



Office of the City Manager

CONSENT CALENDAR
September 11, 2007

To: Honorable Mayor and
Members of the City Council

From: *PK* Phil Kamlarz, City Manager

Submitted by: Michael Caplan, Acting Manager of Economic Development

Subject: Contract Amendment: Corporation Yard Gates Public Art Project

RECOMMENDATION

Adopt a Resolution amending Contract No. 7131 with Eric Powell to increase payment by \$25,000 to cover the unexpected increased costs for two, functional set of individually designed Gates for the City of Berkeley Corporation Yard.

FISCAL IMPACTS OF RECOMMENDATION

The \$25,000 cost of this contract amendment will come from the Public Art Fund budget code 657-8704-465-3038. The funds will be appropriated from the Public Art Fund balance and this request will be included in the First Amendment to the Appropriations Ordinance in October.

CURRENT SITUATION AND ITS EFFECTS

In order to assure the best possible construction and function of the two sets of steel Gates, additional measures needed to be taken that were not foreseen in the original budget. Attached is a memo from the artist detailing these additional areas of expense that covered: Installation/ Construction, Added Structural needs, Finishes, Equipment Rental, Rigging, Locks, Overtime and Permits time for this unique project. The current Director of Public Works has reviewed these costs and has agreed to the payments.

BACKGROUND

The Civic Arts Commission with staff issued a Call for Artists for the unique construction of two sets of functional Gates for the Bancroft side of the City of Berkeley Corporation Yard in Summer Recess of 2007. Since a project of this complexity and magnitude had never been attempted in the city before the Civic Arts Commission and staff consulted corporation yard staff and the then architect for advice and a technical drawing. The total project cost of \$69,000 was estimated based on the best information available to staff at the time. A contingency was set aside in the project budget and certain costs were shared or eliminated so that the remaining funds then available in the Sewer Funds public art allotment could be used to augment any cost overruns. This contingency in the original budget would have paid for these costs from the Sewer

Funds but a recent ruling by the City Attorney has forbidden the continued use of Sewer Funds for this

project. Therefore the costs have to shift back to the Public Art funds without the additional Sewer Funds. With the addition of the approximate \$78,000 allotment to the Public Art Fund for FY08, the funds are available to pay this expense.

RATIONALE FOR RECOMMENDATION

Additional funds are necessary to cover unforeseen cost overages.

ALTERNATIVE ACTIONS CONSIDERED

No alternative action was considered.

CONTACT PERSON

Mary Ann Merker, Civic Arts Coordinator, Civic Arts Program, Office of Economic Development, 981-7533

Attachments:

1: Resolution

2: Memo from artist Eric Powell Requesting Additional Funds

RESOLUTION NO. ##,###-N.S.

CONTRACT AMENDMENT: CONTRACT 7131, ERIC POWELL, CORPORATION
YARD GATES PUBLIC ART PROJECT

WHEREAS, the unforeseen costs for the design, construction and installation of the two sets of uniquely designed Gates for the Corporation Yard exceeded the original contracted amount; and

WHEREAS, public art funds are available to pay these costs through the 1.5% for art public art program; and

WHEREAS, these costs have been validated by the Director of Public Works and the Public Art Committee of the Civic Arts Commission.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that and additional \$25,000 from the Public Art Fund be added to the artist's original contract number 7131 for \$69,000, not to exceed the new total of \$94,000.



July 17, 2007

Berkeley Civic Arts Program
2180 Milvia Street, 3rd Floor
Berkeley, CA 94704

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Re: Artwork for The Berkeley Corporation Yard Gates: '*Mandala Gates*': Request for additional funds
Second (Detailed) Cost Itemization

Dear Mary Ann,

I have enjoyed working with you on this unique project.

This is a more detailed version of my request additional funding for the *Mandala Gates* project. As mentioned in my previous letter, given the labor-intensive nature of the project, and the high quality of craftsmanship and materials used, I have experienced serious cost overruns. Please see the itemized invoice below.

I had budgeted for the gates to take a maximum of three months. The gates ended up taking me and my crew (five fabricators) four and a half months to complete. We began on January 5, 2007 and completed installation on May 23, 2007.

Please note that some of the points that are itemized reflect the extra time, energy and material cost required complete the project with as much attention to detail and engineering and as high quality as possible in every respect. There were many parts of the project where I could have cut corners, where I was certain that no one would complain. However I did not cut any corners on any part of the project.

I knew from the beginning that the budget for the project was low given the size and logistical requirements of the gates. However I did not realize that there would be such a large gap between income and expense.

