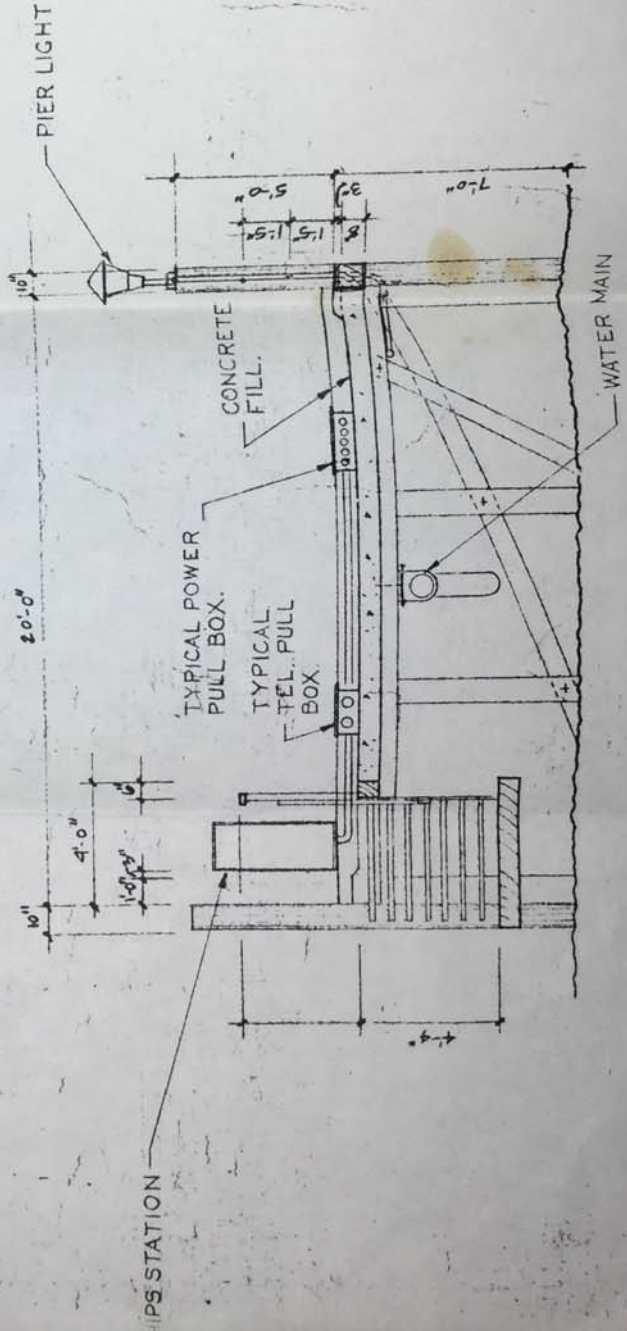
Collection:	Burton	Series/Folder:	II.144
The Museum of Modern Art Archives, NY			

SHIT SERVICE ENCLOSURE

SCALE: 3/4" = 1'-0"



PIER LIGHT  
N.T.S.



SECTION A, TYPICAL  
1/4" = 1'-0"

FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

DEPARTMENT OF CULTURAL AFFAIRS  
CITY OF NEW YORK

2 COLUMBUS CIRCLE  
NEW YORK, NEW YORK 10019

TELEPHONE 212 974 1150

PERCENT FOR ART PROGRAM



MEMORANDUM

TO: Michael Koenen  
FROM: Jennifer McGregor Cutting *JMC*  
DATE: August 7, 1987  
RE: Sheepshead Bay Piers Artist/Architect Contract

As per our discussion this morning, I have enclosed 4 copies of the Sheepshead Bay Artist/Architect contract. Please sign and send to Scott Burton (note his new address on page 1). When he has signed the contracts there will be one copy for him, for you, for PDC and for me.

Please call me if you have any questions.

FOR STUDY PURPOSES ONLY. NOT FOR REPRODUCTION.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

DEPARTMENT OF CULTURAL AFFAIRS  
CITY OF NEW YORK

2 COLUMBUS CIRCLE  
NEW YORK, NEW YORK 10019

TELEPHONE 212 974 1150

PERCENT FOR ART PROGRAM



MEMORANDUM

TO: ✓ Scott Burton & Michael Koenen

FROM: Jennifer McGregor Cutting *JMC*

DATE: July 23, 1987

RE: Artist/Architect Contract

Pursuant to our conversations I have amended the Artist/Architect Contract. Please pay special note to pages 10 and 11, the Sections on Copyright, Project Credit, and Identification.

The increased budget of \$44,000 has not been confirmed, but the approvals are underway. Kathy Burpee mentioned that the final figure should be confirmed in the next two weeks. For this reason I have provided to alternate payment schedules.

When Scott's lawyer returns he will provide a new clause relating to future changes to the site. By that time the contract amount should be finalized.

I look forward to your comments. When the changes are agreed upon I will print out a clean copy for your signatures.

cc: Kathy Burpee  
Gilbert Edelson

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

## FEATURE

# Seeking Sand Dollars on Brooklyn Shores

Two colossal development projects are swelling up on the shores of Brighton Beach and Sheepshead Bay, threatening to drown these working and middle class communities. Both projects underscore the city's lack of planning and vision for the waterfront.

BY DOUG TURETSKY

The bustle begins in the pre-dawn hours on the Sheepshead Bay waterfront. Cars laden with fishermen, poles pointing out windows or harnessed to rooftops, cruise down Emmons Avenue. Boat crews loiter along the piers, hustling the daytrippers: "Blues. Porgies. First boat to leave." Lights from the boats — Pilot II, Jet, Ranger and others — punctuate the early morning darkness. Motors rumble, diesel fumes mix with salty breezes.

Like a small New England fishing village, Sheepshead Bay passes its heritage from generation to generation. Fathers bring their sons — a few now come with daughters or wives — to fish off the same boats their own fathers sailed. The boats, too, often are ancestral treasures. Even Mike's, the local bait and tackle shop, has been run by the same family for three generations.

Customers come from all over the city, blacks, whites and Hispanics, mixing easily on the party boats, as the fleet is sometimes called. Returning at mid-afternoon, many display their catch along the pier, to be sold to those relaxing at the waterside. The boats go back out, a new load of fishermen on board.

But changes are in store for Sheepshead Bay, changes that may upset this easy shorefront commerce. The city's Public Development Corporation recently selected a developer to construct a \$17 million project that will include shops, a 480-seat floating restaurant, a parking garage and 63 townhouses. The winds of development have already picked up along the bay, with property values and speculation escalating. A new condominium project, Waterview Village, has opened at the eastern edge of the piers. Bill Doll, who inherited his boat, the Jet, from his father, says, "Little by little the guys will fall off, like leaves on a tree."

Just a short walk from the bay, as the early morning haze clears off the ocean, Brighton Beach begins to wake. Its elevated subway line rumbles above Brighton Beach Avenue as shopkeepers begin rolling up the gates in front of their stores. Retirees, who dominate the neighborhood's population, begin strolls on the boardwalk or do some early shopping on the avenue.

The landmark Brighton Beach Baths and Racquet Club, which has stood at the intersection of Brighton Beach Avenue and Coney Island Av-



Sheepshead Bay museum: Ironically, a "museum boat" will preserve the memory of the fish fleet that many fear will be displaced by large-scale develop-

ment since 1919, is still quiet. Its miniature golf course, tennis courts and swimming pools sit idle.

To some Brighton Beach residents, though, this is just the calm before the storm. The owner of the Baths, Alexander Muss & Sons, has slated the 15-acre club for demolition. In its place the Miami-based developer plans to erect a hulking 2,200-unit luxury condominium complex. Six towers, two of which would loom 44 stories, would dominate the oceanfront. Nearby residents like Jean Kreiling, president of the Committee to Preserve Brighton Beach, believes Brighton by the Sea, as the project is known, will become a private enclave of affluence casting its shadow over the rest of the community.

The Sheepshead Bay and Brighton Beach projects have more in common than proximity. Both represent huge investments by private developers and the city in waterfront areas that have primarily been the domain of the working and middle classes. Both projects, which have received endorsements from Mayor Ed Koch and

The Museum of Modern Art Archives, NY	Collection:	Series, Folder:
	Burton	II.144



the vision for the future. A former city official who requested anonymity concurs, commenting, "They're not looking at the waterfront in any comprehensive manner. It's just where someone wants to plunk down some money to build something."

#### On the Bay

Development along the Sheepshead Bay waterfront has been in the works for several years. Lee Silverstein, a spokesman for the Public Development Corporation, says, "The impetus for doing something there is that it is a wonderful waterfront site that is not used to its fullest capabilities."

Initial attempts to get the project rolling were beached by the city's corruption scandals. Michael Lazar's de-

velopment company was selected in June, 1985 by the PDC to build a sprawling South Street Seaport-like project on the waterfront. Lazar was "de-designated" in April, 1986 after his indictment. PDC went back to the drawing boards, issuing a scaled-down request for proposals last January. The major change in the RFP was the elimination of new construction

in the water. City officials apparently viewed the Westway debacle as a warning to avoid environmental lawsuits. Neither striped bass nor corruption would stop redevelopment on the bay. Just a few weeks after releasing the new RFP, the Public Development Corporation amended it. Citing input from the local community and interest from developers, PDC added the option of housing construction to the project. Last August, after receiving just two responses, PDC awarded the project to Grenadier Realty Corporation — a subsidiary of the huge Starrett Housing Corp. — in association with the Catco Group.

The plans call for a 30,000-square-foot retail center, a 380-car garage and 63 townhouse apartments to be built on Emmons Avenue between East 21st and Dooley streets. A 480-seat floating restaurant will be moored off Pier 10, along with a ferry terminal.

In an ironic touch for a project that is likely to kill the current fishing fleet, developers will immortalize its memory with a "museum boat." City officials believe Sheepshead Bay can become a year-round tourist attraction.

But the bay is hardly idle now. The fishing fleet, restaurants and shops cater to a different clientele than the PDC wants to attract, and many boat owners believe the city wants them out. Costs for docking at the pier, levied by the city's Department of Ports, International Trade and Commerce, have escalated 15 to 20 percent a year for the past three years. A 120-year-old house, occupied by several tenants, and six houses where tenants were already evicted to make way for the project, would be demolished.

Mike's, the long-time gathering spot for the fishermen, also would be razed. "We're not against any kind of development on the waterfront as long as development doesn't hurt what is already there," says Tom Marconi, owner of the Pilot II and former vice president of the Sheepshead Bay Boat Owners Alliance.

City officials and the developers say the project will complement the



Mike Scarpati, captain of the Ranger: "If they put housing here, we can plant flowers on these boats."

Brooklyn Borough President Howard Golden, are to be built by politically-connected companies.

The planning of these projects also provokes questions. Eric Wollman, vice president of the Committee to Preserve Brighton Beach and president of the local Eleanor Roosevelt Independent Democratic Club, says development is progressing with lit-

development company was selected in June, 1985 by the PDC to build a sprawling South Street Seaport-like project on the waterfront. Lazar was "de-designated" in April, 1986 after his indictment. PDC went back to the drawing boards, issuing a scaled-down request for proposals last January. The major change in the RFP was the elimination of new construction

CINDY REIMAN/IMPACT VISUALS

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

## "They're taking Sheepshead Bay away from the public," charges Marconi.

existing atmosphere on the bay. "Sheepshead Bay is really a unique area in the city as far as a New England-type fishing area. We don't really want to change it. We want to enhance it," says Silverstein. Devora Fong, a spokeswoman for Grenadier Realty, concurs. "Of course we want to preserve that," she says.

Despite such sentiments and local zoning that dictates the kind of shops that can be located in the area, precise plans for the project are not yet set. No rendering of the proposed development is available and no price range for the townhouses has been set. Many dismiss the developers' talk of a sensitive project. "They don't really know what Sheepshead Bay is. They don't know what goes on here," charges Marconi.

Critics accuse the Public Development Corporation of being little more than an agent for private developers cloaked in the garb of a city agency. Relationships between PDC and developers can be chummy. Former PDC head Stephen Spinola now leads the Real Estate Board of New York, the lobbying organization for the city's big developers. Robert Rosenberg, president of Grenadier Realty, is a member of REBNY and active in the organization's partnership with the city to build 1,001 condos in the Bronx. Grenadier gave a \$2,000 contribution to the Brooklyn Democrats, the party organization headed by Borough President Golden, several months before being selected by PDC to build the project. REBNY bought \$2,000 worth of tickets to a Brooklyn Democrats fundraiser last April. Construction of the Sheepshead Bay project, scheduled to begin in 1989, requires Board of Estimate approval. PDC will help shepherd it through the Uniform Land Use Procedure.

