

CITY OF OAKLAND

AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2010 JUN 30 AM 10: 59

TO: Office of the City Administrator

ATTN: Dan Lindheim

FROM: Community and Economic Development Agency

DATE: July 13, 2010

RE: **A Resolution Authorizing The City Administrator To Negotiate And Execute A Professional Services Agreement With Shawn Lovell For Public Art Design, Fabrication And Installation Services For Gates For The Gardens At Lake Merritt Public Art Project In An Amount Not To Exceed Eighty-Six Thousand Dollars (\$86,000) In Measure DD Public Art Funds**

SUMMARY

This resolution authorizes the City Administrator to negotiate and execute a professional services agreement with Shawn Lovell of Oakland, California, to create two new artwork entrance gates for The Gardens at Lake Merritt, an Oakland Office of Parks & Recreation facility. The artwork gates will identify and celebrate the historic Gardens and replace the worn and utilitarian gates at the west and south entrances to the Gardens with unique functional works created by a local artisan. The contract amount is not to exceed \$86,000, funded through the Measure DD Oakland Trust for Clean Water & Safe Parks.

In response to a Request for Qualifications distributed to artists in the nine San Francisco Bay Area counties, the Public Art Program received a total of 65 eligible applications for this public art project. A six-member panel convened by the City selected five finalists to be interviewed. The panel found Oakland-based artist/blacksmith Shawn Lovell to be the most qualified applicant and recommended that Ms. Lovell receive the project commission as the artist to receive a total of eighty-six thousand dollars (\$86,000) to design, fabricate and install two public art entrance gates for the Gardens at Lake Merritt. The panel's recommendation was supported by the Public Art Advisory Committee and the Cultural Affairs Commission.

FISCAL IMPACT

The Measure DD Gates for the Gardens at Lake Merritt public art project was approved by City Council in the 2010 Public Art Annual Plan (Resolution No. 82719 C.M.S.) as a part of Measure DD Bond program public art improvements. This professional services agreement will not exceed \$86,000 for design development, fabrication and installation of the artwork gates, and is fully funded through City of Oakland percent for art funds (per Ordinance Number 11066 C.M.S.) in Measure DD. Funding is available from Measure DD Series B Bond public art funds in the Measure DD Capital Improvement Fund (5321), Capital Project Management Organization (92270), Lake Merritt Art – B Project (C396210), Program IN05.

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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

Situated in the heart of Oakland as a part of Lakeside Park, the Gardens at Lake Merritt provide a horticultural oasis accessible to a large urban population. Opened in the 1950's, the gardens were originally maintained by City staff gardeners with the resources to draw crowds for such seasonal events as chrysanthemum and dahlia displays. The gardens have continued to develop and transform over time to their current configuration, consisting of a collection of smaller theme gardens including the Japanese Gardens and Koi Pond, the Golden State Bonsai Garden, the Show Gardens, the Flower and Herb Garden and the Vegetable and Fruit Demonstration Garden. Open to the public during park hours, the Gardens are a unique urban setting in which to learn about and enjoy hundreds of varieties of trees, shrubs, and plants.

To enhance the historic, cultural, aesthetic and interpretive potential of the often-overlooked Gardens at Lake Merritt, a total of \$86,000 was allocated through Measure DD to commission an artist or artist team to design, fabricate and install two entryway gates that identify and celebrate the gardens. The entrance gates are located along Lake Merritt inside Lakeside Park. Gate 1 is located adjacent to the Lakeside Park Garden Center at 666 Bellevue Avenue and across from Children's Fairyland and the Lake Merritt Bandshell. Gate 2 is located across from the Lake Merritt Boating Center at 568 Bellevue Avenue and leads the visitor into the Sensory Garden and Edible Demonstration Garden.

The Oakland Public Art Program, Cultural Arts & Marketing Division, Community & Economic Development Agency, released a Request for Qualifications inviting Bay Area artists to submit their qualifications to design, fabricate and install two public art entrance gates at the Gardens at Lake Merritt. The project goal is to create beautiful and inviting entryways that identify and celebrate the gardens.

