



City of Palo Alto

City Council Staff Report

(ID # 9230)

Report Type: Consent Calendar

Meeting Date: 5/29/2018

Summary Title: Amendment to Contract for Public Art with Artist Mary Lucking to Increase Amount by \$10,000

Title: Approval of Amendment Number One to Contract Number C17167868 With Artist Mary Lucking to Increase the Contract Amount by \$10,000 for the Completion of the Public Art for the Highway 101 Bike and Pedestrian Bridge

From: City Manager

Lead Department: Community Services

Recommendation:

Staff recommends that the Council approve the amendment of contract C17167868 with artist Mary Lucking to increase funding by \$10,000 for a total contract amount not to exceed \$110,000 to fund the artwork for the upcoming Highway 101 bike and pedestrian bridge.

Background

The Highway 101 Pedestrian Overpass Project at Adobe Creek will replace an existing underpass that is available only half the year (on average) due to seasonal flooding. It would also complement an existing, although Americans with Disabilities Act (ADA) deficient, overpass that is 1.25 miles north. The new overcrossing will also include a 0.13 mile Class I trail connection along an existing Santa Clara Valley Water District maintenance road. The City of Palo Alto's Public Art Program manages the process for incorporating public art into municipal projects. (Palo Alto Municipal Code section 2.26.070, Public Art for Municipal Projects.) The Highway 101 Bike and Pedestrian Bridge Project is a high visibility public works project that presents an opportunity to integrate site specific public art.

In the heart of Silicon Valley, Palo Alto (along with its neighbor to the south, Mountain View) is home to hundreds of technology and research-based companies, including a number of major employers such as Google, Intuit, and Space Systems Loral that have clustered in close proximity to Highway 101 and the Bay Trail. To better link these growing job centers with regional trails and bicycle facilities, and improve access to superb recreation opportunities like the Baylands, Palo Alto has prioritized the funding

and construction of a new, year-round bicycle and pedestrian overcrossing over Highway 101 at Adobe Creek near the City's southern border.

The Artist Selection Process:

Staff initiated the artist selection process in November 2016. After reviewing the qualified artists in the Public Art pre-qualified pool, staff presented the work of twenty three different artists to a selection panel composed of the project Architect Claudia Guadagne, Assistant Director of Community Services Rhyena Halpern who oversees the Arts & Science Division, Public Art Commission (PAC) member Mila Zelkha, Bike Bridge Competition panelist and former ARB member Judith Wasserman, Cubberley Artist Studio Program artist Mel Day, Palo Alto Art Center Curator Selene Foster, Environmental Advocate Jerry Hearn, and former ARB member and cyclist Lee Lippert. From that selection panel, five artists were selected for an interview. Once the interviews were completed, Mary Lucking was selected as the artist for the project. The Public Art Commission approved Mary Lucking as the project artist at its February 16, 2017 meeting. The panel and the PAC selected Lucking because of her artistic excellence and extensive experience integrating artwork into bike and pedestrian bridges, transportation hubs and other high traffic public spaces utilizing durable materials. With nearly twenty years of experience in the field of public art, three of Lucking's projects have been recognized for artistic excellence by the Americans for the Arts Public Art Network, and her artworks can be seen across the country. Lucking's gift for using industrial materials in a manner that feels light and organic made her an ideal candidate for this project adjacent to the Baylands.

Mary Lucking was approved by the Public Art Commission as the project artist in February 2017. Lucking's contract (Attachment A) was approved by City Council March 27th, 2017. The artist traveled to Palo Alto in April 2017 to meet with the design team, tour the area in which the bridge will be sited, and gathered as much information about the project as possible to initiate her design development.

Due to the scale of the project and the limited art budget, the opportunities for public art integration are somewhat limited. While Mary was in Palo Alto, she and the design team explored numerous opportunities for art integration into the bridge, including the trail split at the western approach to the bridge, the railing at various places on the bridge, the scenic overlook, and the roundabout at the eastern approach to the bridge. While the design team really wanted to have the artwork integrated throughout the structure, the limited budget, strong industrial truss design, and stringent safety regulations associated with the project made the smaller elements get lost in the larger project and the team felt they would not be as impactful. The artist proposed concentrating her artwork at the scenic overlook, creating an environment for reflection on the beautiful Baylands that can be viewed from that space. This is the only space along the bridge where visitors can step away from bike and pedestrian traffic.

