### **City of Fayetteville Staff Review Form**

2021-0137 Legistar File ID

4/20/2021

City Council Meeting Date - Agenda Item Only N/A for Non-Agenda Item

**POLICE (200)** 

4/2/2021

Mike Reynolds

**Budget Adjustment Attached?** 

NA

Submitted By	Submitted Date	Division	/ Department	
Act	tion Recommendation:		8	
Staff recommends approval of a sculpture cagreement with Fraternal Order of Police Lofor the sculpting and delivery of the Officer new Fayetteville Police Headquarters Building based on Arkansas Code Annotated 19-11-2	odge #10 in an amount not to exc Stephen Carr Memorial to be dis ng. This public sculpture display	eed \$35,000 <sub>l</sub> played at the	plus \$5,000 contingency public entrance of our	
Budget Impact:				
1010.200.2920-5801.00		General		
Account Number		Fund		
33044-8 / 33045-1	Police Memo	Police Memorial / State LE Forfeitures		
Project Number		Project Title		
Budgeted Item? Yes	Current Budget	\$	40,935.00	
	Funds Obligated	\$	:#:	
	Current Balance	\$	40,935.00	
Does item have a cost? Yes	Item Cost	\$	40,000.00	

Purchase Order Number:	 Previous Ordinance or Resolution #	V20180321
Change Order Number:	 Approval Date:	
Original Contract Number:		

**Budget Adjustment** 

**Remaining Budget** 

\$

935.00

**Comments:** 



### CITY COUNCIL MEMO

**MEETING OF APRIL 20, 2021** 

TO:

Mayor and City Council

FROM:

Me Reynols Mike Reynolds, Chief of Police

DATE:

April 2, 2021

SUBJECT:

Officer Stephen Carr Memorial

### **RECOMMENDATION:**

Staff recommends approval of a sculpture commission agreement with Brodin Studios, Inc. and cost share agreement with Fraternal Order of Police (FOP) Lodge #10 in an amount not to exceed \$35,000 plus \$5,000 contingency for the sculpting and delivery of the Officer Stephen Carr Memorial to be displayed at the public entrance of our new Fayetteville Police Headquarters Building. This public sculpture display is exempt from competitive bidding based on Arkansas Code Annotated 19-11-203.

### **BACKGROUND:**

The Stephen Carr Memorial bronze statue will resemble a photo taken while Officer Stephen Carr was working Dickson Street Patrol and met an abandoned dog, which he eventually adopted. Officer Carr is on a side of the bench sitting, petting "Red" with one hand. The story is: the dog was abandoned and left tied up to this bench for hours. He was so scared of people and wouldn't come out for anyone, but Officer Carr.

When we decided to do this as the memorial, we found multiple bronze sculpture artists. The least expensive seemed to do more abstract art, and the human sculptures looked distorted and not what we were looking for. One local artist and one out of Texas were both \$85-95 thousand, much outside our realm of possibility. Then, Chief Reynolds received an email from Brodin Studios and their work is lifelike, beautiful, and professional. Through talking with Brodin Studios, Inc. and browsing samples of their work, we learned they focus on memorial statues for Military, Police, and Fire. They are so detailed as to get the make and model of uniform equipment. We then found a piece of art Brodin Studios, Inc. sent the Police Department after Officer Carr was killed, as they do throughout the country for fallen officers. We have chosen Brodin Studios for the professional and realistic work, flexibility and communication, as well as their patience with us throughout this process.

### **DISCUSSION:**

Total cost of the Officer Stephen Carr Memorial is \$51,483.55 plus shipping. The City of Fayetteville's not to exceed amount of \$35,000 plus \$5,000 contingency is based up on the project partnership with the FOP Lodge #10 which is currently holding in excess of \$22,000 in donated funds for this memorial sculpture. The FOP Lodge #10 plans additional fund raising

which could reduce the City of Fayetteville's share of expenses for this memorial. Brodin Studios will invoice the City of Fayetteville and FOP Lodge #10 separately.

Since the tragic events on December 7, 2019, the Fayetteville Police Department has recognized significant community support. Much of the community support came in the form of cash donations for the specific purpose of memorializing Officer Stephen Carr. All cash donations received by the Fayetteville Police Department has been approved and recognized via budget adjustments approved by the City Council. These funds are held within our project accounting system specifically named Police Memorial Donations (project #33044-8). The current budgeted amount in the Police Memorial Donations project is \$24,154. The net balance of \$15,846 not funded by the Police Memorial Donations will be funded from existing approved budget funds within the Law Enforcement State Forfeitures (project #33045-1).

### **BUDGET/STAFF IMPACT:**

All funding for this memorial sculpture is currently budgeted within our 2021 Approved Operating Budget. The City of Fayetteville's not to exceed amount of \$35,000 plus \$5,000 contingency totals \$40,000. Funding of this sculpture is budgeted within two existing projects: Police Memorial Donations (project #33044-8) and Law Enforcement State Forfeitures (project #33045-1). The Police Memorial Donations project has current budget funds in the amount of \$24,154.00, and the Law Enforcement State Forfeitures project budget will fund the remaining not to exceed expense of \$15,846. This project has no impact on staffing.

