



CITY OF JEFFERSON

JEFFERSON CITY, MISSOURI

Request for Proposals

Proposal No. 3170

Subject: Call to Artists – Public Sculptures
City of Jefferson

Closing Date: First selection – May 20, 2021 and then on-going. Proposals will be accepted throughout the year. Proposals received by May 20, 2021 will be evaluated and awarded. Proposals will continue to be accepted after this time and will be reviewed as they are received. A secondary evaluation and award will take place in the **Fall of 2021**. Proposals will continuously be accepted and reviewed. Future pieces will be evaluated and awarded on an as needed basis by the City of Jefferson.

Proposals may be submitted via email to LCorrigan@jeffcitymo.org or hard-copy to Purchasing Division, City of Jefferson, 320 E McCarty St, Jefferson City, MO 65101.

Buyer: Leigh Ann Corrigan
LCorrigan@jeffcitymo.org
(573) 634-6325

Call to Artists – Public Sculptures

Introduction and Background

The City of Jefferson, herein referred to as City, is seeking to purchase sculptures for Community Park and also other City-owned property. Public sculptures for Community Park are to portray a specific messaging or meaning. Public sculptures for other City-owned properties will not have to meet this messaging or meaning criteria. All sculptures will be displayed outdoors.

To ensure high quality, innovative public sculptures are to be offered, the City will accept proposals throughout the year. The City may advertise this proposal periodically. Proposals will be evaluated using the criteria listed in this document. Those proposals that are deemed acceptable will be placed with a pool of offerors from prior dates. The initial evaluation schedule will be as follows:

- First round for sculptures for Community Park – **May 20, 2021** for all proposals received by **1:30 p.m.** on that date.
- Second round for sculptures for Community Park and other City-owned properties – **October 29, 2021** for all proposals considered from the first round and any new proposals deemed acceptable by the City received by **1:30 p.m.** on that date.
- Following these dates, proposals will be evaluated on an annual basis for all proposals considered from previous selection evaluations and any new proposals received prior to **1:30 p.m.** on the **last Friday in October** for that year.

Due to limited funds, all desired sculptures may not be able to be purchased at one time and will be put on a list and will be purchased as funding becomes available.

Questions and inquiries, both verbal and written, will be accepted from any and all offerors. Material questions will be answered in writing and will be distributed to all potential offerors who have received the RFP. Questions must be submitted to Leigh Ann Corrigan, (573) 634-6325 or lcorrigan@jeffcitymo.org.

Specifications

Background:

Community Park: Community Park is located at 725 Marshall Street, Jefferson City, MO. It reopened on July 3, 2020, after receiving extraordinary park improvements. The park, which has been largely ignored for several decades, is now Jefferson City's destination part. It is adjacent to Lincoln University (LU), a historically black college and university which was founded by African-American Civil War veterans, and is only one mile from the Missouri State Capitol. Three major park features include a unique play experience with a tall climbing tower and zip-lines, Jefferson City's first splash pad, and a picnic shelter for events and gatherings. The fourth major feature will be a series of sculptures depicting features and symbolism of the Historic Foot District.

It is the City's hope that these sculptures will increase interest in our community for public art and offer artists a unique opportunity to showcase their original sculptural works that honor those who struggled and persevered in the local Historic Foot District.

See Attachment B – Supplemental Historic Foot District Area Information.

Other City-Owned Properties: Jefferson City has several parks and areas where the City desires to install sculpted artwork. Some of these areas include: Memorial Park, Ellis-Porter Riverside Park, and along the Greenway Trail along W Edgewood Drive.

Goals:

Community Park: The City desires to create a permanent sculpture series consisting of seven sculptures that will provide public art that successfully illustrates the stories of African Americans striving and thriving in the Historic Foot District and surrounding community during times of world wars and segregation. As of April 15, 2021, one sculpture has been selected.

Other City-Owned Properties: It is the City's hope that these sculptures will increase interest in our community for public art and offer artists a unique opportunity to showcase their original sculptural works in public spaces.

Eligibility:

Offerors must be 18 years or over who are able to complete the requirements specified, including the designing, fabrication, and delivery of the artwork. Projects may be submitted by a group of artists or an individual artist.

Scope of Work:

Community Park: Public sculptures shall serve as storytelling markers to communicate the historical significance of the Historic Foot District and surrounding community. Sculptures shall represent an aspect of daily life for African Americans who lived and worked in this area between the 1900s and the 1960s. Themes may include, but are not limited to: family; military; education; culture and entertainment; sports and recreation; business; and the segregation and inequity occurring in each of those themes.