Discussion:

The Conceptual design was reviewed and approved by the Public Art Commission on August 14, 2017. Inspired by the wetlands and the many creatures that live below, Lucking proposed creating sculptures for the overlook that can double as creative seating. More traditional benches, interpretive signage, and bike racks will be available nearby. The cast aluminum pieces will have a brushed finish and sculpted texture that will make them visually engaging and interesting to touch. The pieces currently planned will range in scale from 32" x 32" x 36" to 32" x 24" x 18", but may have to scale slightly up or down as the bridge design is finalized and ADA regulations are met. At the time of the PAC approval, Lucking expressed that the seating elements could be cast and installed and still leave some funding available to put toward an artist designed railing at the overlook area, but not likely enough to fully fund the railing.

At the time that PAC approved Mary Lucking's design for the seating elements and railing, the commission expressed strong support for the artist designed railing and inquired if additional funding could be allocated for this purpose. Staff informed the PAC that since staff did not have enough information yet to determine the additional cost, that staff would return to the PAC once the amount of additional funding is determined and make the request at that time. Staff returned to the PAC in April 2018 to request additional funds in the amount up to \$10,000 to ensure that the railing can be fabricated as part of Lucking's contract, and ensure that there were adequate funds for Lucking to fabricate the railing with an alloy suitable to the marine environment.

The Public Art Commission approved the \$10,000 increase from the pooled Municipal Percent for Art funds (within the Art in Public Places CIP) to cover the additional expense of the railing. The additional allocation of \$10,000 will cover the additional expense of the railing in a durable material suitable to the marine environment and still leave a small amount of contingency funds in place. The Council has a longstanding policy, codified in the Municipal Code, of refraining from direct involvement in selection of artists and approval of artwork designs and plans. The Council refers these matters to Public Art staff and the Public Art Commission. (Municipal Code - section 2.26.060.)

Timeline

Detailed design is underway on the bridge, including the details for art integration for the creative seating and railing sections. The bridge is scheduled to begin construction in early 2019 and scheduled for completion in 2020.

Resource Impact

The current funding of \$100,000 for the original contract came from the Art in Public Spaces CIP (AC-86017), and the additional funds up to \$10,000 will come from the same CIP. The Public Art for Municipal Projects Ordinance (Ordinance Number 5301, Municipal Code 2.26.070) requires that 1% of the CIP budget for municipal projects is allocated for the commission of public art. The Highway 101 Pedestrian/Bicycle Overpass Project CIP (PE-11011) contributed 1% of the project's funding to the Art in Public Spaces CIP in order to fund the public art component of this project.

Environmental Review

The artist's concept has been integrated into the bridge design for the purposes of environmental review. Pursuant to CEQA, an Initial Study and Mitigated Negative Declaration (IS/MND) was prepared and circulated for public review in September-October 2017, and adopted by Council Resolution on November 27, 2017. The MND concludes that, with mitigation incorporated, the project will have no significant environmental impacts. Because the project may involve federal funding, the project has also been evaluated under the National Environmental Policy Act (NEPA). The City received a Categorical Exclusion from Caltrans under NEPA in December 2017.

Attachments:

- Attachment A: Lucking Contract Amendment One

**AMENDMENT NO. 1 TO CONTRACT NO. C17167868
AGREEMENT BETWEEN THE CITY OF PALO ALTO AND ARTIST MARY LUCKING FOR PROFESSIONAL
SERVICES (CONCEPT AND DESIGN DEVELOPMENT, FABRICATION AND INSTALLATION)**

This Amendment No. 1 (this "Amendment") to contract no. C17167868 is entered into as of May 21, 2018 , by and between the CITY OF PALO ALTO, a California chartered municipal corporation ("CITY"), and **MARY KATHERINE LUCKING**, a California corporation, located at 530 E McDowell Ed, # 107-284, Phoenix, AZ 85004 ("ARTIST").

RECITALS

A. The Contract was entered into between the parties for the provision of professional services for the concept and design development, fabrication and installation for work of art for the new Adobe Creek/Highway 101 Pedestrian and Bicycle Bridge connecting Palo Alto and the Baylands Nature Preserve.

B. The parties wish to amend the Contract to allow the Artist to fabricate a public art element in a more durable type of material designed to with stand environmental conditions of the site within the original scope of services for the Project, increase the total not-to-exceed amount of compensation by \$10,000 for professional services, including any reimbursable expenses, and to extend the schedule of performance for the fabrication phase, as detailed herein.

