TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER DEPARTMENT: COMMUNITY SERVICES

DATE: NOVEMBER 10, 2008 CMR: 428:08

REPORT TYPE: REPORTS OF OFFICIALS

SUBJECT: Approval of Contracts with: 1) Artist Bruce Beasley in the Amount of $190,000, and 2) Aaron Garfinkel Landscapes, Inc. in the Amount of $35,500, for the Creation and Installation of a New Fountain Replacing the Damaged Fountain on California Avenue

RECOMMENDATION

Staff recommends that the Council authorize the City Manager or his designee to execute the attached contract (Attachment A) in the amount of $190,000 with Bruce Beasley for the creation of a fountain for California Avenue located at California Avenue and Park Boulevard and the attached contract (Attachment B) in the amount of $35,500 with Aaron Garfinkel Landscapes, Inc. for the installation of the fountain.

BACKGROUND

The California Avenue fountain replacement project has been pending before the Public Art Commission since 2005. The Public Art Commission completed its recommendation in January of 2008. The project was initially scheduled for Council consideration and the award of a contract using Public Art Commission funds in May of 2008. Staff pulled the
project from the Council agenda to address significant public concern around maintaining the presence of a water feature and the project as a fountain. Staff developed the following options:

**Recommended Option**

Proceed with the original Beasley fountain proposal using $190,000 in funding available from the Public Art Commission, CIP Project AC-86017 (Art in Public Places Program). Staff also investigated the cost of incorporating water into the Beasley fountain at an additional $35,000 which can be funded from the CIP Project PE-07005 (California Avenue Improvements) earmarked for fountain repair or replacement. This option brings a unique fountain and a signature work of art to the California Avenue gateway, a piece that separates California Avenue from business districts and malls across the country.

This option has also become financially feasible to include the water element because of the competitive bidding process. Staff found the lowest responsible bidder to add the water to be within the allocated budget. Also the Beasley piece offers a unique opportunity to install an important artwork within the Public Art Commission’s Resources.

**Maintenance Option**

The California Avenue fountain requires the ongoing maintenance of approximately $4,500 annually. The annual maintenance figure is currently expended and would be the same for all options. This includes $730 per year for electricity, $3600 annually for cleaning and refilling, and $100 per year for pump maintenance. Maintenance could see an increase in cost depending on the fountain’s continuing deterioration. Maintaining the current fountain is not desirable as its condition does not enhance California Avenue and a gateway location to Palo Alto. There is already corrosion identified on the bolts and braces that hold the fountain from falling and over time the braces would also need to be repaired or replaced. On August 29, 2008, an updated assessment of the fountain’s present condition was conducted by Public Works Water Quality Control Maintenance. A summary of the assessment is attached (Attachment E). The assessment confirms that
some of the wiring and tubing will need to be replaced. The damaged pedestal and fountain bowl cannot be repaired and will need to be replaced.

“Off the Shelf Option”
The cost of an “off the shelf” fountain would cost approximately $4,500 not including a cast pedestal, installation of the bowl and mechanicals. Pre-cast fountains are mass produced for public areas throughout the country, are generally indistinctive and would not compare to the originality of the Beasley work. California Avenue has developed a reputation as a destination for public art. Installing a world class piece in this prominent location would significantly contribute to the character of California Avenue.

Replacement Option
This option would save the pool and surrounding concrete rim, removing and replacing the damaged pedestal and bowl which cannot be repaired due to the extent of the damage. The current California Avenue fountain was installed in the early 1970’s by the City of Palo Alto. The cost of recasting the pedestal and bowl ranges from $12,000 to $46,000 and would not qualify for Public Art funds. Initial discussion with vendors as the lower range of $12,000 it is felt that this option could be covered by the $50,000 in funding from the CIP Project PE-07005 (California Avenue Improvements).

The maintenance, replacement and “off the shelf” options do not prevent the possibility of future damage by trucks. The Beasley installation includes appropriate landscape upgrades to protect the work from vehicle impact.

