

RESOLUTION NO. 2016-29

AUTHORIZING MEMORANDA OF UNDERSTANDING WITH L.A.N.D. STUDIO, INC. AND THE ROCK AND ROLL HALL OF FAME AND MUSEUM, INC. FOR THE INSTALLATION OF ROCK BOXES AT THE EAST 9TH STREET HEALTHLINE STATION AND ANOTHER LOCATION TO BE DETERMINED

WHEREAS, L.A.N.D Studio, Inc. and the Rock and Roll Hall of Fame with funding from Destination Cleveland have designed a Rock Box public art concept for installation along East 9th Street in the City of Cleveland; and

WHEREAS, one of the locations of these Rock Boxes will be at the East 9th Street HealthLine Station that is owned by GCRTA and another location to be determined; and

WHEREAS, GCRTA wishes to enter into an agreement with L.A.N.D. Studio, Inc. and the Rock and Roll Hall of Fame and Museum, Inc. for the installation of a Rock Boxes; and

WHEREAS, the term of the agreement is 10 years. GCRTA's Real Estate Policy requires all agreements exceeding 3 years to be approved by the Board of Trustees; and

WHEREAS, the installation, maintenance, and operating cost of the Rock Boxes will be assumed by the Rock and Rock Hall of Fame; and

WHEREAS, the project is scheduled to be completed prior to the Republican National Convention; and

WHEREAS, this Project will create a more welcoming and beautiful perception of the City of Cleveland and the GCRTA system.

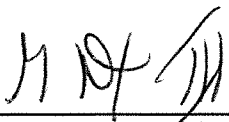
NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Greater Cleveland Regional Transit Authority, Cuyahoga County, Ohio:

Section 1. That the CEO, General Manager/Secretary-Treasurer of the Greater Cleveland Regional Transit Authority be and is hereby authorized to enter into Memoranda of Understanding ("MOU") and any other related documents with L.A.N.D. Studio, Inc. and the Rock and Roll Hall of Fame and Museum, Inc. for the purpose of installing Rock Boxes.

Section 2. No funds will be required from GCRTA.

Section 3. That the resolution shall take effect immediately upon its adoption.

Adopted: April 26, 2016



President

Attested: 

CEO, General Manager/Secretary-Treasurer



Greater Cleveland Regional Transit Authority
STAFF SUMMARY AND COMMENTS

TITLE/DESCRIPTION: CONTRACT: MEMORANDA OF UNDERSTANDING WITH L.A.N.D. STUDIO, INC. AND THE ROCK AND ROLL HALL OF FAME AND MUSEUM, INC. FOR THE INSTALLATION OF ROCK BOXES AT THE EAST 9 TH STREET HEALTHLINE STATION AND ANOTHER LOCATION TO BE DETERMINED VENDOR: L.A.N.D. STUDIO, INC. ROCK & ROLL HALL OF FAME AND MUSEUM, INC. AMOUNT: N/A	Resolution No.: 2016-29
	Date: April 25, 2016
	Initiator: Programming and Planning
ACTION REQUEST: <input checked="" type="checkbox"/> Approval <input type="checkbox"/> Review/Comment <input type="checkbox"/> Information Only <input type="checkbox"/> Other _____	

- 1.0 **PURPOSE/SCOPE:** This action will allow GCRTA to enter into Memoranda of Understanding (“MOU”) with L.A.N.D. Studio, Inc. and the Rock and Roll Hall of Fame and Museum, Inc. (“RRHOF”) to install a “RockBox” public art piece at the East 9th Street HealthLine Station for a period of ten (10) years and another location to be determined.
- 2.0 **DESCRIPTION/JUSTIFICATION:** GCRTA wishes to be part of the Rock Box project initiated by RRHOF and L.A.N.D. Studio, Inc. that will install public art pieces along East 9th Street. The installation will be completed prior to the Republican National Convention. L.A.N.D. Studio, Inc. and RRHOF have secured funding for this project from Destination Cleveland. L.A.N.D. Studio, Inc. will secure all necessary approvals and permits for the installation of the Rock Box. RTA is not contributing any funding for this project, however GCRTA will relocate the Art Guitar presently at the East 9th Street HealthLine Station to the East 6th Street HealthLine Station. The power used for the installation will be paid for by RRHOF using power from Cleveland Public Power. The Rock Box will be installed in the planter bed of the East 9th Street HealthLine Station. The other location is to be determined.
- 3.0 **PROCUREMENT BACKGROUND:** N/A
- 4.0 **DBE/AFFIRMATIVE ACTION BACKGROUND:** N/A
- 5.0 **POLICY IMPACT:** Entering into this agreement supports GCRTA in working with local communities and agencies to provide an improved customer and pedestrian environment in the downtown Cleveland area. It also enhances the GCRTA station areas. The project is consistent with GCRTA’s strategic plan, mission, vision, and values.
- 6.0 **ECONOMIC IMPACT:** No funds are required from GCRTA. The project is being funded by RRHOF and Destination Cleveland.

Staff Summary & Comments

MOU with L.A.N.D. studio, INC. and Rock and Roll Hall of Fame

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- 7.0 ALTERNATIVES: The rejection of the MOU will prevent the installation of a Rock Box at the E. 9th Street HealthLine station and the other location to be determined. These locations are a key part of the series. It would jeopardize the rhythm and pattern of the Rock Box installations.
- 8.0 RECOMMENDATION: It is recommended that the MOU be authorized and the resolution passed.
- 9.0 ATTACHMENTS: Attachment A – Draft MOU

Recommended and certified as appropriate to the availability of funds, legal form and conformance with the Procurement requirements.



CEO, General Manager/Secretary-Treasurer

DRAFT

MEMORANDUM OF UNDERSTANDING (ROCK BOX)

BACKGROUND

The Greater Cleveland Regional Transit Authority (“Owner”), a political subdivision of the State of Ohio, owns the real property located at 903 Euclid Avenue in Cleveland, Ohio, [known as the HealthLine East Ninth Street Station] (the “Property”). The Rock and Roll Hall of Fame and Museum, Inc. (“RRHOF”), Destination Cleveland, and L.A.N.D. Studio, Inc. (“LAND”) have partnered to implement a series of permanent outdoor “Rock Box” art installations (the “Project”) along East Ninth Street in Cleveland, Ohio, designed by Mark Reigelman II (the “Artist”). RRHOF and LAND have identified the Property as a location for one installation of the Project (a “Sculpture”), and Owner has agreed to allow the installation of the Sculpture. LAND joins in the execution of this Agreement to acknowledge its obligations with respect to installation of the Sculpture only.