The proposed concept should be an art piece inspired by the history of the local area as well as stories from those who lived, witnessed, and experienced segregation through generations.

Sculptures may be any shape, form or design and should conform to an approximate 6' X 6' footprint. The City engineers will review each design for safety and may recommend modifications.

Other City-Owned Properties: Sculptures may be any shape, form or design and should conform to an approximate 6' X 6' footprint. Exceptions may apply depending on the available space. The City engineers will review each design for safety and may recommend modifications.

All Public Sculptures:

All sculptures shall be delivered FOB Destination to Jefferson City, MO. The offeror shall be responsible for the transportation and delivery of the sculpture to the designated site.

Sculptures must be in the intended condition as described in the final contract when delivered. It is recommended that bronze and natural stone be sealed and steel be repainted or other measures be taken so the sculpture will withstand the elements.

All entries must be original work and artists are encouraged to be creative in their selection of materials while considering safety requirement common to publicly accessible works of art.

The offeror shall complete the design, fabrication, and assist with the installation of the sculpture along with the assistance of City staff.

The selected offeror and the City shall enter into a contract for the purchase of the selected piece of artwork. See Attachment A – Sample Contract.

Selected offerors shall be required to produce a certification of insurance as proof of General Liability insurance coverage as indicated in the sample contract (Attachment A – Sample Contract).

Proposal Submittal:

Community Park Only: Proposals shall highlight the artist's work and illustrate a concept for the Historic Foot District Sculpture series.

All Proposals:

Artists may submit multiple entries for consideration.

Artists must indicate if the submission is for Community Park or Other City-Owned Properties.

Artists must include their name, physical address and mailing address, phone number, email address, and web-site address if applicable.

Submitted pieces may already be fully completed or merely a design. The offeror must indicate if the sculpture is already completed.

The entry should include sketches of the proposed sculpture, title, medium, dimensions, year created if already created, and the purchase price. Purchase price shall include all artist fees, materials, delivery, and installation fees.

Proposals should be submitted electronically via Bonfire.

Bids may also be submitted hard-copy to Purchasing Division, City of Jefferson, 320 E McCarty Street, Jefferson City, MO 65101. Hard-copy submittals shall have the proposal number (P3170) on the outside of the envelope.

In addition to the information above, offerors shall submit the following:

- Contact details: name, physical address and mailing address, phone number, email address, and web-site address if applicable. If submitting as a group, include all members;
- Artist statement that may include what story inspired the piece, what the offeror is trying to communicate with their piece, etc. This should not be more than 500 words;

- A short portfolio that includes relevant work and bio outlining education, training, and project history; and
- Concept drawing to include: one perspective drawing to explain the concept (hand sketched, photo or computer generated) and materials to be used or used along with color schemes.

Proposals are due by the following dates:

- First round consideration: **May 20, 2021 by 1:30 p.m.**
- Second round consideration: **October 29, 2021 by 1:30 p.m.**
- Future considerations: **1:30 p.m.** on the **last Friday in October** of that year.

Selection Process:

Community Park: Pools of selected proposals will be evaluated by a sculpture selection committee comprised of local black residents, many of whom were raised in the Historical Foot District area. Public engagement may also be used in the selection process.

Other City-Owned Properties: Pools of selected proposals will be evaluated by a selection committee comprised of City staff and/or community stakeholders. Public engagement may also be used in the selection process.

All Properties:

Selection will be based on the following evaluation criteria:

| Criteria | Points |
|--------------------------------|--------|
| Artistic merit | 30 |
| Public safety | 25 |
| Appropriateness of the artwork | 25 |
| Materials used | 10 |
| Cost | 10 |
| Total | 100 |

Proposals shall be awarded to the lowest and best proposal meeting the needs of the City.

Payment:

The City will pay 50% of the purchase price upon execution of contract and 50% upon delivery, acceptance and installation of the artwork. The contractor shall invoice the City at each milestone.

General Information for Offerors

1. Proposals shall be submitted F.O.B. Jefferson City, Missouri 65101.
2. Items to be shipped as specified in the request for proposal.
3. All proposals must be submitted on the attached forms, and be signed by the offeror with their name and mailing address.

