



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Economic Development Division

m e m o r a n d u m

TO: Laurel Lunt Prussing, Mayor

FROM: Elizabeth H. Tyler, FAICP, Director, Community Development Services

DATE: April 3, 2013

SUBJECT: **A Resolution Authorizing and Approving a Mutual Release with Douglas Kornfeld/Awaka LLC**

Background

On June 12, 2012, based on the recommendation of the King Park Public Art Project Selection Committee, the Urbana Public Arts Commission selected Cambridge, Massachusetts-based artist Douglas Kornfeld (Awaka LLC) to create a permanent public art piece to commemorate the life and legacy of Dr. Martin Luther King, Jr. in Urbana’s King Park. A Public Art Design Services Agreement (Exhibit A) with Mr. Kornfeld was recommended for approval by the Commission during their August 14, 2012 meeting and approved by the Urbana City Council on August 20, 2012.

Following the approval and execution of this agreement by both parties, Mr. Kornfeld made an initial visit to Urbana from September 17-21, 2012, where he met with and presented his work to stakeholders, attended two community meetings, and visited the park and school sites. After this trip, Mr. Kornfeld presented a preliminary concept called “Dreamers” (Exhibit B) on November 2, 2013 to the selection committee, comprised of the Public Arts Commission King Park subcommittee, City staff, Urbana Park District staff, a representative from the Urbana Park District Board, City Councilman Robert Lewis, a representative from 40 North| 88 West, and a representative from the King Park neighborhood. Principal Jennifer Ivory-Tatum of King School was unable to attend but sent comments via e-mail. After this presentation, the committee deliberated and came to the conclusion that they had concerns with the concept and that it did not reflect the active spirit of Dr. King that the committee intended the project to celebrate. Upon receiving the committee’s feedback, Mr. Kornfeld agreed to assemble a reworked concept for review.

On January 7, 2013, City staff was contacted by artist Douglas Kornfeld, who indicated that rather than submitting a new or reworked concept, he was resubmitting the original “Dreamers” concept that the committee had asked to be changed. The artist said that he would like to resubmit this design for approval by the committee and Commission or withdraw from the project. On January 22, 2013 the selection committee and representatives from the King Park neighborhood met to discuss how to move forward. They discussed several options for the King

Park project, including accepting the “Dreamers” concept from Mr. Kornfeld, returning to the three other finalists who were interviewed during the selection phase of the project, or working with a new artist.

It was the unanimous conclusion of the committee to not accept Mr. Kornfeld’s “Dreamers” design that they had initially rejected. The group had the same concerns as they had previously and felt it was not an appropriate concept for the project. The committee’s recommendation for moving forward was to contact the three other finalists who were interviewed during the original RFQ selection process to gauge their current interest in the project. The three other finalists from the project were Chris Fennell, Aaron Hussey, and Preston Jackson. Of these finalists, Preston Jackson, a visual artist based in Peoria, IL, responded with interest and was the committee’s top choice to work on the project.

Discussion

City staff worked with the City Legal Division to create the attached Mutual Release (Exhibit C) that outlines the termination of the Public Art Design Services Agreement with Douglas Kornfeld/Awaka LLC and releases both parties from any obligations outlined in that agreement. At their February 12, 2013 meeting, the Public Arts Commission unanimously approved (Exhibit D) the selection committee’s recommendation to reject Douglas Kornfeld’s “Dreamers” design and unanimously recommended approval of the Mutual Release between the City and the artist of the obligations outlined in the Public Art Design Services Agreement.

The Commission also unanimously recommended approval of Preston Jackson as the new selected artist to design a public art piece for King Park during this meeting. More information on Mr. Jackson will follow in the Packet Item: A Resolution Authorizing and Approving a New Agreement with Preston Jackson for Public Art Design Services for the King Park Public Art Project.

Fiscal Impact

When Douglas Kornfeld/Awaka LLC entered into a Public Art Design Services Agreement with the City, he received a fee of \$5,000 to cover expenses and design fees associated with producing a preliminary design for public art in King Park. Because this fee was already paid, there is no fiscal impact associated with the approval of the Resolution Authorizing and Approving A Mutual Release with Douglas Kornfeld/Awaka LLC.

Recommendation

Staff recommends that the City Council approve the attached resolution authorizing and approving the mutual release with Douglas Kornfeld/Awaka LLC.

Prepared by:

Christina McClelland, Public Arts Coordinator

- Attachments: Exhibit A: Public Art Design Services Agreement with Douglas Kornfeld/Awaka LLC
- Exhibit B: “Dreamers” Concept
- Exhibit C: A Resolution Authorizing and Approving A Mutual Release with Douglas Kornfeld/Awaka LLC
- Exhibit D: Minutes from February 12, 2013 Urbana Public Arts Commission Meeting

Public Art Design Services Agreement

This **AGREEMENT FOR PUBLIC ART DESIGN SERVICES** (together with all Exhibits, hereinafter the "Agreement") is made and entered into as of this 18 day of Sept., 2012, by and between the CITY OF URBANA, (hereinafter the "City", an Illinois municipal corporation whose principal office is located in Champaign County, Illinois and Douglas Kornfeld (hereinafter the "Artist") whose principal office is located at 33 Crescent Street, Cambridge, MA 02138.

