

GRMN PUBLIC ART

Placement Plan

A working document for the Grand Rapids Arts + Culture Commission



ACKNOWLEDGEMENTS

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PUBLIC ART PHILOSOPHY

Public art can take many forms, and is an essential component in the investigation of our shared public spaces. Public art allows us all to contemplate our built environment, the land we are on, our relationships with one another, and our shared resources. Artists must be at the table from the very beginning in order to positively impact our collective existence.

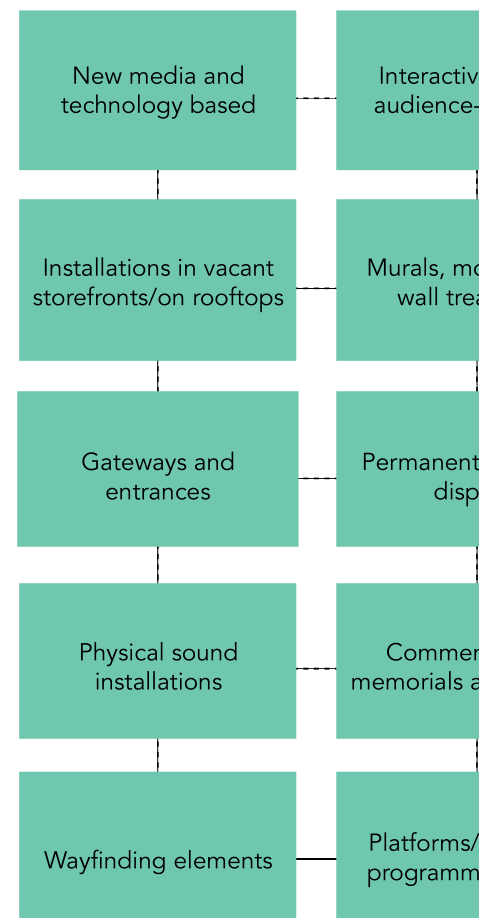
Public art is something most of us see or experience every day. Sometimes we may walk on it or walk (or drive) past it unaware. It can be part of the buildings we inhabit, work in, or visit. It might be sound, light, physical objects, the very design of a public space, or a combination of these elements.

Too often public art is an after-thought or simply an adornment added to the planning and design of public spaces, infrastructure, and in other elements of city plans. What many have learned is that public art – and roles for artists in city planning – can be so much more. Working in concert and across every stage of the work of city planning, planners and artists have shown that new-found synergies can produce far deeper and more impactful results.

The field is always evolving as artists test out ideas in the public sphere. Artists, planners, community developers, place-based designers, and others work together to shape and transform public spaces by creating experiences for the public that are meaningful and impactful. Because art is not always static or fixed in place, and is sometimes live or interactive, it can do more than change the character of a physical space. It can instigate and/or enrich social dynamics. Art is integral to public and private improvements, social and environmental health strategies, as well as economic development and community-building efforts. Many times when people hear the words “public art”, they think of permanent, object based artworks placed in public plazas, parks, or near buildings in urbanized areas. Those works of art are definitely part of the larger public art field, and as you see here, there are even more possibilities for public art.

Increasingly it is planned, designed, sited, and managed by multiple interests and partners. These include parks and recreation departments, public works, environmental and economic development agencies, schools, youth programs, neighborhood organizations, public health departments, transit agencies, real estate developers, nonprofit interest groups, and many others.

TYPES OF PUBLIC ART



Public art projects around the world and throughout history have demonstrated that public art can:

- Humanize public spaces
- Activate civic dialogues and participation
- Give identity and character to communities
- Attract attention and generate economic activity
- Connect artists with communities and issues
- Develop public appreciation of the arts
- Add value to public improvements and private development

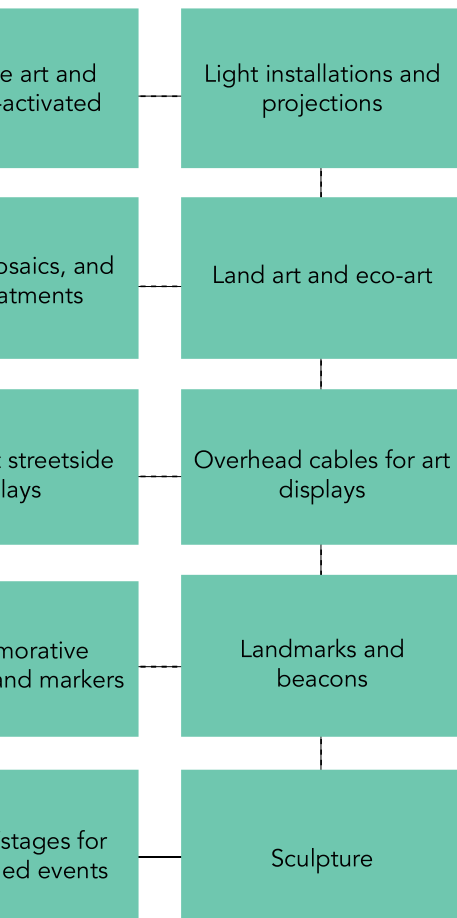
Public art can attract attention, tourism, and generate economic activity. Art and creativity can be key drivers to the economic turn-around of communities. Good development strategies utilizing public art involve the people who already live there, and pay attention to their specific needs and challenges, so they can continue living there. Public art can create new career opportunities for public artists. It helps attract and retain professionals, students, fabricators, makers, supply stores, and many other creatives involved in the art making process.

Public art can connect communities and issues. Artists working with communities can activate civic dialogue and participation, and work toward social cohesion. Public art can give identity and character to communities and neighborhoods. It can act as gateways, wayfinders, and project the values of the community in which it is situated. Public art can also humanize urban environments. It can be as simple as dance steps in the pavement, which take us out of our daily routine and ask us to dance along to the music streaming from our phones. It can soften hard edges, change public infrastructure and concrete landscapes that have become ubiquitous in the places where we live, work and play. It can make us do a double take at the environment around us and the power we have in the decisions being made about what is placed within the public realm, and it can also help us understand the affect those environments have on us physically, mentally, and socially.

Public art can reach audiences who aren't interested in going to a museum or a gallery. It can help to create an awareness of arts and culture activities and works, their value to communities, neighborhoods, and cities, and that ultimately leads to further understanding, appreciation, and ambassadorship.

The power of public art for communities can't be denied. It's an energy, a philosophy, and a practice that produces iconic cultural symbols, tells our stories, honors people and events, surfaces truths and amplifies the voices that often go unheard. Public art can be about healing, resilience, social cohesion, building community, fostering equity, data visualization, and much more.

ART



SITE DESIGN CONSIDERATION

In the advent of land art in the 1970's and large scale public art installations, site specificity has long been defined as works of art or projects that take into account, interface with, or are otherwise informed by the surrounding environment. Like the definition of public art, "site" can also be defined in a much broader sense. One way to think about it is: where and how will the artwork be situated? This includes the physical location and limitations of a site, historical meaning, and cultural context to name a few. Where is the site within a city? Where is the artwork sited within a park? Where does the artwork sit in the history of the people who have inhabited or currently inhabit the site in which it's located? It's much more than just the geographical or physical location [but that's still an important part].

Here we will focus on the physical site considerations, from analysis of an empty site, to considerations when designing and installing a work of art. Site analysis is a research activity that looks at the existing conditions of a project site, along with any imminent or potential future conditions. Artists do locational analysis as part of their projects. It is also a good practice for the Arts + Culture Commission to understand the opportunities in the community, and what locations are conducive to permanent public art installations.

Some projects will require very specific site conditions. Having a running list or booklet of locations throughout the city that could be possible opportunities for public art projects as well as the conditions, challenges, and information about the context around the site will help you make decisions on where to locate future artworks. [See page 58 for example of a worksheet to help you capture site information].

Site analysis will help to document several things: site location, size, topography, zoning, traffic conditions, climate, and amenities available. It is also important to consider future developments, possible changes to the surrounding environment or developments, changing cultural patterns, or other significant developments happening in the area. While the conditions on the site itself are important, understanding the context of a site is key to fully understanding what type of artwork would best be woven into the fabric of the existing site.

Here are some broad categories of information that should be collected during site analysis:

- Location – where the site is physically situated within the city.
Address, cross streets, neighborhood
- Immediate context – what is immediately surrounding the site?

What types of infrastructure are nearby?

- Boundaries – where does the site start and stop, what is considered in the site, what is considered outside of the site?
- Cultural considerations – How is the site being used now? How has it been used in the past?
- Zoning – how is the site zoned? Are there easements, special access considerations, or height restrictions?
- Ownership – who owns the site now? Is there a different party using or managing the site? Are there plans for the site to change in the near future?
- Circulation patterns – how are pedestrians, vehicles, bikers moving into, through, and out of the site? Are they even allowed to? When are the busiest times of movement, when are the quietest? Are there any development projects that will change these patterns in the near future?
- Natural features – is there water, landform, rocks, or vegetation? What kind, where, and how much? Where is water draining? Is it working?
- Public Works – is there access to electricity, water? Are there gas, sewer, telephone, or fiberoptic lines underground or overhead?
- Man-made Elements – this could include seating elements, landscape elements, structures, ground plane, and other materials that have been specifically designed and installed in this site.
- Sensory Conditions – what can be seen, heard, and felt while in the site? Are these different throughout the day? When are they heightened, and when are they barely distinguishable?
- Climate – this includes larger weather patterns, such as rainfall, snowfall, wind directions, temperatures, and sun paths and should be considered in each season.

Visiting + Documenting Sites

When visiting a site, there are several things that should be brought with you:

- Camera/smart phone for taking pictures. Take more pictures than you think you need. The smart phone can also be used to look up plants, maps, or other bits of information while you are on the site.
- Notebook – to make any drawings or diagrams that might be helpful while on the site.
- Pencil/pen
- Tape measure
- Site Analysis Worksheet [see page 58]

Follow the prompts on the worksheet, and add in any additional notes about observations you have of the site that are not on the worksheet.

PUBLIC ART PROCESS + BEST P

While there are no universally agreed upon standards in the field of public art at this time—you don't need a license to practice, and there is no "rulebook" to follow—this section of the plan is meant to share some of the basic steps involved in a typical public art project and highlight best practices. The vast majority of public art is visual art, therefore this plan focuses on the process of commissioning visual art projects, however most of the best practices and process information can be applied to performances, and non-visual art forms. From the early stages of developing a project concept to fabrication and installation of the artwork, the effort involved in bringing a public art project to life can be complex and require more time and money than may be imagined at the outset.

The following list of topics and tasks—described in more detail below—takes into account both traditional and nontraditional forms of public art, including outdoor sculptures, performance events, temporary installations, and projects engaging community members.

- **Idea Development:** Whether commissioned or independently developed, most public art projects start with an idea hatched in the imagination of an artist, or an artist working in cooperation with others.
- **Location Analysis:** Every location—whether assigned by a commissioning agency or selected by the artist—plays a significant role in the development of a public art project. Knowing how to look at a site, or plans for a site, can be very helpful.
- **Permissions and Permits:** For artists, knowing where and how to gain permission for a project is critical. For cities, developing welcoming guidelines can be key to attracting talent.
- **Financing and Funding:** There are many ways that public art projects are funded. Learning how to find support—and make the most of the funding you have—is a skill worth practicing.
- **Artist Selection & Commission Process:** Selecting the best artist for a public art opportunity requires thoughtful planning and facilitation, as well as familiarity working with artists and professional project management.
- **Community Engagement:** Engaging community members in one or more aspects of public art projects has become increasingly valuable for both artists and public art project managers. There isn't one right way to do this, but there are plenty of lessons learned; it helps to examine case studies.
- **Fabrication and Installation:** While some artists still produce all aspects of their work themselves, most hire outside fabricators or vendors with specialized skills or equipment. Likewise,

PRACTICES

- installation of a major artwork can be complex and costly.
- Conservation and Restoration: It is wise to plan ahead for the preservation of projects as well as plan for the rejuvenation of neglected works in your public art collection.

Idea Development

A public art project can be born out of community need, artist inspiration, civic engagement, neighborhood beautification, or be required as part of a municipal ordinance (requiring a Call For Artists). It can also be forged out of public will and fiscal policies. While there is no one way to birth an idea, there is one combination of elements that is integral to all public art projects: the intersection of art, space, and the public.

Exercises for Idea Generation

- Brainstorming with artists. Once you have some basic parameters or goals in mind, think about images and concepts that align. Doodles on napkins, a descriptive phrase, word association games, and open-minded dialogue can trigger lots of possible directions.
- The site can often be the key inspiration for an artist. The content of meaningful public art today is often informed by the context. It helps to research the historical and cultural significance of the site, talk with local communities about the local “flavor,” consider who makes up the audience for the site. What do you know about them? What kind of impact do you want to have on the audience?
- Check out a few books, scan through a back issue of Public Art Review magazine, or perform a Google search for “public art,” “street art,” “outdoor art,” or “community art,” etc. What projects interest you? Why? The answers will help you begin to narrow down from many options to a smaller facet of public art that you might wish to pursue.
- Read through a few Calls For Artists (Requests for Qualifications) and see what commissioning agencies are looking for, along with their criteria for selection. This can trigger ideas that combine your interest with their goals.
- What issues in the community are of importance to you? What local or global concerns are you most passionate about? Do some research, talk to someone working in that field, think about places and people most associated with the issue (if there are any), and go exploring. What do you want to say to people or make them think or feel? The answers should give you clues to ideas that relate.
- Keep in mind that you don’t have to know how to make everything your mind can imagine. Like architects, public artists are free to imagine and design, and then get help from others to realize their ideas.

Location Analysis

The site you select—or the site identified by a commissioning

agency—is critical to the development of most public art projects. Consideration of the site’s context helps inform the idea, design, and goal of a public art project, and distinguishes a customized project from simply placing art in public. To avoid the downsides of “plop art,” an artist or commissioning agency should take time to research the site and communicate with audiences that use the site. A public artwork can have greater impact if its design takes into account the site, its history, the traffic, the surrounding environment, and the characteristics of its setting. [See pages 4-5 for more detailed information on how to conduct site analysis.]

Permissions and Permits

Permission and permits can often be the most frustrating and time consuming aspect of a public project. Sometimes the process can go smoothly, but it’s good to be prepared for the long haul. There are many factors to consider.

- Is the site publicly owned or privately owned?
- Does the site have any special considerations, such as historical status or weak infrastructure?
- Is the project temporary or permanent?
- Who will maintain ownership and maintenance responsibility?
- What are the legal concerns or city permitting procedures?

The discussion should always start with the site owner followed up by a call to City officials to understand permit and regulation issues. Once permission is secured, a letter of agreement should be created and signed with the site owner or whoever is assuming responsibility for maintenance and ownership of the final project. If the project is to be sited on City property, it may be necessary to present to the City Council or agency responsible for the site. It’s important to remember that public art often involves partnerships, compromise and communication. If you demonstrate good will and do your homework, chances are people will work with you, not against you. If you run up against a roadblock, it’s useful to pause and examine the root cause of the problem. It helps to be open to criticism, demonstrate respect for key stakeholders, and be open and flexible to adapting to meet needs and concerns expressed by others. This does not mean that you have to water down your ideas or do whatever other people tell you. Public art is a negotiated art.

Financing and Funding

Public art can be financed in a myriad of ways. Many cities adopt a percent-for-art program to fund projects. Private foundations can be a source for grants to artists or arts organizations. Corporations and businesses hire or sponsor artists to design and build new works for their public spaces, and community organizations can sponsor projects or help raise funds to support a project of benefit to the community. The City of Stevens Point, Wisconsin has a room tax fee that funds, among other initiatives, arts activities in the city; and Portland, Oregon used a “golf tax”

that supports public art (\$1 per golf bag rented).

Artists can fund their own projects through fundraising efforts or out of their own pockets. The famous artist team of Christo and Jean-Claude funded their Gates Project for Central Park by selling preliminary renderings to museums and collectors worldwide. Many community-based projects offer opportunities to secure a mix of funding sources, as well as “in-kind” contributions of goods and services. To be effective at fundraising, it’s important to match the project with the appropriate types of support.

Developing your budget is a critical phase of your project if you hope to secure funding from public or private sources. A simple “one pager” can be helpful for fundraising. It is wise to include compensation for the artist as well as any design phase required to develop the project. It is also a good idea to have two version (or more) of your budget. One should be “bare bones” budget (the minimum amount it would take to complete the project) and one should be the ambitious budget—the ideal scenario—in case there is strong interest in the project. This helps you to think big and expand your project but have a realistic back-up plan.

Artist Selection and Commissioning Process

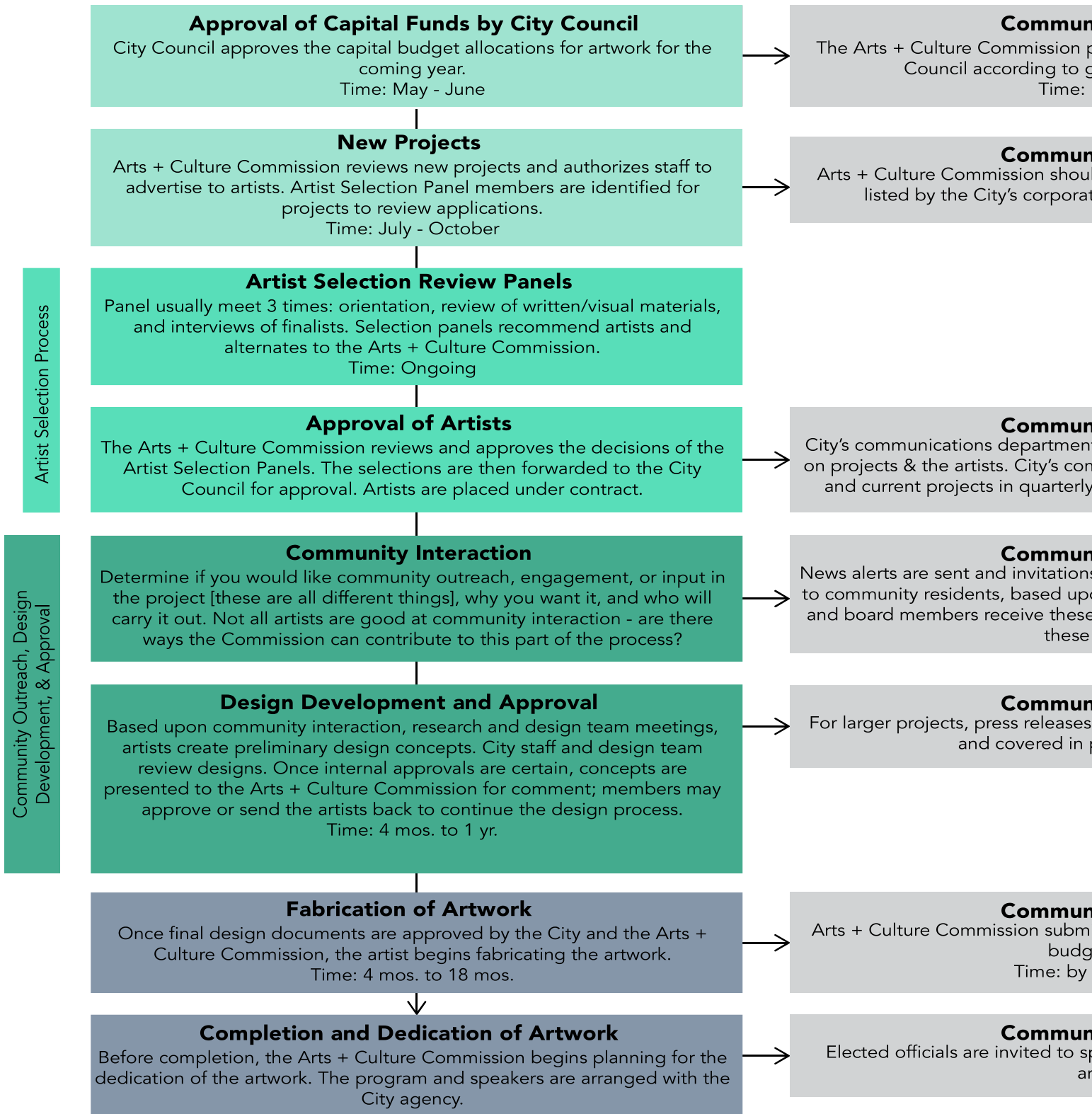
Working with artists can be complicated. Depending on your goals and what kind of results you’re after, there are many options and many considerations. This is true for artists seeking commissions or pursuing independent projects as well. Commissioning a new work of art or getting a commission is about relationships, and like any relationship it involves respect, communication, and flexibility. It also requires business skills, negotiations, and mindfulness.

The primary systems for artists getting connected with public art opportunities are through:

- Request For Qualifications
- Request For Proposals
- Roster of Pre-Approved Artists
- Private Invitations
- Direct Commissions
- Self-Initiated Productions

The Request for Qualifications (RFQ) is the most common artist selection process currently in use by public agencies in America. RFQ’s are sent out like a “Call for Artists,” broadcast to specific regions or nationally. The RFQ outlines the project location, eligibility, budget, scope, theme, timeline, and other specifics relevant to the project, and offers applicants instructions for submitting. Artists are usually asked to submit a letter of interest, a resume, and work samples of past work (with descriptions of each work sample). A selection committee is typically established the project manager on behalf of the

EXAMPLE OF TRADITIONAL CITY-GENERATED PUBLIC ART PROCESS



Communication Point

presents the Annual Work Plan to City
guidelines in the ordinance.

May - June

Communication Point

should meet monthly. Meetings should be
with the communications department.

Communication Point

should issue press releases with information
communications department features new
newsletters and electronic updates.

