

CITY OF OKLAHOMA CITY
PUBLIC ART COMMISSION AGREEMENT (COKC01538)
PROJECT: SNI METRO PARK SCULPTURE ART – SITE 6

THIS AGREEMENT, made and entered into this 22ND day of APRIL, 2025, by and between The City of Oklahoma City, hereinafter called “City,” and Artist Scott Henderson dba Whiteboard Exhibits LLC, hereinafter called “Artist,” for the design, fabrication, delivery, and installation of a sculpture titled *Sypher*, hereinafter called the “Work.”

Artist was selected pursuant to a competitive process by the City for the design, fabrication, delivery, and installation of the Work at the location described in Exhibit A, hereinafter the “Location,” and Artist is willing to provide such services and the Work, as set forth in Exhibit B, attached hereto and made a part of this Agreement. City desires to contract with Artist for the design, fabrication, delivery, and installation of the Work on such terms and conditions as hereinafter follow.

NOW, THEREFORE, in consideration of the premises and mutual promises herein contained, City and Artist agree as follows:

SECTION I- ARTIST SERVICES

Artist’s Work shall reflect concepts and designs as depicted in the Artist’s Conceptual Design Report and recommended by the Selection Committee and the Oklahoma City Arts Commission, which concepts and designs are set forth in Exhibit B, attached hereto and made a part of this Agreement. Artist may discuss the Work or its requirements with various departments of the City, but the SNI Liaison, hereinafter called “SNI Liaison,” shall authorize all specific direction or responses to all requests of the Artist. Artist shall be responsible for the design, fabrication, delivery, and installation of the Work, and for all services and expenses associated with the design, fabrication, delivery, and installation of the Work, including all necessary supplies, materials, equipment, and permits. Artist shall design, fabricate, deliver, and install the Work to conform to the requirements of all City and State of Oklahoma laws, ordinances, codes, regulations, and requirements which affect completion of the Work. If requested, Artist shall assist in filing any documents required to secure the approval of all governmental authorities having jurisdiction.

A. Commencement of Work

1. Work shall commence upon Artist’s receipt of the executed Agreement, and a written Notice to Proceed authorized by the SNI Liaison.
2. The goal of the parties is for Artist to design, fabricate, deliver, and install a work titled *Sypher*, as described in Exhibit B hereto. In addition, Artist shall design, create, deliver,

and install an appropriate art identification marker which shall be developed in accordance with current standards promulgated by the Oklahoma City Arts Commission. A copy of said standards will be provided to Artist.

3. The Work represents the creative talents of the Artist and satisfies the specifications of the City. Both parties recognize that they must consult closely to accomplish the Work that is the goal of this Agreement.

B. Completion of Design

1. Artist shall request additional information from City, as needed, to prepare Construction Drawings and Specifications to the satisfaction of the City, according to recommendations made by the Selection Committee and/or the Arts Commission.
2. Artist shall travel to the Location as necessary to field verify and coordinate with Staff, Consultants, and the General Contractor regarding the Location and the Work.
3. Artist may be required to complete Other Information. Depending on the installation method, additional drawings may be requested for review and permitting purposes. Any Other Information required shall be requested from Artist in writing. Artist shall then be allowed at least thirty (30) days to provide requested information.
4. Artist shall avoid the use of materials or finishes known to be hazardous or potentially hazardous, including asbestos or any derivative thereof. Artist shall report to the SNI Liaison any material or finish hazard, and any action taken by Artist to minimize or eliminate such hazard.

C. Construction Drawings and Specifications

1. Artist shall complete Construction Drawings and Specifications, which will be submitted to the SNI Liaison for review.
2. Fabrication of the Work may begin once all plans are reviewed.
3. During the term of this Agreement, Artist shall send monthly Progress Reports by the 15th business day of each month to sniokc@okc.gov. During fabrication, Artist shall include images of fabrication with the monthly Progress Report. Once fabrication of the Work is completed, Artist shall submit a Report to the SNI Liaison certifying that the Work has been completed. The Report shall include plans for installation and a description of any activities requiring coordination with the City.

D. Delivery and Installation Phase

1. The Work shall not be delivered to the Location or installed until Artist has received written authorization from the SNI Liaison that the specific installation plans submitted by Artist have been approved by the City, which authorization shall not be unreasonably withheld.
2. Following delivery of the Work, Artist shall install the Work at the Location described in Exhibit A. Artist shall be responsible for all expenses, labor and equipment involved with the installation of the Work.
3. All risk of destruction of, or damage to, the Work or any part thereof from any cause whatsoever shall be the responsibility of Artist until delivery, installation and final acceptance of the Work is authorized by the SNI Liaison, except that the risk of loss or damage shall be borne by City prior to final acceptance of the Work during such period of time as the partially or wholly completed Work is in the custody, control or supervision of City or its agents. Artist shall provide the SNI Liaison and City with at least thirty (30) days' notice of the proposed date of installation.
4. Arrangements for access to the Location for installation shall be as authorized through the SNI Liaison, and access thereto shall not be scheduled until City has received from Artist a Certificate of Insurance, as required in Section X of this Agreement. Upon prior arrangement, access may be scheduled for weekends as well as during normal business hours, as authorized by the SNI Liaison.
5. Artist shall notify the SNI Liaison in writing when the Work is installed, and all services have been completed, to secure final acceptance by City.
6. The anticipated Project Schedule that includes completion is described in Exhibit C, attached to this Agreement.
7. Artist shall prepare or cause to be prepared a detailed Maintenance Plan for the Work. The Maintenance Plan is subject to changes, based on finalized construction methodology and/or material selection, and shall be submitted within 30 days following Final Acceptance of the Work. A Preliminary Maintenance Plan is attached hereto as Exhibit D to this Agreement.