History
The opportunity to replace the damaged fountain on California Avenue was brought to the Public Art Commission in 2005. As part of the CIP PE07005 – California Avenue Improvements to repair or remove the fountain, $50,000 was identified. The fountain had been damaged by delivery trucks on two separate occasions with extensive damage to the fountain, including cracks at its base which made it necessary to brace the fountain bowl
to prevent it from falling over. A sub-committee of the Public Art Commission was formed to research and bring a proposal back to the Commission.

Nationally known, California-based artists David Gilhooly, Laddie John Dill, David Hooter, and Bruce Beasley were contacted to ascertain interest in the project. Bruce Beasley, based on the quality of his work, his stature as an internationally known artist whose work would be noted as a signature piece for the City, and his experience with creating public fountains, was identified as the artist for the project. Beasley submitted a proposal in March 2006 and a sub-committee of the Public Art Commission visited his studio in May of 2006. Beasley was also willing to create a sculpture or fountain for Palo Alto at 50% of market value for his work. The Commission unanimously approved Bruce Beasley as the project artist at their May 18, 2006 meeting. The Commission, in an effort to raise non-City funding for the project, approached the California Avenue Area Development Association (CAADA). CAADA had earlier reached out to the Commission to help support preserving the fountain. CAADA opted not to commit funds at that time in view of the planning effort underway for California Avenue and the grants that were in process through the City. The Beasley fountain project was also included in two City grant proposals to the Metropolitan Transportation Commission and Santa Clara Valley Transportation Authority. Both grant requests were rejected.

In October 2007, the Commission received bids to install the Beasley piece as a fountain. Proposals varied greatly ranging between $99,000 to $119,000. It was then decided due to the projected cost, which would exceed available funding, that the Commission would begin a discussion of the creation of a sculpture by Beasley for the space instead of a fountain. Beasley was willing to shift his focus from a fountain to a stand-alone sculpture with seating.

On January 17, 2008, after the Palo Alto Public Art Commission voted unanimously 5-0 (one member absent) to contract with artist Bruce Beasley to create a stand-alone sculpture. Following in the footsteps of the Fletcher Benton sculpture installation at the Palo Alto/Stanford Playing Fields, the Commission was looking for an artist with a
significant reputation to create the artwork on California Avenue, a gateway site into Palo Alto. Bay Area artist, Bruce Beasley, is one of twenty artists worldwide who has been commissioned to create artwork for the Olympics in Beijing, China. Many cities including the City of San Francisco, Brea, Sacramento, and Stanford University feature artwork by Bruce Beasley.

The Public Art Commission’s recommendation was scheduled to go to Council on May 19, 2008 and was removed from the agenda due to public concern and comment about keeping a water feature in place at the California Avenue location. On May 27, a special meeting of CAADA was called to revisit incorporating water into the sculpture. Artist Bruce Beasley attended, confirming his interest in going back to the original intent to create the fountain. He spoke of the fountain’s design made from grey and white granite evoking elements of the high Sierras and incorporating water symbolic of mountain streams flowing into California’s rivers. CAADA voted to approve the Beasley piece incorporating the water elements. In an effort to help reduce costs for its installation Beasley agreed to keep his fee at $190,000.

**Final RFP and Selection Process**

A Request for Proposals (RFP) was again solicited based on a revised scope of work, to remove the existing fountain, prepare the site including mechanicals and plumbing, excavate and create the pool, install the sculpture, plumbing for the water feature, and retaining granite, and repair the surrounding pavement.

A notice inviting proposals for this project was posted at City Hall on July 28, 2008 and sent to four independent contractors. The bidding period was 23 days. Proposals were received from two qualified contractors on August 19, 2008 as listed on the attached bid summary (Attachment D).