Communication Point

should send to meetings/special events are mailed
on artwork location. All elected officials
should receive notifications. Artists are introduced at
meetings.

Communication Point

should release with visuals to the media
public art newsletter.

Communication Point

should present its progress report and previous year's
report to City.

November 30

Communication Point

should speak on behalf of the facility and the
artwork.

commissioning agency, made up of key stakeholders, as well as professional artists. The Committee reviews submissions and narrows the pool of applicants to a smaller number of finalists who are then contracted to produce proposals—or simply interview to determine the preferred artist. It is standard practice to compensate artists for proposal development, although the amount varies from project to project; there are no standards in the public art field. Artists should be given adequate time to develop proposals or designs, and be given opportunities to analyze the site, and meet with committee members and site designers early in the design process.

RFQ's are popular with commissioning agencies and artists because they are simple, don't require much time at the outset, and offer the committee a spectrum of possible candidates. Successful applications provide committee members with a good idea of who the artist is, what kind of work they've done in the past, and how they would approach this opportunity. RFQ's may be widely distributed and promoted or targeted to a select number of qualified artists. Keep in mind there may be restrictions imposed by the funding source; some publicly funded programs require open competitions. It is also critical to adequately budget for the administrative time required for the project. Open calls require much more time and expense than an invitational call. "Invitational" RFQ's are RFQ's that are sent to a pre-selected, qualified pool of artists, and not broadcast to all artists.

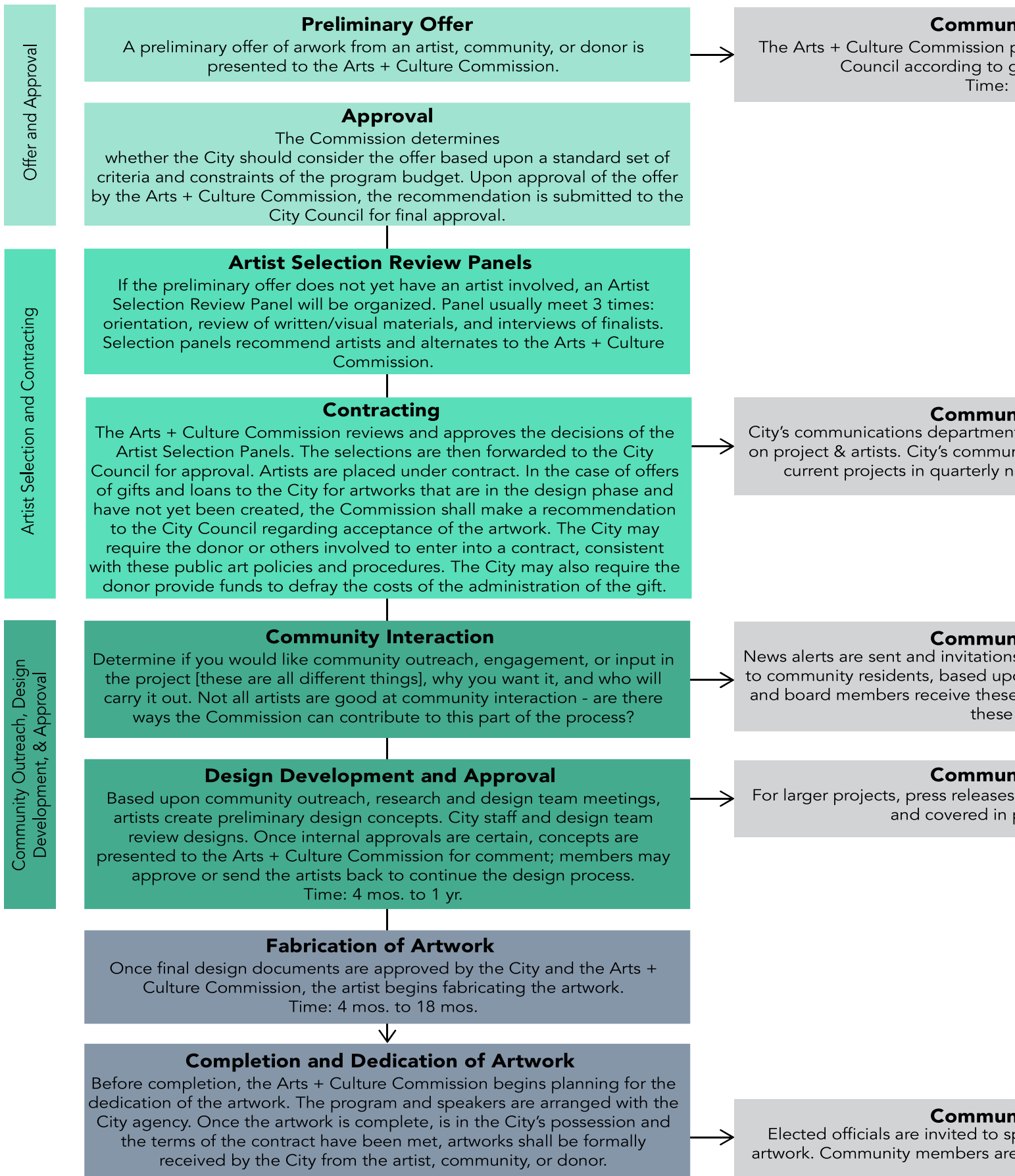
The Request for Proposal (RFP) asks applicants to submit ideas, sketches and even budgets for a proposed project, often without compensation. Current best practices dictate that artists should be compensated for proposal development. If you are asking artists to create a design proposal, you should compensate them for their time. If you have funding to pay for design proposals for a specific project and a list of qualified artists who would be good for the job, an RFP can be an effective way to get to a number of good options to consider. This is basically an invitational.

Some agencies maintain registries or utilize online registries to pre-select artists and, instead of asking them for proposals, they invite a small group to visit the site and meet the committee. This method focuses on the artist, not the artwork, and presumes that all the candidates would be able to produce something great. After the interview, an artist is hired for the full job, with the understanding that their design must meet approval before fabrication can commence.

Directly selecting an artist is rarely done by public agencies utilizing public funds, yet private corporations do this frequently, often with the aid of an art consultant or curator.

Self-initiated productions avoid the entire artist selection process,

EXAMPLE OF TRADITIONAL COMMUNITY-GENERATED PUBLIC ART PROCESS



Communication Point

...presents the Annual Work Plan to City
...guidelines in the ordinance.
...May - June

and place the entire burden on the artist to design, develop and produce their project as best they can. Keep in mind that some projects created by independent artists are legitimate, legally sanctioned, or permitted projects, and some are unexpected, illegal, and even unwanted projects; illegal graffiti is a major concern in most American cities, requiring millions of dollars for clean up. In order to obtain approvals, permits or grants, independent artists often discover they must make compromises or revise their original vision in order to proceed with their projects.

Communication Point

...t issues press releases with information
...communications department features new and
...newsletters and electronic updates.

Participating in a selection process—as an artist and as a panelist—is a great way to get educated about public art. For panelists, it’s a great way to learn about artists working in the field, and in your area. If you are managing the committee process, it is helpful to educate your committee about public art and the types of projects that are possible. It is important to ensure that everyone is on the same page as far as goals and expectations for the project.

Communication Point

...s to meetings/special events are mailed
...on artwork location. All elected officials
...e notifications. Artists are introduced at
...meetings.

Once the committee has selected an artist they will need a contract to enable them to commence with the services you have determined in your call, or through discussion with the artist. The contract should address timeline, payment schedule, copyright, insurance, and many other topics. There are many sample contracts available to adapt for your use.

Community Interaction

To help ensure the success of your public art project, a good first step is to define the audiences or communities being served. The community may be different than the audience being served, so it is good to consider both of these stakeholders. The community can—and, in some cases, should—be involved in every stage of the public art process. Consider the difference between community input [asking for feedback], community outreach [providing information], community engagement [deep interaction with residents to understand their thoughts and ideas in order to incorporate them into the project], and a community-driven project. Engagement creates deep relationships and collaboration, and any of these three options will require time and effort to organize and facilitate. Consider what steps of the project require interaction with community members, and then determine who should carry it out. Not all artists incorporate community interaction in their process. The Commission could also assess its own skill set and determine where and how they can engage with community members. It is also very important to circle back to folks you engage so they are continually involved in the project. Education and media coverage about your project—and the process—are useful ways to connect with the community and extend the life of your project. Supportive individuals can help with advocacy, educational efforts, and even fundraising

Communication Point

...with visuals are released to the media
...public art newsletter.

Communication Point

...peak on behalf of the facility and the
...e invited to the dedication celebration.

to enhance the budget. Consider working with a community organizer or volunteer coordinator.

Planning

Create a public art advisory committee made up of key stakeholders of the project (representatives from the City, the site, the neighborhood, individuals with a vested interest in the project). This advisory committee can help connect you to resources to enrich your project, help select the artist and serve as ambassadors for project by providing promotion and education. Hold educational workshops or presentations on public art and your project. These can take place in small venues that are highly accessible, and can include dialogues with artists and folks who have already done public art in the community.

Invite the community to participate in the visioning of the project (but be clear about where their input will be used). This can be done in conversation, via project websites or through creative workshop settings.

Implementation

Consider using social media to keep the community up to date on your project. Before going this route, determine how many people prefer this type of communication.

Invite people to participate in the creation or installation of your work, if appropriate (via workshops, generating content or ideas, volunteer labor, etc). Be very clear about the skill sets you need and try to control expectations (if it's not about letting everyone be the artist, make clear everyone's roles).

Completion

Hold a celebratory event! This could range in scale from intimate to massive.

Share your story—speak at schools, community groups, and other venues to tell people how the project came to be, what the process was like, and little known facts about the project. Be in contact with the media. Let them know the story behind the story. Offer quality images to encourage their coverage. Utilize technology to create avenues for the public to interact with each other and the work (social media, a website with a comments section, etc).

Documentation

Documentation is useful to have at various stages of any project. Still photos and video are beneficial for promoting your project at various stages. With viral marketing and photo sharing, this represents another way to engage the community in helping promote and discuss your project.

Documentation is crucial for the artist and commissioning agency,

in order to promote the project, record the condition, and create a record. Consider using the free, online Public Art Archive (www.publicartarchive.org) as a place to store and share data about your project, and your collection.

Fabrication and Installation

While the traditional notion of “artist-as-craftsman” still persists, many artists working in the public art field today wear many hats: designers, art directors, or even project managers (not to mention publicist, secretary, and office manager). For many large-scale projects, it’s necessary to engage a variety of professionals in the process, including design, engineering, lighting, site excavation, construction, and installation. The process is similar to architecture, filmmaking or theater, in which the artist plays a central role, but employs others to carry out the vision.

People who build things for artists are called fabricators. They are often multi-talented, working in a variety of materials. Some specialize in metal casting, glasswork, wood construction, or ceramic work. Some carve or weld, and some create computer-generated 3D models. Many fabricators used by artists specialize in custom work for display companies, theatrical sets and props, advertising agencies and sign companies. Given the high cost of fabrication, it is wise to set aside a good portion of the budget for this purpose. Keep in mind, when problems arise, the cost usually goes up and the schedule is delayed. It is recommended that artists spend time researching options available to them—in their region and around the world. If you find someone good to work with, it often leads to long-term relationships and potential collaborations. Your fabricators can easily become “partners” in your project. Consider using a blanket form for fabricators and subcontractors to sign to protect your copyright.

A critical phase in many public art projects is the installation. It can be a minor effort or require an enormous amount of time and money. Again, it’s wise to research different companies and get bids prior to hiring an installer for your project. Be sure the equipment is right for the job, as the cost can go up significantly for hydraulic lifts, large moving equipment or cranes. It’s also wise to ask if your installers have been trained as riggers if they will be lifting and moving large objects. Rentals are a critical part of most project budgets, and it is wise to include a contingency of 5% or more for unexpected expenses or last-minute purchases or rentals.

Conservation and Restoration

Many great public art projects, including some that are temporary, suffer from lack of attention after they are “completed.” The fact of the matter is, once the artwork is installed, its life is just beginning. Most plans for public art forget the reality of maintenance, or there are simply not enough funds

available for the ongoing care of public artworks.

For permanent projects (lasting several years or more), a smart approach is to involve a conservator early in the process of planning and design. A professional conservator can help the artist and the commissioning agency anticipate future challenges, save money on future repairs, and provide a maintenance schedule that will preserve the quality and stability of such a major investment.

Once an artwork has fallen into disrepair, its deterioration accelerates and the cost of restoration increases. There are hundreds of murals and sculptures in the U.S. that are beyond repair. If a public artwork appears to be in need of restoration, it is wise to hire a conservator to produce a condition report and assess the damage as well as estimate the cost of restoration. Once the cost is known, it may be helpful to engage the community to determine if the work should be saved, and if so, how it will be paid for. If it is beyond saving, or the cost is simply too high, the work may be deaccessioned—removed and either destroyed or stored. The cost of removing a sculpture can also be expensive. One alternative is to find a new home for the work, requiring the new owner to restore the work. Regardless, it is helpful to document the project before it is destroyed, and making the images available to your local historical society.

See page 59 for sample RFQ

See page 66 for sample artist commissioning contract

See page 91 for sample deaccession policy and process

See page 95 for Visual Artists Rights Act information





"The Memory of Water" by Milligan Studios
Images from artist's website

PLACING + SEQUENCING PUBLIC ART IN GRAND RAPIDS

There are several things to take into consideration when placing a public artwork. Project for Public Spaces [<https://www.pps.org/article/pubartdesign#place>] has a list on their website, many of which are articulated and respondent to urban locations. I've included these points here, with some additional thoughts below.

- Artworks should not block windows or entranceways, nor obstruct normal pedestrian circulation in and out of a building [unless such alteration is specifically a part of the experience or design of the artwork].
- Art should not be placed in a given site if the landscaping and maintenance requirements of that site cannot be met - unless landscaping and maintenance are specifically a part of the budget for the public art.
- Art should be sited so as to be either immediately visible or in a location where it will be visible by the most people.
- Art should be placed in a site where it is not overwhelmed by nor competing with the scale of the site or adjacent architecture, large retail signage, billboards, etc.
- Art should be placed in a site where it will enhance its surroundings or at least not detract from it [creating a "blind" spot where illegal activity can take place].
- Art should be sited where it will create a place of congregation or in a location that experiences high levels of pedestrian traffic and activity.
- Art should be located in a site where it will effectively enhance and activate the pedestrian and streetscape experience.

Additionally:

- Art should be sited in such a way that considers and honors the traditions and culture of Native peoples, their stories, and the significance of the site to them, and involves them in the decision making process [i.e. understand the significance of the site and engage the proper partners prior to making decisions about the artwork being located].
- Art should be sited in a place that will allow for repeat viewings at multiple scales.
- Art should be spread throughout a community to avoid "public art deserts".
- Art should be located in such a way that considers the changing of seasons and the conditions and maintenance required for each.
- Art should be located in such a way that still provides access to any on-site utilities as needed.

Sequencing

The following pages provide a guide for how the Grand Rapids Arts + Culture Commission can begin to sequence public artworks. There are several questions that the Commission could ask itself when determining where artwork should go next. These include:

- Where is public art currently located, and where are there public art deserts? It is important to place artworks across the city rather than concentrating them in just one or two neighborhoods.
- What are the current issues that are important to community members? Take these into consideration when contemplating themes for artworks. These artworks will resonate with community members and show them that the Arts + Culture Commission is in touch with what is important to the community.
- Is the site easily accessible from a wide range of mobility options and is it ADA accessible?
- Can impact of the artwork be measured in some way?

Scale

Each year, plan to do projects of both large and small scale. This will allow you to have large visual impact as well as spread the work around the community. The large scale projects could emphasize issues important to the community, and all projects can connect to the goals of GRMN Creates. Budget will be key when making decisions about the scale of a project.

Small Scale:

Do at least one project in a new neighborhood each year that helps to emphasize an identity for each. Utilize the same typology in each neighborhood to create cohesion across Grand Rapids.

Large Scale:

Do one large scale artwork each year that emphasizes a theme listed in this plan and is aligned with current interests of city residents.

Themes

A great way to get started in selecting and placing public art is to choose a theme for each year. This will allow the Arts + Culture Commission to have a guide to help with decision making and also help to align any public art activities.

Depending upon which process is being followed - community initiated art or city initiated art – you will either know the physical location of the artwork or the theme of the artwork first, then the other will follow suit. In either case, ask:

- Does the theme of the artwork relate to the site in question?
- Does the site offer the proper conditions for an artwork of a certain theme?

The answers to these questions will help to determine either the scale of the artwork or the location where it should be placed.

The following pages provide suggestions for themes, sequencing, and placement of public art to the Arts + Culture Commission over the next 5 years.

This is a working document that should be updated and changed as the Commission continues to make decisions and set goals. The sequence is flexible and interchangeable. No harm will be done if projects and initiatives are interchanged, if not all of the suggested activities are carried out, or if the suggested funds are not committed each year.

1 YEAR

THEME: Indigenous peoples and lands. Fifteen miles west of Grand Rapids lies the edge of the Leech Lake Band of Ojibwe history and public art could amplify and highlight the culture, voices, and stories of Native Americans - past, present, and future. Additionally, Native artists should lead public art projects throughout the city. Many signs around town have Anishinaabe language on them, and projects such as this could continue to strengthen the connections between Grand Rapids and the Ojibwe.

SMALL SCALE ARTWORK:

TPOLOGY: Stormwater infrastructure [see page 54]
This will create water related artworks across Grand Rapids, and connect back to the water sculptures that were installed downtown this year. It will connect the community further to the identity of the place where they live, and raise awareness around water related issues.

TIMELINE: March - RFQ released
April - Artist selection
Summer - painting!
End of summer - celebration

LOCATION POSSIBILITIES:

Stormwater risers, aprons, and drains throughout the city. At least one in each neighborhood [as denoted on the map on page xxx], and if there is a large cluster of drains in one place, they could all be treated.

RESPONSIBLE PARTIES:

Budget allocation - Arts + Culture Commission
Artist selection - Commission or Selection Task Force appointed by the Commission
Location approval - Arts + Culture Commission with Public Works

BUDGET ALLOCATION:

Approximately \$500 per drain, up to \$1000 for larger infrastructure such as aprons or risers. Approximately \$5000 for artwork in 6 neighborhoods + downtown.

GRMN CREATES GOAL ALIGNMENT:

Goal 4: Use the arts to animate the physical realm and improve connectivity.

LARGE SCALE ARTWORK:

TYOLOGY:

Gateway/entrances [see page 44]

Gateways leading into the city are great ways to showcase what is important to the people who live in a place. Having iconic pieces of artwork that reflect the indigenous peoples and land that live in the Grand Rapids area will shed light on a culture and people that is often rendered invisible.

TIMELINE:

February - draft + release RFQ

May - Artist selection

June - Design development

August - Fabrication starts

Spring/Summer Year 2 - installation

Summer/Fall - celebration

LOCATION POSSIBILITIES:

Highway 169 between S Pit Road and SW 30th Street [note that this should not compete with the Grand Rapids sign, rather be situated in a location that emphasizes both the sign and the artwork].

You could also consider doing two of these, with the 2nd one located US Hwy 2 and Walter Avenue.

RESPONSIBLE PARTIES:

Budget allocation - Arts + Culture Commission

Artist selection - Commission or Selection Task Force appointed by the Commission

Location approval - Arts + Culture Commission with Visit Grand Rapids

BUDGET ALLOCATION:

If doing one sculpture, approximately \$30 - 40,000. If doing two, approximately \$20,000 per sculpture.

GRMN CREATES GOAL ALIGNMENT:

Goal 1: Enhance Grand Rapids' distinctive identity through arts and culture.

YEAR 2

THEME: Science + ingenuity. This is a theme that has come up in several conversations held with stakeholders across the city. The name of the City itself comes from its location on the Mississippi River, which has been an important part of the city's history in logging and paper milling. As part of the Iron Range, Grand Rapids has also been involved in utilizing innovative techniques in mining, forestry, and water technologies. This theme could be utilized to highlight a variety of points of Grand Rapids' history and future, as well as in the artwork itself [i.e. movable sculptures, interactive artworks using sensors, audience activated works].

SMALL SCALE ARTWORK:

TPOLOGY: Creative crosswalks [see pages 52]
These require easily available supplies and could attract artists and creatives of many experience levels, making it a great way for early-career artists to receive support from the Commission.

TIMELINE: March - RFQ released
April - Artist selection
Summer - painting!
End of summer - celebration

LOCATION POSSIBILITIES:

Locations where crossing is difficult and a crosswalk doesn't exist, or locations where the crosswalks are due to be repainted by Public Works.

RESPONSIBLE PARTIES:

Budget allocation - Arts + Culture Commission
Artist selection - Commission or Selection Task Force appointed by the Commission
Location approval - Arts + Culture Commission with Public Works

BUDGET ALLOCATION:

One crosswalk would cost approximately \$4000 to paint. If the city is divided into 7 neighborhoods, that would equate to a total of \$28,000.

GRMN CREATES GOAL ALIGNMENT:

Goal 4: Use the arts to animate the physical realm and improve connectivity.

LARGE SCALE ARTWORK:

TYOPOLOGY:

Bridges [see pages 40]

Bridges are associate with railway and movement of goods [recalling lumber and paper milling goods], and also create dark, undesirable places at night. Artworks could be focused on light art that are activated by motion or sensors, or that create iconic shapes to signify the artwork at night [like the High Trestle Trailbridge example].

TIMELINE:

February - draft + release RFQ

May - Artist selection

June - Design development

August - Fabrication starts

Spring/Summer Year 3 - installation

Summer/Fall - celebration

LOCATION POSSIBILITIES:

The new pedestrian bridge over the Mississippi River near the library, or either of the bridges that cross the River near downtown [169 or SE 7th Ave].

