

CITY OF TULSA, OK

CROSBIE HEIGHTS 3RD ST. UNDERPASS PROJECT

CALL TO ARTISTS



Prepared by:
Tulsa City Design Studio

On behalf of:
City of Tulsa Arts Commission
Crosbie Heights Neighborhood Association

Project Location 3rd Street Underpass
Between S Houston Ave and S Nogales Ave
36° 09'00.7"N 96° 00'08.2"W

Project Budget..... \$20,600

Medium..... Mural

Submission Deadline.. Submissions received after 11:59 PM CDT **04/19/2024** will not be accepted.

Point of Contact Juniper Hentz– Urban Design Planner
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Tulsa, OK 74103

PROJECT BACKGROUND

The City of Tulsa is accepting submissions from artists or teams of artists for a public art opportunity in the Crosbie Heights neighborhood. This neighborhood is one of Tulsa's oldest, and the 3rd Street Underpass is the gateway from Crosbie Heights to Tulsa's downtown for both pedestrians, cyclists, and vehicles.

This call will identify artists or teams of artists capable of designing, and installing an original work of art that welcomes people to Crosbie Heights. The piece will be located along 3rd Street under Highway 64 and the Red Fork Expressway (Highway 244), as shown below.

Approximate Location of Art Piece

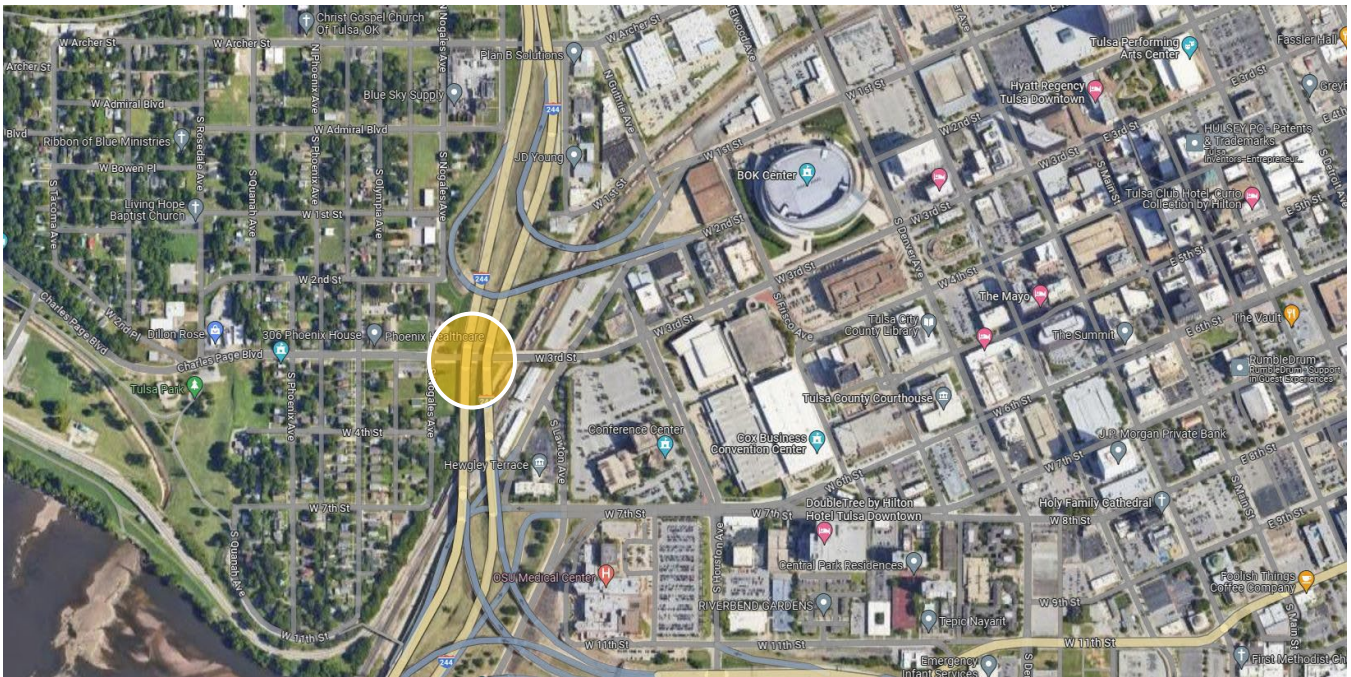


Figure 1: Plan View of the Downtown and Crosbie Heights Connection

Platted in 1908, only 10 years after Tulsa's incorporation, Crosbie Heights is one of Tulsa's oldest neighborhoods. The neighborhood is located between the Arkansas River and Highway 412 (Sand Springs Expressway) and contains many community assets, including Newblock Park, Irving School, Water Works Art Center, and the Cave House on Charles Page Boulevard.

