



City of Norman, OK

Municipal Building
Council Chambers
201 West Gray
Norman, OK 73069

Master

File Number: K-1617-97

File ID: K-1617-97

Type: Contract

Status: Consent Item

Version: 2

Reference: Item 22

In Control: City Council

Department: Legal Department

Cost: \$100,000.00

File Created: 01/17/2017

File Name: Westwood Complex Sculpture Project

Final Action:

Title: CONTRACT K-1617-97: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, THE NORMAN ARTS COUNCIL, AND MGA SCULPTURE STUDIO, L.L.C., IN THE AMOUNT OF \$100,000 FUNDED THROUGH THE NORMAN FORWARD PUBLIC ARTS FUND FOR THE PURCHASE OF A SCULPTURE TO BE PLACED AT THE WESTWOOD COMPLEX.

Notes: ACTION NEEDED: Motion to approve or reject Contract K-1617-97 with the Norman Arts Council and MGA Sculpture Studio, L.L.C., in the amount of \$100,000; and, if approved, authorize the execution thereof.

ACTION TAKEN: _____

Agenda Date: 01/24/2017

Agenda Number: 22

Attachments: Contract, Location map, Westwood sculpture rendering

Project Manager: Leah Messner, Assistant City Attorney

Entered by: sencinias@normanok.gov

Effective Date:

History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:

Text of Legislative File K-1617-97

Body

BACKGROUND: The City of Norman, the Norman Arts Council (NAC) and the Public Arts Board (PAB) have partnered in projects to install art in public places within the City of Norman. Through this partnership, the NAC has purchased art pieces, and the City provides a location for the piece(s) within public spaces owned by the City of Norman.

With the adoption of Norman Forward, the City committed to expend an amount not to exceed 1% of the aggregate construction costs of major facilities and community parks improvements costs on public art at those facilities and parks. Because of the City's positive relationship with the NAC and the NAC's commitment to the sense of community fostered by public art, the NAC has agreed to expand the partnership with the City of Norman to assist with the selection, location, and installation of public art purchased with Norman Forward sales tax revenue. The terms of this partnership were discussed at the City Council Conference of February 9, 2016 and at the Norman Forward Citizen's Financial Oversight Committee meeting of March 28, 2016.

Under the terms of the approved Services Agreement, Contract K-1516-132, the NAC will serve as the administrator for the selection, location, and installation of public art purchased with Norman Forward sales tax funds. The NAC works cooperatively with the City to recommend appropriate works of art for selected facilities and sites paid for with Norman Forward funds.

The NAC administers the selection of public art through four phases. The first phase, Project Development, includes research by the NAC into similar projects at applicable locations such as libraries, parks, sports facilities, aquatic centers, and public pools. During Project Development, the NAC will assemble a Project Team comprised of NAC members; community members with pertinent expertise; Norman Forward Ad Hoc Committee member(s); and Norman Public Arts Board member(s). The City may choose to appoint a Councilmember and/or City Staff person to the Project Team.

Once the Project Team is assembled, the Team will evaluate public art opportunities; develop a project budget; create a Selection Panel for selection of the art work; and establish a timeline for each project. The Selection Panel may be different for each work of art, but the Panel may be made up of the following members: community stakeholders; design professionals; City Manager designee; and member(s) of the Norman Forward Ad Hoc Committee relevant to the proposed site for the public art installation.

The second phase is the Selection Process, including the following: project announcement and advertising; Selection Panel review of submissions as a "blind jury"; development of a finalist short list; mandatory site visits for selected finalists; final proposal presentations; selection of artist; and contract negotiation and approval. Once an artist is chosen, the NAC, through the City Attorney's Office, will negotiate a contract with the chosen artist. City Council will then consider the contract for approval, and the artist shall complete the work of art according to the terms of his or her contract.

The third phase will be the Execution and Installation Process. During this phase, NAC will coordinate with the City for permitting and plan approvals; with the artist for fabrication and installation; and with either the City or the artist regarding any issues which might arise.

The last phase is Public Engagement and Education. During this phase, once the work of art is complete, the NAC will design and install appropriate markers for the work of art as well as taking archive-quality audio, video, and/or photographs. The NAC will also work to generate public awareness and appreciation for each work of art through press releases, social media, and other appropriate channels. The NAC will also collaborate with City Staff regarding care and maintenance of each work of art.

