

Follensbee, Analisa L

From: Jean Wennerlyn <jean@wennerlyn.com>
Sent: Tuesday, March 26, 2024 12:43 PM
To: Madison Arts; Madison Arts
Subject: Comment regarding the Madison Metro Public Art project - April 3rd MAC Meeting

Follow Up Flag: Follow up
Flag Status: Flagged

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Dear Madison Arts Commission,

Since I was unable to register to attend this meeting nor to submit my comments online, I am sending this email to express my support of Jenie Gao as the chosen artist and her amazing community-inspired design for the Madison Metro Campus building.

I'm familiar with this project - since the original Request for Qualifications (RFQ) for Public Art for the Madison Metro Campus was issued in April of 2021, to the presentations by the 4 project finalists, to the awarding of the project to artist Jenie Gao in October of 2022 - and I support The Metro project moving forward with the contracted artist, Jenie Gao Studio, rather than possibly re-opening the lengthy, redundant and time-consuming public bidding process for this project.

I understand that some problems were found with the building's exterior that will delay the project. The Madison Metro Public Art project should continue as soon as those problems are resolved. Jenie Gao's design for the building is thoughtful, beautiful and relevant. Please do not miss out on this opportunity and waste all that has already been created for the City of Madison by sending this project back to the Common Council and possibly starting over.

Thank you,

Jean

Jean Wennerlyn (she/her)
Art Consultant
Wennerlyn Creative Sourcing
(612) 309-7738

Creating distinctive spaces through art and design

Follensbee, Analisa L

From: Greta Landis <greta.k.landis@gmail.com>
Sent: Tuesday, March 26, 2024 2:36 PM
To: Madison Arts; Madison Arts
Subject: written comments for Madison Arts Commission meeting agenda 4/3

Follow Up Flag: Follow up
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Hi all,

I'm writing to register comments for the upcoming Madison Arts Commission meeting on April 3, 2024 regarding the Madison Metro Public Art project. As both a neighborhood resident and frequent transit-rider I want to express my continued support for Jenie Gao Studio as the vendor and artist of this project, and ask that MAC support the solutions Jenie Gao needs to make this installation feasible.

Jenie's design is bright and inclusive, and her development and workplan for that design clearly demonstrate the values of community care, diversity, sustainability that we want to see embodied by this city. The delays in the process over the last two years to get a working contract to Jenie and local subcontractors like Operation Fresh Start are incredibly frustrating and disappointing. If we want to showcase the work of talented BIPOC artists, we owe them the clear communication, support, and resources they need to succeed.

Please support Jenie Gao as the recommended artist and the solutions Jenie Gao Studio needs to complete this project. I'm looking forward to seeing this beautiful, colorful work by a fantastic Madison artist from my commute at Metro Transit stop #1650.

Greta Landis
53703

Follensbee, Analisa L

From: Jenie Gao <here@jenie.org>
Sent: Monday, March 25, 2024 5:29 PM
To: Madison Arts; Madison Arts
Subject: Madison Metro update
Attachments: Summary - Madison Metro Public Art Project.pdf; Timeline - Madison Metro Public Art Project.pdf

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Hello, MAC members:

I look forward to seeing you and speaking at the upcoming MAC meetings on April 3 and the pending Public Art Committee meeting about the future of the [Madison Metro Public Art Project](#), which I was scheduled to produce this summer 2024. In the last week, City staff decided to redo the Metro building's siding, delaying the public art project until 2026.

Please find the attached PDFs, which I request be shared with all MAC members to review in advance of your meetings.

- [SUMMARY](#) of the Madison Metro Project with what I need to move forward
- [TIMELINE](#) (unabridged) from 2021 - 2024 of all events related to the Metro project

The Metro project has endured multiple delays, most notably an 18-month contracting process. I seek your support to keep me as the artist, with the solutions I need to succeed in this project.

*Pardon me if some of you receive this email twice, I wasn't sure which of the above email addresses would ensure this would reach all Commissioners.

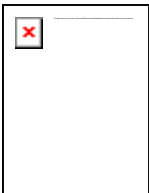
Thank you for your time and see you soon,

Jenie

[Jenie Gao Studio LLC](#)

Artist, Creative Director

Pronouns: she/they



314-757-4352

Portfolio: [jenie.org](#)

Shop: [jenie.studio](#)

[Instagram](#)

[Facebook](#)

[Google](#)

*Located in Vancouver, BC, on ancestral, traditional, and contemporary lands of the Səlilwətaʔ (Tsleil-Waututh),
Skwxwú7mesh (Squamish), and xʷməθkwəyəm (Musqueam)
And Teejop / Madison, Wisconsin, land of the Ho-Chunk*

SUMMARY of Madison Metro Public Art Project

Following is a trajectory of the Madison Metro Public Art Project, awarded to Jenie Gao via public bid. Reference the *Timeline* document for an unabridged version, which cites 201 emails and public records on the City of Madison website, of events primarily from 2021 through 2024.

