



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Economic Development Division

m e m o r a n d u m

TO: Urbana Public Arts Commission

FROM: Christina McClelland, Public Arts Coordinator

DATE: February 6, 2013

SUBJECT: King Park Public Art Project Update

Background

On June 12, 2012, based on the recommendation of the King Park Public Art Project Selection Committee, the Urbana Public Arts Commission selected Cambridge, Massachusetts-based artist Douglas Kornfeld to create a permanent public art piece to commemorate the life and legacy of Dr. Martin Luther King, Jr. in Urbana's King Park. A Public Art Design Services Agreement with Mr. Kornfeld was approved by the Commission at the August 14, 2012 meeting and approved by City Council at their August 20, 2012 meeting. Following the approval and execution of this agreement by both parties, Mr. Kornfeld made an initial visit to Urbana from September 17-21, 2012, where he met with and presented his work to stakeholders, attended two community meetings, and visited the park and school sites. Following this trip, Mr. Kornfeld presented a preliminary concept, "Dreamers," on November 2 to the selection committee, comprised of the Public Arts Commission King Park subcommittee, City staff, Urbana Park District staff, a representative from the Urbana Park District Board, City Councilman Robert Lewis, a representative from 40 North| 88 West, and a representative from the King Park neighborhood. Principal Jennifer Ivory-Tatum of King School was unable to attend but sent comments via e-mail. After this presentation, the committee deliberated and came to the conclusion that there were some issues with the concept and that it did not reflect the spirit of Dr. King that the committee intended the project to celebrate. Upon receiving the committee's feedback, Mr. Kornfeld agreed to assemble a reworked concept for review.

Discussion

On January 7, staff was contacted by artist Douglas Kornfeld, who indicated that rather than submitting a new or reworked concept, he was resubmitting the original "Dreamers" concept (Exhibit A) that the committee had asked to be changed. The artist said that he would like to resubmit this design for approval by the committee and Commission or withdraw from the project. He also submitted the following video explaining his thoughts on the project, which can be viewed at http://youtu.be/zLaElhbc_a4. Following this conversation, staff notified the selection committee of this new project development and assembled a meeting to determine how to best move forward. On January 22 the selection committee and representatives from the King Park neighborhood met to discuss how to move forward. They watched the response video Mr.

Kornfeld sent and discussed several options for the King Park project, including accepting the “Dreamers” concept from Mr. Kornfeld, returning to the three other finalists who were interviewed during the selection phase of the project, or working with a new artist.

It was the unanimous conclusion of the committee to not accept Mr. Kornfeld’s “Dreamers” design that they had initially rejected. The group had the same criticisms and felt it was not an appropriate concept for the project. The committee’s recommendation for moving forward was to contact the three other finalists who were interviewed from the original project RFQ selection process to gauge their interest. The three other finalists from the project were Chris Fennell, Aaron Hussey, and Preston Jackson.

When Doug Kornfeld entered into a Public Art Design Services Agreement (Exhibit C) with the City on September 18, 2012, he received a fee of \$5,000 to cover expenses and design fees associated with producing a design for public art in King Park. As Mr. Kornfeld has not fulfilled the obligations outlined in this agreement, City staff has been negotiating with Mr. Kornfeld to determine what portion of the \$5,000 fee should be returned to the City. The attached Mutual Release (Exhibit D) outlines the termination of the Public Art Design Services Agreement and will release both parties of any obligations outlined in that agreement.

Staff contacted the project finalists and received responses from all three. Chris Fennell indicated that his schedule would not allow for completion of the project by December 31, 2013. Both Preston Jackson and Aaron Hussey responded with interest, saying they could produce a large, gateway piece within the budget of \$45,000 by December 31, 2013 that would be a prominent addition to the auto-centric corridor of Lincoln Avenue. Staff was sure to reiterate the project limitations related to the use of Dr. King's image and quotes and both artists assured staff that this would not be a problem.