Presently the total budget for the gates is \$69,000.00.

Below for your review is an itemized list of the cost overruns reflected in the invoice. Note that the amount of additional funding that I am requesting only covers overhead cost, it is not profit. Note also that in my original itemization I had estimated the time involved in parts of the fabrication and installation. Subsequently I reviewed time sheets for my workers and updated the time estimates that are included here.

1: **Installation/Consultation:** To ensure that the gates would be installed in the best possible way I hired a consultant who is a professional installer and a twenty-year employee of Reed Brothers in Oakland. He was very helpful in helping me design a system that would be safe, user-friendly, and long lasting. In order to achieve this I had to entirely 'scrap' the old wheels and hardware (it was requested in the original RFQ that these be preserved and reused). I purchased high-quality 'V'-track wheels from Reed Brothers. These wheels have replaceable automotive bearings. The cost was \$50.00 each (for six wheels) as opposed to

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\$10.00 each for standard 'V' wheels. We then built custom steel boxes for the wheels and installed them into the frames of the gates. To do this and do it seamlessly requires exponentially more time than it would otherwise. This required the equivalent of over two extra weeks of time for one worker.

Cost (time and materials): \$8,400.00

(Note: Related to this is the structure that we designed and built specifically for the West track for the East gate. This was necessary in order to accommodate the slope of the grade. Arguably, this might be included in the general installation charge. However in any case it required approximately \$3,500.00 in costs that I am not charging for).

2: Added Structural Supports: In order to accommodate the new swinging gate on the west entrance (each gate half weighs 600 pounds; the old gates each weighed approximately 200 pounds) we added steel supports to the existing hinge post. This required jack hammering through eight inches of concrete and planting two steel posts deep into the ground using new concrete and welding steel trusses from them to the hinge post. This is one of several examples of taking the extra time and materials to ensure that no one will ever need to do adjustments or mechanical maintenance to this gate in the future. Also we fabricated (on site) a customized top cover for the hinge post so that it is rain proof. Combined this added the equivalent of over five full days for one worker.

Cost (time and materials): \$4,800.00

3: Finishes: In order to make the finish on the gates as durable as possible we applied two separate coats of epoxy paint on the entire surface. We then painted the 'wash' finish on the leaf panels with the highest quality exterior latex paint available. We then coated this paint with clear epoxy paint to create a surface for easy graffiti removal. The extra paint layers took one worker one week to complete.

Cost (time and materials): \$4,600.00

4: Equipment Rental: The Corporation Yard was not able to provide us with any electricity source. I had been told and assumed that electricity would be available to us to run our tools. The cost of the rental of the generator with a trailer for one week with the time and logistics of transportation is:

Cost (time and rental fees): \$1600.00.

5: Rigging: In order to safely transport the gate and given their weight and size I hired a local rigger/mover.

Cost (time and hiring rigger/mover): \$1,800.00

6: Locks: Through collaboration with David Snippen we fabricated two (hollow-formed) highly customized lock arms and cane bolts. These were very labor-intensive. In some respects the design was very good. However, when I showed them to the Corporation Yard people (including Iesha and the other woman security guard, as well as my consultant, Tim, from Reed Brothers), the unanimous consensus was that they were not practical for the intended use and we decided to instead make new lock arms with new cane bolts and use a padlock instead of a deadbolt. The original locking arms and cane bolts (which were not used) took one fabricator over one full week to fabricate. Also included in the cost is cost for design time and for consultation time.



Cost (time and materials): \$6,200.00.

7: **Permits:** The process of acquiring the use permit and building permit was often difficult and frustrating. All of the people involved were cooperative and helpful but the way the system itself is designed often made it difficult and time-consuming. There were at least ten trips to the Berkeley permit office, many unexpected requirements and many delays. The cost to me of the disruption and time taken away from actual studio work cannot be exactly measured, but it was significant.

Cost: Not charged.

Total amount over budget: \$27,400.00

Total amount Invoiced: \$25,000.00

Regarding completing the project: As you know we completed and installed the Mandala Gates for the Berkeley Corporation Yard on May 23rd. Final details were completed in the next two weeks. Upon installation I felt that the previous lock design needed some improvement. Since then I sent a drawing for the new design to David Snippen and received his approval. All locks, stoppers and all other mechanical aspects are complete and functioning. I have provided documentation and a maintenance schedule as well.

Finally, I would not ask for additional funding on this project unless I felt that what I was asking was fair. I appreciate your consideration and I look forward to hearing from you.

I would appreciate a check for the amount invoiced as soon as possible. Thank you.

Sincerely,

Eric Powell