



Public Amenities Committee
Meeting Summary

Wed. March 12, 2008 10:30 a.m. Conference Room 391

Members Present: Lehmann, Johnson, Madison
Members Absent: Robb
Other Council Present: Hancock

- Proxy Partner contract amendment
 - Public Art Program
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1. Proxy Partner contract amendment

Committee Action

The Committee approved the proposed amendments to the contract with Proxy Partners, LLC.

Summary of Discussion

Theaters & Arenas Director Jack Finlaw, Marketing Director Eric Dyce, Finance Director Colin Lewis, Administration Director Jennifer Macy; and John Greenwood, owner, Proxy Partners explained the terms of the requested contract renewal and amendment and answered questions.

Proxy was selected through an extensive competitive request for proposals process in 2003 to join with Theatres & Arenas' marketing efforts. Through sale of corporate sponsorships, Proxy has generated \$4 million in new revenues for the agency's venues: Denver Performing Arts Complex (DPAC), Colorado Convention Center, Denver Coliseum and Red Rocks Amphitheatre & Visitor Center. In-kind marketing opportunities have also benefited the City, such as the \$115,000/year in Southwest Airline tickets for use by employees on official city business. Through a separate contract, Proxy acts as the City's marketing partner for city-wide sponsorships. This proposal addresses only the contract with Theatres & Arenas.

The contract between Theatres & Arenas and Proxy will expire in August. The proposal would:

- Extend the contract for 5 years, through 8-31-13 with one 2-year optional renewal;
- Change collection method from sponsors, allowing Proxy to collect directly from the sponsors, remit 80% to Theatres & Arenas, and retain its 20% commission, a more efficient process; and
- Authorize Proxy to sell advertising on the DPAC marquees with a 30% commission.

The DPAC marquees are located at Speer & Arapahoe; Arapahoe & 14th Ave; and 14th & Curtis. Advertisers buying this type of space & time operate in a fast turn-around environment. All sales must be approved by Eric Dyce, who is responsible for ensuring artistic content and no possible "affronts", such as private body parts, guns, or tobacco; liquor is allowed.

2. Public Art Program

Committee Action

The Committee requested:

- Better distinction between capital “construction” and capital “maintenance” projects; and
- Formal adoption of rules and regulations.

Summary of Discussion

Councilwoman Lehmann explained that she scheduled this item following discussion at the Feb. 25 Bond Implementation Committee of how the Public Art Program would work with the bond projects. That discussion led her to the conclusion a broader review of the history and intent of the program was needed before the Council starts talking about amending the ordinance or the program.

Erin Tripp, Director, Denver Office of Cultural Affairs (DOCA); Kendall Peterson, Public Art Program Administrator; and Laurie Heydman, Assistant City Attorney, presented an overview of the program and its administration. Roger Mutz, Public Works, and Gordon Robertson, Parks & Recreation, commented on how they integrate the program with their capital construction projects.

The Public Art Program was established in 1988 by Mayor Peña’s Executive Order No. 92 with the intent to “...expand the opportunities for Denver residents to experience art in public places, thereby creating more visually pleasing and human environments.” In 1991, the program was codified as DRMC 20-85 *et seq.* The program applies to any city capital improvement project whose budgeted cost of construction and design for a single project *or* for the total of multiphase projects is equal to or greater than \$1 million.

The ordinance requires that:

“An amount equal to one (1) percent of the total budgeted construction cost of the capital improvement project or such multiphase projects shall be included for the planning, design and construction of public art, and for the repair of such public art.”

The program is administered by DOCA with help from the Public Art Commission. In the 17 years since its inception, 175 new works of art have been installed, joining nearly 125 pre-existing works owned by the City for a total collection of 300 works.

Public art works take a wide variety of forms, including sculpture (free-standing, bas relief, mobile, fountain, etc.); painting in all media; graphic arts, mosaics, photography, crafts in all media; earth works; environmental art; decorative, ornamental or functional elements designed by practicing artists; light or sound.