4. Offerors may withdraw their proposal after depositing with the Purchasing Agent at any time prior to the stipulated time for opening of such bids. No proposal may be withdrawn within thirty (30) days after the opening thereof, unless obvious errors are apparent.
5. Right to Accept or Reject Proposals. The right is hereby reserved to accept or reject all or part of any proposal, to waive informalities and to request new proposals as the interest of the City may require.
6. Delivery may be made a basis for award. The award may be based upon delivery as well as price; whichever serves the best interest of the City.
7. Proposers should submit complete descriptive literature, a detailed specification of the brand/item bid and detailed instructions on how each piece of equipment is to operate.
8. Payment will be made upon receipt and acceptance of items requested. Invoices must be sent to Parks, Recreation, and Forestry, 1299 Lafayette St., Jefferson City, MO 65101. Partial payment may be made for partial receipt of goods or services.
9. The City of Jefferson is tax exempt by law. Do not include tax in bidding. A federal tax-exempt certificate will be furnished when requested.
10. Cooperative Procurement. The City has entered into cooperative purchasing agreements with Cole County and the Jefferson City Housing Authority. Cole County and/or the Jefferson City Housing Authority may or may not request an unknown quantity of goods or service under this proposal during the proposal period or resulting agreement period at the same prices, terms and conditions stated herein.
11. It is understood and agreed that each participating political subdivision will make its own separate contract with the successful offeror, that each participating political subdivision shall only be liable to the successful offeror for materials or supplies contracted for by such political subdivision without any liability for purchases contracted for by any other participating political subdivision, and each successful offeror shall be required to bill each participating political subdivision directly for the materials or supplies purchased by it.
12. Restrictive Clause. Offerors must contact the Office of the Purchasing Agent at least five (5) days prior to the bid opening if any of the specification contains restrictive language or requirements that render him unable to bid.
13. Proprietary Products. Any piece of equipment described herein that is a proprietary product, or the use of a manufacturer's or vendor's brand name, is referenced with the intent to indicate a standard of design desired by the buyer and shall not be construed to exclude other manufacturer's products of comparable quality. The buyer reserves the right to determine the quality of the equipment offered.
14. Preference for U.S. Manufactured Goods. On purchases in excess of \$25,000, the city shall select products manufactured, assembled or produced in the United States, if quantity, quality, and price are equal. Every contract for public works construction or maintenance in excess of \$25,000 shall contain a provision requesting the contractor to use American products in the performance of the contract.

15. Individuals should contact the ADA Coordinator at (573) 634-6570 to request accommodations or alternative formats as required under the Americans with Disabilities Act. Please allow three business days to process the request.

16. Disadvantaged Business Enterprise Statement

Contractors bidding on City contracts funded in whole or in part by assistance from a federal agency shall take the following affirmative steps to assure that small, woman owned, and minority businesses are utilized when possible as sources of supplies, services and construction items.

- a. Contractors will submit the name and other information, if any, about their DBE sub-contractors along with their bid submissions.
- b. Sufficient and reasonable efforts will be made to use qualified DBE sub-contractors when possible on City contracts.
- c. Qualified small, woman owned, and minority businesses will be included on solicitation lists as sub-contractors for City supplies, services, and construction.
- d. Qualified small, woman owned, and minority businesses will be solicited whenever they are potential sources.
- e. When economically feasible, contractors will divide total requirements into smaller tasks or quantities so as to permit maximum small, woman owned, and minority business participation.
- f. Where the requirements permit, contractors will establish delivery schedules which will encourage participation by small, woman owned and minority businesses.

Contractors will use the services and assistance of the Small business Administration, the Office of Equal Opportunity and the Community Services Administration.

17. Changes to Proposal Documents

Changes to contract documents prior to bid closing will be by addendum issued by the city. Prospective offerors shall acknowledge receipt of all addenda on proposal forms.

18. Termination - The City reserves the right to terminate the contract at any time, for the convenience of the City, without penalty or recourse, by giving written notice to the contractor at least thirty (30) calendar days prior to the effective date of such termination. The contractor shall be entitled to receive compensation for services and/or supplies delivered to and accepted by the City pursuant to the contract prior to the effective date of termination.
19. The contractor shall comply with all applicable local, state, and federal laws and regulations related to the performance of the contract. In addition, the offeror's attention is directed to City Code, Chapter 17 – Licenses, Taxation and Miscellaneous Business Regulations.

ATTACHMENT A – SAMPLE CONTRACT

CITY OF JEFFERSON COMMISSIONED ARTWORK AGREEMENT

THIS AGREEMENT, made and entered into the date last executed by a party as indicated below, by and between the City of Jefferson Parks and Recreation Commission, hereinafter referred to as “CITY”, and _____, hereinafter referred to as “ARTIST.”

WITNESSETH:

THAT WHEREAS, the CITY desires to engage the ARTIST to render certain services for the design and fabrication of a sculpture to be displayed on the CITY’S property (“Sculpture”), hereinafter described in Exhibit A.