NOW, THEREFORE, in consideration of the covenants, terms, conditions, and provisions of this Amendment, the parties agree:

SECTION 1. Section 4, NOT TO EXCEED COMPENSATION, is hereby amended to read as follows:

"The compensation to be paid to ARTIST for performance of the Services and provision of the Art Work described in Exhibit "A", including both payment for professional services and reimbursable expenses, shall not exceed One hundred thousand Dollars (\$100,000).

In the event Additional Services are authorized, the total compensation for Services, Additional Services and, reimbursable expenses, shall not exceed One Hundred Ten Thousand Dollars (\$110,000). Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to the CITY.

The applicable rates and schedule of payment are set out in Exhibit "C", entitled "COMPENSATION SCHEDULE", which is attached to and made a part of this Agreement.

Additional Services, if any, shall be authorized in accordance with and subject to the provisions of Exhibit "C". ARTIST shall not receive any compensation for Additional Services performed without the prior written authorization of CITY. Additional Services shall mean any work that is determined by CITY to be necessary for the proper completion of the Art Work, but which is not included within the Scope of Services, described in Exhibit "A".

ARTIST acknowledges that CITY desires that the Art Work, including its conceptual design and content be unique. ARTIST agrees to not duplicate the Art Work without the express written consent of CITY.

SECTION 2. The following exhibit(s) to the Contract is/are hereby amended to read as set forth in the attachment(s) to this Amendment, and which are hereby attached and incorporated in full by this reference:

- a. Exhibit "A" entitled "SCOPE OF SERVICES".
- b. Exhibit "B" entitled "SCHEDULE OF PERFORMANCE".
- c. Exhibit "C" entitled "COMPENSATION".

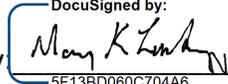
SECTION 3. Except as herein modified, all other provisions of the Contract, including any exhibits and subsequent amendments thereto, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have by their duly authorized representatives executed this Agreement on the date first above written.

CITY OF PALO ALTO

MARY KATHERINE LUCKING

City Manager

By  _____
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 Name: Mary Katharine Lucking
 Title: artist

APPROVED AS TO FORM:

Deputy City Attorney

Attachments:

- a. Exhibit "A" entitled "SCOPE OF SERVICES".
- b. Exhibit "B" entitled "SCHEDULE OF PERFORMANCE".
- c. Exhibit "C" entitled "COMPENSATION".

EXHIBIT "A" **SCOPE OF SERVICES**

BACKGROUND

The purpose of this agreement is to outline the scope of work for the design, fabrication, and installation of original artwork(s) integrated into the new Adobe Creek / Highway 101 Pedestrian and Bicycle Bridge connecting Palo Alto and the Baylands Nature Preserve.

PROJECT DESCRIPTION

The permanent artwork(s) will be well-integrated into the design of the new bridge and should serve as a gateway between Palo Alto and the Baylands. It will activate the bridge and have a strong day and night presence to enhance commuter experience for pedestrians, cyclists and highway commuters. The artwork will communicate the unique character of the surrounding areas, especially Baylands Nature Preserve. The artwork may be stand-alone or functional and should be fabricated using durable materials that require minimal maintenance and upkeep. The lifespan of the artwork is expected to be no less than 20 years.

SCOPE OF WORK

Artist Mary Lucking will create original artwork(s) for the new Adobe Creek / Highway 101 Pedestrian and Bicycle Bridge connecting Palo Alto and the Baylands Nature Preserve. The permanent artwork(s) will be well-integrated into the design of the new bridge and should serve as a gateway between Palo Alto and the Baylands. It will activate the bridge and have a strong day and night presence to enhance commuter experience for pedestrians, cyclists and highway commuters. The artwork will communicate the unique character of the surrounding areas, especially Baylands Nature Preserve. The artwork may be stand-alone or functional and should be fabricated using durable materials that require minimal maintenance and upkeep. The project will include three phases: concept and design development (I), fabrication (II), and installation on site (III). The Artist will work in collaboration with the City staff and design team through all three phases.

Phases II and III will commence only upon the final approval of artwork design and budget by the Public Art Commission.

Artist Scope of Work

- I. Concept Development Phase
 1. Begin meetings with City staff and project architects to develop a concept proposal and identify onsite needs to support the artwork installation and continued use.
 2. The artist may be asked to work with City staff to plan and conduct a community meeting to gather public input to facilitate concept development.

