



# Public Arts Commission

June 04, 2025

6:00 PM

Fridley Civic Campus, 7071 University Ave N.E.

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## Agenda

### Call to Order

### Roll Call

### Approval of Meeting Minutes

1. May 7, 2025 and May 14, 2025 Public Arts Commission Minutes

### New Business

2. Moore Lake Park Sculpture Update
3. 2025-2026 Workplan Draft Discussion
4. Commons Park Sculpture Community Engagement Model

### Old Business

### Other Items

### Adjournment

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#### Accessibility Notice:

- If you need free interpretation or translation assistance, please contact City staff.
- Si necesita ayuda de interpretación o traducción gratis, comuníquese con el personal de la ciudad.
- Yog tias koj xav tau kev pab txhais lus los sis txhais ntaub ntawv dawb, ces thov tiv tauj rau Lub Nroog cov neeg ua hauj lwm.
- Haddii aad u baahan tahay tarjumaad bilaash ah ama kaalmo tarjumaad, fadlan la xiriir shaqaalaha Magaalada.

Upon request, accommodation will be provided to allow individuals with disabilities to participate in any City of Fridley services, programs or activities. Hearing impaired persons who need an interpreter or other persons who require auxiliary aids should contact [CityClerk@FridleyMN.gov](mailto:CityClerk@FridleyMN.gov) or (763) 572-3450.



# AGENDA REPORT

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**Meeting Date:** June 4, 2025

**Meeting Type:** Public Arts Commission

**Submitted By:** Mike Maher, Parks and Recreation Director

## **Title**

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May 7, 2025 and May 14, 2025 Public Arts Commission Minutes

## **Background**

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Attached are the meeting minutes of the May 7, 2025 and May 14, 2025 Public Arts Commission.

## **Financial Impact**

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None.

## **Recommendation**

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Staff recommends approval of the May 7, 2025 and May 14, 2025 Public Arts Commission minutes.

## **Attachments and Other Resources**

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- May 7, 2025 Public Arts Commission Minutes.
- May 14, 2025 Public Arts Commission Minutes.

## **Vision Statement**

We believe Fridley will be a safe, vibrant, friendly and stable home for families and businesses.



# Public Arts Commission

May 7, 2025

6:00 PM

Fridley Civic Campus, 7071 University Ave N.E.

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## Minutes

### **Call to Order**

Meeting was called to order at 6:00

### **Present**

Josh Collins, Chair  
Ryan Fugleberg, Vice Chair  
Gary Osterbauer  
Kara Ruwart  
Frank Sedzielarz  
Maija Sedzielarz  
Gary Swanson

### **Absent**

Scott Lund, President Fridley Creative Arts Foundation

### **Also Present**

Ann Bolkom, Council Liaison.  
Mike Maher, Parks and Recreation Director and Staff Liaison the Public Arts Commission  
Jesslyn Quiram, Engineering Technician and Staff Liaison the Public Arts Commission  
Scott Hickok, Community Development Director and Staff Liaison the Public Arts Commission

### **Approve of Meeting Minutes**

Approval of April 2, 2025, Public Arts Commission Minutes

Frank Sedzielarz indicated that there was a misspelling of Maija in the minutes in one location.

With no other corrections, the chair called for a motion. Motion by Fugleberg, second by Ruwart. The motion passed unanimously.

### **New Business**

Artist Response to Request for Qualifications (RFQ), our call for artists.

The Board prepared to discuss the nineteen artists that submitted their RFQ documents by the deadline May 2, 2025.

Before the meeting commenced, staff taped the names of the 19 artists on the wall in a horizontal line, each Commissioner then removed their top two artists submitted images from their packets and placed them under the names of the artists who prepared that sculpture.

A pattern emerged as the commission completed this task of identifying their favorite pieces. The Commission then discussed each artist, their likes and dislikes, and eliminated those where it was clear that the art wouldn't fit the setting, or there would not be consensus amongst the group to advance the artist to the interview round.

After much dialog considering all applications, the Commissioners chose the top candidates they preferred to interview after the Commissioners had announced their top two artists, staff revealed that the top two that they picked matched staff's top 2 in the scoring process that they used as well. The two artists were selected were Ken McCall from Garden City, Idaho, and CJ Rench from Hood River, Oregon. State

The Board concluded that interviews would be set for 6:00 PM CST and 7:00 PM CST on May 14, 2025. The interviews would be virtual, and Jesslyn Quiram would prepare the invitations.