SECTION II-CITY'S RESPONSIBILITY

1. City shall provide Artist all information, including requirements and specifications, for the Location of the Work shown on Exhibit A. All specifications shall be provided as authorized through the SNI Liaison.

2. City shall examine materials and information submitted by the Artist and promptly render decisions pertaining thereto to avoid unreasonable delay in the progress of the Work, unless the City must rely on a third-party Conservator or other expert for decisions. Response to the Artist's written request for decisions related to the Work shall be made in writing as soon as reasonably possible.
3. City shall provide final acceptance of the Work to be effective as of the earlier to occur of (1) the date of the City's notification of final acceptance; or (2) the 30th day after the Artist has sent written notice to the SNI Liaison as required under Section I.D.5. hereof, unless the SNI Liaison, upon receipt of such notice and prior to the expiration of the 30-day period, gives written notice to the Artist specifying and describing the services which have not been completed.
4. City shall provide technical assistance and recommendations to Artist, through the SNI Liaison, to secure all required reviews, licenses and similar legal authorizations, licensing and permitting for the Work as may be necessary for the installation and maintenance of the Work at the Location, until final acceptance by City.

SECTION III-COMPENSATION AND PAYMENTS

1. A. Following approval of this Agreement by City, payments shall be made to Artist in full consideration of the design, fabrication, delivery, and installation of the Work as described in the Compensation and Payment Schedule, attached hereto as Exhibit E.
2. All requests for payment shall be submitted to the SNI Liaison for review and approval and shall be in accordance with City Procedures for processing Artist's claims for Payment, described on Exhibit F, attached to this Agreement.
3. The contracted Artist (Artist), and all work performed pursuant to the Agreement, shall comply with all applicable laws, ordinances, rules, and regulations of federal, state, county or municipal governments or agencies, in particular, as well as all applicable regulations of the United States Department of Housing and Urban Development (HUD), the National Environmental Protection Act and other related authorities of the Housing and Urban Development Act of 1968. Artist shall maintain full and adequate written records of compliance with applicable laws, rules, and regulations. Such records shall be open for inspection by The City of Oklahoma City (CITY) and/or HUD's authorized representatives. Artist shall comply with this Section III.C., as well as all of the provisions of Exhibit G, hereto, related to Community Development Block Grant (CDBG) provisions.

SECTION IV-TERMINATION OF AGREEMENT

If either party hereto willfully or negligently fails to fulfill in a timely manner any of the stipulations of this Agreement, or otherwise violates such stipulations or commits an event of default hereunder, then the other party shall thereupon have the right to terminate this Agreement by giving written notice to the defaulting party by certified mail, return receipt requested, or sending an email confirmed by a response from the recipient, of its intent to terminate the Agreement, and specifying the grounds for the Termination. The defaulting party shall have thirty (30) days after receipt of a Termination Notice to cure the default described in the Termination Notice. If the default is not cured, then this Agreement shall terminate without further required action of the party giving notice. City may terminate this Agreement at any time, for convenience, when it is in the best interest of the City to do so. Written notice of such action shall be provided in writing to Artist, in this event.

A. Termination by Artist

If this Agreement is terminated by Artist before installation of the Work without fault on the part of the City, Artist shall refund to City all monies paid by City to Artist for the performance of work under this Agreement. Artist may then retain the Work, together with any models, plans or drawings and all materials and supplies purchased for the Work, for Artist's own use without restrictions. Nothing in this section shall prevent City from pursuing a remedy otherwise available to it in law or equity.

B. Termination by City

1. In the event this Agreement is terminated by City without fault on the part of Artist, Artist shall be paid an amount equal to the percentage of the Work done at the time the Agreement is terminated, as determined by the Compensation and Payment Schedule (Schedule) attached to this Agreement as Exhibit E. If payments previously made to Artist exceed the total amount due, Artist shall refund to City all funds in excess of the amount due, according to the Compensation and Payment Schedule. Artist shall retain the Work, together with any models, plans, or drawings and all materials and supplies purchased for the Work, for Artist's own use without restrictions. Nothing in this section shall prevent Artist from pursuing a remedy otherwise available to it in law or equity.
2. In the event this Agreement is terminated by City for fault on the part of Artist, or in the event of any breach of the terms of this Agreement by Artist, Artist shall refund to City all monies paid by City to Artist for the performance of work under this Agreement. Artist may then retain the Work, together with any models, plans or drawings and all materials and supplies purchased for the Work, for Artist's own

use without restrictions. Nothing in this section shall prevent City from pursuing a remedy otherwise available to it in law or equity.

