



Public Arts Commission

April 02, 2025

6:00 PM

Fridley Civic Campus, 7071 University Ave N.E.

Agenda

Call to Order

Roll Call

Approval of Meeting Minutes

1. Approve March 5, 2025, Public Arts Commission Minutes

New Business

2. Request For Qualifications (RFQ) For Commons Park Sculpture

Old Business

Other Items

Adjournment

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 or (763) 572-3450.



AGENDA REPORT

Meeting Date: April 2, 2025

Meeting Type: Public Arts Commission

Submitted By: Julianne Beberg, Office Coordinator

Title

Approve March 5, 2025, Public Arts Commission Minutes

Background

Approve March 5, 2025, Public Arts Commission Minutes

Financial Impact

Recommendation

Approve March 5, 2025, Public Arts Commission Minutes

Attachments and Other Resources

- March 5, 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

March 5, 2025

6:00 PM

Fridley Civic Campus, 7071 University Ave N.E.

Minutes

Call to Order

6:00 PM

Present

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

Guest: Scott Lund, President, Fridley Creative Arts Foundation

Staff Liaison: Scott Hickok

Absent

Ann Bolkcom, Council Liaison

Approve of Meeting Minutes of February 5, 2025

1. Approve February 5, 2025, Meeting Minutes. Minutes were approved with the following modifications identified by Frank Sedzielarz. Name Maija was misspelled in one location. Maija Sedzielarz indicated that the reference to Silverwood should say, Silverwood was not able to commit, and they suggested the City of Fridley may be interested. The artist sent his information to Commissioner M. Sedzielarz, and she forward it to the staff liaison Scott Hickok. On the Rice Creek Watershed a correction to read rather than instead of the, was noted. With those modifications Kara Ruwart made a motion to approve, seconded by Gary Swanson, to approve the minutes with amendments suggested. The motion passed 5-0.

New Business

2. Review Request for Qualifications (RFQ) for Commons Park Sculpture Artist

Chair Joshua Collins stated he reviewed the RFQ draft and asked when the responses due back to the Commission? A general discussion ensued regarding the timeline and what Commission expectations should be.

Gary Swanson looked at the schedule in the draft RFQ and suggested that the following schedule might be best:

- Publish the RFQ April 2, 2025
- Hold Information Meeting April 7, 2025
- RFQ Responses Due back by May 2, 2025
- Regular Meeting of the Commission Reviews Finalists May 7, 2025
- May 14, 2025, Potential Special Meeting of Commission to further discuss artists
- Finalist Notification May 21, 2025
- Finalist Full Proposal to Commission June 18, 2025
- Recommendation to Council July 8, 2025

A general discussion ensued, including the question, do we give the artist a stipend. Scott Hickok responded that we would build payment language into the contract and discuss first payment, etc. Artist often needs the upfront money for the materials with additional payments to follow. Josh Collins re-emphasized the Commission needs select only one artist to be the finalist. That is when they will go all-in for their design when they know they are no longer competing they've been selected.

Scott Lund agreed with the single artist final design concept as it will be easier to fundraise once it is clear what their money is going toward.

Josh Collins indicated that he liked the idea of the site history and description of the project in the information meeting. Ryan Fugleberg agreed with providing a detail description of where their art will be placed, and the other investments being made in the redevelopment of the park.

Chair Collins suggested that a budget be given also, artists will want to know what it is they would be working towards. Maija stated that a \$20,000 minimum is what she gathered from research.

Scott Lund indicated that a range of \$20,000 to \$50,000 would be comfortable, if we needed to state that. Chair Collins continued then that in the contract it will need to be clear that the budget includes, time materials, installations, etc., unless there is an agreement on City assisting with installation, etc.

A general discussion ensued regarding what should be in the instructions to the artist as they apply to be our artist that will be selected. The artist should:

- Complete the Application
- Include a cover letter
- Identify what unique talents will be demonstrated in the work (especially important if this is their first piece of public art).
- Brief project description
- Maximum 10 photos of applicant's previous projects
- Maximum of 3 publish articles about your work
- Provide all materials listed above in a sealed packet

Commissioner _____ asked, *Are we comfortable with procurement rules?*

A discussion commenced regarding ownership, maintenance of the art and intellectual property rights.

