

RESOLUTION NO. 25779

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS & RECREATION TO ENTER INTO A PERSONAL SERVICES CONTRACT WITH TOWNSEND ATELIER, LLC FOR COORDINATOR OF PUBLIC ART SERVICES IN AN AMOUNT NOT TO EXCEED FORTY-ONE THOUSAND SIX HUNDRED DOLLARS (\$41,600.00) BEGINNING JANUARY 1, 2009 THROUGH DECEMBER 31, 2009, TWO-THIRDS OF WHICH IS PRIVATELY FUNDED, WITH THE OPTION TO RENEW THE CONTRACT FOR ONE (1) ADDITIONAL ONE (1) YEAR TERM.

---

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That authorizing the Administrator of the Department of Parks & Recreation to enter into a Personal Services Contract with Townsend Atelier, LLC for Coordinator of Public Art services in an amount not to exceed \$41,600.00 beginning January 1, 2009 through December 31, 2009, two-thirds of which is privately funded, with the option to renew the contract for one (1) additional one (1) year term.

ADOPTED: January 6, 2009

## CITY OF CHATTANOOGA PERSONAL SERVICES CONTRACT

THIS CONTRACT, by and between the CITY OF CHATTANOOGA (hereinafter referred to as "City") and TOWNSEND ATELIER, LLC (hereinafter referred to the "Contractor") is for services as the Coordinator of Public Arts with the City of Chattanooga, as further defined in the "Scope of Services" below.

NOW THEREFORE, City and the Contractor, in consideration of the mutual promises herein contained, have agreed, and do hereby enter into this Contract according to the provisions set out herein.

### A. SCOPE OF SERVICES:

In accordance with the stipulations contained herein, the Contractor shall perform functions related to Public Arts Program activities and other duties as directed by the Administrator of the Department of Parks and Recreation. These functions, activities and duties include responsibility for the following:

- Completion of contract negotiations for all leased and purchased pieces of art making recommendations for city approvals;
- Complete review of the collection periodically for maintenance recommendation and consideration for relocation or other actions that may be warranted;
- Consult with and advise the Mayor's Public Arts Committee on recommended initiatives or actions to be taken;
- Meet with potential funding sources and make recommendations for cooperative ventures as required;
- Make presentations on the topic of Public Arts for the City to various groups including, City Council, allied arts, foundations, neighborhood civic leagues, etc.;
- Provide liaison services between artists and city crews and making recommendations and facilitating installation of art on public property;
- Recommend the process and development of a walking tour program using present technology for implementation by the Department;
- Advise the Department's Finance Officer of the special funds and projects needing separate accounting;
- If required, organize and develop community workshops on the topic of public arts in the City;

- Advise the administrator and City Finance Officer on the request for community foundation dollars set aside for public art;
- Advise the Administrator and City Council on public policy concerning public art; and
- Make recommendations to the City for improvements and development of the City's Public Arts program.

The parties agree that Contractor is an independent contractor who shall control the means and methods of accomplishing the activities described above and related directives of the Administrator of Parks and Recreation ("Administrator"); however, the Contractor agrees to cooperate fully with said Administrator as to the performance of contract services.

**B. PAYMENT TERMS AND CONDITIONS:**

1. City agrees to pay Contractor for performance of the aforementioned duties and/or activities in an amount of FORTY AND NO/100 (\$40.00) DOLLARS per hour. ~~Contractor will be paid upon submission of monthly invoices to be approved by the Administrator of Parks and Recreation. Total payment for services and expenses shall not exceed FORTY ONE THOUSAND SIX HUNDRED AND NO/100 (\$41,600.00) DOLLARS.~~
2. The Contractor shall submit monthly statements for payment supported by time records and documentation for any requested expense reimbursement. Payment to the Contractor shall be made no more frequently than monthly. Expense reimbursement shall be limited to automobile mileage, excluding automobile mileage incurred in going to and from home to a workplace, and any other expenses directly and reasonably incurred in the performance of this contract that has been authorized or approved by the Administrator. It is understood that the Administrator has absolute discretion with respect to approval of any reimbursable expenses other than automobile mileage and incurring any other expense by Contractor without prior approval of Administrator shall be at Contractor's risk.
3. The administrator shall have the authority to refuse to pay an invoice from the Contractor if the Administrator determines that adequate services have not been rendered. Payment is subject to satisfactory completion of aforementioned duties and/or activities and compliance with all terms of this agreement.
4. Contractor shall be responsible for payment of all taxes, including self-employment taxes, arising from the performance of the Contract.
5. The Contractor is not entitled to any fringe benefits normally afforded City employees.
- 6.