SECTION V-GENERAL CONDITIONS

1. The failure of either party to enforce any of the provisions of this Agreement or to require performance of the other party of any of the provisions hereof shall not be construed to be a waiver of such provisions, nor shall it affect the validity of this Agreement or any part thereof, or the right of either party to thereafter enforce each and every provision.
2. The terms of this Agreement constitute the entire understanding between the parties hereto and no statement, promise, condition, understanding, inducement, or representation, oral or written, expressed or implied, which is not contained herein shall be binding or valid. This Agreement may only be amended or modified by mutual consent of the parties hereto, in writing signed by both parties.
3. Neither the performance of this Agreement, nor any part thereof, nor any monies due or to become due thereunder may be assigned by Artist without the prior written consent and approval of City.
4. Death of the Artist shall terminate this Agreement, and City shall be entitled to the Work in whatever form it exists at that time, as its sole property.
5. Nothing contained in the terms of this Agreement shall create or give to third parties any claim or right of action against City.
6. Artist shall protect Location property and City structures, including but not limited to buildings, roads, public streets, sidewalks, and landscape elements from paint, dust, dirt, rubbish, or other nuisance arising out of Artist's operations or storage practice. The repair of or compensation for damage to City property due to negligence or lack of adequate protection on the part of Artist shall be at no cost to City.
7. Artist shall perform no construction operations of any nature on, over or across premises, except such construction operations as are specifically authorized in Artist's plans or specifications, or as otherwise authorized in writing by SNI Liaison.
8. Artist shall comply with all applicable laws, statutes, ordinances, regulations, and administrative requirements, including but not limited to safety and engineering regulations and requirements of the City.

9. Directly upon completion of the installation of the Work, Artist shall remove from Location all equipment and any waste materials not previously disposed of, leaving Location thoroughly clean and ready for City's final inspection.
10. Installation and worker safety shall be in conformance with Oklahoma laws and regulations.
11. Artist shall be responsible for all mailing, shipping, transportation, and travel expenses required under this Agreement, and all Federal and State income taxes on the total compensation from this Agreement, as well as any State and City sales tax which may be required.
12. Artist, and all agents and employees of Artist, shall observe and comply with all prevailing Federal, State and City laws, ordinances, regulations, and requirements which in any way affect conduct or Work under this Agreement.
13. Artist agrees, in connection with the performance of work under this Agreement, that Artist will not unlawfully discriminate against any employee or applicant for employment, because of race, creed, color, sex, age, national origin, ancestry or disability. Artist shall take affirmative action to insure that employees are treated without regard to their race, creed, color, age, national origin, sex, ancestry or disability. Such actions shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment, advertising, lay-off, termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. Artist agrees to post, in a conspicuous place available to employees and applicants for employment, notices to be provided by the City Clerk setting forth the provisions of this section. Artist agrees to include this non-discrimination clause in any subcontracts connected with the performance of this Agreement/Contract. In the event of the Artist's non-compliance with the above non-discrimination clause, this Agreement may be canceled or terminated by the City. Artist may be declared by the City ineligible for further Agreement with the City until satisfactory proof of intent to comply is made by the Artist.
14. Artist represents and warrants that Artist has not, directly or indirectly, entered into any agreement, express or implied, with any Proposer/Bidder, having for its object the controlling of the price or amount of such proposal/bid, the limiting of the proposals/bids of the Proposers/Bidders, the parceling or farming out to any Proposer/Bidder or other persons, of any part of the Agreement or any part of the subject matter of the proposal/bid, or of the profits thereof. Artist further states that Artist has not been a party to any collusion: among Proposer/Bidders in restraint of freedom of competition, by any agreement to bid at a fixed price or to refrain from

proposing; or with any City official, City employee or City agent as to the quantity, quality, or price in the prospective Agreement, or any other terms of the said prospective Agreement; or in any discussions between the Artist or City official, City employee or City agent concerning the exchange of money or other thing of value for special consideration in the letting of Agreement. Artist states that Artist has not paid, given or donated or agreed to pay, give or donate to any City official, officer or employee of the City or Visit OKC, any money or other thing of value, either directly or indirectly, in the procuring of the award of Agreement pursuant to this project.

15. Prior to beginning the Work, Artist shall furnish to the SNI Liaison for approval any names of collaborators, makers, or fabricators to be used on the Work. Any subsequent changes are subject to the approval of the SNI Liaison.
16. It is mutually understood and agreed that this Agreement shall be governed by the laws of the State of Oklahoma, both as to interpretation and performance. Any action of law, suit in equity or judicial proceeding for the enforcement of this Agreement or any provision thereof shall be instituted only in the courts of the State of Oklahoma, in Oklahoma City.

SECTION VI-NOTIFICATION

1. All notices, requests, demands, and other communications which are required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given upon delivery and receipt, if delivered personally, or sent by email confirmed by a response from the recipient, or sent by registered or certified mail with return receipt requested and postage prepaid, as follows;

If to the SNI Liaison, to: SNI Liaison, Strong Neighborhoods Initiative
Oklahoma City Planning Department
420 W. Main, 9th Floor
Oklahoma City, OK 73102
sniokc@okc.gov

If to the City, to: City Clerk
The City of Oklahoma City
200 N. Walker Avenue, 2nd Floor
Oklahoma City, OK 73102
cityclerk@okc.gov

If to the Artist, to:

Scott Henderson
8614 N Georgia Avenue
Oklahoma City, OK 73114
scott@whiteboardexhibits.com

SECTION VII-INDEMNIFICATION

Artist agrees to release, to defend, to indemnify and to hold harmless City and its officers, agents, and employees, from and against all claims, costs and damages, suits, expenses, liability actions or procedures of any kind or nature whatsoever arising out of Artist's activities under this Agreement.

