

CITY OF OAKLAND
AGENDA REPORT

OFFICE OF THE CITY CLERK
20061114-1 PM 4:12

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Cultural Arts & Marketing Division
DATE: November 14, 2006

RE: **Resolution Authorizing the City Administrator to Negotiate and Execute a Professional Services Agreement with Mark Brest van Kempen for Public Art Design, Fabrication and Installation Services for the Rockridge-Temescal Greenbelt in an Amount Not to Exceed Seventy-Five Thousand Dollars (\$75,000)**

SUMMARY

This is a resolution authorizing the City Administrator to negotiate and execute a professional services agreement with artist Mark Brest van Kempen to create a public art project for the Rockridge-Temescal Greenbelt. The proposed artwork will enhance the Greenbelt and park areas by providing interpretive signage for the Oakland watershed, artistic enhancements and notable enriched access to these art elements for pre-literate children, wheelchair users and the visually impaired. The maximum contract amount is not to exceed \$75,000.

In response to a Request for Qualifications (RFQ), the City received 17 applications for this public art project opportunity. On May 12, 2005, three finalists were selected to develop proposals. On July 22, 2005 the three finalists presented proposals to and were interviewed by an eight-member panel convened by the City. Oakland-based artist Mark Brest van Kempen was selected as most qualified to complete this project and asked to refine his design proposal prior to entering into a fabrication contract with the City.

FISCAL IMPACT

This professional services agreement will not exceed \$75,000 for development of the artistic concept, fabrication, and installation of the completed art project. Public art projects are funded from the City of Oakland's percent for art ordinance (Ordinance Number 11086 C.M.S.). The Rockridge-Temescal Greenbelt Project funding was approved by the City Council in the Public Art Annual Plan for 2004. The initial public art budget was \$6,750. Funding for the current total Rockridge-Temescal Greenbelt artwork project of \$75,000 is available through a combination of City of Oakland percent for art funds, Measure DD funds for creek interpretive materials, ADA funds for enhanced project physical and programmatic access, and community contributions, from the following funds: \$40,000 within the Measure DD Fund (5320), CP Environmental Services Organization (92280), Creek Restoration Project (C244810); \$8,700 within the Municipal Improvement Capital Fund (5500), Public Art Organization (62511), FROG Park-Public Art (B00910); \$6,300 within the Municipal Improvement Capital Fund (5505), Public Art Organization (62511), Public Art Project (A158630); and \$20,000 within the Capital Reserves Fund (5310), Public Art Organization (62511), ADA Accommodations Project (C274310).

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Future maintenance costs will be minimal. Any extraordinary maintenance requirements that may arise will be managed by the Public Art Program from its art maintenance fund account.

BACKGROUND

In November 2002 the voters of Oakland passed Measure DD, the Oakland Trust for Clean Water & Safe Parks. This \$198.25 million dollar bond is funding a comprehensive ten-year plan to clean up and restore Lake Merritt, the Oakland Estuary Waterfront, and Oakland's creeks system by improving land/water quality and expanding recreational facilities and opportunities for Oakland citizens. The bond will generate approximately \$2.8 million for public art projects pertaining to Measure DD.

The Rockridge-Temescal Greenbelt follows Temescal Creek from Hudson Street at Hardy Park to the playground at Redondo Park, meandering through quiet greenways and busy residential streets between the north Oakland neighborhoods of Rockridge and Temescal. Following the path of the creek, now cultivated, a seasonal water feature winds through the park alongside a pedestrian pathway. The Greenbelt provides much-needed green space and recreational play areas for the Rockridge and Temescal neighborhoods. Phase I development of the Greenbelt (designed by Berkeley firm MIG) included the construction of two community-built playgrounds as well as landscaping and creek improvements around the Redondo tot lot and along the Clifton Corridor (from Hardy Park to Clifton Street). Phase I was completed in early 2002.

Phase II, completed in 2006, includes a new landscaped pathway along the DMV corridor (from Clifton Street to Cavour Street) and improvements to Hardy Park, including upgraded basketball courts, new swings and other accessible play elements, an improved path and pond, and a seating plaza across from the Hardy Park play structure. Friends of Oakland Parks and Recreation (FOPR) has assisted with project management of both phases.

For the Rockridge-Temescal Greenbelt, the Public Art Program released an RFQ seeking a public artist or artist team to design art elements to be incorporated into Phase II development of the Rockridge-Temescal Greenbelt in north Oakland. The goal of the artwork project is to help orient park users to the entire Greenbelt path by designing and placing identification markers and sculptures which highlight various park features, locations, connections and entrances.