**Old Business**

None

**Other Items**

None

**Adjournment**

Chair Collins called for a motion to adjourn. Gary Osterbauer made the Motion, the motion was seconded by Kara Ruwart, vote was unanimous and the meeting Adjourned at 8:00.

Respectfully submitted,

Scott Hickok  
Recording Secretary



# Public Arts Commission

May 14, 2025

6:00 PM

Fridley Civic Campus, 7071 University Ave N.E.

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## Minutes

### **Call to Order**

Meeting was called to order at 6:00

### **Present**

Josh Collins, Chair  
 Ryan Fugleberg, Vice Chair  
 Gary Osterbauer  
 Kara Ruwart  
 Frank Sedzielarz  
 Maija Sedzielarz  
 Gary Swanson

### **Absent**

Ann Bolkcom, Council Liaison

### **Also, Present**

Scott Lund, President Fridley Creative Arts Foundation  
 Mike Maher, Parks and Recreation Director and Staff Liaison the Public Arts Commission  
 Jesslyn Quiram, Engineering Technician and Staff Liaison the Public Arts Commission  
 Scott Hickok, Community Development Director and Staff Liaison the Public Arts Commission

### **Approve of Meeting Minutes**

N/A

### **New Business**

The Board conducted interviews at 6:00 PM CST (Artist: Ken McCall) and 7:00 PM CST (Artist: CJ Rench). The interviews were virtual, and Jesslyn Quiram prepared invitations for the artists.

Interviews commenced on schedule and there were no technical issues with either interview, on either end.

Each candidate had 45 minutes to answer the prepared questions for the interviews. Mike Maher and Jesslyn Quiram shared the responsibility of asking the questions and alternated asking a question each and then repeated that approach until all questions were asked and answered.

The Commission reviewed their questions and deliberated between candidates until a selection was made. The group selected Ken McCall as the artist they had preferred, though the group concurred that

the choice was extremely difficult as both artists were qualified and each artist demonstrated strong ability to perform as required to provide the desired outcome of a sculpture in Commons Park.

**Old Business**

None

**Other Items**

None

**Adjournment**

Chair Collins called for a motion to adjourn. meeting Adjourned at 8:30.

Respectfully submitted,

Scott Hickok  
Recording Secretary



# AGENDA REPORT

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**Meeting Date:** June 4, 2025

**Meeting Type:** Public Arts Commission

**Submitted By:** Mike Maher, Parks and Recreation Director. Jesslyn Quiram, Engineering Technician

## Title

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Moore Lake Park Sculpture Update

## Background

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A sculpture of a Northern Leopard Frog, which will be covered with colorful mosaic tile, is being crafted by artist Jessica Turtle with funding from the Rice Creek Watershed District and the Fridley Creative Arts Foundation (gift from Mary Tjosvold). The artist has provided a timeline for completion of the sculpture in early July and staff will be meeting with the artist and Watershed District on Monday June 2<sup>nd</sup> to discuss logistics for transportation and installation.

Staff will provide updates on the project and would like feedback from the Commission on

- Ribbon cutting or recognition ceremony for the installation of the art piece
- Signage to accompany the artwork and serve as a template for future installations

## Financial Impact

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There has been no budget established for recognition events for public art so an event will need to be modest and covered under the existing Parks and Recreation event budget or will need to be sponsored by donations. Recognition signage is likely to cost around \$500 for a sign panel and commercial grade post and mounting hardware.

## Recommendation

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Staff recommends that the Commission discuss and select a date for a recognition event and approve a sign template with specific feedback being noted.

## Attachments and Other Resources

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- Public art program sign design template using Moore Lake sculpture as example

## Vision Statement

We believe Fridley will be a safe, vibrant, friendly and stable home for families and businesses.

# The Northern Leopard Frog

Jessica Turtle, 2025

## About the artist

Jessica Turtle is an interdisciplinary artist and art educator known for her vibrant use of color and her emphasis on ecological messaging across various media. Her work has sparked meaningful conversations about environmental awareness, focusing on community engagement and exploring themes such as nature, folklore, and the Anthropocene. Through her art, she inspires appreciation for the magic inherent in the natural world.