WHEREAS, Artist has made certain representations and statements to the CITY with respect to the provision of such services and the CITY has accepted said proposal to enter into a contract with the ARTIST for the performance of services by the ARTIST.

NOW THEREFORE, for the considerations herein expressed, it is agreed by and between the CITY and the ARTIST as follows:

ARTICLE 1. DEFINITIONS AND IDENTIFICATIONS

For the purposes of this Agreement and the various covenants, conditions, terms and provisions which follow, the definitions and identifications set forth below are assumed to be true and correct and are agreed upon by the parties.

1.1 **ARTIST:** _____, the business entity/individual selected to perform services pursuant to this Agreement.

1.2 **CONTRACT ADMINISTRATOR:** The Contract Administrator shall be the staff of the Jefferson City Parks, Recreation, and Forestry Department. In the administration of this Agreement, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the Contract Administrator.

1.3 **CITY:** The CITY OF JEFFERSON PARKS AND RECREATION COMMISSION, a constituent component of the of City of Jefferson, a political subdivision of the state of Missouri.

1.4 **NOTICE TO PROCEED:** A written Notice to Proceed with the Project issued by the CONTRACT ADMINISTRATOR.

1.5 **SCULPTURE:** The sculpture described in Exhibit A of this Agreement

1.6 WORK: Design, fabrication, and _____ of the Sculpture at _____.

ARTICLE 2. SCOPE OF WORK

2.1 For services rendered herein, CITY shall pay ARTIST a sum not to exceed _____ (\$_____) for all work performed during the period beginning _____. The CITY shall to pay the ARTIST an honorarium of \$_____ upon issuance of the NOTICE TO PROCEED and an honorarium of \$_____ upon the completion of the project and final approval of the Sculpture by the CITY. The honorarium shall be full compensation for the work, materials, equipment, and travel expenses in relationship to the installation of the Sculpture. ARTIST must provide an invoice(s) to the CITY.

2.2 The CITY shall be responsible for providing the ARTIST, without cost, copies of designs, drawings, reports, and other relevant data needed by the ARTIST in order to design and execute the WORK.

2.3 The ARTIST shall provide weekly progress reports and/or deliverables to CONTRACT ADMINISTRATOR in a manner acceptable to the CONTRACT ADMINISTRATOR.

ARTICLE 3. CHANGES IN SCOPE AND ADDITIONAL WORK

3.1 If the ARTIST determines changes to be necessary, the ARTIST shall, whenever required during the term of this Agreement, present to the CITY in writing, drawing or other appropriate media for further review and approval any significant changes in the scope, design, color, size, material, utility and support requirements, texture, or location of the site or of the WORK. A significant change is any change which affects the installation, scheduling, site preparation or maintenance of the WORK, or the concept of the WORK as represented in the original approved design.

3.2 The ARTIST shall be obligated to perform the services called for in Exhibit A. The ARTIST and the CITY agree that the ARTIST shall retain artistic control of their services in the performance of the services under this Agreement with final approval being in the City's control, subject to the limitations imposed in Exhibit A. Final approval by the City shall not be unreasonably withheld if the final completed Sculpture conforms to the description contained in Exhibit A without material deviation or alteration.

3.3 Notwithstanding the provision of Section 4.2 immediately above, the CITY may, at any time, request the ARTIST in writing to: revise portions of the services that they have previously completed in a satisfactory manner; delete portions of the WORK which has yet to be performed; perform additional WORK beyond that provided in Exhibit A; or make other changes to the tasks to be performed under this Agreement. In the event of such a written request, the ARTIST may, but shall not be obligated to agree to any such request.

- a. In the event the request for change is agreed to by the ARTIST, this Agreement shall be amended, in writing, specifying the agreed changes, including, but not limited to, a description of services, additional budget, payment schedule and timetable.
- b. The WORK to be completed by the ARTIST is unique and personal to the ARTIST and may not be capable of completion by anyone other than the ARTIST. Therefore, in the event the ARTIST does not agree to a CITY request to modify the WORK called for by this agreement, the CITY shall be entitled to terminate the Agreement for cause pursuant to Article 12.4 hereinafter. However, if the CITY determines, in its sole and reasonable discretion, that the ARTIST'S failure or refusal to modify the WORK is justifiable, in good faith, and for reasons beyond the control of the ARTIST, the CITY may authorize the ARTIST to keep payments made

under this agreement for tasks already completed. In such case, the CITY may, at its option, engage another ARTIST to complete the WORK.

3.4 No services for which additional compensation will be charged shall be provided by the ARTIST without the prior written authorization by the CITY.

