

CITY OF OKLAHOMA CITY
PUBLIC ART COMMISSION AGREEMENT
PROJECT: SNI METRO PARK SCULPTURE ART – SITE 5

THIS AGREEMENT, made and entered into this 30TH day of JANUARY 2024, by and between The City of Oklahoma City, hereinafter called “City,” and Artist Gabriel Friedman, hereinafter called “Artist,” for the design, fabrication, delivery, and installation of a sculpture titled *(unconfirmed) The Biggest Pink Skateboard*, 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 1: ARTIST SERVICES

Artist 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 or her designee, 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 permit requirements. 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 currently untitled Work as described in Exhibit B. 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.
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. 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

- A. City shall provide 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.

- B. City shall examine materials and information submitted by Artist and promptly render decisions pertaining thereto to avoid unreasonable delay in the progress of the Work, unless City must rely on a third-party Conservator or other expert for decisions. Response to Artist's written request for decisions related to the Work shall be made in writing as soon as reasonably possible.
- C. City shall provide final acceptance of the Work to be effective as of the earlier to occur of (1) the date of City's notification of final acceptance; or (2) the 30th day after Artist has sent written notice to the SNI Liaison as required under Section I.D.5., 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.
- D. 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

- 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.
- B. 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.
- C. 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 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 Section III.C., as well as all of the provisions of Exhibit H, hereto.

SECTION IV-TERMINATION OF AGREEMENT

If either party 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 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.

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.

B. Termination by City

1. In the event this Agreement is terminated by City without fault on the part of Artist, Artist shall be entitled to a final payment or settlement as set forth in either of the following options as set forth in B.1.a of this paragraph, as Artist deems appropriate. Exercise of either of these options by Artist shall not prevent Artist from pursuing a remedy otherwise available in law or equity.
 - a. 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 attached to this Agreement as Exhibit E. The Installation Phase shall be included when computing the percentage of Work completed. If payments previously made to Artist exceed the total amount due, then Artist shall deliver to the City the Work in whatever form it exists at the time of termination, which shall then become the property of City for use without restriction, except that it shall not be represented to be the Work of the Artist; or
 - b. Artist may refund to City all monies paid by City prior to the time of termination and shall 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.

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, City may require either of the options that would have been available to Artist in this section. Exercise of either of these options by City shall not prevent City from pursuing a remedy otherwise available to it in law or equity.

SECTION V-GENERAL CONDITIONS

- A. 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.
- B. 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.
- C. 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.
- D. 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.
- E. Nothing contained in the terms of this Agreement shall create or give to third parties any claim or right of action against City.
- F. 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.
- G. 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.
- H. 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.

- I. 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.
- J. Installation and worker safety shall be in conformance with Oklahoma laws and regulations.
- K. 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.
- L. 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.
- M. Artist agrees, in connection with the performance of work under this Agreement that Artist will not discriminate in accordance with the Non-Discrimination Statement, attached to this Agreement Exhibit G hereto. Further, any violation of such provisions shall constitute a material breach of this Agreement.
- N. Artist states that Artist has not been a party to any collusion in the Artist's selection, preparation of the Conceptual Design Report, or in connection with the award or approval of this Agreement.
- O. 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.
- P. 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

- A. 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:

Gabriel Friedman
2017 NW 21st Street
Oklahoma City, OK 73106
friedmanway@gmail.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. 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 warrant 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's 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, prior to entering the Location to install the Work and maintain until final acceptance of the Work by SNI Liaison:

- A. General Commercial Liability Insurance, with responsible insurance underwriters acceptable to City, insuring City and Artist against all legal liability for injuries to persons caused by Artist's use and occupancy of the premises or otherwise caused by Artist's activities and operations on said premises, with liability limits of not less than those established in the Governmental Tort Claims Act, 51 Oklahoma Statutes § 151 et seq., for

accidental and personal injury. Currently, those limits are \$175,000 for a claim for any other loss arising out of a single act, accident, or occurrence.

- B. Employers' Liability Insurance and/or Workers' Compensation Insurance, to the extent and in the manner required by the statutes of the State of Oklahoma. Artist shall furnish SNI Liaison and City with a certificate of such insurance, which shall provide that City is an additional insured under said policy or policies and that said policy cannot be canceled except upon thirty (30) days advance written notice to City. An Oklahoma Workers' Compensation Certificate of Noncoverage for Artist and for each employee of Artist will be accepted in lieu of workers' compensation coverage.
- C. Insurance protecting the Work or components while being transported or in transit by any means, with aggregate limits of not less than \$10,000.
- D. If the Policy limits are aggregate in nature, then Artist shall request from insurance provider evidence that there is adequate remaining coverage to assure compliance with the provisions of this Agreement. Artist shall furnish SNI Liaison and City with a certificate of such insurance, which shall provide that City is an additional insured under said policy or policies and that said policy or policies will not be canceled except upon thirty (30) days' advance written notice to City.