RESPONSIBLE PARTIES:

Budget allocation - Arts + Culture Commission

Artist selection - Commission or Selection Task Force appointed by the Commission

Location approval - Arts + Culture Commission with Public Works

BUDGET ALLOCATION:

\$40,000 for one permanent project.

GRMN CREATES GOAL ALIGNMENT:

Goal 4: Use the arts to animate the physical realm and improve connectivity.

YEAR 3

THEME: Social cohesion. The GRMN Creates document points out some challenges that the city faces - racial tensions, geographic disconnections, and economic disparities. These are real challenges that require innovative solutions. Public art can bring people together around an issue and create civic dialogue. A sculpture can create opportunities for people to interact with one another. An artist-designed bench can create a place for people to sit and get to know one another. Murals, light, and sound artworks can tell a diverse range of stories and promote social cohesion.

SMALL SCALE ARTWORK:

TPOLOGY: Small scale sculptures [see page 35]
Each neighborhood gets a sculpture that reflects its identity, and is created by someone or a group of people from the neighborhood. By year 3, people will be familiar with public art being sited around the city, and will want to be more involved in the process. These sculptures are a great way to involve residents - either in the ideation or in the locating of the pieces.

TIMELINE: January - RFQ released
March - Artist selection
Summer - fabrication
Fall - installation
Fall - celebration

LOCATION POSSIBILITIES:

These could be placed in the park in each neighborhood, in the boulevard, or along bike and walking trails.

RESPONSIBLE PARTIES:

Budget allocation - Arts + Culture Commission
Artist selection - Commission or Selection Task Force appointed by the Commission
Location approval - Arts + Culture Commission with Public Works + neighborhood liaisons

BUDGET ALLOCATION:

One sculpture would cost between \$2000 - 4000. If the city is divided into 7 neighborhoods, that would equate to a total of \$14,000 - \$28,000.

GRMN CREATES GOAL ALIGNMENT:

Goal 4: Use the arts to animate the physical realm and improve connectivity.

LARGE SCALE ARTWORK:

TYOPOLOGY:

Street corners and sidewalks. [see page 36]

Street corners and sidewalks across the city are used every day of the year by a wide range of people, and could become a place where people meet each other and discuss their similarities and differences. Residents could be polled to understand what kinds of questions or ideas are important and an RFQ could be built around those questions.

TIMELINE:

February - poll residents, draft + release RFQ

May - Artist selection

June - Design development

August - Fabrication starts

Spring/Summer Year 4 - installation

Summer/Fall - celebration

LOCATION POSSIBILITIES:

A busy intersection/sidewalk downtown where there is a multitude of possibilities for people to happen upon a piece of public art. This will attract the most use.

RESPONSIBLE PARTIES:

Budget allocation - Arts + Culture Commission

Artist selection - Commission or Selection Task Force appointed by the Commission

Location approval - Arts + Culture Commission with Public Works

BUDGET ALLOCATION:

\$25,000

GRMN CREATES GOAL ALIGNMENT:

Goal 4: Use the arts to animate the physical realm and improve connectivity.

YEAR 4

THEME: Regional hub/resource center. Grand Rapids is the largest city in Itasca County, as well as the County Seat. It has a plethora of arts and cultural organizations and institutions, a community college, rural public radio station, a counseling center, hospital, and much more [these are denoted in more detail in GRMN Creates]. Public art can be used as a strategy to highlight resources available in Grand Rapids, and how people can benefit from them. This could happen through a series of street banners showing outcomes from resources, or it could bring people together around a shared interest in collaboration with one of the local cultural organizations.

SMALL SCALE ARTWORK:

TYOLOGY: Seating elements [see page 48]
Seating elements could be placed throughout the city - or seating that already exists could get a facelift! This will call attention to existing amenities and draw new users, as well as show residents that the Commission cares about their experience as they move about the city.

TIMELINE: January - RFQ released
March - Artist selection
Summer - fabrication
Fall - installation
Fall - celebration

LOCATION POSSIBILITIES:

Benches on the walking paths near Crystal Lake and Hale Lake. Creative seating elements could be placed on the walking paths on Maple Street in the NW part of the city, or in parks.

RESPONSIBLE PARTIES:

Budget allocation - Arts + Culture Commission
Artist selection - Commission or Selection Task Force appointed by the Commission
Location approval - Arts + Culture Commission with Public Works + Parks and Rec.

BUDGET ALLOCATION:

Approximately \$5000 for each seating element or cluster of seating.

GRMN CREATES GOAL ALIGNMENT:

Goal 1: Enhance Grand Rapids' distinctive identity through arts and culture.

LARGE SCALE ARTWORK:

TYOLOGY:

Roundabouts [see page 32]

Roundabouts are great spaces to showcase information that does not require people to get up close or interact with the sculpture in person. Sculptures in roundabouts also help to direct drivers' attention away from trying to focus on traffic across the circle, and pay attention to that coming from the left. These are often times spaces that need some "livening up", and public art is a great way to do that.

TIMELINE:

February - draft and release RFQ

May - Artist selection

June - Design development

August - Fabrication starts

Spring/Summer Year 5 - installation

Summer/Fall - celebration

LOCATION POSSIBILITIES:

There are currently 4 roundabouts in Grand Rapids. Look at the saturation of neighborhoods where each is located, and select the roundabout in the neighborhood with the least amount of public art.

RESPONSIBLE PARTIES:

Budget allocation - Arts + Culture Commission

Artist selection - Commission or Selection Task Force appointed by the Commission

Location approval - Arts + Culture Commission with Public Works

BUDGET ALLOCATION:

\$30,000

GRMN CREATES GOAL ALIGNMENT:

Goal 4: Use the arts to animate the physical realm and improve connectivity.

YEAR 5

THEME: Intergenerational activity and connections. Public art can create connections between different generations and provide opportunities for all ages to interact through easily accessible opportunities. This could be a sculpture that has sensors which play music, and is activated by people passing through [whether by walking, or in a wheelchair, or another form of movement]. Or it could be different generations coming together to tell each other's stories through photography, music, or story gathering, which could be come storefront displays or featured on banners around the city.

SMALL SCALE ARTWORK:

TYPOLOGY: Street banners [see page 46]
Attachments for street banners can be included on light poles across Grand Rapids. These extend into every neighborhood and provide an opportunity to showcase images, photos, graphics, designs, and colors that are important to different neighborhoods. This is also a medium for 2D visual artists, that might not qualify for sculpture or other 3D RFQ's.

TIMELINE: April - RFQ released
May - Artist selection
Summer - design development and printing
Fall - installation
Fall - celebration

LOCATION POSSIBILITIES:

Light poles in each neighborhood can be equipped with infrastructure to support banners.

RESPONSIBLE PARTIES:

Budget allocation - Arts + Culture Commission
Artist selection - Commission or Selection Task Force appointed by the Commission
Location approval - Arts + Culture Commission with Public Works

BUDGET ALLOCATION:

Approximately \$5000 for a series of banners in each neighborhood.

GRMN CREATES GOAL ALIGNMENT:

Goal 1: Enhance Grand Rapids' distinctive identity through arts and culture. + Goal 4: Use the arts to animate the physical realm and improve connectivity.

LARGE SCALE ARTWORK:

TPOLOGY:

Ground plane/sidewalks [see page 36-37].
The ground plan provides a unique opportunity for games to be played, stories to be embedded, or messages to be passed through the generations. This can be done with stamping, bronze inlays or a variety of other materials.

TIMELINE:

February - draft and release RFQ
May - Artist selection
June - Design development
August - Fabrication starts
Spring/Summer Year 6 - installation
Summer/Fall - celebration

LOCATION POSSIBILITIES:

This could be designed and installed somewhere that the Public Works department knows it needs to replace anyway. It could also be placed at an info kiosk in a part of the city that has the least amount of public art pieces.

RESPONSIBLE PARTIES:

Budget allocation - Arts + Culture Commission
Artist selection - Commission or Selection Task Force appointed by the Commission
Location approval - Arts + Culture Commission with Public Works





BUDGET ALLOCATION:

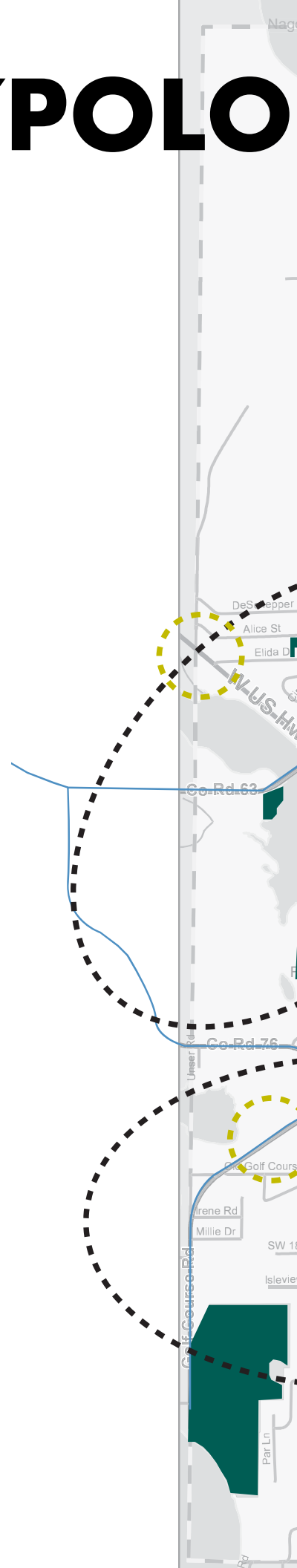
\$30,000

GRMN CREATES GOAL ALIGNMENT:

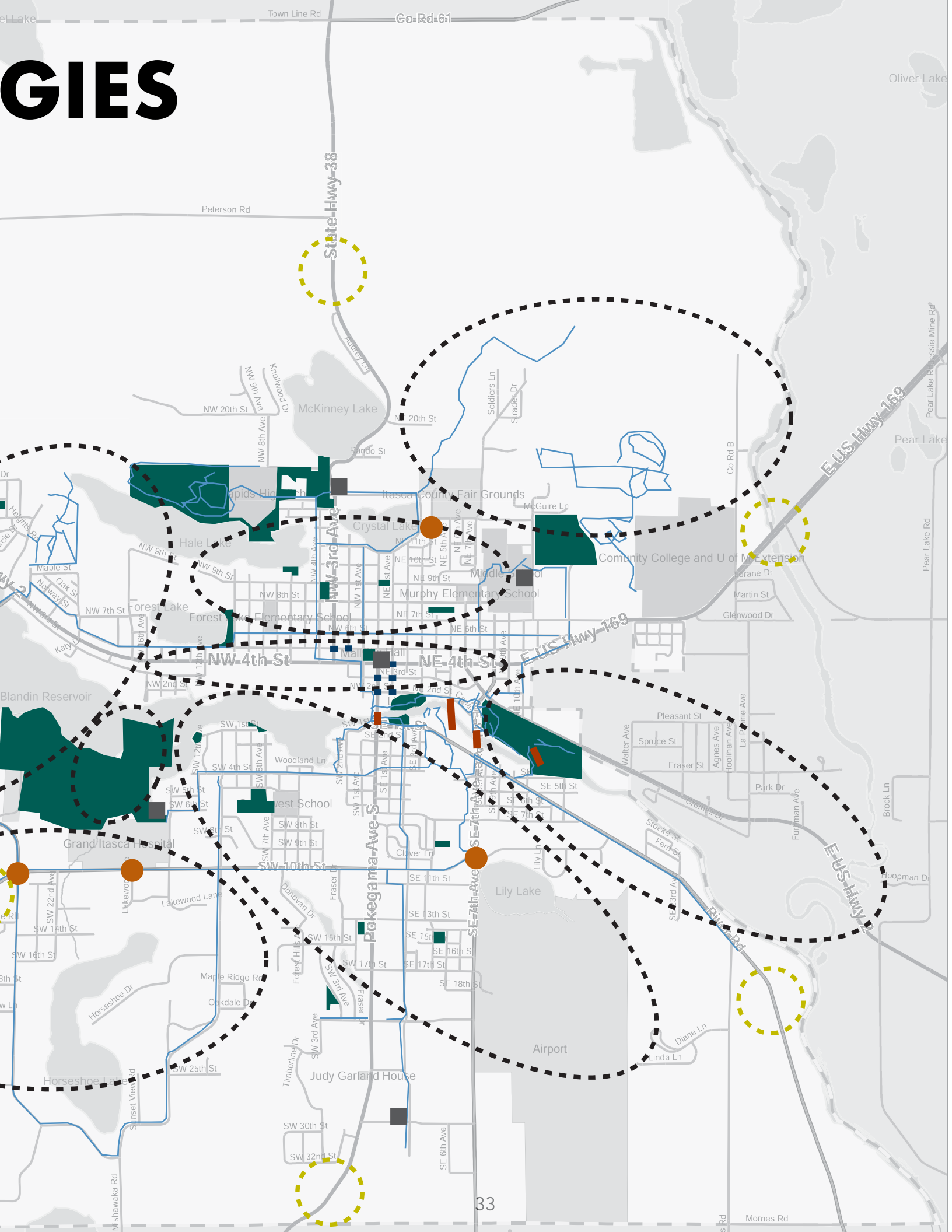
Goal 4: Use the arts to animate the physical realm and improve connectivity.

LOCATIONS + TYPOLOGY

-  roundabout
-  entry/gateway
-  park
-  possible neighborhood
-  trail - hiking and/or biking
-  info kiosk
-  bridge
-  cross walks



GIES



ROUNDBABOUTS

- sculpture
- 3D visual artwork
- land art and eco-art
- wayfinding elements

"Big Water"

Wayzata, MN

Artist: Foster Willey

Budget: \$75,000 [lighting not included]

"Big Water" is a stainless steel sculpture by Sculptor Foster Willey, recently installed at Wayzata's east end roundabout as a welcoming gateway to the downtown. Commissioned by the City of Wayzata, the artwork celebrates the elegance and grandeur of Lake Minnetonka, inspired by the natural elements of the Wayzata landscape. The sculpture is a graceful, curvilinear form with a horizontal orientation, derived from the surrounding terrain of lake, land, and sky. It is carefully scaled to the site and stands approximately eight feet tall. It's concentric form and animated composition has the feel and movement of waves and water.



“Roundabout Art Route”

Bend, OR

Artist: Various

Budget: \$100,000 - for each roundabout

The Roundabout Art Route is a collection of over 20 pieces of public art on display throughout the city in the most unlikely places – at the center of Bend’s traffic circles. The circles, also filled with plants, flowers and trees, are designed to keep traffic flowing around the city.

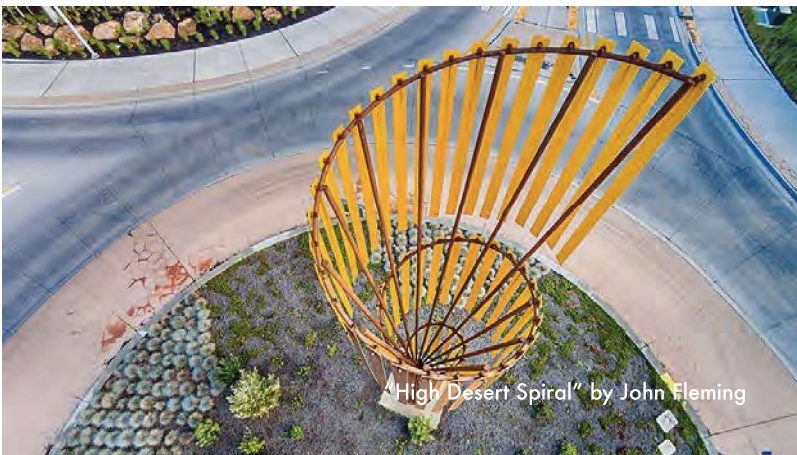
Each roundabout holds a unique display of art designed to enhance the cultural environment for Bend visitors and residents. It’s sponsored by Art in Public Places, a non-profit organization dedicated to providing art to the community of Bend. In 2005, Americans for the Arts honored these sculptures as being among the most innovative approaches to public art in the country. The next art installations you’ll be seeing in Bend are the result of a successful fundraising campaign called Be Part of Art. Bend’s public art is a permanent part of what makes Bend so unique. <https://www.visitbend.com/roundabout-art-route/>



“Yakaya” by Troy Pillow



“Atili, Sundra, and Garden Gate” by Mel Katz



“High Desert Spiral” by John Fleming



“Redsides” by Miles Pepper



“Phoenix Rising” by Frank Boyden

BIKE/WALK TRAILS

- sculpture
- ground plane treatments
- lighting elements
- wayfinding elements

“Surrounds”

West Des Moines, IA

Artist: Actual Size Artworks

Budget: \$130,000 [divided by artists between 5 locations]

Gail Simpson and Aris Georgiades of Actual Size Artworks in Stoughton, WI, created five sculptures that were placed at different locations along Jordan Creek Trail. These sculptures feature brightly painted polychrome cast aluminum animal replicas perched on the horizontal limbs of the vertical metal structures. The artists’ goal was to have these replicas be animals that are native to the West Des Moines area. In the spring of 2016, the public was asked to cast their vote for the animals to be used in the sculptures. The sculptures were installed in the fall of 2016 at the five locations and the public was then asked to vote on animal names, based off of classic literary characters. On June 3, 2017, the WDM Public Arts Commission, City Council, and Parks and Recreation Department celebrated the grand opening of “Surrounds”.



“Art4Trails”

Rochester, MN

Artist: Various

Budget: \$5000 for each sculpture

Art4Trails was developed in 2016 by the Rochester Arts and Culture Collaborative. Expansion of partnerships now includes Rochester Art Center, Rochester Parks and Recreation, Olmsted County Public Health, RNeighbors, WeBikeRochester, Minnesota Children’s Museum Rochester, C4 (Concerned Citizens for a Creative Community) and Rochester Downtown Alliance.

Art4Trails is a public art initiative to promote local artists and enhance our public parks by installing original art along the bike trails near downtown Rochester. Thirteen artists submitted proposals, and five of these were selected as winners by a panel of neighbors, artists, park department representatives, and arts organization administrators. The winners received \$2,500 for supplies and materials. Once installed, any member of the public can purchase the sculptures directly from the artists.



“Tractor Cat” by Richard Brubaker



“Drinking Sunshine” by Craig Snyder



“Fantastical Fruit” by Amarama



“Unbroken” by Katya Roberts

STREET CORNERS + NEW SIDEWALKS

- ground plane treatments
- seating elements
- gathering spaces

"Dancer Series: Footsteps"

Seattle, WA

Artist: Jack Mackie

Budget: \$10,000 [each, there are 8]

Eight sets of inlaid-bronze shoeprints in the pattern of a couple's dancing feet. The shoeprints are "step-by-step" movements from the tango, waltz, lindy, foxtrot weave, rumba and mambo, as well as two dances created by Mackie himself, the "busstop" and the "obeebo." Inlaid bronze arrows and "R" and "L" (right and left) labels on the feet indicate the dance's proper foot movements. A plaque beside each set of dance steps gives the name and rhythm of the dance. For example, the tango is "slow, slow, quick, quick, slow," while the rumba is "quick, quick, slow."



"Peeled Pavement"
Toronto, ON, Canada
Artist: Jill Anholt
Budget: \$400,000

A sidewalk installation along Mill Street punctuates a critical node joining the historic Distillery District with a contemporary 21st century neighborhood. A series of tears in the urban fabric curl up to reveal an underside of found industrial artifacts cast in bronze and, in their absence, swathes of glowing light, the energies of the working city.



“Nimbus”

Minneapolis, MN

Artist: Tristan Al-Haddad

Budget: \$285,000

Nimbus by Tristan Al-Haddad appears to defy gravity and levitate. The elliptical geometry of the monumental sculpture’s form relates to the shape of the Theater in the Round’s seating below while its weathered steel material sets up a dialogue with the Ptolemy’s Web sculpture nearby. Sited to align with the primary axis of Minneapolis Central Library’s atrium, Nimbus’ oculus — its circular opening – frames both the architecture and the sky. Cantilevered 45-feet over the sidewalk, Nimbus is a feat of imagination, engineering and fabrication.



“Carry-On Homes”

Minneapolis, MN

Artists: Peng Wu, Aki Shibata, Zoe Cinel, Shunjie Yong, Preston Drum

Budget: \$50,000

Carry On Homes is a multi-functional pavilion hosting the stories of immigrants in Minnesota, where individuals come together to explore the concept of home through community gatherings, workshops, live performances and personal reflection. Home is a universal idea that transcends divisions by race, religion, gender identity, and class. At home, we belong, we feel safe and we are loved. Join us at The Commons park in downtown Minneapolis, as we celebrate the immigrant cultures from around the world that have come to call Minnesota home.



BRIDGES

- mosaic
- murals
- artist-designed concrete forms
- ground plane treatments
- lighting underneath

“Valley Passage Mural”

Milwaukee, WI

Artist: Chad Brady

Budget: \$50,000

In 2010, artist Chad Brady’s concept was selected to embellish the walls of the Valley Passage, the new tunnel linking the Hank Aaron State Trail and the adjacent Silver City neighborhood. The mural was completed in 2011.

The high visibility walls illustrate what can be experienced on the opposite side, and at the same time honor the history of the area and celebrate the nature that will continue to flourish in the newly re-created spaces around the Trail. A national request for qualifications brought in many applicants, which were pared down to four artists/teams that underwent a vigorous indoctrination and tour of the Trail, Menomonee Valley, and surrounding neighborhoods. Concepts were then developed by the four artists/teams and submitted for selection to the community. Chad Brady’s concept was the overwhelming choice.



