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OFFICE OF THE CITY CLERK
OAKLAND

CITY OF OAKLAND
AGENDA REPORT

2008 APR 10 PM 4:41

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Cultural Arts & Marketing Division
DATE: April 22, 2008

RE: **Resolution Authorizing the City Administrator to Negotiate and Enter Into a Professional Services Agreement with artists Jos Sances and Daniel Galvez for Public Art Design, Fabrication and Installation Services for the Measure DD: East Oakland Sports Center Project in an Amount Not to Exceed One Hundred Forty Thousand Dollars (\$140,000)**

SUMMARY

This resolution authorizes the City Administrator to negotiate and execute a professional services agreement with the artist team of Jos Sances and Daniel Galvez to create a public art project for the new East Oakland Sports Center. The public art project will reflect the surrounding community and will enhance the new facility for all users. The maximum contract amount is not to exceed \$140,000.

In response to a Request for Qualifications distributed to artists in California, Oregon and Washington, the City received 76 eligible applications for this public art project opportunity. On October 26, 2007, five finalists (three individuals and two teams) were selected for interview. On December 14, 2007, the finalists made detailed presentations on their qualifications, interest and approach to a nine-member panel convened by the City. Based on these interviews and presentations, the Oakland-based artist team of Jos Sances and Daniel Galvez was selected as most qualified to complete this project.

FISCAL IMPACT

The East Oakland Sports Center public art project was approved by City Council in the 2008 Public Art Annual Plan as part of Measure DD Bond program public art project improvements. This professional services agreement will not exceed \$140,000 for design development, fabrication, and installation of the completed art project. Public art projects are funded through the City of Oakland's Percent for Art Ordinance (No. 11086 C.M.S.) and the Oakland Redevelopment Agency Resolution (No. 89-8 C.M.S.), which authorize the allocation of 1.5% of capital improvement project costs for the commissioning of public artwork.

Staff proposes to allocate \$20,000 from Measure DD Series A Bond public art funds [Measure DD Capital Improvement Fund (5320), Capital Project Management Organization (92110), Youth and Public Recreation Project (C244721)] and \$120,000 from Measure DD Series B Bond funds to be issued in 2009. In the event the issuance of the Measure DD Series B Bond is delayed and not in time for the payment of the remainder of the artist team's contract (for fabrication and installation

Item: _____
Life Enrichment Committee
April 22, 2008

of the work), funding will be advanced from existing Measure DD Series A project funds that have not been spent or from the projects which are on hold, and will be recovered from the Series B Bond when the funds do become available.

Future maintenance costs for the public art project 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

With funds authorized through the voter-approved Measure DD Oakland Trust for Clean Water & Safe Parks and other sources, the City will construct the East Oakland Sports Center, a new building housing a natatorium with leisure pool, a fitness center and lobby. The Sports Center will be located near the intersection of Edes and Jones Avenues, in the heart of a residential neighborhood and adjacent to other public facilities. As such, it is essential that the public art created through this project be accessible to neighborhood residents and facility users alike, and be reflective of the local community. The selected artist team will consult and collaborate closely with the project architects, project design review committee members, project managers from the Public Art Program and Public Works Agency, and the community to develop integrated artwork that engages children, youth and adult users of the Sports Center and surrounding park.

Selection Process

The Public Art Program released a Request for Qualifications (RFQ) within California, Oregon and Washington seeking a qualified artist or artist team to create site-specific work for the new East Oakland Sports Center. Public Art staff prepared objective selection criteria for use by the selection panel in rating the qualifications of applicants.

Voting members of the selection panel were Oakland arts professionals John Lewis and Lynne-Rachel Altman and community representative Jacquee Castain. Chairing the meeting, in a non-voting function, was Public Art Advisory Committee (PAAC) member Clair Isaacs Warhaftig. Other non-voting advisors to the panel were Lyle Oehler, CEDA/Public Works Agency; Clarence Mamuyac and Chris Jong, ELS Project Architects; and Public Art Program staffers Steven Huss and Christin Hablewitz.