As the City's partner organization, the Crosbie Heights Neighborhood Association aims to improve and beautify this eclectic neighborhood by improving the built environment and strengthening community ties. Crosbie Heights was selected in 2021 by the Tulsa Planning Office as the first neighborhood to participate in the Vibrant Neighborhoods Partnership, a holistic neighborhood revitalization program aimed at improving neighborhood conditions and resident satisfaction. Together, the City of Tulsa and the neighborhood seek to build a sense of place and belonging through public art reflective of its surrounding community.

CREATIVE VISION

CROSBIE HEIGHTS NEIGHBORHOOD VISION

Tulsa's Crosbie Heights Neighborhood has been described as "eclectic" and "a hidden little gem" as well as "a neighborhood in transition" by residents and members of the neighborhood association. Residents seek to create a safe, healthy place that can be enjoyed by everyone. The Underpass Project aims to improve connectivity with downtown and improve the safety of the area through community involved artistic enhancements.

ARTISTIC GOAL

This project will welcome Crosbie Heights residents and visitors with a permanent artistic installation consistent with the neighborhood's eclectic vibrancy. We encourage the artist or group of artists or team of artists to work with neighborhood residents in both design and implementation phases, and your ultimate design should be shaped in consultation with neighborhood residents, including artistic elements such as neighborhood history and community storytelling. Competitive submissions will incorporate community involvement in the design process and/or implementation phase.

DESIGN REQUIREMENTS

The selected artist or team will be responsible for designing, fabricating, and installing original work(s) that:

1. Serves as gateway to Crosbie Heights neighborhood.
2. Will withstand the Oklahoma climate while requiring minimal maintenance.
3. Is properly sealed and coated to protect against potential graffiti.
4. Utilize 1-6 columns and/or 1-4 lintels per amount specified by the artist and agreed upon by the City.

Note: More than 1 artist can/will be selected depending on the range of submissions. An artist may submit a proposal for the entire underpass, or for an identified number of column(s) and/or lintel(s). Additionally, a team may submit a vision for the entire underpass, with individual artists assigned to identified portions of the bridge.

However, individual submissions will also be considered – such that multiple artists may be awarded funding for respective underpass areas. For example, an artist may be selected for the lintel, while 2 additional artists paint the columns, but each of these artists submitted a separate proposal.

BUDGET

An aggregate budget of \$20,800 has been designated for the public art portion of this project which will be allocated between the artists awarded in the amount of \$1,050 per column and \$2,050 per lintel. These amounts reflect the square footage as the design should cover the total exposed surface area of the columns and lintels incorporated into the design proposal. The location and size of underpass supports are detailed in Figure 2 below. The selected artist's budget must be inclusive of all costs, including but not limited to artists fees, studio overhead, consultant fees, purchase of materials, site preparation, transportation, installation of work, general public liability policy of \$1.0 million dollars, workers compensation insurance, and contingency funding. The selected artist will be responsible for the appropriate, judicious allocation of the Commission funds for these project components.



Figure 2: Column and Lintel Measurements

Lintel Length - 50'-0" Height - 4'-0"	Column Length - 50'-0" Height - 4'-0" Circumference - 117"
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INFORMATIONAL CONFERENCE CALL

Members of the Steering Committee will include members of the Arts Commission, Neighborhood Association and City Design Studio staff. The Committee will hold two informational conference calls on March 28th and April 17th 2024. The meetings will cover aspects of the submittal process, provide opportunities to ask questions about requirements, and additional project criteria. City staff and members of the Steering Committee will be available to answer questions about the site and Oklahoma Department of Transportation (ODOT) requirements. Attendance of a minimum of one informational conference call is strongly encouraged as all questions must be answered publicly and will not be addressed through direct email or phone correspondence. Details for registration are detailed under "Phase 1" section of this RFP.

SHORTLISTING CRITERIA

Your submission will be judged based on how it reflects your artistic experience, creativity, feasibility, and fulfillment of submittal requirements.

1. Experience: Completion of works in prominent locations with comparable budgets
 - a. Quality and completeness of application
 - b. History of completing comparable projects in a timely fashion
2. Creativity: Your interest in the project and creative goals are distinct and clear
 - a. Statement of Interest demonstrates an understanding of the project.
 - b. Embody the Crosbie Heights Neighborhood Vision in your piece.
 - c. Thoughtfulness of community engagement at any step in the process
3. Feasibility: The proposed concept is practical and demonstrates a feasible project timeline, budget and a maintenance plan.

Submissions must include general descriptions of materials, intended design and plan for community involvement. The Steering Committee and/or the Arts Commission reserves the right to recommend that no applicants be awarded the project.

