

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2009 MAR 11 PM 2:00

CITY OF OAKLAND
AGENDA REPORT

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Cultural Arts & Marketing Division
DATE: March 24, 2009

RE: **Resolution Authorizing the City Administrator to Negotiate and Execute a Professional Services Agreement with Dakota Warren for Public Art Design, Fabrication and Installation Services for the Fremont Pool in an Amount Not to Exceed Sixty Thousand Dollars (\$60,000)**

SUMMARY

This is a resolution authorizing the City Administrator to negotiate and execute a professional services agreement with artist Dakota Warren to create a public art project for the renovated Fremont Pool. The proposed artwork will enhance the renovated pool for all users and the surrounding community. The maximum contract amount is not to exceed \$60,000.

In response to a Request for Qualifications distributed to Bay Area artists, the City received thirty-seven applications for this public art project opportunity. On January 16, 2009, three finalists were selected for interview. On January 30, 2009, the three top-rated finalists made detailed presentations on their qualifications, interest and approach to a six-member panel convened by the City. Based on these interviews and presentations, artist Dakota Warren was selected as most qualified to complete this project.

FISCAL IMPACT

This professional services agreement will not exceed \$60,000 for design, 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. Funding for the Fremont Pool public art project totaling \$60,000 is available through the Oakland Redevelopment Agency Projects Fund (7780), Capital Projects – Project Management Organization (92270), Fremont Pool Project (P353410). The City Council adopted Resolution No. 81480 C.M.S., on July 15, 2008, in which the Oakland Redevelopment Agency allocated the funds for the Fremont Pool Improvements Project. Redevelopment funding may not be used for maintenance; therefore the project will be designed to require minimal maintenance.

BACKGROUND

The Fremont Pool, operated by Oakland Parks & Recreation's Aquatics Department and located at 4550 Foothill Boulevard, is one of seven pools serving local Oakland residents and youth. The

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project improvements will enhance the existing pool exterior and surrounding areas, including new exterior paint, entry and window treatments; landscaping; lighting; and sidewalks. The area designated for the primary public art project consists of the two vertical elements on either side of the entry doors on the building exterior. A second artwork will be created through a community workshop for installation in an adjacent, publicly-accessible area.

The artist will consult and collaborate with project design team members and project managers from the Public Art Program, Oakland Parks & Recreation, Community and Economic Development Agency (CEDA), Oakland Redevelopment Agency and City Council staff, and representatives from the surrounding community, to develop integrated artwork that engages pool staff, visitors and community members equally.

Selection Process:

The Public Art Program released a Request for Qualifications (RFQ) within the Bay Area seeking a qualified artist to create site-specific work for the renovated Fremont Pool in East Oakland. 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 local arts professionals/community representatives David Balona and David Ruth, and Oakland Parks & Recreation representative and community resident John Tornatore-Pili. For the interviews, Anisa Rasheed, community resident, swim-team parent and pool user, joined the voting panelists. Non-voting advisors invited to the panel were District 5-City Council staffer Claudia Burgos, CEDA Project Manager Sandra Ousley, CEDA-ORA Project Manager Theresa Navarro. The panel was facilitated by Public Art Program staffers Steven Huss and Kristen Zaremba.

The selection panel met in a two-phase process. The first phase included selection of three finalists from the eligible application pool of 37. On January 27, 2009, finalists attended a site visit and orientation meeting with the project architect, Oakland Parks & Recreation and other City staff to be introduced to all aspects of the project in preparation for the finalist interviews. On January 30, 2009, the selection panel met for the phase-two panel to interview the three finalists, and reached the above recommendation.

On February 2, 2009, the Public Art Advisory Committee (PAAC) unanimously voted to accept the recommendation of the selection panel and approve the commission of artist Dakota Warren for the Fremont Pool Public Art Project. On February 23, 2009, the Cultural Affairs Commission unanimously voted to approve the recommendation.

If approved by City Council, the artist will continue to consult with the project architects, CEDA / Public Works and Oakland Redevelopment project managers, Oakland Parks & Recreation staff, Public Art Program staff, local community representatives and other project stakeholders in the development of public artwork(s) for this project. City staff will make certain that Mr. Warren is in compliance with City policies before a Professional Service Agreement is executed.

KEY ISSUES AND IMPACTS

On February 2, 2009, the PAAC approved the panel's recommendation, with directions to the

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artist to proceed with design development. On February 19, 2009, the artist and City staff attended the monthly Melrose-High Hopes NCPC meeting at Horace Mann Elementary to present the artist's design concepts and received support for the project. On March 2, 2009, the artist presented his design proposal to the PAAC for design review. The PAAC endorsed the design and the artist has been instructed to work with City staff, design team and community representatives on further refinements prior to fabrication. This fast-track project is scheduled for installation in June 2009, in conjunction with the renovation project.

Materials used for all artwork at the Fremont Pool 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, as redevelopment funds may not be used for maintenance.

PROJECT DESCRIPTION

The artist's concept is to create two ceramic relief sculptures for the building façade, resembling subtle waves or ripples on the surface of water. Constructed of colorfully glazed, high-fire ceramic blocks, the sculptures will be designed to complement the original building architecture and heighten awareness of the building's function as a municipal swimming pool. Once this component of the artwork is installed and the pool reopens, the artist will conduct a workshop on-site or near the facility, and invite interested community members to participate in the creation of smaller ceramic murals or relief to be installed within the facility or surrounding the raised planter bed along Foothill to build additional community ownership and respect for the building and new artwork (See Schedule A: Scope of Services).