The selection panel met in a two-phase process. The phase-one panel meeting, on October 26, 2007, concluded with the selection of five finalists from the eligible application pool of 76. Prior to being interviewed, the finalists attended a site visit and orientation meeting in order to become familiar with all aspects of the project site and the planned sports facility. On December 14, 2007, the selection panel met for the phase-two panel to interview the five finalists and reached consensus to recommend the team of Jos Sances and Daniel Galvez as most qualified to receive this project.

On January 7, 2008, the PAAC unanimously voted to accept the recommendation of the selection panel and approve the commission of the artist team of Jos Sances and Daniel Galvez for the East Oakland Sports Center Public Art Project. On January 28, 2008, the recommendation was presented to the Cultural Affairs Commission as an informational item only (due to a lack of a

Item: _____
Life Enrichment Committee
April 22, 2008

quorum); however, Commissioners present strongly supported the selection of the team of Mr. Sances and Mr. Galvez.

If approved by City Council, the artist team will consult and collaborate closely with project architects ELS, CEDA/Public Works project managers, project design review committee members, Public Art Program staff, local community representatives and other project stakeholders in the development of public artwork for this project. City staff will make certain that Mr. Sances and Mr. Galvez are in compliance with City policies before the Professional Services Agreement is executed.

KEY ISSUES AND IMPACTS

On January 7, 2008, upon approving the panel's recommendation, the PAAC directed the artist team to proceed with preliminary design development. Key opportunities for public art under consideration are (1) a treatment to the exterior glass wall, to include images and/or text applied to, or on panels that may replace, the clear glass proposed in the architectural plan; and (2) a treatment to the perforated metal sunscreen on the east and south exterior walls of the pool building that will include images/text/design applied through silk-screening or other appropriate method.

Materials used for all artwork at the East Oakland Sports Center will be durable, resistant to vandalism, and appropriate for heavy public use. Integrated designs will be developed to require minimal or no maintenance beyond routine cleaning. Any extraordinary maintenance requirements that may arise will be managed by the Public Art Program from its art maintenance fund account.

SUSTAINABLE OPPORTUNITIES

Economic: The public artwork integrated into this new East Oakland sports facility will enhance and enrich the visual environment and public use of the facility, thereby strengthening the economic value of the community. Both artists on the team live in Oakland, and will endeavor to hire Oakland artisans and fabricators for any work they cannot personally execute on this project, to the extent that it is reasonably feasible.

Environmental: The public art project described in this report will be attached to and/or structurally integrated with the East Oakland Sports Center building. The artwork will have no adverse impact on the facility or surrounding community. Risk of vandalism to the artwork is very limited, as the majority of elements will be out of reach of the general public, and the artists will be required to fabricate all the elements out of materials suitable for heavy public use, without surfaces, edges or protrusions subject to vandalism.

Social Equity: The public artwork will enhance the aesthetic aspects of the new Sports Center, adding to the quality of life for the diverse array of residents and visitors that will use the facility, particularly the residents of the surrounding community.

DISABILITY AND SENIOR CITIZEN ACCESS

Public Art Program staff will work with the appropriate City departments to ensure accessibility by the disability and senior citizen communities.

RECOMMENDATION

The Public Art Advisory Committee recommends that City Council authorize the City Administrator to negotiate and execute a professional services agreement with Jos Sances and Daniel Galvez for public art design, fabrication and installation services for the East Oakland Sports Center, in an amount not to exceed one hundred forty thousand dollars (\$140,000).

ACTION REQUESTED OF THE CITY COUNCIL

That Council approves the resolution authorizing the City Administrator to negotiate and execute a professional services agreement with Jos Sances and Daniel Galvez for public art design, fabrication and installation services for the East Oakland Sports Center, in an amount not to exceed one hundred forty thousand dollars (\$140,000).