SECTION VIII-ARTIST REPRESENTATIONS AND WARRANTIES

A. Artist Defects in Material or Workmanship and Inherent Vice

Artist warrants that the Work will be free of defects in workmanship or materials, including inherent vice, and that Artist will at Artist's own expense, promptly remedy any defects that arise within a period of three (3) years from the date the Work is finally accepted by City, except for unforeseen changes in environmental conditions or changes to the Location by City or by third parties affecting the Work site (including but not limited to, damage by car or other vehicle or equipment, intentional vandalism, tornado, windblown objects or hail). Artist further warrants that the Work will not require maintenance substantially more than that described in the recommendations provided by Artist to City, beginning the date the Work is finally accepted by City. The Preliminary Maintenance Plan is attached hereto as Exhibit D. "Inherent vice" refers to a quality within the material or materials that comprise the Work which, either alone or in combination, results in the tendency of the Work to destroy itself. City agrees that it will exercise reasonable care and diligence to prevent conditions that may damage or otherwise degrade the materials and structure of the work.

B. Public Safety

Artist warrants that the Work will not contain sharp points or edges or be constructed of a material which, when broken will be of such nature that the City deems it a danger to the public. Artist agrees to cooperate in making or permitting adjustments to the Work if necessary to eliminate such hazards which become apparent within three (3) years of the date the Work is finally accepted by City.

C. Title

Artist warrants that the Work is solely the result of the Artistic efforts of Artist and that it will be installed free and clear of any liens, claims or other encumbrances of any type.

D. Unique

Artist warrants to the best of the Artist's knowledge that the Work is unique and an edition of one and does not infringe upon any copyright, and that Artist will not execute or authorize another to execute another Work of the identical design as the Work commissioned pursuant to this Agreement. This warranty shall continue in effect for a period consisting of the life of Artist plus 50 years. Artist hereby acknowledges that the aforementioned warranty shall be binding on Artist' heirs and assigns.

SECTION IX-EXCUSE OR SUSPENSION OF CONTRACTUAL OBLIGATIONS

The parties shall be excused from performing an obligation under this Agreement if performance of that obligation is prevented by a condition beyond the control of the parties, such as acts of God, war, public emergency or strike or other labor disturbance. An obligation affected by a condition beyond the control of the parties shall be suspended only for the duration of the condition, unless otherwise agreed by the parties. Both parties shall take reasonable steps during the existence of the condition to assure performance of their contractual obligations when the condition no longer exists. The Project Schedule in Exhibit C will be equitably adjusted to reflect delays in the work that are not the fault of the parties.

SECTION X-INSURANCE TYPE, AMOUNT, AND DURATION

Artist shall procure required insurance and maintain the same until final acceptance of the Work by SNI Liaison as set forth below:

A. Liability and Property Damage Insurance

Artist assumes all risks incident to or in connection with its purpose to be conducted herein under and shall indemnify, defend and save The City of Oklahoma City harmless from damage or injuries of whatever nature or kind to persons or property arising directly or indirectly out of the Artist's operations and transportation of Artist's or the City's equipment to and from Location regardless of fault and arising from acts or omissions of its employees regardless of fault and shall indemnify, defend, and save harmless The City of Oklahoma City from any penalties for violation of any law, ordinance or regulation affecting or having application to said operation.

In this connection, the Contractor shall carry Worker's Compensation in accordance with State Laws, and General Liability Insurance in the following amounts:

1. Property Damage Liability. Limits shall be carried in the amount of not less than twenty-five thousand dollars (\$25,000) to any one person for any number of claims for damage to or destruction of property, including but not limited to consequential damages, arising out of a single accident or occurrence.

2. All Other Liability. In the amount not less than one hundred seventy-five thousand dollars (\$175,000) for claims including accidental death, personal injury, and all other claims to any one person out of a single accident or occurrence.
3. Single Occurrence or Accident Liability. In an amount not less than one million dollars (\$1,000,000) for any number of claims arising out of a single occurrence or accident.
4. Automobile Liability Insurance. The Artist shall maintain insurance coverage as to the ownership, maintenance, and use of all owned, non-owned, leased or hired equipment when said equipment is utilized to meet the requirements of this Agreement.
5. Transit Insurance. The Artist shall maintain insurance protecting the Work or components of the Work while being transported or in transit by any means, with aggregate limits of not less than the full replacement value of the Work or combined components of the Work.

B. Insurance Requirements

The insurance policies shall be issued by a company authorized to do business in the state of Oklahoma and acceptable to The City of Oklahoma City.

The City shall be furnished with a Certificate of Insurance evidencing all of the above-referenced requirements and shall state that **such insurance shall not be changed or canceled without ten days' prior written notice to The City of Oklahoma City.**

All policies shall be in the form of an "occurrence" insurance coverage or policy. If any insurance is written in a "claims made" form, the Contractor shall also provide tail coverage that extends a minimum of two years from the expiration of the Contract.

All policies must be fully insured with any single deductible not exceeding \$25,000. Certificates of Insurance shall be delivered to The City of Oklahoma City prior to the issuance of a Purchase Order. **The City of Oklahoma City shall be listed as the Certificate Holder. The policy description shall state the following: "The City of Oklahoma City and its' Trusts are additional insureds on all policies as required by the contract."**

Unless otherwise approved by the City prior to the contract award, self-insured retentions will not be accepted unless accompanied by a bond or irrevocable letter of credit guaranteeing payment of the losses, related investigations, claim administration, and defense expenses not otherwise covered by the Contractor's self-insured retention. Proof of insurance is set forth in Exhibit H, attached hereto and made a part of this Agreement.

