

**CITY OF OAKLAND**  
*AGENDA REPORT*

2010 APR 15 PM 5: 16

TO: Office of the City Administrator  
ATTN: Dan Lindheim  
FROM: Cultural Arts & Marketing Division  
DATE: April 27, 2010

RE: **Report and Resolution Authorizing The City Administrator To Negotiate And Execute A Professional Services Agreement With Artist Dan Corson In An Amount Not To Exceed Six Hundred Thousand Dollars (\$600,000) For Public Art Design, Fabrication And Installation Services For The Bart 17<sup>th</sup> Street Gateway Project**

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**SUMMARY**

This resolution authorizes the City Administrator to negotiate and execute a professional services agreement with Dan Corson, the artist selected to collaborate on the redesign of the BART 17<sup>th</sup> Street Gateway and to create public art elements that will be integrated into the project. The total contract amount is not to exceed \$600,000.

In response to a Request for Qualifications distributed to artists throughout the United States, the City received a total of 98 eligible applications for this public art project. On December 18, 2009, five finalists were selected for interviews. On February 3, 2010, the finalists made detailed presentations on their qualifications, interests and approaches to a selection panel convened by the City. The panel selected artist Dan Corson to be the most qualified applicant and recommended that Mr. Corson receive the public art project commission.

**FISCAL IMPACTS**

This professional services agreement will not exceed \$600,000 for the development of artistic concepts and collaboration as part of the BART 17<sup>th</sup> Street Gateway project design team to integrate artistic concepts into the overall design plan, as well as the fabrication and installation of separate art elements as needed. This public art project is funded through City of Oakland Redevelopment Agency (ORA) 1.5% for art funds (per Resolution No. 89-8 C.M.S.). If approved by City Council, artist Dan Corson will be contracted for design services in an amount up to one hundred thousand dollars (\$100,000) and for fabrication and installation of artwork in an amount up to five hundred thousand dollars (\$500,000), for a total contract amount not to exceed \$600,000. Funding for the \$600,000 artwork project budget is available within Oakland Redevelopment Agency Capital Improvement Project Public Art Fund 9504, Organization 94800, Account 78811, Project P130190, Program 0000.

**BACKGROUND**

Over the last decade, the Oakland Redevelopment Agency has invested over \$100 million to build new housing units in the Uptown District and to restore the historic Fox Oakland Theater.

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A host of popular new restaurants and bars have opened in recent years and a thriving arts scene has emerged with the nationally recognized Oakland Art Murrur First Friday gallery openings. Today, the Uptown District is regarded as an emerging, vibrant part of Oakland.

However, a major transit hub for the Uptown is underutilized and nearly invisible from the Fox, one-half block away, and other nearby businesses. Situated in an alley between 17<sup>th</sup> Street and 18<sup>th</sup> Street that links Telegraph Avenue and Broadway, the 3,244-square-foot site is owned by BART and serves as the southernmost entrance/exit for the 19<sup>th</sup> Street/Oakland BART Station. The focus on redeveloping this particular site, in addition to its strategic location, arose from the concerns of local property owners regarding the cleanliness of the site, the need for BART patrons to feel safer, and lack of sufficient signage alerting pedestrians to the existence of this entrance to the station. Long-range planning efforts for the Uptown District have also consistently identified this location as a key opportunity site for public art.

Redevelopment Agency staff and City Public Art staff have developed a project to revitalize the site through a collaborative design team between the project landscape architect and a professional artist, with input from community and other stakeholders. The landscape architect/artist design team will collaborate on the transformation of the existing space into a memorable, distinctive arts-centered gateway for Oakland's re-emerging Uptown arts and entertainment district. The artist selected for the project had to demonstrate experience working with a six- or seven-figure budget, experience working as part of a design team, experience working with integrated architectural design and experience in the creation of light-based/new-media art installations, with transit-related project experience as a plus.

### ***Luminous Oakland Program***

This will be the first permanent artwork commission through *Luminous Oakland*, a multi-year initiative of the Public Art Program to commission public art for the Uptown District that emphasizes light, motion and new media. As an overarching vision for public art in the Uptown, the *Luminous Oakland* plan has been approved by City Council as part of the annual Public Art Projects Plan. *Luminous Oakland* is inspired by the Uptown's legacy as a destination for arts, entertainment, cafés/restaurants and shopping, punctuated by distinctive lit marquees and active nightlife. Temporary projects to date have included the Great Wall of Oakland, a monthly outdoor series of experimental and avant-garde film and video projections during "Art Murrur" First Fridays events, and Uptown Unveiled, a nighttime street festival in June, 2009, featuring a series of light-based artwork installations.