### Attachments:

Sculpture Commission Agreement with Brodin Studios, Inc. Cost Share Agreement with FOP #10
Photo of Officer Stephen Carr with Red
Sculpture samples from Brodin Studios
A.C.A 19-11-203

### SCULPTURE COMMISSION AGREEMENT

THIS AGREEMENT is made on this \_\_\_\_\_\_day of \_\_\_\_\_\_2021, between Brodin Studios, Inc. 70127 330th Street Kimball, MN 55353, hereinafter referred to as ARTIST, the City of Fayetteville, and Fraternal Order of Police Lodge No. 10, hereinafter referred to as BUYERS.

WHEREAS, BUYERS desire to commission ARTIST to design and construct an original bronze work of art in the likeness of life-size male Police Officer Stephen Paul Carr in the sitting position with life-size canine referred to as ARTWORK:

WHEREAS, ARTIST desires to create the above-mentioned ARTWORK:

WHEREAS, the parties wish the integrity and clarity of the ARTIST'S ideas, and the quality and beauty of the ARTWORK, to be maintained and protected;

NOW, THEREFORE, the parties mutually agree upon the following:

### I. DESCRIPTION OF THE ARTWORK

ARTWORK shall be created in actual life-size scale, exclusive of base, and shall be created using the "lost wax" method of bronze casting. ARTWORK shall be finished in an antique bronze patina, suitable for exterior. ARTWORK shall depict a male in the sitting position to be placed on a park bench with a canine.

### II. COMMISSION FEE

BUYERS shall pay ARTIST the sum of fifty-one thousand four hundred eighty-three dollars and fifty-five cents (\$51,483.55) plus additional costs specified in other sections or any addendum to this agreement.

### III. BUYER COOPERATIVE

BUYERS shall pay ARTIST commission fee separately based upon a separate agreement between the City and the Fraternal Order of Police Lodge No. 10. BUYERS will pay any additional costs specified in other sections or any addendum to this agreement in accordance with their separate agreement.

### IV. PAYMENT SCHEDULE

- A. A payment of fifteen thousand dollars and no cents (\$15,000) shall accompany the signed commission agreement, prior to beginning work.
- B. A second payment of sixteen thousand dollars and no cents (\$16,000) shall be due and payable at the time of casting the sculpture.

- C. A final payment of twenty thousand four hundred eighty-three dollars and fifty-five cents (\$20,483.55) shall be received upon completion.
- D. Shipping charges shall be billed directly to the BUYERS and shall be due and payable within 15 days of invoice. Invoicing for the park bench shall be billed directly to the BUYERS and shall be due and payable within 15 days of invoice.

### V. DELIVERY AND INSURANCE COSTS

- A. BUYERS shall be responsible for reasonable delivery/shipping and handling costs.

  ARTIST shall advise BUYERS of the method of shipment and the estimated cost prior to the scheduled completion date.
- B. ARTIST shall be responsible for insurance coverage during the commission period. Responsibility for coverage passes to the BUYERS upon delivery.

### VI. COPYRIGHT

ARTIST shall retain the copyright on ARTWORK and all reproduction rights shall be expressly reserved. ARTIST herein grants BUYERS the limited license to make two dimensional reproductions of ARTWORK for non-commercial purposes, including, but not limited to, advertising, publicity, catalogs and similar publications, provided that these rights are exercised in a tasteful and professional manner. ARTISTS copyright (as shown below) shall be clearly displayed on all reproductions and ARTIST shall be given a credit line in all editorial reference.

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### VII. UNVEILING/DEDICATION

BUYERS shall notify ARTIST as to the date and time of the unveiling and dedication ceremonies. BUYERS agree to furnish ARTIST with a copy of all promotional materials, programs, videos and articles dealing with ARTWORK and the unveiling.

### VIII. MAINTENANCE/REPAIR

BUYERS agree that they will not intentionally destroy, damage, or otherwise alter, modify or change ARTWORK in any way. All repairs and restorations shall be the responsibility of the BUYERS. ARTIST shall provide BUYERS with a copy of written "care" instructions, covering maintenance of the surface of the sculpture.

### IX. TITLE OF ARTWORK

BUYERS shall have the right to determine the official title of the ARTWORK, and shall inform ARTIST of such at the earliest convenience.

## X. MODIFICATIONS TO THE AGREEMENT

Modifications to any section of this agreement must be made in writing, signed by all parties and attached as an addendum.

### XI. JURISDICTION

The laws of the state of Arkansas shall govern this agreement.

Signed this	day of	, 2021.
By The Chita		
ARTIST/AGENT	BUYER	
Brodin Studios, Inc.	City of Fa	yetteville
70127 330th Street	100 W. Rd	
Kimball, MN 55353	Fayettevill	le, AR 72701

BUYER

Fraternal Oder of Police Lodge No. 10

100 W. Rock Street Fayetteville, AR 72701

# COST SHARE OF OFFICER STEPHEN CARR MEMORIAL

This Agreement, made and entered into on this \_\_\_\_ day of April, 2020, by and between the City of Fayetteville, Arkansas ("City") and the Fraternal Order of Police Lodge No. 10 ("FOP"), witnesseth:

WHEREAS, the City and the FOP wish to work together, using a combination of City funds, FOP funds, and funds from private donors to pay the cost of the Officer Stephen Carr Memorial bronze sculpture that will be located at the new Police Department headquarters; and