### City Dollars

The city has committed some \$12 million in infrastructure work to pave the way for the \$17 million private investment in the project. PDC officials estimate the project, which will receive hefty as-of-right tax abatements, will net the city \$15 million in revenues over the development's first 20 years.

Neither the boat owners, shopkeepers or few remaining homeowners were asking for such investments by

the city. To the fishing community, the biggest problem in the area is parking. And they believe the 380-car garage that is part of the development plan is woefully inadequate.

Several boat owners say the local community board has in the past promised different lots for parking. The site of the newly constructed condos was verbally promised by the board as parking for the boats, owners charge. Community Board 15 Chairman Maurice Kolodin failed to answer several calls from City Limits. Without enough parking for customers, the boat owners say their business is dead.

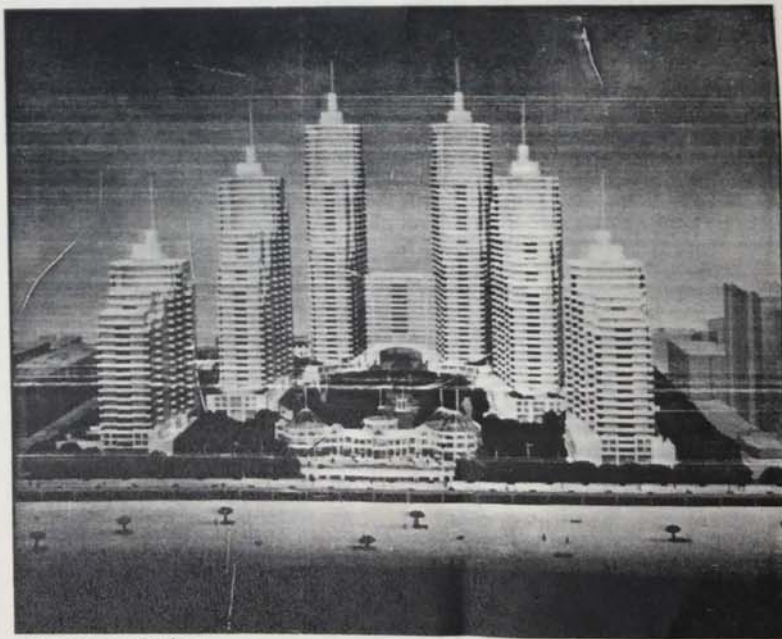
John Maffai, the latest heir to Mike's Tackle Shop, believes that may be exactly what the city wants. Maffai and others think the city wants to free the piers for luxury boats. And those luxury boats wouldn't require the amount of parking the fishing boats need — especially if some of the boats are owned by the future owners of the new townhouses.

"If they put housing here we can plant flowers on these boats," says Mike Scarpati, captain of the Ranger.

Scarpati believes building townhouses directly across from the piers is a mistake. With action on the waterfront starting before dawn, Scarpati says, "We're going to have people in the houses complain about lights, about the hustling on the streets."

The changes brought by the redevelopment plan will be more than physical. Despite PDC assurances that the project is designed to open up public access to the bay, many doubt this will occur. The plan calls for new benches and small park areas, but a development geared to attract shoppers and high-income residents may result in psychologically walling-off of the bay from its current users.

"They're taking Sheepshead Bay away from the public," charges Marconi, adding that the city is "using monetary value over people." Although Devora Fong says Grenadier's project will "reinforce the historic quality" of the bay, the plan includes demolition of Betty Blake's tenanted 120-year-old Victorian house, one of the last remnants of the bay at the turn of the century. To the developer,



Miami comes to Brighton: An architect's drawing shows Alexander Muss' luxury Brighton by the Sea project.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

historic quality may just be a marketing concept, one that has little relevance to those who come to fish from the boats or buy from a vendor who's catch is spread along the pier.

### Brighton Towers

If the Sheepshead Bay project will exploit the waterfront, then the project planned for Brighton Beach will overwhelm it. Six hulking towers — two 44 stories, two 34 stories and two 24 stories — would loom over the oceanfront. Some 5,000 new residents, all of whom can afford the \$150,000 to \$300,000 luxury condos, would create a wave of affluence in a neighborhood where the last Census reported the median family income at \$14,620.

Some Brighton residents believe the \$300 million development is exactly what the neighborhood needs. After years of fighting deterioration and decline, the development proposed by Alexander Muss & Sons would ensure the community's revitalization. Others counter that the mammoth project will displace current residents — especially the large number of senior citizens — create massive congestion and send a wave of co-oping and warehousing of vacant apartments through the neighborhood.

Although the project is not sponsored by any city agency, Stephen Muss, president of the development company, announced Brighton by the Sea from the steps of City Hall, flanked by Mayor Koch, Brooklyn Borough President Golden and Brighton-area City Council Member Samuel Horwitz. Such company can help when the project one is announcing far exceeds current zoning rules. Muss wants to build 2,200 units on a site zoned for about 300.

Borough President Golden recently told *Newsday*, "Waterfront in Brooklyn is unique... It has never been intended nor desired to be utilized for large, high skyscrapers. That's the Manhattan side, not the Brooklyn side." But Golden's appearance on the steps of City Hall sends a clear message of endorsement for the Muss project. The company contributed \$16,500 to Golden's campaign fund during 1985 and 1986. Golden failed to respond to three requests for interviews by *City Limits*. In addition,



Brighton Beach boardwalk: Strollers in this senior citizen community point out the Baths, where a 2,200-unit condo complex will soon dwarf the boardwalk.

CINDY REIMAN/IMPACT VISUALS

Mayor Koch received a \$2,000 contribution just one month after the project's announcement. City Council President Andrew Stein also received a \$1,000 contribution in 1986 and another \$1,000 in 1987. The zoning waiver, which some estimate is worth \$95 million to the developer, requires Board of Estimate approval.

Muss has strong allies on the local level, too. Hyman Cohen, manager of the Baths and a vice president of Alexander Muss & Sons, is one of the leading forces in the Brighton community. He is a member of the community board and, until recently, president of the local school board. According to several reports, Cohen engineered a letter-writing campaign among neighborhood teachers in support of the project, and flyers were distributed using the school board's phone number. Cohen refused to be interviewed by *City Limits*, referring questions about the project to Muss spokesman George Douris.

Despite the array of backers for the proposal, vocal community opposition formed in its wake. Irwin Fruchman, one of the leaders of the Committee to Preserve Brighton Beach, is a former city buildings commissioner and planning department official. Says Fruchman: "He (Cohen) thought it was a Banana Republic out here that he controlled... but there's a few people he couldn't steamroll."

CPBB submitted to the planning department a "Plan for the Responsi-

ble Development of the Brighton Beach Community," which responds specifically to the Muss proposal. Besides saving the Baths, the "Responsible Plan" would allow Muss to build the number of units permitted under current zoning plus a 20 percent bonus — if he built 50 units of affordable housing for neighborhood senior citizens.

Ed Kramer believes that plan doesn't go far enough. "I can't relate to 50 units," says Kramer, who runs Geri-Pare, an organization that does home repairs for senior citizens. He argues that far more housing for senior citizens is needed in Brighton and that the addition of luxury housing will spur harassment of senior citizen tenants who occupy many of the rent-regulated apartments in the area. "We are primarily a community of old people," declares Kramer. "We can't just pull a Jonestown, take a pill and disappear."

Pat Singer, co-executive director of the Brighton Neighborhood Association, doesn't believe the seniors will be pressured to disappear. "If I thought this (the project) was going to hurt anyone, I would be against it," says Singer. BNA has promoted local revitalization and receives money from the Department of Housing Preservation and Development for tenant rights programs.

"My grandfather settled in this community back in the '20s and my mother, her sister and brothers were

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

## Kramer says the neighborhood's senior citizen population "can't just pull a Jonestown, take a pill and disappear."

raised here. My roots are planted deep in Brighton Beach," Singer says. "For some people change might be a bitter thing to swallow, but how sweet it is when it brings progress."

Many proponents of the project openly admit that progress means attracting younger, wealthier people to the neighborhood. They also argue that after years of struggle by groups like BNA, Brighton has rebounded from deterioration. Much of that success is credited to the arrival of Russian immigrants. Without the condo project, many say, the Russians will move to other areas and the neighborhood's decay will begin anew. Asked if he thought the luxury project would increase harassment of current community residents, Community Board 13 district manager Herbert Eisenberg responds, "I hope not."

But new investment is readily visible throughout the community, along with signs advertising recently converted co-ops for sale. "Just come and take a look. It's an up-and-coming neighborhood," says Kreiling.

Although Singer claims BNA has not taken a public position on the Muss development, BNA vice president Evelyn Cooper has used the organization to support the project. Cooper wrote at least one letter on the organization's stationery, stating, "I believe this construction would firm up the economic base of Brighton Beach and insure the future of our lovely community."

BNA also was closely related to the former Ocean Front Development Corp., an organization headed by Hyman Cohen. Singer's business card lists both BNA and ODC affiliations along with a joint logo. But ODC has been reformed as the Brighton Beach Business Improvement District, an organization set up with the help of the PDC. Ben Lederman, who runs the BID program and is a community board member, told *Newsday* last February, "We're trying to build a high-rise in Brighton Beach, and the older people don't want it." Lederman now says "we" referred to neighborhood residents as a whole. Lederman discounts the opponents of the project as "just a committee of 10."

Cohen says he will not vote on the project when it comes up for community board review. But at a board meeting held to provide information about the project to the public, community



In the path of construction: This occupied 120-year-old house would be vacated and razed for the Sheepshead Bay project.

members were not allowed to ask questions or dispute information presented by Muss representatives, according to several people who were present.

"Never have we gotten this type of reaction in favor of a project from a community," says Muss spokesman George Douris. A new community group, The Committee for the Betterment of Brighton Beach, formed to promote the project. A letter circulated by the group says the proposed project will help bring everything from new subway cars to a larger supply of rent-stabilized apartments to the area. "The new apartments they'll build will not only bring comfort to those who live in them, but to all of us who call Brighton Beach home," the letter states.

The letter neglected to say that Hy Cohen formed the Committee and that its office is in the Baths. A call to the number listed for the group gets a "Brighton Beach Baths" identification. Jack Verchelesler, a committee member called to the phone, says he sees no contradiction in the group's sponsorship by Muss & Sons. "We're on the same team," he comments.

Despite such well-organized support, the Committee for the Preservation of Brighton Beach reports it has over 4,000 signatures in opposition to the project. And Muss & Sons is still struggling to get its Environmental Impact Statement certified by the planning department. The company has run into problems justifying its request for a 700 percent increase in zoning density. But Planning Commission Chairwoman Sylvia Deutsch's recent characterization of the department as a "processing agency" may indicate Muss's problems will soon be worked out. And Eisenberg says, "I am ready to accept what the city accepts."

Meanwhile, the city began some long-needed repairs along Brighton Beach Avenue, a project organized with the help of the Brighton Beach BID. But Fruchman raises questions about some of the work, including a new water main run to the Baths site. He says construction being done by the city will save Muss some \$5 million in costs usually borne by a project's developer.

A great deal of time and money — much of it public — has been invested in both the Sheepshead Bay and Brighton Beach projects, although neither have received community board or Board of Estimate approval. But even as little more than proposals on paper, the two projects elicit serious questions about the city's intentions for waterfront development.