Commissioner M. Sedzielarz indicated support for the \$50,000 cap on this budget. She continued by providing a set of examples of art the recently was awarded in West St. Paul \$30,000 and in another City _____, a \$50,000 mural was awarded. In any case we want a budget and an understanding that the art needs to be built to last, we want it to last.

Organizations that publish RFQ's include Springboard for the Arts, Forecast Arts, MN Artist, City of Fridley on their website.

Commissioners Sedzielarz agreed to call Rum River and research that and additional places where a call for artists can be published.

3. Facility and Assets Naming Policy

Scott Hickok pointed the Commission to their packet where he included a policy document the City had recently adopted to consider naming rights of facilities, dedications to lost friends or loved ones, etc. Hickok continued by stating that the friends of Nathan Sheferaw still seek the opportunity to place a memorial in Commons Park and they had hoped to do it as part of the Park's programmed improvements.

Scott Hickok indicated that there now are policies in place that would help guide a donation such as this proposed contribution. Hickok continued that he had discussed with Mike Maher, Fridley Park and Recreation Director. They discussed the standard for monument placement and recognition. The mounted placard should be consistent with that where other art will be placed and in this case since it is a group donating the mural (they have proposed for center court), they should pay the \$500 for the recognition placard. If then standards were set for the art provided, such as: 10-year minimum life expectancy, occasional refresh paint by artist, when necessary, approval of art and materials by the Public Arts Commission, Parks Commission and City Council. The donation could then happen. Thoughts?

Ryan Fugleberg indicated in his research the City of Eagan had a good policy whereby there would be a public input opportunity when a proposal such as this comes forward for a public place.

Fugleberg continued that it was also important that there was history element tying the art to that City that needs to be part of the dedication and its story.

Chair Collins added that all elements of the review should then be in the discussion for Council approval. Council may have extra guidelines.

Old Business

4. Public Art Mapping Precedents

Staff Liaison Scott Hickok commented that he had included the research in the Commissioner's packet that Ryan Fugleberg had provided earlier (October 2024). Hickok apologized the Ryan and knew that the rest of the Commission could benefit from Ryan's findings as they get back into selecting the overall locations for public art, throughout the City.

Adjournment:

Meeting Adjourned 7:51 PM

Respectfully submitted,

Scott Hickok
Recording Secretary



AGENDA REPORT

Meeting Date: April 2, 2025

Meeting Type: Public Arts Commission

Submitted By: Scott Hickok, Community Development Director

Title

Request For Qualifications (RFQ) For Commons Park Sculpture

Background

As discussed in our March Public Arts Commission Meeting, we have prepared our request for proposal (RFQ) for artist to respond if interested in being the sculpture for the work at Common's Park. Thank you to Char Collins for your work in editing the RFQ Document. Thank you to Commissioners Sedzielarz, Maija and Frank for your research as to locations to publish, excellent research, much appreciated. The following is a list of locations where the RFQ was published:

1.	MnArtist@Walkerart.org
2.	www.codaworx.com
3.	Mary.LaRoche@state.mn.us
4.	emma@forecastpublicart.org
5.	denise.martin@webscribble.com
6.	www.fridleymn.gov
7.	https://www.americantowns.com/minneapolis-mn/
8.	https://www.minnesotamonthly.com/about-us/calendar-policies-and-procedures/
9.	https://www.mplsart.com/submit
10.	https://www.mynortheaster.com/submissions/
11.	https://patch.com/minnesota/minneapolis/calendar
12.	drb@bridgescreate.com
13.	https://pollenmidwest.org/post/
14.	https://hub.cityspark.com/Event/Submission/StarTribune
15.	http://www.tcdailyplanet.net/event-submission/
16.	https://www.womenspress.com/events/community/add/
17.	https://www.yelp.com/events/create

Vision Statement

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

	https://www.callforentry.org/
	https://nema.org/my-account/submit-an-event/

By meeting time, the publication will be out. This meeting will serve as an opportunity for updates and review.

Financial Impact

Fridley Arts Foundation has made a committed to paying for this art through contributions

Recommendation

Review RFQ and attached agreement to provide Public Arts Commission update on what was submitted.

Attachments and Other Resources

- RFQ
- Artist Contract/Agreement

Vision Statement

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

Call to Artists and Request for Qualifications (RFQ) for a commissioned work of public art to be located at Commons Park, Fridley, Minn.