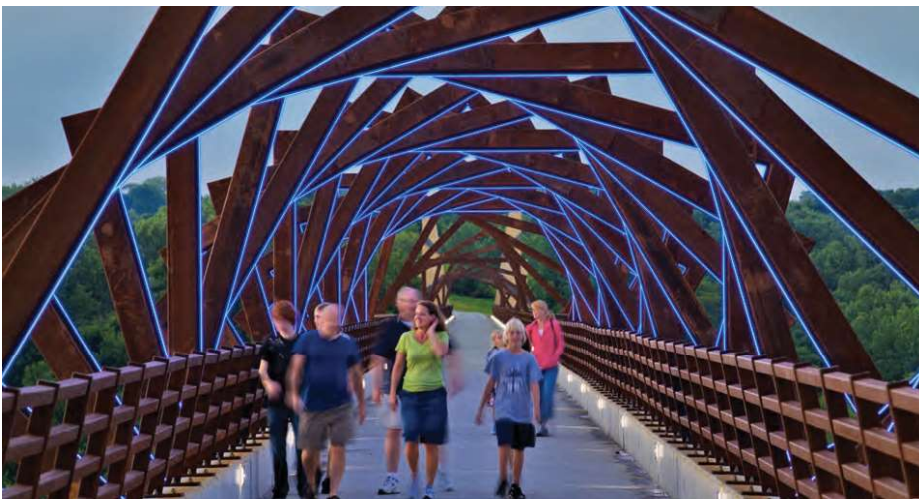
“High Trestle Trail Bridge”

Madrid, IA

Artist: David Dahlquist

Budget: \$1.75 million [for the construction of the entire bridge]

The High Trestle Trail Bridge, is the fifth longest pedestrian and bicycle bridge in the US. The bridge, over a half mile long, spans the Des Moines River Valley, and connects over 600 miles of trail in central Iowa. With design embracing local coal mining history and geology of the area, the site-specific installation utilizes a tunnel of steel cribs, mimicking the structure of an old mine shaft, and abstracting them in a manner which evokes a sense of whimsical travel through time and space.



“Rock Creek Pedestrian Bridge”

Aspen Hill, MD

Artist: Vicki Scuri

Budget: \$600,000 [artwork budget]

Rock Creek Trail Bridge provides opportunity for safe passage and for symbolic connection with Montgomery County’s historic landscape: the era of watermills. It connects trails and neighborhoods with county parks and open spaces crossing heavily traveled Veirs Mill Road. The design is inspired by historic Cabin John footbridge and the 41 water mills that once lined Rock Creek, including Veirs Mill. The artwork is integral, carrying watermill imagery through a number of forms; planters, concrete piers and fencing designs, introducing native plant restoration and modular geometry that enhances the experience of passage creating a celebratory landmark for the community.



"Flight Bridge Galveston Road"

Chandler, AZ

Artist: Laurie Lundquist

Budget: \$750,000 [artwork budget]

This overpass links residential complexes to a popular regional model airplane field in Thud park. Enthusiasm for the flight activity inspired the flock of shade wings that appear to sail through the atrium. There is a strong legacy of aeronautical engineering and fabrication in the region. It is fair to say that the neighborhood is excited by the flight theme.



GATEWAYS/ENTRANCES

- signs
- logos
- street banners
- identity signifiers
- arches

"Dawn's Silver Light"
Salina, Kansas
Artist: Barbara Grygutis
Budget: \$280,000

This illuminated laser cut and fabricated aluminum sculptural installation creates a contemporary gateway to the city of Salina. The work creates a luminous visual effect both day and night. At night, the sculpture glows from within using designed LED lighting set on a photo cell. The composition consists of six semi-transparent sculptural forms. Individually and as a total experience, the forms echo the shelter-belt trees of the Kansas landscape, silhouetted against the horizon in winter. Dawn's Silver Lining won the 2014 CODAWorx Award for Public Art.



"Sensing YOU"
San Jose, CA
Artist: Dan Corson
Budget: \$450,000

Sensing YOU is an interactive artwork utilizing light and paint to define a major downtown gateway in San Jose CA. The installation is defined by over 1000 painted circles and 81 individually controlled illuminated rings that play a variety of patterns and low-resolution mapped video over the ceiling surface of the I-87 highway underpass. The patterns are activated by pedestrians and bicyclists moving through the space- setting off pre-programmed sequences. From a car safety perspective, the lighting animations are designed to be slow enough so the average car will not see any movement when driving past, but that while walking through or pausing, the movement will be highly discernible. The patterning was originally inspired by the pattern of raindrops falling on still water as well as being inspired by the crowds of people moving through the underpass- every person with a cell phone emitting echos of radio waves.

The artist partnered with Niantic Labs to allow users of the virtual real-world mobile game Ingress to temporarily take control of the space and making manifest in the artwork aspects of the game from their cell phones. Inspired by raindrops on water and the echoing patterns emitting from our cell phones, this artwork seeks to link technology and nature in this urban landscape sitting over the Guadalupe River- at the heart of Silicon Valley.



“North Vancouver Street Banners Project”

North Vancouver, Canada

Artist: various, rotates every two years

Budget: \$1000 - 5000 [depending upon the number of banners]

The City of North Vancouver street banner program showcases art work created by students, emerging and established artists. Each batch of banners fly high along Lonsdale Avenue and Esplanade Avenue for a two year period.



“Rustician”

Montevideo, MN

Artist: Karl Unnasch

Budget: \$24,000

This whimsical montage consists of a 1920s-era McCormick Deering tractor bedecked with original backlit stained glass in the Artist’s signature style. The work pays homage to the local threads that have woven together over time to become the fabric of Montevideo, Minnesota today. The tractor – itself symbolic of the transition from the pre-industrial to the post-industrial era – is accoutered with panels reflecting various aspects of local and regional history. A real-life folk tale emerges from the seek-and-find imagery in the glass: In dreamlike plays on scale, emblems from nature and agriculture blend together in prismatic whirls, chronicling everything from nostalgic pre-industrial bygones to more recent echoes from collective local memory. Images portraying the Spirit of Nature – such as extreme wind, temperature, and moisture levels – serve as a tribute to the Land Stewards’ many challenges throughout time. The discerning observer will also unearth local icons from spheres lateral to the rural theme: Having played key support roles in the region’s agricultural history, the worlds of banking and finance, education and knowledge, and religion are also all represented in the imagery, as is the cohesive notion of communal spirit. The Farmer has always been a land-bridge between the urban and the natural worlds, and as such has also always been a traditional surveyor of knowledge. RUSTICIAN seeks to embody the stalwart beauty of this spirit in reverence to both our hardy rural roots and the crucial sustenance that agriculture provides.



BENCHES/ SEATING ELEMENTS

- mosaic
- sound
- murals
- local artist contests

"Art Benches Program"

Eagan, MN

Artist: various

Budget: \$3000 each

In 2017, the City of Eagan installed four art benches in an effort to add to the City's sense of place, while enhancing resting areas for residents. In 2018, we will install four additional artist-designed and produced benches to represent the unique landscape and neighborhoods of identified locations.



“Passage”

Phoenix, AZ

Artist: Harries/Heder

Budget: \$155,000

The three Acoustic Chairs are grouped in front of the Library’s main entrance. They extend the architecture of the Library into the landscape, relating to South Mountain. The seat surface of the Chairs is made of local Hualapai stone. The sides of the Chairs are made of colored concrete with steel letters cast into the surface. Letters are also embedded into the surrounding pavement, as though cascading from the Chairs. Each letter of the alphabet is represented in the jumble as well as the letters that make words that reference the landscape such as “desert,” “stone,” “mountain,” and “water”. The scattered letters encourage visitors to make their own words and poetry.

Speakers inside the Chairs play recordings of poetry when activated by motion sensors. The poems play softly to create an intimate experience. Ríos curated the collection of poems, featuring 19 poets writing about South Phoenix and the landscape of the area.



“Birds of a Different Feather”

Minneapolis, MN

Artist: Marjorie Pitz, Lori Greene, Ben Janssens

Budget: \$150,000 [for 6 stools, 4 benches, and 2 gateways]

Options for streetscape art were explored with the community, as were sites along a 10 block stretch of Nicollet Avenue. My partner on this project, Ben Janssens, and I developed the theme “birds of a different feather, flock together” to honor the diversity of the neighborhood. Ceramic mosaic wings were made with the community, and artist, Lori Greene.

Two tall gateway features, 4 bird benches, and 6 bird stools animate the street, and were dedicated in 2016.



“Orinda Streetscape”

Orinda, CA

Artist: Colin Selig

Budget: \$32,800 [for 6 benches in 3 locations]

A series of unique pieces of eco-friendly sculptural seating were installed in public locations in the City of Orinda, California. Orinda has an active interest in displaying public art and has numerous locations approved installations. After several members of the Public Art Committee visited the artist’s studio to see the work in person The City became enthusiastic about having additional outdoor seating at specific locations where people gather, including outside the movie theatre, by the community center and at the Wilder recreation area clubhouse. After a loan period of two years The City elected to purchase three of the seven seats. Upcycled from regionally sourced scrap tanks, which are a sustainable building material due to strict regulations limiting their service life, they contain 99% post-consumer REUSED (not recycled) content. After a loan period of two years, the City purchased 3 of the seats for its public art collection.



CROSSWALKS

- artist designed traffic calming crosswalks throughout town

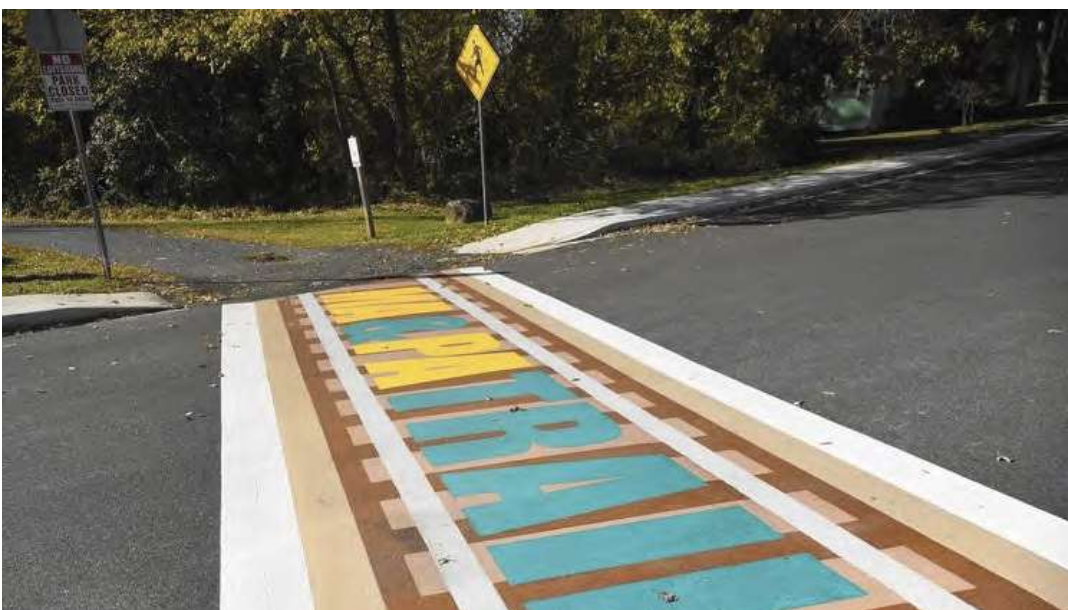
“Creative Crosswalks”

Baltimore, MD

Artist: various

Budget: \$20,000 for both [including concrete work and painting]

In its bicycle and pedestrian plan, the town identified several mid-block street crossings that needed to be addressed and better delineated for safety reasons. At the library the crosswalks weren't safe for people with strollers, elderly folks or those with disabilities, because they lacked ramps, which were installed as part of the project. Because the town is an Arts and Entertainment District, the town wanted to go with something more than the everyday sidewalks.



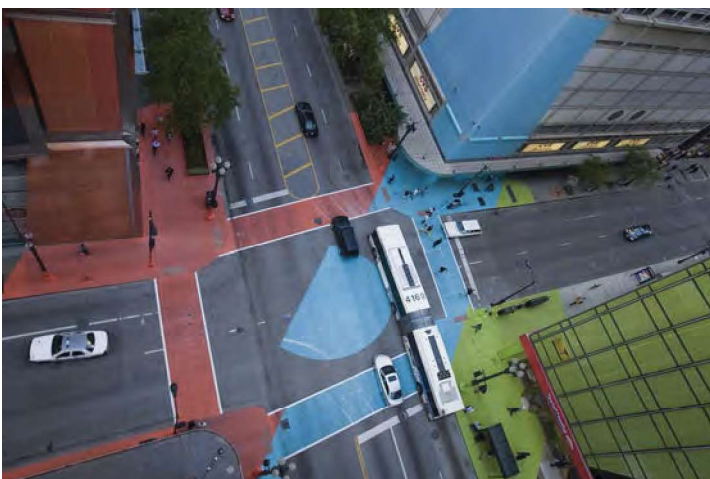
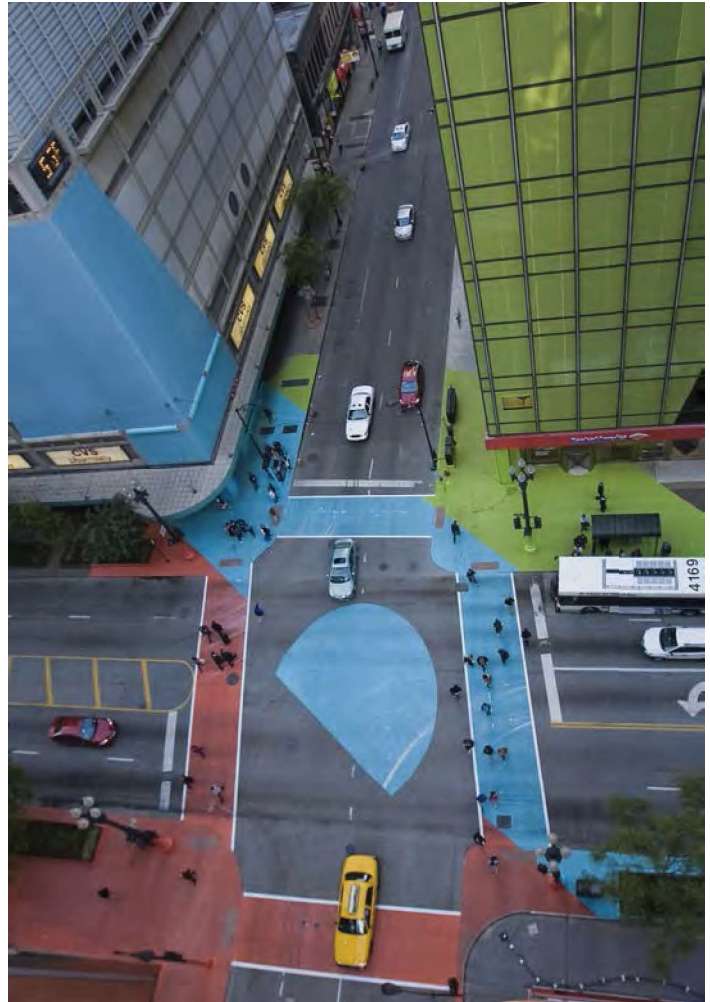
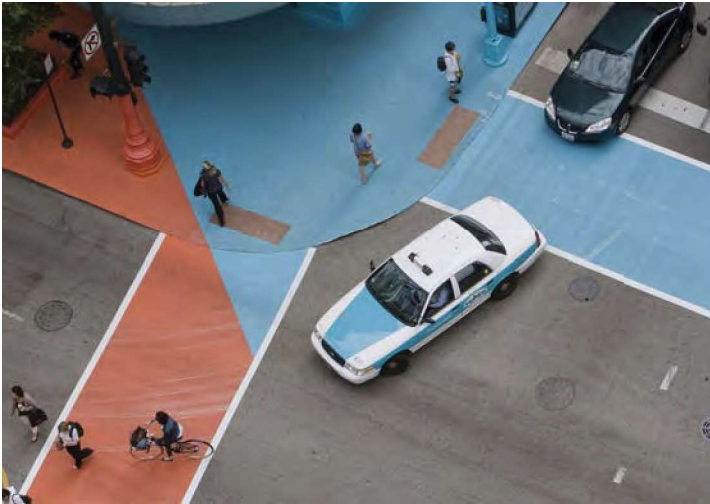
"Color Jam"

Chicago, IL

Artist: Jessica Stockholder

Budget: \$500,000 [\$250,000 for materials]

This work filled the intersection of the streetscape with color applied with 76,000 square feet of adhesive vinyl and vinyl scrim. The volume of color intersecting the intersection was accommodating to the city's grid structure, and at the same time at odds with it. June 5 – September 2012.



STORMWATER INFRASTRUCTURE

- murals/paintings at storm drains
- detention ponds
- rainwater collection systems

“Rain Yard”

Philadelphia, PA

Artist: Stacy Levy

Budget: \$75,000

Rain Yard shows every part of the rain’s journey. Blue spiraling gutters carry rainwater from a major roof drain into the rain garden and allow it to pour over native plants below. There, the water can slowly soak into the soil providing moisture to the plants. In dry weather, the piece can be activated by pumping collected rainwater from a cistern into a gutter and hoses to experiment with water and how it filters over a variety of surfaces sampled in galvanized troughs: concrete, asphalt, gravel, lawn and meadow. This piece is built for human and weather interaction.



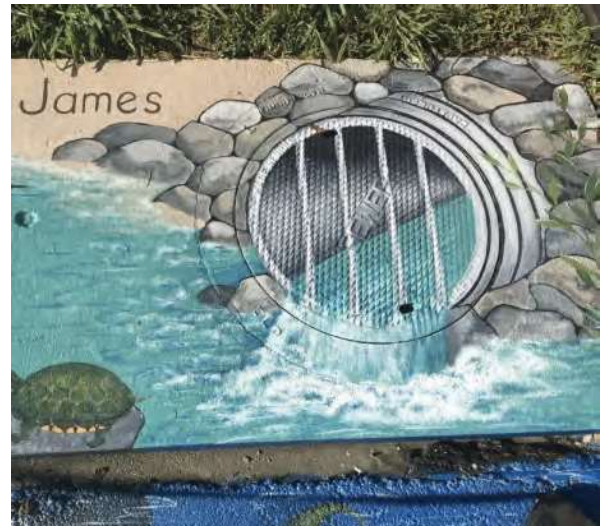
"Storm Art Drain Project"

Richmond, VA

Artist: various

Budget: \$400 to each artist selected, at locations around the city

Rain Yard shows every part of the rain's journey. Blue spiraling gutters carry rainwater from a major roof drain into the rain garden and allow it to pour over native plants below. There, the water can slowly soak into the soil providing moisture to the plants. In dry weather, the piece can be activated by pumping collected rainwater from a cistern into a gutter and hoses to experiment with water and how it filters over a variety of surfaces sampled in galvanized troughs: concrete, asphalt, gravel, lawn and meadow. This piece is built for human and weather interaction.



Indigenous peoples and lands

Fifteen miles west of Grand Rapids lies the edge of the Leech Lake Band of Ojibwe Reservation. The region has a long Ojibwe history and public art could amplify and highlight the culture, voices, and stories of Native Americans - past, present, and future. Additionally, Native artists should lead public art projects throughout the city. Many signs around town have Anishinaabe language on them, and projects such as this could continue to strengthen the connections between Grand Rapids and the Ojibwe.

Science and ingenuity

This is a theme that has come up in several conversations I've had with stakeholders across the city. The name of the City itself comes from its location on the Mississippi River, which has been an important part of the city's history in logging and paper milling. As part of the Iron Range, Grand Rapids has also been involved in utilizing innovative techniques in mining, forestry, and water technologies. This theme could be utilized to highlight a variety of points of Grand Rapids' history and future, as well as in the artwork itself [e.g. movable sculptures, interactive artworks using sensors, audience activated works].

Pride in place

What makes Grand Rapids great? How does it feel to live, work, and play here? How does someone know that they belong? A sense of belonging leads to having pride in the place where one lives, which then leads to happiness. Public art can celebrate what it means to live in Grand Rapids, highlight assets of the community, city, and region, and promote physical and emotional connections between people and place.

Natural resources

As noted when entering Grand Rapids, "It's in Minnesota's Nature". The city is surrounded by water. It sits on the edge of the Mississippi River, near the headwaters. There are a number of lakes in the region that attract tourists year long, and there are several lakes within city limits. Grand Rapids is also a gateway to Minnesota State Parks and Forests, as well as the Chippewa National Forest. This theme could be utilized to reconnect people to the Mississippi River where it has previously not been possible, create heightened awareness about where water comes from, and where it goes, highlight resources as the materials for artworks, as subject matter for murals and mosaics, and in wayfinding projects.

Public health

In addition to the natural resources providing economic opportunity, they additionally create

THEMES

Over the course of the year, Forecast engaged with a number of community members, asking what is important to them and where they see Grand Rapids going in the future. The themes below came out of those conversations.

opportunities for a healthier community. Public art can function as a powerful catalyst for improved mental and physical health. It can be utilized to motivate people further along a biking or walking trail, offer a place for contemplation and reflection, or promote tourism and create economic opportunities for artists in the region.

Social cohesion

The GRMN Creates document points out some challenges that the city faces - racial tensions, geographic disconnections, and economic disparities. These are real challenges that require innovative solutions. Public art can bring people together around an issue and create civic dialogue. A sculpture can create opportunities for people to interact with one another. An artist designed bench can create a place for people to sit and get to know one another. Murals, light, and sound artworks can tell a diverse range of stories and promote social cohesion.