## About the artwork

The Northern Leopard Frog is an indicator of healthy aquatic ecosystems. This sculpture, funded by a grant from the Rice Creek Watershed District and ??????, celebrates the mixture of art, science, and play with colorful mosaic tiles, whimsical sculpture and an invitation to explore all that Moore Lake Park has to offer.





# AGENDA REPORT

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**Meeting Date:** June 4, 2025

**Meeting Type:** Public Arts Commission

**Submitted By:** Mike Maher, Parks and Recreation Director. Jesslyn Quiram, Engineering Technician

## **Title**

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2025-2026 Workplan Draft Discussion

## **Background**

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Staff requests input from the Commission on a draft workplan for 2025 and 2026 that the Commission may use for future planning of meeting agendas and to organize priorities and projects.

## **Financial Impact**

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None

## **Recommendation**

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Staff recommends that the Commission provide feedback on the draft workplan and present additional items to add to the document.

## **Attachments and Other Resources**

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- Draft 2025-2026 Workplan

## **Vision Statement**

We believe Fridley will be a safe, vibrant, friendly and stable home for families and businesses.



# Public Arts Commission 2025-2026

**Workplan Draft**  
**June 4<sup>nd</sup>, 2025**





### 2025 Public Arts Commission **Workplan Draft – Updated for June Meeting**

#### Goals and Strategic Initiatives:

1. Definition of Public Art: A work of art designed and or created by an artist or artist-led team located indoor or outdoors and visually and/or physically accessible to the public. It may include permanent visual art, performances, installations, evets and temporary works.
2. Community: Foster community identity and spirit, promote cultural enrichment and economic development through creative arts, encourage public art involvement, and inspire innovation to build a vibrant arts community.
3. Historic/Cultural focus: Develop distinctive destinations that highlight the area's evolving history and foster collaboration among artists and Fridley's diverse community, celebrating heritage, ethnicity, and civic pride to transform it into an arts destination.
4. Arts Commission focus: The Arts Commission aims to connect with city departments for public art programs, engage with other jurisdictions for support, communicate goals citywide, ensure maintenance of art collections, and partner with the Fridley Arts Foundation for long-term funding and program viability.
5. Utilize a meeting format and schedule that meets desired outcomes for staff and Commissioners:
  - a. Incorporate work session/site tour format as needed to better facilitate advisory role of Commission
  - b. Meeting cancellations when/if a meeting is not needed
  - c. Discuss options for recording meetings and minutes
6. Monthly check-in meeting with the Chair and Staff to plan future meeting agendas and share information.



**2025-2026 Workplan**

<b>Item</b>	<b>Process</b>	<b>Status</b>
2025-2026 Goals and Workplan	<ul style="list-style-type: none"> <li>Review at June 2025 meeting, make updates per direction of Commission</li> <li>Update throughout year</li> </ul>	In progress
Commissioner Orientation and Training	<ul style="list-style-type: none"> <li>Review Commission onboarding manual</li> <li>All commissioners have signed code of conduct agreement</li> </ul>	Complete for 2025
Vice Chair	<ul style="list-style-type: none"> <li>Nominations annually. Ryan Fugleberg is 2025 Vice-chair</li> </ul>	Complete for 2025
Commission Chair	<ul style="list-style-type: none"> <li>Establish monthly check-in meeting with Chair and Staff to set agenda for the following meeting</li> </ul>	In progress
Programs and Special Events	<ul style="list-style-type: none"> <li>Opportunities to volunteer at Parks and Recreation programs and events to promote public art program</li> <li>Presence at Fridley 49er Days Festival</li> <li>Provide guidance for the creation of a signature arts festival to be held at the newly renovated Commons Park site</li> </ul>	In progress, ongoing
Commons Park Sculpture	<ul style="list-style-type: none"> <li>Work with artist on conceptual design of sculpture</li> <li>Work with artist to refine concept design into final design</li> <li>Provide recommendations on celebration and recognition of completed artwork</li> </ul>	In progress
Mississippi St. Underpass Mural Project	<ul style="list-style-type: none"> <li>Coordinate timeline of mural concepting with construction and development timeline</li> <li>Identify funding sources and budget target</li> <li>Identify possible themes for mural</li> </ul>	Future project
Fridley Civic Campus Art Project	<ul style="list-style-type: none"> <li>Evaluate possibility of Issac Kidder sculpture being installed at Civic Campus pending grant funding</li> </ul>	Future project



