COUNTY AGENDA REQUEST

Department:	Board of Commissioners	Presenter(s):	Chairman Steve Brown
Meeting Date:	Thursday, October 23, 2014	Type of Request:	Consent

Wording for the Agenda:

Approval of the Public Art Committee's recommendation to enter into an agreement with Mr. Pash Lima for art design for the Crosstown Water Treatment Plant's mural in the amount of $3,000.00 plus costs for materials and supplies.

Background/History/Details:

The Public Art Committee has been working Fayette County Intern Shanequa Gay on proposed artistic designs at the Crosstown Water Treatment Plant on TDK Boulevard. The Public Art Committee issued a call for artists through a proposal that was issued via a press release asking artists to submit artistic designs for the water treatment plant.

Approximately 23 artists submitted samples of their work, of which nine artists met all of the qualifications. The nine artists were evaluated by Chairman Brown, Steve Rapson, Tameca White, Vicki Turner and Shanequa Gay, and five semi-finalists were selected. The Selection Team then rated the semi-finalists and unanimously chose Mr. Pash Lima's art design.

Mr. Pash Lima will begin his work on the mural on November 1, 2014 pending Board of Commissioners approval. The cost for his work is $3,000.00 plus costs for materials and supplies.

The backup for this request is the proposed mural that will be painted at the Crosstown Water Treatment Plant. Colors are subject to change based upon input from the Public Arts Committee and the Fayette County Board of Commissioners.

What action are you seeking from the Board of Commissioners?

Approval of the Public Art Committee's recommendation to enter into an agreement with Mr. Pash Lima for art design for the Crosstown Water Treatment Plant's mural in the amount of $3,000.00 plus costs for materials and supplies.

If this item requires funding, please describe:

Funding for this request is budgeted in the Fiscal Year 2015 Building and Ground (37510565) - CIP Public Art Budget Project 5565D.

Has this request been considered within the past two years?	No	If so, when?	
Is Audio-Visual Equipment Required for this Request?*	No	Backup Provided with Request?	Yes

**** All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.***

Approved by Finance	Yes	Reviewed by Legal	
Approved by Purchasing	Yes	County Clerk's Approval	Yes
Administrator's Approval			

Staff Notes:

This request is the result of a collaborative effort between the Public Art Committee, Ms. Shanequa Gay, and the Selection Team for the artistic enhancement of county locations.

Fayette COUNTY

"WHERE QUALITY IS A LIFESTYLE"

140 STONEWALL AVENUE WEST, STE 101
FAYETTEVILLE, GEORGIA 30214
PHONE: 770-305-5420
www.fayettecountyga.gov

October 16, 2014
Mr. Pash Lima
1124 Breckenridge Lane
Alpharetta, GA 30005

Dear Mr. Lima:

Enclosed, please find the contract for artwork at the Crosstown Water Plant in Fayette County. It includes two copies of the signature page. Please sign both copies, and the contract with both copies to the Fayette County Purchasing Department.

So that this agreement can be executed, and to comply with state legal requirements, you will need to provide the following documentation:

1. **IRS Form W-9**: So that the county's Finance Department can fulfill reporting requirements to the internal Revenue Service, please complete and sign the enclosed Form W-9.

2. **Immigration Compliance Documents**: Georgia law (O.C.G.A. 13-10-91) contains immigration compliance documents. The requirement applicable to you depends on whether or not you have any employees, as follows:

    a) If you have no employees, and do not intend to hire any employees to complete this contract, you must provide a photocopy of a state-issued driver's license or other state-issued identification card before the contract can be fully executed.

    b) If you have one or more employees, you must complete, sign, and have notarized the attached form titled *Contractor Affidavit under O.C.G.A § 13-10-91 (B) (1).*

Upon receipt of the signed contract and other above-mentioned documents, the county will complete execution of the contract and issue a Notice to Proceed.

If you need any additional information, please do not hesitate to contact Trina Barwicks, Contract Administrator at (770) 305-5314, fax (770) 719-5515 and/or Email Address: tbarwicks@fayettecountyga.gov.

Sincerely,

Ted L. Burgess
Director of Purchasing

Attachments

AGREEMENT

This Agreement, made this day of 16 October, 2014, by and between Fayette County, Georgia (hereinafter called "Owner") and Pash Lima, hereinafter called "Contractor."