Perhaps the most obvious question — and one that doesn't seem to be asked by city officials eager to see development proceed — is whether these projects even belong on the waterfront. In both instances the projects use the waterfront as an amenity, like a sales pitch for a doorman or heated garage. But the waterfront is a resource, something to be nurtured and used by the city as whole. Developers complain the city planning and review process take too long. While there may be a process, in reality, it has little to do with planning. □

CINDY REIMAN/IMPACT VISUALS

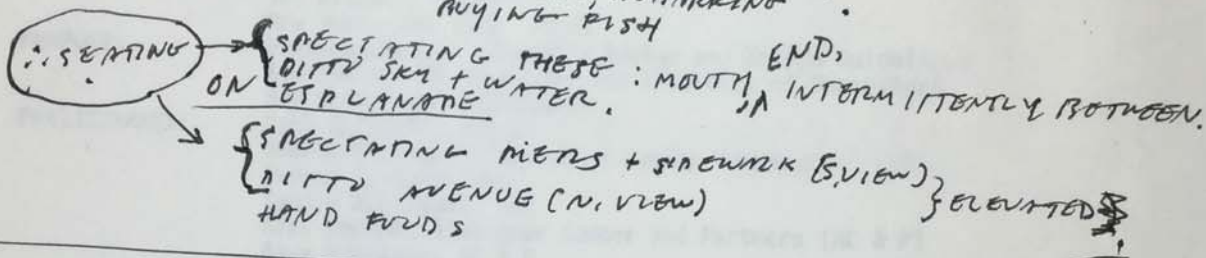
The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

APRIL 30 - SHEEPSHEAD BAY PIERS - S. BURTON.

VIEWS OF: FROM BELT PARKWAY  
FROM EMMONS AVE (OTHER SIDE)  
FROM WATER (RETURNING PARTIES)

AT PIERS: ON PIER

ACTIVE: BOATING, DEBARKING  
BUYING FISH



LIGHTING: FOR NIGHT: ON PIERS, AT (TOWARD) PIERS  
~~illumination~~  
~~illumination~~  
~~illumination~~  
 clw.

THE VISUAL TEXTURE. (OVERALL): MANY SEPARATE ELEMENTS.  
 LINK NOT OVERALL UNITY.  
 FINE COLORS. + SEP. FROM STRUC-  
 TURE

PROGRAM: ARE ALL PIERS IDENTICAL? PARTLY IDENT.?

SIGNAGE: I. BURNING. INCREASE, USE ARCHITECTURALLY ('GATES:'), DESIGN  
 II. PIER NUMBERS WIDELINES (NOT PART. BUT PRIMITIVE?)  
 BETTER

NUMBERS (HUTS?)

PIER REVIEW A LOGS?

planting.

PIER SURFACES: "TRIM" DIAGRAMMATIC?  
 ESTABLISH W/ ASPECT

UNDER: CLEANING WATER? LIGHTING?

MIXED MATERIALS?

ELEVATIONS? (CONTINUITY AT MOUTHS)

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

**KOENEN ASSOCIATES**

ARCHITECTS AND PLANNING CONSULTANTS

6 WEST 18TH STREET NEW YORK NY 10011 (212) 206-8333

**SHEEPSHEAD BAY FISHING PIERS IMPROVEMENTS**

Project #132-01

Meeting Memorandum #9

DATE: September 10, 1987  
LOCATION: NYC Public Development Corporation (PDC)  
161 Williams Street  
New York, New York 10038  
PURPOSE: Presentation of Schematic Design and Design Guidelines  
Studies to the Developer and Architect of Sheepshead  
Bay Waterfront Development.  
PARTICIPANTS: Dede Gotthelf, Catco  
Robert Rosenberg, Grenadier Realty Corporation (GRC)  
Yvonne Taragma, GRC  
Sandra Rosenthal, GRC  
Alex Cooper, Alexander Cooper and Partners (AC & P)  
Dave McGregor, AC & P  
Brian Shea, AC & P  
Al Meyer, PDC  
Kathy Burpee, PDC  
Marian Greene, PDC  
Susan Goldfinger, PDC  
Magnus Sjöberg, PDC  
Michael Koenen, Koenen Associates (KA)  
Nancy Solomon, KA  
Scott Burton, Artist

**SUMMARY:**

Koenen presented the schematic design for Sheepshead Bay Fishing Piers Improvements and studies for the Esplanade Design Controls. Burton presented his signage and seating models.

Issues regarding utility infrastructure were raised: the location of the utilities now along Emmons Avenue; the kinds of utilities to be supplied to the piers (electrical, telephone, lighting, water and, perhaps, waste disposal); the drainage system of the piers and that of the sidewalk; and the need for sleeves within the bulkhead wall to allow utilities to pass from the street to the piers.

Meyer stated that the bulkhead replacement required an in-kind, in-place permit approval from the Army Corps of Engineers. The pier improvements require approval from Ports, International Trade and Commerce.

Traffic studies are being done by Andrews & Clark (A & C) under the auspices of PDC and with recommendations from KA. The preferred scheme has not yet been finalized.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

SHEEPSHEAD BAY FISHING PIERS IMPROVEMENTS  
Project #132-01  
Meeting Memorandum #9  
Page Two

A & C is contracted by NYC Department of Transportation to replace the bulkhead. This will in all likelihood occur before other construction begins. KA will complete construction documents in February, 1988 and begin construction in October 1988. A & C will be contracted by PDC to reconstruct Emmons Avenue from Ocean Avenue to Nostrand Avenue. The esplanade itself will be part of that contract with PDC. Its design will be based on guidelines prepared by KA.

Coordination amongst these varied projects, agencies and firms will be done by PDC.

ESPLANADE DESIGN GUIDELINES

1. Coordinate with Section 2 of the D.C.P.
2. A & C should be held responsible for reviewing all plans submitted to the Department. A & C should review all plans and make adjustments as necessary.
3. The location and size of the bulkhead from A & C should be reviewed. The location of the bulkhead from the pier should be reviewed.
4. The esplanade paving must be coordinated with the paving of the pier.
5. All materials that are proposed to be used should be approved by the Department. This must also be done.

cc: Burpee  
Burton

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

Burton

**KOENEN ASSOCIATES**  
**ARCHITECTS AND PLANNING CONSULTANTS**

6 WEST 18TH STREET NEW YORK NY 10011 (212) 206-8333

SHEEPSHEAD BAY FISHING PIERS IMPROVEMENTS  
 Project #132-01  
 Meeting Memorandum #10

DATE: November 2, 1987  
 LOCATION: NYC Public Development Corporation (PDC)  
 161 Williams Street  
 New York, New York 10038  
 PARTICIPANTS: Margot Woolley, Public Development Corporation (PDC)  
 Jonathan Winer, PDC  
 Al Meyer, PDC  
 Kathy Burpee, PDC  
 Bernardo Canovas, PDC  
 Jon Denham, PDC  
 Doug Rice, PDC  
 Marian Greene, PDC  
 Michael Koenen, Koenen Associates (KA)  
 Nancy Solomon, KA  
 Scott Burton, Artist

ESPLANADE DESIGN GUIDELINES

ACTION

1. Coordination with Andrews & Clark (A & C)
  - a. A & C counted 89 more parking spaces in proposed scheme than existing; KA counted 80 new spaces once crosswalks were included in the calculations. A & C should review KA drawings and make adjustments as necessary. KA/A & C
  - b. Location and type of transition from A & C railing to KA railing must be determined. The treatment of the rail at the mouth of Pier 10 must be determined. PDC/KA/A & C
  - c. The esplanade paving must be coordinated with the paving at the mouth of the piers. PDC/KA/A & C
  - d. KA recommends that the crosswalks be of a material different from the road surface. This must also be coordinated. PDC/KA/A & C

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

SHEEPSHEAD BAY FISHING PIERS IMPROVEMENTS  
Project #132-01  
Meeting Memorandum #10  
Page Two

2. Bus Shelters

ACTION

If used, shelters should be the city standard. However, PDC believes the shelters may not be necessary and could be a barrier to pedestrian circulation. Seating at the bus stops is appropriate.

3. Lighting

- a. Standard street lights are planned for the median.
- b. KA proposed 12'-14' high pedestrian lights along the esplanade. PDC agreed to this.

4. Paving

a. Paving must be coordinated with A & C. KA has recommended an asphalt paver on the 6' wide lower-level sidewalk, poured concrete at the neck-outs and upper-level esplanade and a paving pattern within the crosswalks. PDC said the budget could accommodate this, and possibly more. The paving of the esplanade must appear to be integral with the triangle of paving at the entrance of piers 1 through 9.

b. Burton wanted the concrete of the esplanade and entrance triangle to be different from the concrete running down the center of the piers.

5. Railing

Coordination with A & C is necessary.

6. Refuse Containers

PDC questioned the legality of keeping garbage on the sidewalks for extended periods. This must be coordinated with DOT and the Department of Sanitation.

KA/PDC

7. Seating

a. PDC believes seats on esplanade should be standard, not custom designed.

b. PDC requested KA/Burton to provide more specific guidelines for the seating: ie. a range of dimensions, the orientation of the seats.

KA/Burton

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

SHEEPSHEAD BAY FISHING PIERS IMPROVEMENTS  
Project #132-01  
Meeting Memorandum #10  
Page 3

8. Trash Cans

ACTION

- a. Trash cans along the esplanade will be the city standard.
- b. Trash cans on pier will be based on a bollard design. The responsibility of maintenance of these cans must be determined.

PITC

9. Trees

- a. PDC suggested trees be planted along the north side of Emmons Avenue.
- b. Tree grates may be required to accommodate the esplanade's higher elevation.

10. PDC Coordination

Bernardo Canovas will be managing the pier improvements and Jon Denham the esplanade development while Kathy Burpee is on leave.

cc: Burpee  
Burton

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

KOENEN ASSOCIATES  
ARCHITECTS AND PLANNING CONSULTANTS  
6 WEST 18TH STREET NEW YORK NY 10011 (212) 206-8



9.10.87

SHEEPSHEAD BAY FISHING PIERS IMPROV  
Project #132-01  
Meeting Memorandum #7

DATE: August 27, 1987, 2  
LOCATION: Ports, Internation  
Battery Maritime E  
New York, New York  
PURPOSE: Presentation of Sc  
PARTICIPANTS: Barbara Jackson, D

*Scott,*  
*Since you couldn't make*  
*the meeting, I thought you'd*  
*like reading the minutes.*  
*Nancy*

Ron Trinchetto, Assistant Commissioner, PITC  
Michael Janis, PITC  
Mark Sullivan, PITC  
Donna Zielinski, PITC  
Alfred Meyer, Public Development Corporation (PDC)  
Kathy Burpee, PDC  
Susan Goldfinger, PDC  
Michael Koenen, Koenen Associates (KA)  
Nancy Solomon, KA  
Paul Aviza, URS Corporation  
Hermann Wirth, URS

SUMMARY:

1. Koenen presented the schematic designs for the project and listed specific issues within PITC's jurisdiction that need to be addressed. These included: fueling, refuse lease arrangement, number of utility stations, pile capping and fendering, lock system of the gates, fire protection and construction phasing.
2. Refuse  
Jackson said that the carting contract can be grouped by pier and put in the lease. This means one large dumpster or shared dumpsters are contractually feasible. Jackson doubted that boatowners at the ends of the piers would use the dumpsters placed along esplanade.  
Trinchetto suggested more small receptacles be placed on piers for the public.
3. Sewage  
Jackson said the boatowners were promised a means of removing sewage at all the piers. This had not been made clear to PDC or KA. This issue must be studied and added to the original contract. Aviza mentioned two options: using a holding tank or the street sewer. Janis will clarify the requirements pertaining to this sewage disposal.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

## KOENEN ASSOCIATES

ARCHITECTS AND PLANNING CONSULTANTS

6 WEST 18TH STREET NEW YORK NY 10011 (212) 206-8333

### SHEEPSHEAD BAY FISHING PIERS IMPROVEMENTS

Project #132-01

Meeting Memorandum #7

DATE: August 27, 1987, 2:00 p.m.  
LOCATION: Ports, International Trade and Commerce (PITC)  
Battery Maritime Building  
New York, New York 10004  
PURPOSE: Presentation of Schematic Design to PITC  
PARTICIPANTS: Barbara Jackson, Deputy Commissioner, PITC  
Ron Trinchetto, Assistant Commissioner, PITC  
Michael Janis, PITC  
Mark Sullivan, PITC  
Donna Zielinski, PITC  
Alfred Meyer, Public Development Corporation (PDC)  
Kathy Burpee, PDC  
Susan Goldfinger, PDC  
Michael Koenen, Koenen Associates (KA)  
Nancy Solomon, KA  
Paul Aviza, URS Corporation  
Hermann Wirth, URS

#### SUMMARY:

1. Koenen presented the schematic designs for the project and listed specific issues within PITC's jurisdiction that need to be addressed. These included: fueling, refuse lease arrangement, number of utility stations, pile capping and fendering, lock system of the gates, fire protection and construction phasing.
2. Refuse  
Jackson said that the carting contract can be grouped by pier and put in the lease. This means one large dumpster or shared dumpsters are contractually feasible. Jackson doubted that boatowners at the ends of the piers would use the dumpsters placed along esplanade.  
Trinchetto suggested more small receptacles be placed on piers for the public.
3. Sewage  
Jackson said the boatowners were promised a means of removing sewage at all the piers. This had not been made clear to PDC or KA. This issue must be studied and added to the original contract. Aviza mentioned two options: using a holding tank or the street sewer. Janis will clarify the requirements pertaining to this sewage disposal.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

SHEEPSHEAD BAY FISHING PIERS IMPROVEMENTS

Project #132-01

Meeting Memorandum #7

Page Two

4. Ship Boxes

Jackson wanted ship boxes at every berth because the zoning prohibits larger boats and PITC wants to encourage more smaller boats. Aviza noted that the size of boats will effect the electrical requirements. One or two of the large boats will probably vacate the piers next year.