RFQ Deadline: May 2, 2025, 4:30 p.m. CDT

Optional information session on April 7, 2025, 6-7 p.m.
Fireside Room Fridley Municipal Center



Overview

The City of Fridley is issuing this call to artists (request for qualifications) to submit applications for consideration for an artwork commission located at the soon-to-be-redeveloped Commons Park. The city is not soliciting detailed concepts or responses at this time.

The City of Fridley Public Arts Commission will review responses to this call to artists, select finalists, and recommend an artist (or artist team) to the city council for formal approval. The commission will review subsequent artist design submissions.

Background

City of Fridley

The City of Fridley is a fully developed community located within the inner-gin suburbs of the Twin Cities Metropolitan Area. Fridley has a rich history that ties back to access to water, logging and fur trading, located on an important trading route, eventually known as the Red River Ox Cart Trail. Artists interested in learning more about Fridley's history are encouraged to visit our website, including the [Park System Improvement Plan](#), which contains important historical information, as well as how the city engaged the community in the current redevelopment of Fridley's parks system.

Public art in Fridley

In 2024, Fridley received an anonymous donation with the intention of seeding a public art program that would benefit the entire Fridley community. The generosity of this donor led to the city establishing the City of Fridley Public Arts Commission, which consists of seven members who serve three-year terms. The commission was established to foster the development of a public art program, to advise the city council on arts-related matters, and to stimulate participation in and appreciation of the arts by Fridley residents.

At the same time, the mayor of Fridley, Scott Lund (now, Former Mayor Lund), established and serves as chairperson of the Fridley Creative Arts Foundation, a 501(c)(3) that manages the donated funds and seek opportunities to grow financial support for the arts, and to pursue additional funding opportunities to support an ongoing public arts program.

Parks in Fridley

The City of Fridley operates nearly 40 parks that offer access to nature, athletic fields, play spaces and community gathering places. For several years, city staff have worked with residents and consultants to reimagine our park system. Since 2019, a robust community engagement effort helped to identify priorities that residents would like to

see including a splash pad, improved park buildings, increased trail connectivity and access to water for recreational activities such as fishing, canoeing and kayaking.

Commons Park redevelopment

Commons Park is the city's most popular park and includes a rentable shelter, hockey rinks, warming house, playground, volleyball courts, tennis courts, a basketball court, sledding hill, ballfields and turf fields used for football and soccer. Commons Park is well-used for recreation programming, athletic groups and active play. It adjoins Fridley Middle School with combined recreational spaces.

The renovation of the park includes a \$5 million recreation building that will allow four-season recreation opportunities. Improvements will include a splash pad, ice skating area, sledding area, pickleball courts, baseball diamonds, a basketball court, several open play areas, and a performance area for musicians, speakers, and small performances. Near the performance area is a raised planting bed with a sitting wall edge and an opportunity to plant flowers. In the center of the 16' diameter raised garden area is an excellent opportunity to host a permanent sculpture. It is this area that has been selected by city staff and the commission to be home to a sculpture created by the finalist and selected artist in this RFQ process.