On **April 9, 2021**, City of Madison publishes a **Request for Qualifications for the Metro Public Art Project**, the first public art project to be funded by Madison's Percent for Art Ordinance created in 2017.

- Jenie applies before the May 7, 2021 deadline. The City extends the deadline three times.
- On April 26, 2022, the City notifies Jenie Gao Studio that they are one of four finalists.
- Jenie spends the summer of May – September 2022 meeting with City staff, conducting site visits, interviewing transit riders, and creating and presenting a design proposal. The City receives 77 pages of public comments that overwhelmingly support Jenie's proposal.

On **October 13, 2022**, Madison Arts Commission (MAC) officially awards the Metro project to Jenie Gao Studio. **Jenie sends their first written request for a contract.**

- On November 1, 2022, Common Council approves MAC's recommendation to hire Jenie Gao Studio.
- On November 15, 2022, Brian Pitelli emails Jenie Gao with a Letter of Intent to Contract.
- Between November 16, 2022 and April 10, 2023, Jenie emails the City of Madison **nine times requesting the contract, or an average of once every two weeks.**

While Jenie waits for the contract, the design proposal evolves as follows:

- City staff ask for an updated design to shift the mural location and agree to pay Jenie \$3,000 for the redesign. Jenie invoices the City on December 10, 2022, but this invoice is not paid until April 3, 2023, after five email requests. Jenie sends the updated design on April 11, 2023.
- City Engineering express concern about paint on the wall siding. Jenie provides manufacturers' specs for the paint. Jenie also schedules multiple site visits between her vendors and Engineering staff. No concerns are raised about the installation of aluminum panels (≈3,700 sq ft).

On **May 3, 2023**, Meri Rose Ekberg sends Jenie the **first draft of the contract from the City Attorney**, seven months after MAC recommended Jenie and six months after Common Council approved them.

- This first draft contract appears to be **an amalgamation of several different contracts** with mismatched formatting. It **contains little customization for public art or this specific project.**
- On May 19, 2023, Jenie sends revisions and requests to discuss the contract on May 30. But the meeting is canceled as the City Attorney's Office is not prepared to discuss the contract by May 30.
- From May 19 to June 26, 2023, Jenie sends three emails asking for contract updates. She receives one email on **June 8** citing that **Adriana Peguero (City Attorney) is on leave. Jenie receives no answer on whether another City Attorney can advance this contract.**

On **July 6, 2023**, Adriana Peguero emails Jenie Gao the **first round of contract revisions.**

On **August 3, 2023**, Jenie emails their **second set of revisions**, understanding that Adriana is available until August 8. **However, Adriana is already out of office** from August 4 to 22, 2023.

- From August 23 to October 11, 2023, **Jenie emails six times asking for status updates** on the contract, expressing urgency about getting the contract before the busy holiday season.

On **October 16, 2023**, Adriana emails Jenie the **third draft**. It has been one year since Jenie was awarded the project.

On **October 30, 2023**, Jenie Gao emails Adriana with **additional revisions and corrections** to close payment loopholes that could delay final payment to Jenie Gao Studio indefinitely.

- From November 7 to November 29, 2023, Jenie repeatedly expresses concerns about the Payment Schedule as none of the payments have due dates. **A Net 30 clause is added to the agreement.**

On **December 6, 2023**, Jenie asks for a status update on the contract. **Adriana sends the most recent contract** near close of business day.

- From December 6, 2023 to January 17, 2024 during the holidays, Jenie drafts and signs contracts with their subcontractors.
- Between January 22, 2024 and February 29, 2024 discussions occur which move one of Jenie Gao Studio's subcontractors (Operation Fresh Start) to have their own contract with the City.

On **February 29, 2024**, Adriana emails a revised contract to move the subcontractor to be under the City from Jenie Gao Studio. **This revision is missing a Flow Down Clause that was present in previous versions.**

- Jenie revises the contract to correct this oversight and sends back to Adriana.

On **March 1, 2024**, Adriana emails an **updated contract that still has comments, edit marks, and typos.**

- Jenie sends back corrections to Adriana and requests a cleaned up contract to sign.

On **March 6, 2024**, Adriana emails Jenie the final, cleaned up contract for signing. **This revision is missing the Net 30 clause** which was added in November 2023.

- **Adriana re-adds the Net 30 terms. Jenie signs the contract.** Adriana is on leave March 7.
- From March 13 to 18, 2024, Derek Schuld from the City Attorney's Office requests and receives Jenie Gao Studio's Certificate of Insurance and other business details to officialize the contract.
- From March 15 and 18, 2024, Brian Pitelli emails Jenie Gao to schedule a meeting to review the timeline and building design.

