

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Authorizing the City Manager to Enter into a Conditional Gift Agreement for the Acceptance by Donation of the Sculpture "Honorable Men" into the City's Portable Artworks Collection

DEPARTMENT: Parks, Recreation and Cultural Services (PRCS)

PRESENTED BY: Eric Friedli, PRCS Director

ACTION: ☐ Ordinance ☐ Resolution ☒ Motion
 ☐ Discussion ☐ Public Hearing

PROBLEM/ISSUE STATEMENT:

The artwork, "Honorable Men", which was created in 2014 by local sculptor Matt Babcock, consists of four components (one stone base and three cast iron elements) and is roughly 12 inches by 12 inches by 5 ½ inches in size. Images of the artwork are attached to this staff report as Attachment A.

This artwork is being offered as a donation to become part of the City's new Portable Works Collection. The donor, Paula Itaoka, has signed the Conditional Gift Agreement Form (Attachment B).

For the City to accept this artwork donation, the City Council must authorize the City Manager to enter into a Conditional Gift Agreement with the donor. The PRCS/Tree Board recommended acceptance of the artwork at its December 6, 2018 meeting.

RESOURCE/FINANCIAL IMPACT:

There is no financial impact; this artwork is being donated at no cost to the City.

RECOMMENDATION

Staff recommends that the City Council authorize the City Manager to enter into a Conditional Gift Agreement for the acceptance by donation of the sculpture "Honorable Men" into the City's Portable Artworks Collection.

ATTACHMENTS:

Attachment A: Images of "Honorable Men" Sculpture

Attachment B: Conditional Gift Agreement Between the City of Shoreline and Donor Paula Itaoka

Approved By: City Manager **DT** City Attorney **MK**

Attachment A: Honorable Men





CONDITIONAL GIFT AGREEMENT

This Conditional Gift Agreement ("Agreement") is entered into as of the date last executed below by and between Paula ~~Hoka~~ Itaka ("Donor") and the City of Shoreline, Washington ("City"), a municipal corporation. *[Signature]*

WHEREAS, the City has determined that art in public places provides an aesthetic enjoyment of the quality of public places to the beneficial enjoyment of the community; and

WHEREAS, the Donor desires to make a gift to the City's certain artwork for inclusion in the City's Portable Artworks Collection; and

WHEREAS, the artwork the Donor desires to gift to the City a work of art entitled "Honorable Men" by Matt Babcock sculpture in four separate elements, cast iron, stone, aluminum, and inlay, 12" length x 12" width x 6" height ("Artwork"); and

WHEREAS, the City is willing to accept such gift from the Donor on the terms and conditions contained herein.

- I. **DECLARATION AND ACCEPTANCE OF GIFT.** As of the date last executed below, the Donor hereby conveys to the City by donation the Artwork, as depicted on Exhibit A, and its legal title, to the City and the City accepts the donation of the Artwork, subject to the terms and conditions contained herein.
- II. **TERMS AND CONDITIONS OF AGREEMENT.** The gift of the Artwork is conditioned upon the following terms and conditions:
 - A. **Ownership.** The Donor attests that he/she is the rightful owner of the Artwork and that the Artwork is free of liens, claims, or other encumbrances at the time of donation.
 - B. **Display of Artwork.** The City agrees that the Artwork will be displayed pursuant to the City's Public Art Program guidelines. The Parties agree that the Artwork is not specific to any site. The City may, at its sole discretion and expense, exhibit the Artwork in a variety of public locations. If the City removes the Artwork from public display, the City will store the Artwork in a safe, suitable location.
 - C. **Maintenance of Artwork.** The City shall maintain the condition of the Artwork to the best of its ability, in substantially the same condition as of the date of donation. If the Artwork is damaged or vandalized in any way, the City shall, if reasonably possible, take the steps necessary to return the Artwork to acceptable condition. The City shall take reasonable steps to protect the Art from vandalism.

- D. **Identification.** A label will be provided by the City and installed near the Artwork to identify the artist, artwork, ~~donor (if desired)~~, media, and year of fabrication.
- E. **Return of Art.** If the City no longer desires to retain the Artwork, it may dispose of the Artwork at its sole discretion per the City's de-accession policy, as amended. However, the City agrees not to sell or otherwise dispose of the Artwork with providing Donor with a right of first refusal to reacquire the Artwork pursuant to mutually agreed upon terms and conditions.
- F. **Value of Artwork.** In accepting the Artwork, the City has made no determination of the value of the Artwork, and makes no representations or assurances as to the value of the Artwork, for tax purposes or otherwise.

III. GENERAL PROVISIONS.

- A. **Notices.** Any notice required under this Agreement will be in writing, addressed to the appropriate party at the address which appears below (as modified in writing from time to time by such party), and given personally, by registered or certified mail, return receipt requested, by facsimile or by a nationally recognized overnight courier service. All notices shall be effective upon the date of receipt.

City Manager
City of Shoreline
17500 Midvale Avenue N
Shoreline, WA 98133-4905
(206) 801-2700

Donor Name: Paula Itoka
Address: 2323 N 162nd St,
Shoreline, WA 98133
Phone: 206-679-1773
email: PAITAOKA@gmail.com

- B. **Governing Law and Venue.** This Agreement shall be construed and enforced in accordance with the laws of the State of Washington. Venue of any suit between the parties arising out of this Agreement shall be King County Superior Court.
- C. **Severability.** Any provision or part of the Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon the City and the Donor, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- D. **Entire Agreement.** This agreement contains the entire Agreement between the parties hereto and no other agreements, oral or otherwise, regarding the subject matter of this agreement, shall be deemed to exist or bind any of the parties hereto. Either party may request changes in the agreement. Proposed changes which are mutually agreed upon shall be incorporated by written amendment to this agreement.
- E. **Captions.** The titles of sections or any other parts of this Agreement are for convenience only and do not define or limit the contents.
- F. **Counterpart Originals.** This Agreement may be executed in any number of counterpart originals, each of which shall be deemed to constitute an original agreement, and all of which shall constitute one agreement. The execution of one

counterpart by a Party shall have the same force and effect as if that Party had signed all other counterparts.

- G. **Authority to Execute.** Each person executing this Agreement on behalf of a Party represents and warrants that he or she is fully authorized to execute and deliver this Agreement on behalf of the Party for which he or she is signing. The Parties hereby warrant to each other that each has full power and authority to enter into this Agreement and to undertake the actions contemplated herein and that this Agreement is enforceable in accordance with its terms.

This Agreement is executed by:

CITY OF SHORELINE

By: _____

Name: _____

Title: _____

Date: _____

Approved as to Form:

Julie Ainsworth-Taylor
Assistant City Attorney

DONOR

By: Paula Itakka

Name: PAULA ITAKKA

Contact: Section III, a

Date: 10/29/18