Respectfully submitted,



SAMEE 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

Item: _____
Life Enrichment Committee
April 22, 2008

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2008 APR 10 PM 4:42

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 JOS SANCES AND DANIEL GALVEZ FOR PUBLIC ART DESIGN, FABRICATION AND INSTALLATION SERVICES FOR THE EAST OAKLAND SPORTS CENTER IN AN AMOUNT NOT TO EXCEED \$140,000 IN MEASURE DD PUBLIC ART FUNDS.

WHEREAS, Measure DD, the Oakland Trust for Clean Water and Safe Parks Fund, includes funding for the construction of the new East Oakland Sports Center; 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 76 eligible applications to the project; 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, which enlivens, enhances, and enriches the visual environment of the City of Oakland; and

WHEREAS, on October 26, 2007 and December 14, 2007, a nine-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 a public art project for the East Oakland Sports Center, and unanimously recommended the artist team of Jos Sances and Daniel Galvez; and

WHEREAS, on January 7, 2008, the Public Art Advisory Committee voted to accept the recommendation of the selection panel and approve the commission of the team of Jos Sances and Daniel Galvez for the East Oakland Sports Center Public Art Project, and on January 28, 2008, the recommendation was presented to the Cultural Affairs Commission as an informational item; 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, funding for the artwork project in the amount of \$20,000 is available within the Measure DD Series A Bond Fund (5320), Capital Projects Management Organization (92110), Miscellaneous Contractual Services Account (54919), Youth and Public Recreation Project (C244721), Engineering, Planning and Design Program (IN06); now therefore be it

RESOLVED, that the City Council hereby authorizes the City Administrator to negotiate and execute a professional services agreement with Jos Sances and Daniel Galvez in an amount not to exceed one hundred forty thousand dollars (\$140,000) from Measure DD bond funding; and be it

RESOLVED, that \$20,000 will be allocated from Measure DD Series A Bond public art funds available in Measure DD Capital Improvement Fund (5320), Capital Projects Management Organization (92110), Youth and Public Recreation Project (C244721) and \$120,000 will be allocated from Measure DD Series B Bond funds to be issued in 2009; and be it

FURTHER RESOLVED, in the event the issuance of the Measure DD Series B Bond Fund is delayed and not in time for the payment of the remainder of the contract, funding will be advanced from existing Measure DD Series A project funds that have not been spent or from the projects that are on hold, and will be recovered from the Series B Bond when the funds do become available; 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; and be it

FURTHER RESOLVED, that 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, _____, 20____

PASSED BY THE FOLLOWING VOTE:

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

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

Schedule A

SCOPE OF WORK/OUTLINE OF SERVICES TO BE PERFORMED

I. PROJECT DESCRIPTION, LOCATION OF ARTWORK & TASKS

Description:

Contractor (Jos Sances) in collaboration with Daniel Galvez shall finalize artwork design concepts for the East Oakland Sports Center Public Art Project. Contractor shall also fabricate and install 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 at or in the East Oakland Sports Center, to be located at 9175 Edes Avenue, in East Oakland.

Task 1: Off-Site Elements –Contractor shall:

- Meet on an as-needed basis with the design team, 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 determined by artists and 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 that 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:	May 1, 2008 – November 1, 2008
Fabrication of Off-Site Elements:	January 2009 – December 2009
Completion of Installation:	March 1, 2010
Final Contract Completion:	April 30, 2010

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 one hundred forty thousand dollars (**\$140,000**). 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%):	\$14,000
2 nd payment, at completion of construction documents and final designs (5%):	\$7,000
3 rd payment, at commencement of fabrication phase, upon evidence of purchase or commitment to purchase materials (45%):	\$63,000
4 th payment, at completion of fabrication phase, following progress review and approval by Public Art Project Manager (30%):	\$42,000
5 th payment, upon City's issuance of the Notice of Acceptance, plus thirty (30) days (10%):	\$14,000

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.