On **March 19, 2024**, Brian Pitelli emails Jenie that City staff has found **"rust on the [Metro] wall siding"** and have decided to replace the siding, which will **push the Metro Public Art Project to 2025 or 2026.**

On **March 20, 2024**, Brian Pitelli, Mary Richards, Adriana Peguero, Karin Wolf, Meri Rose Ekberg, and Jenie Gao meet. **Jenie offers a solution, to install an all-aluminum + vinyl project** in lieu of a hand-painted mural, with a reduction in scale (from 7,400 square feet to **4-5,000 square feet**) to accommodate price inflation since their original vendor quotes from 2022.

On **March 22, 2024**, Brian Pitelli emails Jenie Gao that the City is unable to create a Purchasing Order to pay them for a redesign. He also states that **City Engineering advises against using vinyl and aluminum due to weight and windload**, but they would be fine with Jenie working directly on the new siding.

- **This is the first time anyone has expressed concerns about weight and windload.**
- **Jenie's original proposals have had between 3,400 and 4,000 square feet of aluminum panels.**
- This contradicts the fact that City Engineering has previously met with Jenie's aluminum vendor.
- This is also the reverse of City Engineering's comments in 2023, when they objected to paint on the wall but had no qualms about the aluminum.

FINAL NOTE FROM JENIE

Between **April 2022 and March 2024**, I have logged 318 hours towards the Metro project, mostly uncompensated. To ensure I met the City's contractual requirements, I also hired an attorney and increased my business insurance coverage. My subcontractors and I reserved May, June, and July 2024 for the Metro project, which has caused us to pass up other work opportunities. This is also the second summer that my subcontractors and I have booked our time only to be forced to change plans due to City delays.

But this isn't just about labor, time, and monetary loss. It is also about honoring the community that has enthusiastically anticipated the first Percent for Art-funded public art project, and everyone who has participated in my community-centered creative process. It is also about respecting MAC's original recommendation to hire me for this project, which the City's ever-changing conditions have thwarted.

I remain committed to this project despite the barriers outlined here. I need MAC and the community-at-large to continue standing by me as your choice.

Back in September 2022, I pointed out during my presentation how I was the only person of color in the running for this project. The injustices of municipal processes illustrate why. As someone who has previously served on MAC and the Public Art Committee, I am familiar with other public artists who have said that Madison is a notoriously difficult city to work with. Not only that, other artists have also expressed a feeling of being deeply unwanted when trying to produce art for this city. I can attest that in the 18 months of this contracting process, I have felt unwanted by the City of Madison. But I have kept going because the Madison community, my true client, wants me to succeed in this project.

Again, I ask you to support and stand with me as your recommended artist, and to support the solutions that I need to be successful in finishing the Metro public art project.

If the Metro Public Art Project is completed in 2026, it will have been:

- Nine years since Madison's Percent for Art Ordinance was created in 2017
- Five years since the first Percent for Art-funded project RFQ was published
- Four years since Common Council approved hiring Jenie Gao Studio
- Three years since Jenie Gao Studio received the first draft of a contract
- Two years since Jenie Gao Studio first signed the contract

TIMELINE of Madison Metro Public Art Project

These dates are collected from over 201 emails about Madison Metro from 2021 to 2024 and supported by public recordings of artists' presentations and Common Council meetings.

2017

2016 May 10, Common Council reviews a draft of the Percent for Art Ordinance.

2017 October, Common Council passes the Percent for Art Ordinance, which mandates that one percent of the city funds committed to any capital project exceeding \$5,000,000 will be designated for public art

- <https://www.cityofmadison.com/dpced/planning/public-art/3846/#:~:text=Through%20the%20Percent%20for%20Art,be%20designated%20for%20public%20art.>

2021

2021 April 9, City of Madison issues the original Request for Qualifications (RFQ) for Public Art for the Madison Metro Campus.

- This is the first public art project to be funded by Madison's Percent for Art Ordinance.

2021 May 6, Jenie Gao Studio LLC submits qualifications for the RFQ.

2021 May 7, original deadline for the Madison Metro RFQ.

2021 June 4, City of Madison extends the deadline for the Madison Metro RFQ, citing too few applicants.

2021 August 4, City of Madison extends the deadline for the Madison Metro RFQ.

2021 September 7, City of Madison reissues the RFQ again.

2022

2022 April 26, the City notifies Jenie Gao Studio that they are one of four finalists.

2022 May 9, finalists give their first round of presentations to Madison Arts Commission (MAC), followed by site visits over the summer.

2022 May – July, Jenie Gao visits Madison to conduct in-person community interviews of public transit riders (majority BIPOC) to inform their design proposal.