SCHEDULE

PHASE 1: OPEN CALL	1: Call to Artists Issued	March 18 th
	2: Informational Conference Calls	March 28 th and April 17 th
	3: Deadline for Submission	April 19 th
PHASE 2: REVIEW	4: Review and Shortlisting	April 22 nd – 26 th
	5: Interview Window	April 29 th – May 3 rd
PHASE 3: IMPLEMENTATION	6: Contract Negotiation	May to June
	7: Conceptual Design Report	Following contract approval
	8: Installation	Following notice to proceed
	9: Opening	Per approved schedule

PHASE 1 – CALL TO ARTISTS

1. Call to Artists Issued: The Tulsa City Design Studio is issuing this Call to Artists. The Steering Committee will review submissions and administer the artist selection process.
2. Informational Conference Call: Register via sending an email request for the intended date to the Point of Contact at least one day before the meeting. Attending a call is strongly encouraged as an opportunity to clarify any questions and further develop your understanding of this project. Call windows are listed below. Call length will be determined by participation.
 - a. Conference Call 1: March. 28th, 2024 – 9:30 am -10:30 am
 - b. Conference Call 2: April. 17th, 2024 – 10:00 am -11:00 am

3. Deadline: Submissions received after 11:59 PM CDT Friday, April 19th, 2024, will not be accepted; submittal methods are described on the following page. All submitted materials will be reviewed by the Steering Committee.
 - a. Any digital photos must be in .jpg format.
 - b. Documents must be submitted in PDF format.

PHASE 2 – REVIEW

1. Evaluation & Shortlisting: The Steering Committee will evaluate all submissions and may select several artist(s) to be shortlisted and interviewed prior to and/or during final selection.
2. Final Interviews: Artist(s) will present final concepts to the Steering Committee.
3. Recommendation: Based on Steering Committee selection, a Neighborhood Association representative will formally recommend an artist(s) to the Arts Commission, which will approve and advise the aesthetic direction of the project.

PHASE 3 – IMPLEMENTATION

1. Contract Negotiation Period: The selected artist(s) will be expected to work with stakeholders to integrate artwork into the final design. During this phase, the artist may be required to attend (possibly via conference calls) public information sessions and/or Steering Committee meeting(s). Once the terms and executable contract are accepted by the Mayor, the artist(s) will be responsible for appropriate permits for the project's installation. A sample contract is included at the end of this document.
2. Installation: **The formal notice to proceed (NTP) will follow contract execution.** Upon receipt of the NTP, work will begin on the installation of the artwork. The installation of the artwork shall be coordinated with the Tulsa City Design Studio. Community involvement will be coordinated by the CDS and the Neighborhood Association.
3. Opening: Per approved schedule.

HOW TO APPLY

If you are interested in being considered, ensure that your response to the Tulsa City Design Studio Office via Submittable™ is received before 11:59 PM CDT Friday, April 19th, 2024. Submittable is an online portal which will be utilized for review.

Submittable Link: [3rd Street Underpass Community Art Project \(submittable.com\)](https://www.submittable.com/projects/3rd-street-underpass-community-art-project)

Paper submissions must have a total of (6) printed and bound copies submitted to the Point of Contact by the submission deadline.

ARTIST ELIGIBILITY

The project is open to all professional artists, designers, or firms, age 18 and over, regardless of residence, race, color, religion, national origin, gender, military status, sexual orientation, marital status, or physical or mental ability. Artist teams are eligible to apply, including teams of artists from multiple disciplines.

SUBMISSION COMPONENTS

The following questions make up the Submittable™ form for this Call To Artists:

YOUR INFORMATION & EXPERIENCE

CONTACT INFORMATION Name, phone, email, mailing address, etc. Not evaluated.

RESUME(S) PDF upload. Include relevant education and recent commissions featuring budgets, exhibitions, collections, website, related experience, honors and grants, bibliography, and affiliations within the last five years. No individual resume should exceed three pages.

REFERENCES List two professional references that possess a thorough understanding of your work and methods. The list must include at least one client who commissioned you for an artwork installation within the last five years.

PORTFOLIO PDF upload. Ensure that your portfolio does not exceed 10 MB.

YOUR CREATIVITY

STATEMENT OF INTEREST In less than 250 words, explain why you are qualified to be a part of the Crosbie Heights 3rd St Underpass project.

IDEAS & THEMES In less than 250 words, explain how you would work with stakeholders, assisted by the City Design Studio, to realize a collaborative vision. Additionally, explain generally what form your design might take and ideas and themes you will explore.

MATERIALS, DIMENSIONS, & MAINTENANCE In less than 250 words, give a general description of the intended materials for the work and possible maintenance considerations, including cost estimation. Additionally, provide approximate dimensions for the work.

GENERAL TIMELINE In less than 250 words, give a general description of your proposed timeline.

HELPFUL CONTEXT

STAKEHOLDERS

CITY OF TULSA

ARTS COMMISSION

The Arts Commission is charged with assisting the City in matters concerning public artwork, giving guidance in maintenance of existing artwork, providing a source of respected opinions and advice concerning public matters with aesthetic implications, reviewing public signage issues (including neighborhood signs), stimulating superior aesthetic quality in all phases of development of public facilities, and assisting in the procurement of additional works of public art.