### **PROJECT DESCRIPTION**

The goal of the BART 17<sup>th</sup> Street Gateway Project is to increase awareness of and traffic to the site and to help transform the station entrance into a key gateway into the Uptown District. The public art component will be integral to the improvements. The selected artist will (1) collaborate as a member of the design team led by project designers Sasaki Associates and other stakeholders on improvements to the site and contiguous sidewalks/building façades, to enhance the overall project designs, identify art opportunities, and design and fabricate artistic enhancements which animate the space to create a safe, inviting, exciting and engaging entry into the Uptown; and (2) create a major, integrated light-based and/or media-based public artwork

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that has significant visibility from a distance and helps to draw people to the site from both Broadway and Telegraph Avenue during day and evening hours. Areas of focus for site improvements include illumination, wayfinding, greater security and creating a sense of place.

### KEY ISSUES AND IMPACTS

The Public Art Program released a nationwide Request for Qualifications seeking a qualified artist or artist team. The public art project budget was established by staff as a total of \$600,000 in public art funds. All artists responding to the RFQ were essentially bidding to create a public art project for this amount.

The selection panel met in a two-phase process. The first phase included selection of five finalists from the eligible pool of 98 applicants and the second phase included interviews with the five finalists and a commission recommendation. Voting members of the selection panel were local arts and design professionals/community representatives Alfonso Alvarez, Mildred Howard, Peter Waller and Tim McNeight of Pyatok Architects, BART Public Art Coordinator Laura Timothy and Public Art Advisory Committee member Jennifer Easton. The other non-voting advisors invited to the panel were BART representatives Tian Feng and Paul Voix and ORA Project Managers Jeff Chew and Sunny Nguyen. The panel was facilitated by Public Art Program managers Steven Huss and Kristen Zaremba.

At the close of second-phase review on February 3, 2010, the panel selected Dan Corson as the finalist most ideally suited to receive this project commission. The panel further recommended San Francisco-based artist Catherine Wagner as the alternate selection should Mr. Corson be unable to accept the commission. On February 8, 2010, the Public Art Advisory Committee unanimously approved the panel's recommendation and forwarded the recommendation to the Cultural Affairs Commission, which unanimously approved it on March 8, 2010.

Mr. Corson lives in Seattle, Washington. As a public artist he has created many exceptional projects in various locations around the western United States, with experience collaborating on integrated architectural design and on transit-related projects, and considerable background creating public art featuring light, digital media and movement. If Council approves the resolution, Public Art staff will make certain that Mr. Corson is in compliance with City policies before the Professional Service Agreement is executed. The proposed Scope of Services for this Agreement is included as *Attachment A* to this report.

This project will be developed through a collaborative design team process. Working with project designers Sasaki Associates, the artist will develop an integrated artwork plan for the site that will include a major work of art and possibly additional art-influenced design elements. The artist will develop the design plan with the first-phase design services budget of \$100,000. As a routine step in the public art commissioning process, at the conclusion of the design phase the artist will present a proposal and budget for how the remaining \$500,000 for fabrication and installation of artworks would be spent. The proposal will be reviewed and approved by Public Art Program staff, the Public Art Advisory Committee and the Cultural Affairs Commission before some or all of the \$500,000 budget for fabrication and installation can be released for the artist to go forward to build and install the full scope of public artwork for the project.

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Materials used for all artwork features in the BART 17<sup>th</sup> Street Gateway project will be durable, resistant to vandalism, appropriate for heavy public use in an outdoor setting and impervious to the elements. 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 the BART 17<sup>th</sup> Street Gateway will enhance and enrich the visual environment of Oakland, thereby strengthening the economic value of the community. The redesigned Gateway alley site will positively impact tourism and economic development by enhancing the experience of visiting the Uptown District.

Environmental: The artwork will have no adverse impact on the surrounding community. Public art staff will ensure the risk of vandalism will be 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.