Regional hub/resource center

Grand Rapids is the largest city in Itasca County, as well as the County Seat. It has a plethora of arts and cultural organizations and institutions, a community college, rural public radio station, a counseling center, hospital, and much more [these are denoted in more detail in GRMN Creates]. Public art can be used as a strategy to highlight resources available in Grand Rapids, and how people can benefit from them. This could happen through a series of street banners showing outcomes from resources, or it could bring people together around a shared interest in collaboration with one of the local cultural organizations.

Intergenerational activity and connections

Public art can create connections between different generations and provide opportunities for all ages to interact through easily accessible opportunities. This could be a sculpture that has sensors which plays music, and is activated by people passing through [whether by walking, or in a wheelchair, or another form of movement]. Or it could be different generations coming together to tell each other's stories through photography, music, or story gathering, which could become a storefront display or featured on banners around the city.

Neighborhood identity

Public art can highlight the unique identities of the neighborhoods throughout Grand Rapids. What are the characteristics of each neighborhood that can be displayed? How would someone know which neighborhood they are in when driving through Grand Rapids? This could take the form of street banners, entry gateways, or branded wayfinding elements throughout neighborhoods within the city.

SITE DESIGN CONSIDERATIONS WORKSHEET

Site Name:

Address:

Site Owner Name + Contact:

Site Manager Name + Contact:

Description of Site [i.e. open surface parking lot; brick wall; etc.]:

Check all that are currently available at the site, and write any notes to describe further:

- Access to electricity
- Access to water
- Flat ground
- Cover from inclement weather
- Access to public toilets
- Garbage/recycling
- Parking
- ADA compliance
- Lighting
- Wifi/cell service
- Flat wall
- Seating
- High visibility/usage
- Other?

NOTES:

SAMPLE RFQ



GRAND RAPIDS, MN

CALL FOR ARTISTS

Water Themed Sculptures
Public Art Opportunity

Request for Qualifications

About Grand Rapids

Grand Rapids is a unique blend of small town hospitality and character with big city conveniences and opportunities. Grand Rapids offers an excellent quality of life to residents of the region with outstanding educational opportunities, excellent medical care, exceptional cultural, natural, and recreational amenities, and an unequalled sense of community spirit. Grand Rapids provides residents safe, friendly, affordable housing and inclusive neighborhoods that retain and enhance nature in the City. Residents and visitors can move around the City with equal ease by car, bicycle, walking, or other mode of transportation. Grand Rapids welcomes and supports a diverse mix of thriving businesses and industry that provide quality jobs, promising careers, and economic vitality. Grand Rapids is a welcoming gateway to Minnesota's Northwoods tourism.

Grand Rapids, MN, population 10,869 (U.S. Census Bureau 2010), is located on the banks of the Mississippi and is the Itasca County seat. It's situated among 1,000 lakes in northeastern Minnesota. A small city known for, logging, regional services, the arts, and its Native American and settler cultures — Grand Rapids is a place of many narratives. Grand Rapids is predominately white (96.5%), with Native American (3.1%), Latino (1.2%), Black (1.1%), and Asian (.9%) racial and ethnic minorities (U.S. Census Bureau 2010). Fifteen miles west of Grand Rapids lies the edge of the Leech Lake Band of Ojibwe Reservation, and Native Americans are also the largest racial/ethnic minority in Itasca County (4.9%). The City's name hails from its 3.5-mile stretch of rapids (now replaced by a dam from the UPM Blandin Paper mill). Whereas much of the "Iron Range" region historically focused on mining, Grand Rapids emerged as a

logging town. The Mississippi provided an optimal means of shipping logs to southern population centers. The hydropower generated by the rapids attracted UPM Blandin's predecessor in 1902.

Grand Rapids Arts + Culture Commission

The City Council established the Arts and Culture Commission in 2013. It currently functions as a volunteer commission, reporting to City Council, with nine members and a city staff liaison. Commissioners are selected by Council and serve a three-year term. The Grand Rapids Arts and Culture Commission envisions a community inspired by the power of its abundant arts and culture. They believe:

- the arts pave the way to a welcoming environment for all regardless of age, race, ethnic origin, gender and sexual orientation
- arts and culture combined with recreational opportunities define Grand Rapids as a regional creative destination for relocation, shopping, tourism and entertainment
- the arts contribute to health and well-being by creating aesthetically pleasing places to walk, bicycle, hike and play
- engagement in the arts helps vulnerable populations build confidence, cope with stress and aid with healing
- carefully planned and artistic street design contributes to a vibrant downtown and accommodates all modes of transportation helping to make movement accessible to all
- the beauty of the natural environment of the Mississippi River, lakes and forests is a defining and valued characteristic of our community
- accessible, quality arts educational opportunities cradle through career and on through retirement, are essential to the development of a creative community
- communities with robust arts and culture are more prosperous and attract large and small businesses, reward entrepreneurship, and provide meaningful careers to residents

Water-Themed Sculpture Project

The Arts + Culture Commission received a Downtown Business Corridor Grant from the MN Department of Iron Range Resources and Rehabilitation to create a highly visible and creative project that creates excitement, encourages citizen engagement, and generates visible improvements. The A+C Commission projects will consist of three water-themed sculptures, and one mural with a theme that considers the natural environment. **This Request for Qualifications is for the three water-themed sculptures.**

Water plays a critical role in the community's quality of life—from the Mississippi River, to the many lakes in the region—it is an important factor in public health and safety to recreation and beauty. In addition, it is important to honor the significance that water has had for our region's diverse communities and, in particular, critical for Ojibwe and Dakota people, who understand that "water is life". Knowing what a watershed is, where our water comes from and goes to,

and how we can each play a role in preserving its function and value is important, but rarely understood.

The Commission would like to use this public art initiative to raise awareness of the many water resources to Grand Rapids, and everyday actions citizens and businesses can take to improve water quality in these resources.

One artist will be commissioned to create three sculptures which will be sited throughout the city [see following pages for location maps].

Please see the following pages for more information regarding the project.

Request for Qualifications (RFQ)

The Grand Rapids Arts and Culture Commission is facilitating the design and creation of water-themed sculptures to be located throughout the city. Artists are hereby invited to submit qualifications to be considered to participate in the design phase for the public art opportunities described below.

The Arts and Culture Commission will review eligible applications and select a group of up to three finalists/finalist teams to invite to Grand Rapids for an in-person interview. Each artist/team will receive a stipend of \$750 to cover fees associated with design and travel to in-person interviews. Further information will be provided to the finalists.

Upon completion of an in-person interview, one artist/artist team will be commissioned to develop, fabricate, and install three permanent artworks. Additional requirements will be outlined in instructions to finalists. Please see the following timeline for further details.

Budget: \$30,000

The budget for all three sculptures is \$30,000. The selected artist/team can determine the budget for each artwork, as long as the total for all expenses does not exceed this amount (must include all fees, materials, transportation, installation, storage, permits, and insurance). More information about the sites will be made available to the selected artist[s].

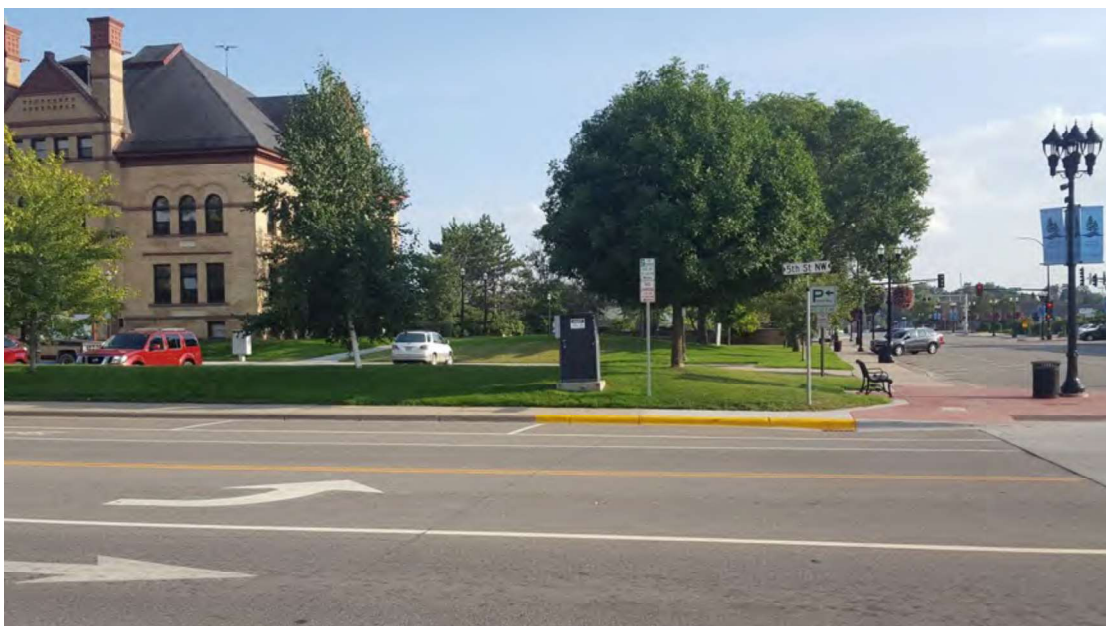
Site Information

Sculptures will be located at three pre-selected sites in Downtown Grand Rapids.

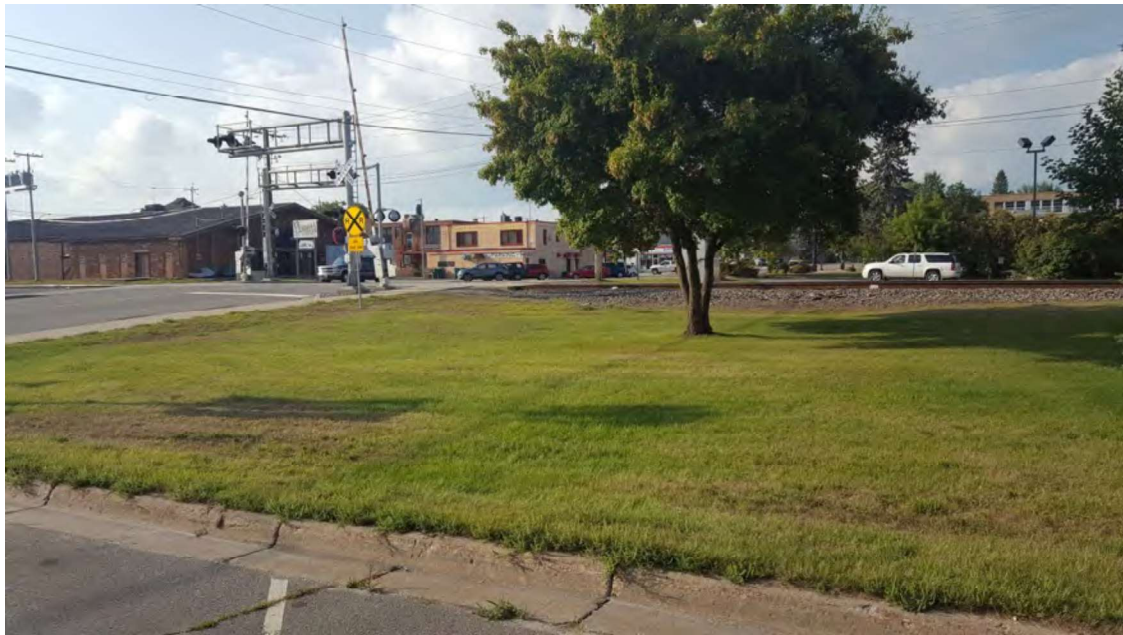
Location 1: the NE corner of NW 3rd Ave and NE 5th St.



Location 2: the SE corner of NW 1st Ave and NE 5th St.



Location 3: NE corner of NE 1st Avenue and Itasca Street



Selection Criteria

Phase 1: Selection of artist/designers will be based on the following criteria:

- Quality of letter.
- Quality of work samples.
- Ability of artist/team to successfully complete projects based on bio and prior work experience.

Phase 2: Design concepts must meet the following criteria:

- Design concepts are engaging, interactive in some way, and evoke curiosity of passers-by either through color, movement, material, whimsicality, or other considerations.
- Artworks highlight where water comes from, either physically or spiritually, and consider natural processes in some way.
- Artworks are considerate of all seasons in MN, are considered safe and low maintenance, and consider lighting.
- The three artworks act as a series, and tell a story together. One sculpture will be of a larger scale than the other two.
- Artworks convey artistic excellence and innovation.

Additional considerations:

- Art should be welcoming, accessible and appropriate to the site.
- Artists should address how they would work with the Arts and Culture Commission to engage the community in some way.
- Artist must be willing to work with an early-career artist.

Eligibility

- Applicants must be experienced visual artists or artist-led teams residing in the state of Minnesota, with special preference given to artists from Northern MN.
- Applicant must provide evidence of producing at least two commissioned public art projects of a similar scale and budget within the past ten years.

We are committed to a policy of providing opportunities to people regardless of economic or social status and will not discriminate on the basis of race, color, ethnic origin, national origin, creed, religion, political belief, sex, sexual orientation, marital status, age, veteran status, or physical ability.

Selection Process Overview

The Arts and Culture Commission will review applications and select artists or teams to

participate in the design phase. Each artist/team will be paid a stipend of \$750 to prepare design concepts. Deliverables include graphic depictions of the proposed artwork and a brief narrative description. Artists/teams will have approximately **six weeks** to prepare preliminary concepts, including the presentations to the Arts and Culture Commission.

Schedule

- October 3, 2018 – RFQ announced
- October 29, 2018 – Deadline for RFQ submission; all required materials must be received by 4PM CST.
- November 6, 2018 – Committee review and selection of 3 finalists
- November 26, 2018 – City Council approves contracts with selected artists/teams for preliminary designs
- January 8, 2019 – Preliminary design concepts presented to Arts + Culture Commission
- January 28, 2019 – City Council approves final contract with selected artist or team. Commence design development.
- April 2019: Based on approval of final design, artist/team commences with fabrication
- October 2019: projects installed/project completion

Required Submission Materials (in digital format only)

Please provide the following text in 12-point font, in a single PDF document:

- Contact information for lead artist and, if applicable, all team members
- Three references (contact information only) for recently completed projects
- One-page letter describing interest in project and approach to design; please include statement addressing eligibility criteria
- One-page listing of each work sample; please provide a brief description and budget for each work sample
- One-page biographical information or resume; if you have multiple team members, please keep biographical information for each team member to one page
- Work Samples: Up to 10 digital images of your recent and relevant projects. Individuals and teams are limited to 10 images maximum. Save all images as standard JPEG and label each with applicant's full name and number in sequence corresponding with list of work samples.

NOTE: Do not submit a proposal for artworks at this time.

Please submit all RFQ materials via email to: tpagel@ci.grand-rapids.mn.us. All materials must be received by **4 p.m., CST, Monday, October 29, 2018**. No RFQs will be accepted after this time. If you need clarification or further information, contact Tom Pagel, City Administrator at: tpagel@ci.grand-rapids.mn.us or 218.326.7626

SAMPLE ARTIST COMMISSIONING CONTRACT

This contract from Americans for the Arts includes annotations for each section, to explain certain elements and their purpose in the document.

[LONG FORM] AGREEMENT FOR COMMISSION OF PUBLIC ART WORK [PRIVATE — NON-AGENCY]

THIS AGREEMENT, is entered into this ____ day of _____, 20____, by and between [name of commissioning private entity], [state of incorporation if corporate entity], (hereinafter the “Owner”) with offices at _____ and [artist’s name or artist’s name d.b.a. business name] (hereinafter, “Artist”) with offices at _____.

WHEREAS, the Owner requires the services of an artist to create a work of art (hereinafter the “Artwork” in a public space located at _____ (hereinafter the “Site”); and

WHEREAS, the Artist is a professional artist whose work and qualifications make the Artist uniquely qualified to create the Artwork;

WHEREAS, the Owner has selected the Artist based upon the Artist’s work and qualifications; and

WHEREAS, the Artist and the Owner wish to perform under the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the above-stated premises and subject to the conditions hereinafter set forth, the parties agree as follows:

- a. “Agency” shall mean (whichever department or city agency is mandating the requirement such as Los Angeles Redevelopment Agency, San Francisco Department of City Planning, etc.)
- b. “Artist” shall mean: NAME. Where there is more than one Artist, all Artists shall be referred to collectively as “Artist.” If Artist is comprised of two or more individual persons or entities, each individual person or entity shall be jointly and severally responsible for satisfying Artist’s obligations under this Agreement, and each individual person or entity shall be liable for the acts and omissions of every other individual person or entity comprising Artist.
- c. “Artwork” shall mean the work of art designed by Artist for the Site under the terms of this Agreement, as described and defined in Artist Proposal, to be attached as Appendix A upon completion of Phase I, Conceptual Design, of the Services to be Provided by Artist.

Article 1 Scope of Services

1.1 Artist’s Obligations

- a. The Artist shall perform all services and furnish [all supplies, material and/or work equipment (specify if not all)] as necessary for the design, fabrication, transportation and installation of the Artwork. Services shall be performed in a professional manner and in strict compliance with all terms and conditions in this Agreement.
- b. The Artist shall determine the artistic expression, design, dimensions and materials of the Artwork, subject to review and acceptance by the Owner and any regulatory agencies with project oversight, as set forth in this Agreement. The Artist will do so in a manner that ensures that the Artwork as installed shall not interfere with the intended use of the Site, pedestrian and other traffic flow, parking, safety devices and procedures, and other needs and functions of the site as defined by Owner and/or ordinance prior to the development of a design by the Artist

- c. The Artist shall prepare the design concept described in Section 1.3 of this Agreement.
- d. The Artist shall complete the fabrication, transportation and installation of the Artwork by the scheduled dates as provided in Section 1.4(b)(i) of this Agreement.
- e. The Artist shall secure any and all required licenses, permits and similar legal authorizations at the Artist's expense as may be necessary for the installation of the Artwork at the Site.
- f. The Artist shall arrange for the transportation and installation of the Artwork in coordination with Owner. If the Artist does not install the Artwork himself, Artist shall supervise and approve the installation. Prior to the installation of the Artwork, Artist shall inspect site to ensure that it is ready to accept the artwork and compliant with the specifications provided by the Artist. Artist shall notify Owner of any perceived conflict, defect or non-compliance with specifications. All work shall be performed by qualified professionals and by licensed contractors as required by law.
- g. Artist shall provide required insurance in amounts and limits specified in Article 5 and Exhibit C.
- h. Artist shall provide a list of all subcontractors along with a copy of the agreement between the Artist and each subcontractor.
- i. Artist shall provide a maintenance manual with a description of all materials, processes and products utilized in the Artwork and the required care and upkeep involved, as well as recommended procedures in the event of necessary conservation.
- j. Artist shall provide a set of "as built" drawings if there is significant deviation from approved and permitted construction documents.
- k. Artist shall provide photographic documentation of the Artwork in a format acceptable to Artist and Owner.
- l. Artist shall be available with reasonable advance notice for a reasonable number of meetings required to coordinate design and project implementation, ceremonies and the like, as necessary.

1.2 Owner's Obligations

- a. The Owner shall perform all obligations in strict compliance with all terms and conditions in this Agreement.
- b. The Owner shall be responsible for providing the Artist, at no expense to the Artist, copies of existing designs, drawings, reports, list of required permits, and other existing relevant data, if any, which is needed by Artist in order to perform.
- c. The Owner shall be responsible for compliance with all applicable laws and regulations, including but not limited to zoning or environmental regulations, and prior to Artist's development of design, shall provide to the artist in writing an explanation of any specific limitations imposed by such laws and/or regulations that may impact the Artwork including the policies, guidelines and approvals required by regulatory or oversight agencies such as a cultural affairs office.
- d. The Owner shall prepare the Site in accordance with the specifications detailed in the approved design concept in Section 1.3 of this Agreement. The Owner shall be responsible for [all expenses, labor and equipment (specify if not all)] to prepare the Site for the timely transportation and installation of the Artwork. The Owner shall complete the Site preparations by the scheduled installation date as provided in Section 1.4(b)(i) of this Agreement or shall contact the Artist in writing informing him or her of any delays.
- e. The Owner shall provide and install a plaque on or near the Artwork containing a credit to the Artist and a copyright notice substantially in the following form: Copyright © [Artist's name, date of publication]. If the plaque is to be placed on the Artwork or Artwork pedestal, it should be done in consultation with the Artist.
- f. The Owner shall not permit any use of the Artist's name or misuse of the Artwork which would reflect discredit on the Artist's reputation as an artist or which would violate the spirit of the Artwork, should such use or misuse be within the Owner's control.

Discussion

The roles of the Artist, Owner and any agents, (such as architects, structural engineers or general contractors) should be defined in detail. The traditional role of the Artist is that of a designer, fabricator, installer, and supervisor.

This Agreement assumes that the Artist will furnish the materials and will arrange the transportation and installation of the Artwork. The nature of a particular agreement may define different obligations. For example, the Parties may arrange that the general contractor for the project fabricate and install the Artwork under the Artist's supervision.

For major construction projects, the Parties will likely require the services of architects, engineers, general contractors or landscape architects. This agreement should specify whether the Owner or the Artist engages such experts, and the obligations of such experts should be specified in a separate Agreement.

Under Section 1.2(d), the Owner is responsible for preparation of the Site and all costs associated therewith. However some of these costs may be included in the budget described in Section 1.4(a) of this Agreement. The Parties should clearly state the duties and costs each assumes in relation to the Site preparation.