ARTICLE 4. RESPONSIBILITIES OF THE ARTIST

4.1 The ARTIST agrees that an essential element of this Agreement is the skill and creativity of the ARTIST. The ARTIST shall not assign the creative or artistic portions of the WORK to another party for the production of the WORK without the written consent of the CITY. Failure to conform to this provision may be cause for termination of this Agreement, at the sole option of the CITY.

4.2 The ARTIST shall be responsible for providing services described in Exhibit A including, but not limited to, the quality and timely completion of the services. The ARTIST shall be responsible for designing the WORK so that it can be constructed without exceeding the approved overall budget for the project. The ARTIST shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in their WORK.

4.3 In the event the services of the ARTIST are integrated into, combined, or otherwise coordinated with services by third parties not within the control of the ARTIST, the ARTIST shall not be responsible for such third-party services. If any part of the ARTIST'S WORK depends for proper execution or results of tasks performed by the CITY, or a third party responsible to the CITY, the ARTIST shall, prior to proceeding with their WORK, promptly report to the CITY any apparent discrepancies or other defects in such other work which renders it unsuitable for proper execution and results by the ARTIST. The ARTIST shall not be responsible for any liability or failure to fulfill their obligations because of such discrepancies or defects. Failure of the ARTIST to report a discrepancy or defect shall constitute an acceptance of the CITY'S or third party's performance as fit and proper. Any costs caused by defective performance or ill-timed tasks shall be borne by the party responsible, therefore. Nothing in this section shall limit the responsibility of the ARTIST to take all reasonable steps to coordinate their performance with the tasks and/or performance of the CITY or of a third party on the WORK.

4.4 If the ARTIST is involved in the execution, fabrication, transportation, inspection and/or installation of an artwork, the following provisions shall apply:

- a. The ARTIST shall, if and when working on CITY property, supervise such clean- up as may be reasonably requested by the CITY. After completing the WORK, the ARTIST shall remove their equipment, excess materials, etc., promptly and as requested by the CITY.
- b. During the term of this Agreement, The CITY and any third-party contractor on the project shall notify the ARTIST of their operation, construction and maintenance schedules in and around the area where the WORK is to be performed. The ARTIST shall perform their services in a manner and time so as not to cause interference with any of the operations, construction, or maintenance of the CITY or third-party contractor. In the event of a conflict between the schedules of the contractor and/or the CITY and the ARTIST, the conflict will be resolved by the CITY. If the resolution of the conflict results in a delay of the performance of the ARTIST, the ARTIST shall have the right to renegotiate this Agreement to compensate him or her for any additional costs or expenses caused by the delay.
- c. The ARTIST shall complete the design, fabrication, and installation of the WORK in substantial conformity with the attached Exhibit A, Scope of Work.
- d. If, in the prosecution of the work, it is necessary to conduct field operations, security and safety of the job site will be the ARTIST'S responsibility excluding, nevertheless, the security and

safety of any CITY facility within the job site, which is not under the ARTIST'S control.

- e. ARTIST shall meet with the CONTRACT ADMINISTRATOR or other CITY personnel, or third parties as necessary, on all matters connected with carrying out of ARTIST'S services described in Exhibit A. Such meeting shall be held at the request of either party hereto. CITY review and approval of completed tasks shall be obtained during the course of the WORK.

4.5 The ARTIST shall supply the CITY with:

- a. their current professional resume
- b. detailed information concerning the materials used in the creation of the WORK
- c. a detailed maintenance program and schedule for the WORK.

4.6 The ARTIST shall procure and maintain at its own expense during the life of this contract:

- a. Workmen's Compensation Insurance for all of its employees to be engaged in work under this contract.
- b. Commercial Liability Insurance in an amount not less than \$3,000,000 for all claims arising out of a single occurrence and \$500,000 for any one person in a single accident or occurrence, except for those claims governed by the provisions of the Missouri Workmen's Compensation Law, Chapter 287, RSMo, and Property Damage Insurance in an amount not less than \$3,000,000 for all claims arising out of a single accident or occurrence and \$500,000 for any one person in a single accident or occurrence.
- c. Automobile Liability Insurance in an amount not less than \$3,000,000 for all claims arising out of a single accident or occurrence and \$500,000 for any one person in a single accident or occurrence.
- d. Subcontracts. In case any or all of this work is sublet, the Artist shall require the Subcontractor to procure and maintain all insurance required in Sub-paragraphs A, B, and C hereof and in like amounts.
- e. Scope of Insurance and Special Hazard. The insurance required under Sub-paragraphs B and C hereof shall provide adequate protection for Artist and its subcontracts, respectively, against damage claims which may arise from operations under this contract, whether such operations be by the insured or by anyone directly or indirectly employed by it, and also against any special hazards which may be encountered in the performance of this contract.