**C. TERM:**

This Contract shall be effective from the signing of this Agreement through December 31, 2009. The Contract may be renewed for one (1) additional one (1) year term upon mutual agreement of the parties.

**D. STANDARD TERMS AND CONDITIONS:**

1. The City is not bound by this Contract until it is approved by the appropriate officials as indicated on the signature page of this Contract.
2. This Contract may be modified only by a written amendment which has been executed and approved by the appropriate parties as indicated on the signature page of this Contract.
3. The City may terminate the Contract by giving the Contractor at least thirty (30) days written notice before the effective termination date. The Contractor shall be entitled to receive equitable compensation for satisfactory authorized services completed as of the termination date.
4. If the Contractor fails to properly perform its obligations under this Contract or violates any terms of this Contract, the City shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. The Contractor shall not be relieved of liability to the City for damages sustained by virtue of any breach of this Contract by the Contractor.
5. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the City. If such subcontracts are approved by the City, they shall contain, at a minimum, Paragraphs D.6, D.8, and E of this Contract.
6. No person on the grounds of handicap, age, race, color, religion, sex, national origin, or any other classification protected by Federal and/or Tennessee State constitutional and/or statutory law shall be excluded from participation in, or be denied benefits of, or be otherwise subjected to discrimination in the performance of the Contract or in the employment practices of the Contractor. The Contractor shall, upon request, show proof of such non-discrimination, and shall post in conspicuous places, available to all employees and applicants, notices of non-discrimination.
7. The City shall have no liability except as specifically provided in the Contract.
8. The Contractor shall comply with all applicable Federal and State laws and regulations in the performance of the Contract.

**E. INSURANCE RELEASE AND INDEMNITY:**

1. Contractor shall maintain during the term of this contract, for the benefit of the City commercial liability insurance and automobile liability insurance, issued in the name of the Contractor and naming the City as an additional named insured, with limits of not less than One Million and 00/100 (\$1,000,000.00) Dollars for injury to and/or death of any single person in a single occurrence, and not less than One Million and 00/100 (\$1,000,000.00) Dollars for injury to and death of more than one person in a single occurrence, and not less than One Million and 00/100 (\$1,000,000.00) Dollars for damage to property. Said policy or policies shall include contractual liability coverage which shall recognize and include the indemnification provisions of this agreement. Proof of insurance shall be filed with the City's Risk Manager.
  
2. The Contractor hereby waives and releases, for him/herself, executors and administrators, any and all rights and claims against the City for any injuries, damages or losses sustained as a result of the performance of this contract; provided that such damage or loss is not caused by a negligent act or omission of an officer, agent or employee of the City and then subject to the immunities and limitations of the Tennessee Governmental Tort Liability Act, T.C.A. §29-20-101 *et seq.*
  
3. The Contractor shall indemnify and hold harmless the City for any and all claims arising from contractor's performance of this Agreement. The Contractor shall conduct her duties and activities under this Agreement so as not to endanger any persons or property. The Contractor shall indemnify, save and hold harmless, and defend the City, and all of its officers, agents, and employees from any and all claims resulting from losses, injuries, damages, and liabilities to persons or properties resulting, wholly or in part, from acts or omissions of Contractor, including acts or omissions of its agents, officers, employees, and guests, to the full extent of her insurance coverage provided within this section. This section further requires the Contractor to indemnify, save and hold harmless, and defend the City, from any and all claims for injuries or damages resulting from Contractor's use of City premises.

IN WITNESS WHEREOF, the parties have, by their duly authorized representatives, set their signatures.

{Signatures on following page}

**CITY OF CHATTANOOGA, TENNESSEE  
DEPARTMENT OF PARKS & RECREATION**

DATE: \_\_\_\_\_

\_\_\_\_\_  
**Lawrence A. Zehnder, CPRP  
Administrator**

**TOWNSEND ATELIER, LLC**

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
PRINTED NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_