This Agreement assumes that the Artist will comply with the applicable laws and regulations, once advised by the Owner as to what is required and that the Artist will secure the required licenses, permits and similar legal authorizations. As the Owner is more likely to be familiar with such requirements, the Owner should advise the Artist regarding such matters and should verify with the permitting authority exactly what permits and or legal authorizations will be required. The artist may not have familiarity with the laws and regulations of the City and ultimately because it is private property, the Owner would be responsible. The Parties may instead arrange for a third party agent familiar with the process to research the laws and secure the required permits.

1.3 Design

a. Concept/Schematic

- i. The Artist submitted a design concept/schematic (the "Design") which was selected and approved by the Owner. The Design shall be attached to this Agreement as Exhibit A.

b. Approval

- i. Within [] days after the execution of this agreement, the Owner shall notify the Artist if Owner requires any revisions to the Design in order to comply with any applicable laws, ordinances and/or regulations or for other reasons including, but not limited to, ensuring the physical integrity of the Artwork or its installation at the Site. If agreed upon by both parties, such revisions will become a part of the Design.

c. Final Design

- i. Upon approval of the schematic design by Owner, Artist is authorized to proceed with Final Design which shall include the following: presentation quality materials, which shall include colored drawings or computer-generated color images (in plan and elevation) and/or 3-dimensional models that accurately reflect the Artwork and how it will be installed at the Site, mock-ups, final color and materials samples, proposed fabrication methods, feasibility studies and final cost estimates at design completion. When used in reference to the proposed Artwork, Final Design Documents shall fix and describe the size and character of the Artwork with respect to its relationship to the Site, including architectural, structural, mechanical and electrical systems, materials and other elements as may be appropriate.

d. Final/Construction Documents

- i. Artist shall submit Construction Documents for construction and/or installation of the proposed Artwork as approved, which must be signed and stamped by design professionals licensed in the State of California, as required by the California Uniform Building Code and any local government amendments to the Building Code.
- ii. Artist shall deliver Marquette (computer model or otherwise as agreed to by both parties) and color and material samples.
- iii. Artist shall review Architect's Design Development and/or Construction Documents for accuracy of the integration of Artist's Proposal within the Site and provide the Owner

- with written comments and/or corrections.
- iv. Artist shall provide a detailed description of future maintenance requirements for the Artwork. The Artist shall present the Design to a qualified conservator, who will make recommendations on the maintenance of the Artwork, and the Artist shall provide a written copy of the conservator's recommendations to the Owner. The conservator's report will indicate future maintenance and conservation needs and anticipated costs and may reflect issues such as the longevity of the materials used and the life span of the project. (see below)
 - v. Artist shall deliver a schedule describing Artist's specific timelines for completing the Artwork.

OR

a. Concept/Schematic

- i. The Artist shall visit, examine, research and consider the Site and surrounding area. If applicable, the Artist shall also consult with representatives of the community and collaborate with the project design team to consider their input and concerns.
- ii. Within[] days of the execution of this Agreement the Artist shall submit to the Owner the design concept (the "Design") in the form of [detailed color drawings, models, and/or other documents] as are required to present a meaningful representation of the Artwork.
- iii. The Conceptual Design: The Proposal at Conceptual Design shall include:
 1. Drawings (in plan and elevation) and/or 3-dimensional models, proposed materials and samples, colors, finishes, textures and patinas, the specific location and orientation of the Artwork relative to the site and a written description of the Artwork in sufficient detail that Artist's design intent is clearly expressed.
 2. Budget for the cost of design, fabrication, insurance, transportation and installation of the Artwork with documentation of the sources and/or assumptions upon which the Budget figures are based regardless of whether these services are provided by Artist, Artist's subcontractors or by third parties under a separate agreement. Budget shall also reflect the costs associated with any onsite project manager or staff to ensure that Artwork operates properly as installed at the Site.

b. Owner Approval

- i. Within [____] days after the Artist submits the Design, the Owner shall notify the Artist whether it approves or disapproves of the Design. The Owner shall have discretion in approving outright or with conditions, or rejecting the Design. The Owner shall notify the Artist of any revisions to the Design as are necessary for the Artwork to comply with any applicable laws, ordinances and/or regulations and other reasons including, but not limited to, ensuring the physical integrity of the Artwork or its installation at the Site. If agreed upon by both parties, such revisions will become a part of the accepted Design.
- ii. If the Owner disapproves of the Design, the Owner will submit to the Artist in writing the reasons for such disapproval. In such event, the Artist will submit a Revised Design within [____] days after the Owner has notified the Artist of its disapproval. The Artist [will] [will not] be paid an additional fee for the Revised Design.
- iii. The Revised Design will reflect changes made to address the Owner's stated reasons for disapproval, as well as any adjustments in the budget or schedule that may be necessary. The Owner shall notify the Artist in writing whether it approves or disapproves of the revised Design within [____] days after the Artist submits the revised design.
- iv. If the Artist refuses to revise the Design pursuant to Section 1.3(b)(ii), or if the Artist fails to adequately revise the Design in the judgment of the Owner, this Agreement shall terminate and the parties shall be under no further obligation to each other as of the date of such termination. The effective date of termination shall be the date the Owner submits its written disapproval of the Revised Design to the Artist. The Owner shall submit to the Artist a written termination notice with the disapproval. The termination notice shall

advise the Artist that this Agreement has been terminated pursuant to this Article. The termination notice shall notify the Artist that the Artist is entitled to retain the compensation paid prior to the termination date, and that the Parties are under no further obligation to each other. The termination notice shall confirm that the Artist shall retain ownership of all Designs, Revised Designs and renderings thereof submitted hereunder.

c. Design Revision or Modification

- i. Prior to the execution of any change in the approved design, Artist shall present proposed changes in writing to the Owner for further review and approval. The Artist must provide a detailed description of any significant changes in the artistic expression, design, dimensions and materials of the Artwork that is not permitted by nor in substantial conformity with the already approved design. Such notice will also include a detailed description of any additional costs that may be incurred or changes in the budget. A significant change is any change which materially affects installation, scheduling, site preparation or maintenance of the Artwork or the concept of the Artwork as represented in the Design.
- ii. If the Owner approves the changes, the Owner shall promptly [] notify the Artist in writing.
- iii. If the Owner disapproves of the changes, the Owner shall promptly notify the Artist in writing and the Artist shall continue to fabricate the Artwork in substantial conformity with the Design.
- iv. The Artist's fee shall be equitably adjusted for any increase or decrease in the Artist's cost of, or time required for, performance of any services under this Agreement as a result of revisions made to the Design under Section 1.6(a). Any claim of the Artist for adjustment under this paragraph must be asserted in writing within ___ days after the date of the revision by the Artist. These additional costs should be indicated at time proposed changes are submitted

Discussion

Paragraph c (i) acknowledges that the artwork may evolve as the design progresses or may need to be modified in response to changes to the site or architectural design.

Any change to the accepted proposal must be documented in writing and submitted to the Owner for review and approval.

The Artist should retain any receipts, invoices, a journal, or other documents illustrating any additional expense incurred as a result of the revisions. The date of the revision should be defined clearly.

d. Design Development Documents

- i) Design Development Materials and Documents shall incorporate the further development and refinement of the Proposal. Budget and Maintenance Report developed under Conceptual Design.
- ii) Design Development shall include presentation quality materials, which shall include colored drawings or computer-generated color images (in plan and elevation) and/or 3-dimensional models that accurately reflect the Artwork and how it will be installed at the Site, mock-ups, final color and materials samples, proposed fabrication methods, feasibility studies and final written cost estimates from fabricators, suppliers and other sub-contractors at design completion. When used in reference to the proposed Artwork, Design Development Documents shall fix and describe the size and character of the Artwork with respect to its relationship to the Site, including architectural, structural, mechanical and electrical systems, materials and other elements as may be appropriate. The Design must provide sufficient detail to permit the Owner to ensure compliance with applicable local, state or federal laws, ordinances and/or regulations
- iii) Artist and Artist's structural engineer and fabricator shall review all Design Development

drawings, materials and documents for consistency and constructability, and report any engineering, structural concerns, or constructability concerns to the Owner. Modifications to the design necessitated by this review shall be submitted and approved by the Owner prior to beginning the production of Construction Documents and incorporated therein

- iv) Maintenance Plan. At the time Artist submits Artist's design for review by the Owner and as part of the Design Development Documents, Artist shall provide the Owner with a General Maintenance Plan for the Artwork, with a detailed description of future anticipated maintenance requirements; a recommended maintenance schedule; anticipated and required care and/or replacement/upgrade of any part of the Artwork and associated moving parts or equipment including any staff time involved in displaying or operating artwork and the frequency of such staff involvement; and written instructions and manufacturer's specifications for reasonably foreseeable maintenance and preservation activities relating to the Artwork. Artist shall also provide Owner with a description of all equipment and or machinery needed to operate the project (if applicable) and any anticipated or required staffing, supervision or operational needs. The Artwork must be durable, taking into consideration that the Site may be an unsecured public space that may be exposed to elements such as weather, temperature variation, and considerable movement of people and equipment. Artist shall ensure that all maintenance requirements will be reasonable in terms of time and expense. The Artist shall be responsible for making any updates or clarifications to this Maintenance Plan if the maintenance requirements and estimates change over the course of the design, fabrication and/or installation of the Artwork.

e. Final/Construction Documents:

- i. Construction Documents for construction and/or installation of the proposed Artwork as approved, which must be signed and stamped by design professionals licensed in the State of _____. These drawings and supplementary documents shall indicate any issues or coordination involved in the construction, integration and _____ operation of the artwork as well as any third party subcontractors needed to work on the project. If the design contains lighting, media and/or or purchased forms of hardware, computers or software programs that are an intrinsic aspect of the artwork, each must be identified
- ii. Artist shall deliver Mock-ups and Samples, as required by Owner
- iii. Artist shall review Architect's Design Development and/or Construction Documents for accuracy of the integration of Artist's Proposal within the Site and provide the Owner and Architect with written comments and/or corrections.
- iv. Where appropriate, the Artist shall present the Design to a qualified conservator, who will make recommendations on the maintenance of the Artwork and the Artist shall provide a written copy of the conservator's recommendations to the Owner. The conservator's report will indicate future maintenance and conservation needs and anticipated costs and may reflect issues such as the longevity of the materials used
- v. Artist shall deliver a schedule describing Artist's specific timelines for completing the Artwork.

Discussion

In the Design or Revised Design, the Artist addresses structural considerations, surface integrity, permanence, and protection against theft and vandalism. If the Artwork is designed to be site-specific, the Artist should also include in the description any part of the surrounding area or site which is to be considered part of the Artwork.

The Owner will require that any structural drawings be certified by a qualified engineer, licensed by the state and paid by the Artist as part of the design cost, stating that the Artwork will be of adequate structural

integrity (including foundation loads, wind loads, and potential live loads). Such drawings will conform to all applicable federal, state and local laws and regulations. Drawings must comply with standards as defined by permitting authorities as required or be redesigned and resubmitted at no additional cost to the Owner,

1.4 Budget, Payment and Deliverables Schedule

a. Budget

- i. The Artist shall prepare a budget, which shall include all goods, services and materials with such costs itemized. The Budget shall be attached to this Agreement as Exhibit B.
- ii. Budget shall mean a specific and detailed document identifying the cost of completion of all work under this Agreement, including all modifications. The Budget shall include the costs for all design fees and costs; preliminary and final engineering requirements; materials and labor for fabrication, including Artist and subcontractors' costs; consultants, including engineers and specifications writers; transportation of Artwork; installation of Artwork, including any necessary permits; permits and licenses; required insurance; any sales tax; and a 5% to 10% contingency allowance. Calculation of the budget will take into consideration the possible inflation of service and material costs between the date of execution of this Agreement and the anticipated completion date.
- iii. If the Artist incurs costs in excess of the amount listed in the budget, the Artist shall pay such excess from the Artist's own funds unless the Artist obtains approval in writing for such additional costs from the Owner (or such costs were the result of actions or inaction of the Owner).
- iv. Payment Schedule
- v. Artist's completion milestones and payment schedule is as set forth in Exhibit C, Payment Schedule, which is incorporated herein by reference

Discussion

The budget includes itemized costs for the artist's creative resources and specific design(s), materials, the applicable sales tax for such materials; off-site fabrication costs; the Artist's time for coordination, fabrication, supervision of the installation; fees for required licenses, permits, and similar legal authorizations; fees for the labor of assistants; itemized general contractor and subcontractor fees if applicable; consultants' or experts' fees (such as engineers, architects or others) if applicable; insurance; Artist's travel; transportation of the Artwork to Site; itemized installation costs; any applicable local, state or federal taxes; and a [x]% contingency to cover unforeseen costs that may arise. The contract should identify a formula for dispersing sums in the event that there are unused monies from the contingency allocation. Also there should be consideration for money for coordination with the general contractor if the project is being incorporated into new construction. Who will pay for such? Usually this comes out of the art budget if the Owner has not explicitly agreed to cover these costs. The cost of Contractor coordination should be included as a line item

This is not an exhaustive list of expenses to be included in the budget. There may be other costs depending on the nature of the project. The artist should obtain written cost estimates for all of the components of the project in order to develop a comprehensive and realistic budget and to ascertain that the project is feasible within the confines of the budget. It is likely that the project architect and contractor may not want to have any liability for incorrectly advising the artist about potential costs. In addition, the artist should include a 10% contingency in the event of problems, changes or other unanticipated costs. The project architect/contractor, if there is one, should advise the Artist on the possible range of some of the costs as well as vendor sources and costs for displaying the Artwork such as framing, lighting, footing, pedestals, seismic retrofitting, extended warranties on media components or mechanical devices. Although the budget is usually a fixed amount, it is necessary to itemize the expenses so that both the Owner and any pertinent regulatory agencies can be assured the money is being appropriately and responsibly spent and that all required costs can be covered within the limitations of the art project budget.

The Artist may be tempted to reflect conservative cost estimates in the budget, but cost overruns may be

incurred by the Artist, leaving the Artist with little to no profit, or even worse debt. Written cost estimates from fabricators and suppliers are essential to avoid this situation.

The Owner has a role in budgeting as well, including the negotiation of construction credits from the Site's budget to the Artist's budget. This budgeting function is particularly important for projects which are integrated into the construction documents and/or can be considered as value-added enhancements above and beyond standard landscape and/or structural elements. If the construction budget for the Site increases, the Owner should be responsible for negotiating whether or not the budget for the Artwork increases as well in accordance with applicable government policy mandates..

1.5 Schedule and Progress Reports

- a. The Artist shall notify the Owner of the anticipated schedule for the fabrication, transportation and installation of the Artwork, including a schedule for the submission of progress reports and inspections if any required by Owner or permitting agency . The Schedule may be amended by written agreement. The Schedule of Deliverables must identify a specific date or timeframe for the completion of the Artwork. This Schedule of Deliverables is included as Appendix C.
- b. The Artist shall inform the client of the progress of each phase of work completed under the Agreement.

The schedule should clearly state dates by which each stage, duty, or service under this Agreement ought to be completed. For example, the Artist may indicate that the Artwork will be completed by week 50 after the execution of this Agreement and that inspection for final approval of the Artwork must occur by week 51. The schedule binds both Parties, but may be adjusted upon the reasonable request of one of the Parties and the written agreement of the other. Any changes to schedules or deliverables should be documented in writing

Other parties involved in the project (such as general contractor or an architect), if any, should also receive copies of the schedule. As construction of the Site progresses, periodic coordination meetings should take place among contractor, Artist and Owner. The Parties should be required to provide a minimum of 30 days written notice of any changes to the schedule.

1.6 Fabrication Stage

- a. The Artist shall fabricate [and install] the Artwork in substantial conformity with the Design. The Artist may not deviate from the approved design without written approval of the Owner.
- b. If the Artwork is being constructed on site, the Artist shall avoid creating nuisance conditions arising out of the Artist's operations.
- c. The Owner shall have the right to review the Artwork at reasonable times during the fabrication thereof upon reasonable notice.
- d. If the Owner, upon review of the Artwork, determines that the Artwork does not conform to the approved Final Design, the Owner reserves the right to notify the Artist in writing of the deficiencies and that the Owner intends to withhold the next budget installment within [____] days of the determination as in paragraph (g) below.
- e. The Artist will have thirty days to cure the Owner's objections and will notify the Owner in writing of completion of the cure. The Owner shall promptly review the Artwork, and upon approval shall release the next budget installment. If the Artist disputes the Owner's determination that the Artwork does not conform, the Artist shall promptly submit reasons in writing to the Owner within [____] days of the Owner's prior notification to the contrary. The Owner shall make reasonable efforts to resolve the dispute with the Artist in good faith. However, final determination as to whether the Artist has complied with the terms of this Agreement shall remain with the Owner.
- f. The Artist shall notify the Owner in writing when fabrication of the Artwork has been completed, and that the Artwork is ready for delivery and installation at the Site if the Artwork was fabricated off-site.
- g. Prior to the transportation and installation of the Artwork, the Owner shall inspect the Artwork

within [] days after receiving notification pursuant to paragraph (f) to determine that the Artwork conforms with the Final Design: give final approval of the fabricated Artwork and; authorize the installation of the Artwork at the site. The Owner shall not unreasonably withhold final approval of the fabricated Artwork. In the event that the Owner does withhold final approval, the Owner shall submit the reasons for such disapproval in writing within [] days of examining the fabricated Artwork. The Artist shall then have [] days from the date of the Owner's notice of the disapproval to make the necessary adjustments to the fabricated Artwork in accordance with such writing. The Artist shall not be penalized for any delay in the delivery and installation of the Artwork to the Site unless the Artist has willfully and substantially deviated from the Design without the prior approval of the Owner. The Artist shall then be held responsible for any expenses incurred in correcting such deviation.

- h. The Owner shall promptly notify the Artist of any delays impacting installation of the Artwork. Any additional storage and insurance costs incurred by the Artist shall be borne by the Owner in the event that the delay is the caused by the Owner.
- i. The Artist shall be required to inspect the Site prior to the transportation and installation of the Artwork and shall notify the Owner of any adverse Site conditions that will impact the installation of the Artwork and which are in need of correction. Failure to do so by the Artist shall be deemed as an acceptance of the Site conditions.
- j. The Artist shall take reasonable measures to protect or preserve the integrity of the Artwork with the application of a protective sealant, patina or anti-graffiti coating, if applicable, unless the Owner specifically disapproves of such.

Discussion

Paragraph (h) is easily understood when delays are caused by acts of the Owner and/or Owner ' Agents. When delays are caused by third parties, i.e. unexpected street widening or sewer repair undertaken by local government, the costs of delay should be born by the Owner which is in a better position to negotiate with public agencies and would be in contact with them.

1.7 Installation

- a. Upon the Owner's final approval of the fabricated Artwork as being in conformity with the Design, the Artist shall deliver [and install] the completed Artwork to the Site in accordance with the schedule provided for in Section 1.4(b).
- b. The Artist will coordinate closely with the Owner to ascertain that the Site is prepared to receive the Artwork. Artist must notify Owner of any adverse conditions at the Site that would effect or impede the installation of the Artwork.
- c. The Artist is responsible for timely installation of the Artwork. Artist may not install the Artwork until authorized to do so by the Owner.
- d. The Artist shall be present to supervise the installation of the Artwork.
- e. Upon installation, the Artwork shall be deemed to be in the custody of the Owner for purposes of Article 3 and Article 5 of this Agreement; the Owner assumes liability for any damage to the Artwork or injury to persons or property caused by the Artwork or any activity related to the Artwork.
- f. Upon completion of the installation of the Artwork, the Artist shall provide the Owner with written instructions for the future maintenance and preservation of the Artwork. The Owner is responsible for the proper care and maintenance of the Artwork.

Discussion

Section 1.7 identifies the Party responsible for the installation. The duties and obligations of the Parties should be clearly defined.

Section 1.7(e) should only be included in this Agreement if the Artist arranges for the transportation

and installation of the Artwork as during this time the Artwork will be in the custody of the Artist. If the Owner arranges and pays for the installation, the Owner will already have custody of the Artwork prior to installation. However, even if the Owner arranges for the transportation and installation of the Artwork, the Artist should be on Site to supervise the installation to ensure proper installation in conformity with the Design. If the Artist is a member of a design team and the Artwork is constructed on the Site, the Artist's role in Site supervision, construction and installation should be described in detail and included as a contractual requirement.

The period of maintenance under Section 1.7(f) is assumed to be the life of the Artwork. However, the anticipated longevity of the Artwork may be negotiated by the Parties. For example, the Owner may require a specific lifespan or duration for the art project. The Parties may agree that the period of maintenance for the Artwork be the same as that of the project. As artists begin to use more innovative materials and techniques which have not yet been tested by time, the Parties may wish to negotiate a specified period of time for maintenance of the Artwork, such as the life of the building project, after which the Owner has the right to relocate, transfer, or destroy the Artwork. Consider also consulting legal advice regarding the federal regulation VARA (Visual Artist's Rights Act) or other state or local policies or regulations on copyright and ownership.

