

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Museums and Cultural Affairs

AGENDA DATE: November 17, 2009

CONTACT PERSON NAME AND PHONE NUMBER: Sean McGlynn, MCAD Director, 541-4898

DISTRICT(S) AFFECTED: All

SUBJECT:

APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

That the City Manager be authorized to sign the First Amendment to the January 27, 2009 Artist Service Agreement by and between the City of El Paso and Barbara Grygutis Sculpture, LLC, an Arizona limited liability company ("Artist") for the assistance of Artist to design, create and fabricate public art to be known as the Civic Center Plaza Improvements increasing the contract amount by FORTY THOUSAND AND NO/100 DOLLARS (\$40,000.00) to THREE HUNDRED AND SIXTY THREE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$363,500.00) and increasing the scope of Artist's service to add two additional sculptures.

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

A public art project to be located at Civic Center Plaza and the Abraham Chavez Theatre to encourage the integration of art into the architecture of municipal buildings for the City of El Paso. Barbara Grygutis ("Artist"), has been selected and approved by the CAAB to create and integrate a public artwork in and around Civic Center Plaza and Abraham Chavez Theatre. The project includes 12 sculptures to be sited around the Abraham Chavez Theatre and will be lit up during evenings. The sculptures are evenly distributed around the Theatre but lacks visibility from the plaza and Santa Fe Street as you drive into the downtown area. MCAD is recommending 2 additional sculptures be placed on both front ends to create the connectivity and visibility complete the overall project.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

Ordinance No. 16324 adopted on April 4, 2006 providing for art in municipal places, establishing the El Paso public art committee and describing its powers and duties, and establishing a means of funding acquisition or commissioning of art for municipal places and repealing ordinances 15245 and 15073.

FY10 Public Art Plan was adopted by City Council on January 20, 2009.

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

2% For The Arts - Fund 27263, Account # 508011, Dept 99331119

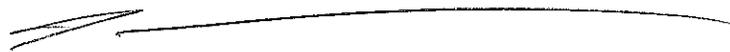
BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A

The Cultural Affairs Advisory Board approved the FY10 Public Art Plan on December 16, 2008.

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

Information copy to appropriate Deputy City Manager

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign the First Amendment to the January 27, 2009 Artist Service Agreement by and between the City of El Paso and Barbara Grygutis Sculpture, LLC, an Arizona limited liability company ("Artist") for the assistance of Artist to design, create and fabricate public art to be known as the Civic Center Plaza Improvements increasing the contract amount by FORTY THOUSAND AND NO/100 DOLLARS (\$40,000.00) to THREE HUNDRED AND SIXTY THREE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$363,500.00) and increasing the scope of Artist's service to add two additional sculptures.

ADOPTED THIS _____ DAY OF _____ 2009.

CITY OF EL PASO:

John F. Cook, Mayor

ATTEST:

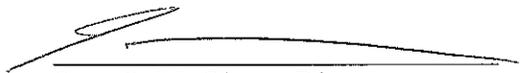
Richarda Duffy Momsen,
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT



Kristen L. Choi
Assistant City Attorney



Sean P. McGlynn, Director
Museums and Cultural Affairs Department

3. Section 4.2, Payment Schedule, of the original agreement is hereby amended to read:
 - 4.2.1 Within ten (10) days of the Effective Date, the City will pay to Artist SIXTY FOUR THOUSAND SEVEN HUNDRED AND NO/100 DOLLARS (\$64,700.00), for the purchase of materials or labor, representing 18% of the total cost of the project.
 - 4.2.2 The City agrees to pay Artist an additional EIGHTY THOUSAND EIGHT HUNDRED SEVENTY FIVE AND NO/100 DOLLARS (\$80,875.00), which represents 22% of the total cost, upon the agreement of the parties that the Artwork fabrication has attained fifty percent of completion.
 - 4.2.3 The City agrees to pay Artist an additional NINETY THOUSAND EIGHT HUNDRED AND NO/100 DOLLARS (\$90,800.00), which represents 25% of the total cost, upon the agreement of the parties that the Artwork fabrication has attained seventy percent of completion.
 - 4.2.4 The City agrees to pay Artist an additional SEVENTY TWO THOUSAND SIX HUNDRED AND NO/100 DOLLARS (\$72,600.00), which represents 20% of the total cost, upon the agreement of the parties that the Artwork fabrication has attained one hundred percent of completion.
 - 4.2.4 The City agrees to pay Artist an additional FIFTY FOUR THOUSAND FIVE HUNDRED TWENTY FIVE AND NO/100 DOLLARS (\$54,525.00), which represents 15% of the total cost, within thirty (30) days of receipt by the City of an itemized statement from Artist for the completion of 100% of the Services, including, but not limited to, Artist's providing advice and consulting with City concerning the installation of the Artwork rendered under this Agreement, subject to a positive inspection and acceptance by MCAD of the Artwork as installed and said Services. MCAD's acceptance at this stage shall not be granted unless the Artist provides to MCAD the photographic documentation, and written instructions for the maintenance and preservation of the Artwork, and the plaque as stated hereinabove in Section 2.7.4, 2.7.5 and 2.7.6 above.
3. All other terms and conditions of the Original Agreement shall remain in full force and effect.
4. If the terms and conditions of the First Amendment are in conflict with the Original Agreement, the terms and conditions of this First Amendment shall control.
5. This First Amendment shall not take effect until signed by the City Manager of the City of El Paso.

IN WITNESS WHEREOF the parties hereto have executed this First Amendment at El Paso, Texas.

CITY OF EL PASO

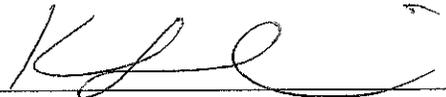
Joyce A. Wilson
City Manager

Date: _____

ARTIST:

Barbara Grygutis Sculpture, LLC
By: _____
Title: _____

APPROVED AS TO FORM:



Kristen L. Choi
Assistant City Attorney

APPROVED AS TO CONTENT:



Sean P. McGlynn, Director
Museums and Cultural Affairs Department