AGREEMENT

1. Installation. The parties understand that LAND will be responsible for the safe design and installation (including proper electrical grounding) of the Sculpture on the Property, including the hiring of subcontractors for fabrication and installation.
 - a. LAND shall be responsible for securing any necessary permits and approvals from the City of Cleveland, and other governmental or quasi-governmental organizations as appropriate, for installation of the Sculpture (including, without limitation, for the provision of electric service to the Sculpture).
 - b. Owner grants to LAND the right to enter onto the Property from and after the date of this Agreement during normal business hours or at other times with advance approval of Owner, and subject to the terms and conditions of this Agreement, to install the Sculpture pursuant to the plans and specifications set forth on Exhibit A. Owner acknowledges that installation will require blocking off part of the Property for a short period of time. LAND shall perform no other work on the Property without the prior written approval of Owner.
 - c. LAND shall not permit any mechanics’ or materialmen’s liens to be filed against the Property related to the installation, and shall cause the same to be discharged of record by deposit in court or bonding. If LAND learns of any claim or action relating to any entry upon or activity conducted on the Property by LAND or its employees, agents or contractors, LAND shall give prompt written notice of the same to Owner.
 - d. LAND shall maintain adequate insurance (including without limitation, commercial general liability, property, worker’s compensation, automobile and other necessary coverages) to provide coverage for loss or damage arising from the

performance of, or failure to perform, its obligations under this Agreement, and will provide proof of insurance upon request.

e. LAND agrees to indemnify, defend and hold harmless Owner and RRHOF from any and all liability for any injury, damage or claim suffered by any person or property to the extent caused by LAND or its employee or agents related to or arising out of installation of the Sculpture on the Property.

2. Maintenance. After installation, RRHOF shall be responsible for maintenance of the Sculpture.

a. Owner grants to RRHOF the right to enter onto the Property, subject to the terms of this Agreement, to inspect, maintain, repair, exhibit and reinstall the Sculpture during normal business hours or at other times with advance approval of Owner, and subject to the terms of this Agreement. Owner understands and agrees that RRHOF has the right to subcontract the inspection, maintenance and repair of the Sculpture to a third party.

b. The parties intend that the Sculpture will be separately metered for electric service and that RRHOF shall be directly billed for the electric service.

c. RRHOF shall carry adequate insurance (including without limitation, commercial general liability, property, automobile, worker's compensation and other necessary coverage) to provide coverage for loss or damage arising from its performance of, or failure to perform, its maintenance obligations under this Agreement and from its ownership of the Project, and will provide proof of insurance upon request.

d. RRHOF agrees to indemnify, defend and hold harmless Owner and LAND from any and all liability for any injury, damage or claim suffered by any person or property to the extent caused by RRHOF or its employee or agents in performance (or non-performance) under this Agreement.

3. Owner Obligations.

a. Owner will not make any modifications to the Sculpture, or interfere with the appearance or artistic impression of the Sculpture by placing obstructions on or in front of it; erecting structures adjacent to, above or below the Sculpture; or undertaking other measures that would detract from enjoyment of the Project. Owner agrees to promptly notify RRHOF if a problem or concern arises with the condition of the Sculpture. If a major renovation of the Property or emergency occurs as it relates to the location of the Sculpture, the Sculpture may be temporarily removed or repaired as agreed upon by Owner and RRHOF.

b. In the event that Owner finds it necessary or appropriate to clear or otherwise maintain the Sculpture, Owners agrees to use reasonable efforts to avoid making direct contact with the Sculpture surface to lessen chips and scratches to the powder-coated surface (e.g., by using a snow broom or plastic shovel to clear snow).

c. Owner shall at all times during the Term of this Agreement maintain adequate insurance on the Property (including without limitation, commercial general liability, property, worker's compensation and other necessary coverage), and will provide proof of insurance upon request.

d. Owner agrees to indemnify, defend and hold harmless RRHOF and LAND for any injury, damage or claim suffered by any person or property to the extent caused by the negligence or intentional misconduct of Owner or its employees or agents on the Property.

4. Artist's Rights. After installation of the Sculpture, ownership shall be vested in RRHOF, but the Artist has retained copyright and certain other legal rights to the Project in accordance with the Visual Artists Rights Act of 1990 (VARA). The Artist has prohibited any 3-D reproductions of the Sculpture or Project or any reproductions of the Sculpture or Project for commercial purposes. In addition, the Artist requires to be acknowledged as the creator in any two-dimensional reproduction of the Sculpture (using "RockBox © 2016 Mark Reigelman II"). LAND and Owner each acknowledge and agree to abide by the foregoing provision.

5. Term of Agreement. The initial term of this Agreement shall be for a period of 10 years from the effective date ("Initial Term"). Unless terminated as provided in Section 6 below, this Agreement shall automatically renew thereafter, and shall remain in full force and effect unless and until terminated.

6. Termination.

a. At the expiration of the Initial Term, this Agreement may be terminated by RRHOF or Owner upon at least 90 days' prior written notice to the other. The party initiating the termination shall be responsible for the cost of removal (and reinstallation at a location determined by RRHOF, if applicable) of the Sculpture, which removal (and reinstallation, if applicable) shall occur within 30 days after the termination of this Agreement.

b. During the Initial Term or at any time thereafter, this Agreement may be terminated by Owner with RRHOF's consent upon Owner showing any of the following: (i) that the Property is to be sold and the buyer requires removal of the Sculpture as a condition of the purchase and sale; (ii) that the Property is to be refinanced and the lender requires removal of the Sculpture as a condition of the refinancing; (iii) that the Property is to be substantially remodeled or altered in a way that precludes continued maintenance of the Sculpture; or (iv) that circumstances have materially changed and the continued existence of the Sculpture or maintenance of the Sculpture substantially impedes Owner's reasonable use and enjoyment of the Property. RRHOF shall not unreasonably withhold consent to the termination upon Owner's satisfactory demonstration of any of the foregoing conditions of termination, provided that, as a condition precedent to RRHOF's consent, Owner shall agree to be responsible for the costs of removing and reinstalling the Sculpture at a location determined by RRHOF.

c. Notwithstanding anything to the contrary contained in this Section 6, Owner understands that the Artist retains certain rights regarding the removal and relocation of the Sculpture, and agrees that RRHOF may require an extension of time to coordinate any removal and/or relocation with the Artist.

7. Remedies. The parties acknowledge that any breach of this Agreement may result in substantial harm to the other parties and to the public interest, which harm is likely to be difficult or impossible to prove as actual damages in an action hereunder. Therefore, the parties agree that the prevailing party in an action for a breach of this Agreement shall be entitled to specific performance of the terms of this Agreement (including injunctive relief for violation of the provisions of Section 4), reasonable attorney's fees, and any other remedies available at law or in equity. The rights under this Agreement are cumulative. The failure to exercise on any occasion any right will not operate to forfeit the right on another occasion, and the use of one remedy does not exclude or waive the right to use another. The indemnification obligations and Section 4 restrictions shall survive the termination of this Agreement.