2022 August 25, deadline for finalists to submit design proposals.

2022 September 7, artists give public presentations of their proposals.

- 3 out of 4 artists present design solutions that require aluminum panels to be attached to the Metro wall, 2 out of 4 artists present solutions that are vinyl on aluminum.

2022 September 7 - 30, The City receives 77 pages of public comments and emails that overwhelmingly support Jenie's proposal.

2022 October 12, Madison Arts Commission meets to vote on the Metro project.

2022 October 13, Madison Arts Commission awards the Metro project to Jenie Gao Studio.

- **Jenie Gao sends their first written request for a contract.**

2022 October 14, Jenie Gao, Karin Wolf, and Meri Rose Ekberg have their first meeting to discuss next steps and initiate the request for a first draft of the contract.

2022 October 17, Finance Committee approves Jenie Gao Studio as the vendor for the Metro project.

2022 October 26, Jenie Gao presents to the Urban Design Commission and Transportation Commission to get their approval for the project.

2022 October 27, Jenie Gao, Karin Wolf, and Meri Rose Ekberg meet.

- City of Madison agrees to pay Jenie Gao Studio \$3,000 to redesign the proposal based on unexpected changes to the Metro building's renovation that were not a part of the original RFQ.

2022 November 1, Common Council approves MAC's recommendation to hire Jenie Gao Studio.

2022 November 15, Brian Pitelli emails Jenie Gao Letter of Intent to Contract and a copy of the scoring results for the bid process.

2022 November 16, Karin Wolf emails Jenie reaffirming the \$3,000 redesign fee.

- Jenie Gao responds the same day stating that they can only start the redesign once they have **the contract and payment.**

2022 December 9, Jenie **emails about the contract again.** At this point, it is evident that there at most a basic template but no contract in progress for this project.

- Karin Wolf emails: "Regarding the contract, I will start by asking the Attorney's office for a basic template for your review. I already got on the contract attorney's schedule for next week. I will fill her in on where we are and get back to you before the holidays. Beyond the boiler plate

language, what is really important is the detailed project scope and budget. What we have currently is very incomplete.”

2022 December 10, following Karin’s approval to move forward with the redesign, Jenie Gao emails an invoice for the \$3,000 design fee, marked with payment due by **December 30, 2022**.

2022 December 13, Jenie Gao connects Bryan Reichling from SpeedPro (aluminum vendor) with City Engineering to do an installation assessment on the new section of siding.

- From December 13, 2022 to January 4, 2023, Bryan Reichling and Jonathan Evans correspond and confirm installation plans.

By the end of 2022, Jenie Gao logged 234 hours towards the Madison Metro project.

2023

2023 February 3, this is the first email between Operation Fresh Start (OFS) staff, Greg Markle and Brian McMahon, and the City of Madison asking if they can use their standard contract to work with the City of Madison. OFS frequently works with the City and are required to contract directly with

- Greg will continue to follow up on this email thread with City staff until **June 8, 2023**, and again on **October 24, 2023**.
- We will revive this conversation again on January 22, 2024, when OFS’ contract with the City becomes the final contested issue blocking approval of Jenie Gao Studio’s contract.
- Meri Rose Ekberg to Greg Markle, **April 3, 2023**: “Thank you for the email. Karin and I will be your primary contact for anything related to the Metro Transit Public Art Project. We are not at the point where we can discuss contracting, but once we reach that phase we will be in touch.”

2023 February 8 - 15, This is the **next email correspondence about the redesign and contract**. Jenie Gao emails re-stating that they still have not received either the \$3,000 redesign fee or the contract.

2023 February 27, Karin Wolf asks if Jenie Gao has been paid yet. Jenie Gao responds no.

2023 March 7, Jenie Gao emails again asking for the \$3,000 **payment and contract**.

2023 March 8, Karin sends a follow-up email to Adriana asking for **the contract**.

2023 March 30, Karin Wolf sends an email stating that if Jenie’s design revision is not complete by April 21 by 2 pm CDT, the City of Madison will not continue working with Jenie Gao Studio.

2023 April 3, The City of Madison processes the \$3,000 payment to Jenie Gao Studio, **four months after the original invoice**.

- On the same day, Jenie Gao **requests the contract** be sent to her by April 21, 2023 and asks for an itemized list of what the City of Madison wants in the design revision.

2023 April 7, Jenie Gao receives the first itemized breakdown of what is needed in the “best and final proposal” to prevent the project from being canceled.

2023 April 10, Jenie Gao submits **another request for the contract, five months from their original request on October 13.**

2023 April 11, Jenie Gao submits their best and final proposal, which includes an updated design and budget for the project. This is 10 days in advance of the imposed April 21 deadline, 8 days after the City paid them, and 4 days after receiving the City’s requirements for the update.

