

11/18/2004

**77-R-04**

**A RESOLUTION**

**Authorizing the Interim City Manager to Execute a  
Settlement Agreement with Lincoln Schatz  
Regarding the City's Commission of a Sculpture for the  
Maple Street Parking Garage**

**WHEREAS**, the City has implemented a public art program pursuant to Ordinance 112-O-89 providing a mechanism for funding the acquisition of works of art in public areas; and

**WHEREAS**, Lincoln Schatz ("the Artist") was the Artist the City Council selected upon recommendations of the Public Art Committee to design, execute, fabricate and install a three-dimensional work of art, "Nimbus", on the exterior east wall of the City's Maple Street Parking Garage; and

**WHEREAS**, Resolution 91-O-01, approved by the City Council on November 12, 2001, authorized the City Manager to enter into the "Agreement Between the City and Lincoln Schatz" for the commission of a sculpture for the City's Maple Street Parking Garage ("Sculpture Agreement"); and

**WHEREAS**, the Sculpture Agreement provided that, in consideration of the Artist's performing all acts required of him, the City would pay him the sum of \$170,000.00 (one hundred seventy thousand and 00/100 dollars) in four installments; and

**WHEREAS**, the Sculpture Agreement required the Artist to have "Nimbus" completed and installed by September, 2002, a performance completion time he proposed; and

**WHEREAS**, the City paid the Artist the sum of \$51,000.00 (fifty one thousand and 00/100 dollars) on November 29, 2001 pursuant to the Sculpture Agreement which provided for a payment of 30% (thirty percent) upon signing of said Sculpture Agreement; and

**WHEREAS**, at the Artist's request, the City entered into an amendment to the Sculpture Agreement on December 3, 2002 to extend the time for completion and installation of "Nimbus" to July 7, 2003; and

**WHEREAS**, the Artist has neither installed "Nimbus" nor delivered it to the City to date; and

**WHEREAS**, the City and the Artist have determined that it is to their mutual benefit to settle and compromise any and all claims they respectively have or believe they have or may have against each other in connection with the Sculpture Agreement; and

**WHEREAS**, the City and the Artist have determined to achieve such settlement and compromise by the Artist providing and the City accepting, another of the Artist's sculptures of greater value than the \$51,000.00 (fifty one thousand and 00/100 dollars) paid the Artist under the Sculpture Agreement; and

**WHEREAS**, the Public Art Committee considered two other sculptures executed by the Artist and recommended City Council selection of the work "Penelope"; and

**WHEREAS**, "Penelope" has been appraised at \$61,500.00 (sixty-one thousand five hundred and 00/100 dollars), an amount \$11,500.00 (eleven

thousand five hundred and 00/100 dollars) in excess of the monies paid to the Artist under the Sculpture Agreement; and

**WHEREAS**, excess monies for the public art project over and above the \$51,000.00 (fifty one thousand and 00/100 dollars) will be used for additional public art programs; and

**WHEREAS**, execution of the Agreement is in the best interests of the citizens of Evanston,

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:**

**SECTION 1:** That the foregoing recitals are hereby found as fact and made a part hereof.

**SECTION 2:** That the Interim City Manager is hereby authorized and directed to sign, and the City Clerk authorized and directed to attest, on behalf of the City of Evanston, a Settlement Agreement with Artist Lincoln Schatz settling all claims which the City and the Artist respectively have or believe they have or may have against each other in connection with an "Agreement Between the City and Lincoln Schatz for the Commission of a Sculpture for the City's Maple Street Parking Garage", by the Artist providing and the City accepting the sculpture, "Penelope", in substantial conformity with the Agreement attached in Exhibit A, made a part hereof.

**SECTION 3:** That the Interim City Manager is hereby authorized and directed to negotiate any additional terms and conditions of the said

Settlement Agreement as determined to be in the best interests of the citizens of Evanston.

**SECTION 4:** That this Resolution shall be in full force and effect from and after the date of its passage and approval in the manner provided by law.

  
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Lorraine H. Morton, Mayor

Attest:

  
\_\_\_\_\_  
Mary P. Morris, City Clerk

Adopted: November 22, 2004