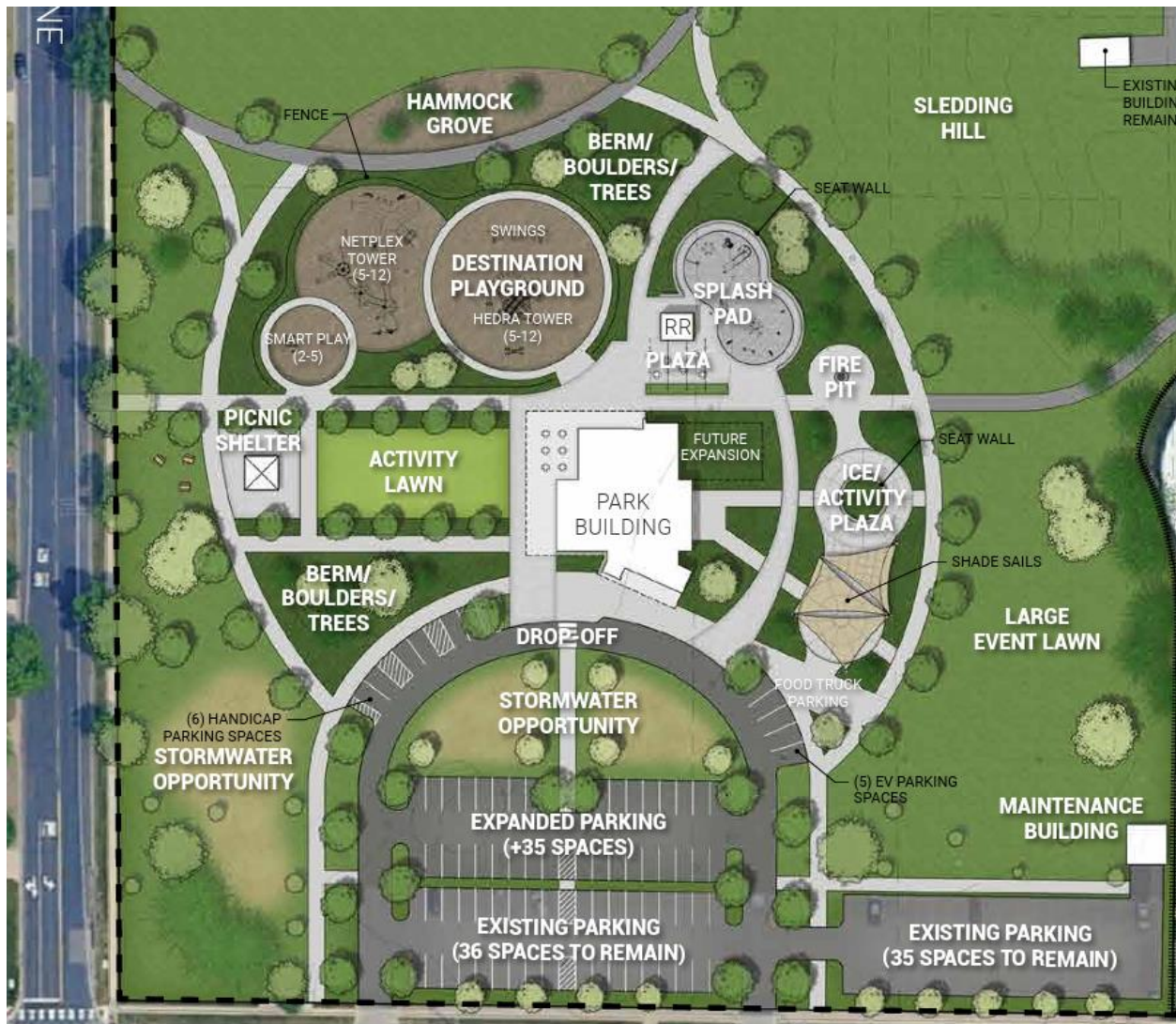
An overview of the project and concept plans are available at <https://www.fridleymn.gov/Community-Recreation/Parks-Trails/Park-System-Improvement-Plan/Commons-Park>.

Appendix A of this document includes drawings of the overall project.

Project limits

Below (and illustrated further in Appendix A) is a site plan showing the southwestern corner of the park redevelopment, with 61st Ave NE running horizontally across the bottom of the image and 7th Street NE running vertically to the left of the park. To the east of the new park building is an activity plaza that will be flooded to serve as an ice rink area in the winter months.

In the center of the activity plaza is the 16' raised circle (labeled ICE/ACTIVITY PLAZA below), the site of a future work of sculpture.



Large work of sculpture

The commission has identified the location as an ideal spot for a large work of new sculpture. The location is also reflected on the front cover of this document, which has a tree shown in the illustrated circular garden (purple flower planted area right of building inside the Ice activity plaza top circle).

The sculpture must be permanent and shall last a minimum of 20 years. The artist will need to consider the proximity of the site to pedestrian access. While activities will take place all year in the plaza, there is separation between pedestrian traffic (including any skating areas) and the location of the sculpture. The shade sails shown in the drawing are likely to be impermanent and seasonally installed.

Project budget

The total budget of the commissioned public art is not to exceed \$50,000.

Project budget must be all-inclusive and cover the artists' time, fabrication, engineering consultations, installation and other expenses. The city will facilitate any work that involves its own contractors and collaborate with artist(s) on installation.

Scope of Services

A. General

The selected artist will enter into an agreement with the City of Fridley to create and submit design proposals consistent with its application, develop and submit final designs and detailed fabrication and installation plans, then complete the execution of the approved artwork commission.