SUSTAINABLE OPPORTUNITIES

Economic: The public artwork integrated into this renovated East Oakland pool facility will enhance and enrich the visual environment and public use of the facility, thereby strengthening the economic value of the community. The artist, Dakota Warren, will endeavor to hire Oakland artisans and fabricators for any work he cannot personally execute on this project, to the extent that it is reasonably feasible.

Environmental: The artwork will have no adverse impact on the pool facility or surrounding community. 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.

Social Equity: The public artwork designed for this building will enhance the aesthetic aspects of the renovated facility, adding to the quality of life for residents of and visitors to Oakland, particularly youth using the pool and the swim programs, students at Fremont High School across the street from the pool, and residents in the surrounding community. The artist's designs will reflect the function and purpose of the pool, and bolster community pride in the City.

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.

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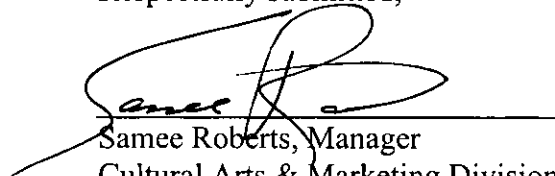
RECOMMENDATION

The Cultural Affairs Commission recommends that City Council authorize the City Administrator to negotiate and execute a professional services agreement with Dakota Warren for public art design, fabrication and installation services for the Fremont Pool, in an amount not to exceed sixty thousand dollars (\$60,000).

ACTION REQUESTED OF THE CITY COUNCIL

That Council approves the resolution authorizing the City Administrator to negotiate and execute a professional services agreement with Dakota Warren for public art design, fabrication and installation services for the Fremont Pool, in an amount not to exceed sixty thousand dollars (\$60,000).

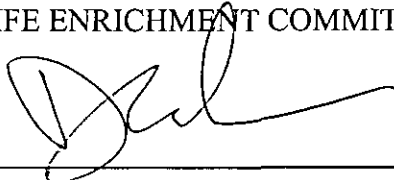
Respectfully submitted,



Samee Roberts, Manager
Cultural Arts & Marketing Division

Report prepared by: Steven Huss, 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 Fremont Pool 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 the Fremont Pool, located at 4550 Foothill Boulevard at 46th 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 directed by Public Art Project Manager.
- Purchase materials for all proposed artwork components.
- Conduct community-based workshop for community component of design process.
- 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:	April 15 – April 30, 2009
Fabrication of Off-Site Elements:	May 1 – May 31, 2009
Completion of Installation:	June 15, 2009
Conduct Community Workshop; Fabricate and Install Community-based project	June 15- July 30, 2009
Final Contract Completion:	August 30, 2009

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 thousand dollars (**\$60,000**). 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.

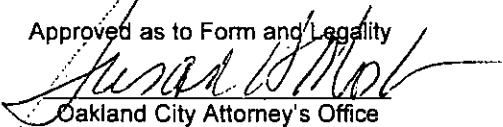
First payment, at commencement of fabrication phase, upon evidence of purchase or commitment to purchase materials (50%):	\$30,000
2 nd payment, at mid-point of fabrication phase, upon studio inspection by City staff (25%):	\$15,000
3 rd payment, at completion of fabrication phase, following installation and approval by Public Art Project Manager (15%):	\$9,000
4 th payment, upon City's issuance of the Notice of Acceptance, plus thirty (30) days (10%):	\$6,000

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.

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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 DAKOTA WARREN FOR PUBLIC ART DESIGN, FABRICATION AND INSTALLATION SERVICES FOR THE FREMONT POOL PROJECT IN AN AMOUNT NOT TO EXCEED SIXTY THOUSAND DOLLARS (\$60,000).

WHEREAS, the City of Oakland Fremont Pool project will include renovations and improvements to the existing building located at 4550 Foothill Boulevard in East Oakland; 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 thirty-seven 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 January 16, 2009 and January 30, 2009, 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 Fremont Pool project, and unanimously recommended the artist Dakota Warren; and

WHEREAS, on February 2, 2009, the Public Art Advisory Committee voted to accept the recommendation of the selection panel and approve the commission of Dakota Warren for the Fremont Pool Public Art Project, and on February 23, 2009 the Cultural Affairs Commission voted to accept the recommendation; 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 \$60,000 is available through Oakland Redevelopment Agency funds pursuant to Resolution No. 81480, adopted by City Council on July 15, 2008, which allocated Oakland Redevelopment Agency funds for this project; now therefore be it

RESOLVED, that the City Council hereby authorizes the City Administrator to negotiate and execute a professional services agreement with Dakota Warren in an amount not to exceed sixty thousand dollars (\$60,000) from Oakland Redevelopment Agency funding; and be it

FURTHER RESOLVED, that \$60,000 will be allocated from the Oakland Redevelopment Agency Projects Fund (7780), Capital Projects – Project Management Organization (92270), Fremont Pool Project (P353410); 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, _____, 2009

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