5. Maintenance

Jackson explained that the boatowners are currently responsible for their berths. The boatowners pay rent based on linear feet. A maintenance fee could in theory be added to the lease if there was a maintenance crew. There is not one at present. Goldfinger requested a copy of the boatowner lease for PDC's and KA's information.

6. Fueling

Fueling is not allowed from Emmons Avenue and PITC sees no reason to change this.

7. Construction Phasing

Koenen suggested two phases: October 1, 1988 to April 15, 1989 and October 1, 1989 to April 15, 1990. Five piers would be renovated in phase 1 and four piers in phase 2. Koenen suggested that construction could extend into April without major disruption to the boatowners. And, certain elements could possibly be installed even during the summer. Finish details--such as seating-- may be installed at one time at the end of the project. Construction will take place from Emmons Avenue and the pier so that the boats will not have to be relocated except possibly for the pouring of concrete. Koenen would like to use empty berths and Pier 10 to relocate boats, one pier at a time, if needed.

Jackson said the equivalent of 3 piers are empty now. PITC would like to fill these berths but will postpone leasing until a realistic construction schedule is established. One side of Pier 10 is dedicated to the ferry service.

Meyer suggested that the pier renovations be coordinated with DOT's bulkhead reconstruction to minimize the total disruption to the area.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

SHEEPSHEAD BAY FISHING PIERS IMPROVEMENTS  
Project #132-01  
Meeting Memorandum #7  
Page Three

8. Utilities

Aviza explained that the electricity will be metered directly by Con Ed and the telephone directly through New York Telephone. Lighting on the piers will be an extension from the street system. Maintenance of the lighting needs to be addressed.

Aviza believed the water pressure at the site is adequate.

Janis said a public address system is not permitted and is not desirable.

9. Codes and Approval

Trinchetto said that KA did not need Building Department approval. Janis mentioned the existence of a draft of the Marina Code. KA must speak to Joe Medler and Tom Laide in regard to this code and clarify all detail issues. Trinchetto did not see any glaring problems at this stage in the design.

10. Miscellaneous

Meyer asked the status of the substructural work for Piers #8 and #9. Janis questioned the status of the piles and the need for fendering. He will pursue this further. Meyer noted that the Army Corps of Engineers has dropped its project to dredge the channel. The spaces between the piers did not need dredging.

11. Meeting Request

A meeting with Joe Medler will be set up as soon as possible to review the details of the schematic design and to discuss requirements and the procedure for approval.

cc: Ron Trinchetto  
Kathy Burpee  
Paul Aviza

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

Scott Burton  
360 West 36th Street  
Apartment 8 South  
New York, New York 10018

September 18, 1987

Patricia E. Harris  
Executive Director  
Art Commission of the City of New York  
City Hall  
New York, New York 10007

Dear Patti,

The statement you requested is forthcoming, regarding location, dimensions, materials and intent (nos. 1-4 in your letter of August 4). Items 5-7 (budget, fabricator's name, maintenance specifications) will be sent to you in a few weeks.

We are about to enter the design development phase. Therefore, I will soon be able to send a second statement including information regarding eventual restoration or replacement.

Sincerely,

*Scott Burton*

Scott Burton

BURTON'S  
COMPARABLE  
BOND  
USA  
BRUSH  
25% COTTON FIBRE

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

KOENEN ASSOCIATES

ARCHITECTS AND PLANNING CONSULTANTS

6 WEST 18TH STREET NEW YORK NY 10011 (212) 206-8333

August 13, 1987

SHEEPSHEAD BAY FISHING PIERS IMPROVEMENTS  
Project #132-01  
Meeting Memorandum #5

DATE: July 7, 1987  
LOCATION: Community Board #15  
2333 Coney Island Avenue  
Brooklyn, NY 11223  
PURPOSE: Presentation of Schematic Designs to the Community Board  
PARTICIPANTS: Maurice H. Kolodin, Chairman of Community Board #15 (CB15)  
Dorothy (Dottie) Cunningham, District Manager (CB15)  
I. Stephen Miller, Board Historian & Pier Design Liaison (CB15)  
Margaret McCord, President of Plumb Beach Civic Association (PBCA)  
Adele Dannell, 2nd Vice President (PBCA)  
Alfred Meyer, Public Development Corporation  
Kathy Burpee, PDC  
Doug Rice, PDC  
Frederick W. Beck, Jr., Andrews & Clark (A&C)  
Andre Luboff, A&C  
Michael J. Koenen, Koenen Associates (KA)  
Nancy Solomon, KA  
Scott Burton, Artist  
Paul Aviza, URS Company, Inc.

SUMMARY:

1. Miller and Meyer introduced the project and consultants. Koenen presented an overview of the Sheepshead Bay area, an analysis of existing conditions, and proposals for both the Emmons Avenue esplanade and the piers themselves. Aviza described utility proposals. Burton presented models of the entrance and end of the piers. Beck and Luboff presented traffic flow and parking alternatives.
2. The overall design was well received. Miller felt that KA incorporated the community's concern over the proper atmosphere of the piers and neighborhood. The individual pile lights were found to be attractive, the pole at the end of the pier was commended for its simplicity, the retaining of the "ad-hoc" nature of the boat signs was deemed appropriate. Miller, though, was concerned that the entrance markers would collect posters and graffiti. The community members were also critical of using tree grates. In their experience, these grates are difficult to keep clean.
3. Refuse is a major issue. Kolodin explained that currently the lease structure and refuse contract is such that each boat needs its own container. This would not be necessary if the lease included carting fees and, therefore, the carter would not have to collect payments individually from the boat owners. Kolodin said that PITC has promised this but it has yet to be realized.

Lomingino and Son, the carters, can provide information on the amount of refuse and times of pick up.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

SHEEPSHEAD BAY FISHING PIERS IMPROVEMENTS  
Project #132-01  
Meeting Memorandum #5  
Page Two

Kolodin noted that the boats are getting bigger and, therefore, producing more garbage. Kolodin asked about using a compactor.

The containers must be locked by the boat owners.

Cunningham noted that if containers were to be on the esplanade, there remains the question of their location after the pier reconstruction but before the esplanade construction.

4. In response to the A&C presentation of traffic and parking proposals, Kolodin and others insisted that Emmons Avenue be two-way with two lanes per direction. He did not want bus detours off of Emmons Avenue and he questioned parking on the south curb of Emmons Avenue because he thought it would preclude drop-off and pick-up for the fishermen. Within these constraints, however, the community would like to see the parking and esplanade areas maximized.
5. Cunningham questioned who would pay for the pile lights; and would the boat owners be willing to pay for electrical, telephone and water costs?
6. Miller requested that information handouts, like those A&C gave out at this meeting, be given to the participants prior to future meetings to expedite the meetings themselves.

Presentation to the CB15 Executive Committee meeting was requested prior to presentation of schematic design to an open public meeting.

cc: Dorothy Cunningham  
I. Stephen Miller  
Margaret McCord  
Kathy Burpee  
Frederick W. Beck, Jr.  
Scott Burton  
Paul Aviza

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

"blue-lam"

WOOD STRUCTURES (1000) Daren  
 BIDDEFORD ME 1800. 341.9612

AMERICAN LAMINATE 518. 472.9705  
 ALBANY NY 1800 522.4470

U S LAMINATE  
 BOHEMIA, NY 1800. 832.1184

(HAYCO 1800-792.4040 ?)

BOHEMIA EUGENE OR - Mr. Davis  
 503. 342.6262 Jim Wash -

Jasper Bush 812. 482. 4132 (d11.) } from  
 Leisure Life. 919. 626. 4324 (N.C.) } mfrs

UNADILLA, MS. 601. 369.9341 (arch)  
 Southern Laminators Louisiana 504. 664. 3359 }  
 Mississippi Lam. 601. 687. 1571 }

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

DRAFT: 7/22/87

AGREEMENT by and between Koenen Associates, of 6 West 18th Street, New York, New York 10011 (the "Architect") and Scott Burton, of 86 Thompson Street, New York, New York 10012 (the "Artist").

WHEREAS, the City of New York (the "City") has entered into a contract with the Architect whereby the Architect shall perform certain design and construction services on a public project for the City;

WHEREAS, pursuant to Section 234 of the City Charter, (Local Law of 1982) ("Section 234"), the City has instituted the "Percent for Art Program", a public art program which requires the allocation of certain construction funds for the establishment of art works in public places;

WHEREAS, the Artist has been selected in accordance with regulations promulgated by the Mayor and by procedures adopted by the Department of Cultural Affairs' Percent for Art Program ("Percent for Art Program") pursuant to Section 234 to design, fabricate and install certain works of art in a public space located at the Sheepshead Bay Fishing Piers, Brooklyn, New York (the "Site");

WHEREAS, the City has established certain procedures for the submission and acceptance of public art works;

WHEREAS, the Architect desires to comply with the requirements of Section 234 by retaining the services of Artist and complying with the rules, regulations and procedures promulgated under Section 234;

NOW THEREFORE, the parties hereby agree as follows:

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

Article 1. Scope of Services.

1.1 General Provisions

- a. The Architect and the Artist shall use their best efforts to establish a cooperative, consultative relationship with each other throughout the duration of this Agreement;
- b. The Artist shall determine the form of artistic expression, including, but not limited to, the choice of size, material, texture, color, scope and subject of the Art Work.
- c. The Artist shall furnish all supplies, labor, materials and equipment necessary for design of the Art Work.
- d. The Artist shall supervise the construction documents, fabrication and installation of of the Art Work.
- e. In addition to the responsibilities cited herein, the Architect shall be responsible for the following:
  - i. preparing construction documents
  - ii. insuring compliance with all the City review and acceptance procedures set forth herein;
  - iii. making payments to the Artist for services performed; and,
  - iv. integrating the Art Work created hereunder with the underlying construction project and ensuring that all State, City, Federal and local safety regulations and building requirements have been met.

1.2. Concept and Preliminary Design Proposal.

- a. The Artist shall conduct such reasonable site inspections, interviews and research as may be necessary in order to prepare a prelim-

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

inary design proposal, including meeting with officials of the Public Development Corporation ("Agency"), representatives of the Percent for Art Program and the Architect. The Architect shall make available, or require the Agency to make available, to the Artist accurate background materials and necessary information on matters affecting the Site and installation of the Art Work including, where applicable, a written program of requirements, specifications for the project and/or building plan.

b. The Artist shall be available to meet with representatives of the community to discuss the Artist's proposal and community concerns relating to the project. Notwithstanding the foregoing, final decision on artistic expression shall remain with the artist.

c. At the time when the Architect is preparing schematic design alternatives, the Artist shall prepare and submit a preliminary design proposal for the Art Work (the "Proposal"). The Proposal shall specify materials, dimensions, weight, finish, preliminary maintenance recommendations and suggested installation method and shall include drawings and/or any other documents and models as are required to present a meaningful representation of the concept and design of the proposed Art Work in content, detail and form as may be required by the Municipal Art Commission of the City of New York ("Art Commission").