B. Project services

1. This call to artists describes an opportunity for a public art installation. The commission includes design, fabrication and installation of the artwork. Related services include, but are not limited to conceptualization and design, including development of construction documents; specification of required equipment, materials and fabrication methods; identification of installation requirements; development of a budget identifying all associated costs; fabrication and installation.
2. It is anticipated that the commissioned artist(s) will participate in community outreach activities that may include one-on-one interviews, neighborhood meetings and/or workshops as part of the design process.
3. Redevelopment of the Commons Park site will be complete in 2026, and improvements will include:
 - Integration of winter activities within a central location with an improved sledding hill and community skating rink.
 - Community pavilion building with meeting room, outdoor fire pit, gathering spaces and restrooms
 - Inclusive playground with a focus on unique and challenging equipment meeting a broad range of ages and abilities
 - Loop trails for improved connectivity within the park
 - Reorganization and improved athletic fields for greater function and flexibility
 - Addition of a splash pad with adjoining seating plaza with shade
 - Expansion of picnic spaces and picnic shelters
 - Addition of dedicated pickleball court complex (includes removal of two existing tennis courts)
 - Improved and expanded parking
 - Keep and improve volleyball and basketball courts

The estimate of probable costs ranges from \$8.5 to \$12 million for base preferred improvements and an additional \$1.8 to \$2.6 million for deferred or alternate improvements.

Timeline

Date	Event
April 2, 2025,	RFQ Notice Published
April 7, 6:00	Optional Information Meeting for Artists Fridley City Hall, 7071 University Ave NE, Fridley, MN 55432
May 2, 4:30 p.m. CDT	Responses to call to artists/RFQ due
May 7, 6:00	Optional Information Meeting for Artists
May 14	Finalist notified
June 4, 4:30 p.m. CDT	Full proposals due
June 9, City Council Approval	Selected artist notified
2026 TBD	Design completed, work finished and installed, public celebration in conjunction with Commos Park renovation ribbon-cutting

Application Submission

A. Application submission process

1. Notice to interested artists/artist teams
 - i. The city is not responsible for costs incurred by anyone responding to this call to artists.
 - ii. The city expressly reserves the right to amend or withdraw this call to artists at any time and to reject any or all applications.
 - iii. The city reserves the right to request additional information at any stage of the call to artists evaluation process.
2. Questions
 - i. Responding artists/artist teams are to submit written questions related to specific project requirements and the call to artists to scott.hickok@fridleymn.gov (prior May 14) and mike.maher@fridleymn.gov after May 14.

B. Valid application

1. Read RFQ for background, eligibility and application process.
2. Complete and compile items listed below.
3. Find the RFQ and link to the online application at: fridleymn.gov/ArtRFQ/CommonsPark [update]
4. Contents of application

- i. Contact information (name, email, phone, address) of artists working on project. If responding as an artist team, indicate the primary contact or lead artist. [PDF]
- ii. Cover letter: [PDF] Briefly discuss how the artist or artist team would approach the development of a design for a sculpture in Commons Park, and why the artist or artist team is best qualified to be chosen. Briefly discuss how the artist or artist team has approached community engagement to inform their work, and to complete works for installation in outdoor public spaces such as parks or recreation areas. Also indicate the availability of the artist or artist team members over the coming 12 months to undertake this project.
- iii. Resume: Include a professional resume (in .PDF format) for the responding artist or for each artist team member. Resumes should be no longer than two pages per person.
- iv. Sample images and image list: Include a total of 10 digital images of past work by the submitting artist or artist team (i.e., 10 images per application, not participant), numbered in the order of desired presentation. An additional 10 images can be included in the application if desired; however, this second set of images will be used only if requested by the selection committee.
- v. Image list: Include a document titled "IMAGELIST" (in .PDF format) with a listing of the supplied sample images. The images should be numbered and annotated with the artist's name, title of the work, date the work was completed, medium of work, location of the work, cost of the work, time period for completion of work, and a short description of the artwork.
- vi. A maximum of three published reviews/articles (in .PDF format) about your work may be submitted with the application at your option.