The City received a total of 71 applications to the project. Staff reviewed all applications and forwarded the 65 eligible applications to the selection panel. The panel met to review applications on March 19, 2010, in Hearing Room 4 of Oakland City Hall, 1 Frank Ogawa Plaza. Criteria for the selection of finalists are found in the Entrance Gates for the Gardens at Lake Merritt Request for Qualifications (RFQ). The panel selected the following finalists to be interviewed:

- 1) Adriane Colburn and Kevin Binkert (San Francisco)
- 2) Shawn Lovell (Oakland)
- 3) Sean Orlando, Alan Rorie, David Shulman & Jamie Vaida (Oakland)
- 4) Eric Powell (Berkeley)

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5) Victoria Reynolds & Randy Tuell (Cloverdale)

Prior to being interviewed, the finalists attended a site visit and orientation meeting on April 8, 2010, to become familiar with aspects of the project site and to meet with City representatives. The selection panel met again on April 16, 2010, in Hearing Room 4 of Oakland City Hall, for second-phase interviews of the five eligible finalists before making their final recommendation to award the project commission to Shawn Lovell.

Voting members of the selection panel were local artists/arts professionals Jay van Arsdale, Carla Hall and Fan Lee Warren. Chairing the meeting (a non-voting function) was Public Art Advisory Committee member Joyce Hsu. The other non-voting advisors to the panel were Bruce Cobblepick, board member of the Gardens at Lake Merritt volunteer organization, and landscape architect Tricia Christopher.

On May 3, 2010, the Public Art Advisory Committee approved the panel's recommendation and forwarded the recommendation to the Cultural Affairs Commission, which approved it on May 24, 2010.

KEY ISSUES AND IMPACTS

The panelists recommended Ms. Lovell based on her body of past work, the elegance and classic aesthetic of her metal designs, the quality and integrity of her artwork execution, and her passion for continuing the evolution of traditional blacksmith techniques. The panel felt Ms. Lovell's aesthetics and vision for the project would result in excellent gates that will withstand time and the evolution of the gardens. The panel was also pleased to support an Oakland-based artist who is new to the public art realm; this will be Ms. Lovell's first public art commission after a series of private commissions.

The materials used for the gates will be durable, resistant to vandalism, and appropriate for heavy and continual public use. The gates will be designed 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.

PROJECT DESCRIPTION

The new, custom-made garden gates will be fabricated of metal in Ms. Lovell's West Oakland shop. They will be double-opening and attach to an existing chain-link fence, replacing the existing standard gates. The public art gates will be designed to be extremely durable, low maintenance and be able to withstand the wear and tear of daily opening and closing by Parks staff and other environmental stresses.

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EVALUATION OF PAST PERFORMANCE

Ms. Lovell has extensive experience in creating permanent metalwork that is both functional and decorative, including exterior-sited works for homes, gardens and parks. Her experience includes permanent and durable outdoor metal gates that have remained sound and retained their integrity over many years of environmental exposure.

SUSTAINABLE OPPORTUNITIES

Economic: The artwork gates will significantly enhance and enrich the appearance and the experience of entering the Gardens at Lake Merritt, and by extension enhance and enrich the visual environment of Oakland, thereby strengthening the economic value of the community. This project will have direct economic impact by providing an Oakland artisan/craftsperson with funding for the creation of this work; 100% of the funding will flow through an Oakland business.

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 aesthetically enhancing public artwork will be designed to identify and celebrate the Gardens, centrally located by the heavily traveled north shore of Lake Merritt, adding to the quality of life for residents of and visitors to Oakland. The artist's designs will reflect the Measure DD Program goals and involve the community in their creation to bolster community pride in the City.

DISABILITY AND SENIOR CITIZEN ACCESS

As artwork, the new gates will be accessible and visible to viewers from many vantage points. They will be designed to be fully visible opened or closed, with identical designs front and back. As functional elements, the existing gates provide access to the park; the new gates will provide equal access. The artwork will be ADA compliant, and will not create a tripping hazard for senior citizen access.

RECOMMENDATION(S) AND RATIONALE

Staff recommends that the City Council authorize the City Administrator to negotiate and execute a Professional Services Agreement with Shawn Lovell for public art design, fabrication and installation services for the Measure DD Gates for the Gardens at Lake Merritt Project, in an amount not to exceed eighty-six thousand dollars (\$86,000).

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ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt the resolution and accept this report.