WITNESSETH:

WHEREAS, the City Council has determined that it is in the public interest to support public art; and

WHEREAS, the City desires to obtain public art design services in connection with the development of a design for public art elements to be installed at King Park ("site"); and

WHEREAS, the Artist is in the business of creating original works of art; and

WHEREAS, the Artist was selected by the City through a Request for Qualifications process by the City to design and develop public art elements for the Project; and

WHEREAS, the City desires to enter into an agreement with the Artist to fully develop a design of artwork in anticipation of fabrication and installation of it.

NOW, THEREFORE, in consideration of the above-stated premises and subject to the conditions hereinafter set forth, the parties agree as follows:

1. Scope of Services. The Artist shall provide design services (the "Services") and deliverables ("Deliverables") as set forth in Exhibit A, which is hereby incorporated by reference into this Agreement. The Services shall result in Deliverables embodying a final design (the "Design") including, but not limited to, a plan for fabrication and installation.

2. Schedule of Performance. The Public Art design services shall be completed and submitted within the time periods defined in the detailed Scope of Services attached as Exhibit A.

3. Extension of Time. The City agrees to grant extensions of time to the Artist in the event that there is a delay caused by the City, or pursuant to those circumstances set out in Section 20 of this Agreement. Extensions of time shall comply with the requirements of Section 18 of this Agreement.

4. Compensation. The City agrees to pay Artist \$5,000 for the Design.

5. Representations and Warranties. Artist represents and warrants that the services rendered pursuant to this Agreement shall result in an original Design that, to the best of Artist's knowledge, does not infringe on any third-party intellectual property rights. The City shall make available for Artist's examination and use all information regarding the Site and Project, including but not limited to: plans, specifications, reports, narratives, publications, statistics, records and other information pertinent to Artist's performance under this Agreement, at no cost to Artist. Where appropriate, the City shall direct their Design Team (ie. engineers, landscape architects, and other design professionals) to work in cooperation with Artist to fully develop the design and fabrication and/or installation plans for the Public Art. Further, the City shall provide its reviews and approvals of Artist's public art designs in a prompt and timely manner.

6. Design Approval Process.

It is anticipated that the design and development approval process shall be in phases, all of which is more fully set forth in Exhibit A relating to "deliverables". To insure a "meeting of the minds" as the design is developed, each deliverable must be approved by the Urbana Public Arts Commission and the Urbana Park District Project representatives before the next phase is produced. The final design must be approved by both the Urbana Public Arts Commission and the Urbana Park District Project representatives. Upon approval of the final design, Artist shall provide a plan for fabrication and installation of the final design piece for approval by the Urbana Public Arts Commission and the Urbana Park District Project representatives. After such approval of the plan for fabrication and installation, the Public Arts Commission and the Artist shall negotiate an addendum to this Agreement to provide details respecting the fabrication and installation of the final design piece. This addendum must be approved by the Urbana Public Arts Commission and the Urbana Park District Project representatives.

7. The approved design concept submitted to the City under this agreement and the resulting Artwork will be the sole property of the City and subject to the provisions of the Visual Artists Rights Act of 1990. The design concept and maquette may be used for exhibition purposes.

8. Copyright Ownership. Artist retains all copyrights in the design and any plans, drawings, model, and the like prepared by the Artist in connection with this agreement. The Artist is responsible, at his/her option, for registering any copyrightable material in his or her name with the U.S. Register of Copyrights, at no additional cost to Client.

9. Publicity and Public Information: The City may inform the general public about the Artwork by issuing news releases and news stories. In addition, the City may provide information to persons interested in learning more about the Artist. The City will have no liability for errors or omissions in any publications.

10. Motion Pictures, Television Productions, and Photographs: The Artist grants the City a perpetual license which allows, without limitation, the Artist's Artwork to be included in any motion picture, television production, photographs (to be used on

the City website or in City promotional materials), taken at the Location, or in any other media promoting the City or its activities. No further and additional consideration shall be remitted to the Artist for said license. Such license grants to the City an irrevocable license to graphically depict the Work in any non-commercial manner whatsoever. For the purposes of this Agreement, the graphic depiction of the Work on materials designed to promote the City or its services or shall be deemed to be non-commercial use. In addition, the Artist grants a perpetual license to the production company and/or photographer to exhibit all or any part of said film or photographs throughout the world. Such exhibitions will be for non-commercial purposes only and will credit the City as owner of the Work and the Artist as creator of the Work.

11. Alterations of Site or Removal of Artwork:

- a. The City shall notify the Artist in writing upon adoption of a plan of construction or alteration of the Site which would entail removal or relocation of the Artwork which might result in the Artwork being destroyed, distorted or modified. The Artist shall be granted the right of consultation regarding the removal or relocation of the Artwork. If the Artwork cannot be successfully removed or relocated as determined by the City, the Artist may disavow the Artwork or have the Artwork returned to the Artist at the Artist's expense. If the City and the Artist agree that the Artwork can be included in the alteration of the Site with modifications, parties agree to negotiate fair compensation for the Artist's services to appropriately and adequately modify the Artwork to meet new site conditions.
- b. The Artwork may be removed or relocated or destroyed by the City pursuant to the Visual Artists Rights Act of 1990, should the Artist and the City not reach mutual agreement on the removal or relocation of the Artwork after a period not to exceed 90 days after written notice to the Artist. During the 90 day period, the Parties shall engage in good faith negotiations concerning the Artwork's removal or relocation.
- c. If the City reasonably determines that the Artwork presents imminent harm or hazard to the public, other than as a result of the City's failure to maintain the Artwork as required under this Agreement, the City may authorize the removal of the Artwork without the prior approval of the Artist.
- d. This clause is intended to replace and substitute for the rights of the Artist under the Visual Artists' Rights Act to the extent that any portion of this Agreement is in direct conflict with those rights. The parties acknowledge that this Agreement supersedes that law to the extent that this Agreement is in direct conflict therewith.