3. Identify fabrication and installation needs on-site in order to leverage the existing infrastructure and maximize the impact of the identified project budget. Provide final estimates, material samples and revised timeline.
 4. Provide Construction Documentation and stamped S.E. drawings to the City Staff.
 5. Provide itemized budget for Phases II and III to City staff.
 6. Final approval of artwork design by the Public Art Commission and revision of design if needed.
- II. Fabrication Phase
1. Oversee fabrication process, finishing, and final inspection.
 2. Finalize transportation and storage requirements if needed.
- III. Installation Phase
1. Transportation to site, site preparation, installation and testing on site. (To be conducted by City's contractor).
 2. Provide digital file & As-Built drawings, maintenance and care instructions for staff.

Responsibilities of City of Palo Alto

1. Facilitate meeting arrangements with stakeholder groups, relevant staff and the Public Art Commission.
2. Provide access to construction drawings and plans as necessary for the development of the Public Art design development.
3. Produce and install an identification plaque for the artwork.
4. Provide electrical stubs if artwork requires lighting.

**EXHIBIT “B”
SCHEDULE OF PERFORMANCE**

ARTIST shall perform the Services so as to complete each milestone within the number of days/weeks specified below. The time to complete each milestone may be increased or decreased by mutual written agreement of the project managers for ARTIST and CITY so long as all work is completed within the term of the Agreement. ARTIST shall provide a detailed schedule of work consistent with the schedule below within 2 weeks of receipt of the notice to proceed.

TIMELINE - TASK:

Concept Development Phase

March 2017 – Contract signed

March 2017 – Contract approved by City Council

April 2017

- Artist to travel to Palo Alto to meet with City staff and design team and become better acquainted with the site.
- Identify onsite needs to support the artwork installation and continued use in order to leverage the existing infrastructure and maximize the impact of the identified project budget.
- If appropriate, participate in a community meeting to gather public input to facilitate concept development.

April - July 2017 – Concept development

July 2017 – September 2017 – Concept approval through PAC

Fabrication Phase

September 2017 – October 2018 – Fabrication

Installation Phase

TBD 2018 – March 2019- Installation on-site

Exact timeline for the Design development, Fabrication and Installation is subject to change and to be coordinated with the pedestrian and bicycle bridge construction schedule.

EXHIBIT "C" COMPENSATION

The compensation to be paid to ARTIST under this Agreement for all services described in Exhibit "A" ("Services") and reimbursable expenses shall not exceed \$100,000. ARTIST agrees to complete all Services, including reimbursable expenses, within this amount. In the event Additional Services are authorized, the total compensation for services, Additional Services and reimbursable expenses shall not exceed (\$110,000). Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to the CITY.

TOTAL COMPENSATION

\$100,000 inclusive of all artist fees, and exclusive of 10% Additional Services.

COMPENSATION SCHEDULE:

10% upon signing the contract by the ARTIST and CITY

20% upon final approval of artwork design the Public Art Commission. Fabrication plan and budget are approved by City staff.

60% upon notice to proceed with fabrication

10% upon completion of delivery, installation, submission of documentation and acceptance of artwork by City staff.

ADDITIONAL SERVICES

ARTIST shall provide additional services only by advanced, written authorization from the CITY. ARTIST, at CITY's project manager's request, shall submit a detailed written proposal including a description of the scope of services, schedule, level of effort, and ARTIST's proposed maximum compensation, including reimbursable expenses, for such services based on the rates set forth in Exhibit C. The additional services scope, schedule and maximum compensation shall be negotiated and agreed to in writing by CITY's project manager and ARTIST prior to commencement of the services. Payment for additional services is subject to all requirements and restrictions in this Agreement.

REIMBURSABLE EXPENSES

The administrative, overhead, secretarial time or secretarial overtime, word processing, photocopying, in-house printing, insurance and other ordinary business expenses are included within the scope of payment for services and are not reimbursable expenses. CITY shall reimburse ARTIST for the following reimbursable expenses at cost. Expenses for which ARTIST shall be reimbursed are: N/A

A. Travel outside the San Francisco Bay area, including transportation and meals, will be reimbursed at actual cost subject to the City of Palo Alto's policy for reimbursement of travel and meal expenses for City of Palo Alto employees.

B. Long distance telephone service charges, cellular phone service charges, facsimile transmission and postage charges are reimbursable at actual cost.

All requests for payment of expenses shall be accompanied by appropriate backup information. Any expense anticipated to be more than \$0 shall be approved in advance by the CITY's project manager.