TULSA DEPARTMENT OF CITY EXPERIENCE – CITY DESIGN STUDIO

The City Design studio is the starting point of civic engagement for public design projects. The Studio centers people in the design process to ensure that residents and stakeholders are engaged at the beginning and

through project development. This public engagement process shapes the ultimate design of the City of Tulsa's vertical capital projects.

CROSBIE HEIGHTS NEIGHBORHOOD ASSOCIATION

The Crosbie Heights Neighborhood Association is a volunteer-based non-profit organization dedicated to improving the safety, health and well-being of Crosbie Heights residents. The Association collaborates with the City of Tulsa and other relevant agencies in short- and long-term planning to sustain the vision outlined by residents in the neighborhood's Small Area Plan. The Association aims to improve and beautify their neighborhood, educate neighbors in the residential crime and vandalism prevention, and foster community among Crosbie Heights residents.

DOWNTOWN TULSA PARTNERSHIP

The Downtown Tulsa Partnership was established in 2021 by property and business representatives and civic leaders to advocate for and champion the continued improvement of Downtown Tulsa. The Downtown Tulsa Partnership has entered into an agreement with the City of Tulsa to manage the Tulsa Stadium Improvement District services by providing enhanced maintenance, beautification, and livability services; mobility and public realm planning; and marketing and place enhancement initiatives that result in a thriving, vibrant, and inclusive urban neighborhood. DTP is excited to support this project and bring art to a primary Gateway area of Downtown.

PROJECT SITE



Figure 3: Looking West at the Entrance to the 3rd St Underpass



Figure 4: Looking North at the Landscaped Area Between the Two Overpasses.



Figure 5: Existing Neighborhood Signage Located at the Southwest Entrance of Underpass.

SAMPLE CONTRACT

(See attachment)

CONTRACT FOR ARTWORK

THIS CONTRACT FOR ARTWORK (the "Contract") is made by and between the City of Tulsa, an Oklahoma municipal corporation (the "City"), 175 E. 2nd Street, Tulsa, OK, 74103, and **[NAME]**, **[ADDRESS]**, (the "Artist").

WHEREAS, the City of Tulsa is currently constructing the [LOCATION/BUILDING NAME] located at [LOCATION], Tulsa, OK [ZIP] (the "Facility"); and

WHEREAS, City has allocated funds for Artwork for the Facility as required by City ordinance; and

WHEREAS, the Arts Commission for the City of Tulsa issued a Request for Proposal (RFP) for this Artwork and such Request for Proposal is attached hereto as Attachment A and incorporated herein by this reference; and

WHEREAS, page [#] of the RFP required each proposer to prepare and submit certain submissions for City's consideration in selecting an artist. Artist submitted these items which are attached hereto as Attachment B and incorporated herein by this reference ("Submittals"). Artist's Submittals set forth Artist's qualifications and proposal for the artwork. Based on Artist's Submittals, the Artist was selected to design, execute, fabricate and install an original work of art (hereinafter collectively "the Artwork") at the Site, the Artwork and the Site being more particularly described below; and

WHEREAS, the Artist is willing to provide such services for the Artwork and the City desires to contract with the Artist for the design, fabrication, delivery and installation of the Artwork on the terms and conditions hereinafter described.

NOW, THEREFORE, the City and the Artist, for the consideration and under the conditions hereinafter set forth, agree as follows:

ARTICLE 1. ARTIST'S SERVICES

1.1 General

1.1.1 The Artist shall design, execute, fabricate, install and document the Artwork in substantial conformity with the design theme as approved by the City. The Artwork will generally consist of the following elements:

1.1.1.1 Free-standing stainless-steel sculpture, with one side painted in epoxy paint, on a base [REVISE AS NEEDED]

1.1.1.2 Structural engineering needed for sculpture foundation and base [REVISE AS NEEDED]

1.1.1.3 Electrical engineering and associated fixtures and electrical infrastructure needed for lighting and power needs of the sculpture [REVISE AS NEEDED].

1.1.1.4 Artist is required to obtain all required building permits.

1.1.2 The Site location for the Artwork shall be as set forth in the RFP.

1.1.3 The Artist shall perform all services and furnish all supplies, materials and equipment as necessary for the design, execution, fabrication, transportation and installation of the Artwork.

1.1.4 The Artist shall determine the artistic expression, scope, design, color, size, material and texture of the Artwork, subject to review and acceptance by the City as set forth in this Contract.

