



Date: February 16, 2016
To: Thomas J. Bonfield, City Manager
Through: W. Bowman Ferguson, Deputy City Manager
From: Steven W. Hicks, Director, General Services Department

Subject: Proposed 10 Year Lease with Liberty Arts, Inc. for Arts Pavilion at 505 Rigsbee Avenue

Executive Summary

Liberty Arts, Inc. (Liberty Arts), a non-profit corporation, requests a 10 year lease for its continued operations at 505 Rigsbee Avenue, known as the Liberty Arts pavilion (the pavilion). The pavilion was developed in 2003 as part of an agreement between the City and Liberty Arts to share in the development of Durham Central Park. The pavilion was constructed at the southwest corner of the Liberty Warehouse building, recently replaced by Liberty Warehouse Apartments, located on Foster Street and houses a foundry for casting sculpture. Liberty Arts has leased the pavilion from the City since March 6, 2003.

The proposed lease is for a 10-year term, and the rental rate is \$1.00 per year. During the lease term, Liberty Arts is responsible for the operation, maintenance and repair of, and liability for, the building and its contents, and the City will be responsible for the maintenance of the grounds. At the end of the term, the City will become responsible for the operation, maintenance and repair of, and liability for, the building.

The City may enter into a 10-year lease with Liberty Arts pursuant to N.C.G.S. §160A-279, which states, in pertinent part, that “Whenever a city or county is authorized to appropriate funds to any public or private entity which carries out a public purpose, the city or county may...convey by private sale to such an entity any real or personal property which it owns.... The city or county shall attach to any such conveyance covenants or conditions which assure that the property will be put to a public use by the recipient entity. The procedural provisions of G.S. 160A-267 shall apply.”

Recommendation

The General Services Department recommends that City Council 1) adopt a resolution authorizing the City Manager to execute a 10-year lease with Liberty Arts, Inc. for the Liberty Arts pavilion located at 505 Rigsbee Avenue (parcel # 104933) for \$1.00 per year; and 2) authorize depositing lease revenue in the amount of \$10.00 into the General Fund.

Background

On March 6, 2003, the City and Liberty Arts entered into a development agreement that governed the construction of an arts pavilion on city-owned property. Liberty Arts, whose mission is to transform the City of Durham through the arts, built a pavilion at its expense at the southwest corner of the Liberty Warehouse building, recently replaced by Liberty

Warehouse Apartments, on Foster Street. The pavilion houses a foundry for the main purpose of casting sculpture.

Liberty Arts leases the pavilion from the City and the current 3-year lease expires March 5, 2016. Liberty Arts requests to enter into a new lease with the City for a term of 10 years. Under the existing lease terms, Liberty Arts is responsible for the operation, maintenance and repair of, and liability for, the building and its contents, and the City is responsible for the maintenance of the grounds. These responsibilities will not change under the proposed new lease. At the end of the term, the City will become wholly responsible for the building.

Liberty Arts has been, and will continue to be, open to forming partnerships with the City and the Durham County school system and other organizations in developing programs related to the art of sculpture.

Issues/Analysis

Liberty Arts maintains insurance coverage for the pavilion and its contents. At the conclusion of the 10-year lease term, the parties may choose to enter into a new lease.

Alternatives

City Council could choose not to approve the lease with Liberty Arts. This alternative is not recommended because 1) the City would become responsible for the operation, maintenance and repair of, and liability for, the building, and 2) the pavilion may be underutilized if the City does not have the resources, including staff, to operate the facility.

Financial Impact

The City will receive rent from Liberty Arts totaling \$10.00 for the 10-year lease term, which will be deposited in the City's General Fund Account 0100-662109.

After the lease expires, the City will become financially responsible for the total operation, maintenance, repair and liability for the building.

SDBE Summary

This item does not require review by the Equal Opportunity/Equity Assurance Department.

Attachments:

- Lease Agreement with Liberty Arts, Inc.
- Location Map showing Liberty Arts pavilion
- Photo of Liberty Arts pavilion located at 505 Rigsbee Avenue
- Resolution authorizing the City Manager to execute a 10-year lease with Liberty Arts, Inc.