- The biggest change to the mural is that it has moved to the western end of the Metro wall facing East Washington Avenue, as City Engineering now plans to renovate the eastern end. There are no plans to renovate the western end of the building façade.
- At this point, Jenie Gao’s design is 7,400 square feet of painted mural with CNC cut aluminum shapes covering half of this square footage, or approximately 3,700 square feet of aluminum.
- In 2024 on March 22, one year later, attaching aluminum panels to the building will become a contested issue.

It comes to light that there are people in City Engineering and Metro who are resistant to having mural paint applied directly to the wall siding and have concerns about the longevity of the paint. Karin asks Jenie to provide manufacturers’ specs to alleviate these concerns.

2023 April 18, Jenie Gao receives email confirmation that there are no plans to redo the siding at the new location on the building for their artwork.

- Karin Wolf emails: “Jon (Evans) is going to talk with Metro about painting directly on the existing siding and try to get them to yes. We will see what he says.”

2023 May 3, Meri Rose Ekberg sends the first draft of the contract for Jenie Gao’s review and requests manufacturers’ specs for the paint Jenie will use.

- This first draft contract appears to be **an amalgamation of several different contracts** with mismatched formatting. It **contains little customization for public art or this specific project.**

2023 May 8, Jenie Gao sends Karin and Meri Rose the manufacturers’ specs for the paint.

2023 May 19 Jenie sends revisions and requests to discuss the contract on May 30. But the meeting is canceled as the City Attorney’s Office is not prepared to discuss the contract by May 30.

2023 June 8, Jenie Gao emails asking for a status update on the contract’s revisions. The response is that the City Attorney (Adriana Peguero) is dealing with a family emergency. Jenie Gao emails back the same

day asking if other vendor projects are also delayed. **Jenie receives no answer on whether another City Attorney can advance this contract.**

- Jenie Gao emails: "I feel for the city attorney's situation. This sounds like it's been ongoing, and I'm a little surprised that the city hasn't found a way to support this department. Are other departments experiencing the same delays with contracts for hiring vendors?"

2023 June 23, Jenie emails again asking for a status update on the contract's revisions.

2023 June 26, Jenie emails again asking for a status update on the contract's revisions. Karin Wolf emails back saying the City Attorney is expected to finish the contract later the same day, and that after that Adriana and Jenie can meet to negotiate.

2023 June 29, Karin Wolf emails Jenie Gao with an update from Adriana and asks what will happen if the City does not have the contract to Jenie by end of July. This is in response to Jenie winning an art residency and whether they are still available to do the Metro project.

- Jenie Gao's email: "Thanks for the update on Adriana. Regarding my availability, I negotiated flexible terms with the City of Vancouver to allow absences and guest artists, so my residency is not in conflict with the Metro project. Having said that, because of Metro, I initially held off on seeking summer work, but I need an income, so the longer this contract process takes the less I can guarantee my summer availability. At this point, **the issue is not my other obligations, but rather that my vendors are running out of summer availability. Without a contract and payment, I can't pay the retainer fees to keep my vendor team, and summer is every outdoor contractor's busiest season.**"

2023 July 6, Adriana Peguero emails Jenie Gao the **first round of contract revisions**.

- Note: One of the major contract changes at this time is to add \$10,000 for hiring the wall primer and power washer to prepare the wall for Jenie to work. This \$10,000 was under City Engineer's / the Architect's budget, which is consistent with other mural projects where the client is responsible for preparing the wall for the vendor. However, the City of Madison staff decide to shift this responsibility to be subcontracted under Jenie Gao Studio, so Jenie Gao Studio bears the liabilities of wall preparation instead of the City of Madison. The full contract is updated from \$113,000 to \$123,000.

2023 July 17, Adriana emails Jenie for a status update on the contract. Jenie emails back with news that their computer has crashed and that they were unable to recover their most recent contract revisions, but that they are in the process of buying a new computer and re-reviewing the contract.

- Adriana notifies Jenie that she will be out of office **August 8 – 22, 2023**.

2023 August 3, Jenie Gao emails their contract revisions and corrections. Meri Rose responds that Adriana is already out of office as of **August 4**, and will respond after she returns on August 22.

2023 August 23, Jenie Gao sends a follow-up email bumping the email thread.

2023 September 1, Jenie Gao emails City staff including Planning and City Engineering stating that she will be in Madison from **9/8 to 9/12** and makes herself available to meet in person. All inquiries to meet in person are declined.

2023 September 6, conversations begin about pushing the project to 2024 as it is now the end of the outdoor production season in Wisconsin.

2023 September 8, Adriana emails stating that she is in discussion with Karin, Meri Rose, and Finance about moving the project to 2024.