1.2 Execution of the Artwork

1.2.1 Approved Schedule. Within twenty-one (21) days of the execution of this Contract, the Artist shall submit for approval by the City, a written schedule of progress completion dates for the components of the Artwork including but not limited to, a kickoff meeting to include information gathering from the City for specific imagery and text, review of art plans, submission of final art plans, approval of final art plans ("Design"), fabricating the Artwork, submitting a plan of delivery and installation of the Artwork, and providing post-installation materials. City shall approve or submit its requested revisions to the proposed schedule within fifteen (15) days of receipt of Artist's proposed schedule. The proposed schedule approved by the City or the schedule with the City's proposed revisions accepted by the Artist shall serve as the "Approved Schedule" for the performance of this Contract. Final installation of artwork, base and plaque will occur in coordination with the Facility's construction.

1.2.2 The Artist shall complete the fabrication of the Artwork in substantial conformity with the Design as presented to and approved by the City which is incorporated herein as a part of this Contract and in accordance with the Approved Schedule.

1.2.3 Prior to implementation of any significant changes in the Artwork, the Artist shall present to the City in writing, for further review and approval, a thorough description of such proposed changes. A significant change is any change affecting the scope, intent, design, color, size, material or location of the Artwork not permitted by, or not in substantial conformity with, the approved Design. Following receipt of the required description of proposed change(s), the City shall approve or disapprove the change(s) suggested by the Artist. The Artist may implement a change only with priorwritten agreement from the City.

- 1.2.4 The Artist shall make periodic progress reports to the designated representative of the City. Representatives of the City shall have the right to review the progress of the Artwork at reasonable times, and with advance notice, during the fabrication thereof.
- 1.2.5 In performance of the Artwork described herein, the Artist shall comply with all applicable State and local laws, rules and regulations. Artist shall avoid the use of materials or finishes known to be hazardous or potentially hazardous, including asbestos or any derivative thereof.
- 1.2.6 The Artist shall complete the Artwork and the installation thereof in accordance with the Approved Schedule.
- 1.2.7 The Artist shall provide to the City a written plan of installation of the Artwork on the Site. The written plan shall include the following information: specifications for installation and specifications for foundation design including materials needed for Site preparation or any physical alteration of the Site as specified by the Artist as delineated in section 1.1.1.
- 1.2.8 The City shall grant extensions as needed if installation is delayed because of delays in Site preparation. The City will notify the Artist of any such delay. The City and the Artist will agree upon a new date for delivery and installation of the Artwork at the Site. The granting of any extensions shall not affect any other provisions of this Contract.
- 1.2.9 If the Artist fails to complete installation within the time set in the Approved Schedule and any extensions thereto, the Artist has ten (10) days to complete the installation. If after the ten (10) days after the installation has not been completed, then the Artist will be in breach of the Contract.

1.3 Delivery and Installation

- 1.3.1 The Artist, at Artist's cost, shall deliver and install the completed Artwork at the Site, including off-loading, set-up costs, crane, forklift and/or other specialized equipment costs, and personnel needed for off-loading and set-up.
- 1.3.2 Except as set forth herein, all labor, equipment, and/or expenses and costs required for completion and installation of the Artwork at the Site shall be the responsibility of the Artist.

1.4 Post-Installation

- 1.4.1 Within thirty (30) days after installation of the Artwork and prior to final payment, the Artist shall furnish the City high quality photographs of the completed Artwork saved on DVD or some other digital format.

1.4.2 The Artist shall also furnish the City with a full written narrative description of the Artwork.

1.4.3 The Artist shall provide to the City written instruction for appropriate maintenance and preservation of the Artwork.

1.5 Final Acceptance

1.5.1 The Artist shall advise the City in writing when all services required, including Post-Installation, have been completed.

1.5.2 The Artist shall apply for final payment.

1.5.3 The City shall process the final payment, which acknowledges final acceptance of the Artwork.

1.5.4 Title of ownership to the Artwork shall pass to the City upon final acceptance.

1.6 Ownership of Documents and Models. Upon final acceptance of the Artwork and final payment to the Artist, all studies, drawings, designs, maquettes and models prepared and submitted under this Contract shall belong to the City; provided, however, the Artist may retain possession of one scale model of the Artwork for Artist's records.

ARTICLE 2. COMPENSATION AND PAYMENT SCHEDULE

2.1 Budget. The budget for the Artwork for the Facility funded by the City (excluding the amount allocated for maintenance) is \$ [0.00] ("Budget").

