

OFFICE OF THE CITY CLERK  
**CITY OF OAKLAND**

**AGENDA REPORT**

20061114-1 PM 4:13

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 Lynne-Rachel Altman for the Children's Fairyland Public Art Project in an Amount Not to Exceed \$65,000 in Measure DD Public Art Funds**

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**SUMMARY**

This resolution authorizes the City Administrator to negotiate and execute a professional services agreement with Lynne-Rachel Altman as leader of a team of artists selected to design, fabricate and install public art elements for a proposed project titled "The Fairy Music Farm" in Children's Fairyland. The contract amount is not to exceed \$65,000 in Measure DD Public Art funds. The Cultural Arts & Marketing Division and the Public Art Advisory Committee (PAAC) request that City Council approve the resolution.

**FISCAL IMPACT**

The Children's Fairyland Tunnel public art project was approved by City Council in the 2004 Public Art Annual Plan as part of Measure DD Bond program public art project improvements. The total artwork project budget will not exceed sixty-five thousand dollars (\$65,000) for design development, fabrication and installation. Funding for the total artwork project budget of \$65,000 is available within the Measure DD Capital Improvement Fund (5320), Capital Project Management Organization (92242), Miscellaneous Contractual Services Account (54919), Lake Merritt Project (C241621), Engineering, Planning and Design Program (IN05).

**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 activity pertaining to Measure DD.

Created in 1950, Children's Fairyland is an historic 10-acre outdoor park and educational facility on the shores of Lake Merritt. The vision of Children's Fairyland is to create a magical fantasy world

Item: \_\_\_\_\_  
Life Enrichment Committee  
November 14, 2006

for young children to create, imagine, play and learn through fairytales, fantasy sets, performing arts, animals and related exhibits and programs. Fairyland serves over 130,000 guests per year, families with children who embody the diversity of the greater Bay Area. With funds authorized through Measure DD, Children’s Fairyland has received funding to enable a number of renovation projects in the park. This public art project will enhance Fairyland’s renovation efforts.

## **KEY ISSUES AND IMPACTS**

Public Art Program staff in collaboration with Children’s Fairyland management developed a plan for an innovative, multi-sensory, interactive public artwork project at Fairyland. The future site of the public art project is “Thumbelina’s Tunnel,” formerly one of Fairyland’s most popular amusements. The 100-foot-long, above-ground semicircular ‘tunnel’ structure is currently in disrepair and unusable. The team of artists selected for the project would revitalize a less-visited area of the park by working with this existing play structure to create a new attraction through the creative re-visioning and renovation of the space. The project was conceived to draw children and adults back to a key destination in the park, while breaking ground as an innovative and unique use of public art funds.

## **PROJECT DESCRIPTION**

In response to a Bay Area-wide Request for Qualifications, the City of Oakland Public Art Program received 24 applications for this public art project opportunity seeking a qualified artist team to create an innovative and multi-sensory public artwork through the renovation of the currently inactive “Thumbelina’s Tunnel” attraction at Children’s Fairyland. Voting members of the public art selection panel were regional arts professionals Rosa De Anda and J. Todd Blair and community representative Ron Zeno. Chairing the meeting (a non-voting function) was PAAC member Ernest Jolly. Other non-voting advisors to the panel were C.J. Hirschfield, Children’s Fairyland Executive Director; Lucia Howard of Ace Architects; and Patricia Ison, community representative. The panel selected four teams of finalists, who developed proposals that were then displayed in an easily viewed location on the grounds of Fairyland for three weekends in summer 2006. An extensive and enthusiastic response was received from Fairyland visitors, with 86 comment forms completed. The selection panel considered the public response while deliberating over the final selection.

On August 25, 2006, the four finalist teams presented their proposals for the project to the selection panel. Based on these presentations, the panel recommended commissioning the proposal titled “The Fairy Music Farm” by the artist team of Lynne-Rachel Altman (lead artist, sculptor and designer, Oakland); Richard Jennings (composer, Berkeley); Biliانا Margaritova Stremaska (painter/muralist, Oakland) and Daniel Schmidt (instrument builder and educator, El Sobrante, CA).