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned:

1. The Contractor will create a work of art on the wall of the Crosstown Water Treatment Plant.

2. The Contractor agrees to perform all of the services described in the contract documents and comply with the terms included in said contract.

3. The term "Contract Document" means and includes the following:

    a. This Agreement
    b. The attached scope of services, terms and conditions, and any related materials.
    c. Notice of award
    d. Notice to proceed

4. The Owner will pay the Contractor in the manner and at such times as set forth in the Contract Document.

5. Any dispute which may arise under this Agreement shall be resolved under the laws of the State of Georgia and venue shall be proper in Fayette County, Georgia.

IN WITNESS WHEREOF, the parties hereto have executed or caused to be executed by their duly authorized official, this Agreement on the date first above written.

OWNER:
Fayette County, Georgia

_____

By: Steve Rapson, County Administrator

CONTRACTOR:

_____ (L.S.)

BY: _____

Name: _____

Address: _____

_____

_____

_____

Employer Identification Number:

_____

Crosstown Water Plant Art Project
Fayette County, Georgia

TERMS AND CONDITIONS

1. **Definitions:** The term "Contractor" or the term "Artist" shall mean Mr. Pash Lima. The term "County" or "Owner" shall mean Fayette County, Georgia.

2. **Term of Contract**: The term of this agreement shall begin upon execution by both parties. The targeted completion date is November 31, 2014 weather permitting.

3. **Indemnification**: The Artist shall defend, indemnify and save the county and all its officers, agents and employees harmless from all suits, actions, or other claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any person, persons, or property on account of any negligent act or fault of the Artist in the execution of, or performance under, this Agreement. The Artist shall be responsible for repairing, or paying for the repair, of any damage to the site or the mural to the extent that such damage is caused by the Artist.

4. **Non-Assignment**: Assignment of this Agreement will not be authorized.

5. **Termination for Cause**: The County may terminate the Agreement for cause by sending written notice to the Artist of the Artist's default in the performance of any term of this agreement. Termination shall be without prejudice to any of the County's rights or remedies by law.

6. **Termination for Convenience**: The County may terminate the agreement for its convenience at any time with seven (7) days' written notice to the Artist. In the event of termination for convenience, the county will pay the Artist for services performed. The County will compensate partially completed performance based upon a signed statement of completion submitted by the Artist, which shall itemize each element of performance completed.

7. **Payment Schedule**: The County will pay the Artist for services as described in the Scope of Services. Payments to the Artist in no way lessen the liability of the Artist to replace unsatisfactory work, equipment, or materials.

8. **Inspections**: The County will have the right to inspect the mural, at the site, during any phase of the project, at any time.

9. **Fayette County Government to own mural rights**: Civic Art Collection – Upon final acceptance Fayette County, Georgia shall own all rights to the mural and accession the Artwork into the Civic Art Collection.

SCOPE OF SERVICES

Responsibilities of the Artist

1. The artist will complete the design and fabrication of the agreed-upon artwork, as shown in Attachment #1 and Attachment #2, at the following site:
   Crosstown Water Plant
   3500 TDK Blvd,
   Peachtree City, Georgia

2. The Artist will, within seven (7) calendar days after execution of this Agreement, provide the following documents:

   a. **Comprehensive project budget**: Include all paint, supplies, equipment, scaffolding, or other items needed for completion of the project, as well as post-mural maintenance costs of any part of the project.
   b. **Design development**: to include colored drawings or computer-generated color images that will accurately reflect the mural and how it will be executed at the site, mock-ups, final color and materials samples, proposed fabrication methods, and final materials and supplies costs at design completion.
   c. **Maintenance schedule**: A general maintenance plan for the mural, with a detailed description of future anticipated maintenance requirements, a recommended maintenance schedule, anticipated and required care or replacement / upgrade of any part of the Artwork and associated equipment, including written instructions and specifications for any foreseeable maintenance and preservation activities relating to the mural. This should include a description of all equipment or machinery needed to maintain the mural.

3. The Artist agrees to cooperate in good faith with the County, and to be available as reasonably necessary for consultation with the County during all stages of the mural. The Artist agrees to collaborate closely with the County through in-person meeting and other necessary means of communication.

