

Date: April 10, 2023 Item No.: 10.m

Department Approval

City Manager Approval

latth 2. John

Item Description: Authorize Public Art Agreement with Lori Greene and Resolution of Acceptance of Donation

BACKGROUND

- At the February 27, 2023 City Council meeting, staff presented a proposed donation of public art to
- 3 the Harriet Alexander Nature Center from John and Kris Robertson-Smith, facilitated by the Friends
- of Roseville Parks. The proposal called for installation of three mosaic cairns to be completed by artist
- 5 Lori Greene. The project will be funded using the donation from the Roberson-Smiths and facilitated
- 6 by the Friends of Roseville Parks.
- 7 At that meeting, Council authorized staff to move forward with the acceptance of the donation and
- 8 implementation. Enclosed is a resolution of acceptance (Attachment A) and the proposed agreement
- 9 with Lori Greene (Attachment B) to complete the project as was outlined at the February 27, 2023
- meeting. The agreement has been reviewed by the City Attorney.

POLICY OBJECTIVE

- According to the Americans for the Arts Public Art Council: "Cities gain economic, cultural and social
- value from public art." In addition to the public art value, the proposed piece is being donated with the
- explicit purpose of drawing more residents to the Harriet Alexander Nature Center, which in turn, will
- expose them to the numerous documented health and wellness benefits derived from connections to
- 16 natural spaces.

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The proposed project is consistent with the City policy of effectively using non-City funds to enhance or further-develop City facilities.

20 BUDGET IMPLICATIONS

All funds for the project will be donated. City staff time will be contributed to management of the project.

RACIAL EQUITY IMPACT SUMMARY

- Lori Greene is a multiracial person (African American, Native American-Mississippi band of
- 25 Choctaw, and Caucasian) who brings a unique voice and perspective to public art. Ms. Greene has a
- strong history of ensuring that historically underrepresented populations are engaged in her process
- and represented in the art that she creates, which will assist her in ensuring that underrepresented
- voices are part of the process in Roseville.

STAFF RECOMMENDATION

A motion to approve resolution to accept the donation of public art.

A motion to authorize the Mayor and City Manager to enter into an agreement with Lori Greene for the provision of public art, as previously outlined.

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REQUESTED COUNCIL ACTION

A motion to approve resolution to accept the donation of public art (Attachment A).

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A motion to authorize the Mayor and City Manager to enter into an agreement with Lori Greene for the provision of public art, as previously outlined (Attachment B).

Prepared by: Attachments:

Matthew Johnson, Parks and Recreation Director A: Resolution to Accept Donation of Public

B: Public Art Agreement with Lori Greene

C: City Council Meeting Minutes: Monday, February 27, 2023

EXTRACT OF MINUTES OF MEETING OF THE CITY COUNCIL OF THE CITY OF ROSEVILLE

* * * * * * * * * * * * * * * * * *

1	Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of
2	Roseville, County of Ramsey, Minnesota, was duly held on the tenth day of April, 2023, at 6:00
3	p.m.
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5	The following members were present: ; and and the following members were absent: .
6 7	Member introduced the following resolution and moved its adoption:
8	member muoduced the following resolution and moved its adoption.
9	RESOLUTION NO
10	A RESOLUTION ACCEPTING A DONATION OF PUBLIC ART AT THE HARRIET
11	ALEXANDER NATURE CENTER
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13	WHEREAS, the City of Roseville is generally authorized to accept donations of real and
14	personal property for the benefit of its residents pursuant to Minnesota Statutes Section 465.03
15	and is specifically authorized to accept gifts for the benefit of its public recreational services
16	pursuant to Minnesota Statutes Section 471.17;
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18	WHEREAS, John and Kris Robertson-Smith and the Friends of Roseville Parks have
19	offered to donate to the City a public art project, to be completed by public artist Lori Greene, at
20	the Harriet Alexander Nature Center.
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22	WHEREAS, the donation is contributed to the City for the benefit of its residents and
23	public recreational services; and,
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25	WHEREAS, the City Council finds that it is appropriate to accept the donation offered.
26 27	NOW, THERFORE, BE IT RESOLVED, that the Roseville City Council, on behalf of the City
28	of Roseville, Minnesota, hereby accepts the gift of the donation described herein.
29	of Roseville, Willinesota, hereby accepts the gift of the donation described herein.
30	The motion for the adoption of the foregoing resolution was duly seconded by Member
31	and upon vote being taken thereon, the following voted in favor thereof: and the following
32	voted against the same:
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34	WHEREUPON said resolution was declared duly passed and adopted.

1785 Fairview Encroachment Agreement				
STATE OF MINNESOTA)) ss				
COUNTY OF RAMSEY)				
I, the undersigned, being the duly qualified City Manager of the City of Roseville, County of Ramsey, State of Minnesota, do hereby certify that I have carefully compared the attached and foregoing extract of minutes of a regular meeting of said City Council held on the day of, 20, with the original thereof on file in my office.				
WITNESS MY HAND officially as such Manager this day of, 20				
Patrick Trudgeon, City Manager				
(SEAL)				

PUBLIC ART AGREEMENT

This PUBLIC ART AGREEMENT (the "Agreement") is made by and between the city of Roseville, a municipal corporation under the laws of the state of Minnesota (the "City"), and Lori Greene ("Artist"), an independent contractor.

WHEREAS, the Friends of Roseville Parks, together with longtime volunteers, (the "Donors") have offered to provide funding for a public art piece to be designed, constructed, and installed by Lori Greene (the "Project"); and

WHEREAS, the City Council has determined that the installation of such an art piece at the Harriet Alexander Nature Center will be a benefit to the community and enhance the park; and

WHERAS, the City will manage the Project, which will be funded by a gift from the Donors in an amount not to exceed \$70,000.00 (the "Gift"); with \$65,000 paid to the artist and \$5,000 reserved for signage and other expenses related to the project outside of the artists scope of work.

WHEREAS, the City desires to enter into this Agreement which will govern the Project and the relationship of the parties during the Project; and

NOW, THEREFORE, the parties mutually agree as follows:

1. <u>Services to be Provided</u>. The Artist agrees to provide City with artistic professional services as set forth in this Agreement ("Services"). All Services and obligations shall be provided in a manner consistent with the level of care and skill ordinarily exercised by professionals currently providing similar artistic services.

2. Artist's Obligations.

- 2.1. The Artist shall provide a mosaic work of art that is substantially similar to the design presented to, and approved by, the City Council, which is attached hereto as <u>Exhibit</u> <u>B</u>. Any significant changes to the Design must be approved by the Director of Parks and Recreation.
- 2.2 The artist shall conduct a minimum of two community engagement events, preapproved by City staff, to solicit community feedback on the proposed piece prior to beginning work.
- 2.3 The Artist is responsible for final design, creation, and installation of the mosaic at a place designated by the City at the Harriet Alexander Nature Center.
- 2.4 All services performed by the Artist shall be performed in a professional manner and in strict compliance with all terms and conditions in this Agreement.

- 2.5. The Artist is responsible for purchasing all supplies and other materials necessary to complete the Project.
- 2.6 Within five (5) years of the Project's completion, the Artist shall be available upon reasonable advance notice to repair and maintain the Project at the request of the City.

3. <u>City's Obligations.</u>

- 3.1. The City shall perform all obligations in strict compliance with all terms and conditions in this Agreement.
- 3.5. The City shall provide and install a plaque on or near the Project containing a credit to the Artist and a copyright notice substantially in the following form "Copyright © Lori Greene 2023." The exact text of such notice shall be determined by Artist.
- 3.6. The City shall not knowingly permit any use of the Artist's name or misuse of the Artwork which would reflect discredit on the Artist's reputation as an artist or which would violate the spirit of the Artwork, to the extent that such use or misuse is within the City's direct control.

4. Budget and Payment Schedule.

- 4.1. The City agrees to pay the Artist \$65,0000 (the "Compensation"), which will fully compensate Artist for the Project. The City will make payments to the Artist as follows:
 - a. \$32,500.00 of the Compensation within 30 business days of signing this Agreement.
 - b. \$16,250.00 of the Compensation within thirty business days after [DATE] which will be the midpoint of the artistic process.
 - c. \$16,250.00 of the Compensation within thirty business days of mosaic delivery at the designated site.

5. Term.

- 5.1. The term of this Agreement will commence on April 11, 2023 unless extended by written agreement of the Parties, this Agreement will terminate no later than April 1, 2025 or upon completion of the Work, whichever occurs first. This Agreement may be terminated earlier by the City with or without cause, by delivering, a written notice at least ten (10) days prior to the date of such termination to the Artist. The date of termination shall be stated in the notice. Upon termination the Artist shall be paid for eligible reimbursable expenses incurred by the Artist through and until the date of termination.
- 5.2. The City shall grant to the Artist a reasonable extension of time in the event that conditions beyond the Artist's control, such as natural disasters, strikes, or similar force majeure events render timely performance of the Artist's services impossible or unduly

burdensome. All such performance obligations shall be suspended for the duration of the condition. Both parties shall take all reasonable steps during the existence of the condition to assure performance of their contractual obligations when the condition no longer exists. Failure to fulfill contractual obligations due to conditions beyond either Party's reasonable control will not be considered a breach of contract, provided that such obligations shall be suspended only for the duration of such conditions.

6. Artist's Representations and Warranties.

6.1. Warranties of Title

- a. The Artist represents and warrants that:
 - i. The Project will be solely the result of the artistic effort of the Artist;
- ii. Except as otherwise previously disclosed in writing to the City, the Design is unique and original and does not infringe upon any copyright or the rights of any person;
 - iii. The Design has not been offered for or accepted for sale elsewhere;
- iv. The Artist has not sold, assigned, transferred, licensed, granted, encumbered or utilized the Design or any element thereof or any copyright related thereto which may affect or impair the rights granted pursuant to this Agreement;
- v. The Design is free and clear of any liens from any source whatsoever.
- vi. All Designs created by the Artist under this Agreement, whether created by the Artist alone or in collaboration with others, shall be wholly original with the Artist and shall not infringe upon or violate the rights of any third party.
- vii. The Artist has the full power to enter into and perform this Agreement and to make the grant of rights contained in this Agreement.
- viii. All services performed hereunder shall be performed in accordance with all applicable laws, regulations, ordinances, etc. and with all necessary care, skill, and diligence.
- ix. These representations and warranties shall survive the termination or other extinction of this Agreement.

7. <u>Indemnity</u>.

Artist agrees to defend, indemnify and hold the City, and its mayor, councilmembers, officers, agents, employees, and representatives harmless from and against all liability,

claims, damages, costs, judgments, losses and expenses, including but not limited to reasonable attorney's fees, arising out of or resulting from (a) any negligent or wrongful act or omission of the Artist, its officers, agents, employees, contractors and/or subcontractors, pertaining to the performance or failure to perform the Work (b) any infringement of patent, copyright, trademark, trade secret or other proprietary right caused by Artist. Nothing herein shall be construed as a limitation on or waiver of any immunities or limitations on liability available to the City under Minnesota Statutes, Chapter 466, or other law.

8. Insurance.

Prior to starting the Project and during the full term of this Agreement, the Artist shall procure and maintain, at Artist's expense, as follows: General Liability Coverage against claims for bodily injury, death, or property damage arising out of Artist's performance of duties under this Agreement. Insurance must be on an "occurrence" basis, and limits of such policies must be no less than \$1,000,000 per occurrence and \$1,500,000 aggregate. Contractor must provide a copy of a certification of insurance satisfactory to the City.

9. Ownership of Documents.

Drawings, specifications, studies, sketches, renderings, images and other Documents, including those in electronic form prepared by the Artist (collectively, "Design Documents") are instrument of services for use solely with respect to this Design. Artist is and shall remain the author and owner of the Design Documents, and shall retain all common law, statutory and reserved rights therein including, but not limited to, copyright. One set of presentation materials, in electronic form, prepared and submitted under this Agreement shall be retained by the City for possible exhibition and to hold for permanent safekeeping.

10. Copyright Ownership.

Notwithstanding any term of this Agreement, the Artist retains all rights under the Copyright Act of 1976, 17 U.S.C. § 101 et seq., as the sole author of the Design for the duration of the copyright.

11. Reproduction Rights.

- 11.1. The Artist may, at the Artist's expense, cause to be registered with the United States Register of Copyrights, a copyright of the mosiac in the Artist's name.
- 11.2. Third-Party Infringement. The City is not responsible for any third-party infringement of Artist's copyright and the City is further not responsible for protecting the intellectual property rights of Artist.
- 11.3 The Artist acknowledges the City may from time to time permit the editorial reproduction of the Artwork in appropriate circumstances in order to help publicize city programs, enhance the public's awareness and appreciation of public art, and/or raise money to further the City's mission. The City will not have any obligation to consult with the Artist

on such uses. All such editorial uses of the Artwork will include the copyright notice in the name of the Artist.

11.4 Use and Sale of Reproductions. The Artist may exercise all copyrights under U.S.C. 106 without restriction. The City agrees that any request for creating and printing of reproductions will be made to the Artist with appropriate costs paid to the Artist for production costs. All such uses of the Artwork will include the copyright notice in the name of the Artist.

11.5 Commercial & Editorial Use of Reproductions.

- a. For the purposes of this Agreement, "Commercial Use" shall mean the use of the Artwork or parts of it to advertise goods and services; in films, broadcast, cable, or other audio-visual or transmission media; in wireless or digital media such as cell phones, ebooks, or other digital display devices or offered for sale as retail merchandise, including, but not limited to, posters or prints, clothing, and gift-related items, or book covers. "Editorial Use" shall mean use of Artwork or parts of it in an illustrative or informative manner or product (e.g. News story, book (but not book cover), magazine, editorial Web site, educational DVD, or journal) on subjects other than the City or muralism, and not for commercial use.
- b. In the event that the City receives a request to reproduce the Artwork for a Commercial Use or an Editorial Use, the City agrees to contact the Artist immediately, and provide the Artist with material details concerning the request, including the requestor's name, company and contact information. The Artist shall be entitled, but not obligated, to negotiate any and all Commercial Use and Editorial Use licenses.
- c. The Artist agrees to pay the City fifty percent (50%) of any and all licensing fees or royalties he actually receives from Commercial Use and Editorial Use licensing of the Artwork, less reasonable attorneys' fees as well as compensation for time that Artist incurs in connection with negotiating such licenses.

12. Alterations of Site or Removal of Artwork.

- 12.1. The Project may be removed, relocated, or destroyed by the City at the City's sole discretion.
- 12.2. 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.

13. <u>Remedies</u>.

- 13.1. In the event of a termination of this Agreement by the City because of a breach by Artist, City may complete the Services either by itself or by contract with other persons or entities, or any combination thereof.
- 13.2. The foregoing remedies provided to City for breach of this Agreement by Artist shall not be exclusive. City shall be entitled to exercise any one or more other legal or equitable remedies available because of Artist's breach.
- 14. Records/Inspection. This Agreement is subject to the requirements of Minnesota Statutes, Section 16C.05, subd. 5. Artist agrees that the City or any authorized representatives may have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, or other materials during normal business hours and as often as deemed necessary. Artist further agrees to maintain these materials, records, and documents in electronic form for six years from the date of the termination of this Agreement.
- 15. <u>Subcontracting</u>; <u>Assignment</u>. Artist shall not subcontract or assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that may become due or moneys that are due) in the Agreement without the prior written consent of the City. Any assignment in violation of this provision is null and void. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- 16. <u>Independent Contractor</u>. Artist shall be deemed an independent contractor. Artist's duties will be performed with the understanding that Artist has special expertise as to the services which Artist is to perform and is customarily engaged in the independent performance of the same or similar services for others. The manner in which the services are performed shall be controlled by Artist; however, the nature of the services and the results to be achieved shall be specified by City. Artist is not to be deemed an employee or agent of City and has no authority to make any binding commitments or obligations on behalf of City except to the extent expressly provided herein. All services provided by Artist pursuant to this Agreement shall be provided by Artist as an independent contractor and not as an employee of the City for any purpose, including but not limited to: income tax withholding, workers compensation, unemployment compensation, FICA taxes, liability for torts and eligibility for employee benefits.
- 17. <u>Compliance with Laws</u>. Artist shall exercise due professional care to comply with applicable federal, state and local laws, rules, ordinances and regulations in effect as of the date Artist agrees to provide the applicable services detailed this Agreement or any supplemental letter agreement.
- 18. <u>Notices</u>. The below-named individuals will act as the representatives of the Parties with respect to the work to be performed under this Agreement. Any termination notice issued under this Agreement shall be either hand delivered or sent by U.S. Mail to the belownamed individuals:

To City:	To Artist:
City of Roseville	
2660 Civic Center Drive	
Roseville, MN 55113	
Attn: [NAME, TITLE]	Attn:

Or such other address as either party may provide to the other by notice given in accordance with this provision.

- 19. <u>Entire Agreement; Amendments.</u> This Agreement, any attached exhibits and any addenda or amendments signed by the parties shall constitute the entire agreement between the City and Artist, and supersedes any other written or oral agreements between the City and Artist. This Agreement can only be modified or amended in writing signed by the City and Artist.
- 20. <u>Data Practices Act Compliance</u>. Any and all data provided to Artist, received from Artist, created, collected, received, stored, used, maintained, or disseminated by Artist pursuant to this Agreement shall be administered in accordance with, and is subject to the requirements of the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13. This paragraph does not create a duty on the part of the Artist to provide access to public data to the public if the public data are available from the City, except as required by the terms of this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement for Professional Services in duplicate on the respective dates indicated below.

CITY OF ROSEVILLE

By:		
•	Daniel Roe	
Its:	Mayor	
D		
By:	Det Torolle e e	
_	Pat Trudgeon	
Its:	City Manager	
	Artist	
Ъ		
By:		
	Lori Greene	

EXHIBIT A

Mosaic Proposal

- Three Mosaic Cairns, as was outlined by the artist at the February 7, 2023 Parks and Recreation Commission Meeting.
- Each cairn will be approximately 15 feet in height.
- Locations of cairns on the Harriet Alexander Nature Center grounds will be determined based on feedback received during the community engagement process and operational needs.
- Preliminary design shall be approved by the Parks and Recreation Director prior to the beginning of construction.



Preliminary Design

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beginning of the year, the City estimates how much money is going to be in a fund at the end of the year. To him, it seems like the City was missing quite a lot of money at the end of 2021 in the Water Fund and he does not know why staff and the outside accountants did not notice that at the end of 2021. It seemed very odd to him that no one missed that large amount of money.

Mayor Roe noted regarding Pioneer Park, he understood the park was named more in honor of longtime Roseville families who donated the land for the park.

5. Recognitions, Donations, and Communications

a. Women's History Month Proclamation

Mayor Roe read the Women's History Month Proclamation.

Strahan moved, Etten seconded, proclaiming March 2023 Women's History Month.

Roll Call

Ayes: Etten, Schroeder, Groff, Strahan, and Roe.

Nays: None.

Parks and Recreation Director Matthew Johnson briefly highlighted this item as detailed in the Request for Council Action and related attachments dated February 27, 2023.

Councilmember Strahan explained not related to this item in particular but for something for consideration later on, it was mentioned in this proposal that the City of Roseville does not currently have a public arts masterplan and something the City should consider speaking on, not specifically whether or not the Council accepts this because she thought this sounds like a fantastic plan.

Public Comment

Mayor Roe offered an opportunity for public comment with no one coming forward.

Groff moved, Strahan seconded, accepting donation of Public Art Piece to the Harriet Alexander Nature Center.

Council Discussion

Councilmember Groff thought it was excellent that Lori Greene was chosen. She worked with Arts Roseville on the project at the library and her including the community is the best he has seen of any artist, as far as reaching out and working with them. The brilliant thing about Lori Greene is that she is the artist over arching the

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entire thing so there is a unifying force behind it and that leads in perfectly with the students because the students can do parts of it but she is the one who is pulling it all together and is why it was successful. He knew that Ms. Greene would make something really wonderful for the nature center.

Councilmember Strahan agreed and wanted to make sure there is ongoing maintenance of the artwork, so it maintains its beauty and continues to offer a respectful piece. She explained she was really excited about this and the work the Ms. Greene has done.

Councilmember Etten concurred and loved this. He thought it was great that there is a robust public piece, which was seen also at Rice and Larpenteur. He thought this was a great way to connect the community. He agreed that looking at a larger picture on how the public art works in the City would be a good thing to do long-term.

Councilmember Schroeder wanted to add that it started with long-term volunteers who are making this donation to start with someone who has been in the community and helping out the community for a long time as well as help from the Friends of the Parks, which is a great organization to be involved. She thought all of the pieces came together nicely and she supported this and is really excited to see this evolve.

Roll Call

Ayes: Etten, Schroeder, Groff, Strahan, and Roe.

Nays: None.

6. Items Removed from Consent Agenda

a. Approve Partnership with People Incorporated to Expand Mental Health Service

At the request of Councilmember Strahan, City Manager Trudgeon briefly highlighted this item as detailed in the Request for Council Action and related attachments dated February 27, 2023.

Councilmember Strahan indicated the main reason she had asked for this item to be considered separately from the other Consent items is the importance of it. This is a big step that often the City's residents and constituents do not know about and she wanted to make sure the residents hear about how the process works. Also, that the City had a better understanding on how this would augment the services already being provided and what they would be between the various agencies. Long-term, she knows the City had NYFS as well as Ramsey County and this, which are all great tools but she wanted to make sure that these are working in tandem with each other.

Chief Erika Scheider was at the meeting and reviewed how these programs would work together in the City.