The “Fairy Music Farm” public art project is designed for young children to explore and create harmonious music in a tactilely, aurally and visually rich setting. The project features unique

instruments created to produce sonorous sounds that work alone, or in consort with one another; a landscaped courtyard with words and music from the Fairy Music Farm Song (original music created specifically for this project); new lighting sources; and a series of interior murals depicting fairies from a diversity of cultures and ethnicities working together to nurture a green pea with music. The project will encourage interactive learning; all of the musical sounds produced will be a direct result of the players' physical actions. The project will be low maintenance and built to compliance with standard playground safety guidelines.

On September 11, 2006, the PAAC reviewed and approved the selection panel's recommendation to award a contract to Ms. Altman on behalf of the "Fairy Music Farm" project team. Because of a lack of quorum, the Cultural Affairs Commission (CAC) could not make any recommendation on this item at its meeting of September 25, 2006. However, no members of the CAC or the public present expressed opposition to the recommendation. By policy of the CAC and the Cultural Arts & Marketing Division, if a quorum is not achieved at a meeting of the CAC when a voting item is reviewed, that item becomes informational and the recommendation will then be forwarded from the relevant Committee (in this case the PAAC) directly to City Council.

If Council approves the resolution, City staff will make certain that Ms. Altman is in compliance with City policies before the Professional Services Agreement is executed.

### **SUSTAINABLE OPPORTUNITIES**

**Economic**: Two of the four artists in the team are based in Oakland; the contractor will be Lynne-Rachel Altman, who has a working studio in Oakland. The artist team will personally fabricate artistic elements, and/or may also subcontract with Oakland-based artisans and fabricators to build and install artistic elements as needed.

**Environmental**: The public art project described in this report will reuse an existing structure and improve on-site landscaping.

**Social Equity**: The project will enhance the recreational, educational and aesthetic aspects of Fairyland and add to the quality of life for the diverse array of residents and tourists Oakland that visit the park.

### **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.

### **ACTION REQUESTED OF THE CITY COUNCIL**

Staff and the Public Art Advisory Committee recommend that City Council approve the resolution to authorize the City Administrator to negotiate and execute a professional services agreement with Lynne-Rachel Altman as leader of a team of artists to design, fabricate and install public art

Item: \_\_\_\_\_  
Life Enrichment Committee  
November 14, 2006

elements for a proposed project titled “The Fairy Music Farm” in Children’s Fairyland, in an amount not to exceed \$65,000 in Measure DD Public Art funds.

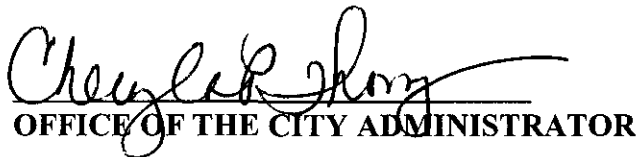
Respectfully submitted,



**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  
November 14, 2006

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

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

#### **Description:**

In partnership with artists Richard Jennings, Biliana Margaritova Stremaska and Daniel Schmidt, Contractor shall develop the design of the public art project “The Fairy Music Farm” for installation in the former “Thumbelina’s Tunnel” play structure at Children’s Fairyland. In partnership with artists Richard Jennings, Biliana Margaritova Stremaska and Daniel Schmidt, Contractor shall also fabricate and install the artwork as outlined in the design proposal approved by the Public Art Advisory Committee on September 11, 2006. their designs.

The artwork shall include: Musical instruments (Marimba Path, Harmony Bells, Fairy Wings and Wall Harp) affixed permanently to interior walls of the tunnel structure; a courtyard with seating (Song Circle and Marimba bench) and exterior door; interior tunnel murals depicting the story of fairies using music to nurture and grow a pea; four skylights; and an interior lighting system (LED rope lights).