- Adriana Peguero emails: "I talked to Karin and Meri Rose about pushing this project out to 2024, which was the biggest question at play here. Finance has given the ok for this, and there should be no issue having the funds available next year. So we can continue finalizing the contract (I believe there were only a few loose ends), but given the limitations outlined by Jenie, I think all parties agree that this can begin next year."
- Jenie Gao asks **again for the revised contract**.

2023 September 25, Jenie Gao follows up on **a status update for the contract**. Adriana responds same day saying she plans on having final comments by the end of Friday, September 29.

2023 October 2, Adriana follows up that she is reviewing the contract with Karin and Meri Rose.

2023 October 5, Jenie Gao follows up on **a status update on the contract**. No response.

2023 October 11, Jenie Gao asks again for **a status update on the contract**.

- Karin responds that they are all reviewing the contract.
- Jenie Gao emails: "Thanks for the update. What's your timeline for sending me these edits? Madison Arts Commission selected me as the vendor for this project one year ago, on October 12, 2022. On November 1, 2022, the Common Council officially approved this decision. We are rapidly approaching the holiday season and people will be away again. I also require time to review the comments and revised contract on my end. Meanwhile, we are losing our time advantage for me to book vendors for 2024."
- Adriana Peguero emails: "I am meeting with staff this afternoon to go over the final edits I made. We will send you the contract within a day or two. I think we can all recognize there were a significant number of edits to the contract, as well as delays on both sides while working on those."

2023 October 16, Adriana Peguero emails Jenie Gao the **third draft of the contract**. It has been almost two months since Jenie sent their second set of revisions and corrections.

2023 October 25, Jenie Gao sends an update to Adriana, Karin, and Meri Rose as she reviews the contract's terms with her business insurance provider, subcontractors, and lawyer.

2023 October 30, Jenie Gao emails the contract back to Adriana with three requested revisions.

1. Jenie Gao requests that "Final dimensions will be built to what allotted budget allows at time of construction." This is to safeguard against pricing inflation of raw materials since the project will be a year delayed and is still based on 2022 quotes. Adriana denies this request.
2. Jenie Gao requests the closing of loopholes where the final payment is contingent upon Common Council approving the project but does not provide a deadline for the Common Council vote, which leaves open the possibility of the final payment being withheld indefinitely. Adriana denies this request but offers alternate language, which Jenie accepts.
3. Jenie Gao updates the Payment Schedule to the already approved version she requested on May 18, 2023. The October 11 version of this contract reverted the payment schedule back to the first draft, in which the first down payment was not enough to cover initial material costs. Jenie also asks for dates to be assigned to each payment, citing concerns about the City previously taking four months to process a \$3,000 payment. Adriana updates the Payment Schedule but rejects Jenie's request for due dates to be attached to each payment.

2023 November 7, Adriana responds with contract revisions.

2023 November 14, Jenie Gao sends an updated budget and installation timeline and again expresses concern about delays in City payments that could result in Jenie getting paid after they need to pay their subcontractors.

- Jenie expresses their readiness to sign upon resolving their concerns with the Payment Schedule.

2023 November 21, Adriana emails Jenie stating that Finance has no problem paying on time and that she is in the process of cleaning up the contract. Jenie requests a Net 15 clause be added to the Payment Schedule as assurance.

- Adriana Peguero: "Our Finance department has no concerns about paying you in a timely manner once the deliverables are met, so I don't believe that will be an issue. We look forward to hearing from you after you make arrangements with your contractors. In the meantime, we will work on finalizing and cleaning up the contract and attachments on our end."
- Jenie Gao: "Sounds good and thanks for the additional assurance on payments. I do wish to flag that my first \$3,000 payment was five months late, and even if it were an anomaly it did happen. Could we add a NET15 clause to Attachment B, for Finance to process payments upon receipt of invoice following completion of each task? It would help give me some peace of mind."

2023 November 27, Adriana rejects Jenie's request for a Net 15 clause, citing that the City of Madison uses Net 30 terms.

- Adriana: "We have discussed your questions with Finance, and we are not able to add a Net15 clause to the contract. We have Net30 terms, and we are unable to deviate from that at this

time. Finance has assured us they will issue payment upon completed deliverables and verification from staff that those have been done.”

2023 November 28, Jonathan Evans from City Engineering emails Jenie for the most recent artwork file so the architect has it for reference in planning.

- There are no signs that City Engineering has any concerns about the condition of the wall since the last requested change to the artwork’s location in November 2022.

2023 November 29, Jenie Gao requests Net 30 terms be added to the Payment Schedule and asks for a status update on the **cleaned up, final contract**.

2023 December 6, Jenie Gao follows up asking for a **status update on the contract**. Adriana sends the contract at 3:07 PM CDT, near close of business day.