Preston Jackson ranked very highly with the selection committee during the interview round of the original selection process in May 2012. However, he primarily works in bronze, an expensive material, so the committee was concerned about whether he could produce a high-profile piece within the project budget. During the January 22 meeting, Mr. Jackson emerged as the committee's preferred choice among the remaining three finalists. Communications between Mr. Jackson and staff also revealed that his approach to working within the \$45,000 project budget would be to work primarily in stainless steel with some bronze elements. He recommended this material because it would weather well and allow for a large piece within the project budget. Because Mr. Jackson is based in Peoria, IL, it would be easy and cost-effective for him to make necessary trips to Urbana. Mr. Jackson is an accomplished artist who has produced many public art pieces in Illinois and taught at the School of the Art Institute of Chicago, Bradley University, and Millikin University. His work has particularly dealt with history and the African-American experience (Exhibit B.)

Recommendation

Staff recommends that the Commission approve the termination of the Public Art Design Services Agreement with Douglas Kornfeld generally consistent with the attached Mutual Release. Staff also recommends the Commission approve Preston Jackson as the new selected artist to design a public art piece for King Park through a Public Art Design Services Agreement. Following negotiation with the artist, such an agreement will be presented to the Commission at a subsequent meeting.

- Attachments: Exhibit A: “Dreamers” Public Art Concept
- Exhibit B: Preston Jackson Application Materials and Images
- Exhibit C: Public Art Design Services Agreement with Douglas Kornfeld
- Exhibit D: Mutual Release