12. Transfer of Title. Simultaneous with Artist's receipt of the final payment, Artist shall transfer title to the Deliverables to the City.

13. Indemnification.

- a. The Artist shall indemnify and hold harmless the City, its officers, and employees from and against any and all claims, actions, damages, fees, fines,

penalties, defense costs, suits or liabilities which may arise out of any act, neglect, omission or default of the Artist arising out of or in any way connected with the Artist (or Artist's officers, employees, agents, volunteers and sub-contractors, if any) performance or failure to perform under the terms of this agreement.

- b. The City shall indemnify and hold harmless the Artist from and against any and all claims, actions, damages, fees, fines, penalties, defense costs, suits or liabilities which may arise out of any act, neglect, omission or default of the City arising out of or in any way connected with the City's (or the City's officers, employees, agents, volunteers and sub-contractors, if any) performance or failure to perform under the terms of this agreement.

14. Independent Contractor. Artist is furnishing his/her services hereunder as an independent contractor, and nothing herein creates any association, partnership or joint venture between the Parties hereto or any employer-employee relationship.

15. Modification. Any modification of this Agreement shall be in writing and signed by all the parties.

16. Termination. Either party may terminate this Agreement upon thirty (30) days written notice to the other party delivered by certified mail or in person. Termination of this Agreement for any cause shall be without prejudice to any obligations or liabilities of either party accrued prior to or because of such termination. Should the City elect to terminate the Agreement under this Section, the City does not have the right to commission any other party to create the Design, or any part thereof, without the written approval of the Artist. Further, the City shall be liable under the payment provisions of this Agreement only for payment for services rendered before the effective date of termination. In the event of a breach, the non-breaching party may terminate this Agreement upon ten (10) days notice to the other, if the breaching party is in material breach of this Agreement and fails to cure the breach before the end of the ten (10) day notice period.

17. Death or Incapacity of Artist. Should the Artist become ill, disabled, injured, or otherwise incapacitated at any time between the execution of this Agreement and the date of completion, the Artist or one of his representatives will notify the City promptly. In the event of the Artist's physical incapacity or death prior to the completion of the Agreement, all payments made up to the point of incapacity or death will be retained by Artist or Artist's estate and all work performed to date of incapacity or death will be compensated. If the Design is substantially completed and it is feasible for the work to be fully completed without undue delay, the City may elect to proceed under the terms of this Agreement with the written consent of the Artist's estate. In the event that the City elects to proceed with the completion of the Design, and/or a commission of the Artwork, all remaining work to be completed in accordance with this Agreement will be delegated to the Artist's studio personnel.

18. Force Majeure. The Parties will be excused from performing under this Agreement if performance is prevented by a condition beyond the control of the Parties

such as acts of God, war, civil insurrection, government action or public emergency (but only for as long as such unforeseen occurrences exist). Both Parties will take all reasonable steps to assure performance of their contractual obligation when the unforeseen occurrences have ceased to exist, but resumption of performance will be subject to negotiation between the Parties if more than one (1) year has passed since either suspension of obligations under this Agreement or substantially changed circumstances.

19. Non-assignability. The Artist will not assign, transfer or subcontract the creative and artistic portions of the Design or the Artwork to another party without the prior written consent of the City.

20. Severability. Each paragraph and provision of this Agreement is severable from the entire Agreement, and if any provision is declared invalid, the remaining provisions will remain in effect.

21. Compliance: The Artist agrees to abide by and be governed by all applicable federal, state, and local laws or regulations as said laws and regulations exist and are amended from time to time. Failure to comply with this provision will be considered a breach of this Agreement. In entering into this Agreement, City does not waive the requirements of any City or local ordinance or the requirements of obtaining any permits or licenses which are normally required to conduct business or activity contemplated by the Artist.

22. Jurisdiction and Venue. This Agreement will be governed by and construed in accordance with the laws of the State of Illinois, without reference to conflicts of laws principles. The parties hereby agree that the State and Federal Courts of Champaign County and the State of Illinois shall have exclusive jurisdiction to hear and determine any claims or disputes pertaining directly or indirectly to this Agreement or any matter arising therefrom or relating thereto. Each Party agrees to service of process through the procedure defined in Section 25.

2. Notices. All notice, submittals, requests, and reports required under this Agreement will be hand delivered or sent by certified mail as follows:

For Artist: Douglas Kornfeld
Awaka, Inc.
33 Crescent Street
Cambridge, MA 02138

For the City: Public Arts Coordinator
Community Development Services
City of Urbana
400 S. Vine Street
Urbana, IL 61801

Notice is deemed to have been received either upon the date recipient signs the return certificate, or five (5) days after the notice is transmitted to recipient, whichever is

sooner. A change in the designation of the person or address to which submittal, requests, notices and reports will be delivered is effective when the other party has received notice of the change by certified mail.