NOTE: Paragraph e is construed to require the procurement of Artist's protective insurance (or contingent public liability and contingent property damage policies) by a general contractor whose subcontractor has employees working on the project, unless the general public liability and property damage policy (or rider attached thereto) of the artist provides adequate protection against claims arising from operations by anyone directly or indirectly employed by Artist.

ARTICLE 5. RESPONSIBILITIES OF CITY

5.1 CITY shall assist ARTIST by placing at ARTIST'S disposal all public information it has available pertaining to the Project.

5.2 CITY shall perform in a timely way each and every activity assign to the City as set forth in the Scope of Work. If delays occur when deliverables of ARTIST are dependent upon the CITY'S timeliness, the ARTIST'S schedule of performance shall be adjusted accordingly.

5.3 CITY shall:

- a. Arrange for access so that ARTIST may enter upon public property as required for ARTIST to perform the services under this Agreement.
- b. Give prompt written notice to ARTIST whenever the CITY observes or otherwise becomes

- aware of any development that affects the scope or timing of ARTIST'S services.
- c. Arrange appointments, meetings, consultations as needed for the ARTIST to fulfill their obligations under this Agreement.
 - d. Review materials as set forth in Exhibit A in a timely manner.

ARTICLE 6. WARRANTIES AND STANDARDS

- 6.1 The ARTIST warrants that:
- a. the design or WORK being commissioned is original
 - b. that the ARTIST shall not sell or reproduce the WORK separate from portfolio reproductions or allow others to do so without the prior written consent of the CITY.
- 6.2 The ARTIST shall guarantee the WORK to be free from faults of material and workmanship for a period of one (1) year after installation and final acceptance by the CITY. The ARTIST shall deliver the WORK to the CITY free and clear of any liens from any source whatever. These guarantees shall apply only to those aspects of the WORK which is entirely that of the ARTIST or persons responsible to the ARTIST, as installed, and shall not apply to materials or workmanship of projects in which the ARTIST'S work is integrated or combined, or to materials purchased, acquired, or installed by a person or entity not responsible to the ARTIST.
- 6.3 The ARTIST shall faithfully perform the services required under this Agreement in accordance with standards of care, skill, training, diligence and judgment provided by highly competent professionals who perform work of a similar nature to the WORK described in this Agreement.

ARTICLE 7. COMPENSATION AND TIME OF PERFORMANCE

- 7.1 The ARTIST shall be paid for services satisfactorily rendered pursuant to this Agreement in accordance with the terms herein and any subsequent adjustments, changes or additions as specifically provided for in this Agreement. Such payment shall be full compensation for work performed and services rendered, for all supervision, labor, supplies, materials, equipment or use thereof, taxes, and for all other necessary incidentals including transportation of the WORK to the designated site.
- 7.2 The amount and schedule of payments to the ARTIST are herein, provided that such payments shall not exceed a maximum amount of _____ (\$_____), subject only to adjustments, changes or additions as specifically provided for in this Agreement ("Total Price").
- 7.3 In the event the ARTIST incurs costs in excess of the Total Price, the ARTIST shall pay such excess from their own funds, and the CITY shall not be required to pay any part of such excess, and the ARTIST shall have no claim against the CITY on account thereof. This section shall not be construed to require the ARTIST to absorb excess costs not primarily attributable to the ARTIST'S conduct, erroneous cost estimates or failure to perform in a timely fashion.
- 7.4 The ARTIST shall submit invoices to the CITY according to the schedule provided herein, such invoice to be in the form requested by the CITY.
- 7.5 In the event that the CITY determines that services for which it has been invoiced do not meet the contract specifications and that it intends to withhold payment, the CITY shall provide detailed written notice to the ARTIST within seven (7) days of receipt of invoice, specifying the failure of performance for which the CITY intends to withhold payment. The ARTIST shall thereafter meet contract standards to the

satisfaction of the CITY or advise the CITY that they dispute the CITY'S determination that the specifications have not been met.

7.6 The CITY shall pay all invoices that meet contract specifications within thirty (30) days of receipt of invoice.

7.7 No payment to the ARTIST for any work performed or services rendered shall constitute a waiver or release by the CITY of any claims, rights or remedies it may have against the ARTIST under this Agreement or by law, nor shall such payment constitute a waiver, remission, or discharge by the CITY of any failure or fault of the ARTIST, to satisfactorily perform the WORK and services as required under this Agreement.