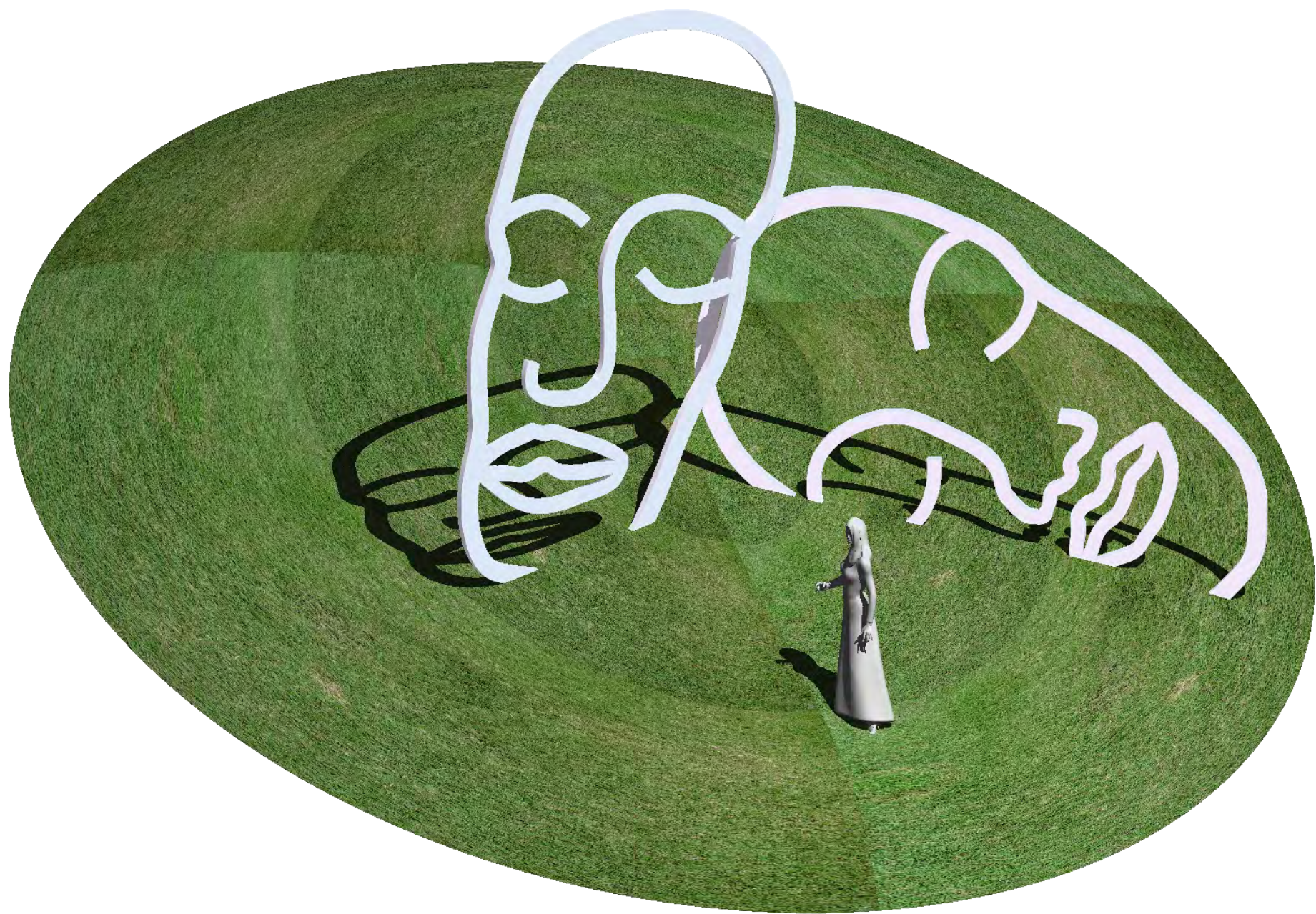


DREAMERS

Martin Luther King Park
Urbana, Illinois

©Douglas Kornfeld, 2012





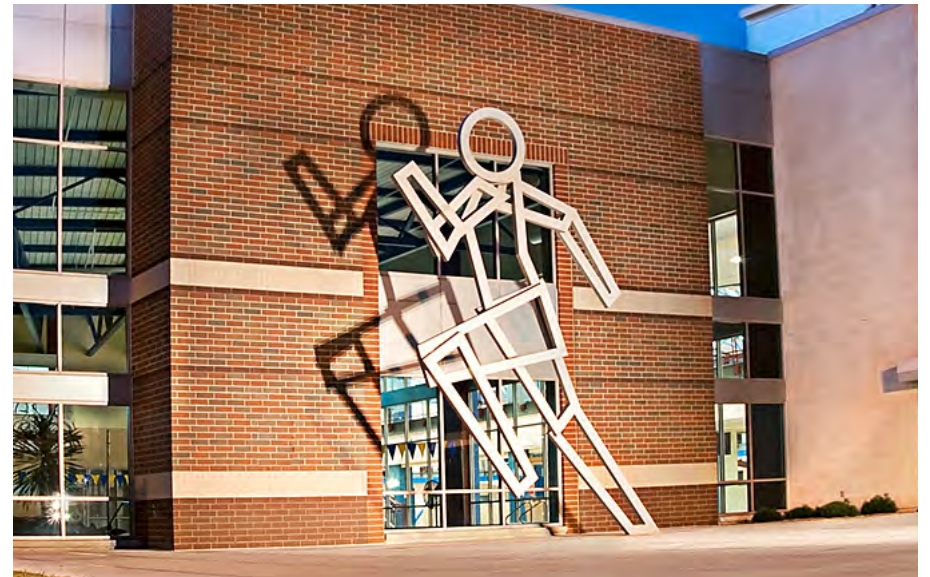


18'

Front Elevation



Stainless steel
with
“bead-blast”
velvet finish
in
different
lighting
conditions.



PRESTON JACKSON

11320 N. Hickory Woods Court
Dunlap, IL 61525

309-657-6808

www.prestonjacksonart.com

pjacks@saic.edu

Letter of Interest and Qualification for Martin Luther King, Jr. Park Project

I have completed numerous commissions for both public and private clients, and I also have created a large body of personal work, primarily on the subject of our history. To commemorate the 100th anniversary of the founding of the NAACP, two 14' X 4' X 2' cast bronze columns depicting the events and aftermath of the Springfield Race Riot of 1908 were dedicated in Springfield, Illinois. A Decatur, Illinois sculpture "From the Cottonfield to the Battlefield" memorializes Abraham Lincoln's decision to permit African American soldiers to fight in the Civil War in a cast bronze relief mounted on a granite pillar. The piece shows the progression of African Americans from slavery to citizenship through serving in the Union Army. In 2008 I created a 28-foot stainless steel and cast bronze piece on the subject of the Underground Railroad in Peoria, Illinois.