## 2025-2026 Public Arts Commission

	<ul style="list-style-type: none"> <li>Consider concept for art trail to extend from Civic Campus into Locke Park and Community Park (community park only if underpass/overpass is established)</li> </ul>	
Consider implementation of a rotating public art program	<ul style="list-style-type: none"> <li>Create program parameters and policy document</li> <li>Connect with staff in communities with rotating public art program</li> <li>Identify source of funding for honorariums for artists displaying works in Fridley</li> </ul>	Future project
Consider implementation of an art bench program at City Parks	<ul style="list-style-type: none"> <li>Create program parameters and policy document if program establishment is identified as a goal of the Commission</li> <li>Establish source of funds for artist awards if program is established</li> </ul>	Future project
	<ul style="list-style-type: none"> <li></li> </ul>	
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# AGENDA REPORT

**Meeting Date:** June 4, 2025

**Meeting Type:** Public Arts Commission

**Submitted By:** Mike Maher, Parks and Recreation Director. Jesslyn Quiram, Engineering Technician

## Title

Commons Park Sculpture Community Engagement Model

## Background

The City of Fridley issued an RFQ for a work of sculpture to be installed at Commons Park by the summer of 2026. After reviewing qualifications and completion of interviews, the Public Arts Commission recommended selection of artist Ken McCall to create the sculpture. Staff are currently reviewing an agreement to represent the interests of the City of Fridley, the Artist and the Fridley Creative Arts Foundation. Input from the Commission will be helpful in communicating expectations to the artist for project visioning, concept feedback and revision and final design feedback and revision as well as outreach when the art piece is installed and/or a grand opening event is held for the park or art piece.

## Financial Impact

The Fridley Creative Arts Foundation has committed to fund the project up to the amount of \$50,000

## Recommendation

Staff recommends the Commission discuss and recommend a community engagement framework that can be specified in the agreement between the artist, City of Fridley and Foundation. The agreement has been reviewed by Fridley's City Attorney and alterations to the agreement above and beyond a reasonable community engagement process are not recommended by staff.

## Attachments and Other Resources

- Draft Agreement

## Vision Statement

We believe Fridley will be a safe, vibrant, friendly and stable home for families and businesses.

**PUBLIC ART AGREEMENT  
CITY of FRIDLEY, and**

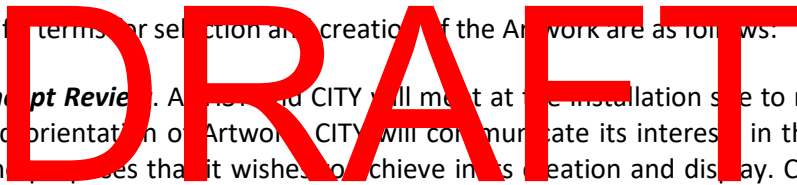
**Commons Park Artwork Installation**

This Public Art Agreement (this “Agreement”) is entered into by the City of Fridley, a home-rule charter city of the State of Minnesota (“CITY”), Ken McCall, an individual (“ARTIST”), and the Fridley Creative Arts Foundation, a Minnesota nonprofit corporation (“FOUNDATION”). The purpose of this Agreement is to provide for ARTIST’s Artwork for long-term outdoor display at Commons Park, a public park owned and maintained by CITY. The Artwork will be paid for by the FOUNDATION. In consideration of the terms and conditions set forth herein and the mutual exchange of consideration, the sufficiency of which hereby is acknowledged, CITY, FOUNDATION, and ARTIST agree as follows:

**1. Scope of Work**

ARTIST will determine the artistic expression, design, dimensions and materials of the Artwork, subject to review and acceptance by CITY, as set forth in this Agreement. ARTIST will prepare a conceptual design with concept-level budget. On selection of the Artwork design by CITY, ARTIST will prepare a design and budget for CITY concurrence. ARTIST will create the Artwork and will coordinate with CITY on installation.