4. The Artist will inform the County in writing when the Artist has completed all obligations, services, deliverables, and modifications. The County will send a Notice of Response identifying any obligations, services or deliverables that the Artist has not satisfactorily met, or defects in the Artist's performance, and the requirements of the Artist to cure any such default. The Artist will be given 10 business days from Notice of Response to cure any defects identified in such Notice. The mural will be accepted by the County only after the County has issued a Resolution of Final Acceptance.

5. The Artist will submit written reports regarding the status of the mural, as requested by the County. The County will determine the format for such reports.

6. The Artist will be available for at least four (4) visits by the County at the Crosstown Water Treatment Plant, to inspect proper execution of the mural. The Artist should allow at least one hour for each visit.

7. At completion of the project, the Artist will clean and restore the site and work area to the condition it was in at the beginning of installation.

Responsibilities of the County

1. The County will provide:
    a. All paint and supplies or other items needed for the project.
    b. A lift system or other equipment for elevated painting.
    c. A site assistant, to ensure the Artist's needs are met in completing the project.
    d. Transportation and security for materials.

2. The County will handle all wall preparation before the artist will begin implementation of the Artwork.

3. The County will compensation the Artist the total sum of $3,000.00 in the following increments:
    - 25% at contract signing.
    - 25% on the date work begins.
    - 25% when the Artist states the work is complete.
    - 25% when Fayette County confirms completion.

Artist's Moral Rights and Fayette County Ownership Rights

Fayette County Government, having expended considerable public funds to commission the Artwork, intends to display the Artwork at the Site as originally created by Artist and to maintain the Artwork in good condition. Public artworks commissioned by Fayette County Government are sometimes integrated into their site, such that they become an integral, permanent and site-specific part of the building's architecture or landscaped environment and removal of the artwork would result in significant changes to the artwork and the building's architecture. Fayette County Government, will preserve complete flexibility to operate and manage Government property in the public's interest. Therefore, Fayette County Government retains the absolute right to Alter the Artwork in County's sole judgment. Fayette County Government authorizes the right to removal of the Artwork, Fayette County Government shall take reasonable precautions to minimize Alteration of the Artwork during removal.

With respect to the Artwork produced under this Agreement, and in consideration of the procedures and remedies specified in this Agreement, Artist waives any and all claims, arising at any time and under any circumstances, against City, its officers, agents, employees, successors and assigns, arising under the federal Visual Artists Rights Act (17 U.S.C. §§106A and 113(d)) and any other local, state, federal or international laws that convey rights of the same nature or any other type of moral right protecting the integrity of works of art. If the Artwork is incorporated into a building such that the Artwork cannot be removed from the building without Alteration of the Artwork, Artist waives any and all such claims against any future owners of the Site, and its agents, officers and employees, for Alteration of the Artwork.

If Fayette County Government intends to take any action with respect to the Site or the Artwork that would Alter the Artwork, other than routine cleaning and maintenance, the following procedures shall apply:

Notice. Where time permits, Fayette County Government will make reasonable good faith efforts to notify Artist at least 20 calendar days prior to authorizing any Alteration of the Artwork, at the last phone number or address provided by Artist to the Arts Administration Manager. After receiving such notice, Artist shall consult with City to determine whether the Artwork can be restored or relocated, and to attempt to come to a mutually agreeable plan for disposition of the Artwork. Such consultation shall be without charge by Artist unless otherwise specifically agreed in writing. If Fayette County Government intends to remove the Artwork, Artist shall consult regarding methods to minimize or repair any Alteration to the Artwork caused by such removal and the potential costs of such removal.

Restoration. If the Artwork is Altered, with or without prior notice to Artist, and Fayette County Government intends to maintain the Artwork on display, Fayette County Government shall make a reasonable good faith effort to engage Artist in the restoration of the Artwork and to compensate Artist for Artist's time and efforts at fair market value, which may be the subject of a future Agreement between Artist and Fayette County Government. However, Fayette County Government has no obligation under this Agreement to restore the Artwork to its original condition, to compensate Artist for any restoration work, or to maintain the Artwork on display. If Artist fails or refuses to negotiate with Fayette County Government in good faith with respect to any restoration, Fayette County Government may contract with any other qualified art conservator or artist for such restoration.