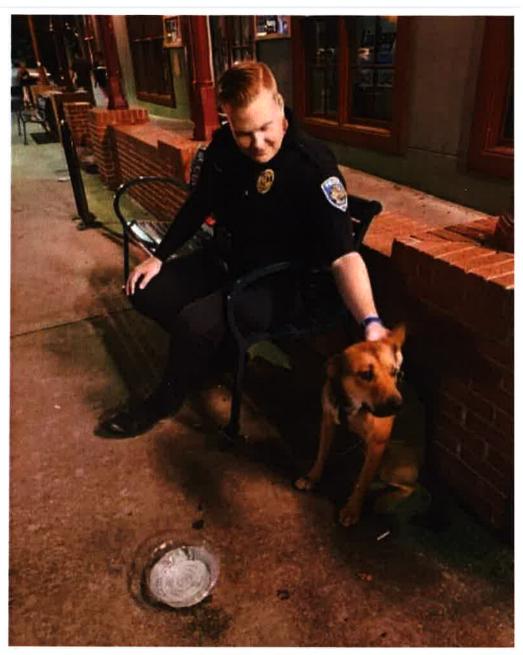
WHEREAS, the cost of the sculpture is \$51,483.55 plus any applicable taxes as well as shipping, handling, and installation costs.

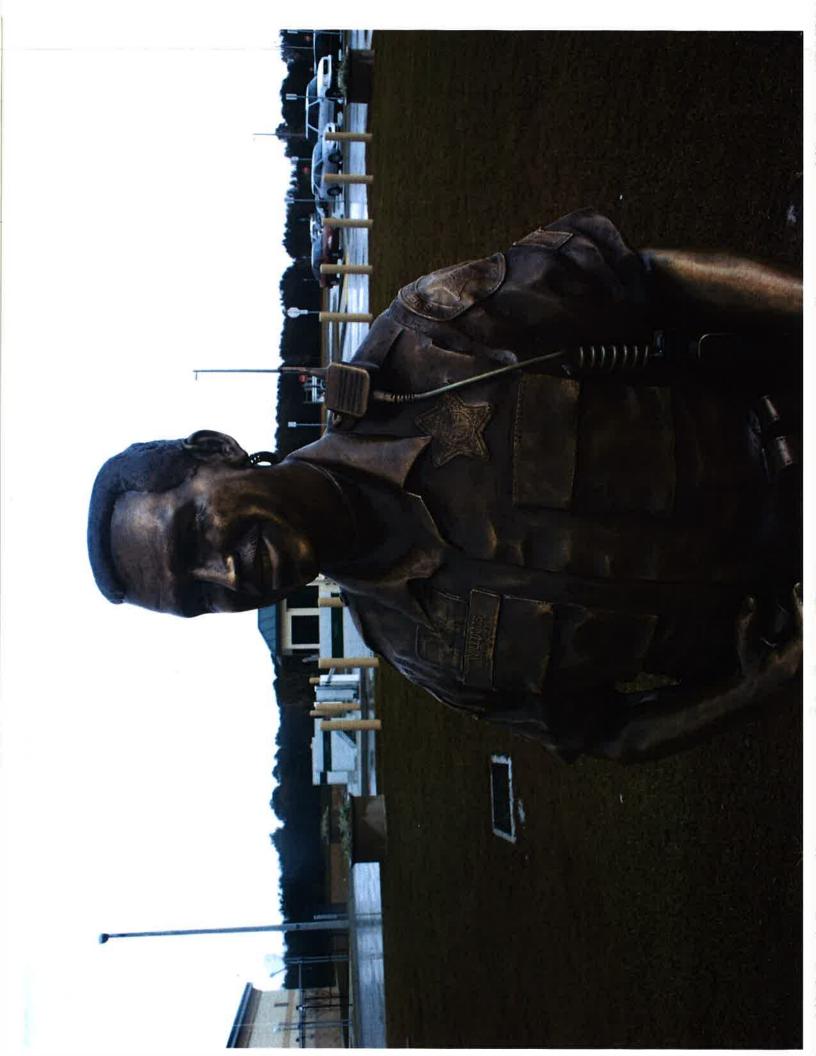
NOW, THEREFORE, the City of Fayetteville, Arkansas and Fraternal Order of Police Lodge No. 10 agree as follows:

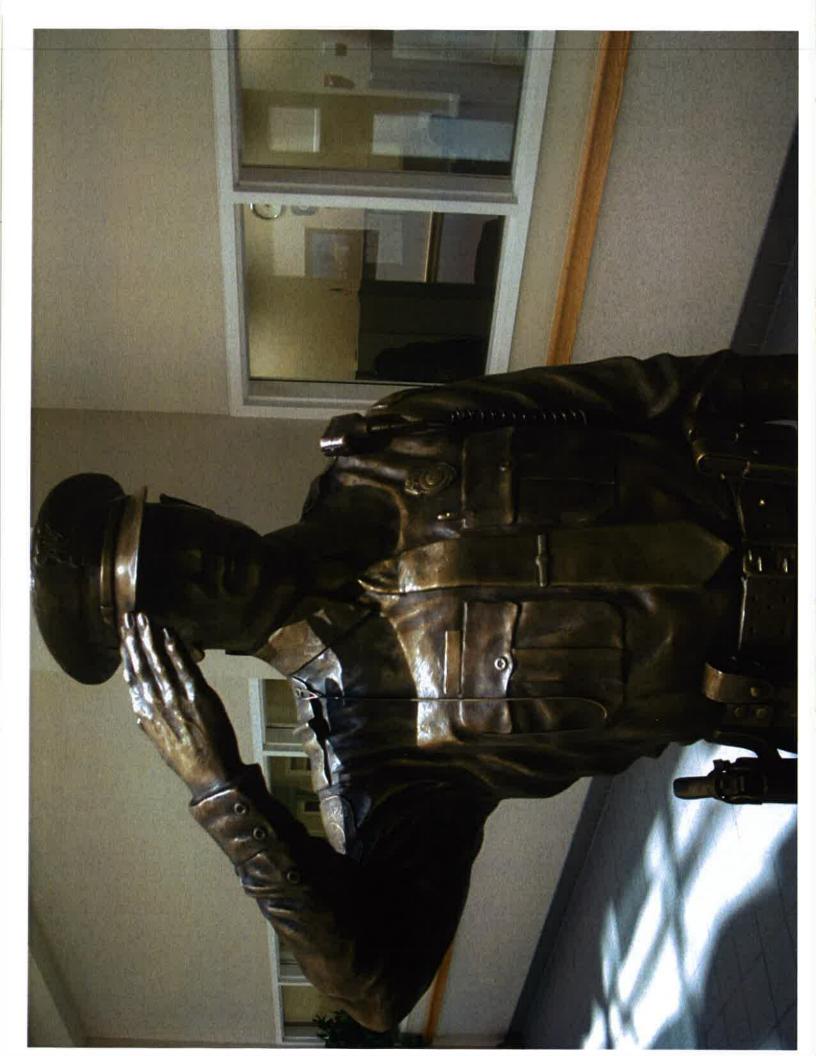
- 1. The City of Fayetteville, Arkansas agrees to:
  - A. Contribute an amount not to exceed \$35,000.00 toward the costs associated with the purchase of the sculpture.
  - B. Provide a prominent location for the installation of the sculpture outside of the public entrance to the new Police Department Headquarters.
- 2. Fraternal Order of Police Lodge No. 10 agrees to contribute at least \$22,000.00 toward the costs associated with the purchase of the sculpture.
- 3. The City and FOP agree to share equally any costs associated with taxes, shipping, handling, and installation of the sculpture, or any additional costs that arise after signing the commission agreement with the artist.

IN AGREEMENT WITH ALL THE TERMS AND CONDITIONS ABOVE, WE SIGN BELOW:

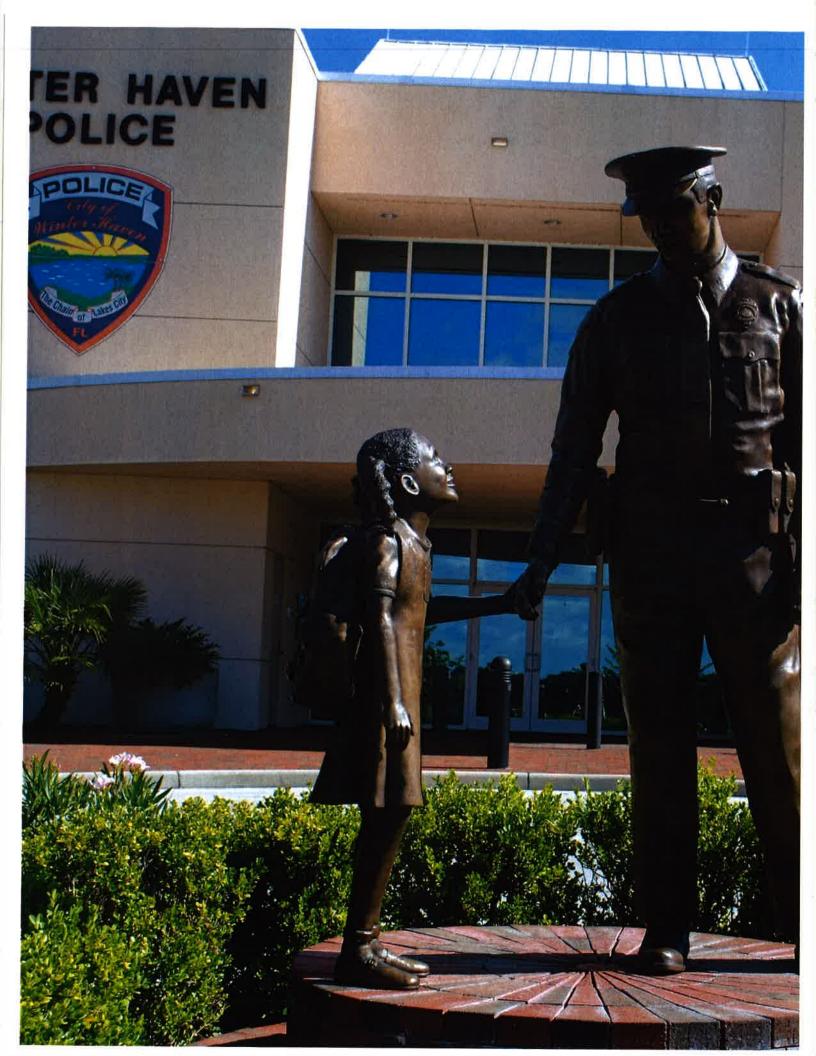
FRATERNAL ORDER OF POLICE LODGE NO. 10	CITY OF FAYETTEVILLE, ARKANSAS		
By: NICK WHITE, President	By: LIONELD JORDAN, Mayor		
	ATTEST:		
	By:  KARA PAXTON, City Clerk		