The voting members of the selection panel, all Oakland residents, were arts professionals Steve Gillman, Hiroko Kurihara and Carroll Moore, and community representatives Jennifer Cooper, Carol McClellan and Theresa Nelson. Chairing the meeting (a non-voting function) was Public Art Advisory Committee (PAAC) member Claire Isaacs Wahrhaftig. Non-voting advisors to the panel were Bruce Douglas, representative of Friends of Temescal Creek, and Markley Bavinger, Watershed Program Specialist, Oakland Environmental Services Division. The selection panels were facilitated by Public Art staff.

KEY ISSUES AND IMPACTS

Three proposals were delivered by the deadline and were displayed for public viewing and comment at the Rockridge Library from June 21 to July 8, 2005 and in the Dalziel Building at 250 Frank H. Ogawa Plaza from July 8 to July 21, 2005. Community and city staff comments

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were considered by the selection panel at its meeting of July 22, 2005, during which the three finalists were interviewed and their proposals reviewed. The panel recommended finalist Mark Brest van Kempen (Oakland) to create a public art work for the Rockridge-Temescal Greenbelt.

On August 8, 2005, PAAC approved the panel's recommendation, with directions to the artist for design refinement. The recommendation was approved by the Cultural Affairs Commission on August 22, 2005. On May 1, 2006, the artist presented his refined designs to PAAC for design review. PAAC endorsed the design refinements and the artist was instructed to work with City staff on further refinements to meet ADA requirements.

Materials used for all artwork features of the Rockridge-Temescal Greenbelt public art project will be durable, resistant to vandalism, and appropriate for heavy public use. Any extraordinary maintenance requirements that may arise will be managed by the Public Art Program from its art maintenance fund account.

PROJECT DESCRIPTION

Mark Brest van Kempen's "Views of the Greenbelt" Rockridge-Temescal Greenbelt public art project will use a combination of sculptural viewing devices, strategically placed sculptures of native flora and fauna, and interpretive signage to focus viewers' attention on the history and ecology of the Rockridge-Temescal Greenbelt and Temescal Creek. This series of viewing devices will be designed to visually and conceptually unify the different sections of the Greenbelt. These "views" of the Greenbelt will consist of a tactile informational podium, a periscope and a series of sculptures fitted with spotting scopes and sighting tubes that are scattered throughout the Greenbelt. The viewing devices will be permanently trained on several artificial animals and artifacts that have special relationships to the site. A universally-designed fully accessible sculptural podium will include accessible signage and sculpted tactile elements to replicate the art project elements inaccessible to pre-literate children as well as those individuals who are visually impaired, or who find certain elements of the project difficult to access physically (see Schedule A: Scope of Services).

SUSTAINABLE OPPORTUNITIES

Economic: Mark Brest van Kempen is an Oakland native who will perform all design work and most fabrication in his Oakland studio. Note also that public artwork integrated into this Temescal district community open space and parks will enhance and enrich the visual environment and public use of the space, thereby strengthening the economic value of the community.

Environmental: The artwork will be designed to be compatible with and integrated into the greenbelt landscape and pathways, including an interpretive component to provide information to park users regarding the Oakland watershed and Temescal Creek, as mandated by the Measure DD funding supporting the project. The artwork will have no adverse impact on the existing and new greenbelt improvements. Risk of vandalism to the work is very limited, as the artist will be required to fabricate all the elements out of materials suitable for exterior environments, without surfaces, edges or protrusions subject to vandalism.

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Social Equity: The public artwork described in this report will enhance the educational, recreational and aesthetic aspects of the Rockridge-Temescal Greenbelt, adding to the quality of life for residents of and visitors to Oakland, particularly Rockridge and Temescal residents. The interpretive creek-specific design will enhance community appreciation for the Oakland watershed and bolster community pride in these City parks and green space.

DISABILITY AND SENIOR CITIZEN ACCESS

The public art elements of this project will be accessible and visible to viewers from many vantage points. The artwork will not only be ADA compliant, but will be a model Oakland public art project providing increased accessibility based on universal design standards, as the work will include a comprehensive interpretive podium with tactile map, signage and sculptures in addition to the sculptural elements installed along the greenbelt.

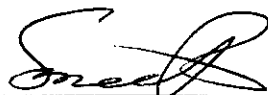
RECOMMENDATION

The Cultural Affairs Commission recommends that City Council authorize the City Administrator to negotiate and execute a professional services agreement with Mark Brest van Kempen for public art design, fabrication and installation services for the Rockridge-Temescal Greenbelt, in an amount not to exceed seventy five thousand dollars (\$75,000).