Although much of my commissioned work is comprised of large-scale pieces, I have also created commissioned sculptures of lesser cost for various clients, including the Museum of Science and Industry in Chicago, the Lincoln Financial Sculpture Walk and the College of Lake County. My personal work, which can be seen on my website, www.prestonjacksonart.com, is also primarily of smaller size and value. All of my sculptures are composed of durable, low maintenance, safe materials—I work in stainless steel and cast bronze on many of my public art pieces. The examples of my work included with this proposal highlight my bronze relief work. I have extensive experience creating engaging, durable public sculpture and working with architects, contractors, municipalities and committee members.

My ideas for the Martin Luther King, Jr. Park sculpture project deal directly with the experiences of Americans during and after the civil rights movement, acknowledging the legacy of Dr. King. Although hopefully everyone knows of Dr. King, this is an opportunity to educate the public regarding his activities and concepts, and to honor those who worked with him.

My intent is to maintain an overall simple design form that is esthetically interesting and clearly presented to the observer. The story of Dr. King and his work are first and foremost-- this public art piece should be a vehicle for our history which will help people understand both our past and the related social issues. As a teacher, I have made it my life's work to memorialize where we have been to help to educate our youth and illuminate the future.

I would suggest that the sculpture for the Martin Luther King, Jr. Park be a cast bronze relief with an array of figural images set upon a stainless steel structure. The stainless steel could also be fabricated into a representational image, possibly a bridge, to be interpreted both literally and symbolically. In my view, public art should be on the level of fine art, and yet remain highly accessible to individuals from all backgrounds, including children. Many people would never consider walking into an art gallery—but public art should speak to those people as well as to those with a trained eye for the fine arts. The proposed sculpture should contain strong design principles, and should be informative—it should stimulate peoples' interest. The overall fine art feel and accessibility of the piece would be achieved through design awareness, presentation, research and my personal connection to the subject. I appreciate your considering my work for this project.



Martin Luther King, Jr. Park Public Art Commission

PRESTON JACKSON IMAGE LIST

Image 1

"Acts of Intolerance" 2009 Two 12' X 4' X 2' Sections
Cast Bronze Monument Union Square Park, Springfield, IL Cost: \$275,000.

Image 2

"Acts of Intolerance" Detail 1 2009 Two 12' X 4' X 2' Sections
Cast Bronze Monument Union Square Park, Springfield, IL Cost: \$275,000.

Image 3

"Acts of Intolerance" Detail 2 2009 Two 12' X 4' X 2' Sections
Cast Bronze Monument Union Square Park, Springfield, IL Cost: \$275,000.

Image 4

Cahokia Mounds Museum Building Façade & Doors 1991
Two 28' X 12' Cast Bronze Relief Sculptures Collinsville, IL Cost: \$180,000.

Image 5

"From the Cottonfield to the Battlefield" Side 1 2009 10' X 3 ½' X 2'
Granite and Cast Bronze Relief City of Decatur, Illinois Cost: \$150,000.

Image 6

"From the Cottonfield to the Battlefield" Side 2 2009 10' X 3 ½' X 2'
Granite and Cast Bronze Relief City of Decatur, Illinois Cost: \$150,000.

Image 7

"Bronzeville, A Moment in Metal" 2008 20' X 12'
Stainless Steel and Bronze Relief McCormick Place West, Chicago Cost: \$140,000.

Image 8

"Knockin' on Freedom's Door" 2008 30' x 6' X 3'
Stainless Steel & Cast Bronze Relief Peoria, Illinois Civic Center Cost: \$150,000.

Image 9

"Knockin' on Freedom's Door" Detail 2008 30' x 6' X 3'
Stainless Steel & Cast Bronze Relief Peoria, Illinois Civic Center Cost: \$150,000.