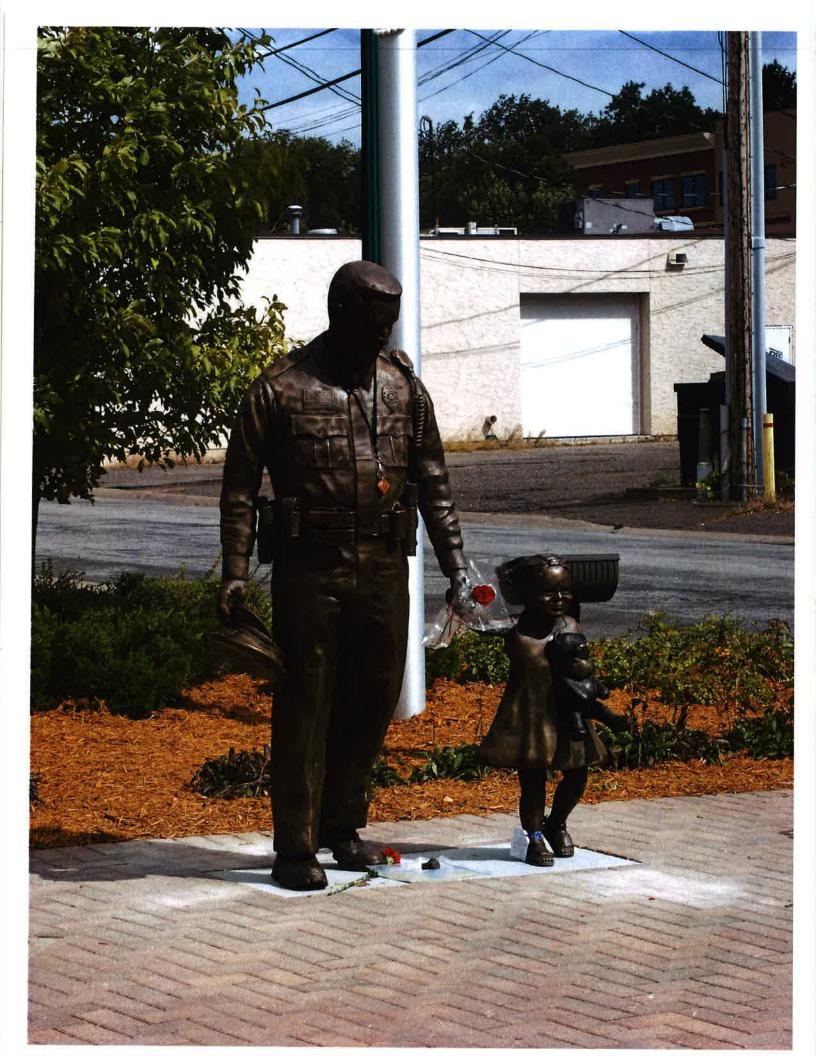


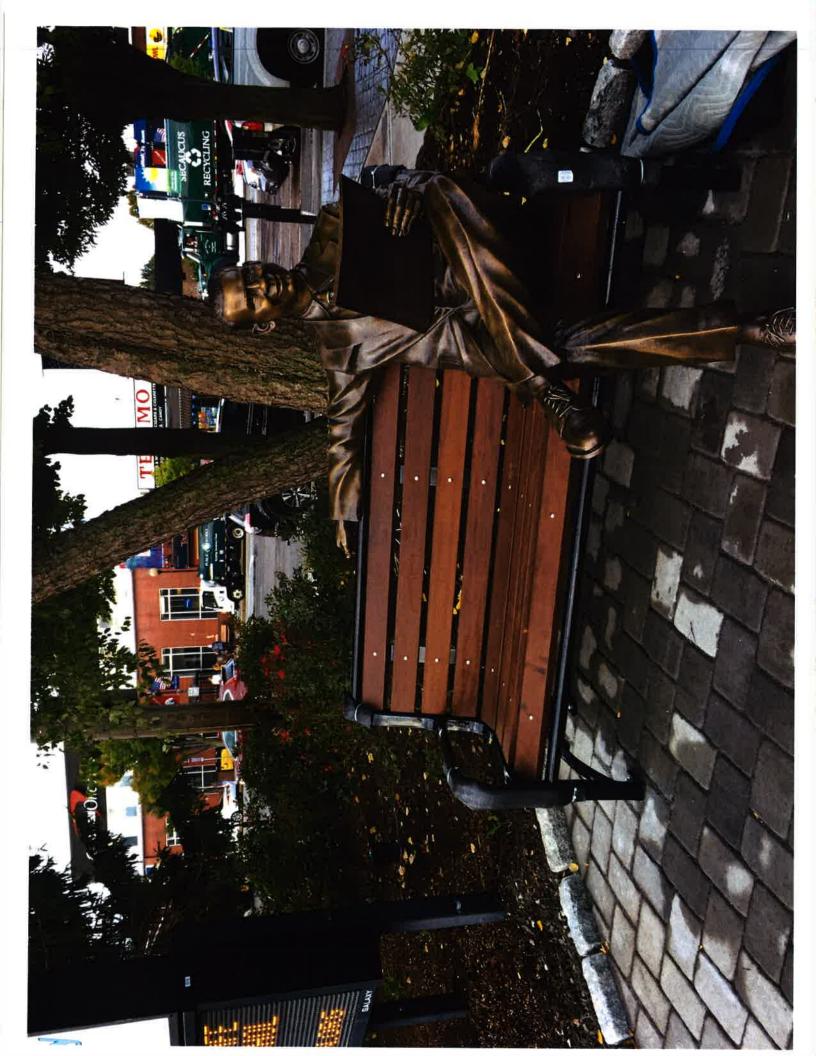


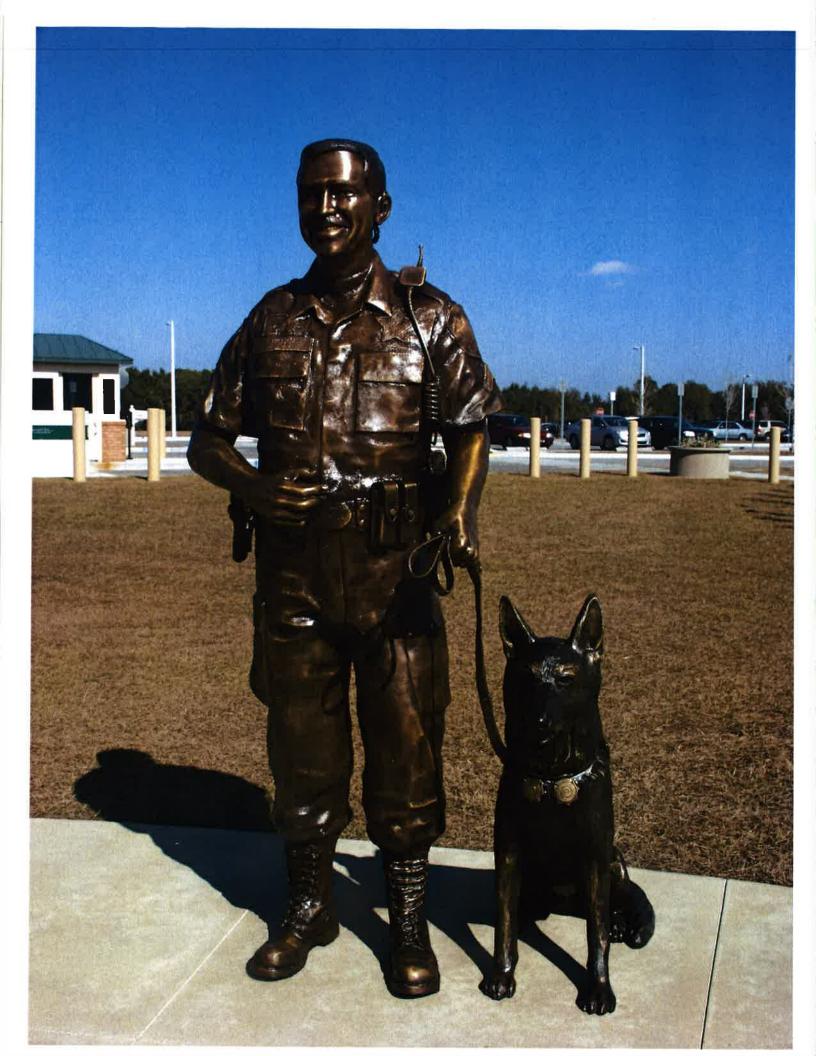












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### A.C.A. § 19-11-203

Copy Citation

Current through all legislation of the 2020 First Extraordinary Session and the 2020 Fiscal Session (through all legislation enacted and approved in 2020)

AR - Arkansas Code Annotated Title 19 Public Finance Chapter 11 Purchasing and Contracts Subchapter 2 — Arkansas Procurement Law

### **19-11-203**. Definitions generally.

As used in this subchapter:

(1)

- (A) "Agency procurement official" means any person authorized by a state agency to enter into and administer contracts and make written determinations and findings with respect to contracts, in accordance with procedures prescribed by this subchapter and the rules promulgated under it.
- (B) "Agency procurement official" also includes an authorized representative acting within the limits of authority;
- (2) "Business" means any corporation, partnership, individual, sole proprietorship, joint-stock company, joint venture, or any other legal entity;

(3)

- (A) "Capital improvement" means all lands, buildings, structures, utilities, on-site and off-site improvements, and other appurtenant improvements, existing or future, and all construction, repairs, alterations, and renovations thereof which are undertaken, owned, operated, or otherwise managed by a state agency.
- (B) "Capital improvement" shall not include construction and reconstruction of roads and bridges in the state highway system by the State Highway Commission, nor shall "capital improvement" include any building, facility, plant, structure, or other improvement constructed by, or in behalf of, the Arkansas Department of Transportation or the State Highway Commission;

(4)

- (A) "Commodities" means all personal property, including without limitation:
- (i) Goods, as defined in § 4-2-105;
- (ii) Leases, as defined in § 4-2A-103; and
- (iii) Insurance.
- (B) "Commodities" does not include:
- (i) A lease on real property or a permanent interest in real property;
- (ii) Exempt commodities and services; and
- (iii) Capital improvements;
- (5)