ACTION REQUESTED OF THE CITY COUNCIL

That Council approves the resolution authorizing the City Administrator to negotiate and execute a professional services agreement with Mark Brest van Kempen for public art design, fabrication and installation services for the Rockridge-Temescal Greenbelt, in an amount not to exceed seventy five thousand dollars (\$75,000).

Respectfully submitted,



Samee Lynn Roberts, Manager
Cultural Arts & Marketing Division
Office of the City Administrator

Report prepared by: Steven Huss, Acting Cultural Arts Programs Coordinator

APPROVED AND FORWARDED TO THE
LIFE ENRICHMENT COMMITTEE:



OFFICE OF THE CITY ADMINISTRATOR

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SCOPE OF WORK/OUTLINE OF SERVICES TO BE PERFORMED

I. PROJECT DESCRIPTION, LOCATION OF ARTWORK & TASKS

Description:

Contractor shall finalize artwork design concepts for the Rockridge-Temescal Greenbelt Public Art Project. Contractor shall also fabricate and install specified unique public art elements as are approved by the Public Art Project Manager. Final artwork designs will be reviewed by City staff, the Public Art Advisory Committee, and other project stakeholders before approval is made in writing by the Public Art Project Manager.

Location:

The Artwork will be located within the project area along the Rockridge-Temescal Greenbelt, located between the Hardy Park and Redondo Park, adjacent to Claremont Avenue from Hudson Street to Clark Street, in Oakland.

Task 1: Off-Site Elements –Contractor shall:

- Meet on an as-needed basis with the community representatives and City staff to finalize integrative artwork designs and budget for the project.
- Develop scale drawings of proposed artwork and obtain engineering review, if required.
- Meet with community groups and project stakeholders as directed by Public Art Project Manager.
- Purchase materials for all proposed artwork components.
- Fabricate or cause to be fabricated all artwork elements not integrated in the general contractor's scope of work.
- Prepare all materials with protective and anti-graffiti coatings as needed.

Task 2: On-Site Elements –Contractor shall:

- Coordinate final artwork delivery and installation schedule with Public Art and Public Works Agency staff prior to transportation.
- Transport artwork elements to site.
- Prepare the site for installation.
- Oversee installation of all artwork elements.
- Inspect artworks for any damage occurring during transport and installation and repair or touch up as needed.
- Document all artworks as specified below.

Task 3: Supplemental Materials

To be delivered to Public Art Project Manager Prior to Final Payment:

- A manual for the City's public art collection management program which includes materials specifications and describes routine maintenance needs, recommendations for care of the artwork elements, and other considerations for upkeep of the project.
- A series of high-resolution digital photographic images of the completed public art project in situ, including a minimum of two different images per specific element and two views of the overall project.
- A brief (one to two pages) narrative description of the public art project, including the Contractor's themes and concepts and other information that will enhance public enjoyment and understanding of the project and the artist's work, and for possible incorporation into explanatory signage to be installed at the site.

II. SCHEDULE OF PERFORMANCE

Contractor shall perform work according to the following schedule. Contractor shall not commence Contractor's Services until this Agreement is fully executed and City issues a notice to commence work.

	<i>Date</i>
Final Design Development Meetings:	January 1 – February 15, 2007
Fabrication of Off-Site Elements:	February 22 – May 15, 2007
Completion of Installation:	June 15, 2007
Final Contract Completion:	June 30, 2007

The parties agree that the schedule of performance set forth above may, by mutual agreement, be modified in writing without the necessity of a formal amendment to this Agreement.

The schedule for payment will occur in accordance with the milestones set forth below. In the event that City accepts the Artwork, one or more payments set forth in **the Schedule of Payment** may occur following the completion date for the Artwork as set forth above or as may be modified in writing by the parties.

III. COMPENSATION

1. Fee. Contractor's fee for design, fabrication and installation of Artwork, including all expenses relating thereto, shall not exceed the sum of seventy-five thousand dollars (**\$75,000**). This fee includes but is not limited to the following costs: Labor of assistants; materials, communication and other indirect costs; travel expenses of the Contractor for site visits and supervision of work; and fabrication, installation, and transportation costs.
2. Interim Payments. City agrees to pay Contractor in installments as set forth in the schedule below and in accordance with the terms of Section 23 of this Agreement.