8. Invalidity of Particular Provisions. Should any term, provision, condition or other portion of this Agreement or the application thereof be held to be inoperative, invalid, or unenforceable, the remainder of this Agreement or the application to the term or provision to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby and will continue in full force and effect.

9. Amendments. RRHOF and Owner expressly reserve the right to amend this Agreement, from time to time, by mutual agreement, provided that no amendment may revise or increase LAND's obligations regarding the Project without LAND's express written consent. No amendment or termination of this Agreement shall be effective unless in writing and signed by authorized representatives of Owner and RRHOF, respectively.

10. Contractual Relationships. This Agreement does not appoint any party as the agent or legal representative of the others for any purpose whatsoever. The parties are not granted any express or implied authority to assume or create any obligation or responsibility on behalf of the others or to bind the others in any manner whatsoever. Except as expressly provided otherwise, the parties shall not assign this Agreement or the rights or obligations hereunder without the prior written consent of the others.

11. Authority. Each person signing this Agreement represents his or her authority to sign on behalf of his or her respective party, and that the execution, delivery and performance of this Agreement have been duly authorized and that this Agreement is binding upon such party and enforceable in accordance with its terms. Owner represents and warrants that it is the owner of the Property and has the authority to enter into this Agreement. In the event of any change in ownership of the Property and this Agreement is not terminated pursuant to Section 6 above, Owner shall assign this Agreement to the new owner and promptly notify RRHOF of the new ownership.

EFFECTIVE as of the last date of signature below:

RRHOF: The Rock and Roll Hall of Fame and Museum, Inc., an Ohio nonprofit corporation

By: _____
Todd Mesek
VP of Marketing & Communications

Date: _____

GCRTA: Greater Cleveland Regional Transit Authority, a political subdivision of the State of Ohio

By: _____
Joseph A. Calabrese
CEO, General Manager/Secretary-Treasurer

Date: _____

APPROVED TO AS LEGAL FORM:

By: _____
Sheryl King Benford, General Counsel
Deputy General Manager for Legal Affairs
Greater Cleveland Regional Transit Authority

LAND joins in the execution of this Agreement to acknowledge its obligations as set forth above.

L.A.N.D. Studio, Inc., an Ohio nonprofit corporation

By: _____
Ann Zoller
Executive Director

Date: _____

EXHIBIT A

Design and Installation Plans

[To be attached—include location and installation details]

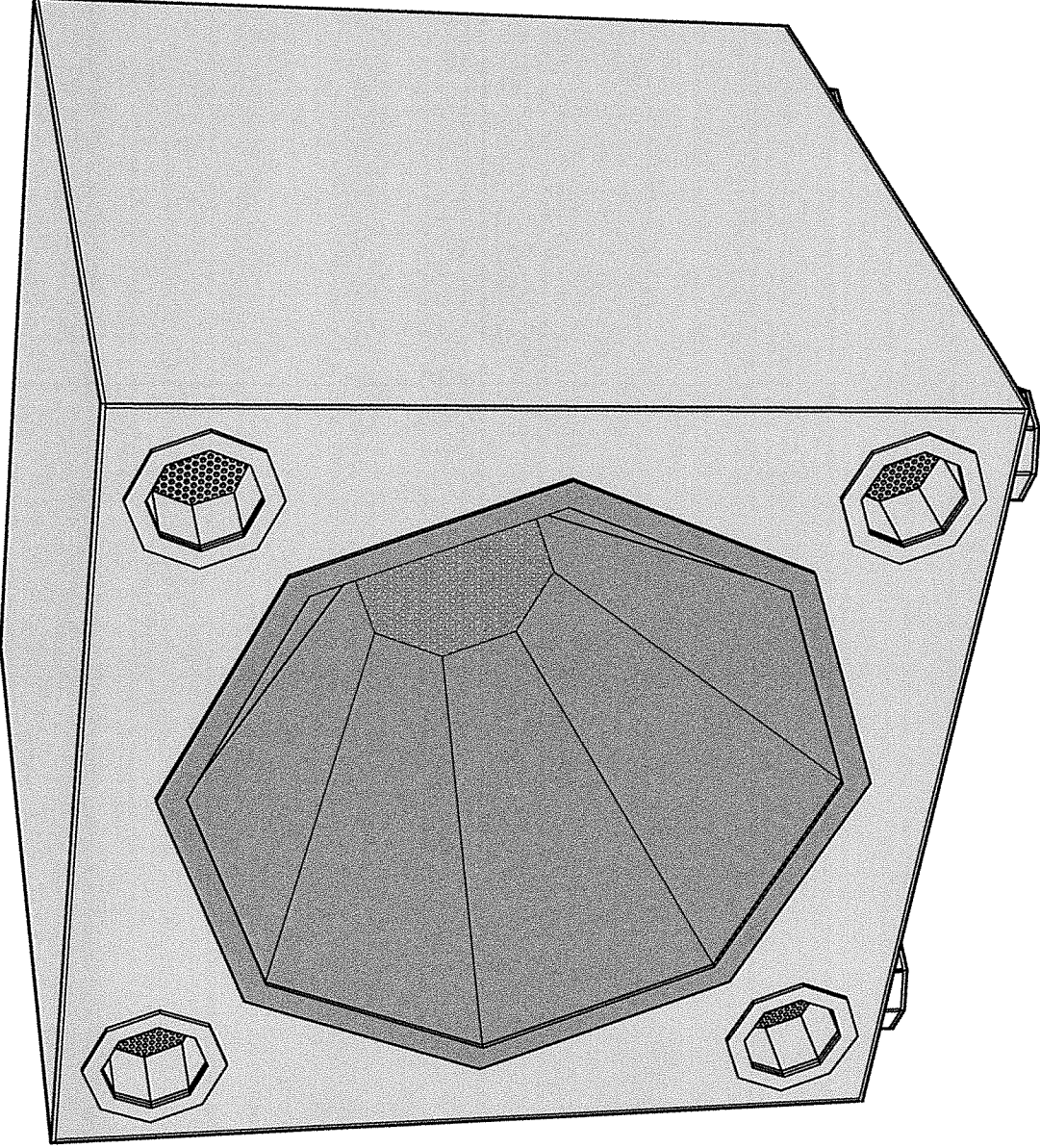
EXHIBIT A

Design and Installation Plans

[To be attached—include location and installation details]

ROCK BOX

ROCK BOX TECHNICAL DETAILS BY **MARK A REIGELMAN** IN COLLABORATION WITH **LAND STUDIO**
FOR THE **ROCK AND ROLL HALL OF FAME AND MUSEUM**