2.2 Artist's Fixed Fee. The City shall pay the balance of the Budget to the Artist as a fixed fee which shall constitute full compensation for all services and materials to be performed and furnished by the Artist under this Contract, including, but not limited to, fees, labor of the Artist and the Artist's assistants, studio and operating costs applicable to this project, travel costs for the Artist to and from the Site or other necessary travel, and all costs associated for the approval of the designs by an Oklahoma licensed professional engineer. Any costs for the mounts/hardware/installation of the Artwork at the Site location and delivery to the Site shall be paid directly by the Artist. The Artist shall be responsible for payment for transportation of the Artwork to the Site and any costs associated with alterations to existing structures to accommodate the Artwork. The fixed fee shall be paid to the Artist in the following installments, each installment to represent full and final payment for all services and materials provided prior to the due date thereof:

- 2.2.1 Installment 1 in the amount of \$ [000.00] upon execution of the Contract by all parties and receipt of the executed Affidavit of Claimant, Artist's insurance certificates, Vendor supplier form, W-9, and receipt of concept sketches;
 - 2.2.2 Installment 2 in the amount of \$ [000.00] upon City's approval of the Design, including the design of the foundations and associated electrical needs for the Artwork;
 - 2.2.3 Installment 3 in the amount of \$ [000.00] upon notification that one half of the fabrication process has been completed accompanied with documentation for review of the fabrication process to date;
 - 2.2.4 Installment 4 in the amount of \$ [000.00] upon approval of completion of the Artwork prior to installation; and
 - 2.2.5 Installment 5 shall equal the balance of the fixed fee (after the payment of previous installments) as final payment after completion of the installation, final approval of the Artwork by the City and completion of the Post-Installation services described in Section 1.4.
- 2.3 Payment. In order to receive payment, the Artist shall submit an invoice containing photographs documenting the required progress of the Artwork, as applicable. The City shall determine if the conditions for payment of each installment have been satisfactorily completed. The City shall pay the invoice within thirty (30) days of such determination. The parties agree that no interest or other costs shall accrue on the fixed fee at any time during the operation of this Contract.

ARTICLE 3. TIME OF PERFORMANCE

- 3.1 Performance according to Approved Schedule. The Artist shall perform the work and services under this Contract in accordance with the Approved Schedule or extensions thereof.
- 3.2 Time of the Essence. The times set forth in this Contract and the Approved Schedule are of the essence and shall be strictly enforced unless extended as provided herein.
- 3.3 Time Extensions. Reasonable extensions of time to the Artist and to the City will be granted in the event there is a delay in the performance of the respective party's obligations in connection herewith if caused by conditions beyond either party's control or Acts of God which render timely performance of either party's services impossible. Failure to fulfill time performance obligations due to conditions beyond the reasonable control of either party will not be considered a breach of contract, provided that such obligations shall be suspended only for the duration of such conditions.

ARTICLE 4. WARRANTIES

4.1 Warranties of Title. The Artist represents and warrants that:

- 4.1.1 the Artwork is solely the result of the artistic and creative efforts of the Artist;
- 4.1.2 the Artwork is unique and original and does not infringe upon any copyright;
- 4.1.3 the Artwork has not been accepted for sale elsewhere; and
- 4.1.4 the Artwork is free and clear of any liens from any source whatever.

4.2 Warranties of Quality and Condition. The Artist represents and warrants that:

- 4.2.1 the Artwork, as fabricated and installed, will be free of defects in material and workmanship, including any defects of "inherent vice" or qualities which cause or accelerate deterioration of the Artwork; and
- 4.2.2 reasonable maintenance of the Artwork will not require procedures substantially in excess of those described in the maintenance recommendations to be submitted by the Artist to the City in accordance with the terms of this Contract

4.3 Quality and Conditions Warranty Breach. The City shall give notice to the Artist of any observed breach of warranty with reasonable promptness. The Artist shall, at the request of the City, and at no cost to the City, reasonably and promptly cure the breach of any such warranty, which is curable by the Artist, and which cure is consistent with professional conservation standards (including, for example, cure by means of repair or re-fabrication of the Artwork).

ARTICLE 5. COPYRIGHT OWNERSHIP AND REPRODUCTION RIGHTS

5.1 General

- 5.1.1 Copyright Interests. Upon delivery, final inspection and acceptance of the Artwork by the City, title and possession of the Artwork shall vest in the City. Artist shall retain the right to copy, sell copies of, and license others to copy, the Artwork; provided that the Artist shall not sell copies of the Artwork to other municipalities, or license other municipalities to copy the Artwork; provided further that the City of Tulsa is hereby granted perpetual license to copy, publish, and sell copies of the Artwork for City of Tulsa's purposes. For purposes of this Contract, the term *Copyright Interests* means all interests Artist may own or claim in copyrights in the United States in and to the Artwork including, without limitation, all rights to register and obtain

renewals and extensions of copyright registrations, all rights of reproduction, display, performance and distribution, and the right to create derivative works therefrom together with all other copyright interests accruing by reason of international copyright conventions, including the right to sue for, settle, or release any past, present, or future infringement thereof. All *Copyright Interests* or other intellectual property rights associated with the Artwork shall belong exclusively to the Artist.