The more specific terms for selection and creation of the Artwork are as follows.



a. **Site and Concept Review.** ARTIST and CITY will meet at the installation site to review options for location and orientation of Artwork. CITY will communicate its interest in the form of the Artwork and the purposes that it wishes to achieve in its creation and display. CITY will supply ARTIST with the specific location of the Artwork, and information that bears on ensuring Artwork is compatible with site with respect to public access and safety, security of Artwork, installation and maintenance, and other relevant considerations. The Artwork must be durable for its outdoor location and its presence in an unsecured public space exposed to elements such as weather, temperature variation, and considerable movement of people and equipment. ARTIST will ensure that maintenance requirements are reasonable in time and expense.

b. **Conceptual Design.** Within 20 days from the date of this Agreement, ARTIST will submit to CITY conceptual design with concept-level budget not to exceed \$50,000. The design will include:

(i) A sketch (in plan and elevation); proposed materials and samples, colors, finishes, textures and patinas; the orientation of the Artwork relative to the site and a written description of the Artwork in sufficient detail that Artist’s design intent is clearly expressed.

(ii) A budget for the cost of design, materials, fabrication, insurance, transportation and installation of the Artwork, and for all other elements of payment including ARTIST’s profit. The budget will represent the entire amount to be paid to ARTIST by FOUNDATION.

CITY must approve the conceptual design. If CITY is unable to select a conceptual design, it may by written notice terminate this Agreement without compensation to ARTIST.

c. **Design.** Within 45 days of conceptual design selection, ARTIST will prepare the design and budget for the Artwork. The design will include presentation-quality materials, such as colored drawings or computer-generated color images (in plan and elevation) and/or three-dimensional models that accurately reflect the Artwork and how it will be installed at the site; mock-ups; final color and materials samples; and proposed fabrication methods. The design will fix and describe the size and character of the Artwork and its relationship to the site, including architectural, structural, mechanical and electrical systems, materials and other components as may be appropriate, and will distinguish between the Artwork and associated elements that ARTIST will produce, and any structural or other element of the installation site that CITY is responsible to prepare. The design must be of detail sufficient for CITY to confirm that site and Artwork maintenance requirements are met.

The design-level budget will conform to the requirements of subsection 1 (b)(ii), above, but at a design level of precision.

The design and budget will be approved by concurrence of CITY and ARTIST. CITY has discretion to approve, approve with revision, or reject the design. CITY's response will specify any requested revision to the design, with the reason for the request. If the response is to request a revision or to reject the design, the parties will consult promptly to determine whether there is a design in which the parties concur. ARTIST will supply to CITY the documents constituting the approved design.

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ARTIST will design the Artwork so that it may be removed and relocated without damage, destruction or other change to the Artwork.

If CITY is not able to approve a design, it may by written notice terminate this Agreement. In this case, FOUNDATION will compensate ARTIST in the amount of agreed upon value as defined in approved budget.

d. **Creation and Installation.** Within 240 days of the parties' concurrence in an approved design, ARTIST will construct the Artwork in accordance with the approved design and the Artwork will be ready for installation. CITY will prepare the site in accordance with the specifications detailed in the design. ARTIST will provide for the transportation of the Artwork to the site. ARTIST and CITY will coordinate on the timing of installation, the equipment required for installation, traffic or other site controls during installation, and the installation itself. Before installation, ARTIST will inspect the site to ensure that it is ready to receive the Artwork and compliant with any specifications in the design. If it is not, ARTIST will notify CITY and CITY promptly will take necessary steps to address the concern. If ARTIST does not install the Artwork, ARTIST will supervise and approve the installation. All work, whether performed by ARTIST or CITY, will be performed by qualified professionals and licensed contractors as required by law. A party may film, photograph or otherwise document installation and may use such documentation as the party chooses. CITY will provide and install a durable plaque on or near the Artwork containing a credit to ARTIST and a copyright notice substantially in the following form: Copyright © [Artist's name, date]. If the plaque is to be placed on the Artwork or on a structural element on which the Artwork rests, it will be done in consultation with ARTIST.

e. **Acceptance.** CITY will determine that the Artwork conforms to and has been installed in accordance with the approved design. On the concurrence of CITY, CITY will then transmit to ARTIST, in writing, an acceptance of the Artwork.

f. **Maintenance Manual.** ARTIST will provide a maintenance manual with a description of all materials, processes and products utilized in the Artwork and the required care and upkeep involved, as well as recommended procedures for any necessary conservation.

g. **Outreach.** After the Artwork is installed, Artist will be available with reasonable advance notice for two events related to presenting the Artwork for community outreach purposes. The parties will consult to coordinate such events.