7.8 The services to be required of the ARTIST under this Agreement shall be completed in accordance with the schedule for completion of the Work as proposed by the ARTIST and approved by the CITY, provided that such time limits may be extended or otherwise modified by written agreement between the ARTIST and the CITY. Upon payment and completion of services, ARTIST agrees to meet with CONTRACT ADMINISTRATOR to discuss success of project.

7.9 If/when the ARTIST completes fabrication or procurement of the WORK in accordance with the approved schedule and notifies the CITY that the WORK is ready for installation, the ARTIST is delayed from installing the WORK within the time specified in the schedule as a result of the construction on the Site not being sufficiently complete reasonably to permit installation of the WORK therein, or the CITY otherwise does not make the Site available to the ARTIST in accordance with the approved schedule, the CITY shall promptly reimburse the ARTIST for reasonable transportation and storage costs incurred for the period between the time provided in the schedule for commencement of installation and the date upon which the Site is made available to the ARTIST for installation of the WORK.

7.10 The ARTIST shall bear any transportation and storage costs resulting from the completion of the WORK prior to the time provided in the schedule for installation of the WORK.

ARTICLE 8. COPYRIGHT

8.1 The ARTIST agrees that the WORK and services performed under this Agreement shall comply with all applicable patent, trademark and copyright laws, rules, regulations, and codes of the United States. The ARTIST further agrees that the WORK will not utilize any protected patent, trademark, or copyright in performance of work under this Agreement unless the ARTIST has obtained proper permission and all releases and other necessary documents. If the ARTIST specifies any material, equipment, process or procedure which is protected, the ARTIST shall disclose such patents, trademarks and copyrights in the construction drawings and technical specifications.

8.2 The ARTIST agrees to indemnify, defend, and hold harmless the CITY, its officers and employees from any and all claims, damages, suits, costs, expenses, liabilities, actions or proceedings of any kind resulting from the performance of the WORK or services under this Agreement which infringes upon any patent, trademark or copyright protected by law.

8.3 The ARTIST will maintain all copyrights to the Sculpture. The CITY is permitted to use the image for promotional purposes (as stated in 11.2 CITY PUBLICITY), and the commercial reproduction rights belong solely to the CITY. In the event that the CITY wishes to produce reproductions of the Sculpture (prints, t-shirts, etc.), no separate contract shall be necessary for any future commercial use.

ARTICLE 9. TIME FOR PERFORMANCE

9.1 The provisions of this Agreement and the compensation for ARTIST'S services provided for in this Agreement have been agreed to in anticipation of the orderly and continuous progress of the WORK.

9.2 Prior to beginning the performance of the services under this Agreement, ARTIST must receive a written Notice to Proceed.

9.3 In the event ARTIST is unable to complete the above services because of delays resulting from untimely issuance of the Notice to Proceed, or from untimely review and approval by CITY, and such delays are not the fault of ARTIST, CITY shall grant a reasonable extension of time for completion.

ARTICLE 10. TERMINATION

10.1 Either party may terminate this Agreement with or without cause by providing thirty (30) days' notice, in writing, to the other party. Upon the expiration date of said notice, this Agreement shall become of no further force or effect whatsoever and each of the parties shall be relieved and discharged here from.

10.2 In the event that the Agreement is terminated by the CITY without cause, the CITY shall pay the ARTIST for all WORK performed and services rendered up to the effective date of the termination.

10.3 In the event that the Agreement is terminated by the ARTIST without cause, the ARTIST shall promptly reimburse the CITY for all payments made under this Agreement prior to the termination by the ARTIST.

10.4 In the event that the CITY determines that the ARTIST has substantially failed to fulfill their obligations as provided under this Agreement, the CITY shall provide the ARTIST with written notice detailing the specific obligations which the CITY claims the ARTIST has failed to fulfill and notifying the ARTIST that they are deemed to be in breach of the Agreement. If the breach is not cured or if the CITY and the ARTIST cannot agree on a schedule for curing the breach, the Agreement will be deemed terminated on a date specified by the CITY which will be no sooner than ten (10) days from the date of issuance of the notice. In the event that the Agreement is so terminated by the CITY, the ARTIST shall promptly reimburse the CITY for all payments made under this Agreement prior to the termination by the CITY.

10.5 If, because of the death, or any other occurrence, it becomes impossible for the ARTIST to render services or perform work under this Agreement, the Agreement shall be deemed terminated.