>  
d. Upon submission of the Proposal to the Architect, the Architect shall arrange for the Agency and the Percent for Art Program to review the Proposal.

e. If the Proposal is approved after the review required under paragraph 1.2 (e) herein, by a majority of the entities reviewing said Proposal, the Construction Agency shall submit the Proposal to the Art Commission for preliminary review within thirty (30) days after receipt of the required approval. Within thirty (30) days following the next regularly scheduled Art Commission meeting after the submission of the Proposal, the Architect shall notify the Artist of the action taken by the Art Commission. During the period in which the Art Commission is

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

considering the Proposal, the Artist and the Architect shall be available to meet with the City to discuss the Proposal. The Artist shall not hold the Architect responsible for the Art Commission's rejection of the Proposal or and resubmissions pursuant to this paragraph.

f. If the Art Commission rejects the Proposal, the Architect shall provide the Artist with a copy of the Art Commission's Certificate of Resolution concerning the proposal. The Artist shall then have the option to submit to the Art Commission either a new Proposal within a reasonable period of time specified by the Art Commission, or to terminate this Agreement. If the Artist elects to submit a new Proposal, the Architect shall advise the Artist, in writing, of the Art Commission's decision regarding the new Proposal within thirty (30) days following the resubmission to the Art Commission. If the new Proposal is rejected, the Architect shall provide the Artist with a written statement of the Art Commission's reasons for such rejection, and this Agreement shall automatically terminate.

g. In the event of termination of this Agreement pursuant to subparagraph (f), the Artist shall retain the Proposal and all compensation paid thereunder, and neither party shall be under any further obligation to the other under this Agreement.

### 1.3. Construction Documents

a. Within sixty (60) days after the Art Commission grants approval of the Proposal, the Artist shall assist the Architect with the preparation of construction drawings of the Art Work, as defined in Exhibit 1, appended hereto and incorporated herein, and its placement at the Site, to be included with the documents used by prospective general contractors to submit bids on public projects in accordance with the City Charter, together with such other material as may reasonably be requested by the City as necessary to portray the Art Work and Site preparation. The Artist will meet with the Architect as required to review the construction documents.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

b. The Architect and the Artist agree to make such revisions to the Art Work only as are necessary to comply with applicable statutes, ordinances and/or regulations of any governmental regulatory agency having jurisdiction over the project.

c. The Architect shall present the construction documents of the Art Work to the Agency for its approval of the structural design and detailing and shall notify the Artist of the Agency's approval.

1.4. Execution of the Work.

a. The City shall hire an outside contractor to perform construction services for the underlying public project. Said contractor shall be responsible for the fabrication and installation of the Art Work at the Site and shall include the Art Work in the project's construction schedule.

b. The Artist shall supervise the fabrication and installation of the Art Work, and shall report to the Agency's supervisors. The Agency shall notify the Art Commission in writing when the Art Work is complete and has been installed.

c. The Agency shall immediately present to the Artist and the Art Commission, in writing, any proposed significant changes to the Art Work not permitted by or not in substantial conformity with the Proposal for further review and approval. For the purpose of this agreement, a significant change is any change in the scope, design, color, size or material of the Art Work which affects cost, installation, Site preparation, maintenance and concept as represented in the Proposal.

d. The Agency shall be responsible for all expenses, labor and equipment necessary to prepare the Site for the installation of the Work, including landscaping, plumbing, lighting and footage for the Art Work, if necessary.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

1.5. Final Acceptance.

a. Within thirty (30) days after the installation of each phase of the Art Work, the Artist shall furnish the Art Commission and the Percent for Art Program with the following photographs of the Work as installed:

- (a) Three sets of 35mm. color slides of the completed work, taken from each of three different viewpoints; and
- (b) Three sets of three different 8" x 10" glossy black and white prints of the Work and negatives; and
- (c) A set of four color transparencies of the completed Work.

The Artist shall advise the Architect, in writing, that all of his services with respect to the Art Work have been completed. The Architect and representatives of the Percent for Art Program shall inspect the Art Work after installation.

b. Upon installation of the Art Work, the Artist shall provide the City with written recommendations for appropriate maintenance and preservation of the Art Work.

c. Within sixty (60) days following the next regularly scheduled Art Commission meeting after the City's receipt of the Artist's notice under paragraph 1.5.(a), the Architect shall notify the Artist of the Art Commission's decision on the final Art Work. The Artist and the Architect shall be available to meet with the Art Commission to discuss the final Art Work.

d. If the Art Commission rejects the final Art Work, final payment shall be withheld, and the Art Work shall be subject to the terms and conditions of Article 11.

e. If the Art Commission approves the final Art Work, the Architect shall notify the Artist in writing of the City's acceptance of the Art Work.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

f. Final acceptance shall be effective as of the date of the Art Commission's Certificate of Resolution accepting the final Art Work, unless the Architect, upon receipt of the Artist notice required in paragraph 1.5(a) above, gives the Artist written notice specifying the services which have not been completed and the reasons for refusing final acceptance of the Art Work. The Architect will send a copy of the Certificate to the Artist.

g. The Artist shall be available at such time or times as may be agreed between the Agency and the Artist to attend any inauguration or presentation ceremonies relating to the Art Work. The User Agency will pay reasonable transportation and lodging costs for the Artist.

1.6. Risk of Loss.

The risk of loss or damage to the Proposal shall be borne by the Artist until Final Acceptance of the Art Work. The Artist shall take such measures as are necessary to protect the Proposal from loss or damage until that time.

1.7. Title.

Subject to the rights outlined in Article 6, Paragraph 6.1 (a), all rights and interest in, title to, and ownership of, the final Art Work and the Proposal as approved by the Art Commission pursuant to paragraph 1.3 of the Article 1 herein, shall pass to the City upon final written acceptance.

1.8. Ownership of Documents, Models.

a. Except as provided in paragraph 1.8 of this Agreement, all studies, drawings, designs, prepared and submitted under this Agreement shall be returned to the Artist and shall belong to the Artist.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

b. Notwithstanding anything contained in paragraph 1.9(a) herein, the Artist hereby grants the Construction Agency and the Percent for Art Program an irrevocable license to use all studies, drawings and designs prepared under this Agreement for exhibition purposes only.

c. The Artist agrees that (s)he shall not sell, exhibit or reproduce the design and models referred to herein prior to final acceptance of the Art Work.

Article 2. Compensation and Payment Schedule.

2.1. Fee Schedule.

The Architect shall pay the Artist a fee of \$39,000.00, which shall constitute full compensation for all services to be performed, and materials to be furnished, by the Artist under this Agreement. The fee shall be paid in accordance with the schedule attached as Exhibit B hereto, each installment contained therein to represent full, final, and nonrefundable payment for all services and materials provided prior to the payment thereof.

2.2. Artist Incurred Costs.

The Artist shall be responsible for the payment of all mailings or shipping charges on submissions required of the Artist under this Agreement, and the costs of all travel by the Artist and the Artist's employees necessary for the proper performance of the services required under this Agreement.

2.3. Payment to Artist.

The Architect shall be solely responsible for making payments to the Artist for any services performed by the Artist under this Agreement. He will include the invoiced amount by the Artist on the appropriate or current Architect invoice to the Agency. The Artist will be paid the amount of his invoice within seven days after the Architect has been reimbursed for the invoiced amount.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

Article 3. Time of Performance.

3.1. Duration.

The services required of the Artist as set forth in Exhibit A, Specific Requirements, appended hereto, and incorporated herein, shall commence upon the execution of this Agreement and shall be in accordance with the schedule for completion of the Art Work, as proposed by the Artist, and approved by the Architect and the City, provided that such time limits may be extended by written agreement between the Artist and the Architect with the written approval of the City.

3.2. Time Extensions.

A reasonable extension of time will be granted in the event there is a delay on the part of the City in providing the reviews or acceptance necessary under this Agreement or in completing the underlying capital project or should conditions beyond the Architect's or Artist's control or acts of God render performance of services impossible. Failure to fulfill contract obligations due to conditions beyond either party's reasonable control shall not be considered a breach of contract. Notwithstanding the above, the time for the performance of the parties' obligations shall only be extended for a period equal to the duration of the contingency that occasioned the interruption or delay.

Article 4. Warranties.

4.1. Warranties of Title. The Artist represents and warrants that: (a) the Art Work is the original creation of the Artist and is solely the result of the artistic effort of the Artist; (b) the Art Work does not infringe upon any copyright, trademark or any other property or personal right; (c) the Art Work or a duplicate thereof, has not been offered or accepted for sale, display or exhibition elsewhere; (d) the Art Work is free and clear of liens or encumbrances from any source whatsoever; and (e) Artist knows of no adverse claims to the Art Work and that neither the Art Work nor any portion thereof is in the public domain.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

4.2. Hold Harmless.

The Artist agrees to indemnify and hold the Architect and City harmless from and against any claims, causes of action, demand, loss or damage by reason of a breach of the warranty of title under this Article.

The Artist shall not be responsible for any losses or damage arising from the fabrication, transportation or installation of the Art Work. The outside contractor hired by the City will assume the responsibility of any such losses or damages.

The Artist shall not be responsible or liable for any failure of the Art Work to meet any State, Local, City or Federal regulations or ordinances. The City shall hold the Artist harmless from any and all claims in connection with the fabrication, installation and/or subsequent use of the Art Work or Artist's design.

> Article 5. Reproduction Rights.

5.1. Copyright.

Except as provided herein, the Artist and Architect retain all reproduction rights under the Copyright Act of 1976, 17 U.S.C. Sections 101 et. seq. The Artist shall retain reproduction rights to specific elements of the design including the benches at the entry to each pier and individual elements yet to be determined. The Artist will notify the Architect and the City in writing when the elements have been identified. Since it is the intention of the parties that the Art Work shall be unique, the Artist hereby agrees not make an exact duplicate or three dimensional reproduction of the final Art Work or permit others to do so except by written permission of the City. The Artist hereby grants to the City and its assigns an irrevocable license to make photographs, drawings and other two dimensional reproductions of the Art Work without prior consent of the Artist, including but not limited to reproductions used in advertising, brochures, media publicity, noncommercial reproduc-

other

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144


tions, in the City's portfolio of public art, catalogues or other similar publications, provided that these rights are exercised in a reasonable manner.

5.2. Project Credit.

The Artist, the Architect and the City agree to include a credit on any reproductions of the Art Work or Proposal exhibited to the public which reads substantially "(c) (Artist's name, Architect's name, year of completion," an original work commissioned by the City of New York, Percent for Art Program and the Public Development Corporation.

Article 6 Artist's Rights.

6.1 Identification.

 The Artist shall prepare and install at the Site, pursuant to the approval and written instructions of the City, a plaque(s) identifying the the Architect, the Artist, the year of completion, an original work commissioned by the City of New York, Percent for Art Program and the Public Development Corporation.

6.2. Maintenance.

The City will use reasonable efforts to assure the maintenance of the Art Work in accordance with written recommendations provided by the Artist pursuant to paragraph 1.6.(b) herein. The City will also use reasonable efforts to protect the Art Work against damages arising from time and the elements.

6.3. Repairs and Restoration.

a. The City shall have the exclusive right to determine whether repairs to, or restoration of the Art Work will be made. When a repair is made the City shall use reasonable efforts to consult with the Artist, during his lifetime or the expiration of twenty (20) years, whichever

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

b. Any repairs on, and restorations to, the Art Work shall be made subject to the prior approval of the Art Commission.

6.4. Alteration of the Work or of the Site.

The City agrees that it will not intentionally destroy, damage, alter, or modify the Art Work in any way. Should alterations to the Site be necessary, and said alterations will affect the character and appearance of the Art Work, the City shall notify the Artist of such proposed alteration and shall consult with Artist in the planning of such alteration. Notwithstanding the foregoing, the City may at its discretion relocate, remove from public display, sell or otherwise dispose of the Art Work without notice or further obligation to Artist.

6.5. Moral Right.

The City will not use the Art Work in any manner which would reflect discredit on the Artist's name or reputation as an Artist or which would violate the spirit of the Work.

6.6. Permanent Record.

The City shall maintain on permanent file copies of this Agreement and a record of the location and disposition of the Art Work. Said copies shall be maintained by the Art Commission and the Percent for Art Program for the lifetime of the Artist or the expiration of twenty years, whichever occurs first.

Article 7. Additional Rights and Remedies, Limitations of Actions

The rights and remedies of the parties herein specified shall be cumulative, and not exclusive of any other rights and remedies herein provided or allowed by law. Notwithstanding any other provision of this Agreement, no action or special proceeding shall lie or be maintained by the Artist or Artist's successors in interest against the Architect or

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

the City upon any claim arising out of or based upon this Agreement or out of anything in connection with this contract, unless such action or special proceeding is commenced within one year after the date of final payment to the Artist, or if this contract is breached or terminated prior to final payment, unless such action or special proceeding is commenced within one (1) year of such breach or termination.