The solicitation for the California Avenue Fountain Replacement Project was made by RFP format, because it involved design, creativity and innovation in working with all aspects of the installation, including developing a concept of design appropriate and
compatible with the art piece. A team of staff from Parks and Public Works Engineering evaluated the proposals. The proposal by Aquatic Environments proposed a higher price that exceeded available funding. Purchasing staff called Aquatic Environments and confirmed that the bid quote covered all costs, including materials, labor, transportation, permits, fees, etc., including replacement of pump, piping etc., as may be required. Purchasing and Public Works Engineering staff also called Aaron Garfinkel Landscapes, Inc. Aaron Garfinkel confirmed that he understood the work involved, was a small contractor with a long involvement with Palo Alto and had a successful track record of projects. Based on the proposals and follow-up calls by staff, Aaron Garfinkel Landscapes, Inc. was recommended. The concrete pavement work, indicated as optional in the Garfinkel proposal, will be included as necessary with additional 15% contingency added. A summary of the bid process is enclosed on page 2 of attachment C.

Aaron Garfinkel Landscapes, Inc. was selected. Staff recommends that the $30,500 plus $5,000 as a contingency of 15 percent be accepted and that Aaron Garfinkel Landscapes, Inc. be declared the lowest responsible bidder. The contingency amount of $5,000 (which equals 15% of the total contract) is requested to resolve unforeseen problems and/or conflicts that may arise during the construction period. Bruce Beasley, working with Public Works Engineering and Aaron Garfinkel, Inc., will develop engineered drawings of the sculpture and a site plan which shows the fountain in the same footprint as the existing fountain, including the central granite sculpture, the pool, and granite pieces surrounding the pool. The Bruce Beasley artist contract is a “sole source” purchase and documentation is attached. Staff has developed a scope of work for the project that ensures that the fountain is developed, engineered, created, transported, and installed in a timely and cost efficient manner.

**RESOURCE IMPACT**

The total costs for this project are $225,500. This includes $190,000 for the sculptor, $30,500 for the installation, and an installation contingency of $5,000.

Funding appropriated to date and proposed to be used for this project includes:
CIP Project AC-86017 (Art in Public Places Program) = $135,000
CIP Project PE-07005 (California Avenue Improvements) = $50,000
Total $185,000
Project costs $225,500
Gap ($40,500)

The project gap would be funded through the Public Arts Commission 2010 budget allocation. Under the agreement with the fountain sculptor, $55,000 will be required for payment in 2009-10. The Art in Public Places Program customarily receives $50,000 annually in the CIP. The Public Art Commission has a current available fund balance of $37,500 for 2008-09, which includes $5,000 approved to be carried over to 2009-10. The approval of $50,000 CIP General Fund dollars in the budget process for FY 2009-2010 will allow final payment of $55,000 to the Artist in 2009-10. These funds have not been appropriated as yet by Council. Also because funds will not be aggregated, no Budget Amendment Ordinance is required.

The California Avenue fountain will require the ongoing maintenance of approximately $4,500 annually. This includes $730 per year for electricity, $3600 annually for cleaning and refilling, and $100 per year for pump maintenance. These costs are already included since the City is currently maintaining the fountain.

POLICY IMPLICATIONS
This recommendation does not represent any change to existing City policies.
The proposed project is consistent with existing City policy, including Comprehensive Plan Policies: Maintaining and Enhancing Community Character, L-21, L-62, L-72, L-74, L-75, and Program B-3.

ENVIRONMENTAL REVIEW
This project has been determined to have no significant effect on the environment and to be categorically exempt from review under the California Environmental Quality Act
(CEQA), as the repair and maintenance of existing and similar facilities pursuant to
CEQA Guidelines, Section 15301 (c).

ATTACHMENTS
Attachment A: Contract Bruce Beasley
Attachment B: Contract Aaron Garfinkel Landscapes, Inc.
Attachment C: Bid Summary
Attachment D: August 29, 2008, Fountain assessment by Public Works WQCP
   Maintenance including photos of fountain.
Attachment E: Photo from Quick Crete Products Corp. of “off-the-shelf” cast fountain
   similar to California Avenue Fountain with drawings
Attachment F: Site Photo digitally created with Beasley fountain
Attachment G: Artist Bio

PREPARED BY:  
LINDA CRAIGHEAD
Arts and Sciences Division Manager

DEPARTMENT HEAD:  
GREG BETTS
Interim Director of Community Services

CITY MANAGER APPROVAL:  
JAMES REENE
City Manager