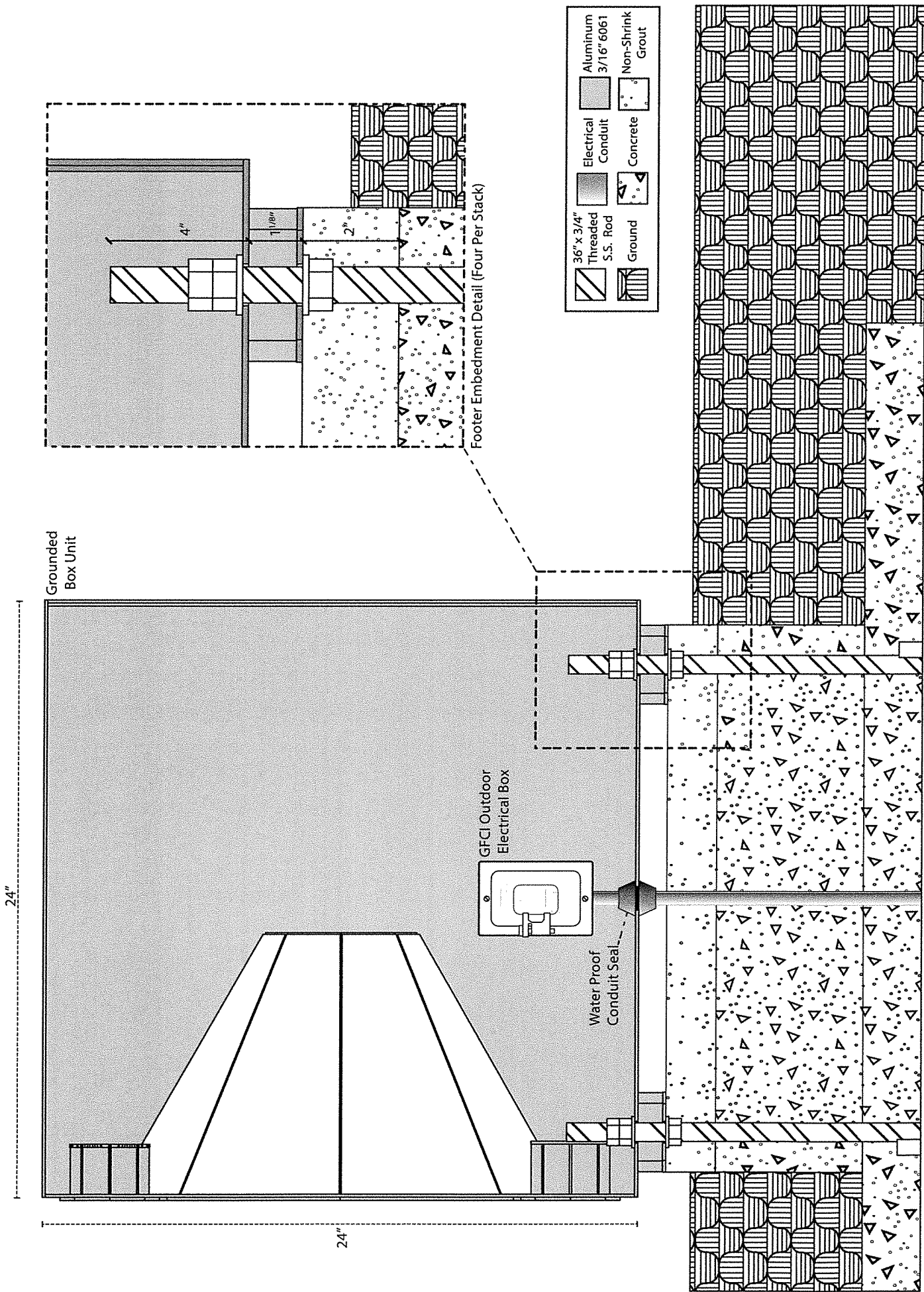


ROCK BOX: Single Rock Box Unit

MARK REIGELMAN.

ROCK BOX: Footer Connection Details

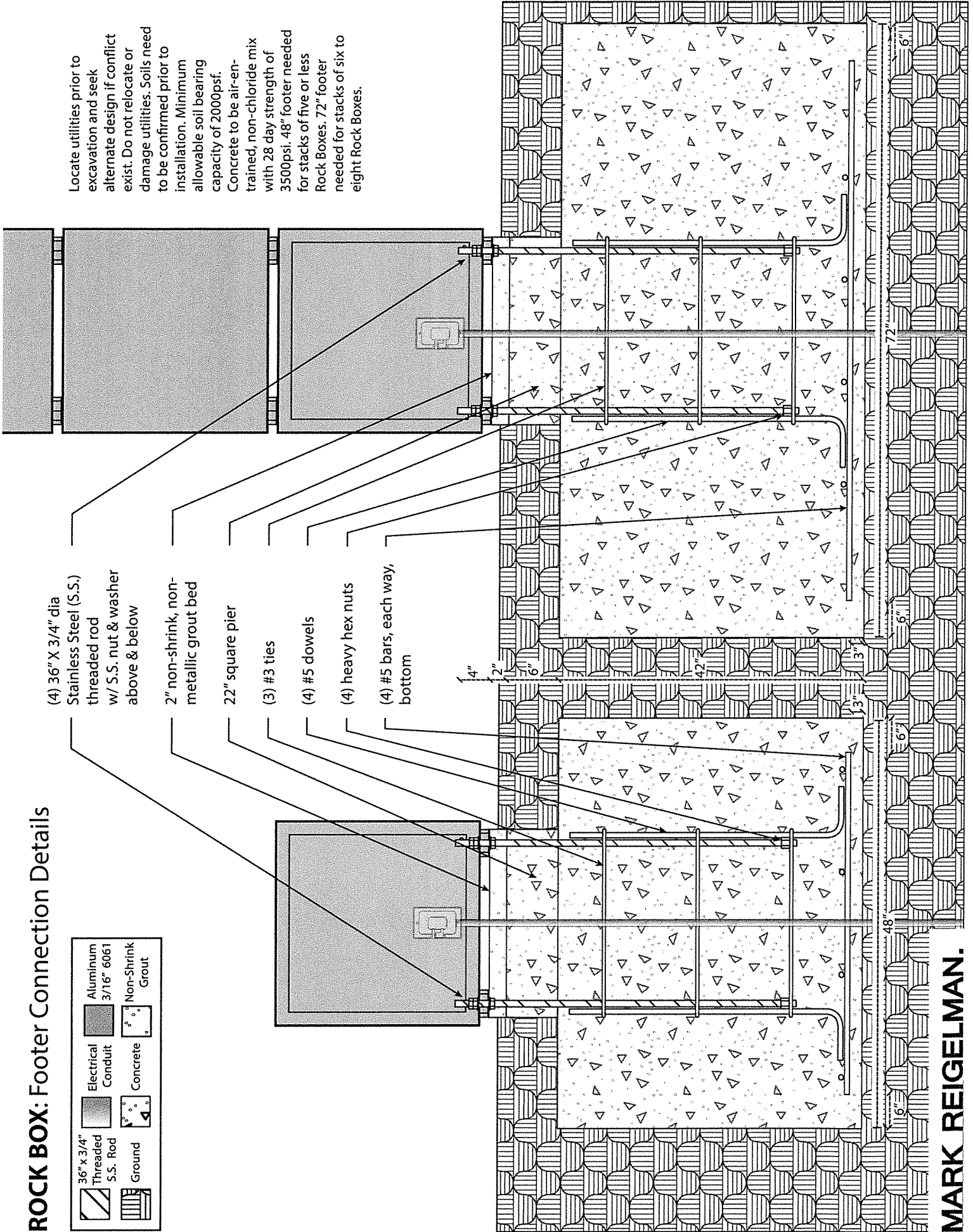
MARK REIGELMAN.