C. Submission

- 1. Applications are due by May 2, 2025, 4:30 p.m. CDT. Applications will only be accepted through the city's online application system linked above.
- 2. An application may be withdrawn on written request of the artist prior to the application due date.
- 3. Failure to submit an application on time shall constitute grounds for the rejection of the application.
- 4. All information included in the submitted application will be classified in accordance with Minnesota Statute Chapter 13 and the City of Fridley's Data Practices Policy.

D. Evaluation

- 1. The City of Fridley Public Art Commission will oversee development and approval of commission and make recommendations to the city council accordingly.
- 2. The city reserves the right to waive any minor irregularities in the call to artists process.

3. The city reserves the right to interview any or all responding artists at its discretion. The city is not responsible for any costs incurred by the artists in preparing for or participating in an interview.
4. The selection committee will review and evaluate applications based on the following criteria:
 - i. Aesthetic quality of previously completed art projects and commissions.
 - ii. Applicability and suitability of past work to the redeveloped Commons Park location.
 - iii. Appropriateness of previously completed artworks to their sites, including safety and scale.
 - iv. Durability and suitability of materials used related to resistance to vandalism and minimization of maintenance requirements.
 - v. Experience working with the public and neighborhood communities.
5. The selection committee may elect to invite finalists to interview via the internet or in person prior to awarding the commission.
6. The selection committee will submit its decision to the city council for approval.

E. Contract award

1. The resulting agreements to be executed between the selected artists and the city will be in the form of the sample agreement, attached hereto and made a part of this call to artists as Appendix B; and will include applicable provisions of this call to artists and of the successful artist/artist team's application.
2. The specific terms of each agreement will be negotiated by the artist and the city. The contract will, at minimum, include the following:
 - i. A description of services to include preparation and submission of schematic designs; submission of fabrication and materials specifications; submission of final construction drawings; fabrication; installation; and submission of any maintenance or operational requirements.
 - ii. A review and approval process for submissions.
 - iii. Payment amount and a payment schedule.
 - iv. Project timeline.
3. A contract for a commission by an artist team will be in the name of the identified lead artist.

Appendix A

Sample agreement

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

Commons Park Artwork Installation

This agreement is entered into by the City of Fridley, a home-rule charter city of the State of Minnesota ("CITY"); and _____, an individual ("ARTIST"). The purpose of the agreement is to provide for ARTIST's Artwork for long-term outdoor display at Commons Park, a public park owned and maintained by CITY. In consideration of the terms and conditions set forth herein and the mutual exchange of consideration, the sufficiency of which hereby is acknowledged, City, District 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 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 their interests in the form of the Artwork and the purposes that they wish 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 CITY.

CITY, as needed, with ARTIST to approve the conceptual design. If CITY is unable to select a conceptual design, they may by written notice terminate the agreement without compensation to ARTIST.

c. **Design.** Within 45 days of conceptual design selection, ARTIST will prepare the design and budget. 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 conform that site and Artwork maintenance requirements are met.

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

The design and budget will be approved by concurrence of CITY will consult, as needed, with ARTIST to determine concurrence. CITY has discretion to approve, approve with revision, or reject the design, but will coordinate so that a single response is provided to ARTIST. The 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. CITY will communicate in writing to ARTIST the decision reached by the parties as to the design. ARTIST will supply to CITY the documents constituting the approved design.

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

If CITY is not able to approve a design, they may be written notice terminate the agreement. In this case, CITY 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 event 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 paragraph 1.c, above, CITY 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, CITY 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);
- (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 paragraph X, 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 their successors and assigns, an irrevocable royalty-free, non-exclusive license to make two-dimensional reproductions of the Artwork for use on their 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 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 federal Visual Artists' Rights Act. 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 copyright will not unreasonably withhold permission, keeping in mind the intent of ARTIST at the time of commission and fabrication.

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 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 Between City and District**

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 covenant that they will cooperate in use of the Artwork for education and outreach efforts conducted together or by one party.

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 of 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 and, 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 it 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

To ARTIST:

[]

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 may terminate this agreement only for a material breach by ARTIST. ARTIST may terminate this agreement only for a material breach by CITY. 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 the 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 CITY for payment made under section 2, above. If the agreement is terminated due to failure of CITY or DISTRICT 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, the agreement will terminate six months after payment has been made under section 2, above.

Duties of care; obligations to hold harmless and indemnify; warranty terms; terms governing ownership and intellectual property; and document-retention requirements will survive termination of the agreement.

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]