Respectfully submitted,



Walter S. Cohen, Director
Community & Economic Development Agency

Reviewed by:
Gregory Hunter, Deputy Director
Economic Development and Redevelopment

Prepared by:
Steven Huss, Cultural Arts Manager
Cultural Arts & Marketing Division

APPROVED AND FORWARDED TO THE
LIFE ENRICHMENT COMMITTEE:



Office of the City Administrator

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Schedule A

SCOPE OF WORK/OUTLINE OF SERVICES TO BE PERFORMED

I. PROJECT DESCRIPTION, LOCATION OF ARTWORK & TASKS

Description:

Contractor (Shawn Lovell) shall finalize design concept, fabricate and install two (2) Entrance Gates for the Gardens at Lake Merritt, Oakland California. The project goal is to create beautiful and inviting entryways that identify and celebrate the gardens. 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, (2 entrance gates) lead into the Gardens at Lake Merritt and are located on Bellevue Avenue along Lake Merritt inside Lakeside Park. Gate 1 is located adjacent to the Lakeside Park Garden Center at 666 Bellevue Avenue and across from Children's Fairyland and the Lake Merritt Bandshell. Gate 2 is located across from the Lake Merritt Boating Center at 568 Bellevue Avenue and leads the visitor into the Sensory Garden and Edible Demonstration Garden. The new, custom-made gates will be double-opening. They will attach to an existing chain-link fence and will replace the existing standard gates.

Task 1: Off-Site Elements –Contractor shall:

- Meet with the City staff community representatives (including Gardens at Lake Merritt) and other project stakeholders as determined by contractor and Public Art Manager to finalize gate design, budget and project timeline and process.
- Develop detailed scale drawings of artwork, fabrication and installation methods and obtain engineering review, if required.
- Present final designs to Public Art Advisory Committee and other project stakeholders for final approval.
- Purchase materials for all proposed artwork.
- Fabricate or cause to be fabricated all artwork.
- Prepare all materials to be extremely durable, low maintenance and coated with protective and anti-graffiti material, as needed.

Task 2: On-Site Elements –Contractor shall:

- Coordinate final artwork delivery and installation schedule with Public Art staff and other project stakeholders prior to transportation.
- Transport artwork elements to sites.
- Prepare the sites 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, see Submittals Checklist form for a complete list of submittals, attached.

- 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.

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>Activity</i>	<i>Date</i>
Final Design Development and Designs	September 2010 – December 2010
Fabrication of Artwork	January 2011 – July 2011
Completion of Installation	November 2011
Final Contract Completion	February 2012

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 eighty-one

thousand dollars (\$81,000). This fee includes but is not limited to the following costs: Labor of assistants; materials, communication and other direct and 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.
 - 1st payment, upon execution of this Agreement, for continuing design \$8,100 development once preliminary concept is approved and completion of final designs (10%):
 - 2nd payment, at commencement of fabrication phase, upon evidence of \$40,500 purchase or commitment to purchase materials (50%):
 - 3rd payment, at completion of fabrication phase, following progress \$24,300 review and approval by Public Art Project Manager (30%):
 - 4th payment, upon City's issuance of the Notice of Acceptance, plus thirty \$8,100 (30) days (10%):
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

OAKLAND CITY COUNCIL

Approved as to Form and Legality


City Attorney

2010 JUN 30 AM 10:59 RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH SHAWN LOVELL FOR PUBLIC ART DESIGN, FABRICATION AND INSTALLATION SERVICES FOR THE GATES FOR THE GARDENS AT LAKE MERRITT PUBLIC ART PROJECT IN AN AMOUNT NOT TO EXCEED EIGHTY-SIX THOUSAND DOLLARS (\$86,000) IN MEASURE DD PUBLIC ART FUNDS

WHEREAS, Measure DD, the Oakland Trust for Clean Water and Safe Parks Fund, includes funding for improvements to Lake Merritt, creeks, the Oakland Estuary, and adjacent parks; 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 sixty-five 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 March 19, 2010 and April 8, 2010, a six -member selection panel consisting of community members, artists, arts professionals, project representatives and City staff met to select an artist to create a public art project for the Gates for the Gardens at Lake Merritt, and unanimously recommended artist Shawn Lovell; and

WHEREAS, on May 24, 2010, the Cultural Affairs Commission voted to accept the recommendation of the selection panel and the Public Art Advisory Committee to approve the commission of Shawn Lovell for the Gates for the Gardens at Lake Merritt 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, funding for the permanent artwork project in the amount of \$86,000 is available within the Measure DD Series B Bond Fund [Measure DD Capital Improvement Fund (5321), Capital Project Management Organization (92270), Lake Merritt Art – B Project (C396210)]; now, therefore, be it

RESOLVED: That the City Council hereby authorizes the City Administrator to negotiate and execute a professional services agreement with Shawn Lovell in an amount not to exceed eighty-six thousand dollars (\$86,000) from Measure DD bond 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, _____, 20_____

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