### (B)

- (i) "Contract" includes awards and notices of award, contracts of a fixed-price, cost, costplus-a-fixed-fee, or incentive type, contracts providing for the issuance of job or task orders, leases, letter contracts, and purchase orders.
- (ii) "Contract" also includes supplemental agreements with respect to any of these items.
- (iii) "Contract" does not include a partial equity ownership agreement as defined under § 19-11-1301 et seq.;
- (6) "Contract modification" means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract;
- (7) "Contractor" means any person having a contract with a state agency;
- (8) "Data" means recorded information, regardless of form or characteristic;
- (9) "Debarment" means the disqualification of a person to receive invitations for bids or requests for proposals or the award of a contract by the state for a specified period of time commensurate with the seriousness of the offense or the failure or the inadequacy of performance;
- (10) "Designee" means a duly authorized representative of a person holding a superior position:
- (11) "Electronic" means electrical, digital, magnetic, optical, or any other similar technology;
- (12) "Employee" means an individual drawing a salary from a state agency, whether elected or not, and any nonsalaried individual performing personal services for any agency;
- (13) "Exempt agencies" means the constitutional departments of the state, the elected constitutional offices of the state, the General Assembly, including the Legislative Council and the Legislative Joint Auditing Committee and supporting agencies and bureaus thereof, the Supreme Court, the Court of Appeals, circuit courts, prosecuting attorneys, and the Administrative Office of the Courts;
- (14) "Exempt commodities and services" means:
- (A) Advertising in newspapers, periodicals, and related publications and on television, radio, billboards, and electronic media;
- **(B)** Animals procured for medical research;

### (C)

- (i) Commodities and services for use in research, education, and treatment for the diagnosis, cure, and prevention of disease, which may be procured with administrative approval through a group purchasing entity serving other public health institutions when substantial savings are available.
- (ii) A report shall be filed annually with Arkansas Legislative Audit reflecting the justification of and the estimated savings accruing due to the use of this exemption;

### (D)

- (i) Commodities procured for resale in cafeterias, commissaries, bookstores, gift shops, canteens, and other similar establishments.
- (ii) However, these commodities procured shall not be sold or transferred to any agency with the intent of circumventing applicable procurement procedures;

(i) Contracts awarded by agencies for the construction of buildings and facilities and for major repairs.

reconstruction, and maintenance of roads and bridges in the state highway system and for the county, rural road aid, and city street aid programs;

- (G)
- (i) Farm products procured or sold by a state agency having an agency procurement official.
- (ii) The current trade customs with respect to the procurement or sale of cotton, cotton seed, rice, and other farm products shall be followed when it is necessary to obtain the best price for the commodities procured or sold;
- (H) Fees, including medical fees and physician fees;
- (I) Foster care maintenance services provided by foster family homes or a community provider that is licensed as a family style residential home or that provides a family home setting approved by the Division of Children and Family Services for children whose placement and care are the responsibility of the Division of Children and Family Services;
- (J) Freight and storage charges and demurrage;
- (K) Licenses required prior to performance of services;
- (L)
- (i) Livestock procured by an agency having an official experienced in selection and procurement of livestock.
- (ii) Such procurement will be reported to the State Procurement Director, giving details of the purchase;
- (M) Livestock procured for breeding, research, or experimental purposes;
- (N) Maintenance on office machines and technical equipment;
- (0) Medical items specifically requested by a physician for treatment or diagnosis of patients in his or her care, including prosthetic devices, surgical instruments, heart valves, pacemakers, radioisotopes, and catheters;
- (P) Membership in professional, trade, and other similar associations;
- (Q) Perishable foodstuffs for immediate use or processing;
- (R) Postage;
- (S) Published books, manuals, maps, periodicals, films, technical pamphlets, and copyrighted educational aids for use in libraries and for other informational or instructional purposes in instances in which other applicable law does not provide a restrictive means for the acquisition of these materials;
- (T) Services of visiting speakers, lecturers, and performing artists;
- (U) Taxes;
- (V) Travel expense items such as room and board and transportation charges;
- (W) Utility services or equipment that is defined, recognized, and regulated by the Arkansas Public Service Commission as a monopoly offering;
- (X) Works of art for museum and public display;
- (Y) Capital improvements valued at less than the amount stated in § 22-9-203, subject to minimum standards and criteria of the Building Authority Division;
- (Z) Services related to work force development, incumbent work force training, or specialized business or industry training;
- (AA) The following commodities and services relating to proprietary software after the initial procurement:
- (i) Technical support incidental to supporting the continuous operation of proprietary software;
- (ii) Renewals;
- (iii) Additional conies: and



for use in goods for resale;

- (CC) Commodities purchased by the Division of Correction for crop production, including without limitation fertilizers, seed, seedlings, and agricultural-related chemicals;
- (DD) Repair services for hidden or unknown damages to machinery already purchased; and
- (EE) Commodities and services purchased by an academic medical center using revenue derived from and used for patient care and hospital enterprises;

(15)

(A)

- (i) "Grant" means the furnishing by the state of assistance, whether financial or otherwise, to any person to support a program authorized by law.
- (ii) "Grant" does not include an award the primary purpose of which is to procure an end product, whether in the form of commodities or services.
- (B) A contract resulting from such an award is not a grant but a procurement contract;
- (16) "May" means the permissive;
- (17) "Paper product" means any item manufactured from paper or paperboard;
- (18) "Person" means any business, individual, union, committee, club, or other organization or group of individuals;
- (19) "Political subdivisions" means counties, municipalities, and school districts;

- (A) "Procurement" means the buying, purchasing, renting, leasing, or otherwise obtaining of any commodities or services.
- (B) "Procurement" also includes all functions that pertain to the obtaining of any public procurement, including description of requirements, selection and solicitation of sources, preparation and award of contract, disposal of commodities, and all phases of contract administration;
- (21) "Procurement agency" means any state agency that is authorized by this subchapter, by implementing rules, or by way of delegation from the State Procurement Director to contract on its own behalf rather than through the central contracting authority of the State Procurement Director;