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, 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: Gabriel Friedman © 2024. Such notice shall also be affixed to the Work in its Location of permanent display and at any other 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.
- E. 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.
- F. 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:

- A. 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.
- B. It is the policy of City to consult with Artist regarding repairs and restoration which are undertaken during Artist's lifetimes, 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.
- C. 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.
- D. 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.
- E. 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 his 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

- A. 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 names or reputation 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.

- B. Artist's Commitment. Artist agree 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.

ARTIST:

Gabriel Friedman

Date

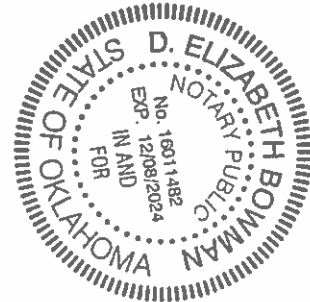
1.6.24

ACKNOWLEDGMENT

STATE OF OKLAHOMA)

) SS.

COUNTY OF OKLAHOMA)



The foregoing City of Oklahoma City Public Art Commission Agreement, for SNI Metro Park 3D Art was acknowledged before me on the 16th day of January, 2024, by Gabriel Friedman.

D. Elizabeth Bowman
NOTARY PUBLIC

My Commission Expires: 12/8/2024

My Commission Number: 1601482

ADOPTED by the Council and APPROVED by the Mayor of the City of Oklahoma City
this 30TH day of JANUARY, 2024.

ATTEST:

Amy K. Simpson
City Clerk



CITY OF OKLAHOMA CITY

David Holt

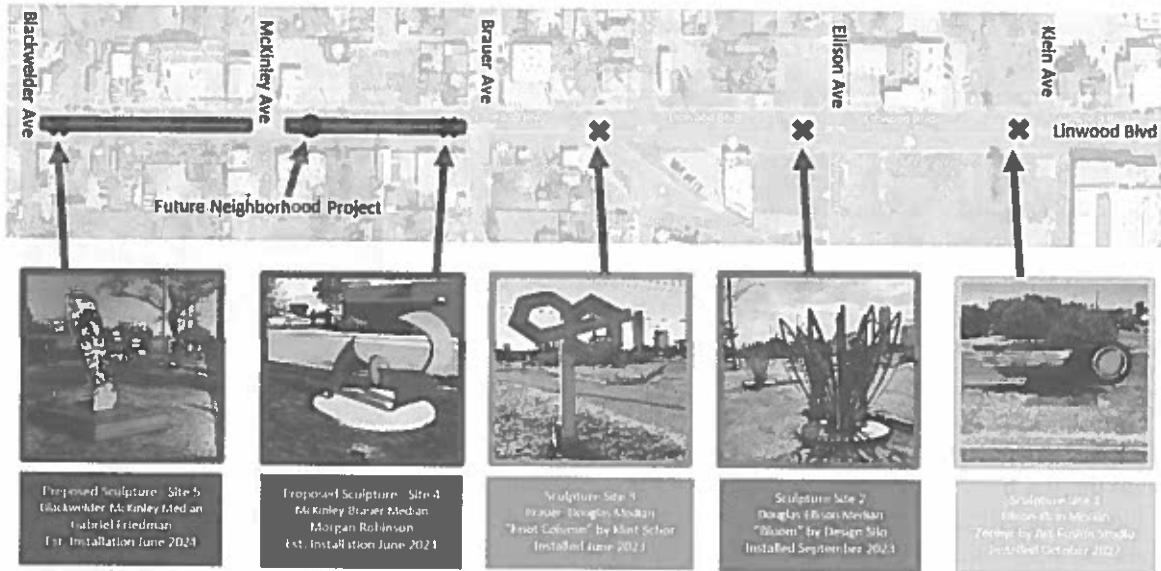
MAYOR

APPROVED 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 Blackwelder and N McKinley. The black "X" in the median highlighted in purple in Figure 1 shows the location of *(unconfirmed) The Biggest Pink Skateboard*.

