



*City Council Memorandum*

**To: Mayor Fasbender & City Councilmembers**  
**From: City Administrator Dan Wietecha**  
**Date: August 7, 2023**  
**Item: Sculpture Lease for Riverwalk**

**Council Action Requested:**

Authorize signature of Artwork Leasing Agreement with Dale Lewis, subject to City Attorney review and minor revisions.

**Background Information:**

The Arts & Culture Commission would like to lease 4 sculptures from local artist Dale Lewis for the next 12 months at \$1,000 each. The sculptures would be located on the sculpture platforms along the riverwalk trail or other suitable location.

The City has had sculptures by Mr. Lewis in this location in the past (coordinated by the former Arts Task Force), the Leatherback turtle sculpture has been on loan and displayed under the bridge since fall 2021, and the City recently approved Community Investment Fund (CIF) funding to Hastings Environmental Protectors (HEP) for display of similar sculptures along the trail in Vermillion Linear Park.

The proposed agreement was drafted by Mr. Lewis with several amendments by the Arts & Culture Commission. The agreement has not been reviewed by the City Attorney, so should be approved subject to City Attorney review and minor revisions. More substantive revisions would need to be brought back to City Council.

**Financial Impact:**

\$4,000 – budgeted

**Committee Discussion:**

Arts & Culture Commission recommended at its July 12, 2023 meeting

**Attachments:**

Artwork Leasing Agreement

**ARTWORK LEASING AGREEMENT**

This Artwork Leasing Agreement (“Agreement”) is made and entered into this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between Dale Lewis and the City of Hastings, MN. WHEREAS, Artist Dale Lewis (to be referred to as the ‘lessor’) and the City of Hastings (to be referred to as the lessee) have agreed to lease \_\_\_ sculptural works of art for display along the Hastings Riverwalk.

Sculptures chosen are entitled:

1. Otto, the River Otter - Purchase Price: \$16,000
2. Rock Bass II - Purchase Price: \$10,000
3. Bicycle Tree I - Purchase Price: \$12,000
4. Leatherback - Purchase Price: \$22,000

**1. Lease of Artwork:** Subject to the terms and conditions set forth below, the lessor rents to the lease the artwork above described for the term of one year commencing from the date of signing of this lease..

**2. Rental:** The lessee shall pay a sum of \$1000 per sculpture for one year due in full no later than \_\_\_\_\_.

**3. Installation and De-installation:** Installation will be arranged between the lessor and the lessee depending upon the weather, availability of Hastings equipment, park access and personal, and dates the sculptures are available. At least 14 days notice is required.

**4. Ownership and Use:** The artwork shall at all times be the sole and exclusive property of the lessor. The lessee shall have no rights or property interest in the artwork, except for the right to display the artwork in its intended manner and to market the artwork to encourage visitors to enjoy the Hastings Riverwalk. The lessee recognizes the copyright interests of the lessor in the property and shall not infringe or allow an infringement of the lessor’s rights.

**5. Repairs, Maintenance.** Should a sculpture require a repair the lessee will immediately notify the lessor. No repairs shall be done without expressed approval of the lessor. Maintenance of the site around the artwork will be subject to the city of Hastings or 3<sup>rd</sup> party agreements created at the time of installation. ( This clause is specifically for the HEP project).

**6. Relocation after Installation.** Should any artwork be required to be moved after installation the City of Hastings will notify the lessor of the intent to relocate the sculpture and the lessor must give permission before artwork is relocated.

**7. Insurance.** The Lessee shall carry insurance to cover the replacement cost of the artwork in regard to theft, natural disasters and liability and will pay over the proceeds of such insurance to the lessor upon receipt of proceeds.

**8. Default.** A default in payment of more than seven (7\_) days by the lessee or violation of any other term of this agreement shall allow the lessor to retake possession of the artwork. The lessor shall retain all its rights in law and equity and is entitled to reasonable attorney's fees and cost upon the default of the lessee.

**9. Indemnity.** During the term of this Agreement, the lessor shall hold the lessee harmless against any claims by third parties stemming from its possession and use of leased artwork.

**10. Continuation or Purchase.** With the lessee's consent, the lessor may offer to leave the artwork in place after the term of this lease for no additional fee with the understanding that the artwork may remain in the location throughout the winter and most likely not be removed or replaced until spring. The lessee acknowledges that the artwork is for sale and may exercise the right to purchase the artwork at any time. Also, should the artwork be sold to a third party during the lease term the lessee is entitled to a commission fee equivalent to 20% of the purchase price.

**11. Recall or Exchange of Leased Artwork:** Occasionally, Leased Artwork may be recalled by lessor because of a sale or exhibit. A fourteen (14) day notice will be provided to exchange the artwork. Following the installation de-installation provisions the lessor will, at its own expense, retrieve leased artwork from City of Hastings and replace leased artwork with other artwork that is mutually acceptable to lessee for the remaining term of the lease.

**12. Amendments.** This agreement is the only agreement of the parties and may only be amended in writing or by a separate written agreement of the parties.

**13. Application of Laws:** This agreement shall be construed under Minnesota law and shall be binding on the heirs, successors and assigns of the parties.

**Lessor**

**Lessee**

\_\_\_\_\_  
Artist Dale Lewis

\_\_\_\_\_  
Representative for the City of Hastings

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date