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 at Children’s Fairyland at 699 Bellevue Avenue in Oakland, California, utilizing the physical above-ground tunnel structure of the former “Thumbelina’s Tunnel” attraction.

**Task 1: Off-Site Elements** – In partnership with artists Richard Jennings, Biliana Margaritova Stremaska and Daniel Schmidt, Contractor shall:

- Develop scale drawings of proposed artwork and construction documents, and obtain engineering review if required.
- Meet with and/or make presentations on project design development to community groups, the Public Art Advisory Committee 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** – In partnership with artists Richard Jennings, Biliana Margaritova Stremaska and Daniel Schmidt, Contractor shall:

- Prepare the site for installation, including but not limited to, overseeing or performing: interior and exterior area debris removal and courtyard demolition; courtyard grading and irrigation; design and installation of door leading into courtyard; exterior/interior tunnel walls and floor patching and sealing; artwork bases/attachment points designed and installed.
- Coordinate final artwork delivery and installation schedule with Public Art Program staff and Children's Fairyland staff prior to transportation.
- Transport artwork elements to site.
- 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>Dates</i>
Design Development:	December 2006 – February 2007
Fabrication of Off-Site Elements:	January 2006 – June 2007
Completion of Installation:	May 2007 – November 2007
Final Contract Completion:	December 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 sixty-five thousand dollars (**\$65,000**). 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, to begin design development (10%):	\$6,500
2 <sup>nd</sup> payment, for continuing design development services, approximately two months following 1 <sup>st</sup> payment (10%):	\$6,500
3 <sup>rd</sup> payment, at commencement of fabrication phase, upon evidence of purchase or commitment to purchase materials (40%):	\$26,000
4 <sup>th</sup> payment, at completion of fabrication phase, following progress review and approval by Public Art Project Manager (30%):	\$19,500
5 <sup>th</sup> payment, upon City's issuance of the Notice of Acceptance, plus thirty (30) days (10%):	\$6,500

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.

Contractor:

\_\_\_\_\_  
(Please Print)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

City Representative:

\_\_\_\_\_  
(Please Print)

\_\_\_\_\_  
(Signature)


\_\_\_\_\_  
(Date)



OFFICE OF THE CITY CLERK  
OAKLAND

2006 NOV -1 PM 4:13

Approved as to Form and Legality

  
City Attorney

## OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.

Introduced by Councilmember \_\_\_\_\_

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**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH LYNNE-RACHEL ALTMAN FOR THE CHILDREN'S FAIRYLAND PUBLIC ART PROJECT IN AN AMOUNT NOT TO EXCEED \$65,000 IN MEASURE DD PUBLIC ART FUNDS.**

**WHEREAS**, Measure DD, the Oakland Trust for Clean Water and Safe Parks Fund, includes funding for the renovation of Children's Fairyland; and

**WHEREAS**, professional artists' services are needed to develop a public art component to the Measure DD renovations at Children's Fairyland; and

**WHEREAS**, a Bay Area-wide outreach effort to solicit artist candidates resulted in 24 responses; 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 May 26, 2006 and August 25, 2006, a seven-member selection panel consisting of community members, artists, arts professionals and project representatives met to select an artist team to create public art elements for Children's Fairyland, and unanimously recommended the team headed by artist Lynne-Rachel Altman and their proposed project titled "The Fairy Music Farm"; and

**WHEREAS**, on September 11, 2006, the Public Art Advisory Committee voted to accept the recommendation of the selection panel; 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 total artwork project budget of \$65,000 is available within the Measure DD Capital Improvement Fund (5320), Capital Project Management Organization (92242), Miscellaneous Contractual Services Account (54919), Lake Merritt Project (C241621), Engineering, Planning and Design Program (IN05); now, therefore, be it

**RESOLVED**, that the City Council hereby authorizes the City Administrator to negotiate and execute a professional services agreement with Lynne-Rachel Altman in an amount not to exceed sixty-five thousand five hundred dollars (\$65,000) 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**, 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