Social Equity: The public art project described in this report will enhance the commercial, recreational, social and aesthetic aspects of the Uptown District, adding to the quality of life for all residents of and visitors to Oakland.

### **DISABILITY AND SENIOR CITIZEN ACCESS**

The public art will be accessible and visible to viewers from many vantage points. The artwork will be ADA compliant and will not create a tripping hazard for senior citizen access.

### **RECOMMENDATION AND RATIONALE**

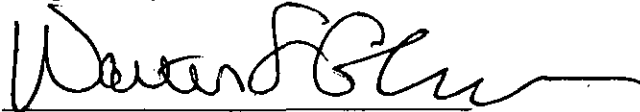
From a national pool of 98 eligible, experienced artists, Dan Corson was most highly rated by the selection panel, which valued the skills and experience he would bring to the project, his aesthetic orientation and conceptual approach. Therefore, the Cultural Affairs Commission and the Community & Economic Development Agency recommend that the City Council authorize the City Administrator to negotiate and execute a Professional Services Agreement with Dan Corson for public art design, fabrication and installation services for the BART 17<sup>th</sup> Street Gateway Project, in an amount not to exceed six hundred thousand dollars (\$600,000).

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**ACTION REQUESTED OF THE CITY COUNCIL**

Staff requests that the Council approve the resolution authorizing the City Administrator to negotiate and execute a Professional Services Agreement with Dan Corson for public art design, fabrication and installation services for the BART 17<sup>th</sup> Street Gateway Project, in an amount not to exceed six hundred thousand dollars (\$600,000).

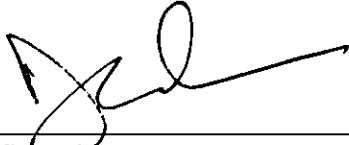
Respectfully submitted,



Walter S. Cohen, Director  
Community and Economic Development Agency

Prepared by:  
Steven Huss, Cultural Arts Manager

APPROVED AND FORWARDED TO THE  
LIFE ENRICHMENT COMMITTEE:



Office of the City Administrator

**Attachments**

Attachment A: Proposed Scope of Services

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## SCOPE OF WORK/OUTLINE OF SERVICES TO BE PERFORMED

### I. PROJECT DESCRIPTION, LOCATION OF ARTWORK & TASKS

#### **Description:**

Contractor shall develop artwork design concepts for the BART 17<sup>th</sup> Street Gateway 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 alley at 17<sup>th</sup> Street between Telegraph Avenue and Broadway in the Uptown district of Oakland.

#### **Task 1: Off-Site Elements –Contractor shall:**

- Meet on an as-needed basis with community representatives, project architects and City staff to develop integrative artwork designs and budget for the project.
- Identify opportunities to integrate artwork elements into the project architect's documents for fabrication and/or installation by the general contractor, as well as opportunities to purchase from or hire local subcontractors.
- Develop scale drawings of proposed artwork and obtain engineering review, as required.
- Meet with community groups and project stakeholders as directed by Public Art Project Manager, prior to final design approvals.
- Develop construction documents and secure budget estimates, including anticipated maintenance needs, for approval by City prior to purchasing materials or commencement of fabrication.
- Purchase materials for all proposed artwork components not integrated into the general contractor's scope of work.
- 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 Program staff and Oakland Redevelopment 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>Task</i>	<i>Date</i>
Design Development:	May 15 – August 30, 2010
Fabrication of Off-Site Elements:	September 1, 2010 – January 30, 2011
Completion of Installation:	March 30, 2011.
Final Contract Completion:	May 15, 2011

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. Fees.

- A. **Design Services.** Contractor's fee for design of Artwork, including all expenses relating thereto, shall not exceed the sum of one hundred thousand dollars (**\$100,000**). This fee includes but is not limited to the following design-related costs: Collaborative design services; labor of assistants; materials, communication and other indirect costs; and travel expenses of the Contractor during the design phase.

**B. Fabrication and Installation.** Contractor's fee for fabrication and installation of Artwork, including all expenses relating thereto, shall not exceed the sum of five hundred thousand dollars (**\$500,000**). This fee includes but is not limited to the costs related to fabrication and installation: 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.