SECTION XI-OWNERSHIP

A. Title

Title to the Work shall remain in Artist until Artist is paid in full pursuant to Section III hereinabove.

B. Ownership of Documents and Samples.

Upon final acceptance of the Work, and upon written request from Artist, the studies, drawings, and models prepared and submitted under this Agreement as presented to the assembled Selection Committee shall be returned, at Artist's expense, to Artist and shall belong to Artist.

SECTION XII-EXPLOITATION OF THE WORK AND REPRODUCTION RIGHTS

A. Copyright

Subject to section XIII of this Agreement, Artist shall retain all rights under 17 U.S.C. §101 et seq. (the Copyright Act of 1976), and all other rights in and to the Work, except ownership and possession, except as otherwise provided in this Agreement. City shall have ownership and possession of the Work pursuant to this Agreement, but shall not own the copyright to the Work, which shall be retained by Artist.

B. Reproductions

City, in exercise of its exclusive ownership and possession, may make, or authorize the making of, photographs and other two-dimensional reproductions of the Work for educational, public relations, arts promotional and other purposes. In the case of such use by City, Artist shall be entitled to customary and appropriate identification as the creator of the Work as follows: Whiteboard Exhibits LLC (c) 2025. Such notice shall also be affixed to the Work in its Location of permanent display and at any Location of public display or exhibition.

C. City's Credit

Artist agrees that all references made by Artist to the Work shall include the following credit line: "Commissioned under Oklahoma City's Strong Neighborhoods Initiative", or equivalent, and that Artist shall make a good faith effort to ensure that any and all references to the Work by others shall include the same credit.

D. Documentation

1. By the 15th day of every month, during creation of the Work, Artist shall provide the City with one or more publication photos of the Work in progress, accurate in color and detail and in .jpg format, along with a written progress report.

2. During installation, Artist shall provide the City with one or more publication quality photos of the work in progress, accurate in color and detail and in .jpg format.
3. After completion and within thirty (30) days following installation of the Work, Artist shall provide the City with one or more publication quality photos of the Work, accurate in color and detail and in .jpg format.
4. Photography. Upon reasonable notice to City, Artist, or Artist's designee shall be permitted to enter upon the premises at a mutually convenient time or times to reproduce by photographic or other means, the Work described herein.
5. Publicity. The City grants to the Artist the right to use the City's name and project name and description for non-commercial purposes relating to the Work, such as to identify the Work as part of Artist's portfolio, promotional and marketing materials including, but not limited to, on Artist's website, and in third party publications or media.

SECTION XIII-CARE OF WORK, REPAIR AND RESTORATION AND RIGHT OF RECOVERY

All parties to this Agreement including Artist, by his signature to this Agreement, acknowledge and agree that application of the Visual Artist Rights Act (VARA) 17 U.S.C. § 106A et seq., will be waived by Artist.

However, the City promises Artist that:

1. City shall not intentionally destroy, damage, alter, modify, or change the Work except when the condition, safety or security of the Work cannot be guaranteed as determined by the City.
2. It is the policy of City to consult with Artist regarding repairs and restoration which are undertaken during Artist's lifetime, when that is practicable. To facilitate consultation, Artist shall notify City of any change in Artist's permanent address, email address or contact telephone number. If Artist is unwilling to perform any necessary repairs or restoration, or if City desires to use someone other than Artist to repair or restore the Work, City shall have such Work performed in accordance with recognized best practices and in accordance with Artist's workplan approved by City in advance.
3. When practicable to do so, the City shall notify Artist of any proposed alteration of the Location that would affect the intended character and appearance of the Work and shall consult with Artist in the planning and execution of any such alteration. City shall make a reasonable effort to maintain the integrity of the Work.
4. Nothing in this Section XIII shall preclude any right of the City to remove the Work from public display or to permanently relocate the Work to a Location not specified in Exhibit A.

5. If at any time, the City elects to remove the Work and deaccession the work from its public art collection for either surplus sale and/or destruction of the Work, City shall so advise Artist. Artist may, at Artist's option, to be exercised within thirty (30) days following receipt of such notice, request that City convey, transfer, and assign to Artist the Work, and all City's rights to the Work, along with any and all intellectual property rights held by City and acquired under this Public Art Commission Agreement or otherwise related to the Work. If Artist requests such conveyance, transfer, and assignment, Artist shall tender payment of the surplus value of the Work utilizing the same process by which City now sells surplus goods and equipment. City shall freely make such conveyance, transfer, and assignment within thirty (30) days following receipt of notice and payment, and Artist shall remove the Work from the Location within thirty (30) days following receipt of the conveyance, transfer, and assignment from the City. If no response is received from Artist within thirty (30) days following receipt of notice from City, City may proceed with its plan to deaccession the Work from the collection by either surplus sale or destruction of the Work.

SECTION XIV-REPUTATION

1. City's Commitment. City agrees that it will not use the Work or Artist's name in a way which reflects discredit on the Work or on the name or reputations of Artist as Artist. In the event the Work is in some way represented in a way not intended by Artist, Artist shall have the right to request that the Work no longer be represented as the Work of Artist.
2. Artist's Commitment. Artist agrees that Artist will not refer to the Work or reproduce the Work, or any portion thereof, in a way which reflects discredit on City or the Work.