1.8 Approval and Acceptance

- a. The Artist shall notify the Owner in writing when all services as required of both Parties by this Agreement prior to this paragraph have been completed in substantial conformity with the Design and contract documents.
- b. The Owner shall promptly notify the Artist in writing of its final acceptance of the Artwork within [] days after the Artist submitted written notice pursuant to paragraph (a) above. The effective date of final acceptance shall be the date the Owner submits written notice to the Artist of its final acceptance of the Artwork. The final acceptance shall be understood to mean that the Owner acknowledges completion of the Artwork in substantial conformity with the Design, and that the Owner confirms that all services as required of both Parties by this Agreement prior to paragraph (c) of this section have been completed. Title to the Artwork to the Owner passes upon final acceptance of the Artwork and final payment by Owner to Artist. If a regulatory agency must approve the completed artwork, the Owner should move promptly to gain such approval as it will be a precondition to the Owner's ability to accept and approve the finished artwork from the Artist.
- c. If the Owner disputes that all the services have been performed, the Owner shall notify the Artist in writing of those services the Artist has failed to perform within [] days after the Artist submitted written notice pursuant to paragraph (a) above. The Artist shall promptly perform those services indicated by the Owner.
- d. If the Artist disputes the Owner's determination that not all services have been performed, the Artist shall submit reasons in writing to the Owner within [] days of the Owner's prior notification to the contrary. The Owner shall make reasonable efforts to resolve the dispute with the Artist in good faith. However, final determination as to whether all services have been performed shall remain with the Owner.
- e. Upon the resolution of any disputes that arise under paragraphs (c) and (d) of this Section, the Owner shall notify the Artist of its final acceptance of the Artwork pursuant to paragraph (b).

Discussion

The services to be completed prior to final acceptance are the Article 1 Obligations. It is important to resolve all disputes prior to the transfer of ownership of the Artwork from the Artist to the Owner upon Owner's final acceptance of the installed artwork. Upon transfer of ownership, Owner assumes responsibility for the insurance and maintenance of the Artwork and will be obligated to maintain the Artwork in accordance with the Artist's specifications and the applicable conservation standards as described in Section 5.2 of this Agreement. It should be noted that while the Artwork may be in custody of the Owner, title to the Artwork does not transfer to the Owner until the Owner has given final approval pursuant to Section 1.8 and made final payment to Artist

pursuant to Exhibit B

Article 2. Terms of Agreement

a. Duration

i. This Agreement shall be effective on the date that this contract has been signed by both parties, and, unless terminated earlier pursuant to such provisions in the Agreement, shall extend until final acceptance by the Owner under Section 1.8(b), or submission of final payment to the Artist by the Owner under Exhibit B, whichever is later. Extension of time of performance hereunder may be granted upon the request of one party and the consent of the other thereto, which consent shall not be unreasonably withheld. Such extension shall be in writing, signed by both parties, and attached to the schedule described in Section 1.4(b)(i).

b. Force Majeure

i. The Owner shall grant to the Artist a reasonable extension of time in the event that conditions beyond the Artist's control render timely performance of the Artist's services impossible or unduly burdensome. All such performance obligations shall be suspended for the duration of the condition. Both parties shall take all reasonable steps during the existence of the condition to assure performance of their contractual obligations when the condition no longer exists. Failure to fulfill contractual obligations due to conditions beyond either Party's reasonable control will not be considered a breach of contract, provided that such obligations shall be suspended only for the duration of such conditions.

Discussion

The Parties may negotiate for an extension of the term of the Agreement upon mutual consent. The Agreement acknowledges that Force Majeure refers to conditions beyond the reasonable control of the Artist are natural disasters, labor strikes and war. These examples are merely suggestive, and not to be deemed exclusive.

Article 3. Risk of Loss

The Artist shall bear the risk of loss or damage to the Artwork until the installation of the Artwork. The Artist shall take such measures as are reasonably necessary to protect the Artwork from loss or damage. The Owner shall bear the risk of loss or damage to the Artwork prior to final acceptance only if, during such time, the partially or wholly completed Artwork is in the custody, control or supervision of the Owner or its agent(s) for the purposes of transporting, storing, installing or performing other services to the Artwork.

Discussion

It is customary for the Artist to bear the risk of loss as any services performed on or in relation to the Artwork are performed by the Artist or under the Artist's supervision. This means that the Artist is responsible for damage to the artwork, loss of artwork due to theft or accident or any other damage or loss that may occur prior to the transportation and installation of the artwork at the site. To protect against Risk of Loss, the artist may be required to obtain either Fine Arts Insurance or Risk of Loss Insurance in an amount equal to the value of the artwork. The Artist may also self insure by proving that he or she has the assets to assume full financial liability for the replacement and or re-creation of the artwork in the event of loss or damage. The Parties may agree that the Owner bear the risk of loss or damage to the Artwork prior to final acceptance if the partially or wholly completed Artwork is in the custody, control or supervision of the Owner or its agent(s) for the purposes of storing, installing on-site or performing other services to the Artwork.

Article 4 Artist's Representations and Warranties

4.1 Warranties of Title

The Artist represents and warrants that:

- a. the Artwork is solely the result of the artistic effort of the Artist;
- b. except as otherwise disclosed in writing to the Owner, the Artwork is unique and original and does not infringe upon any copyright or the rights of any person;
- c. the Artwork (or duplicate thereof) has not been accepted for sale elsewhere;
- d. the Artist has not sold, assigned, transferred, licensed, granted, encumbered or utilized the Artwork or any element thereof or any copyright related thereto which may affect or impair the rights granted pursuant to this Agreement;
- e. the Artwork is free and clear of any liens from any source whatsoever;
- f. all Artwork created by the Artist under this Agreement, whether created by the Artist alone or in collaboration with others shall be wholly original with the Artist and shall not infringe upon or violate the rights of any third party;
- g. the Artist has the full power to enter into and perform this Agreement and to make the grant of rights contained in this Agreement;
- h. all services performed hereunder shall be performed in accordance with all applicable laws, regulations, ordinances, etc. and with all necessary care, skill, and diligence;
- i. these representations and warranties shall survive the termination or other extinction of this Agreement.

1.1 Warranties of Quality and Condition

- a. The Artist represents and warrants that all work will be performed in accordance with professional “workmanlike” standards and free from defective or inferior materials and workmanship (including any defects consisting of “inherent vice,” or qualities that cause or accelerate deterioration of the Artwork) for year after the date of final acceptance by the Owner under Section 1.8(b).
- b. The Artist represents and warrants that the Artwork and the materials used are not currently known to be harmful to public health and safety.
- c. The Artist represents and warrants that reasonable maintenance of the Artwork will not require procedures substantially in excess of those described in the maintenance and preservation recommendations submitted by the Artist pursuant to Section 1.7(f).
- d. If within [one] year the Owner observes any breach of warranty described in this Section 4.2, the Artist shall cure the breach promptly, satisfactorily and consistent with professional conservation standards, at no expense to the Owner. The Owner shall give notice to the Artist of such breach with reasonable promptness. However, if Artist did not disclose this risk of breach in the Proposal and Maintenance and Conservation manual, and if breach is not curable by Artist, the Artist is responsible for reimbursing the Owner for damages, expense and loss incurred by the Owner as a result of the breach of warranty. However, if the Artist disclosed the risk of this breach in the Proposal and maintenance and conservation manual and the Owner accepted that it may occur, as indicated by the written final acceptance of the artwork, it shall not be deemed a breach for purposes of this Section 4.2 of this Agreement.
- e. If after [(one)] year the Owner observes any breach of warranty described in this Section 4.2 that is curable by the Artist, the Owner shall contact the Artist to make or supervise repairs or restorations at a reasonable fee during the Artist’s lifetime. The Artist shall have the right of first refusal to make or supervise repairs or restorations. Should the Artist be unavailable or unwilling to accept reasonable compensation under the industry standard, the Owner may seek the services of a qualified restorative conservator and maintenance expert.
- f. The foregoing warranties are conditional, and shall be voided by the failure of the Owner to maintain the Artwork in accordance with the Artist’s specifications and the applicable conservation standards. If the Owner fails to maintain the Artwork in good condition, the Artist, in addition to other rights or remedies the Artist may have in equity or at law, shall have the right

to disown the Artwork as the Artist's creation and request that all credits be removed from the Artwork and reproductions thereof until the Artwork's condition is satisfactorily repaired.

Discussion

Although a one year warranty is still the accepted standard in the field, many government agencies are starting to require a longer period of warranty. The length of the warranty should take into account the nature of the Artwork, the type of materials and methods used with respect to the Artwork, the conservation record of similar Artworks in similar environments, the period of time during which defects are likely to manifest themselves, the cost of the Artwork and the potential liability involved. Artists will require fabricators to assume warranty responsibility for their work this will impact the artist's ability to offer a specific length of warranty to the Owner. New and experimental materials and technologies present special challenges as there may not be a history of performance of many years. Owners commissioning work that involves new and experimental materials and technologies may wish to consider establishing a long-term maintenance budget using a portion of the project budget as an endowment.

The Artist's aesthetic choices and goals might be at odds with the Owner's concerns over maintenance and conservation of the Artwork. For example, the materials or equipment that the Artist chooses may be untested or unproven, or might not age in a traditional way. Thus, the Artist should provide a written disclosure of factors that may be at odds with the conservation goals in the Proposal, so that the Owner can make an informed evaluation of the impact of the Artist's choices on the standard warranties. The Owner may also wish to consult with an independent expert to evaluate the materials and techniques used in the Artwork prior to acceptance. It is particularly important for the Owner to do this in light of varying environmental conditions which may affect materials differently and possibly more adversely under some conditions than others.

Most standard fine arts insurance policies will not cover damage or loss of value sustained as a result of a defect or inherent vice in an Artwork. Defects in design and materials can result in a decrease or total loss in value of the Artwork, expenses for conservation of the Artwork to rectify defects, and even liability for personal injury.

Insurance policies will also not cover normal "wear and tear" costs on an Artwork, which are considered continuing expenses of upkeep undertaken in conservation and maintenance. Thus, the Owner should keep in mind any extraordinary conservation procedures or high-cost maintenance factors.

Article 5 Insurance

1.1 General

- a. The Artist acknowledges that until installation of the Artwork under Section 1.7(e), any injury to property or persons caused by the Artist's Artwork or any damage to, theft of, vandalism to, or acts of God affecting the Artist's Artwork are the sole responsibility of the Artist, including, but not limited to, any loss occurring during the creation, storage, transportation or delivery of the Artist's Artwork, regardless of where such loss occurs.
- b. Terms for the procurement and duration of insurance are provided in Exhibit C.
- c. Required insurance policies are described in Exhibit C.

1.2 Indemnity

- a. The Artist shall indemnify the Owner, its respective officers, agents, and employees, from any claims brought arising out of the breach of this Agreement or any negligent occurrence which occurs pursuant to the performance of this Agreement by the Artist, its subcontractors, agents or employees.
- b. The Owner shall indemnify the Artist, Artist's subcontractors, agents or employees from any claims brought arising out of the breach of this Agreement or any negligent occurrence which occurs pursuant to the performance of this Agreement by the Owner, its respective officers, agents, and employees.
- c. Each Party shall immediately notify the other of any written claim regarding any matter result-

ing from or relating to the Party's obligations under this Agreement. Each Party shall cooperate, assist, and consult with the other in the defense or investigation of any such claim arising out of or relating to the performance of this Agreement.

- d. [The indemnification shall include reasonable attorneys' fees and costs.]
- e. This indemnification shall survive the termination or expiration of this Agreement.
- f. Notwithstanding any provision of this Agreement to the contrary, no Party shall recover from a Party to this Agreement in an action, of whatever nature, in contract or tort, any consequential or incidental damages, lost profits, or any type of expectancy damages.

Discussion

Please note that the Parties under this Agreement have a mutual duty of indemnification. A Suitable compromise, if the Owner insists on broad indemnification, may be for the Artist to agree to indemnify the Owner only in the instance of an adverse judgment and/or for the Artist's liability to not exceed the limits of the liability of the insurance policies required to be maintained by the Artist under this Agreement.

Article 6 Ownership and Intellectual Property Rights

1.1 Title

Title to the Artwork shall pass to the Owner upon the Owner's written final acceptance and payment for the Artwork pursuant to Section 1.8(b) and Exhibit B.

Discussion

Should the artwork be commissioned under a mandatory obligation to a public agency, the Owner may withhold final acceptance and payment until the Agency give its approval.

1.2 Ownership of Documents

One set of presentation materials prepared by Artist and submitted to Owner under this Agreement shall be retained by Owner.

1.3 Copyright Ownership

The Artist retains all rights under the Copyright Act of 1976, 17 U.S.C. §101 et seq., as the sole author of the Artwork for the duration of the copyright.

Discussion

The duration of copyright in the United States is currently the life of the Author plus 70 years.

1.4 Reproduction Rights

- a. In view of the intention that the final Artwork shall be unique, the Artist shall not make any additional exact duplicate [three]-dimensional reproductions of the final Artwork, nor shall the Artist grant permission to others to do so except with the written permission of the Owner. However, nothing shall prevent the Artist from creating works in the Artist's manner and style of artistic expression.
- b. The Artist grants to the Owner and its assignees an irrevocable license to make two-dimensional reproduction of the Artwork for non-commercial purposes, including, but not limited to, reproductions used in brochures, media publicity, and exhibition catalogues or other similar publication provided that these rights are exercised in a tasteful and professional manner.
- c. All reproductions by the Owner shall contain a credit to the Artist and a copyright notice in substantially the following form: © [Artist's name, date of publication].
- d. The Artist shall use his best efforts in any public showing or resume use of reproductions to give acknowledgment to the Owner in substantially the following form: "An original artwork owned and commissioned by the Owner."

- e. The Artist shall, at the Artist's expense, cause to be registered with the United States Register of Copyrights, a copyright in the Artwork in the Artist's name.
- f. If the Owner wished to make reproductions of the Artwork for commercial purposes including, but not limited to, tee shirts, post cards and posters, the Parties shall execute a separate agreement to address the terms of the license granted by the Artist and the royalty the Artist shall receive.

Discussion

Section 6.4 protects the Owner's legitimate interest in acquiring a unique work of art by the Artist. It prevents the artist reproducing identical artworks for others and permits the Owner to reproduce images of the Artwork for noncommercial purposes. At the same time, the artist has the right to create future artworks that include the style, form, "feel," and themes embodied in the Artwork.

Copyright is a property right that can be negotiated between the Parties. If the Owner expects to own the copyright, this should be subject to reasonable compensation for any assignment of right(s). The Artist should, at minimum, retain an irrevocable license to reproduce and display the Artwork in two-dimensional mediums and for incorporation into his portfolio or for exhibitions, [and perhaps also a license to create derivative artworks.]

Additional examples of non-commercial two-dimensional reproductions are reproductions in art, architecture and trade association publications.

Should the state in which the Artwork is located have a resale royalty provision in state law (as in California for instance) the Owner is obligated to determine the appropriate royalty, if any in accordance with state law. If Owner sells the Artwork as a fixture to real property, and if the resale value of the Artwork is not itemized separately from the value of the real property, the parties agree that the resale price of the Artwork shall be presumed to be less than the purchase price paid by Owner. Thus, Owner has no obligation to pay resale royalties pursuant to California Civil Code §986 or any other law requiring the payment of resale royalties. If Owner sells the Artwork as an individual piece, separate from or itemized as part of a real property transaction, Owner shall pay to Artist a resale royalty to the extent required by California Civil Code §986, based upon the sale price of the Artwork.

Article 7 Artist's Rights

1.1 General

- a. The Artist retains all rights under state and federal laws including §106A of the Copyright Act of 1976.
- b. The Owner agrees that it will not intentionally alter, modify, change, destroy or damage the Artwork without first obtaining permission from the Artist. The Owner further agrees to take reasonable measures to avoid these from occurring from the gross negligence of the Owner, its representatives, or employees pursuant to the federal Visual Artists' Rights Act.
- c. If any alteration or damage to the Artwork occurs, the Artist shall have the right to disclaim authorship of the Artwork in addition to any remedies he/she may have in law or equity under this contract. Upon written request, the Owner shall remove the identification plaque and all attributive references to the Artist at its own expense within [] days of receipt of the notice. No provision of this Agreement shall obligate the Owner to alter or remove any such attributive reference printed or published prior to the Owner's receipt of such notice. The Artist may take such other action as the Artist may choose in order to disavow the Artwork

Discussion

The protections afforded by the Visual Artists' Rights Act apply to discrete art objects. The applicability of the Visual Artists' Rights Act to object that are integrated into the Site is determined of a case-by-case basis. The Visual Artists' Rights Act states:

“The author of an Artwork of visual art shall have the right:

- 1. to claim authorship of that Artwork, and to prevent the use of his or her name as the author of any Artwork of visual art which he or she did not create.*
- 2. to prevent the use of his or her name as the author of the Artwork of visual art in the event of a distortion, mutilation, or other modification of the Artwork which would be prejudicial to his or her honor or reputation; and*
- 3. to prevent any intentional distortion, mutilation, or other modification of that Artwork which would be prejudicial to his or her honor or reputation, and any intentional distortion, mutilation or modification of that Artwork is a violation of that right; and to prevent any destruction of a work of recognized stature, and any intentional or grossly negligent destruction of that Artwork is a violation of that right.”*

Individual States may have also passed legislation independent of the Visual Artists’ Rights Act to protect the rights of visual artists. For example:

The New York Authorship Rights Act states:

“No person other than the artist or a person acting with the artist’s consent shall knowingly display in a place accessible to the public or publish a work of fine art or limited edition multiple of not more than 300 copies by that artist or a reproduction thereof in an altered, defaced, mutilated or modified form if the work is displayed, published, or reproduced as being the work of the artist, or under circumstances which would reasonably be regarded as being the work of the artist, and damage to the artist’s reputation is reasonably likely to result therefrom.”

The California Art Preservation Act prohibits intentional “physical defacement, mutilation, alteration or destruction of a work of fine art.”

In addition, if the work is to be installed, attached or incorporated within a structure, the parties should determine at the outset whether it is considered a part of the building or a separate work of art. Generally, works that are part of a building can be photographed (or otherwise represented) by third parties such as commercial photographers, film companies, and the like, without copyright violation, whereas separate works require the copyright owner’s permission to reproduce. In either case, where the artist retains the copyright, the Owner should require a broad license to reproduce the work.

1.2 Alteration of Site or Removal of Artwork

- a. The Owner shall notify the Artist of any proposed significant alteration of the Site that would affect the intended character and appearance of the Artwork. The Owner shall consult with the Artist in the planning and execution of any such alteration. The Owner shall make a reasonable effort to maintain the integrity of the Artwork.
- b. The Owner agrees not to arbitrarily remove or relocate the Artwork without first obtaining the Artist’s express permission to do so. The Artist shall not unreasonably withhold approval of removal or relocation of the Artwork. Should the Artist agree to such removal or relocation of the Artwork, the Artist shall provide the Owner with written handling instructions. In the event that the Artist is deceased or unable to otherwise give his consent, the then current owner of the copyright of the Artwork shall not unreasonably withhold permission, keeping in mind the intentions of the Artist at the time of commission and fabrication.

OR

- a. The Owner shall notify the Artist in writing upon [adoption of a plan of construction or alteration of the Site] which would entail removal or relocation of the Artwork which might result in the Artwork being destroyed, distorted or modified. The Artist shall be granted the right of consultation regarding the removal or relocation of the Artwork. If the Artwork cannot be successfully

removed or relocated as determined by the Owner, the Artist may disavow the Artwork or have the Artwork returned to him at his expense.

- b. The Artwork may be removed or relocated or destroyed by the Owner should the Artist and the Owner not reach mutual agreement on the removal or relocation of the Artwork after a period not to exceed [90] days after written notice to the Artist. During the [90] day period, the parties shall engage in good faith negotiations concerning the Artwork's removal or relocation.
- c. In the event of changes in building codes or zoning laws or regulations that cause the Artwork to be in conflict with such codes, laws or regulations, the Owner may authorize the removal or relocation of the Artwork without the Artist's prior permission. In the alternative, the Owner may commission the Artist by a separate agreement to make any necessary changes to the Artwork to render it in conformity with such codes, laws or regulations.
- d. If the Owner reasonably determines that the Artwork presents an imminent hazard to the public, other than as a result of the Owner's failure to maintain the Artwork as required under this Agreement, the Owner may authorize the removal of the Artwork without the prior approval of the Artist.
- e. This clause is intended to replace and substitute for the rights of the Artist under the Visual Artists' Rights Act to the extent that any portion of this Agreement is in direct conflict with those rights. The Parties acknowledge that this Agreement supersedes that law to the extent that this Agreement is in direct conflict therewith.

Discussion

Section 7.2 takes into consideration that the Artwork is site-specific. Site-specific means that the Artist designed the Artwork specifically to be displayed at a particular Site and only that Site. The meaning of the Artwork is directly tied into the Site. A change in location of the Artwork may alter its meaning as imagined by the Artist or alter the Artist's statement as imbued in the Artwork or the work may be so integrally built as part of the site that to remove or alter the work is to destroy it.

The alternative paragraphs (a) and (b) of this section take into consideration that the Owner may insist on an unencumbered right to remove, relocate or destroy the Artwork to ensure that any current or future construction at the Site is not hindered.

Article 8 Artist as an Independent Contractor

The Artist agrees to perform all work under this Agreement as an independent contractor and not as an employee of the Owner. The Artist acknowledges and agrees that the Artist shall not hold himself out as an authorized agent of the Owner with the power to bind in any manner.

The Artist shall provide the Owner with the Artist's Tax Identification number and any proof of such number as requested by the Owner.

Article 9 Assignment of Artwork

The work and services required of the Artist are personal and shall not be assigned, sublet or transferred. Any attempt by the Artist to assign this Agreement or any rights, duties or obligations arising hereunder shall be void and of no effect unless prior written consent is given by the Owner. The Owner shall have the right to assign or transfer any and all of the Owner's rights and obligations under this Agreement, subject to the Artist's consent, if ownership of the Site is transferred; if the Artist refuses to give consent, this Agreement shall terminate.