(22)

- (A) "Procurement agent" means any person authorized by a state agency not having an agency procurement official to enter into and administer contracts and make written determinations and findings with respect to contracts, in accordance with procedures prescribed by this subchapter.
- (B) "Procurement agent" also includes an authorized representative acting within the limits of authority;

(23)

- (A) "Public funds" means all state-appropriated and cash funds of state agencies, as defined by applicable law or official ruling.
- **(B)** Without necessarily being limited thereto, "public funds" does not include:
- (i) Grants, donations, research contracts, and revenues derived from self-supporting enterprises that are not operated as a primary function of the agency, no part of which funds are deposited into the State Treasury; and
- (ii) Revenue derived from patient care and self-supporting hospital enterprises of an
- academic medical center; (24) "Public notice" means the distribution or dissemination of information to interested



### (25)

- (A) "Purchase request" means that document, written or electronic, in which a using agency requests that a contract be obtained for a specified need.
- **(B)** "Purchase request" may include, but is not limited to, the technical description of the requested item, delivery schedule, transportation, criteria for evaluation of solicitees, suggested sources of supply, and information supplied for the making of any written or electronic determination and finding required by this subchapter;
- **(26)** "Recycled paper" means paper which contains recycled fiber in a proportion specified by the State Procurement Director;

#### (27)

- (A) "Services" means the furnishing of labor, time, or effort by a contractor that does not produce tangible commodities.
- (B) "Services" includes without limitation:
- (i) Consulting services;
- (ii) Personal services;
- (iii) Professional services;
- (iv) Technical and general services; and
- (v) The furnishing of labor, time, or effort by a contractor for the generation, customization, configuration, or development of software and other intangible property other than technical support incidental to the procurement of proprietary software.
- **(C)** "Services" does not include employment agreements, collective bargaining agreements, exempt commodities and services, or architectural or engineering contracts requiring approval of the Building Authority Division or the Division of Higher Education;
- (28) "Shall" means the imperative;
- (29) "Signature" means a manual, an electronic, or a digital method executed or adopted by a party with the intent to be bound by or to authenticate a record which is:
- (A) Unique to the person using it;
- (B) Capable of verification;
- (C) Under the sole control of the person using it; and
- **(D)** Linked to data in such a manner that if the data are changed, the electronic signature is invalidated;

### (30)

- (A) "State agency" means any agency, institution, authority, department, board, commission, bureau, council, or other agency of the state supported by appropriation of state or federal funds, except an exempt agency pursuant to subdivision (13) of this section.
- **(B)** "State agency" includes an exempt agency when any agency or exempt agency procures any item subject to Arkansas Constitution, Amendment 54;

#### (31)

- (A) "State contract" means a contract for the procurement of commodities or services in volume, awarded by the State Procurement Director.
- (B) The contract may apply to all or part of the state;
- (32) "State Procurement Director" means the person holding the position created in § 19-11-216, as the head of the Office of State Procurement;
- (33) "Suspension" means the disqualification of a person to receive invitations for bids, requests for proposals, or the award of a contract by the state for a temporary period pending the completion of an investigation and any legal proceedings that may ensue



because a person is suspected upon probable cause of engaging in criminal fraudulent or https://advance.lexis.com/documentpage/?pdmfid=1000516&crid=f3077419-3c00-4f4b-9f47-2da318835a93&config=00JAA2ZjZiM2VhNS0wNTVILTQ3... 5/7

### (34)

- (A) "Technical and general services" means:
- (i) Work accomplished by skilled individuals involving time, labor, and a degree of expertise, in which performance is evaluated based upon the quality of the work and the results produced;
- (ii) Work performed to meet a demand, including, but not limited to, work of a recurring nature that does not necessarily require special skills or extensive training; or
- (iii) The furnishing of labor, time, or effort by a contractor or vendor, not involving the delivery of any specific end product other than reports that are incidental to the required performance.
- (B) "Technical and general services" shall not be construed to include the procurement of professional services under § 19-11-801 et seq.;
- (35) "Using agency" means any state agency which utilizes any commodities or services purchased under this subchapter; and
- (36) "Written" or "in writing" means the product of any method of forming characters on paper, other materials, or viewable screens, which can be read, retrieved, and reproduced, including information that is electronically transmitted and stored.

### History

Acts 1979, No. 482, § 12; 1981, No. 600, §§ 1-5; A.S.A. 1947, § 14-240; Acts 1987, No. 983, § 1; 1991, No. 128, § 1; 1991, No. 749, § 2; 1991, No. 1018, § 1; 1999, No. 1398, § 27; 2001, No. 961, § 7; 2001 No. 1237, § 2; 2001 No. 1568, § 1; 2003, No. 487, § 1; 2003, No. 1315, §§ 4-7; 2005, No. 1680, § 1; 2007, No. 478, § 2; 2009, No. 251, § 28; 2009, No. 605, § 20; 2009, No. 606, § 20; 2009, No. 1211, § 1; 2011, No. 794, § 1; 2013, No. 453, § 1; 2015, No. 218, § 21; 2015, No. 557, § 3; 2017, No. 609, §§ 1, 2; 2017, No. 707, § 58; 2017, No. 893, § 2; 2019, No. 315, §§ 1751, 1752; 2019, No. 417, §§ 1-3; 2019, No. 658, § 3; 2019, No. 910, §§ 6102, 6103.

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