- 5.1.2 License to City. The Artist grants to the City, City's successors and assigns, a royalty free, non-transferable irrevocable license to make, or have made on the City's behalf, photographic or graphic reproductions of the Artwork, including, but not limited to, photographs or reproductions used in advertising, brochures, media publicity and catalogs or other similar publications, in any medium, provided that these rights are exercised in a tasteful and professional manner.
- 5.1.3 Waiver of Moral Rights. The City acknowledges Artist's artistic endeavor in and to the Artwork and agrees to make reasonable efforts to maintain the integrity of the Artwork so long as it is displayed; provided, however, the Artist acknowledges that perpetual display of the Artwork is not guaranteed. The City will attempt to notify and consult with the Artist in relation to any intentional alteration, modification, change, destruction of or damage to the Artwork by the City of which it has advance notice. Other than as provided for above, the Artist hereby expressly and forever waives for any and all uses of the Artwork as a work of visual art, as a promotional item, or otherwise, any and all moral rights applicable to the Artwork arising under 17 U.S.C. §106A, and any rights arising under U.S. federal or state law or under the laws of any other country that conveys rights of the same nature as those conveyed under 17 U.S.C. §106A, or any other type of moral right or *droit moral*.
- 5.2 Artist Credit. The Artist shall be identified as the creator of the Artwork in a visible location near the Site of the Artwork. The Artist shall provide and install an identifying exterior plaque; size and location to be approved by the City. All reproductions or photographs of the Artwork produced by or with the permission of the City shall identify the Artist as the creator of the Artwork.

ARTICLE 6. MAINTENANCE, RESTORATION AND DEACCESSION RIGHT

- 6.1 Maintenance, Repairs and Restoration. Maintenance of the Artwork according to the instructions supplied by the Artist as provided for in this Contract and the repair and restoration of the Artwork shall be the responsibility of the City. The Artist shall be consulted for recommendations with regard to all repairs and restorations made during the Artist's lifetime. Following the demise of the Artist, an expert in conservation relative to the scale and media of the Artwork in question shall be consulted. To the extent practicable and in accordance with recognized principles of professional conservation, the Artist shall be given the opportunity to accomplish such repairs and restoration. At any point after delivery and installation of the Artwork, the Artist may inspect the Artwork and notify the City in writing as to any recommended repairs; provided, however, that the City shall not be obligated to make such repairs.
- 6.2 Deaccession Right. The City may remove the Artwork or any component thereof from the Site if it determines that the Artwork represents a safety hazard in its present condition or cannot reasonably be restored to its original structural or aesthetic integrity due to technical difficulties or expense disproportionate to the value of the Artwork or if the City otherwise determines that removal is in the best interest of the City. The City has no responsibility to locate, restore, or replace the Artwork if it is misplaced, damaged or stolen. The City shall notify the Artist of such a decision to deaccess the Artwork. Such notification shall be made before the deaccession, whenever possible.
- 6.3 Artist's Address. The Artist shall notify the City of changes in Artist's address. The failure to do so, if such failure prevents the City from locating the Artist, shall be deemed a waiver by the Artist of the right subsequently to enforce those provisions of Article 6 that require the express approval of the Artist or notice to the Artist. City shall make every reasonable effort to locate the Artist when matters arise relating to the Artist's rights.

ARTICLE 7. ARTIST AS INDEPENDENT CONTRACTOR/ AFFIDAVIT OF CLAIMANT

The Artist agrees to perform all work under this Contract as an independent contractor and not as an agent or an employee of the City. The Artist as an independent contractor shall furnish all supervision, labor, materials, equipment, supplies, and other incidentals of the Artwork. The Artist shall not be supervised by any employee or official of the City nor shall the Artist exercise supervision over any employee or official of the City. Artist shall complete the attached Affidavit of Claimant in compliance with the laws of the State of Oklahoma.

ARTICLE 8. INSURANCE, RISK OF LOSS AND INDEMNITY

- 8.1 Insurance. The Artist, an independent contractor, shall procure and maintain in effect during the term of this Contract general liability insurance to cover any loss or damage to any person or property with a combined limit of coverage of at least \$1,000,000 per occurrence. The Artist shall also be responsible for maintaining workers' compensation insurance for its employees at Oklahoma minimum statutory limits. The Artist shall provide proof of such coverage by submitting certificates of insurance prior to the City's execution of the Contract. The Artist shall not cause any required insurance policy to be cancelled or permit it to lapse. If the Artist cancels, allows to lapse, fails to renew, or in any way fails to keep in required insurance policy in effect, the City will suspend all payments for the project until the required insurance is obtained. Further, the Artist may be deemed by the City to be in breach of the Contract, if the Artist fails to keep the required insurance in place for the duration of the Contract.
- 8.2 Risk of Loss. The Artist bears all risks of loss, damage to, or theft of the Artwork while it is being made, transported, and/or installed until final approval of the Artwork by the City.
- 8.3 Indemnity. The Artist shall indemnify, defend and hold City harmless from and against claims, damages, losses and expenses for bodily injury, sickness, disease or death or injury to or destruction of property, including, but not limited to, reasonable attorney's fees, arising out of or resulting from the activities, omissions and performance of this Contract but only to the extent caused in whole or in part by negligent acts or omissions of the Artist, its employees, agents, subcontractors or anyone directly or indirectly employed by it or anyone for whose acts it may be liable. The Artist shall further indemnify, defend and hold the City harmless from and against any claims including, but not limited to, reasonable attorney's fees, arising out of or resulting from the Artist's failure to pay for the labor, services, materials, equipment, supplies and other incidentals related to the Artwork furnished by the Artist.
- 8.4 Copyright Indemnity. The Artist shall indemnify, defend and hold the City harmless from any claims, suits, damages, losses and expenses, including but not limited to reasonable attorneys' fees, arising out of claims that the Artist has infringed any copyright in the design of the Artwork.

