

Mayor and Council Communication

DATE: 02/14/23

M&C FILE NUMBER: M&C 23-0060

LOG NAME: 03RATIFY AND AMEND AGREEMENT FOR DISPLAYS LLC

SUBJECT

(ALL) Approve Fourth Amendment Increasing Expenditures for the Professional Services Agreement with Displays, LLC., City Secretary Contract No. 54007 for Maintenance of the City Public Art Collection, Ratify Expenditures of \$40,975.61 and Authorize an Increase in the Annual Not to Exceed Amount to \$135,064.14 for the First Renewal Term

RECOMMENDATION:

It is recommended that the City Council:

1. Approve the Fourth Amendment to City Secretary Contract No. 54007 increasing the annual not to exceed amount to \$135,064.14 for the first renewal term; and
2. Ratify expenditures in the amount of \$7,576.76 (City Secretary Contract No. 54007-AM3A7) and \$33,398.85 (City Secretary Contract No. 54007-A9), for a total of \$40,975.61, all of which are under subrogation claims filed with Risk Management.

DISCUSSION:

The City of Fort Worth (City) has an annual professional services agreement with Displays, LLC. for art-related services assisting with the care and maintenance of the Fort Worth Public Art (FWPA) Collection, (City Secretary Contract (CSC) No. 54007). All services under the Agreement are carried out under fully executed Service Delivery Orders, filed as addenda to the Agreement. The City has filed a total of 9 addenda since the execution of the Agreement with Displays, LLC.

Due to the number of Service Delivery Orders that have been filed, the agreement with Displays LLC has been amended on several occasions to increase the annual not to exceed amount. However, recent repairs filed under subrogation claims have caused the not to exceed amount to exceed \$100,000.00.

The Fort Worth Public Art Collection includes artwork titled *Collective Transitions* by Kipp Kobayashi, composed of approximately 900 painted metal "paper airplanes" suspended from the lobby ceiling at Meacham International Airport, located at 201 American Concourse, Fort Worth 76106. On two separate occasions the artwork was damaged by third-party vendors.

On March 25, 2022, Displays LLC provided repair work to *Collective Transitions* caused by third-party window washers and amended the agreement to increase compensation by \$28,350.00 (CSC 54007 AM2). Risk Management recovered costs in the amount of \$15,738.53 through subrogation claim #C00307644.

On April 19, 2022, the artwork was significantly damaged again when a third-party vendor removed a large window and high winds caused elements of the artwork to become extremely tangled. Risk Management filed subrogation claim #1PS05284 on April 29, 2022. In order to proceed with repairs so that the claim could be processed and closed, the Agreement was amended for a third time to increase the compensation amount by \$15,738.53 (CSC 54007AM3A7)

However, additional work was required following a site review and FWPA approved work in the amount of \$7,576.76 on June 8, 2022. The approval letter documents that repairs did not sufficiently restore the artwork to its original condition. CSC 54007-A9 approved additional work in the amount of \$33,398.85 and was executed on July 13, 2022. Work was completed on July 29, 2022 so that the insurance claim could be closed in a timely manner.

Total repairs of *Collective Transitions* since March 2022 have cost a total of approximately \$72,452.67, which are expected to be fully reimbursed through subrogation claims filed by Risk Management.

To commemorate the additional compensation for work performed since March 2022, this Mayor and Council Communication (M&C) approves Amendment 4 to the Displays LLC agreement, which authorizes an increase in the total annual not to exceed amount to \$135,064.14 for the first renewal term only. Total payments made under the agreement for any subsequent renewals shall remain at the annual amount not to exceed \$50,000.00. No amount of work is guaranteed and work will only be performed on an as-needed basis. This M&C also ratifies expenditures related to the first renewal term in the amount of \$40,975.61, which were necessary to complete the repair work to *Collective Transitions* and to receive reimbursements.

	AMOUNT	CONTRACT
Professional Services Agreement, First Renewal	\$50,000.00	CSC #54007

Amendment 2: 1 st Repair & Cleaning	\$28,350.00	CSC #54007 AM2
Amendment 3: 2nd Repair	\$15,738.53	CSC #54007 AM3A7
Approved Additional Expenses 2nd Repair (To be included in Amendment 4)	\$7,576.76	CSC #54007 AM3A7
Restoration of damaged area to original condition (To be included in Amendment 4)	\$33,398.85	CSC #54007 A9
Total Requested Annual Contract Compensation	\$135,064.14	This M&C

FUNDING SOURCES	AMOUNT
Specially Funded Capital Projects (Public Art Fund) – Collection Management	\$50,000.00
Aviation (Cleaning)	12,611.47
Risk Management Self-Insured FID	72,452.67
TOTAL	\$135,064.14

Funding is budgeted in the Development Services Department's Specially Funded Projects Fund for the purpose of funding the FWPA CM-Displays FAS 2020 project, as appropriated related to future year renewal.

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that funds are available in the current capital budget, as previously appropriated, in the Specially Funded Projects Fund for the FWPA CM-Displays FAS 2020 project to support the approval of the above recommendations and execution of the amendment to the contract and ratification of expenses. Prior to any expenditure being incurred, the Development Services Department has the responsibility to validate the availability of funds.

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