SECTION XV-NO ASSIGNMENT OR TRANSFER

The personal skill, judgment and creativity of Artist is an essential element of this Agreement. Therefore, although the parties recognize that Artist may employ qualified personnel to work under Artist's supervision, Artist shall not assign, transfer, or subcontract the creative and Artistic portions of the Work to another party without the prior written consent of City, through the SNI Liaison.

SECTION XVI-SUCCESSORS AND ASSIGNS

City and Artist each bind themselves, their partners, successors, assigns, and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party, in respect to all covenants of this Agreement to the extent the law allows. Artist shall not assign, sublet, or transfer Artist's interest in this Agreement without

the written consent of the City, through the SNI Liaison. In no event shall Artist attempt to create a contractual relationship between any third party and the City.

IN WITNESS WHEREOF, the parties hereto have approved this Agreement as indicated by the authorized signatures below.

APPROVED by the City Council and SIGNED by the Mayor on this 22nd day of APRIL, 2025.

ARTIST:

SCOTT HENDERSON
Scott Henderson dba Whiteboard Exhibits LLC

04/01/2025
Date

ATTEST:

Amy K. Simpson

City Clerk



CITY OF OKLAHOMA CITY

David Holt

Mayor

REVIEWED as to form and legality.

Rita E. Douglas-Gally
Assistant Municipal Counselor

Exhibit A: Location

Figure 1



The location will be in the median along Linwood Blvd between N Indiana and N Blackwelder. The "X" in the median highlighted in red in Figure 1 shows the location of *Sypher*.

Figure 2

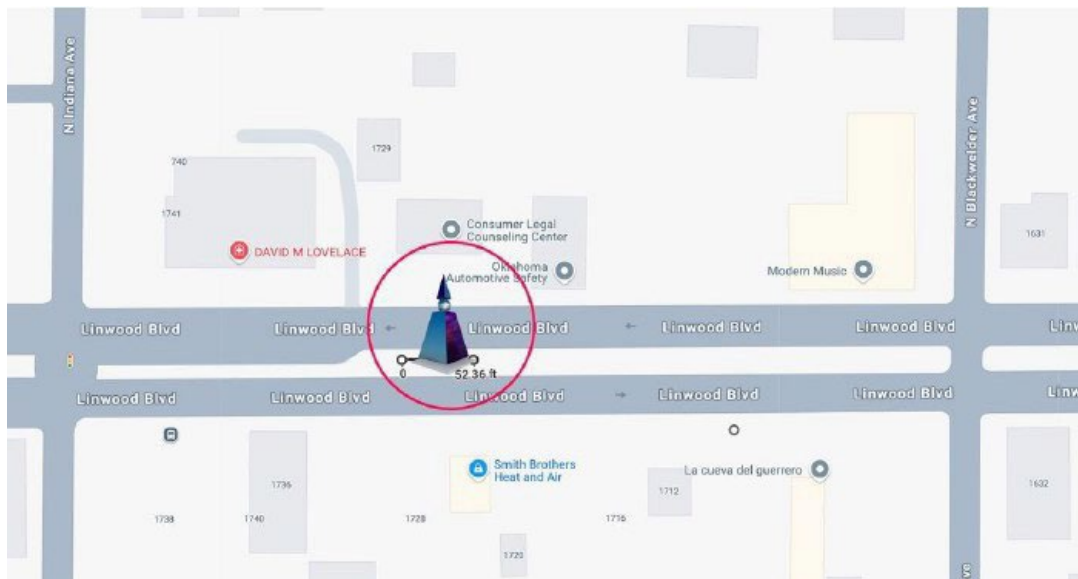


Figure 2 shows the location on Linwood Blvd between N Indiana and N Blackwelder.

Exhibit B: The Work

Artist's complete Conceptual Design Report included here by reference.



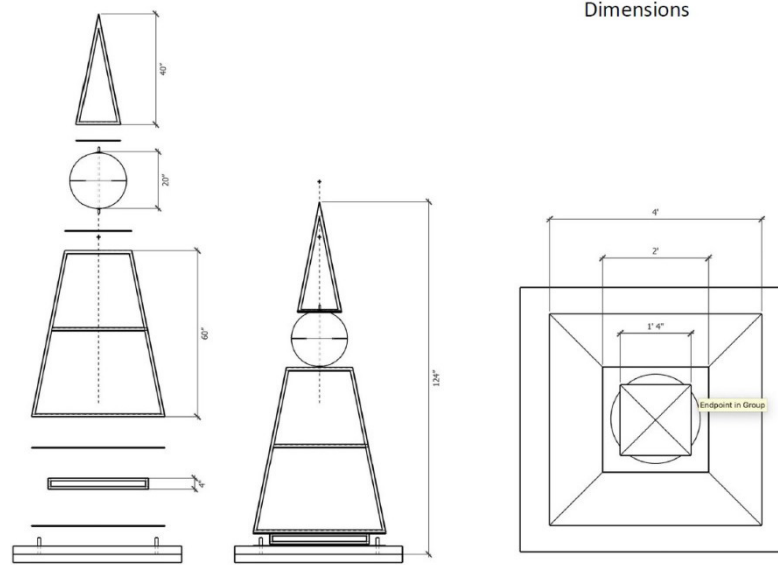
Title: *Sypher*

Artist Statement:

Sypher is an exploration of perception, material, and space. Standing ten feet tall, the sculpture appears to hover above the ground, supported by a 48x48-inch base that is elevated four inches to create a floating effect. At five feet, the pyramid is interrupted by a 20-inch mirrored stainless-steel sphere. This interruption is not absence but an aperture that holds space rather than filling it. The reflective sphere captures and distorts the surroundings and challenging the viewer's sense of depth and perspective.