2. **Payment**

On receipt of approved design documents under subsection 1(c), above, FOUNDATION will transmit to ARTIST payment equal to the materials budget stated therein and 20 percent of the remaining budget amount. Within 30 days of CITY acceptance of the Artwork and receipt of the maintenance manual, FOUNDATION will transmit to ARTIST the remaining payment as stated in the approved design.

3. **Warranties**

a. **Warranties of Title.** ARTIST represents and warrants:

- (i) the artistic effort of the Artwork is solely that of ARTIST;
- (ii) the Artwork is unique and original and does not infringe on any copyright or the right of another;
- (iii) the Artwork (or duplicate thereof) has not been accepted for sale elsewhere;
- (iv) the ARTIST has not sold, assigned, transferred, licensed, granted, encumbered or used the Artwork or any element thereof or any copyright related thereto to impair any right granted by this Agreement;
- (v) the Artwork is free and clear of any lien;
- (vi) the ARTIST has the full power to enter and perform each term of this Agreement.

b. **Warranties of Quality.** ARTIST represents and warrants:

- (i) ARTIST will perform all work in accordance with professional “workmanlike” standards and free from defective or inferior materials and workmanship (including any defects consisting of “inherent vice” that cause or accelerate deterioration of the Artwork);

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(ii) the materials that the Artwork contains are not currently known to be harmful to public health and safety in the way they are incorporated into the Artwork;

(iii) maintenance of the Artwork will not require procedures substantially more than those described in the maintenance manual that the ARTIST has prepared;

(iv) the Artwork will maintain its physical integrity and remain materially in its installed condition for three years from the date of CITY acceptance under subsection 1(e), above, if CITY maintains the Artwork in accordance with the maintenance manual.

In the event of a failure of item 3.b(iv), CITY will give prompt notice to ARTIST and ARTIST will cure the breach promptly, satisfactorily and consistent with professional conservation standards, at no expense to CITY.

If after three years the Artwork ceases to maintain its physical integrity and remain materially in its installed condition, and CITY wishes to repair or restore the Artwork, CITY will make reasonable efforts to contact ARTIST, and ARTIST will have the right of first refusal to make or supervise repair or restoration for reasonable compensation.

#### 4. Ownership and Intellectual Property Rights

a. **Ownership.** On CITY acceptance of the Artwork under subsection 1(e) above, CITY will take possession and exclusive ownership of the Artwork. ARTIST retains all other rights to the Artwork provided through the Copyright Act of 1976, 17 U.S.C. 101 et. seq. As the Artwork is unique, ARTIST will not make an exact reproduction of the final design and dimension of the Artwork, nor will ARTIST grant a third party the right to replicate the artistic design and dimension of the Artwork without the written permission of CITY.

b. **License.** ARTIST grants CITY, and its successors and assigns, an irrevocable royalty-free, non-exclusive license to make two-dimensional reproductions of the Artwork for use on its websites, and in brochures, media, publicity, catalogs, and similar non-commercial publications. All such reproductions will contain a credit to ARTIST and a copyright notice in substantially the following form: © [Artist's name, date of publication]. ARTIST will use best effort in any use of reproduction to acknowledge CITY in substantially the following form: "An original artwork owned and commissioned by the Fridley Creative Arts Foundation and the City of Fridley, Minnesota."

c. **Removal.** CITY may remove the Artwork from public display for maintenance or for any other reason and is not obligated to replace the Artwork to the site. The following terms apply to removal:

(i) CITY will attempt to remove the Artwork in a way that does not damage, alter, modify, distort or destroy the Artwork, however ARTIST recognizes removal may have such an effect. ARTIST acknowledges that this provision qualifies under 17 U.S.C. Section 113(d) so as to waive rights under 17 U.S.C. Section 106A.