Article 8. Relationship of the Parties.

The Artist is entering into this agreement as an independent contractor and shall not hold himself out as otherwise. Nothing herein contained shall be deemed to constitute the Artist and the Architect as partners, co-venturers, or employer-employee. Neither shall the Artist be considered an agent or employee of the City nor shall he hold himself out as such.

Article 9. Assignment, Transfer, Subcontracting.

9.1. It is understood and agreed that the subject matter of this agreement is special, unique, and of an artistic and intellectual nature, and that the personal services of the Artist are of the essence herein. Accordingly, neither the Architect nor the Artist shall assign or transfer an interest in this Agreement without the prior written consent of the other.

9.2. Notwithstanding anything contained in paragraph 10.1. herein, the Artist may subcontract portions of the Art Work at the Artist's expense provided that said subcontracting shall not affect the design, appearance or visual quality of the Art Work and that such work is performed under the personal supervision of the Artist.

Article 10. Termination by Default.

If either party to this Agreement willfully or negligently fails to fulfill in a timely and proper manner, any of the covenants, agreements or stipulations herein, the other party shall thereupon have the right to

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

terminate this Agreement by giving written notice to the defaulting party of its intent to terminate specifying the grounds for termination. Unless provided for in other provisions of this Agreement, the defaulting party shall have thirty (30) days from receipt of the notice to cure the default. If not cured, then this agreement shall automatically terminate. In the event of a default, the Art Work in whatever stage of fabrication at the time of the default, shall be delivered to the City and all finished and unfinished drawings, sketches, photographs, and other work products prepared and submitted or prepared for submission by the Artist under this Agreement shall at the City's option become its property, provided that no right to fabricate or execute the Art Work shall pass to the City, and the Architect shall compensate the Artist in accordance with paragraph 2.1 herein for all services performed by the Artist prior to termination. Notwithstanding the above, the Artist shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the Agreement by the Artist.

Article 11. Interruption or Cancellation of Project.

11.1. Cancellation, Delay of Project.

If either the underlying project or the specific public art project for which the Art Work was commissioned is canceled, terminated or delayed for a period greater than twelve (12) months, this Agreement shall automatically terminate and the Artist shall be entitled to payment for work completed up to the date of termination. The Art Work, in whatever stage of fabrication, shall be delivered to the City.

11.2. Artist's Option.

In the event the Architect is dismissed from the project, the Artist shall have the option to:

- (a) terminate this Agreement, or,

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

(b) suspend the performance of his services under this Agreement until such time as another Architect is chosen by the City and the Artist decides whether or not to enter into a services agreement with said Architect.

Under either contingency (a) or (b) above, the Artist shall be compensated and the City shall obtain the Art Work in accordance with paragraph 12.1, above.

Article 12. Compliance.

The Artist shall comply with all Federal, State and City statutes, ordinances and regulations applicable to the performance of the Artist's services under this Agreement.

Article 13. Entire Agreement.

This writing embodies the entire agreement and understanding between the parties hereto, and there are no other agreements and understanding, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby.

Article 14. Modification.

No alteration, change or modification of the terms of the Agreement shall be valid unless made in writing and signed by both parties hereto and approved by appropriate action of the City.

Article 15. Waiver.

No waiver of full performance by either party shall be construed, or operate as a waiver of any subsequent default of any terms, covenants and conditions of this Agreement. The payment or acceptance of fees for any period after a default shall not be deemed a waiver of any right or acceptance of defective performance.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

Article 16. Governing Law.

This Agreement, shall be governed by, and construed in accordance with the law of the State of New York.

Article 17. Severability.

If any provision of this Agreement is adjudged to be invalid, void or unenforceable, such provision shall be deleted here from and shall not affect the validity of this agreement and the enforceability of any other provision herein.

Article 18. Notices.

All notices, requests, demands and other communications which are required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given upon the delivery or receipt thereof, as the case may be, if delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, as follows:

- a. if the City, to:
- b. if the Architect, at the address first above written a copy to:
- c. if to the Artist, to:

The Artist shall notify the City of changes in her address. The failure to comply with this requirement, if such failure prevents the City from locating the Artist, shall be deemed a waiver by the Artist of the right to enforce those provisions of this Agreement requiring the approval of, on consultation with, the Artist. During the term of this agreement, the Artist will also notify the Architect of changes in her address.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in triplicate the day year first above written, one copy to be delivered to the Commissioner, one copy to remain with the Artist, and one copy to remain with the Architect.

KOENEN ASSOCIATES

By: \_\_\_\_\_  
Title: \_\_\_\_\_ Date \_\_\_\_\_

SCOTT BURTON, ARTIST

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

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

Exhibit A

Scope of Services

(to be added)

(a) Three Thousand Nine Hundred Dollars (\$3,900) (25% of \$15,600) at upon the signing of the letter of intent between the Artist and Architect.

(b) Three Thousand Five Hundred Dollars (\$3,500) (22% of \$15,600) for preparation of a preliminary concept design, this shall coincide with the signing of the contract.

(c) Seven Thousand Eight Hundred Dollars (\$7,800) (50% of \$15,600) within thirty days (30) after the City notifies the Artist of the approval of the proposal by the Art Commission.

(d) Fifteen Thousand Six Hundred Dollars (\$15,600) (100% of \$15,600) within thirty days (30) after the City notifies the Artist of the approval of the detailed working drawings as required under Section 1.4. The Architect shall be paid \$7,800 or 50% for the preparation of construction documents.

(e) Seven Thousand Eight Hundred Dollars (\$7,800) (50% of \$15,600) for construction supervision within thirty days (30) after final acceptance by the City of all services under this agreement.

For payments (b), (c), (d) and (e) the Artist shall provide the Architect with an invoice for the price of work completed.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

Exhibit B

Fee Schedule

(a) Three Thousand Nine Hundred Dollars (\$3,900) (10% of \$39,000) at upon the signing of the letter of intent between the Artist and Architect.

(b) Three Thousand Nine Hundred Dollars (\$3,900) (10% of \$39,000) for preparation of a preliminary concept design, this shall coincide with the signing of the contract.

(c) Seven Thousand Eight Hundred Dollars (\$7,800) (20% of \$39,000) within thirty days (30) after the City notifies the Artist of its approval of the Proposal by the Art Commission;

(d) Fifteen Thousand Six Hundred Dollars (\$15,500) (40% of \$39,000) within thirty days (30) after the City notifies the Artist of its approval of the detailed working drawings as required under Section 1.3. The Architect shall be paid \$7,800 or 20% for the preparation of construction documents.

(e) Seven Thousand Eight Hundred Dollars (\$7,800) (20% of \$39,000) for construction supervision within thirty days (30) after final acceptance by the City of all services under this Agreement.

For payments (b), (c), (d) and (e) the Artist shall provide the Architect with an invoice for the phase of work completed.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

## Alternate Fee Schedule

### Exhibit B

### Fee Schedule

(a) Three Thousand Nine Hundred Dollars (\$3,900) (10% of \$39,000) at upon the signing of the letter of intent between the Artist and Architect.

(b) Four Thousand Nine Hundred Dollars (\$4,900) (10% of \$44,000, plus \$500) for preparation of a preliminary concept design, this shall coincide with the signing of the contract.

(c) Eight Thousand Eight Hundred Dollars (\$8,800) (20% of \$44,000) within thirty days (30) after the City notifies the Artist of its approval of the Proposal by the Art Commission;

(d) Seventeen Thousand Six Hundred Dollars (\$17,600) (40% of \$44,000) within thirty days (30) after the City notifies the Artist of its approval of the detailed working drawings as required under Section 1.3. The Architect shall be paid \$8,800 or 20% for the preparation of construction documents.

(e) Eight Thousand Eight Hundred Dollars (\$8,800) (20% of \$44,000) for construction supervision within thirty days (30) after final acceptance by the City of all services under this Agreement.

For payments (b), (c), (d) and (e) the Artist shall provide the Architect with an invoice for the phase of work completed.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

Table of contents

Article	1	Scope of Services	2
Paragraph	1.1	General Provisions	2
	1.2	Concept and Preliminary Design Proposal	2
	1.3	Construction Documents	3
	1.4	Description of the Work	3
	1.5	Final Acceptance	4
	1.6	Risk of Loss	4
	1.7	Title	4
	1.8	Ownership of Documents Models	7
Article	2	Compensation and Payment Schedule	4
Paragraph	2.1	Fee Schedule	4
	2.2	Artist Incurred Costs	8
	2.3	Payment to Artist	8
Article	3	TERM OF AGREEMENT	8
Paragraph	3.1	Duration	8
	3.2	Time BY AND AMONG	8
Article	4	WARRANTY OF KOENEN ASSOCIATES	8
Paragraph	4.1	Warranty of Title	8
	4.2	Weld Hazards AND	10
Article	5	REPRODUCTION OF SCOTT BURTON	10
	5.1	Copyright	10
	5.2	Project	11
Article	6	Artist's Rights	11
Paragraph	6.1	Identification	11
	6.2	Maintenance	13
	6.3	Repairs and Restoration	13
	6.4	Alteration of the Work or of the Site	13
	6.5	Moral Right	14
	6.6	Permanent Record	14
Article	7	Additional Rights Remedies, Limitations of Actions	15
Article	8	Responsibilities of the Parties	15
Article	9	Assignment, Transfer, Subcontracting	15
Paragraph	9.1	Assignment, Transfer	15
	9.2	Subcontracting	16
Article	10	Termination by Default	16

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

Article 11	Table of Contents	14
Paragraph 11.1	Scope of Project	14
Paragraph 11.2	Scope of Project	14
Article 1	Scope of Services	2
Paragraph 1.1	General Provisions	2
Paragraph 1.2	Concept and Preliminary Design Proposal	2
Paragraph 1.3	Construction Documents	4
Paragraph 1.4	Execution of the Work	5
Paragraph 1.5	Final Acceptance	6
Paragraph 1.6	Risk of Loss	7
Paragraph 1.7	Title	7
Paragraph 1.8	Ownership of Documents Models	7
Article 2	Compensation and Payment Schedule	8
Paragraph 2.1	Fee Schedule	8
Paragraph 2.2	Artist Incurred Costs	8
Paragraph 2.3	Payment to Artist	8
Article 3	Time of Performance	9
Paragraph 3.1	Duration	9
Paragraph 3.2	Time Extensions	9
Article 4	Warranties	9
Paragraph 4.1	Warranties of Title	9
Paragraph 4.2	Hold Harmless	10
Article 5	Reproduction Rights	10
Paragraph 5.1	Copyright	10
Paragraph 5.2	Project	11
Article 6	Artist's Rights	11
Paragraph 6.1	Identification	11
Paragraph 6.2	Maintenance	11
Paragraph 6.3	Repairs and Resotoration	11
Paragraph 6.4	Alteration of the Work or of the Site	12
Paragraph 6.5	Moral Right	12
Paragraph 6.6	Permanent Record	12
Article 7	Additional Rights Remedies, Limiations of Actions	13
Article 8	Responsibilities of the Parties	13
Article 9	Assignment, Transfer, Subcontracting	13
Paragraph 9.1	Assignment, Transfer	13
Paragraph 9.2	Subcontracting	14
Article 10	Termination by Default	14

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

Article	11	Interruption or Cancellation of Project	14
Paragraph	11.1	Cancellation, Delay of Project	14
	11.2	Artist's Option	15
Article	12	Compliance	15
Article	13	Entire Agreement	15
Article	14	Modification	15
Article	15	Waiver	16
Article	16	Governing Law	16
Article	17	Severability	16
Article	18	Notices	16
Exhibit A		Specific Requirements	18
Exhibit B		Fee Schedule	19

WHEREAS, the Artist has been selected in accordance with regulations promulgated by the Mayor and by procedures adopted by the Department of Cultural Affairs' Percent for Art Program ("Percent for Art Program") pursuant to Section 234 to design, fabricate and install certain works of art in a public space located at the Sheephead Bay Fishing Pier, Brooklyn, New York (the "Site");

WHEREAS, the City has established certain procedures for the submission and acceptance of public art works;

WHEREAS, the Architect desires to comply with the requirements of Section 234 by retaining the services of artist and complying with the rules, regulations and procedures promulgated under Section 234;

NOW THEREFORE, the parties hereby agree as follows:

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

Article 1. Scope of Services.