ARTICLE 9. MISCELLANEOUS

- 9.1 Assignment. The work and services required of the Artist are personal and shall not be assigned, sublet or transferred. This shall not prohibit the Artist from employing qualified personnel who shall work under Artist's supervision.
- 9.2 Termination. If either party to this Contract shall willfully or negligently fail to fulfill in a timely and proper manner, or otherwise violate any of the covenants,

agreements or stipulations material to this Contract, the other party shall thereupon have the right to terminate this Contract by giving written notice to the defaulting party of its intent to terminate, specifying the grounds for termination. The defaulting party shall have thirty (30) days after receipt of the notice to cure the default. If it is not cured within that time, this Contract shall terminate.

- 9.3 Modification. No alteration, change, or modification of the terms of this Contract shall be valid unless made in writing and signed by all parties hereto.
- 9.4 Conflict with Law. Any provision of this Contract which is hereafter found by a court of law or otherwise to be in conflict with the laws, rules, and/or regulations of the United States or the State of Oklahoma shall be considered null and void. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this Contract to the extent the Contract is capable of execution.
- 9.5 Term. The Effective Date of this Contract shall be the date of signature by the City and shall extend until Final Acceptance of the Artwork by the City as defined herein; provided, however, that any provision of this Contract which is intended to be performed or continue to be performed after the Final acceptance of the Artwork shall survive the completion or termination of this Contract.
- 9.6 Oklahoma Law/Venue. This Contract shall be governed by the laws of the State of Oklahoma both as to interpretation and performance. The parties agree that any claim asserted in any legal proceeding by one party against the other shall be commenced and maintained in Tulsa County District Court of the State of Oklahoma or the United States District Court for the Northern District of the State of Oklahoma, which state or federal court has subject matter jurisdiction with respect to the dispute. The parties submit to the jurisdiction of such courts over each of them personally and, in connection with such litigation, waive any objection to venue in such courts and any claim that such forum is an inconvenient forum.
- 9.7 Audit Rights and Records. The Artist shall retain all records related to this Contract for the duration of the Contract term and for three (3) years following completion and/or termination of this Contract; provided, however, if an audit, litigation or other action involving such records is started before the end of the three year period, the records will be maintained for three (3) years from the date that all issues arising out of the action are resolved or until the end of the three-year retention period, whichever is later. As used herein, "records" includes books, documents, accounting procedures and practices and other data, regardless of the type and regardless of whether such items are in written form, in the form of computer data, or in any other form. Said records are subject to audit and examination by the City and any other pertinent State or Federal agency.
- 9.8 Notice. All notices shall be given in writing and sent to the Artist and the City at the addresses provided in the introductory paragraph hereof. Either party may give written notification to the other party of any change of address which shall be effective upon receipt of such written notification.

9.9 Merger. This Contract shall constitute the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, whether oral or written, between the parties with respect to the matters contained in this Contract.

This Contract has been executed by the duly authorized representative of the parties on the dates set forth below to be dated and effective on the date of execution by City.

REMAINDER OF PAGE INTENTIONALLY BLANK

Artist: _____

By: _____

Dated: _____

Printed Name: _____

Title _____

City of Tulsa

By: _____
Mayor

Dated: _____

ATTEST:

APPROVED:

City Clerk

Assistant City Attorney

RECOMMENDED BY:

Arts Commission Chairperson
(signature)

City Engineer

AFFIDAVIT OF CLAIMANT

STATE OF _____

COUNTY OF _____

The undersigned, of lawful age, being first duly sworn, on oath says that this contract is true and correct. Affiant further states that the work, services or materials will be completed or supplied in accordance with the contract, plans, specifications, orders or requests furnished the affiant. Affiant further states that (s)he has made no payment directly or indirectly of money or any other thing of value to any elected official, officer or employee of the City of Tulsa or any public trust of which the City is a beneficiary to obtain or procure the contract or purchase order.

By: _____

Signature

Name: _____

Company: _____

Title: _____

Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Public

My Commission Expires: _____

Notary Commission Number: _____

ATTACHMENT A
REQUEST FOR PROPOSAL

SAMPLE

ATTACHMENT B
ARTIST'S SUBMITTALS

SAMPLE