(ii) If, at the time of removal, it is determined that the Artwork may be removed without damage, alteration, modification, destruction, distortion or other change, CITY will give

notice as required by 17 U.S.C. Section 113(d)(2) and (3). On completion of the Artwork, ARTIST agrees to file records, including ARTIST’s identity and address, with the Register of Copyrights as provided under 17 U.S.C. Section 113(d)(3). ARTIST further agrees to update information with the Register of Copyrights to permit notification of intent to remove the Artwork.

d. **Alteration of Artwork.** CITY will not intentionally alter, modify, change, destroy or damage the Artwork without permission from ARTIST. CITY will make reasonable efforts to avoid causing such a result through an act of gross negligence, pursuant to the Visual Artists Rights Act of 1990. If CITY fails to maintain the Artwork in accordance with the maintenance manual, ARTIST may disown the Artwork as ARTIST’s creation and, on ARTIST’s request, CITY will remove credits to ARTIST from the Artwork and reproductions thereof until the Artwork is repaired or restored to ARTIST’s satisfaction.

e. **Alteration of Installation Site.** CITY will notify ARTIST of any proposed significant alteration of the immediate site that would affect the intended character and appearance of the Artwork. On ARTIST’s timely request, CITY will consult with ARTIST in planning and executing any such alteration. CITY will make a reasonable effort to maintain the integrity of the Artwork.

f. **Relocation.** CITY will not arbitrarily relocate the Artwork without ARTIST’s written permission. ARTIST will not unreasonably withhold approval of relocation. If ARTIST approves relocation, ARTIST will provide CITY with written handling instructions. If ARTIST is deceased or otherwise unable to give consent, the owner of the Artwork’s copyright will not unreasonably withhold permission, keeping in mind the intent of ARTIST at the time of commission and fabrication.

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5. **Independent Contractor**

ARTIST is an independent contractor under this Agreement. ARTIST will select the means, method and manner of designing and creating the Artwork. Nothing herein contained is intended or is to be construed to constitute ARTIST as the agent, representative or employee of CITY or FOUNDATION in any manner.

6. **Duty of Care; Indemnification**

The parties will perform all obligations under this Agreement in good faith, with reasonable promptness, and with a shared intent to achieve the purpose of the Agreement in collaboration. In applying the standard of reasonable promptness, ARTIST recognizes that decisions of CITY may be subject to internal procedures.

Each party will perform any acts under this Agreement with due care. Each party will hold the other parties, their council or board members and their employees harmless, and indemnify them, as to all third-party claims or actions, and all costs (including reasonable attorney fees), damages and liabilities of any nature attendant thereto, to the extent due to that party’s negligent or otherwise wrongful act or omission, or breach of a specific duty under this Agreement. The indemnification obligation is not limited by a limitation on the amount or type of damages, compensation or benefits payable by or for a party under workers’ compensation acts, disability acts or other employee benefit acts.

7. **Covenants by City**

CITY covenants, that once accepted, the Artwork will be maintained materially in its installed condition and in its installed location for at least three years from the date of acceptance. CITY covenants that it will cooperate with FOUNDATION in use of the Artwork for education and outreach efforts conducted by CITY.

8. **Records Pertaining to Fees or Costs**

ARTIST will maintain all records pertaining to fees or costs incurred in connection with the performance of this Agreement for six years from the date of Artwork acceptance. An authorized representative of CITY, or the state auditor may have access to and the right to examine, audit and copy any such records during normal business hours.

9. **No Waiver**

The failure of a party to insist on the strict performance by another party of any provision or obligation under this Agreement, or to exercise any option, remedy or right herein, will not waive or relinquish the party's rights in the future to insist on strict performance of any provision, condition or obligation, all of which will remain in full force and affect. The waiver of a party on one or more occasion of any provision or obligation of this Agreement will not be construed as a waiver of any subsequent breach of the same provision or obligation, and the consent or approval by a party to or for any act by another requiring consent or approval will not render unnecessary such party's consent or approval to any subsequent similar act by another party.

Notwithstanding any other term of this Agreement, CITY waives no immunity in tort. This Agreement creates no right in a third party, as to CITY waives no immunity, defense or liability limit with respect to any third party.