Exhibit B

The Work

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

Title: *(unconfirmed) The Biggest Pink Skateboard*

Artist Statement:

"(unconfirmed) The Biggest Pink Skateboard" is about the idea of unexpected success in the face of cultural adversity. The concept is an evolution of a project i have been doing for the last few years called "thank you to skateboarding" where i have been reaching out to the most important and influential skateboarders in Oklahoma and the world asking them about the first skateboard decks that had as children. Then i make and send them a tiny copper and silver version (as seen to the left) as a thank you gift to them. It is my way of reminding people of their creative cultural contribution in the subculture of skateboarding that has grown to touch almost every facet of modern life, from fashion to sports to music to politics.



This skateboard deck sculpture proposed is based on the first skateboard of my friend and the most famous skateboarder ever to come from Oklahoma City, Don Nguyen. The son of a Vietnamese Refugee family, Don definitely does not come from your typical professional athlete background. We grew up skating in OKC together and spent an overwhelming majority of our skating days at an indoor skatepark that was just a few blocks south of the proposed sculpture site in metro park. Don has been a professional skateboarder based out of Los Angeles for over 20 years now and has arguably made it to the status of "legendary" skateboarder. The sculpture is meant to reflect the uniqueness of Metro Park neighborhood while referencing its little-known historical importance in the Oklahoma City Skateboard scene. It's also big, fun, and colorful.

Sculpture Dimensions: 2.5' W x 8'-0" H with 12-degree slant

Base Dimensions: 4' x 4' x 1' H – steel welded braces added to the back for structural support

Materials: ¼ to ½ plate steel; direct to metal paint

Exhibit C
Project Schedule

Project will be completed by May 31, 2024.

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

Exhibit D
Preliminary Maintenance Plan

As provided by Artist:

This sculpture should not need any maintenance. According to experts, The direct to metal paint should last at least 10-15 years. The sculpture should be inspected every 2-3 years for any unforeseen maintenance needs.

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 \$3,700 as follows: 100% of materials and paint \$2,000 ; 100% of design and rendering \$1,000 ; 100% of insurance \$500 ; 100% of permits \$200 ;	-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 \$4,150 as follows: 100% of engineering \$1,000 ; 100% of installation \$1,000 ; 50% of artist fee \$2,150 ;	-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 in the right column of this row are successfully completed and after receipt of final invoice from Artist.	Artist will be paid \$2,150 as follows: 50% of artist fee \$2,150 ;	-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 May 31, 2024.
Total payments			\$10,000

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
Non-Discrimination Statement

The ARTIST agree, in connection with the performance of work under this Agreement/Contract:

1. That ARTIST will not discriminate against any employee or applicant for employment, because of race, color, religion, national origin, age disability, genetic information, or sex (including sexual orientation and gender identity). The ARTIST shall take affirmative action to insure those employees are treated without regard to their race, color, religion, national origin, age disability, genetic information, or sex (including sexual orientation and gender identity) . 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.
2. That ARTIST agree to include this non-discrimination clause in any subcontracts connected with the performance of this Agreement/Contract.
3. In the event of the ARTIST'Ss non-compliance with the above non-discrimination clause, this Agreement/Contract may be canceled or terminated by the Contracting Entity. ARTIST may be declared ineligible for further Agreement[s]/Contract[s] with the Contracting Entity until satisfactory proof of intent to comply is made by the ARTIST.

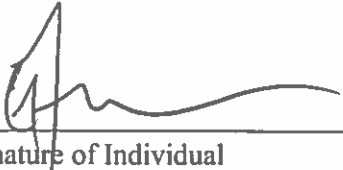


 _____ Signature of Individual	 _____ Title
 _____ Printed Name of Individual	

Exhibit H
Community Development Block Grant (CDBG) Addendum

Compliance with Laws and Regulations.

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 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. Artist 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 designee or 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.

Conformance with 2 CFR Part 200.332

The following information is included in this Agreement to conform to the requirements of 2 CFR 200.332:

Federal Award Identification Number (FAIN): B-23-MC-40-0003

Federal Award Date: July 1, 2023

Subaward period of performance and budget period: Exhibit E above

Amount of Federal Funds Obligated by this Agreement: \$10,000

Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA): This award is for the installation of art in the SNI Metro Park Neighborhood. The CDBG-eligible activity is Public Facilities: 24 CFR 570.201(c); Natl Obj: Low-mod Area (LMA) Benefit, 24 CFR 570.208(a)(1)(i); Matrix Code 03F

Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the pass-through entity: The Federal awarding agency is the HUD as defined in the above recitations. The contact information for the Mayor is:

The Hon. David Holt
Mayor of Oklahoma City
200 N Walker Ave., Third Floor
Oklahoma City, OK 73102

Assistance Listing Number (aka CFDA): 14.218; Title: Community Development Block Grant.