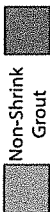





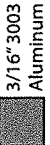
ROCK BOX: Footer Connection Details

- (4) 36" X 3/4" dia Stainless Steel (S.S.) threaded rod w/ S.S. nut & washer above & below
- 2" non-shrink, non-metallic grout bed
- 22" square pier
- (3) #3 ties
- (4) #5 dowels
- (4) heavy hex nuts
- (4) #5 bars, each way, bottom

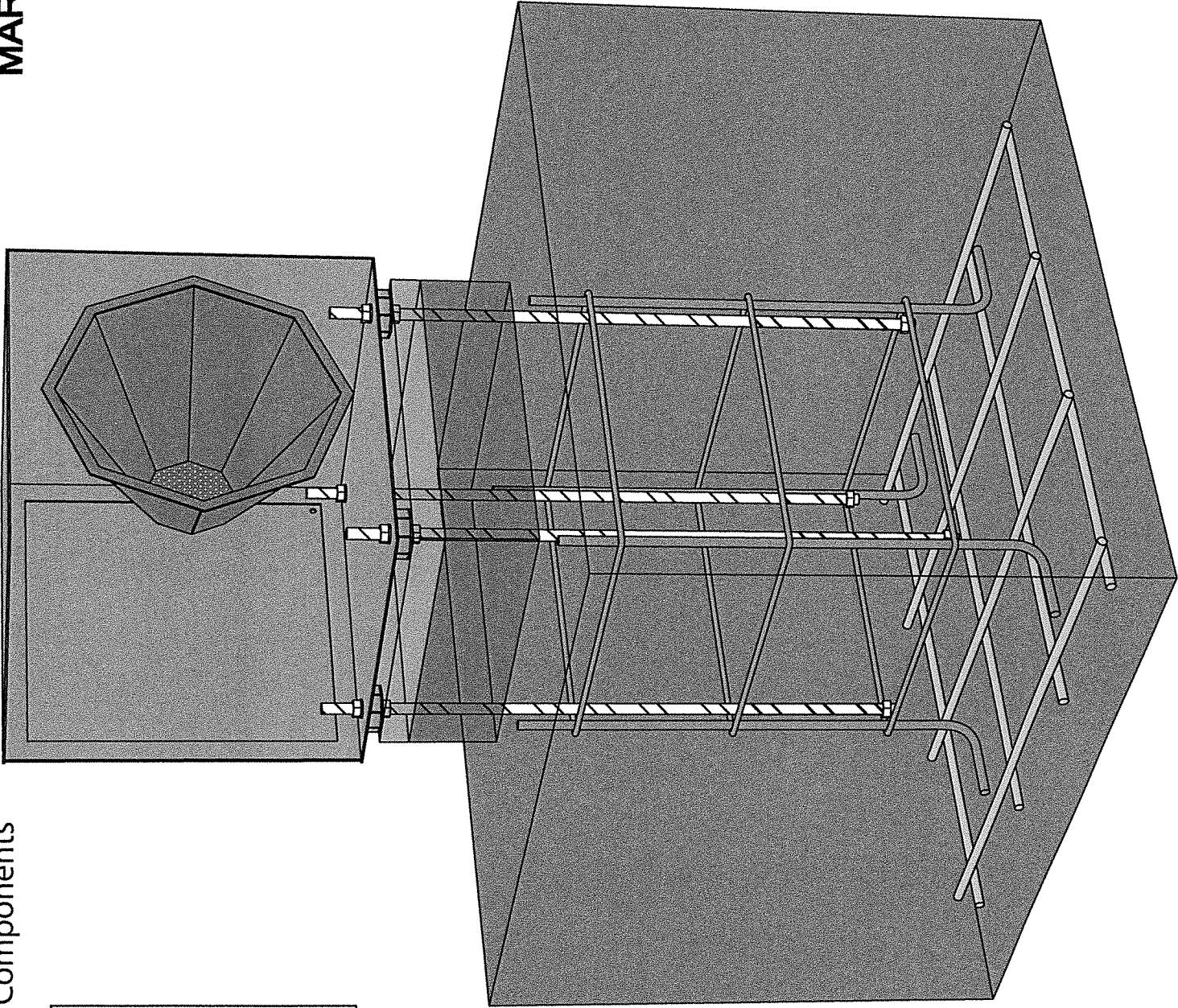
Locate utilities prior to excavation and seek alternate design if conflict exist. Do not relocate or damage utilities. Soils need to be confirmed prior to installation. Minimum allowable soil bearing capacity of 2000psf. Concrete to be air-entrained, non-chloride mix with 28 day strength of 3500psi. 48" footer for stacks of five or less Rock Boxes. 72" footer needed for stacks of six to eight Rock Boxes.

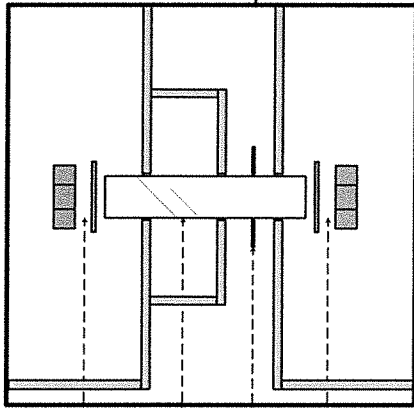


ROCK BOX: Footer Components

	
Aluminum	Threaded S.S. Rod
	
Non-Shrink Grout	Concrete Pier
	
Concrete Footer	#3 Ties
	
#5 Dowels	#5 Bars
	
Aluminum	

MARK REIGELMAN.