3. Payment Schedule.

First payment, upon execution of this Agreement, for continuing design development (10%):	\$7,500
2 nd payment, at commencement of fabrication phase, upon evidence of purchase or commitment to purchase materials (50%):	\$37,500
3 rd payment, at completion of fabrication phase, following progress review and approval by Public Art Project Manager (30%):	\$22,500
4 th payment, upon City's issuance of the Notice of Acceptance, plus thirty (30) days (10%):	\$7,500

4. Reimbursables. City will not make any additional payment for Contractor's expenses.
5. Notwithstanding the foregoing, Contractor expressly acknowledges that approval of work to permit an interim payment is solely for the benefit of Contractor. Unless and until the City issues a Notice of Acceptance for the Artwork, no interim approval shall constitute acceptance or approval of the Artwork by City nor shall it be construed as a waiver of City's right to require that the Artwork conform strictly to the Final Proposal and to the Plans.
6. Pursuant to California Revenue and Taxation Code Section 6365, the Artwork is exempt from sales taxes imposed under the California Revenue and Taxation Code.

OFFICE OF THE CITY CLERK
OAKLAND

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Approved as to Form and Legality

Oakland City Attorney's Office

OAKLAND CITY COUNCIL

Resolution No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH MARK BREST VAN KEMPEN FOR PUBLIC ART DESIGN, FABRICATION AND INSTALLATION SERVICES FOR THE ROCKRIDGE-TEMESCAL GREENBELT IN AN AMOUNT NOT TO EXCEED SEVENTY-FIVE THOUSAND DOLLARS (\$75,000).

WHEREAS, the City of Oakland Rockridge-Temescal Greenbelt Phase II project improved public access and replaced approximately 350 linear feet of landscaping along Temescal Creek in the Temescal District; and

WHEREAS, professional artistic design services are needed to develop a public art component for the project; and

WHEREAS, an extensive outreach effort to solicit qualified artist candidates resulted in responses from seventeen Oakland artists; and

WHEREAS, in February 1989, the City of Oakland adopted a Public Art Ordinance (no. 11086 C.M.S.) authorizing the allocation of 1.5% of City capital improvement project costs for the commissioning of public artwork; and

WHEREAS, it is the intent of the Public Art Ordinance to provide a means for the City to commission artists to create artwork that enlivens, enhances, and enriches the visual environment of the City of Oakland; and

WHEREAS, on May 12, 2005 and July 22, 2005, an ten-member selection panel consisting of community members, artists, arts professionals and project representatives met to select and approve an artist or artist team to create public art elements for the Rockridge-Temescal Greenbelt, and unanimously recommended artist Mark Brest van Kempen and his proposal; and

WHEREAS, on August 8, 2005, the Public Art Advisory Committee voted to accept the recommendation of the selection panel, and on August 22, 2005, the Cultural Affairs Commission voted to approve the commission of artist Mark Brest van Kempen and his proposal for the Rockridge-Temescal Greenbelt Public Art Project; and

WHEREAS, the City of Oakland finds that this contract is professional in nature and will not result in a loss of employment or salary by any person having permanent status in the competitive service; and

WHEREAS, funds for the total artwork project budget of \$75,000 are available from the following: \$40,000 within the Measure DD Fund (5320), CP Environmental Services Organization (92280), Creek Restoration Project (C244810); \$8,700 within the Municipal Improvement Capital Fund (5500), Public Art Organization (62511), FROG Park-Public Art Project (B00910); \$6,300 within the Municipal Improvement Capital Fund (5505), Public Art Organization (62511), Public Art Project (A158630); and \$20,000 within the Capital Reserves Fund (5310), Public Art Organization (62511), ADA Accommodations Project (C274310) now, therefore, be it

RESOLVED, that the City Council hereby authorizes the City Administrator to negotiate and execute a professional services agreement with Mark Brest van Kempen in an amount not to exceed seventy-five thousand dollars (\$75,000) from Public Art Program funding, Measure DD funding, ADA funding and community contributions; and be it

FURTHER RESOLVED, that the City Administrator is hereby authorized to execute any amendments or modifications of said contract within the limitations of the project specifications.

FURTHER RESOLVED, the agreement will be reviewed and approved by the City Attorney and placed on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2006

PASSED BY THE FOLLOWING VOTE:

AYES - BRUNNER, KERNIGHAN, NADEL, QUAN, BROOKS, REID, CHANG, AND
PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

ATTEST:

LATONDA SIMMONS
City Clerk and Clerk of the Council of
the City of Oakland, California