**A. Design Services Payment Schedule:**

- First payment: Upon execution of this Agreement, to begin conceptual design (20 % of design fee) \$20,000
- Second payment: To begin design development, approximately one month following 1<sup>st</sup> payment (20% of design fee) \$20,000
- Third payment: Upon presentation and acceptance by Public Art Project Manager of artwork construction documents (30% of design fee) \$30,000
- Fourth payment: To be released upon completion of Contractor's on-site supervision of fabricated and installed artwork elements (20% of design fee) \$20,000

**B. Fabrication and Installation Payment Schedule:**

- First payment: At commencement of fabrication phase, upon evidence of purchase or commitment to purchase materials (60% of fabrication/ installation budget) \$300,000
- Second payment: At completion of fabrication phase, following progress review and approval by Public Art Project Manager (30% of fabrication/installation budget) \$150,000
- Third payment: Upon City's issuance of the Notice of Acceptance, plus thirty (30) days (10% of total contract) \$60,000

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.

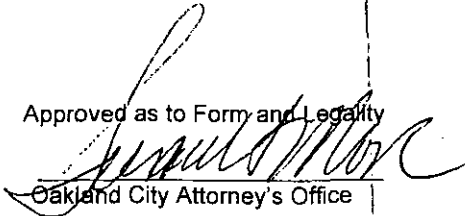
6. Pursuant to California Revenue and Taxation Code Section 6365, the Artwork is exempt from sales taxes imposed under the California Revenue and Taxation Code.



FILED  
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 \_\_\_\_\_

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**A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH DAN CORSON IN AN AMOUNT NOT TO EXCEED SIX HUNDRED THOUSAND DOLLARS (\$600,000) FOR PUBLIC ART DESIGN, FABRICATION AND INSTALLATION SERVICES FOR THE BART 17<sup>TH</sup> STREET GATEWAY PROJECT**

**WHEREAS**, the City of Oakland Community & Economic Development Agency, Redevelopment Division and the City of Oakland Public Art Program are jointly managing the redevelopment of the BART 19<sup>th</sup> Street Oakland Station entrance located on the alley at 17<sup>th</sup> Street between Broadway and Telegraph Avenue in Oakland's Uptown District; and

**WHEREAS**, public art funding for the BART 17<sup>th</sup> Street Gateway redevelopment project has been allocated from Oakland Redevelopment Agency percent-for-art funds and approved by Oakland City Council; and

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

**WHEREAS**, an extensive national outreach effort to solicit qualified artist candidates resulted in responses from ninety-eight eligible artists; and

**WHEREAS**, in February 1989, the City of Oakland adopted a Public Art Ordinance (No. 11086 C.M.S.) and an Oakland Redevelopment Agency Resolution (No. 89-8 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 and the Oakland Redevelopment Agency Resolution 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 December 18, 2009 and February 3, 2010, a selection panel consisting of local artists, arts professionals, community members, project representatives, BART representatives and City staff met to select an artist to develop and create the public art project for the BART 17<sup>th</sup> Street Gateway Project, and unanimously recommended Dan Corson; and

**WHEREAS**, on February 8, 2010, the Public Art Advisory Committee unanimously voted to accept the recommendation of the selection panel and to approve the selection of Dan Corson for the BART 17<sup>th</sup> Street Gateway Public Art Project; and on March 8, 2010, the Cultural Affairs

Commission unanimously voted to accept the recommendation of the Public Art Advisory Committee and to approve Dan Corson to receive the project commission; 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 permanent artwork project in the amount of \$600,000 is available within Oakland Redevelopment Agency Capital Improvement Project Public Art Fund 9504; Organization 94800, Account 78811, Project P130190, Program 0000; now, therefore, be it

**RESOLVED:** That the City Council hereby authorizes the City Administrator to negotiate and execute a professional services agreement with Dan Corson for the public art component of the BART 17<sup>th</sup> Street Gateway Project in an amount not to exceed one hundred thousand dollars (\$100,000) for public art design services and an amount not to exceed five hundred thousand dollars (\$500,000) for public art fabrication and installation services, for a total contract amount not to exceed six hundred thousand dollars (\$600,000) in ORA Central Business District public art funding; 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:** 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, \_\_\_\_\_, 2010

**PASSED BY THE FOLLOWING VOTE:**

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

NOES -

ABSENT -

ABSTENTION -

ATTEST:

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