Article 10 Termination

- a. Either Party may terminate this Agreement without recourse by the other where performance is rendered impossible or impracticable for reasons beyond such Party's reasonable control such as, but not limited to, acts of nature; war or warlike operation; superior governmental regulation

or control; public emergence; or strike or other labor disturbances. Notice of termination of this Agreement shall be given to the non-terminating party in writing not less than ____ days prior to the effective date of termination.

- b. The Owner may terminate this Agreement without cause upon [60] days written notice to the Artist. The Owner shall pay the Artist for services performed and commitments made prior to the date of the termination, consistent with the schedule of payments set forth in Exhibit B of this Agreement. The Artist shall have the right to an equitable adjustment in the fee for services performed and expenses incurred beyond those for which the Artist has been compensated to date under Exhibit B with allowance for documented lost opportunities, unless the parties come to a settlement otherwise. The Artist shall retain possession and title to the [studies, drawing, designs, maquettes, and models] already prepared and submitted or prepared for submission to the Owner by the Artist under this Agreement prior to the date of termination.
- c. If either party to this agreement shall willfully or negligently fail to fulfill in a timely and proper manner, or otherwise violate any of the covenants, agreements or stipulations material to this Agreement, the other party shall thereupon have the right to terminate this Agreement by giving written notice to the defaulting party of its intent to terminate specifying the grounds for termination. The defaulting party shall have ____ days after the effective date of the notice to cure the default. If it is not cured by that time, this Agreement shall terminate.
- d. If the Artist defaults [for cause other than death or incapacitation], the Artist shall return to the Owner all funds provided by the Owner in excess of the expenses already incurred. The Artist shall provide an accounting of these expenses. All finished and unfinished drawings, sketches, photographs and other work products prepared and submitted or prepared for submission by the Artist under this Agreement shall be retained by the Artist. [The Owner [shall] retain the right to have the Artwork fabricated or executed.] However, the Artist shall retain the copyright in the Artwork and all rights under Article 7 and Article 8.
- e. Upon notice of termination, the Artist and his subcontractors shall cease all services affected.

Discussion

Failure of the Owner to an installment payment to Artist constitutes a violation of this Agreement in accordance with paragraph (e) of Article 10.

The Artist should keep accurate up to date records of track time spent and expenses incurred in performance of this Agreement in the event that a dispute arises as to the amount of compensation due to the Artist in the event of termination.

Article 11 Death or Incapacity

- a. If the Artist becomes unable to complete this Agreement due to death or incapacity, such death or incapacity will not be deemed a breach of this Agreement or a default on the part of the Artist for purposes of Article 10.
- b. In the event of incapacity, the Artist shall assign his obligations and services under this contract to another artist provided that the Owner approves of the new artist and so agrees in writing. If the Owner does not agree, the Owner may elect to terminate this Agreement. The Artist shall retain all rights under Article 6 and Article 7. The Artwork and any reproductions thereof shall contain a credit to the Artist and a copyright notice in substantially the following form: © [Artist's name, date of publication].
- c. In the event of death, this Agreement shall terminate effective the date of death. The Artist's heirs shall retain rights under Article 6 and Article 7. [The Artist's executor shall deliver to the Owner the Artwork in whatever form or degree of completion it may be in at the time. Title to the Artwork shall then transfer to the Owner. However, the Artwork shall not be represented to be the completed work of the Artist unless the Owner is otherwise directed by the Artist's heirs.]

Article 12 Notices and Documents

Notices under this Agreement shall be delivered personally or through the [registered or certified mail, return receipt requested] mail, postage prepaid, to the addresses stated below, or to any other address as may be noticed by a Party:

For the Owner:

For the Artist:

Notice shall be deemed effective on the date personally delivered or, if mailed, [three (3) days] after the postmarked date.

Article 13 Waiver

The Parties agree that a waiver of any breach or violation of any term or condition of this Agreement shall not be deemed to be a waiver of any other term or condition contained herein or a waiver of any subsequent breach or violation of the same or any other term or condition.

Article 14 Conflict of Interest

The Artist and Owner shall avoid all conflicts of interest or appearance of conflicts of interest in the performance of this Agreement.

Article 15 Arbitration

If, during the creation of the Artwork, its installation and subsequent existence, either Party breaches this Agreement, each Party agrees to submit to arbitration upon the request of the other Party provided that the breach is not cured within a reasonable time under paragraph (c) of Article 11.

If an ambiguity arises regarding this Agreement upon which the Parties cannot agree or a dispute arises as to the completion of a provision, the Parties shall submit to arbitration.

[Notwithstanding any provision of this Agreement to the contrary, any damage award to a party on account of a Party's breach of this Agreement, with the exception of the Artist's duty under Article 6 to procure and maintain insurance, shall not exceed an amount equal to the sum of the payment in Exhibit B.]

Each party agrees to be responsible for its own attorney's fees except as otherwise provided by statute.

Discussion

Arbitration is a type of alternative dispute resolution that may be undertaken in lieu of filing an action in court. An advantage may be that it is less time consuming than a lawsuit, however, there are drawbacks that must be considered. The fees associated with arbitration can potentially be more than the filing fee of a lawsuit. Arbitration decisions are often binding and final whereas a lawsuit judgment can be appealed.

There are also alternative dispute mechanisms, such as mediation, in which a third party aids in negotiating a settlement (as opposed to delivering a judgment as in arbitration or a lawsuit).

Article 16 Amendments

No alteration, change or modification of the terms of this Agreement shall be valid unless made in writing and signed by both Parties hereto.

Article 17 Conflict with the Law

If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or

circumstance, shall be held by a court of competent jurisdiction or arbitration panel to be in conflict with the laws, rules and/or regulations of the United States or the State of _____, invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of this Agreement, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby to the extent the remainder of the terms, covenants, conditions or provisions of this Agreement are capable of execution.

Discussion

The Parties should also keep in mind that laws of any jurisdiction do evolve and change. While this is unlikely to happen during the duration of this Agreement, those provisions which survive the termination or expiration of this Agreement may be affected or become in conflict with the current law(s). In ability of one of the Parties to comply with one of the provisions of this Agreement due to a change in the law should not be considered a breach of that provision of this Agreement.

Article 18 Choice of Law

This contract shall be governed by the laws of the State of _____ both as to interpretation and performance.

Discussion

This provision is important because artists and owners are often from different States, and States can have very different laws governing the provisions of a particular contract which may be more or less favorable to one party or the other.

Conditions for choice of law include: where the agreement was made, where most of the performance of the agreement occurred, who had bargaining power, if there is a governing contract provision, etc

Article 19 Entire Agreement

This Agreement, including the exhibits, comprises all of the covenants, promises, agreements and conditions between the Parties. No verbal agreements or conversation between the Parties prior to the execution of this Agreement shall affect or modify any of the terms or obligation.

For Owner:

Name

Title

Date

For Artist:

Name

Title

Date

Exhibit A

Description of Project

Exhibit B

Budget and Payment Schedule

The Owner shall pay the Artist a fixed fee of \$ _____, which shall constitute full and complete compensation for all the services performed and material furnished by the Artist under this Agreement. Payment shall be made in accordance with the following scheduled installments, each installment representing full and final payment for all services and material provided prior to payment thereof:

- a. \$ _____ upon the execution of this Agreement, [recognizing that the Artist will invest time and expense in preparing the Design as set forth under Section 1.3;
- b. \$ _____ upon submission of the Design as set forth under Section 1.3
- c. \$ _____ upon the Owner's notification to the Artist of its approval of the Design as set forth under Section 1.3]; alternately, upon permitting of construction documentation since there's not a required owner approval of final drawings in 1.3
- d. \$ _____ upon commencement of fabrication
- e. \$ _____ upon completion of 50% of the fabrication
- f. \$ _____ upon completion of the fabrication and when the Artwork is ready for delivery and installation at the Site as set forth under Section 1.5(f);
- g. \$ _____ upon delivery by Artist to the Owner of Maintenance Manual with written instructions for the maintenance and preservation of the Artwork under Section 1.7(e)
- h. \$ _____ upon final acceptance of the Artwork by the Owner as set forth under Section 1.8(b) and approval by the regulatory agency.

Discussion

The installment payments can also be expressed as a percentage of the total contract amount. The Artist will submit an invoice for each milestone completed.

The Owner will make payment within 30 days upon receipt of invoice from Artist. This takes into consideration that the Owner may desire time to inspect and approve of goods and services; unless the bid specification, purchase order, or contract specifies otherwise. The imposition of an interest penalty may be desired to ensure that the Owner promptly conducts whatever inspection is desired and processes the payment. A sample interest provision is: "If payment of an installment has not been made to the Artist within _____ days of the stated date of payment for each respective installment without cause, a separate interest penalty of [.03333]% per day will be due and payable, in addition to the invoice amount, to the Artist. Interest penalties of less than \$1 will not be enforced."

Exhibit C

Insurance

General

- a. The Artist shall procure and maintain for the duration of this Agreement, at the Artist's expense, insurance in the kinds and amounts as provided in this Exhibit with insurance companies authorized to do business in [name of city or state]. Such insurance shall cover the Artist's agents, contractors, subcontractors or employees. The Owner, its officials, employees, agents and contractors shall be named as additional insureds. The coverage shall contain no special limitations on the scope of protection afforded to the Owner, its officials, employees, agents and contractors.
- b. The Artist and the Artist's subcontractors' insurance coverage shall be the primary insurance as respects the Owner, its officials, employees, agents and contractors. Any insurance or self-insurance maintained by the Owner, its officials, employees, agents and contractors shall be in excess of the Artist's or the Artist's subcontractor's insurance and shall not contribute to the Artist's or the Artist's subcontractor's insurance. The coverage shall state that the Artist's or the Artist's subcontractors' insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- c. Prior to undertaking any work under this Agreement, the Artist, at no expense to the Owner, shall furnish to the Owner a certificate of insurance with original endorsements affecting coverage for each of the insurance policies provided in this Exhibit. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates must be current and the Artist must submit replacement or renewal certificates of insurance for all the policies expiring during the term of this Agreement. Each certificate shall clearly indicate that the Artist has obtained insurance in the type, amount and classification as specified in this Exhibit and that no material changes, cancellation, suspension or reduction in limits of insurance shall be effective except after [30] days prior written notice to the Owner. Each certificate shall indicate that the subcontractors are additionally insured or the Artist shall furnish separate certificates for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated in this Agreement, including, but not limited to, naming the parties as additional insureds.
- d. Any deductibles or self-insured retentions must be declared to, and approved by, the Owner. At the option of the Owner, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Owner, its officials, employees, agents and contractors; or the Artist shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in the amount of \$[_____].
- e. Despite any changes to or cancellation of insurance, the Artist remains responsible for maintaining the required insurance coverage for the duration of the Agreement.
- f. Failure of the Artist to comply with any of the terms of this Article 6 shall be considered a material breach of this Agreement and cause for its immediate termination.

Insurance Policies

- a. Commercial General Liability insurance policy, written on an occurrence form, including all the usual coverage known as:
 1. premises/operations liability
 2. products/completed operations
 3. personal/advertising injury
 4. contractual liability
 5. [broad-form property damage]
 6. [independent contractor's liability]

Said policy must provide the following minimum coverage:

1. \$[1,000,000] combined single limit per occurrence for bodily injury, personal injury and property damage.
 2. \$[1,000,000] annual aggregate
- b. Automobile liability insurance policy, including coverage for owner, non-owner, leased or hired vehicles, providing the following minimum coverage:
1. bodily injury liability of \$[50,000] for each person,
 2. \$[300,000] per occurrence,
 3. property damage liability of \$[25,000] for each occurrence.

The Artist agrees to keep in good standing a valid driver's license at all times during the term of this Agreement.

- c. [Transportation/Cartage insurance all risk. Coverage must include loading, transportation and unloading of the Artwork. If the Artwork is to be loaded, transported or unloaded by a person or entity other than the Artist, the insurance coverage must cover that person or entity. The minimum limit shall be the total amount of compensation paid to Artist through the date of loading under Exhibit B.]
- d. [All Risk Installation insurance which covers physical damage to or destruction of the Artwork. If the Artwork is to be installed by a person or entity other than the Artist, the insurance coverage must cover that person or entity. The minimum limit shall be the total amount of compensation paid to the Artist through the date of the beginning of the installation of the Artwork under Exhibit B.]
- e. [Worker's Compensation and Employers' Liability insurance in accordance with the statutory requirements of the State of _____ providing coverage for any and all employees of Artist. The Artist shall require all subcontractors to carry this coverage also. The minimum coverage for the Worker's Compensation and Employers' Liability insurance shall be \$[100,000].
- f. If, however, the Artist does not have any employees as defined by state statutes and regulations and does not wish to cover himself for Worker's Compensation, the Artist shall sign the following statement:

[“I do not have, nor intend to have for the full term of this Agreement, any _____ employees. Furthermore, I do not wish to obtain or be covered under any _____ Worker's Compensation insurance coverage and, therefore, am signing this _____ statement in lieu of providing the above require Worker's Compensation _____ coverage.”]

(Artist's signature)

(Print Artist's name)]

The requirement for Worker's Compensation and Employers' Liability insurance shall be waived in writing upon submission of this signed statement by the Artist to the Owner.

- g. Artist will be responsible for obtaining Professional Errors and Omissions coverage for services provided by licensed engineers and architects with a general aggregate limit of \$[1,000,000] and for assuring engineers and other experts have appropriate Professional Errors and Omissions coverage or name them as additional insureds to the policy of the Artist.

Discussion

It is important to note that the above provisions would vary in different circumstances, depending on federal, state or local requirements, the scale of the project and other factors. The person responsible for obtaining and paying for insurance coverage does not necessarily have to be the Artist; it can also be the Owner or another person. Responsibility may vary depending on the nature of the activities of the persons involved in the project and the availability and cost of coverage to each such person. Although the Artist is usually responsible for obtaining the insurance policies at his own expense, the cost of insurance is generally incorporated into the budget under Section 1.4(a).

Whoever is responsible, each of the other parties (the Artist, the Owner, or other persons involved) should be named in the policy as an additional insured with respect to the coverage.

At a minimum, the Owner is likely to require that the Artist insure the Artwork against fire or theft at any stage of its fabrication and installation up until the final acceptance of the Artwork.

SAMPLE PUBLIC ART DEACCESSIONING POLICY

Florida's Art in State Buildings Program Deaccession Policy

The term deaccession applies to the disposition or exchange of public artworks no longer appropriate for display and to the process by which a decision is made to transfer title of the artwork from one institution to another institution or individual or otherwise move or dispose of the artwork. The State of Florida through its Agencies reserves the right to deaccession works of art in its public art collection in the best interest of the public and as a means of improving the overall quality of the State's public art collection. All meetings in which artworks are recommended for deaccession from the State's public art collection are open to public attendance.

Removing artwork from the State's public art collection by deaccession should be cautiously applied only after careful and impartial evaluation of the artwork to avoid the influence or fluctuations of taste and the premature removal of a work from the collection. The procedures within this Deaccession Policy have been assembled with the intent of providing a manual of best practices to be adhered to by the Agencies of the State of Florida before, throughout and during the deaccession process.

Criteria for Deaccession of Artworks:

While the intent of the Art in State Buildings Program's acquisition of artwork is for a permanent or other reasonable lifespan for each artwork, circumstances and/or conditions may arise that make it prudent for the State, on behalf of the public interest, to remove an artwork from public display or to change its original location. In general, it shall be the policy of the State not to remove an artwork from display or relocate it prior to the artwork having been in place for at least five (5) years, unless public safety or other technical circumstances are involved.

After that time, one or more of the following conditions must apply in order for artworks to qualify for permanent removal or deaccession:

- The artwork presents a threat to public safety;
- The condition or security of the artwork cannot be guaranteed, or the State Agency cannot properly care for or store the artwork;
- The artwork requires excessive or unreasonable maintenance;
- The artwork has serious or dangerous faults in design or workmanship;
- The condition of the artwork requires restoration in excess of its monetary value or is in such a deteriorated state that restoration would prove either unfeasible, impractical or would render the work essentially false;
- The site for the artwork has become inappropriate or is no longer accessible to the public, it is unsafe, or it is due to be demolished;
- Significant changes in the use, character, or actual design of the site require re-evaluation of the relationship of the artwork to the site;
- The artwork is of poor quality or is judged to have little aesthetic and/or historical or cultural value;
- No suitable alternate site for the artwork is available;
- The artwork is a forgery;

- A written request from the artist has been received to remove the work from public display.

Notify Artist

An artist whose artwork is being considered for deaccession shall be notified in a timely manner of the situation or circumstances that has prompted that consideration. Some artwork problems may be resolved after consultation with the artist(s), thereby eliminating the need for convening an Artwork Evaluation Committee. If the issue cannot be resolved, the artist shall be notified of the committee meeting(s) and shall be invited to speak on behalf of themselves and the artwork.

Organize Committee

Once an artwork problem has been identified and preliminary efforts at resolution have been unsuccessful, the state agency's ASB Administrator shall organize an **Artwork Evaluation Committee**.

The Artwork Evaluation Committee shall include the following members:

- 1) A person appointed by the state agency head to represent the agency
- 2) A person who represents the agency section that occupies the building where the artwork is sited
- 3) A staff person from the agency's Facilities section, if possible the person who served as Project Director on the initial Art Selection Committee
- 4) Two persons knowledgeable and experienced in the fields of visual art, public art, art history, architecture, or design; one of those persons should have knowledge of artwork conservation
- 5) The agency's ASB Administrator, who shall organize, notice and facilitate the committee meetings

More committee members may be added for technical expertise or to represent more stakeholders. Additional persons may attend the committee meetings and request to address the committee: persons from other governmental entities, interested members of the public, etc.

Prepare Report

The administrator will prepare a complete report on the artwork for presentation to the committee. The artwork report will begin with a brief explanation describing the artwork, its history and the current problematic situation. The description of the artwork and its history shall include:

- Title, artist, medium, dimensions and present location of the artwork;
- Acquisition method (direct purchase or commission) and purchase price;
- Provenance of the art work;
- Digital images, photographs or slides of the artwork;
- Detailed report on the current condition of the artwork;
- Appraised current value of the work by two independent consultants, if obtainable;
- Copy of title and other ownership documents for the artwork
- Any additional relevant information regarding the artwork, obtained from the artist, art galleries, curators, appraisers or other professionals

The report shall then fully describe, in a fair and even-handed manner, the situation which led to the necessity for convening an Artwork Evaluation Committee, identifying the applicable artwork condition(s) [see Deaccession Criteria above] that led to the formation of the committee and

documenting all efforts at resolution. The report may be sent to the individual committee members for review in advance of the meeting.

Convene Committee

At the Artwork Evaluation Committee meeting, the ASB Administrator shall introduce and identify all of the committee members and ask audience members to introduce themselves. The Administrator shall then restate the main points of report and request a thorough discussion of the issue. Each member shall present their views and participate in the discussion. Members of the audience may speak briefly to contribute suggestions or viewpoints. The committee may adjourn and reconvene at a later time to gather more information or to provide more time for discussion and decision.

Deaccession Methods

The Artwork Evaluation Committee may recommend any of the following courses of action as a result of considering the ASB Administrator's Report and after a full discussion of deaccession options. The committee shall not be limited to the listed methods of deaccession but may suggest alternatives appropriate to meet particular circumstances as they arise.

The preferred methods of deaccession are as follows:

- Relocation of the artwork to another site within the state agency or to another state agency (*this method should be given the highest priority*);
- Removal of the artwork from public display and subsequent storage;
- Sale or exchange of the artwork through the following means:
 1. Offer the artist the right of first refusal to buy back the artwork at a negotiated price appropriate to the artwork's current condition;
 2. Obtain a professional appraisal of the artwork's value and advertise for sale by auction; or
 3. Seek competitive bids for the purchase of the artwork.
- Donate the artwork to another government entity or non-profit, civic, charitable, or cultural organization that will properly install and display the artwork in an appropriate public space;
- Dispose of the artwork using surplus property procedures.

If the artwork is sold, all proceeds from the sale of public artworks shall be deposited into a fund to be used solely for the maintenance for other artworks acquired through the Art in State Buildings Program.

The deaccession of any artworks from the State's public art collection valued at or in excess of \$10,000.00 shall be reported to the Florida Council on Arts and Culture. The original artwork report plus a full description of the committee's discussion and ultimate decision shall be sent to the Division of Cultural Affairs. The Art in State Buildings Program Manager will notify the Florida Council on Arts and Culture by submitting the report at a regular public meeting of the Council.

Visual Artists Rights Act of 1990 (VARA):

The Art in State Buildings Program Deaccession Policy takes into account the Federal regulations set forth in the Visual Artists Rights Act of 1990 and its amendments in any decisions to deaccession artworks from the State’s public art collection. The Visual Artists Rights Act, or VARA, states that “the significant or substantial distortion, mutilation, or other alteration to a pictorial, graphic, or sculptural work, which is publicly displayed, caused by an intentional act or by gross negligence, is a violation of the exclusive rights of the copyright owner where the author of the work is the copyright owner.” For further information regarding VARA, see United States Code Annotated, Title 17. Copyrights, Chapter 1 – Subject Matter and Scope of Copyright, Current through P.L. 105-153, approved 12-17-97.

2012, Lee Modica; ASB Program manager
Dept of State Division of Cultural Affairs

VISUAL ARTISTS RIGHTS ACT [VARA]

The Visual Artists Rights Act of 1990 lays out the rights artists have concerning copyright of their artworks, permissions for use, and what happens when artworks are deaccessioned. This is a valuable resource that is 124 pages long [which is why it is not included here]. This document can be found here:

<https://www.copyright.gov/title17/92chap1.html#106a>

The Harvard Law School has also written a guide to the VARA act. That can be found here:

http://www.law.harvard.edu/faculty/martin/art_law/esworthy.htm

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