Mirrored stainless steel panels on select faces (east/west at base) and the peak (north/south) of the pyramid create fragmented reflections, blending the sculpture into its environment. The remaining surfaces are covered in a vivid blue and purple mirrored chrome, which shifts in color with movement and changing light. These reflections make *Sypher* a striking visual landmark. By playing with structure and illusion, *Sypher* encourages wonder and curiosity and invites viewers to reconsider their perception of form, space, and object.

Dimensions:



Frame Material:

The pyramid frame will be constructed using 1x1" 14-gauge steel tubing. support will extend halfway up to provide additional structural reinforcement, ensuring the panels remain flush and do not bow.

Base Construction:

The bottom mounting plate will be made from 3/16" steel plate. Structural stability will be achieved using all-thread rods anchored into a concrete base and secured to the plate.

Main Components:

The pyramid consists of three primary sections:

Base – Forms the foundational structure.

Middle Section – Contains a 20" mirror stainless steel sphere.

Top Section – The pointed triangular structure, constructed similarly to the base using 1" tubing.

Paneling & Finishes:

Two of the base and top sides will be fabricated from 16-gauge hot-rolled steel, sheared to size.

The remaining four faces will be laser precision-cut mirrored stainless steel.

Stainless steel panels will be mounted using 3M 08115 panel bonding adhesive.

Exhibit C: Project Schedule

Projected timeline would fall into the outlined approximate date from May 20, 2025 – October 31, 2025.

There are no foreseen conflicts in schedule. Should a scheduling conflict arise, Artist shall contact the SNI Liaison.

The precise time of installation will be coordinated with the SNI Liaison.

Exhibit D: Preliminary Maintenance Plan

As provided by Artist:

Artist will periodically check on the condition of the sculpture this includes all listed elements. Please allow 14 days after notification.

Annual costs to repair work if needed should not exceed 400.00, unless extreme damage from unforeseen vandalism or acts of god.

Exhibit E: Compensation and Payment Schedule

	Payment Due	Billing/Payment Amount	Payment rendered to deliver the following:
Payment No. 1	Upon contract execution, issuance of Purchase Order, Notice to Proceed, and receipt of invoice from Artist.	Artist will be paid \$4,010 as follows: 100% of material costs \$2,830 ; 100% of structural engineering services \$1,000 ; 100% of building permits \$105 ; 100% of revocable permits \$75 ;	<ul style="list-style-type: none"> •Artist shall complete construction drawings and specifications to the satisfaction of the City. •Artist shall complete permitting process. •Artist shall travel to the Location as necessary to field verify and coordinate with staff, consultants, and general contractor regarding the Location of the Work. •Artist shall purchase materials. •Artist shall initiate fabrication of the Work. •Artist shall purchase insurance and provide certificates as required.
Payment No. 2	After all Services described in payment No. 1 are successfully completed and after receipt of invoice from Artist.	Artist will be paid \$4,535 as follows: 100% of base construction \$1,580 ; 50% of Artist fee \$2,955 ;	<ul style="list-style-type: none"> •Artist shall complete the fabrication of the Work. •Artist shall complete the construction of the base.
Payment No. 3	After all Services described in Payment No. 2 and after final installation inspection.	Artist will be paid \$3,455 as follows: 50% of Artist fee \$2,955 ; Contingency: \$500	<ul style="list-style-type: none"> •Artist shall transport and install the Work •Artist shall install an art identification marker (See 1.A.2) •Artist shall deliver publication photos as required in the Agreement. •Work to be completed by October 31, 2025.
Total Payments		\$12,000	

Exhibit F: Claims for Payment

Contracted Artist should submit invoices for payment by email to: SNIOKC@okc.gov for payment processing.

Invoices must be addressed to the office shown above and reference the Purchase Order (PO) number that is part of the Work Order that will be issued to Artist when provided a Notice to Proceed. Invoices shall not include any costs related to other projects. The Planning Department shall endeavor to authorize payment for goods or services received in a timely manner.

Claims for payment in the amount of \$1,000 or more no longer require a notarized claim voucher from the vendor. However, the City of Oklahoma City hereby notifies the vendor either on the PO, pricing agreement or vendor registration form that in lieu of a sworn affidavit, any vendor who accepts payment confirms the following:

1. The invoice is true and correct.
2. The work, service, or materials as shown by the invoice or claim have been completed or supplied in accordance with the plans, specifications, orders, or requests furnished by the vendor.
3. The vendor has made no offer of money or anything of value, directly or indirectly, to any elected official, officer, or employee of City.
4. Payments will be processed promptly after receipt of properly prepared invoice(s).

Exhibit G: Community Development Block Grant (CDBG) Provisions

Compliance with Laws and Regulations.

The contracted Artist and all work performed pursuant to the Agreement shall comply with all applicable laws, ordinances, rules, and regulations of federal, state, county or municipal governments or agencies, in particular, as well as all applicable regulations of the United States Department of Housing and Urban Development (HUD), the National Environmental Protection Act and other related authorities of the Housing and Urban Development Act of 1968. Artist shall maintain full and adequate records of compliance with applicable laws, rules, and regulations. Such records shall be open for inspection by The City of Oklahoma City (CITY) and/or HUD's authorized representatives.