Remedies. If Fayette County Government breaches any of its obligations, Artist's remedies shall be limited as follows: If Fayette County Government inadvertently fails to provide a required prior notice of Alteration, Fayette County Government will provide notice as soon as it discovers the omission, and before Alteration of the Artwork if that remains possible. If Fayette County Government Alters the Artwork without providing Artist a required prior notice of Alteration, Artist shall be given the first right of refusal to restore the Artwork at the same location and Fayette County Government shall make reasonable efforts to provide funding for the restoration. If Fayette County Government funds cannot be made available after reasonable efforts are made to secure such funding, Artist may, but is not obligated to, restore the Artwork at Artist's expense. If Artist elects not to restore the Artwork, Fayette County Government may retain another artist or conservator to restore it, or may Alter the Artwork in any manner, at Fayette County Government's sole discretion.

Contractor Affidavit under O.C.G.A. § 13-10-91(b)(1)

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services on behalf of Fayette County, Georgia has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period and the undersigned contractor will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b). Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

_____
Federal Work Authorization User Identification Number

_____
Date of Authorization

_____
Name of Contractor

Crosstown Treatment Plant Art
Name of Project

Fayette County, Georgia
Name of Public Employer

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on _____, ____, 201__ in (city) _____, (state) _____

_____
Signature of Authorized Officer or Agent

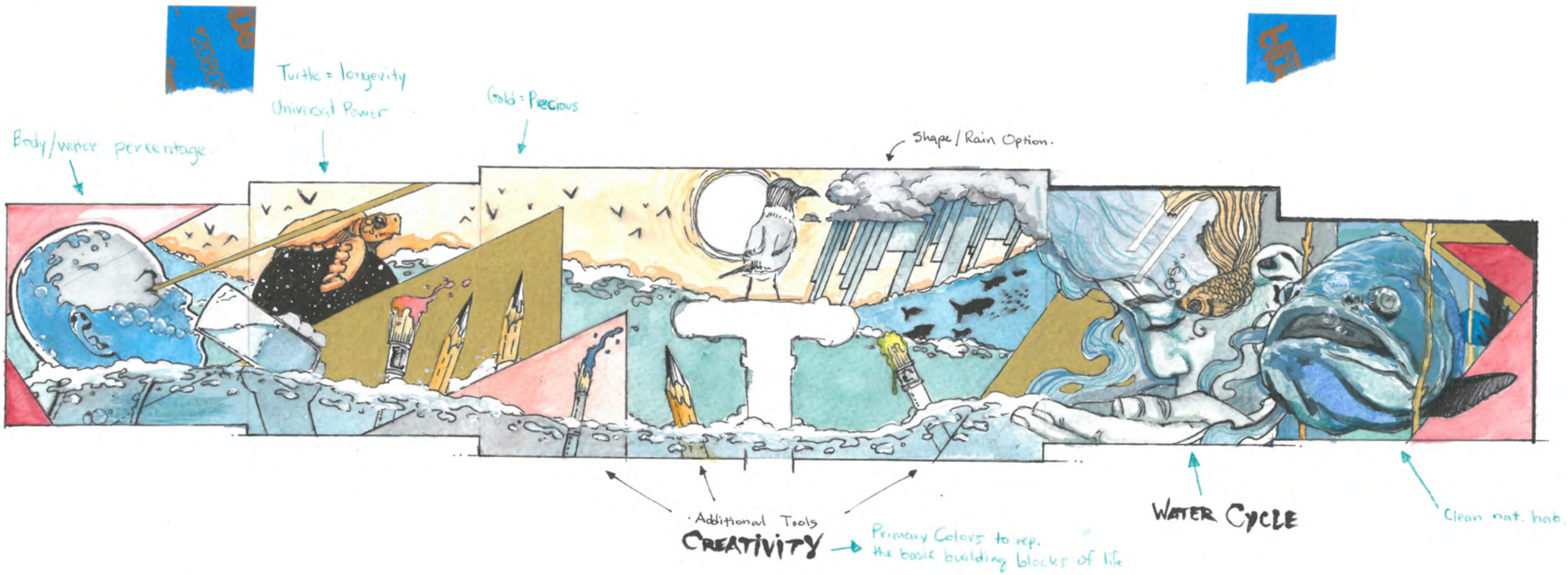
_____
Printed Name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME
ON THIS THE _____ DAY OF _____, 201 ____.

_____
NOTARY PUBLIC

My Commission Expires:

_____


Turtle = longevity
Universal Power
Gold = Precious
Body/water percentage.
Shape / Rain Option.
Additional Tools
CREATIVITY
Primary Colors to rep.
the basic building blocks of life
WATER CYCLE
Clean nat. hab.