1.1 General Provisions

AGREEMENT by and between Koenen Associates, of 6 West 18th Street, New York, New York 10011 (the "Architect") and Scott Burton, of 360 West 36th Street, New York, New York 10018 (the "Artist").

WHEREAS, the City of New York (the "City") has entered into a contract with the Architect whereby the Architect shall perform certain design and construction services on a public project for the City;

WHEREAS, pursuant to Section 234 of the City Charter, (Local Law of 1982) ("Section 234"), the City has instituted the "Percent for Art Program", a public art program which requires the allocation of certain construction funds for the establishment of art works in public places;

WHEREAS, the Artist has been selected in accordance with regulations promulgated by the Mayor and by procedures adopted by the Department of Cultural Affairs' Percent for Art Program ("Percent for Art Program") pursuant to Section 234 to design, fabricate and install certain works of art in a public space located at the Sheepshead Bay Fishing Piers, Brooklyn, New York (the "Site");

WHEREAS, the City has established certain procedures for the submission and acceptance of public art works;

WHEREAS, the Architect desires to comply with the requirements of Section 234 by retaining the services of Artist and complying with the rules, regulations and procedures promulgated under Section 234;

NOW THEREFORE, the parties hereby agree as follows:

1.2. Contract and Preliminary Design Process.

a. The Artist shall conduct such reasonable site inspections,

interviews and research as may be necessary in order to prepare a final

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

Article 1. Scope of Services.

1.1 General Provisions

- a. The Architect and the Artist shall use their best efforts to establish a cooperative, consultative relationship with each other throughout the duration of this Agreement;
- b. The Artist shall determine the form of artistic expression, including, but not limited to, the choice of size, material, texture, color, scope and subject of the Art Work.
- c. The Artist shall furnish all supplies, labor, materials and equipment necessary for design of the Art Work.
- d. The Artist shall supervise the construction documents, fabrication and installation of of the Art Work.
- e. In addition to the responsibilities cited herein, the Architect shall be responsible for the following:
  - i. preparing construction documents
  - ii. insuring compliance with all the City review and acceptance procedures set forth herein;
  - iii. making payments to the Artist for services performed; and,
  - iv. integrating the Art Work created hereunder with the underlying construction project and ensuring that all State, City, Federal and local safety regulations and building requirements have been met.

1.2 Concept and Preliminary Design Proposal.

- a. The Artist shall conduct such reasonable site inspections, interviews and research as may be necessary in order to prepare a prelim-

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

inary design proposal, including meeting with officials of the Public Development Corporation ("Agency"), representatives of the Percent for Art Program and the Architect. The Architect shall make available, or require the Agency to make available, to the Artist accurate background materials and necessary information on matters affecting the Site and installation of the Art Work including, where applicable, a written program of requirements, specifications for the project and/or building plan.

b. The Artist shall be available to meet with representatives of the community to discuss the Artist's proposal and community concerns relating to the project. Notwithstanding the foregoing, final decision on artistic expression shall remain with the artist.

c. At the time when the Architect is preparing schematic design alternatives, the Artist shall prepare and submit a preliminary design proposal for the Art Work (the "Proposal"). The Proposal shall specify materials, dimensions, weight, finish, preliminary maintenance recommendations and suggested installation method and shall include drawings and/or any other documents and models as are required to present a meaningful representation of the concept and design of the proposed Art Work in content, detail and form as may be required by the Municipal Art Commission of the City of New York ("Art Commission").

d. Upon submission of the Proposal to the Architect, the Architect shall arrange for the Agency and the Percent for Art Program to review the Proposal.

e. If the Proposal is approved after the review required under paragraph 1.2 (e) herein, by a majority of the entities reviewing said Proposal, the Construction Agency shall submit the Proposal to the Art Commission for preliminary review within thirty (30) days after receipt of the required approval. Within thirty (30) days following the next regularly scheduled Art Commission meeting after the submission of the Proposal, the Architect shall notify the Artist of the action taken by the Art Commission. During the period in which the Art Commission is

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

considering the Proposal, the Artist and the Architect shall be available to meet with the City to discuss the Proposal. The Artist shall not hold the Architect responsible for the Art Commission's rejection of the Proposal or and resubmissions pursuant to this paragraph.

f. If the Art Commission rejects the Proposal, the Architect shall provide the Artist with a copy of the Art Commission's Certificate of Resolution concerning the proposal. The Artist shall then have the option to submit to the Art Commission either a new Proposal within a reasonable period of time specified by the Art Commission, or to terminate this Agreement. If the Artist elects to submit a new Proposal, the Architect shall advise the Artist, in writing, of the Art Commission's decision regarding the new Proposal within thirty (30) days following the resubmission to the Art Commission. If the new Proposal is rejected, the Architect shall provide the Artist with a written statement of the Art Commission's reasons for such rejection, and this Agreement shall automatically terminate.

g. In the event of termination of this Agreement pursuant to subparagraph (f), the Artist shall retain the Proposal and all compensation paid thereunder, and neither party shall be under any further obligation to the other under this Agreement.

1.3. Construction Documents

a. Within sixty (60) days after the Art Commission grants approval of the Proposal, the Artist shall assist the Architect with the preparation of construction drawings of the Art Work, as defined in Exhibit 1, appended hereto and incorporated herein, and its placement at the Site, to be included with the documents used by prospective general contractors to submit bids on public projects in accordance with the City Charter, together with such other material as may reasonably be requested by the City as necessary to portray the Art Work and Site preparation. The Artist will meet with the Architect as required to review the construction documents.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

b. The Architect and the Artist agree to make such revisions to the Art Work only as are necessary to comply with applicable statutes, ordinances and/or regulations of any governmental regulatory agency having jurisdiction over the project.

c. The Architect shall present the construction documents of the Art Work to the Agency for its approval of the structural design and detailing and shall notify the Artist of the Agency's approval.

1.4. Execution of the Work.

a. The City shall hire an outside contractor to perform construction services for the underlying public project. Said contractor shall be responsible for the fabrication and installation of the Art Work at the Site and shall include the Art Work in the project's construction schedule.

b. The Artist shall supervise the fabrication and installation of the Art Work, and shall report to the Agency's supervisors. The Agency shall notify the Art Commission in writing when the Art Work is complete and has been installed.

c. The Agency shall immediately present to the Artist and the Art Commission, in writing, any proposed significant changes to the Art Work not permitted by or not in substantial conformity with the Proposal for further review and approval. For the purpose of this agreement, a significant change is any change in the scope, design, color, size or material of the Art Work which affects cost, installation, Site preparation, maintenance and concept as represented in the Proposal.

d. The Agency shall be responsible for all expenses, labor and equipment necessary to prepare the Site for the installation of the Work, including landscaping, plumbing, lighting and footage for the Art Work, if necessary.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

1.5. Final Acceptance.

a. Within thirty (30) days after the installation of each phase of the Art Work, the Artist shall furnish the Art Commission and the Percent for Art Program with the following photographs of the Work as installed:

(a) Three sets of 35mm. color slides of the completed work, taken from each of three different viewpoints; and

(b) Three sets of three different 8" x 10" glossy black and white prints of the Work and negatives; and

(c) A set of four color transparencies of the completed Work.

The Artist shall advise the Architect, in writing, that all of his services with respect to the Art Work have been completed. The Architect and representatives of the Percent for Art Program shall inspect the Art Work after installation.

b. Upon installation of the Art Work, the Artist shall provide the City with written recommendations for appropriate maintenance and preservation of the Art Work.

c. Within sixty (60) days following the next regularly scheduled Art Commission meeting after the City's receipt of the Artist's notice under paragraph 1.5.(a), the Architect shall notify the Artist of the Art Commission's decision on the final Art Work. The Artist and the Architect shall be available to meet with the Art Commission to discuss the final Art Work.

d. If the Art Commission rejects the final Art Work, final payment shall be withheld, and the Art Work shall be subject to the terms and conditions of Article 11.

e. If the Art Commission approves the final Art Work, the Architect shall notify the Artist in writing of the City's acceptance of the Art Work.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

b. Notwithstanding anything contained in paragraph 1.5(a) herein,  
The f. Final acceptance shall be effective as of the date of the Art Commission's Certificate of Resolution accepting the final Art Work, unless the Architect, upon receipt of the Artist notice required in paragraph 1.5(a) above, gives the Artist written notice specifying the services which have not been completed and the reasons for refusing final acceptance of the Art Work. The Architect will send a copy of the Certificate to the Artist.

g. The Artist shall be available at such time or times as may be agreed between the Agency and the Artist to attend any inauguration or presentation ceremonies relating to the Art Work. The User Agency will pay reasonable transportation and lodging costs for the Artist.

The Architect shall pay the Artist a fee of \$19,000.00, which shall be used for all services to be performed, and materials to be furnished, by the Artist under this Agreement. The fee shall be  
1.6. Risk of Loss.

The risk of loss or damage to the Proposal shall be borne by the Artist until Final Acceptance of the Art Work. The Artist shall take such measures as are necessary to protect the Proposal from loss or damage until that time.

1.7. Title. Incurred Costs.

Subject to the rights outlined in Article 6, Paragraph 6.1 (a), all rights and interest in, title to, and ownership of, the final Art Work and the Proposal as approved by the Art Commission pursuant to paragraph 1.3 of the Article 1 herein, shall pass to the City upon final written acceptance.

1.8. Ownership of Documents, Models.

a. Except as provided in paragraph 1.8 of this Agreement, all studies, drawings, designs, prepared and submitted under this Agreement shall be returned to the Artist and shall belong to the Artist.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

b. Notwithstanding anything contained in paragraph 1.9(a) herein, the Artist hereby grants the Construction Agency and the Percent for Art Program an irrevocable license to use all studies, drawings and designs prepared under this Agreement for exhibition purposes only.

c. The Artist agrees that (s)he shall not sell, exhibit or reproduce the design and models referred to herein prior to final acceptance of the Art Work.

Article 2. Compensation and Payment Schedule.

2.1. Fee Schedule.

The Architect shall pay the Artist a fee of \$39,000.00, which shall constitute full compensation for all services to be performed, and materials to be furnished, by the Artist under this Agreement. The fee shall be paid in accordance with the schedule attached as Exhibit B hereto, each installment contained therein to represent full, final, and nonrefundable payment for all services and materials provided prior to the payment thereof.

2.2. Artist Incurred Costs.

The Artist shall be responsible for the payment of all mailings or shipping charges on submissions required of the Artist under this Agreement, and the costs of all travel by the Artist and the Artist's employees necessary for the proper performance of the services required under this Agreement.

2.3. Payment to Artist.

The Architect shall be solely responsible for making payments to the Artist for any services performed by the Artist under this Agreement. He will include the invoiced amount by the Artist on the appropriate or current Architect invoice to the Agency. The Artist will be paid the amount of his invoice within seven days after the Architect has been reimbursed for the invoiced amount.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

Article 3. Time of Performance.

3.1. Duration.

The services required of the Artist as set forth in Exhibit A, Specific Requirements, appended hereto, and incorporated herein, shall commence upon the execution of this Agreement and shall be in accordance with the schedule for completion of the Art Work, as proposed by the Artist, and approved by the Architect and the City, provided that such time limits may be extended by written agreement between the Artist and the Architect with the written approval of the City.

3.2. Time Extensions.

A reasonable extension of time will be granted in the event there is a delay on the part of the City in providing the reviews or acceptance necessary under this Agreement or in completing the underlying capital project or should conditions beyond the Architect's or Artist's control or acts of God render performance of services impossible. Failure to fulfill contract obligations due to conditions beyond either party's reasonable control shall not be considered a breach of contract. Notwithstanding the above, the time for the performance of the parties' obligations shall only be extended for a period equal to the duration of the contingency that occasioned the interruption or delay.

Article 4. Warranties.