24. Dispute Resolution. In the event of any disputes arising from the terms of or performance under this Agreement, the parties shall first attempt resolution through good faith discussion and/or mediation. For disputes and differences of opinion regarding aesthetic matters, the dispute will be presented to the Urbana Public Arts Commission for recommendation. If discussion and/or mediation do not resolve the dispute(s), the parties may resort to litigation and equitable relief to resolve disputes that still exist after good faith discussion and/or mediation. In addition, either party may seek equitable relief (injunction and/or specific performance) at any time when immediate enforcement or cessation of performance under this Agreement is required to avoid foreseeable damages to relief-seeking party's interests, including but not limited to intellectual property interests.

25. Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes all previous agreements in this matter. There are no other written or oral agreements, representations or understandings with respect to the subject matter of this Agreement. This Agreement and its terms may be amended, modified, or waived only by written agreement, signed by both parties.

26. Non-waiver. No waiver will be binding on a party unless it is in writing and signed by the party making the waiver. A party's waiver of a breach of a provision of this Agreement will not be a waiver of any other provision or a waiver of a subsequent breach of the same provision.

27. Execution by Counterpart and Facsimile. This Agreement may be executed in counterpart and by facsimile.

THE PARTIES TO THIS AGREEMENT by their signatures acknowledge they have read and understand this agreement and intend to be bound by its terms.

CITY OF URBANA

By:
MAYOR
Date: 9/18/12

ARTIST

By:
ARTIST
Date: 9-6-2012

ATTEST:

CITY CLERK / Deputy Clerk
Date: 9/18/12

ATTACHMENTS:

~~EXHIBIT A: DESIGN SERVICES & DELIVERABLES~~

EXHIBIT B: PAYMENT SCHEDULE

EXHIBIT C: INSURANCE

EXHIBIT D: PROJECT SCHEDULE

EXHIBIT A: DESIGN SERVICES & DELIVERABLES

DESIGN SERVICES

1. **Scope of Services.** The Artist will perform the following "Services", which include all other obligations required of the Artist by this Agreement, in a satisfactory and proper manner as determined by the City:
 - a. **Design/Consultation Services.** The Artist will work in collaboration with the City staff, Urbana Park District staff, community stakeholders, and project personnel to gather information, share ideas and identify themes or concepts for the for the **Martin Luther King, Jr. Park Public Art Project (the "Project")**. The Artist will conduct independent research as necessary to develop concepts and opportunities for the integration of artwork into the Project and will influence the overall Project design and strive to integrate art ideas into the Project. The Artist will work within the constraints of the right-of-way, easements, timeline and established project alignment to maximize resources wherever possible to impact the Project. The Artist will meet with the various community groups associated with the Project to listen to concerns, consider their interests, and gather Project information and foster communication. The Artist will develop a written description and appropriate visual materials to explain and illustrate the artwork concepts, site selections, and materials, which will comprise the artworks ("Work.")
 - b. **Approval.** The Work must be approved by the **Urbana Public Arts Commission and Urbana Park District Board**. The Artist will provide consultation through any City Department approval processes as may be required. Based on comments, the Artist will develop a complete and detailed artwork proposal(s) that may be developed as stand-alone artworks.
 - i. Proposed works shall include:
 1. Detailed design drawing of the proposed artwork clearly indicating scale
 2. Written description of the artwork
 3. Written description of proposed materials with samples as appropriate
 4. Proposed artwork implementation budget.
 - ii. Artworks designed and fabricated by the Artist will be engineered and estimated through the Artist with the cost estimate including payment of all applicable local, state and federal taxes and costs of all labor and materials required to produce and install the artwork.
 - c. **Implementation of Designs.** Upon agreement of the parties, an addendum for fabrication and installation of the Work by the Artist may be entered into following satisfactory completion of the Services under this Agreement.

DELIVERABLES

1. **Schematic Design:** Artist (in collaboration with City staff, Urbana Parks District Staff, and other design professionals as appropriate) shall submit to the City of Urbana a Schematic Design for the Artwork.
 - a. Schematic design shall include information sufficient to describe the Artwork in detail, including but not limited to:
 - i. Dimensioned drawings such as plan(s), section(s), elevation(s), site plans
 - ii. Models, materials and samples
 - iii. Structural considerations
 - iv. Preliminary assessment of maintenance requirements, surface integrity, protection against theft and vandalism
 - v. Preliminary sub-consultant reports as appropriate, such as structural, lighting, electrical, mechanical, hydraulic engineers/consultants
 - vi. Preliminary fabrication narrative
 - vii. Preliminary installation narrative
 - viii. Estimated fabrication budget
 - ix. Preliminary fabrication budget
 - x. Estimated installation budget
 - xi. Preliminary installation schedule
 - xii. Ability to meet Client provided preliminary installation timeline
 - b. **Revisions:** The City may require the Artist to make such revisions to the Schematic Design(s) as are necessary for the Work to comply with applicable statutes, ordinances, or regulations of any governmental agency having jurisdiction of the Project. The City may also request or require revisions for other practical non-aesthetic reasons.

Schematic Design shall be submitted to the City by September 28, 2012 for review and approval by the Urbana Public Arts Commission and Urbana Park District at their October 16, 2012 meeting.

2. **Construction Documents:** Artist (in collaboration with City staff, Urbana Parks District Staff, and other design professionals as appropriate) shall submit to the City a set of Construction Documents detailing every physical feature of the construction of the Artwork and its integration with the Site. Construction Documents include:
 - a. Detailed drawings to meet standards specified by Client
 - b. Material samples
 - c. Final consultant reports/drawings/specifications where appropriate
 - d. Final budget for artist fees
 - e. Final fabrication budget
 - f. Final fabrication schedule

- g. Final maintenance requirements/instructions
- h. Final installation narrative
- i. Final installation budget

Construction Documents shall be submitted to the City by November 29, 2012 for review and approval by the Urbana Public Arts Commission and Urbana Park District at their December 11, 2012 meeting.