ARTICLE 11. PUBLICITY AND MEDIA

11.1 ACKNOWLEDGMENT OF CITY

Whenever interviewed or otherwise contacted by the media with reference to the Site improvements which are the subject of this Agreement, ARTIST agrees to reference the CITY as well as the Cultural Arts Commission.

11.2 CITY PUBLICITY

In order to assist the CITY in publicizing the Sculpture, upon reasonable advance notice provided by CITY, ARTIST shall allow CITY to access the Site in order to photograph or otherwise record the WORK before, during and following that project's implementation and construction so as to document the WORK itself as well as the visual impact of the WORK on the Site. ARTIST expressly permits CITY to use any such visual images for its promotion of the Sculpture, for the promotion of the CITY in general and for the cross-promotion of the ARTIST. All such visual images of the Site obtained by the CITY shall be, and remain, the property of the CITY.

ARTICLE 12. MISCELLANEOUS

12.1 RECORDS

ARTIST shall maintain accurate accounting records and other written documentation pertaining to the costs incurred for this project. Such records and documentation shall be kept available at ARTIST'S office during the period of this Agreement, and after the term of this Agreement for a period of three years from the date of the final CITY payment for ARTIST'S services.

12.2 INDEPENDENT CONTRACTOR

In the performance of its work, it is expressly understood that ARTIST, including ARTIST'S agents, servants, employees, and subcontractors, is an independent contractor solely responsible for its acts and omissions, and ARTIST shall not be considered an employee of the CITY for any purpose.

12.3 SUBCONTRACTORS

In the event ARTIST, during the course of the work under this Agreement, requires the service of any subcontractors or other professional associates in connection with services or activities covered by this Agreement, ARTIST must secure the prior written approval of the CITY.

12.4 MODIFICATIONS

It is agreed that no modification, amendment or alteration in the terms or conditions contained herein and shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

12.5 CONFORMITY WITH LAW AND SAFETY

ARTIST shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including all provisions of the Occupational Safety and Health Act of 1979 and all amendments thereto, and all applicable Federal, State, municipal and local safety regulations. All services performed by ARTIST must be in accordance with these laws, ordinances, codes and regulations. ARTIST shall indemnify, defend, and hold CITY harmless from any and all liability, fines, penalties and consequences from any noncompliance or violations of such laws, ordinances, codes and regulations.

Accidents: If death, serious personal injury, or substantial property damage occurs in connection with the performance of this Agreement, ARTIST shall immediately notify the CITY by telephone. ARTIST shall promptly submit to CITY a written report, in such form as may be required by CITY of all accidents which occur in connection with this contract.

- a. This report must include the following information:
- b. name and address of the injured or deceased person(s)
- c. name and address of ARTIST'S subcontractors, if any
- d. name and address of ARTIST'S liability insurance carrier
- e. a detailed description of the accident and whether any of the CITY's equipment, tools, materials or staff were involved.

12.6 CONFLICT OF INTEREST

No officer, member, or employee of CITY and no member of their governing boards, councils or commissions shall have any pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof. Any violation of this provision shall be considered a material breach of this Agreement.

12.7 USE OF CITY PROPERTY

ARTIST shall not use CITY premises, property (including equipment, instruments, and supplies) or personnel for any purpose other than the performance of their obligations under this Agreement.

12.8 ENTIRE CONTRACT

The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded.

12.9 TIME

Both parties recognize that time is of the essence in the performance of the provisions of this Agreement.

12.10 INDEMNIFICATION

ARTIST agrees to indemnify, defend, and hold harmless the CITY, its officers, agents and employees, from and against any and all claims, demands, actions, damages, or judgments, including associated costs of investigation and defense arising in any manner from ARTIST'S performance of the WORK or services under this Agreement.

12.11 AMENDMENTS

This Agreement may not be amended in any respect except by way of a written instrument which expressly references and identifies this particular Agreement, which expressly states that its purpose is to amend this particular Agreement, and which is duly executed by the CITY and ARTIST. ARTIST acknowledges that no such amendment shall be effective until approved and authorized by the CITY Council, or an officer of the CITY.

12.12 NOTICES

All notices required or permitted hereinunder and required to be in writing may be given by first class mail addressed to the following addresses. The date and delivery of any notice shall be the date falling on the second full day after the day of its mailing.

If to the City:

City of Jefferson
Department of Law
320 East McCarty Street
Jefferson City, Missouri, 65101

If to the Artist:

Name
Address
Address

[Signatures to Follow on Next Page]

CITY OF JEFFERSON, MISSOURI

Parks Director

Date: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

ARTIST

Title:

Date: _____

ATTEST:

Title: