

ARTIST CONTRACT FOR TEMPORARY ART

Theatre in the Park Temporary Art Project

Johnson County Park and Recreation District

This Artist Contract for Temporary Art (“Agreement”) is entered into on the _____ day of _____, 2023 (“Effective Date”) between the Johnson County Park and Recreation District (hereinafter “JCPRD”) and _____ (hereinafter “Artist”).

Artist wishes to provide temporary art services to JCPRD, primarily consisting of constructing, loaning, installing, and removing a temporary art installation consisting of _____ and any structure, such as a sculpture base, or fixtures necessary for installation, entitled “_____” (hereinafter the “Sculpture”), as more fully described in this Agreement.

JCPRD and Artist agree to terms as follows:

1. LOAN/LICENSE

- A. Artist agrees to loan to JCPRD and JCPRD agrees to borrow from Artist (that is, Artist grants a license to JCPRD, and JCPRD accepts the license from Artist), for the purpose of exhibiting, at a public site in JCPRD, a temporary, site-specific work of art, which Artist represents and warrants he/she holds all rights, title and interests therein or otherwise possesses the right of ownership and control therein, namely, the Sculpture for the Term, as defined herein.
- B. This Agreement does not constitute an agreement for the purchase of the Sculpture.

2. EXHIBITION SITE

- A. The exhibition site for the Sculpture will be located at the front entrance of Theatre in the Park, also intersecting with the trail within Shawnee Mission Park as identified on Exhibit “A”, attached hereto and incorporated herein by reference (hereinafter the “Site”).

3. TERM

- A. The term of the exhibition permitted under this Agreement will commence upon _____, 2023 (“Exhibition Start Date”) and will continue until an agreed upon date that takes into account the condition of the Sculpture and the weather, no earlier than September 1, 2023, but not later than _____ (“Exhibition End Date”). The period from the Exhibition Start Date through the Exhibition End Date is the “Term.” JCPRD, at its sole discretion, may earlier terminate this Agreement and thereby require Artist, at his/her sole cost and expense, to remove the Sculpture from the Site within thirty (30) days of notice to so remove. Such termination hereunder shall be by written notice only.

4. **IDENTIFICATION PLAQUE**

- A. JCPRD, at its sole cost and expense, will cause the design, fabrication and installation of signage to be erected at the Site. The signage will include identification of the name of Artist and title of the Sculpture. Final determination of any additional information to be included on the plaque will be made by JCPRD in its sole discretion.

5. **INSTALLATION AND REMOVAL**

- A. Artist, at his/her sole cost and expense, will be responsible for the transportation and delivery of the Sculpture to and from the Site and also will undertake (1) the Sculpture installation for on-time commencement of the Exhibition Start Date and (2) the subsequent removal of the Sculpture at his/her sole cost and expense.
- B. JCPRD, upon the request of Artist, may assist Artist with the installation and the subsequent removal of the Sculpture, provided, however, any assistance by JCPRD will consist of providing not more than three (3) employees. JCPRD shall not seek reimbursement of any of its costs and expenses that it might incur in rendering such assistance to Artist, should it choose to do so.
- C. Artist will obtain JCPRD's written approval of the date and time of Sculpture installation and the subsequent removal of the Sculpture. JCPRD will have the right, but not the obligation, to supervise and/or assist in the installation and subsequent removal of the Sculpture.
- D. Artist's responsibilities include ensuring the Sculpture while transporting, installation and removal in coverage amounts reasonably acceptable to JCPRD, as well as personal liability coverage during visits to the Site.

6. **MAINTENANCE AND REPAIRS**

- A. Artist will provide a Sculpture maintenance plan to JCPRD not less than two (2) weeks prior to the Exhibition Start Date, which shall detail the Artist's plan of care and maintenance of the Sculpture for the duration of the Term. Artist shall be responsible for care and maintenance of the Sculpture during the Term. JCPRD shall reasonably cooperate with Artist for ongoing maintenance of the Sculpture.
- B. JCPRD will ensure the Sculpture under its blanket policy, at its expense, for the amount indicated in this Agreement, against physical loss or damage while on Site during the Term. If the Artist elects to maintain his/her own insurance coverage, at the time of the execution of this Agreement and each extension but, in any event, prior to commencement of work at the exhibition Site, Artist shall furnish JCPRD with a Certificate of Insurance naming JCPRD as additional insured as evidence that the policies providing the required coverage and limits of insurance are in full force and effect.