3. All deliverables will be provided in form easily printed and/or reproduced and suitable for distribution in 8 1/2" X 11" format. Deliverables can be made in hard copy print or electronic format (PDF or JPEG).

EXHIBIT B: PAYMENT SCHEDULE

1. Compensation and Method of Payment.

- a. **Compensation for Design Consultation Services and Purchase of Design:** For the Artist's Services, the City agrees to pay the Artist up to a total of Five Thousand Dollars (\$5,000) ("Compensation"). The Compensation includes any applicable taxes, which must be paid by the Artist. The Compensation constitutes full and complete compensation for the Artist's Services under this Agreement. The City shall pay Artist's invoices within sixty (60) days following receipt of invoice. Parties anticipate addendum for additional services of \$45,000 for commission and fabrication of artwork upon design approval.
- b. **Method of Payment:** The Compensation will be paid to the Artist in the following installments within a reasonable period of time after completion of the Services described below:

2. Payment Schedule:

- a. Five Thousand Dollars (\$5,000) following the City's approval and execution of this Agreement, for travel, lodging, meals, design services, printing costs, and any other expenses related to the performance of Services ("First Payment");

EXHIBIT C: ANTICIPATED PROJECT SCHEDULE

1. **August-September 2012:** Artist initial trip to Urbana to meet with key stakeholders
2. **October-November 2012:** Approval of Schematic Design by Urbana Public Arts Commission and Urbana Park District
 - a. Engineer Drawings/City staff for review about safety and parts
 - b. Bidding phase, cost estimates
 - c. Construction Documents produced
3. **December 2012-January 2013:** Approval of Construction Documents by Urbana Public Arts Commission and Urbana Park District
4. **January-February 2013:** Approval of Addendum for Commission and Fabrication of Design
5. **March-May 2013:** Fabrication & Installation of Artwork in progress.
6. **May-June 2013:** Installation Completion & Dedication of Artwork

CONSENT TO PARTIAL ASSIGNMENT

WHEREAS, the City of Urbana, Illinois (City) and Douglas Kornfeld (Artist) have heretofore entered into an agreement which was approved by the Urbana City Council on August 20, 2012 (Resolution 2012-08-057R) relating to the Artist creating a Work of Art for placement at Martin Luther King Park Agreement, and

WHEREAS, Artist has requested that the City consent to the assignment to Awaka LLC, of those portions of the agreement relating to matters that are not closely related to the artistic and design creative effort, and

WHEREAS, the City is willing to so consent to such partial assignment.

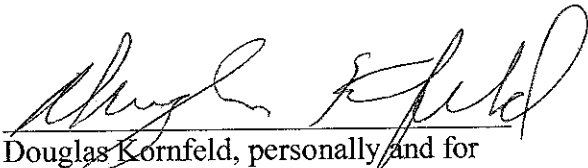
IT IS THEREFORE AGREED that, except for those duties set forth in the agreement that are closely related to the artistic creative and design function of the agreement, the agreement is hereby assigned to Awaka LLC, (a limited liability corporation wholly owned by the Artist). Provided, however, that this assignment is not intended to affect in any way the representations and warranties of the Artist set forth in the Section 5 of the agreement relating to assurances that the work of the Artist in creating the Work of Art, will not infringe on any third party intellectual property rights.

COMMUNITY DEVELOPMENT

ACCEPTED



Elizabeth Tyler, Director



Douglas Kornfeld, personally and for
AWAKA LLC.