2023 December 6 – 2024 January 17, during the holidays, Jenie Gao drafts and signs contracts with their subcontractors.

- Due to City contract language that could not change, Jenie works to ensure that all subcontracts are consistent with the City contract, and creates a Flow Down Clause to ensure subcontractors are capable of meeting the terms that the City has outlined.
- On January 2, Jenie updates Adriana that she is still waiting on a subcontractor who has just returned from the December holidays.

*By the end of 2023, Jenie Gao logged 61 hours towards the Madison Metro project.
Total 295 hours from 2022 - 2023.*

2024

2024 January 22, Jenie Gao reopens the request for Operation Fresh Start (OFS) to contract directly with the City of Madison. Because Operation Fresh Start receives AmeriCorps money, they are required to contract with a nonprofit or city.

- Jenie Gao bumps the email thread from **February 3, 2023 – June 8, 2023**, of Greg Markle asking Meri Rose Ekberg and Gregory Fries from City of Madison about contracting with OFS.

2024 January 29, Jenie Gao files the Affirmative Action Exemption, one of the last steps to officializing the contract.

2024 January 30, Karin Wolf emails Greg Markle and Brian McMahon from OFS for details about contracts with OFS on past Madison public art projects. Brian responds on January 31 with the requested details.

- **2024 February 8**, Jenie Gao bumps the email thread.
- **2024 February 15**, Jenie Gao bumps the email thread. Brian and Greg offer other solutions.

- **2024 February 16**, Karin Wolf emails back that she's still waiting to hear back on this.
- **2024 February 19**, Jenie Gao bumps the email thread.

2024 February 22, Karin Wolf creates a Purchasing Order so OFS can contract with the City of Madison directly. The parties work to prepare needed changes for Jenie Gao Studio's contract for when Adriana returns to the office on February 28.

- There is debate within the Planning Department on whether separating OFS will require the Metro project to go back to Common Council and a separate RFQ created for OFS and similar vendors to publicly bid on, since OFS was not the original vendor to apply for Metro. However, Purchasing debunks this, because OFS' contract amount is small enough (under \$10,000) that it does not require a public bid process, just a Purchasing Order.
- It is also worth noting that Jenie Gao Studio agreed to hire the wall primer / power washer recommended by City Engineering when the contract first changed on July 6, 2023, and that City Engineering's vendor was NOT a part of Jenie Gao's original proposal approved by Madison Arts Commission and Common Council. Adding this vendor to Jenie Gao Studio's contract did not raise questions about the Metro project needing to return for a Common Council vote. This is also not an issue of work history between the City and each vendor. OFS has a long work history with City of Madison.
- During this time, Adriana is on medical leave.

2024 February 28, Jenie Gao emails for an update on whether Adriana is back in the office to finish the new contracts for Jenie Gao Studio and OFS.

2024 February 29, Adriana emails a revised contract with an updated budget of \$110,000 since OFS is now being treated as a separate vendor.

- Jenie Gao emails back asking for the Flow Down Clause from previous contracts to be readded to the OFS contract, so that the terms OFS meets are consistent with the terms Jenie Gao Studio is contractually obligated to. Adriana agrees.

2024 March 1, Adriana emails an updated contract, which still contains comments and edit marks. Jenie Gao catches a typo and asks for a cleaned up contract to sign.

- The goal at this point is to finish the contract before Adriana goes on leave again after March 6.

2024 March 4, Jenie Gao emails again asking for a cleaned up contract to sign. Adriana emails that this will be ready today or tomorrow.

2024 March 5, Jenie Gao emails again asking for a cleaned up contract to sign.

2024 March 6, Adriana emails the cleaned up contract documents for signing. Jenie Gao notices that the Net 30 language for the Payment Schedule from previous contracts has been dropped, and that there

are no longer deadlines for the City of Madison to pay Jenie Gao Studio. Jenie asks for the Net 30 language to be re-added.

- Adriana re-adds the Net 30 language.
- Jenie signs the contract.

2024 March 7, Adriana sends Greg Markle and Brian McMahon the OFS contract in the morning, then goes on medical leave.

2024 March 12, Greg Markle at OFS confirms that OFS has signed their contract with the City of Madison.

2024 March 13, Derek Schuld from the Office of the City Attorney emails asking for Jenie Gao Studio's Certificate of Insurance.

2024 March 15, Jenie Gao emails Derek their business' Certificate of Insurance.

- At 2:49 pm CDT on Friday 3/15, Brian Pitelli emails Jenie Gao as follows: "I'm writing because there have been a few updates in regards to the contract for the Metro Art Project that have come to light in the past week. Are you able to have a virtual meeting with City staff towards the end of next week to discuss?"
- Jenie Gao agrees to a meeting on 3/20 with Brian Pitelli, Karin Wolf, and Meri Rose Ekberg.
- Jenie Gao: "If you have a minute, I'd love to hop on a phone call to touch base on what to expect for next week's meeting."
- Brian Pitelli: "I'm actually working from home, and am logging off shortly. If it's alright, I'll contact you back on Monday."
- Jenie Gao: "Monday is fine. However, I'd appreciate knowing the magnitude of the situation before I head into the weekend so I know what level of concern this is."
- Brian and Jenie's next correspondence isn't until Monday, March 18.