DOCA is responsible for maintenance and repair of the collection. In 1996, the ordinance was amended to require that 1% of the gross amount designated for public art be placed in a fund established for “public art repair and restoration”. Pooling of maintenance funds increased flexibility and therefore the ability to adequately care for the collection. DOCA arranges for and oversees repair and restoration projects. A small portion of the fund is used for routine maintenance, cleaning, and conservation projects while the bulk is reserved for more serious repair and restoration, often requiring consultants with specialized skills.

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Basic janitorial and grounds-keeping around installations are generally funded and provided by the agency responsible for the property. An example of this joint responsibility is the Thatcher Memorial. Parks & Recreation maintains the fountain; DOCA maintains the sculpture.

All funding sources (CIP, bonds, grants, donations, etc.) are included in the project cost calculation for determination of the \$1 million threshold. Included in the project cost are:

- design services (engineering, architecture, geotechnical assessment, surveying, etc.);
- design contingency in the budget;
- any costs allocated for construction services (preconstruction services, construction management services, supervision and administration);
- all hard costs (materials, labor, equipment, subcontractor costs, materials testing, inspection, commissioning; and
- Construction contingency.

Each project containing a public art component is posted on CallForEntry.com, a website used by municipalities across the county to solicit artists for various projects, fairs and festivals. DOCA pays a relatively small fee and has greatly reduced administrative time to prepare requests for proposals. Responses are also electronic, making the whole process easier, cheaper and greener.

The art selection process for each project is unique, taking into consideration the neighborhood, the people, the structures in the area, and the project itself. A selection panel includes the City Council representative or designee; three community members; a member of the Commission on Cultural Affairs; a member of the Public Art Committee; an artist; and others.

The distinction between capital construction and capital maintenance projects is important because the latter are not subject to the Public Art Program. This is not always clear. Some of the Better Denver Bond projects will be street improvements, and some think these should be defined as maintenance projects, not requiring art. The discussion revealed confusion about how these projects will be determined to be either maintenance or construction.

The code definition of “capital improvement project” includes the following: “...permanent improvement or betterment (as distinguished from ordinary repair or other maintenance) of real property...; construction of or improvement to viaducts, roads and streets, streetscape projects, pedestrian malls and plazas;..... “

The definition continues, “...Except as specified in the preceding paragraph, projects which do not include finished space for human occupancy and will not be available to public view or use or which are of a mechanical or electrical nature only shall not be considered capital improvement projects.”

Ms. Trapp said the ordinance has served Denver well, getting art into places where it would not otherwise be. Many cities’ public art programs require 1.5% or 2% of project cost; Denver’s is fairly conservative. She noted that the requirement cannot be waived for any qualifying project.

Ms. Trapp stated that the public art components of several street projects have been installed in adjacent or nearby parks. The adjacency requirement, which has been interpreted as within one

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mile, allows the community to be more involved in the process. The flexibility was important at DIA as well.

One suggestion made at the Bond Implementation Committee was to pool the art funds from several street projects for one major installation. Ms. Trapp expressed concern that this would lessen the program's ability to get art into the neighborhoods where there is none.

Mr. Mutz and Mr. Robertson said it is a wonderful program that generally works well. Their main concern is that project be identified as construction or maintenance early in the process because of the impact on the project budget. Mr. Robertson would like to integrate public art in playground projects.

The Committee asked DOCA to figure out a better clarification between construction and maintenance projects. Ms. Trapp agreed to work on the definition. Ms. Heydman noted that rules & regulations generally contain more detailed guidance than the ordinance, but none have been adopted for the Public Art Project. The Public Art Master Plan and "Frequently Asked Questions" are the guiding policy documents.

The Committee asked that rules & regulations be formally adopted.

Councilwoman Lehmann asked for more clarity without more restraint, noting policy provides more flexibility than ordinance.

Gretchen Williams
Council Legislative Services
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