Date: Sept 12, 2012

Date: 9-6-2012

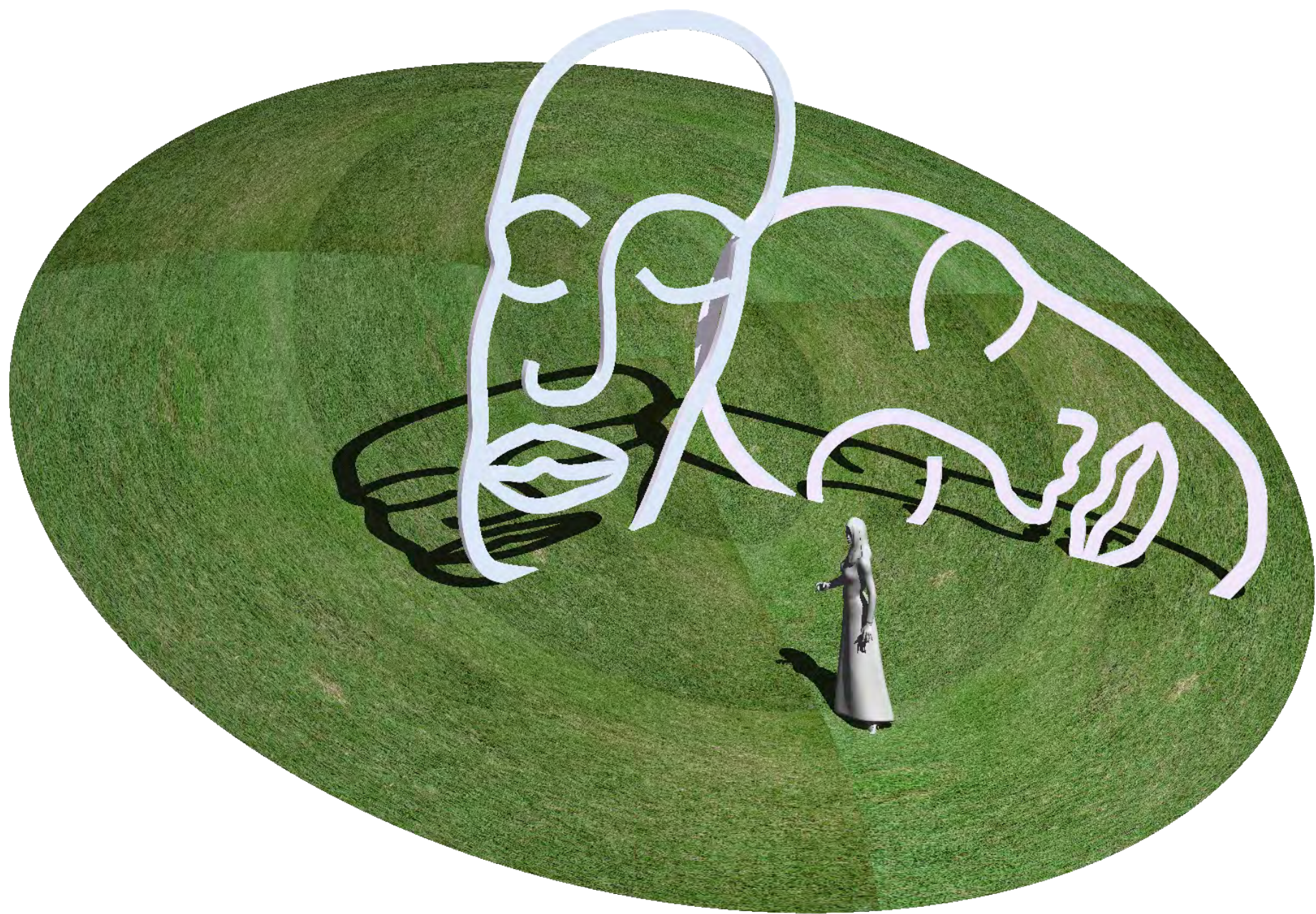


DREAMERS

Martin Luther King Park
Urbana, Illinois

©Douglas Kornfeld, 2012





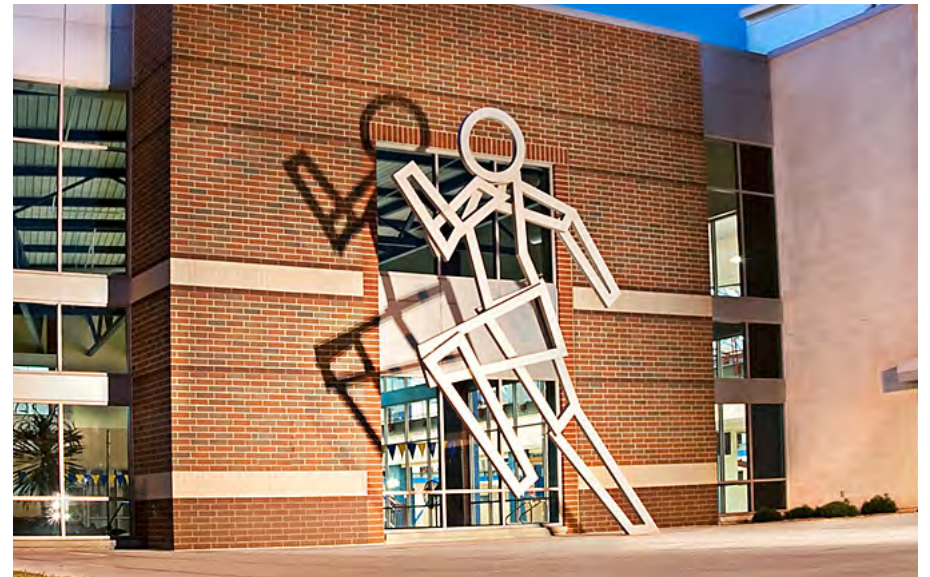


18'

Front Elevation



Stainless steel
with
“bead-blast”
velvet finish
in
different
lighting
conditions.



RESOLUTION NO. 4235/26/237T

A RESOLUTION AUTHORIZING AND APPROVING A MUTUAL RELEASE WITH AWAKA
LLC

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
URBANA, ILLINOIS, as follows:

Section 1. That a Mutual Release Between the City of Urbana, Illinois, and Douglas
Kornfeld/Awaka LLC, in substantially the form of the copy of said Mutual Release attached hereto
and hereby incorporated by reference, be and the same is hereby authorized and approved.

Section 2. That the Mayor of the City of Urbana, Illinois, be and the same is hereby
authorized to execute and deliver and the City Clerk of the City of Urbana, Illinois, be and the same
is authorized to attest to said execution of said Mutual Release as so authorized and approved for
and on behalf of the City of Urbana, Illinois.

PASSED by the City Council this ____ day of _____, 2013.

AYES:

NAYS:

ABSTAINS:

Phyllis Clark, City Clerk

APPROVED by the Mayor this ____ day of _____, 2013.

Laurel Lunt Prussing, Mayor

Attachments: Exhibit A: Mutual Release between the City of Urbana and Douglas
Kornfeld/Awaka LLC

MUTUAL RELEASE

PARTIES: City of Urbana, Illinois, a municipal corporation (“City”).

Douglas Kornfeld, personally and for AWAKA, LLC, (“Artist”).

BACKGROUND: The City and Artist entered into an agreement dated September 18, 2012 (“Agreement”), for the Artist to design and, after the design offered by Artist was approved by City, the performance of further such further steps as indicated in the agreement. At the request of Artist, the parties subsequently agreed to a partial assignment of the agreement to AWAKA, LLC, a limited liability corporation wholly owned by Douglas Kornfeld.

The design offered by Artist was not approved by the selection committee of City staff, Public Arts Commission representatives, Urbana Park District staff and board members, community stakeholders, and project personnel and Artist is unwilling to explore changes to the design he offered and thus the parties now agree that they should enter into a mutual release of all obligations of the parties respectively, subject to the return to the City of \$ -0- by Artist, which amount is the amount the parties have agreed is a fair apportionment of the \$5,000.00 paid to Artist upon execution of the Agreement for Artist’s out-of-pocket expenses and compensations for performing the contract.

NOW THEREFORE, in consideration of the mutual release of all obligations to each other under the agreement (subject to the payment of \$ -0- as provided in paragraph 2 below), the parties agree as follows:

1. The parties waive all of their rights and obligations regarding termination set forth in paragraph 16 (Termination) of the Agreement and expressly agree that the Mutual Release set forth herein is a fully satisfactory method of proceeding to terminate the Agreement.


2. Artist shall, within thirty (30) days of the effective date of this Agreement, remit to City \$ -0- representing the agreed amount of the \$5,000.00 paid to Artist under the Agreement.
3. Artist agrees that retaining \$ 5000.00 of the \$5,000.00 paid to him for his efforts to create and present a design is full and complete compensation to him for his efforts.
4. The effective date of this Agreement is the date set forth in the line immediately below the signature of Douglas Kornfeld accepting this Mutual Release Agreement.

CITY OF URBANA

By: _____
MAYOR

Date: _____

ARTIST

By: 

DOUGLAS KORNFELD,
personally and for AWAKA, LLC.

Date: _____

ATTEST:

CITY CLERK

Date: _____

MINUTES OF A REGULAR MEETING

URBANA PUBLIC ARTS COMMISSION

APPROVED

DATE: February 12, 2013

TIME: 4:30 p.m.

PLACE: City Council Chambers, Urbana City Building, 400 South Vine Street, Urbana, Illinois

MEMBERS PRESENT: Barbara Hedlund, John Morrison, Pat Sammann, Ginny Waaler, Mary-Ann Winkelmes

MEMBERS EXCUSED: Greg Chew

MEMBERS ABSENT: Ilona Matkovski

STAFF PRESENT: Tom Carrino, Economic Development Division Manager; Christina McClelland, Public Arts Coordinator; Sukiya J. Reid, Recording Secretary; Julianne Heuel, Public Arts Intern

OTHERS PRESENT: Benjamin Montalbano, Eric Jakobsson, Rachel Lauren Storm

1. CALL TO ORDER, ROLL CALL AND DECLARATION OF QUORUM

The Urbana Public Arts Commission was called to order at 4:32 p.m. by Ms. Sammann. Christina McClelland took roll and a quorum was declared present.

2. CHANGES TO AGENDA

Ms. McClelland stated that one additional Arts Grants Report, Urbana Composers Orchestra, would be added during the Communications section of the agenda.

3. APPROVAL OF MINUTES OF PREVIOUS MEETING

The minutes of the January 15, 2013 meeting were reviewed by the Commission. Ms. Sammann noted that on page 4 of the minutes, it was stated that she adjourned the meeting, when in fact she was not present at that meeting. She requested that the name be changed to the person who actually adjourned the meeting, which was Ms. Winkelmes. Ms. Waaler moved to approve the minutes as corrected. Ms. Hedlund seconded the motion. All Commission members present were in favor of approval and the minutes were unanimously approved.

4. PUBLIC INPUT

There was none.

5. COMMUNICATIONS

- **Presentation by 2012 Urbana Arts Grant Recipient Report: Outta the Mouths of Babes**

Ms. Sammann introduced, Rachel Storm of the Outta the Mouths of Babes Radio Project. She gave a slide-show presentation on her project, titled *Outta the Mouths of Babes* in which around 20 youth were recruited to participate in a youth radio program that yielded 12 episodes. Youth ages 5-11 years old, from all different parts of Urbana-Champaign, participated in this 12 week project that sought to bring together youth to become youth correspondents in a radio show. She thanked the Commission for the grant received. At the conclusion of the report, questions and comments from the Commission were heard.

- **Presentation by 2012 Urbana Arts Grant Recipient Report: Urbana Composers Orchestra**

Ms. Sammann introduced Benjamin Montalbano of the Urbana Composers Orchestra. He gave a presentation on his group comprised of about 60-75 musicians dedicated to the performance of new orchestral music by Urbana-Champaign composers. For their project, they gave a free concert on April 22nd at Foelinger Auditorium at the U of I, a string quartet performance at Lincoln Square Mall on October 12th, a lecture in November about the grant and how the orchestra was put together, and a recording session during the second week of January 2013 in the Great Hall at Krannert Center. He thanked the Commission for the grant received. At the conclusion of the report, questions and comments from the Commission were heard.

- **Presentation by Staff: Monthly Progress Report**

Ms. McClelland presented the City staff's monthly progress report to the Commission, outlining projects in process, recent requests and recommendations from the public, staff activities, and upcoming events.

For an update on current projects, she reported the following:

- With regards to the Martin Luther King Jr. Park Project Subcommittee, Ms. McClelland reported that updates on this project would be provided during the Old Business portion of the meeting.
- With regards to the Urbana Arts Grant Program, Ms. McClelland reported that the 2013 Urbana Arts Grants Applications Cycle received 57 grant applications for funding. She stated that juries would meet on February 16th and 23rd to review the applications.
- With regards to the Boneyard Creek Public Art, Ms. McClelland reported that Jack

Mackie was working with the design team and contractors as the construction phase of the project progressed.

- With regards to Fundraising, Ms. McClelland reported that a new fundraising initiative, “Keep It or Change It,” would be introduced during the New Business portion of the meeting.
- With regards to Annual Planning, Ms. McClelland reported that staff was coordinating meetings with each subcommittee to begin planning programming and budget for FY 13-14. She stated that a draft program plan based on these meetings would be presented in April.
- With regards to Joseph Royer Arts and Architecture District, Ms. McClelland reported that a Royer plaque for the Urbana Landmark Hotel had been received. The Royer subcommittee held an annual planning meeting on February 6th.
- With regards to *Art Now!*, Ms. McClelland reported that the February episode featured a re-broadcast of Pat Sammann’s 2011 interview with painter Suzanne Keith Loechl. She stated that episodes could be seen at: <http://www.urbanaininois.us/artnow>.
- With regards to the Artist of the Corridor, Ms. McClelland reported that the February-April Artist of the Corridor exhibit featured photographs by Wiley Elementary school fifth grade students. She stated that a public reception would be held on March 1st from 6-7 PM, featuring the students singing and a photo demonstration.
- With regards to Marketing, Ms. McClelland reported that City staff had been regularly updating the Public Arts Program’s Facebook page, which as of this meeting had 550 fans. She also stated that the Urbana Public Arts Twitter account, which could be followed @urbanapublicart, as of this meeting had 516 followers. Ms. McClelland reported that a monthly e-mail newsletter had been sent to 521 subscribers on January 14th, January 16th, and January 23rd.
- For upcoming events, Ms. McClelland stated that the Boneyard Connect meeting was scheduled that day, February 12th from 5:30-7:30 PM at 88 Broadway in Lincoln Square Mall. She also stated that the date for the next Public Arts Commission meeting was set for Tuesday, March 12, 2013 at 4:30 p.m. in the City Council Chambers.

6. OLD BUSINESS

- **Update on King Park Public Art Project**

Ms. Sammann introduced this agenda item. Ms. McClelland reiterated that Douglas Kornfeld had decided to resubmit his original concept. She stated that the Selection Committee met on January 22nd and decided that they were still not happy with the “Dreamers” concept and that they would work within the selection process and return to three finalists from April. One of the three finalists could not complete the project, but the other two were interested. Preston Jackson ranked highly with the committee, and thus the committee recommended him as the artist to work with on the project. Ms. McClelland stated that the City was still in negotiation with Douglas Kornfeld to see if some of the \$5000 that he was awarded could be returned to the City. She then handed out an update to the recommendation which stated that Staff recommended that the Commission reject Douglas Kornfeld’s design, “Dreamers”, and approve Preston Jackson as the new selected artist for the project. Ms. Winkelmes made a motion to approve the recommendation. Ms.

Hedlund seconded the motion. With no further comments or questions from the Commission, Ms. Sammann called for a voice vote. All Commission members were in favor of the approval and the motion carried unanimously.

7. NEW BUSINESS

- **Discussion of Public Art commemorating Professor Carl Woese**

Ms. Sammann introduced this agenda item. Eric Jakobsson, Professor Emeritus at University of Illinois and City of Urbana Councilman, addressed the Commission. Mr. Jakobsson gave a brief background on Professor Carl Woese and presented different ideas he had for using public art to commemorate his memory. A brief discussion of the matter by members of the Commission and Staff ensued.

- **Fundraising Concept: “Keep It or Change It”**

Ms. Sammann introduced this agenda item. Ms. McClelland presented a new fundraising concept called “Keep It or Change It” that would allow citizens to donate money toward the purchase of the sculptures installed on temporary lease around town, or possible renewal of sculpture leases. Citizens could also donate towards the lease of new sculptures. Ms. Heuel gave the Commission members a demonstration of how the online system enabling donations through Wufoo.com would work. Ms. McClelland stated that the Staff recommendation was for the Commission to approve the launch of the “Keep It or Change It” fundraising campaign, including the use of \$5,000 originally budgeted to the Downtown Arts subcommittee for fundraising matching funds and \$259 from the 2013 FY13 Illinois Arts Council Grant received by the Urbana Public Arts Program for the Wufoo.com online system. Ms. Waaler moved to approve the recommendation. Ms. Winkelmes seconded the motion. With no further comments or questions from the Commission, Ms. Sammann called for a voice vote. All Commission members were in favor of approval and the motion carried unanimously.

8. ANNOUNCEMENTS

There were none.

9. ADJOURNMENT

Ms. Hedlund made a motion that the meeting be adjourned. Ms. Winkelmes seconded the motion. With no further business, Ms. Sammann declared the meeting adjourned at 5:46 p.m.

Submitted,
Christina McClelland, Public Arts Coordinator