Top Stainless Steel Washer/Nut Assembly

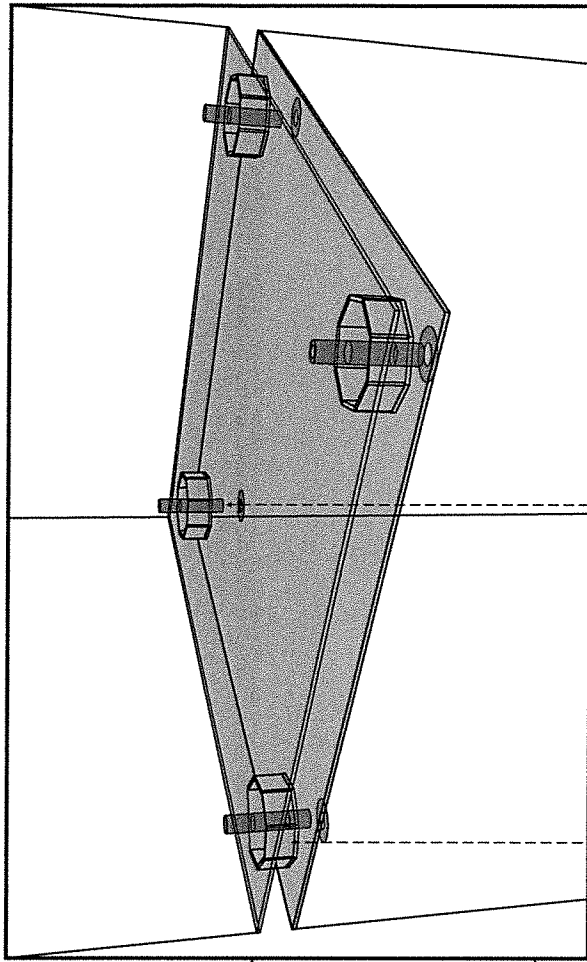
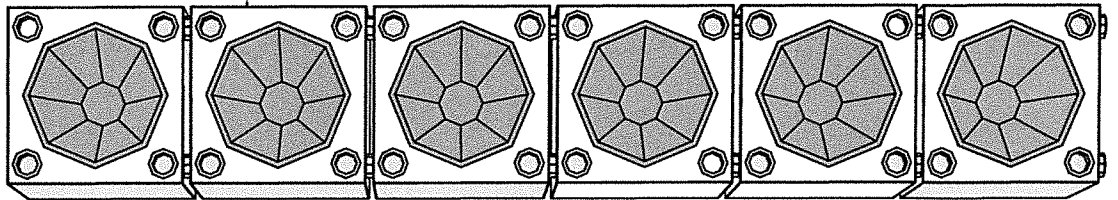
3" x 5/8" SS Threaded Rod

Rubber Ring

Bottom Stainless Steel Washer/Nut Assembly

Box Connection Detail

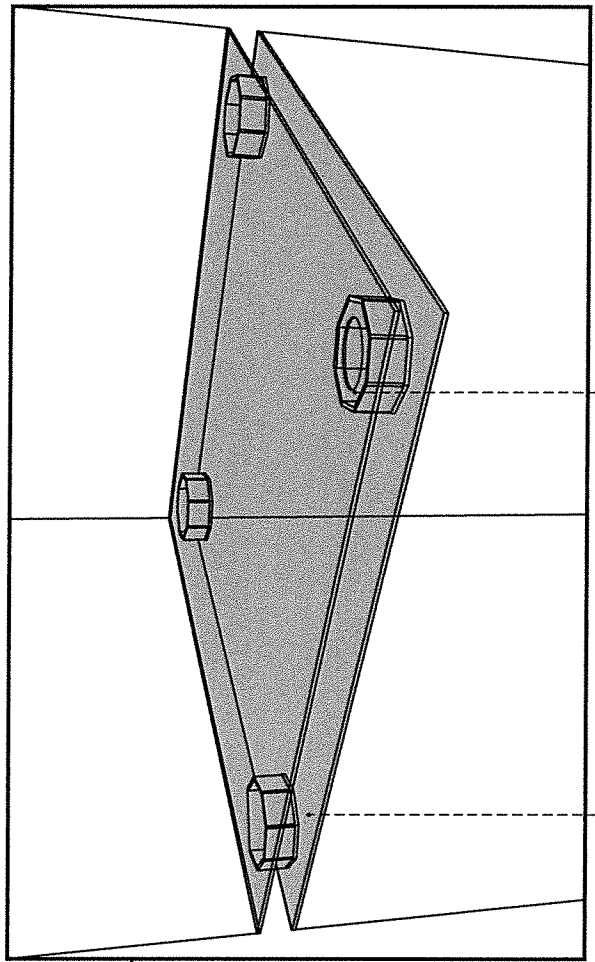
The bottom three boxes of each stack a fully welded together to create one single unit. Each additional box will be connected with a SS threaded rod, washer and nut assembly.



Rubber Ring

Feet Connected with 3" x 5/8" Stainless Steel Threaded Rod Assembly (x4)

Box Connection Overview
Boxes 4-8



Fully welded connection between feet (x4) and boxes

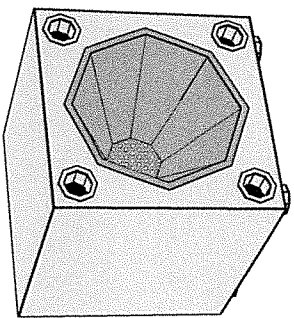
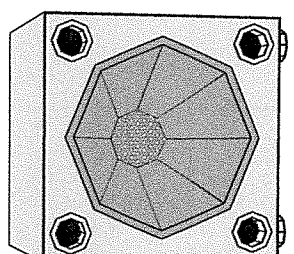
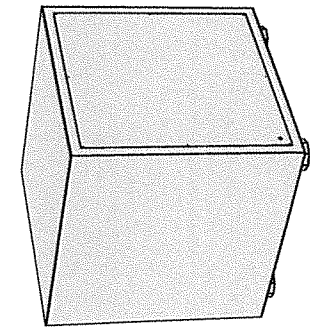
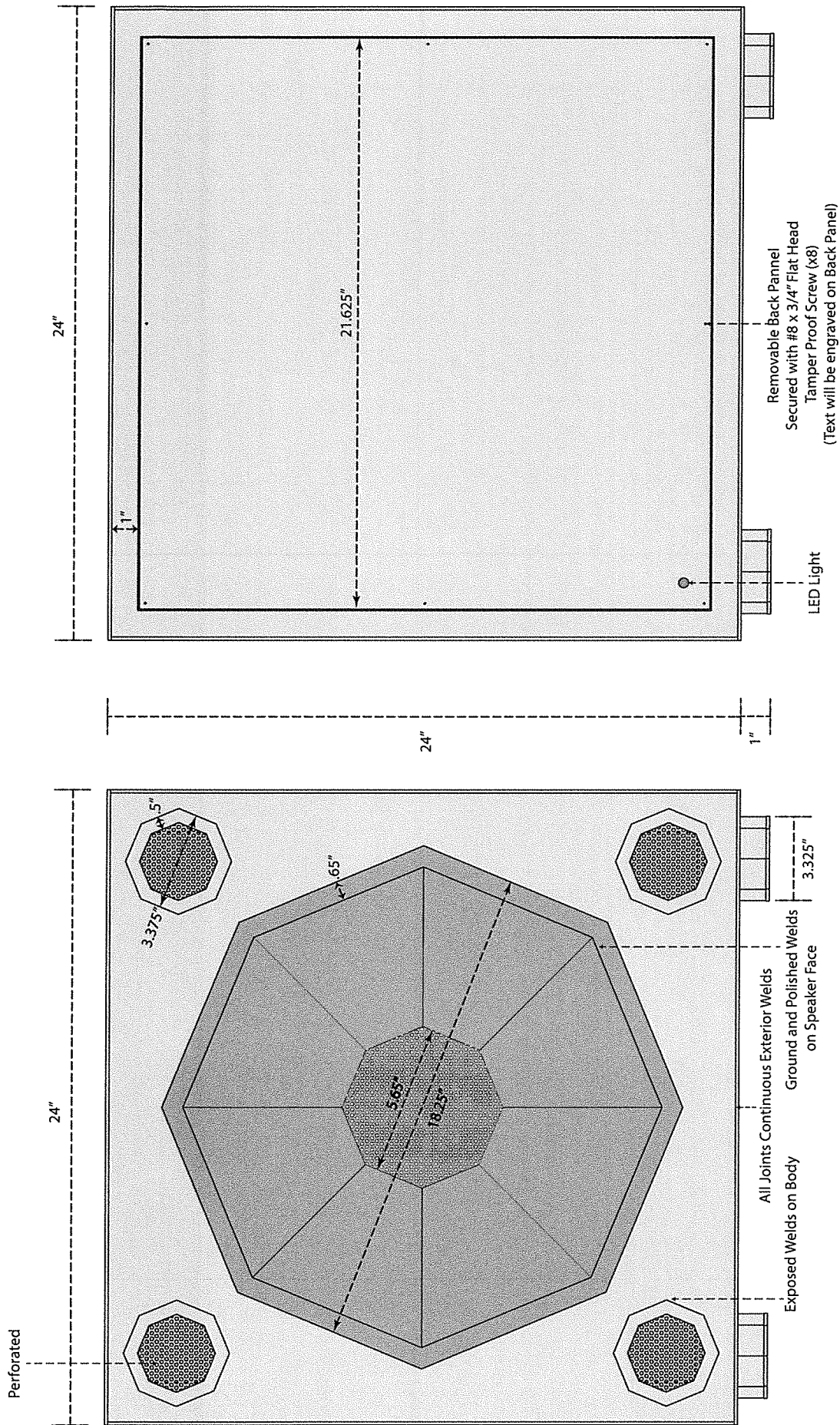
Hole for electrical components between boxes are inside welded metal feet

Box Connection Overview
Boxes 1-3



ROCK BOX: ELEVATIONS

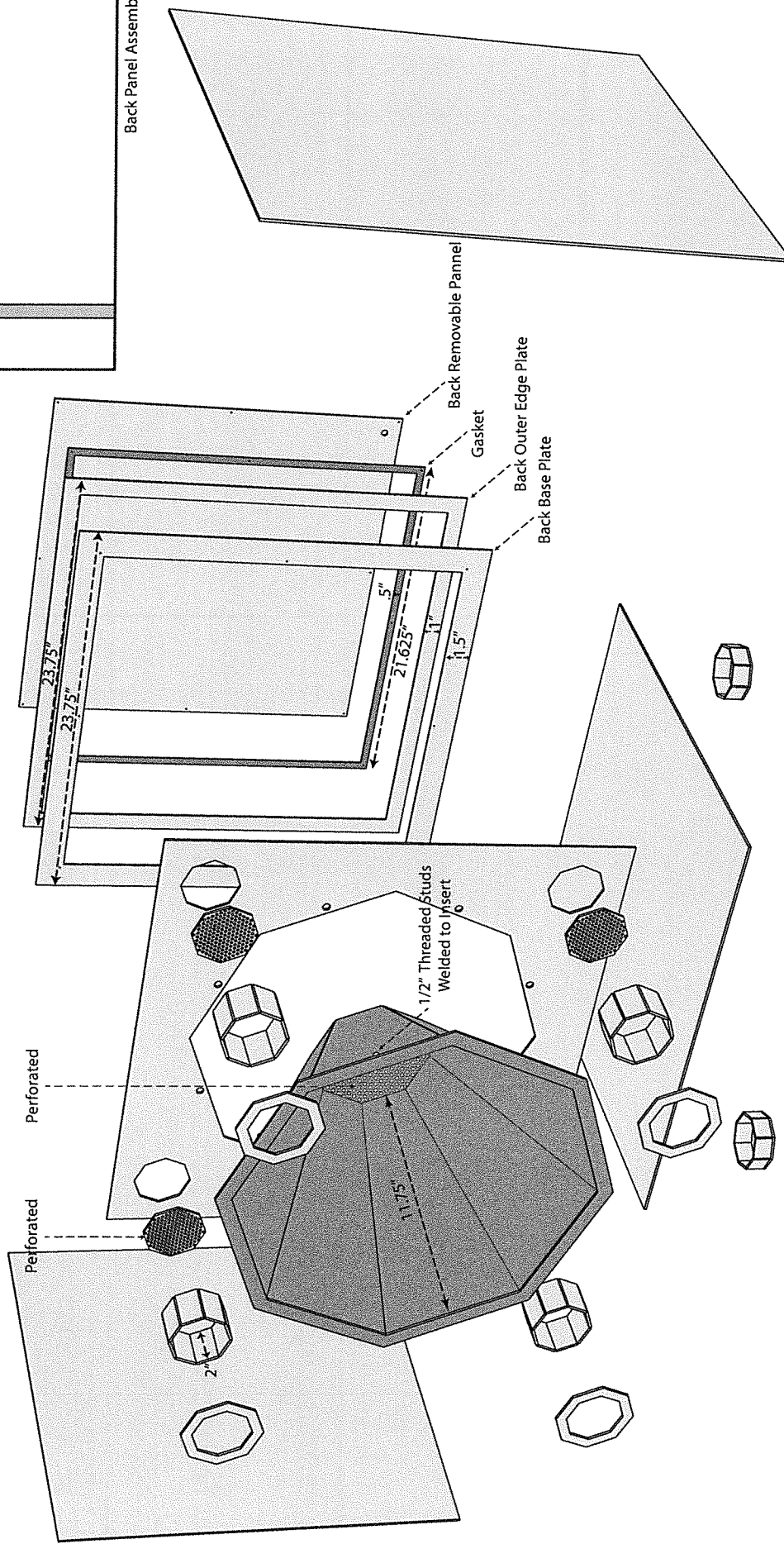
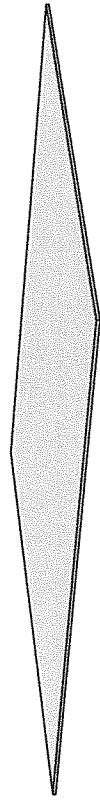
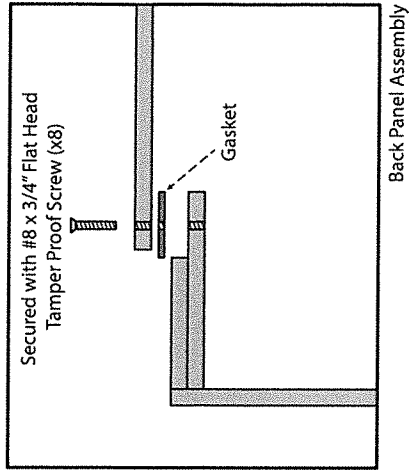
MARK REIGELMAN.



	3/16" 6061 Aluminum Matte Powder Coat
	3/16" 3003 Aluminum Gloss Powder Coat

ROCK BOX: EXPLODED ASSEMBLY

MARK REIGELMAN.

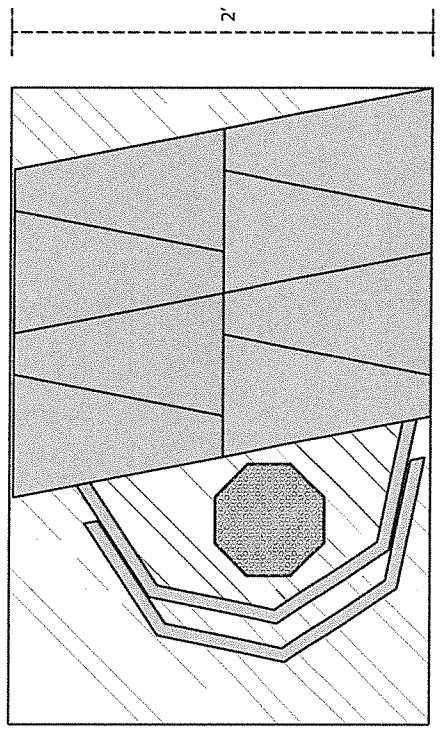
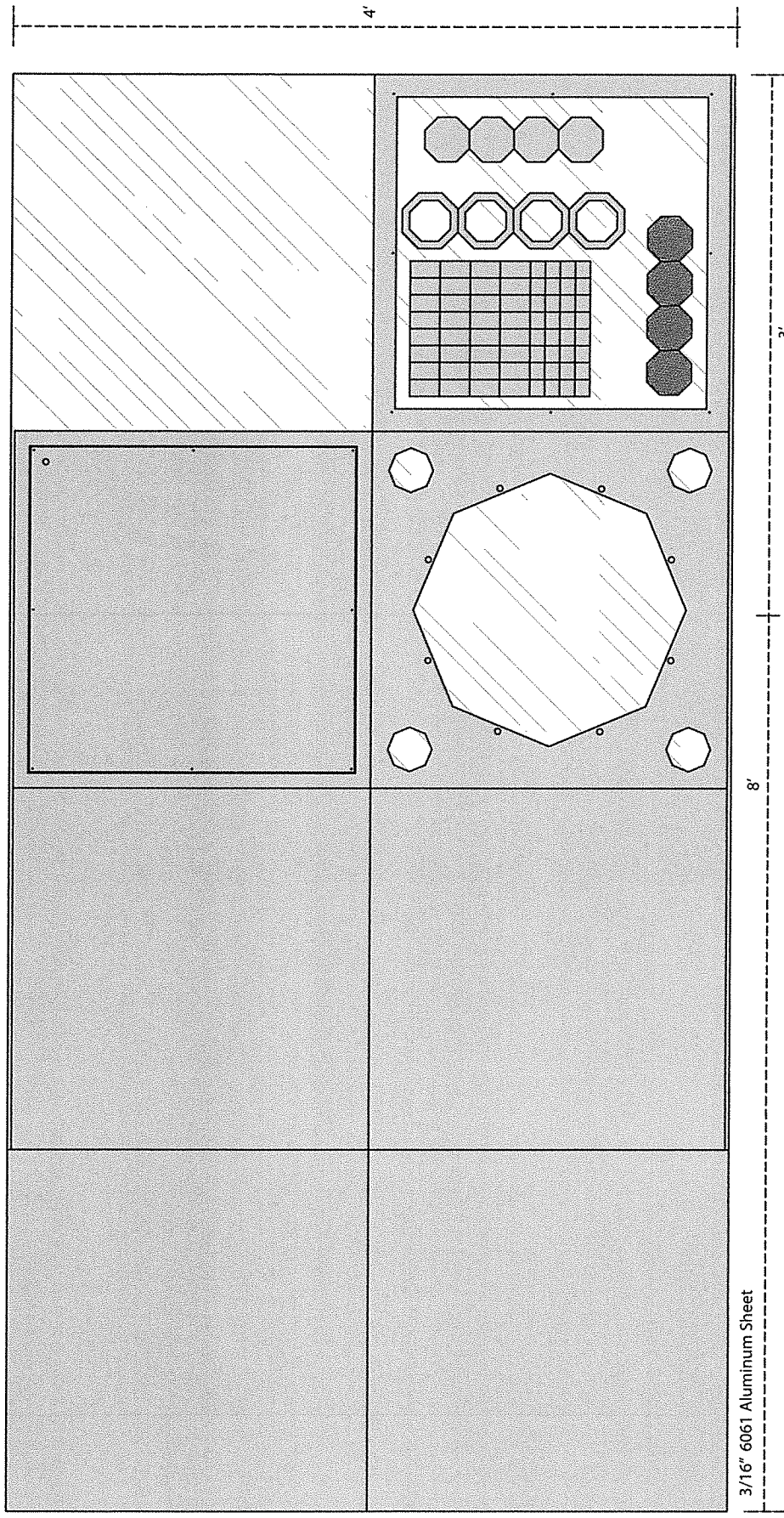


	3/16" 606t1 Aluminum
	Matte Powder Coat
	3/16" 3003 Aluminum
	Gloss Powder Coat

Note: Aluminum Box Structure will be fully welded with continuous exterior welds

ROCK BOX: Prototype Patterns

MARK REIGELMAN.



Unused Material

3/16" 3003 Aluminum Sheet

ROCK AND ROLL

MARK A REIGELMAN IN COLLABORATION WITH LAND STUDIO