2024 March 18, Final emails between Derek Schuld and Jenie Gao confirming that the City has all necessary information to finish processing the contract, 10:59 am CDT.

- Brian Pitelli at 11:43 am: "Basically, we need to review timeline and the building design. Let me know if you have any questions. I'll be around for another 30 minutes if you want to call. Or in and out this afternoon with meetings."
- Brian and Jenie chat on the phone, leaving Jenie with the impression that the meeting on 3/20 is to get everyone on the same page three years after Brian Pitelli wrote the original RFQ in 2021.

2024 March 19, 1:19 pm CDT, Brian Pitelli emails Jenie that City staff has found "**rust on the [Metro] wall siding**" and have decided to replace the siding, which will **push the Metro Public Art Project to 2025 or 2026**.

- Brian Pitelli: "City staff recently inspected the building as part of the next phase of the remodel, including the siding where your mural is intended to be installed. They found additional rust

spots on the surface and now believe the siding may be deteriorating from the inside. Staff have determined the siding is past its useful life and needs to be replaced....We would like to discuss if you are willing to continue working with us on this project, given this change to the project approach and timeline.”

- Jenie Gao responds: “Let's talk through solutions in our meeting tomorrow. I remain committed to this project and have ideas on how to move forward. But this is a very drastic change, so I'll need yours and city staff's support to see this through.”

2024 March 20, Brian Pitelli, Mary Richards, Adriana Peguero, Karin Wolf, Meri Rose Ekberg, and Jenie Gao meet to discuss the Metro project.

- **Jenie offers a solution, to install an all-aluminum + vinyl project** in lieu of a hand-painted mural, with a reduction in scale (from 7,400 square feet to **4-5,000 square feet**) to accommodate price inflation since their original vendor quotes from 2022 to 2026.
- The main benefits of the change are that the project would no longer be dependent on the type of siding the City decides to use to reside the Metro building. It also removes the limitation of the small outdoor production season window for Wisconsin murals.
- When the City staff ask Jenie if they would be willing to meet with Engineering and the Architect to update the design, Jenie expresses the desire to be contracted to make the revisions. As of March 20, Jenie has logged 313 hours of mostly uncompensated labor (exception: \$3,000 for the first redesign in 2023, \$1,000 for the finalist honorarium in 2022). Jenie has also hired a lawyer to review the contract and increased their business insurance coverage to meet the City's requirements (total value \$7,000). This excludes the labor of Jenie Gao's art consultant who helps with administration, public art mentors, and colleagues who have provided advice throughout the process.
- The parties discuss the possibility of hiring Jenie Gao for under \$10,000 via a Purchasing Order to start the redesign.
- As of this date, the contract that Jenie signed on March 6, 2023, and that the City processed March 18, is voided.

2024 March 22, 4:24 pm CDT, Brian Pitelli emails Jenie Gao stating that Madison Arts Commission (MAC) needs to discuss the project, and that based on their advising it may need to go back to Common Council. He also states that City Engineering does not advise using vinyl and aluminum due to weight and windload. He also rejects Jenie's request for payment for a redesign phase.

- Brian Pitelli emails: “Engineering does not recommend using vinyl on aluminum panel due to weight and windload. But, the need to access the siding will be less of a concern with the new siding. Engineering and Metro have both expressed openness to your work being directly on the new siding. This will also help us stay within the percent for art allocation because the budget won't need to include the aluminum panels.”
- **This is the first time anyone has expressed concerns about weight and windload.**
- **Jenie's first two proposals have had between 3,700 and 4,000 square feet of aluminum panels.**

- This also contradicts each site visit SpeedPro, Jenie Gao's selected aluminum vendor, met with City Engineering to assess installation of the aluminum panels on the wall. It is not a surprise that Jenie plans to mount aluminum panels on this wall.
- This is also the reverse of City Engineering's comments in 2023, when they objected to paint on the wall but had no qualms about the aluminum.

*From 2024-01-01 to 2024-03-22, Jenie Gao logged 23 hours towards Madison Metro.
Total 318 hours from May 2022 to March 2024.*

2026?

If the Metro Public Art Project is completed in 2026, it will have been:

- Nine years since Madison's Percent for Art Ordinance was created in 2017
- Five years since the first Percent for Art-funded project RFQ was published
- Four years since Common Council approved hiring Jenie Gao Studio
- Three years since Jenie Gao Studio received the first draft of a contract
- Two years since Jenie Gao Studio first signed the contract