4.1. Warranties of Title. The Artist represents and warrants that: (a) the Art Work is the original creation of the Artist and is solely the result of the artistic effort of the Artist; (b) the Art Work does not infringe upon any copyright, trademark or any other property or personal right; (c) the Art Work or a duplicate thereof, has not been offered or accepted for sale, display or exhibition elsewhere; (d) the Art Work is free and clear of liens or encumbrances from any source whatsoever; and (e) Artist knows of no adverse claims to the Art Work and that neither the Art Work nor any portion thereof is in the public domain.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

4.2. Hold Harmless.

The Artist agrees to indemnify and hold the Architect and City harmless from and against any claims, causes of action, demand, loss or damage by reason of a breach of the warranty of title under this Article.

The Artist shall not be responsible for any losses or damage arising from the fabrication, transportation or installation of the Art Work. The outside contractor hired by the City will assume the responsibility of any such losses or damages.

The Artist shall not be responsible or liable for any failure of the Art Work to meet any State, Local, City or Federal regulations or ordinances. The City shall hold the Artist harmless from any and all claims in connection with the fabrication, installation and/or subsequent use of the Art Work or Artist's design.

Article 5. Reproduction Rights.

5.1. Copyright.

Except as provided herein, the Artist and Architect retain all reproduction rights under the Copyright Act of 1976, 17 U.S.C. Sections 101 et. seq. The Artist shall retain reproduction rights to specific elements of the design including the benches at the entry to each pier and other individual elements yet to be determined. The Artist will notify the Architect and the City in writing when the elements have been identified. Since it is the intention of the parties that the Art Work shall be unique, the Artist hereby agrees not make an exact duplicate or three dimensional reproduction of the final Art Work or permit others to do so except by written permission of the City. The Artist hereby grants to the City and its assigns an irrevocable license to make photographs, drawings and other two dimensional reproductions of the Art Work without prior consent of the Artist, including but not limited to reproductions used in advertising, brochures, media publicity, noncommercial reproduc-

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

tions, in the City's portfolio of public art, catalogues or other similar publications, provided that these rights are exercised in a reasonable manner.

5.2. Project Credit.

The Artist, the Architect and the City agree to include a credit on any reproductions of the Art Work or Proposal exhibited to the public which reads substantially "(c) Architect's name, Artist's name, year of completion," an original work commissioned by the City of New York, Percent for Art Program and the Public Development Corporation.

Article 6 Artist's Rights.

6.1 Identification.

The Artist shall prepare and install at the Site, pursuant to the approval and written instructions of the City, a plaque(s) identifying the the Architect, the Artist, the year of completion, an original work commissioned by the City of New York, Percent for Art Program and the Public Development Corporation.

6.2. Maintenance.

The City will use reasonable efforts to assure the maintenance of the Art Work in accordance with written recommendations provided by the Artist pursuant to paragraph 1.6.(b) herein. The City will also use reasonable efforts to protect the Art Work against damages arising from time and the elements.

6.3. Repairs and Restoration.

a. The City shall have the exclusive right to determine whether repairs to, or restoration of the Art Work will be made. When a repair is made the City shall use reasonable efforts to consult with the Artist, during his lifetime or the expiration of twenty (20) years, whichever

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

occurs first. On questions involving repairs or restoration to the Art Work, the City will use reasonable efforts to obtain the Artist's services for the supervision of such work by any other party retained by the City.

b. Any repairs on, and restorations to, the Art Work shall be made subject to the prior approval of the Art Commission.

6.4. Alteration of the Art Work or of the Site.

The City agrees that it will not intentionally destroy, damage, alter, or modify the Art Work in any way. Should alterations to the Site be necessary, and said alterations will affect the character and appearance of the Art Work, the City shall notify the Artist of such proposed alteration and shall consult with Artist in the planning of such alteration. Should the Artist determine that any alterations carried out by the City have affected the character and appearance of the Art Work. The Artist shall have the option of retaining or removing his name from the Art Work. In the event that the Artist removes his name from the Art Work the City shall, at its expense, change the plaque referred to in Paragraph 6.1. Notwithstanding the foregoing, the City may at its discretion relocate, remove from public display, sell or otherwise dispose of the Art Work without notice or further obligation to Artist.

6.5. Moral Right.

The City will not use the Art Work in any manner which would reflect discredit on the Artist's name or reputation as an Artist or which would violate the spirit of the Work.

6.6. Permanent Record.

The City shall maintain on permanent file copies of this Agreement and a record of the location and disposition of the Art Work. Said copies shall be maintained by the Art Commission and the Percent for Art

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

Program for the lifetime of the Artist or the expiration of twenty years, whichever occurs first.

Article 7. Additional Rights and Remedies, Limitations of Actions

The rights and remedies of the parties herein specified shall be cumulative, and not exclusive of any other rights and remedies herein provided or allowed by law. Notwithstanding any other provision of this Agreement, no action or special proceeding shall lie or be maintained by the Artist or Artist's successors in interest against the Architect or the City upon any claim arising out of or based upon this Agreement or out of anything in connection with this contract, unless such action or special proceeding is commenced within one year after the date of final payment to the Artist, or if this contract is breached or terminated prior to final payment, unless such action or special proceeding is commenced within one (1) year of such breach or termination.

Article 8. Relationship of the Parties.

The Artist is entering into this agreement as an independent contractor and shall not hold himself out as otherwise. Nothing herein contained shall be deemed to constitute the Artist and the Architect as partners, co-venturers, or employer-employee. Neither shall the Artist be considered an agent or employee of the City nor shall he hold himself out as such.

Article 9. Assignment, Transfer, Subcontracting.

9.1. Assignment, Transfer. It is understood and agreed that the subject matter of this agreement is special, unique, and of an artistic and intellectual nature, and that the personal services of the Artist are of the essence herein. Accordingly, neither the Architect nor the Artist shall assign or transfer an interest in this Agreement without the prior written consent of the other.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

9.2. Subcontracting. Notwithstanding anything contained in paragraph 10.1. herein, the Artist may subcontract portions of the Art Work at the Artist's expense provided that said subcontracting shall not affect the design, appearance or visual quality of the Art Work and that such work is performed under the personal supervision of the Artist.

Article 10. Termination by Default.

If either party to this Agreement willfully or negligently fails to fulfill in a timely and proper manner, any of the covenants, agreements or stipulations herein, the other party shall thereupon have the right to terminate this Agreement by giving written notice to the defaulting party of its intent to terminate specifying the grounds for termination. Unless provided for in other provisions of this Agreement, the defaulting party shall have thirty (30) days from receipt of the notice to cure the default. If not cured, then this agreement shall automatically terminate. In the event of a default, the Art Work in whatever stage of fabrication at the time of the default, shall be delivered to the City and all finished and unfinished drawings, sketches, photographs, and other work products prepared and submitted or prepared for submission by the Artist under this Agreement shall at the City's option become its property, provided that no right to fabricate or execute the Art Work shall pass to the City, and the Architect shall compensate the Artist in accordance with paragraph 2.1 herein for all services performed by the Artist prior to termination. Notwithstanding the above, the Artist shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the Agreement by the Artist.

Article 11. Interruption or Cancellation of Project.

11.1. Cancellation, Delay of Project.

If either the underlying project or the specific public art project for which the Art Work was commissioned is canceled, terminated or delayed for a period greater than twelve (12) months, this Agreement shall automatically terminate and the Artist shall be entitled to payment for

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

work completed up to the date of termination. The Art Work, in whatever stage of fabrication, shall be delivered to the City.

11.2. Artist's Option.

In the event the Architect is dismissed from the project, the Artist shall have the option to:

(a) terminate this Agreement, or,

(b) suspend the performance of his services under this Agreement until such time as another Architect is chosen by the City and the Artist decides whether or not to enter into a services agreement with said Architect.

Under either contingency (a) or (b) above, the Artist shall be compensated and the City shall obtain the Art Work in accordance with paragraph 12.1, above.

Article 12. Compliance.

The Artist shall comply with all Federal, State and City statutes, ordinances and regulations applicable to the performance of the Artist's services under this Agreement.

Article 13. Entire Agreement.

This writing embodies the entire agreement and understanding between the parties hereto, and there are no other agreements and understanding, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby.

Article 14. Modification.

No alteration, change or modification of the terms of the Agreement shall be valid unless made in writing and signed by both parties hereto and approved by appropriate action of the City.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

The artist shall notify the City of changes to her address. The  
City from locating the artist, shall be deemed a waiver by the artist of  
the  
No waiver of full performance by either party shall be construed, or  
operate as a waiver of any subsequent default of any terms, covenants and  
conditions of this Agreement. The payment or acceptance of fees for any  
period after a default shall not be deemed a waiver of any right or  
acceptance of defective performance.

Article 15. Waiver.

Article 16. Governing Law.

This Agreement, shall be governed by, and construed in accordance  
with the law of the State of New York.

Article 17. Severability.

If any provision of this Agreement is adjudged to be invalid, void  
or unenforceable, such provision shall be deleted here from and shall not  
affect the validity of this agreement and the enforceability of any other  
provision herein.

Article 18. Notices.

All notices, requests, demands and other communications which are  
required or permitted to be given under this Agreement shall be in writ-  
ing and shall be deemed to have been duly given upon the delivery or  
receipt thereof, as the case may be, if delivered personally or sent by  
registered or certified mail, return receipt requested, postage prepaid,  
as follows:

- a. if the City, to:
- b. if the Architect, at the address first above written
- c. if to the Artist, at the above written address

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

The Artist shall notify the City of changes in her address. The failure to comply with this requirement, if such failure prevents the City from locating the Artist, shall be deemed a waiver by the Artist of the right to enforce those provisions of this Agreement requiring the approval of, on consultation with, the Artist. During the term of this agreement, the Artist will also notify the Architect of changes in her address.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in triplicate the day year first above written, one copy to be delivered to the Commissioner, one copy to remain with the Artist, and one copy to remain with the Architect.

KOENEN ASSOCIATES

By:

Title:

*Michael J. Linn*

Date

*August 24, 1987*

SCOTT BURTON, ARTIST

By:

Date

*Scott Burton*

*August 24, 1987*

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

Exhibit A

Scope of Services

The subject of the Art Work will be the mouth and the end of each pier, which will include seating and related pavement, lighting and railings to be coordinated with overall pier design, including pavement, railings, lighting, materials, color selection, and signage. To achieve this, the Artist will work with the Architect in the preparation of the schematic design alternatives and the development of the selected schematic design. Since the design studies will be prepared by the Architect's and the Artist's offices, this coordinated effort will be achieved through joint work session meetings held at least once a week in either of the offices. The Artist shall also work with the Architect on the preparation of the design guidelines for the esplanade recognizing that the product of this work will be presented in diagrammatic drawings and written specifications; since design development and construction documents will be prepared by others.

within thirty days (30) after the City notifies the Artist of its approval of the Proposal by the Art Commission;

(d) Fifteen Thousand Six Hundred Dollars (\$15,600) (40% of \$39,000) within thirty days (30) after the City notifies the Artist of its approval of the detailed working drawings as required under Section 1.3. The Architect shall be paid \$7,800 or 20% for the preparation of construction documents.

(e) Seven Thousand Eight Hundred Dollars (\$7,800) (20% of \$39,000) for construction supervision within thirty days (30) after final acceptance by the City of all services under this Agreement.

For payments (b), (d) and (e) the Artist shall provide the Architect with an invoice for the phase of work completed.

The Museum of Modern Art Archives, NY	Collection:	Series.Folder:
	Burton	II.144

Exhibit B

Fee Schedule

(a) Three Thousand Nine Hundred Dollars (\$3,900) (10% of \$39,000) at upon the signing of the letter of intent between the Artist and Architect.

(b) Three Thousand Nine Hundred Dollars (\$3,900) (10% of \$39,000) for preparation of a preliminary concept design, this shall coincide with the signing of the contract.

(c) Seven Thousand Eight Hundred Dollars (\$7,800) (20% of \$39,000) within thirty days (30) after the City notifies the Artist of its approval of the Proposal by the Art Commission;

(d) Fifteen Thousand Six Hundred Dollars (\$15,500) (40% of \$39,000) within thirty days (30) after the City notifies the Artist of its approval of the detailed working drawings as required under Section 1.3. The Architect shall be paid \$7,800 or 20% for the preparation of construction documents.

(e) Seven Thousand Eight Hundred Dollars (\$7,800) (20% of \$39,000) for construction supervision within thirty days (30) after final acceptance by the City of all services under this Agreement.

For payments (b), (c), (d) and (e) the Artist shall provide the Architect with an invoice for the phase of work completed.