- C. JCPRD, at its sole cost and expense, will maintain the Site surrounding the Sculpture and the signage referred to above, provided, however, JCPRD is not required to provide security for the Sculpture. JCPRD will not seek any reimbursement or other payment from Artist for incurring maintenance costs related to the signage.
- D. If JCPRD determines Artist has failed to care and maintain the Sculpture in accordance with the plan of care, then JCPRD shall give written notice to Artist and request Artist care for and maintain the Sculpture. Should Artist fail to cure JCPRD's maintenance request within fourteen (14) days from the notice, Artist agrees the Sculpture will be deemed abandoned and the Sculpture will be the property of JCPRD. If Artist fails to remove the Sculpture on or before the Exhibition End Date, Artist agrees the Sculpture will be deemed abandoned the Sculpture will be the property of JCPRD. JCPRD is not responsible for loss or damage to the Sculpture resulting from theft, vandalism, weather, or other calamity.
- E. In the event the Sculpture is damaged, defaced or otherwise experiences extraordinary wear and tear, whether due to vandalism, force majeure, exposure to the elements, or otherwise, Artist will, within fourteen (14) days of receipt of written notice from JCPRD, will determine a plan of maintenance and/or repair to the Sculpture and provide said plan to JCPRD for approval. Within four (4) weeks from date of JCPRD's initial notice, Artist shall, make repairs to the Sculpture or determine if the Sculpture requires removal in accordance with Section 5 of this Agreement.
- F. If any damage to the Sculpture renders the Sculpture unsafe and otherwise hazardous to the public health, safety and welfare, as determined by JCPRD's sole discretion, then (1) Artist shall either restore the Sculpture to a safe condition or assist JCPRD in completing appropriate repairs, within one (1) weeks of receipt of JCPRD's determination, in writing, or (2) JCPRD will give notice that Artist shall remove the Sculpture in accordance with Section 5 of this Agreement.

7. **HOLD HARMLESS AND INDEMNITY PROVISION**

- A. Artist shall hold harmless, indemnify and defend JCPRD, its elected officials, officers, employees, agents, representatives, and volunteers from any and all damages, costs or expenses, at law or in equity, that may, at any time, arise or be alleged due to injury to property or injury to person caused or occasioned by any willful or negligent act or omission of Artist or any of his/her representatives or agents.

8. **WAIVER OF RIGHTS**

- A. Notwithstanding any other provision of this Agreement to the contrary, if JCPRD is unable or unwilling to make, or to continue to make, the Site available, due to budgetary constraints, action of JCPRD's board, insufficient and other unavailable staffing, force majeure or for any other reason, or for no reason, then Artist and his/her agents, representatives, heirs, successors, and assigns will have no right to

file an action or make a claim against JCPRD as a result of such action or inaction, any such right being expressly waived hereby.

9. **FINAL ACCEPTANCE AND PAYMENT**

- A. Upon Artist's satisfaction and completed work, JCPRD shall inspect the installed piece and notify Artist of any observed flaws. When satisfied, JCPRD will notify Artist in writing electronically thereof.
- B. JCPRD agrees to pay Artist an honorarium of Ten Thousand Dollars (\$10,000.00) for the design of this site-specific piece. Artist will be awarded the \$2500 upon the full execution of the contract, \$5000 after the piece has been installed and the remaining portion of \$2500, if this agreement shall then still be in effect, upon the deinstallation of the piece. The honorarium shall be full compensation for the Sculpture loan and the work, materials, equipment, travel expenses, maintenance, and all other expenses of Artist in relationship to installation and deinstallation of the piece.

10. **SALE OF SCULPTURE**

- A. Artist may discuss terms of a sale of the Sculpture with potential buyers, but JCPRD shall have no obligation to advertise the Sculpture. Whether a sale is made or not, Artist agrees the Sculpture may not be removed from the Site prior the Exhibition End Date, unless this Agreement has been terminated under the terms hereof. Artist shall receive all proceeds from a sale of the Sculpture, whether during or after the Term. thereof.

11. **COPYRIGHT**

- A. Artist grants JCPRD the irrevocable license to reproduce images of the Sculpture for non-commercial promotional purposes.

12. **INDEPENDENT CONTRACTOR**

- A. Artist will provide services under this Agreement related to the Sculpture as an independent contractor and not as an employee of, or partner or joint venturer with, JCPRD. Artist shall be responsible for payment of all taxes and benefits as a self-employed person. Artist shall be solely responsible for the way Artist renders Sculpture services; Artist will not be directed by JCPRD in an employer/employee relationship; and Artist will not be controlled, directed, or managed by JCPRD as Artist provides Sculpture services. Artist understands and agrees that JCPRD may engage other artists at JCPRD at JCPRD's sole discretion.

13. **AGREEMENT**

- A. This Agreement embodies the entire agreement between the parties and no other written or oral agreements will be honored. Amendment of this Agreement may only occur upon the written agreement of Artist and JCPRD. This Agreement may be

executed in one or more counterparts, each of which, when so executed, shall be deemed to be an original.

B. This Agreement is governed by the laws of the State of Kansas. The Parties agree venue for any claim or dispute resulting from this Agreement will take place in the courts of Johnson County, Kansas.

14. **NOTICE**

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

JCPRD

Superintendent of Culture
Johnson County Park and Recreation District
8788 Metcalf Avenue
Overland Park, KS 66212

ARTIST

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

15. **RELEASE WAIVER**

Artist hereby releases JCPRD, and all participating sponsors, in the event of actions, demands, suits, actions, accounts, damage claims, and liabilities for loss, harm, accidental death, or damage whatsoever, against JCPRD and said sponsors and their respective, servants, volunteers, employees, or agents that might arise from participation in the display of the Sculpture.

ARTIST

Print Name: _____

Signature: _____ Date: _____, 2023

Johnson County Park and Recreation District

Signature: _____ Date: _____, 2023

Jeff Stewart, Executive Director
Johnson County Park and Recreation District