Under the terms of the Services Agreement, the City of Norman will fund public art installed at or as a part of Norman Forward sales tax funded projects up to 1% of construction costs for: Central Library, East Library, Indoor Sports Complex Facility, Indoor Aquatic Center, Westwood Recreational Complex, Ruby Grant Park, Andrews Park, Saxon Park, Reaves Park, and Griffin Park. These costs (the "Norman Forward Public Arts Funds" or "NFPAF"), aggregated together, are estimated to be \$1.2 million.

Of the NFPAF, at least 90% shall be allocated to: art selection, artist fees, fabrication, installation, and maintenance. The remaining amount, up to 10% of the total NFPAF, shall be paid to NAC as an administrative fee. As projects come forward, the City will make the administrative fee available to NAC. The NAC will submit quarterly reports detailing the progress made including funds received and expended.

The Services Agreement is for an initial one year term and will renew automatically for subsequent one year terms so long as Norman Forward revenues remain for the purchase and installation of public art.

DISCUSSION: The first project has reached the point in the process where it is necessary for Council to approve a contract with the selected artist. This artist, Mark Aeling, with MGA Sculpture Studio, has been selected by the Selection Panel to create a piece of sculpture, entitled "Splash," to be installed at the Westwood Complex. The Selection Panel was composed of Jim Griffith, David Minihan, Brook Haney, Ally Richardson, Rick McKinney, and Jud Foster. Committee facilitators were Erinn Gavaghan and Debby Williams. The permanent location for the work shall be in a grassy area on the west side of the parking lot at the east end of Westport Drive in Norman, Oklahoma. A map is attached showing the proposed location of the sculpture.

This proposed Contract is similar to previous contracts approved by Council for public art, most recently the contract to install the mosaic at Lions Park. Under the terms of the Contract, the artist will design, execute, fabricate, transport, install and document the sculpture. The artist shall perform all services and furnish all supplies, materials and equipment necessary for the design, execution, fabrication, transportation and installation of the sculpture. In addition, The Artist shall be responsible for the delivery, setting and secure installation of the Work at the prepared site in Norman, Oklahoma. The Artist shall be responsible for ensuring the base design is engineered appropriately to support the completed Work in a safe and secure manner and shall provide the Owner with documentation confirming approval by an engineer registered in the State of Oklahoma. Artist shall also be required to obtain a building permit and an electrical permit from the City of Norman.

The sculpture is proposed to be completed and installed no later than July 1, 2017. In addition, prior to implementing any changes to the sculpture, the Artist is required to obtain approval from the City of Norman. The total cost of the sculpture is \$100,000. That cost will be paid over four payments: \$25,000 upon delivery of a signed contract; \$25,000 at the beginning of fabrication; \$20,000 upon completion of the sculpture; and \$30,000 upon final acceptance by the City of Norman.

Final acceptance will be determined solely by the City of Norman. The City of Norman retains the right to subsequently remove the work if it presents a safety hazard or cannot be reasonably restored to its original structural or aesthetic integrity.

As an independent contractor, the artist is responsible for any Worker's Compensation insurance and employee liability insurance that may be necessary while the work is being made, transported, or installed. Proof of insurance is required prior to beginning any work. The artist agrees to defend, indemnify and hold harmless the City of Norman, its agents and employees, from and against legal liability for all claims, losses, damages and expenses to extent they are caused by the Artist, its agents and employees. The artist will indemnify the City of Norman, Oklahoma up to one hundred twenty-five thousand dollars (\$125,000). All rights under the Copyrights Act of 1976 and the Visual Artists Rights Act of 1990 are applicable to this contract.

In addition, after the piece is installed, the City of Norman agrees not to alter, modify, change, destroy, or damage the piece without attempting to consult the artist first. However, the City of Norman may remove the piece if it becomes a safety hazard due to deterioration in its condition.

The public art pieces of Norman Forward were anticipated to be funded as pay-as-you-go projects. Funds were previously appropriated with the adoption of the FYE17 budget and are available for the Norman Forward Westwood complex public art piece in NORMAN FORWARD Public Arts Projects, Construction (account number 051-9500-452.61-01; project NFP100).

RECOMMENDATION: Based upon the above and foregoing discussion, it is the staff recommendation that Council approve and sign the attached contract, K-1617-97, if Council wishes to have Mr. Aeling's sculpture fabricated and installed at the Westwood Complex.