The Artist shall comply with all cross-cutting requirements applicable to the use of CDBG funds on the project with particular attention to the following:

1. HUD, The City of Oklahoma City and its public trusts require contractors and subcontractors to ensure that employees and applicants for employment are treated without regard to their race, color, religion, sex, sexual orientation, gender identity or national origin, creed, ancestry, age, or disability as defined by the Americans with Disabilities Act of 1990, § 3 (2) and Oklahoma City Municipal Code Chapter 25, Section 25-41. To that end, contractors are required to execute and post this statement of nondiscrimination.
 - a. The contractor agrees in connection with the performance of work under agreement(s)/contract(s) with the City or its public trusts:
 - i. That the contractor will not discriminate against any employee or applicant for employment, because of race, color, religion, sex, sexual orientation, gender identity or national origin, creed, ancestry, age, or disability. The contractor shall take affirmative action to ensure that employees are treated without regard to their race, color, religion, sex, sexual orientation, gender identity or national origin, creed, ancestry, age, or disability. Such actions shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment, advertising, lay-off, termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. The contractor agrees to post, in a conspicuous place available to employees and applicants for employment, this notice provided by the City Clerk/Secretary of the City/Trust, and;

- b. That the contractor agrees to include this non-discrimination clause in any subcontracts connected with the performance of City/Trust agreement(s)/contract(s).
 - c. In the event of the contractor's non-compliance with the above non-discrimination clause, City/Trust agreement(s)/contract(s) may be canceled or terminated by the City/Trust. The contractor may be declared by the City/Trust ineligible for further agreement (s)/contract(s) with the City/Trust until satisfactory proof of intent to comply is made by the contractor.
 - d. Title VI of the Civil Rights Act. No person may be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving federal financial assistance on the basis of race, color, or national origin. The contractor shall exercise no action that is contrary to Public Law 88-352 (Title VI) regarding activities conducted using federal financial assistance.
2. Uniform Administrative Requirements. Artist shall comply with applicable provisions of the Uniform Administrative Requirements, Cost Principles, And Audit Requirements of 2 CFR Part 200. Artist shall fully read 2 CFR Part 200, (www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200) which requirements and principles apply to non-federal entities that receive federal awards.
3. Inspections. The CITY and its representatives shall have the right at all reasonable times during regular business hours (and at any time in the event of an emergency) to enter upon the project site and inspect the Project(s) to determine that the same is in conformity with this Agreement, and all laws, ordinances, rules, and regulations applicable to the Project. The CITY shall have the right to inspect Contractor's books and records relating to the Project. Contractor shall permit CITY and its designee or representatives to examine and copy all books, records and other papers relating to the Project to ensure Contractor's compliance with the applicable regulations.
4. Contracts and Subcontracts. All contracts and subcontracts must contain provisions covering the following, as applicable.
- a. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of federal

Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

- b. A provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity must report all suspected or reported violations to the federal awarding agency.
5. Reports. Artist shall furnish all required reports as may be necessary to comply with all applicable laws, regulations, guidelines, and conditions specified in the contract; and further, Artist shall provide any reports deemed reasonably necessary by the CITY. The CITY, the federal grant agency or the Comptroller General of the United States or any of their duly authorized representatives shall at all times have the right and option to monitor, inspect, audit and review the Artist’s performance and operation of the CDBG project; and in connection therewith, all of the above-mentioned entities shall have the right to inspect any and all records, books, documents, or papers of Artist and the subcontractors of Artist, for the purpose of making audit examination, excerpts and transcriptions.

Exhibit H: Proof of Insurance



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
09/05/2024

<p>THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.</p>			
<p>IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).</p>			
<p>PRODUCER Southern Pillars Insurance Group, LLC PO BOX 722795</p>		<p>CONTACT NAME: Deanne Pyeatt PHONE (A/C, No, Ext): (405) 500-1600 FAX (A/C, No): (405) 561-4026 E-MAIL ADDRESS: Deanne@spigok.com</p>	
<p>Norman OK 73070</p>		<p>INSURER(S) AFFORDING COVERAGE INSURER A: Scottsdale Insurance Company NAIC # 41297</p>	
<p>INSURED Whiteboard Exhibits, LLC 8614 N. Georgia Ave Oklahoma City OK 73114</p>		<p>INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:</p>	

COVERAGES		CERTIFICATE NUMBER: CL2391100496		REVISION NUMBER:			
<p>THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.</p>							
INSR LTR	TYPE OF INSURANCE	ADDL INSD	WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	Y	N	CPS7861985	09/07/2024	09/07/2025	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY <input type="checkbox"/> AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED \$ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y <input checked="" type="checkbox"/> N If yes, describe under DESCRIPTION OF OPERATIONS below						PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Inland Marine-All covered property in any one occurrence limit of insurance			CPS7861985	09/07/2023	09/07/2024	Limit of Insurance 45,000
<p>DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required) The City of Oklahoma City and its' Trust are additional insureds on the General Liability policy as required by the contract. Insurance shall not be changed or canceled without ten days prior written notice to The City of Oklahoma City.</p>							

CERTIFICATE HOLDER		CANCELLATION	
<p>CITY OF OKLAHOMA CITY Attn: Office of Arts & Cultural Affairs 420 W Main 9th Floor Oklahoma City OK 73102</p>		<p>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.</p> <p>AUTHORIZED REPRESENTATIVE <i>Michael Akers</i></p>	

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ACORD 25 (2016/03)

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