10. **Allocation of Risk; Insurance**

ARTIST bears the risk of loss of, or damage to, design materials, the Artwork and its constituent materials until installation of the Artwork is completed, except that CITY will be responsible: (a) during such time the partly or wholly completed Artwork is in CITY's custody or control for storage; and (b) for the acts and omissions of CITY's employees and contractors participating in moving or installing the Artwork.

At all times until the Artwork is accepted, ARTIST will have and keep in force the following insurance coverages:

- A. General liability: \$1.5 million, each occurrence and aggregate, covering ARTIST's ongoing and completed operations on an occurrence basis.
- B. Automobile liability: \$1.5 million combined single limit each occurrence coverage for bodily injury and property damage covering all vehicles on an occurrence basis.

- C. Freight and installation all risk property coverage: Covering loading, transportation, unloading and installation, with a minimum limit equal to the amount to be paid to ARTIST before acceptance.
- D. Workers' compensation: in accordance with legal requirements applicable to ARTIST. ARTIST may fulfill this requirement by advising CITY in writing that ARTIST is performing as an individual under this Agreement and has no employees.

An umbrella or excess policy may be used for a general or automobile liability limit above \$1 million. ARTIST will not commence work until he has filed with CITY a certificate of insurance evidencing the required coverages and naming CITY as additional insureds for general liability and, if applicable, umbrella or excess liability, along with a copy of the additional insured endorsement establishing coverage for ARTIST's ongoing and completed operations as primary coverage on a noncontributory basis. The certificate will name CITY as a holder and will state that CITY will receive written notice before cancellation, nonrenewal or a change in the limit of any described policy under the same terms as ARTIST.

**11. Notices**

Any written communication required under this Agreement to be provided in writing will be directed to the party representative as follows:

To CITY:

Mike Maher, Director of Parks and Recreation  
 City of Fridley  
 7071 University Avenue NE  
 Fridley, MN 55432

mike.maher@fridleymn.gov

**DRAFT**

To ARTIST:

Ken McCall  
 407 E. 37<sup>th</sup> Street  
 Garden City, ID 83714  
[kmccall335@gmail.com](mailto:kmccall335@gmail.com)

To FOUNDATION:

Scott Lund, President  
 Fridley Creative Arts Foundation  
 580 69<sup>th</sup> Avenue NE  
 Fridley, MN 55432-4430

Each of the above individuals may in writing designate another individual to receive communications under this Agreement.

Where this Agreement specifies that CITY will make a written determination, the determination of the CITY representative named above is made with authority delegated by the represented entity.

**12. Termination**

Except as specified in subsections 1(b) and 1(c), CITY or FOUNDATION may terminate this Agreement only for a material breach by ARTIST. ARTIST may terminate this Agreement only for a material breach by CITY or FOUNDATION. The terminating party will provide written notice specifying the basis for termination and allow at least 30 days for cure. At the request of a party, the parties will meet during the cure period to review the basis for termination and consider resolution.

If this Agreement is terminated due to ARTIST’s failure to perform pursuant to the terms of this Agreement, in addition to any other remedy, ARTIST will reimburse FOUNDATION for payment made under section 2, above. If the Agreement is terminated due to failure of CITY or FOUNDATION’s failure to perform pursuant to the terms of this Agreement, ARTIST’s remedy is limited to payment for work performed and costs incurred and does not include compensation for lost opportunity or publicity.

Absent termination for material breach, this Agreement will terminate six months after payment has been made under section 2, above.

Duties of care; obligation to hold harmless and indemnify; warranty terms; terms governing ownership and intellectual property; and document-retention requirements will survive termination of this Agreement.

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**13. Choice of Law; Venue**

This Agreement will be construed under and governed by the laws of the State of Minnesota. Venue for any action will lie in Anoka County.

**14. Whole Agreement**

The entire Agreement between the parties is contained herein and this Agreement supersedes all oral agreements and negotiations relating to the subject matter hereof. Any modification of this Agreement is valid only when reduced to writing as an amendment to the Agreement and signed by the parties hereto.

**IN WITNESS WHEREOF**, intending to be legally bound, the parties hereto execute and deliver this Agreement.

[signatures]