Image 10

Memorial Bust of Martin Luther King, Detail 2001 18" H x 16" W x 14"D
Cast Bronze Danville, Illinois Cost: \$30,000

PRESTON JACKSON

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Websites: www.prestonjacksonart.com www.artic.edu/~pjacks
email pjacks@artic.edu PJMJ0001@aol.com

EDUCATION: BFA, SOUTHERN ILLINOIS UNIVERSITY
MFA, UNIVERSITY OF ILLINOIS

- ❖ REGIONAL EMMY AWARD, HOST OF "LEGACY IN BRONZE—FRESH FROM JULIEANNE'S GARDEN"
- ❖ 1998 LAUREATE OF THE LINCOLN ACADEMY OF ILLINOIS

MEDIA: CAST BRONZE AND STEEL SCULPTURE, PAINTING

PROFESSIONAL EXPERIENCE:

- ❖ 2009-Present Visiting Artist, Bradley University
- ❖ 2008-Present Professor Emeritus, Sculpture Department, School of the Art Institute of Chicago
- ❖ 1989 - 2008 Sculpture Professor, Head of the Figurative Area, School of the Art Institute of Chicago
- ❖ 1994 - 1996 Chair, Sculpture Department, School of the Art Institute of Chicago
- ❖ 1972 - 1989 Professor - Sculpture, Painting and Drawing, Western Illinois University
- ❖ 1971 - 1972 Instructor - Drawing and Painting, Millikin University

PUBLIC SCULPTURE:

- ❖ 1908 Springfield Race Riot Sculpture, Springfield, Illinois 2009
 - Cast Bronze Monument
- ❖ "From the Cottonfield to the Battlefield", City of Decatur, Illinois 2009
 - Granite and Cast Bronze Relief
- ❖ "Knockin' on Heaven's Door", Peoria Civic Center, Peoria, Illinois 2008
 - Stainless Steel and Cast Bronze Relief
- ❖ Aurora Public Art Commission, Aurora, Illinois 2008
 - Cast Bronze Figure on Stainless Steel Bench
- ❖ "A Need to Remember", 69th Street Station, Chicago Transit Authority, Chicago 2007
 - Stainless Steel and Cast Bronze Relief
- ❖ "Bronzeville, A Moment in Metal", McCormick Place West, Chicago 2007
 - Stainless Steel and Cast Bronze Relief

- ❖ City of Chicago 2006
 - Cast Bronze Sculpture of Irv Kupcinec
- ❖ Lincoln Financial Sculpture Park – Riverwalk, Hartford, CT 2006
 - “Toward Union Lines” and “Emancipation”, Cast Bronze
- ❖ Village of Maywood, IL 2006
 - Cast Bronze Bust of Fred Hampton
- ❖ Northwestern University, Chicago
 - “Dr. Dan”, Bronze Bust of Daniel Hale Williams
- ❖ Brookgreen Gardens, South Carolina
 - Medallion for 50th anniversary *Brown v. Board of Education*,
- ❖ City of Chicago, Brainerd Library
 - Stainless Steel and Cast Bronze Relief of Gwendolyn Brooks
- ❖ Disney, ESPN Zone, Chicago, Illinois
 - “Let’s Play Two”--Ernie Banks Relief Sculpture, Cold Cast Bronze
- ❖ City of Danville, Illinois
 - Martin Luther King Memorial Bronze Bust
- ❖ Fire Training Academy, Peoria, Illinois
 - Stainless Steel and Cast Bronze Memorial Sculpture
- ❖ Champaign Public Library, Champaign, Illinois
 - Stainless Steel & Cast Bronze Sculpture Memorial of Frederick Douglass
- ❖ Private Commission donated to the City of Peoria
 - “Our Town”, Cityscape, Painted Steel
- ❖ University of Illinois, Champaign, Illinois
 - “Animal Dignity”, Stainless Steel Exterior relief sculpture
- ❖ Cahokia Mounds Museum, Cahokia Mounds, Illinois
 - Cast Bronze Building Facade and Entry and Exit Doors
- ❖ City of Peoria, Illinois
 - “Jean Baptiste Point du Sable” – Life size cast bronze city monument

REFERENCES:

Elizabeth L. Kelley, Curator of Public Art, City of Chicago
312- 742-1160 elizabeth.kelley@cityofchicago.org

Paul Klein, Publisher of “Art Letter”
773-227-7773 paul@chicagoartfoundation.org

Rena Church, Director/Curator, Aurora Public Art Commission
630-906-0654 rchurch@aurora-il.org



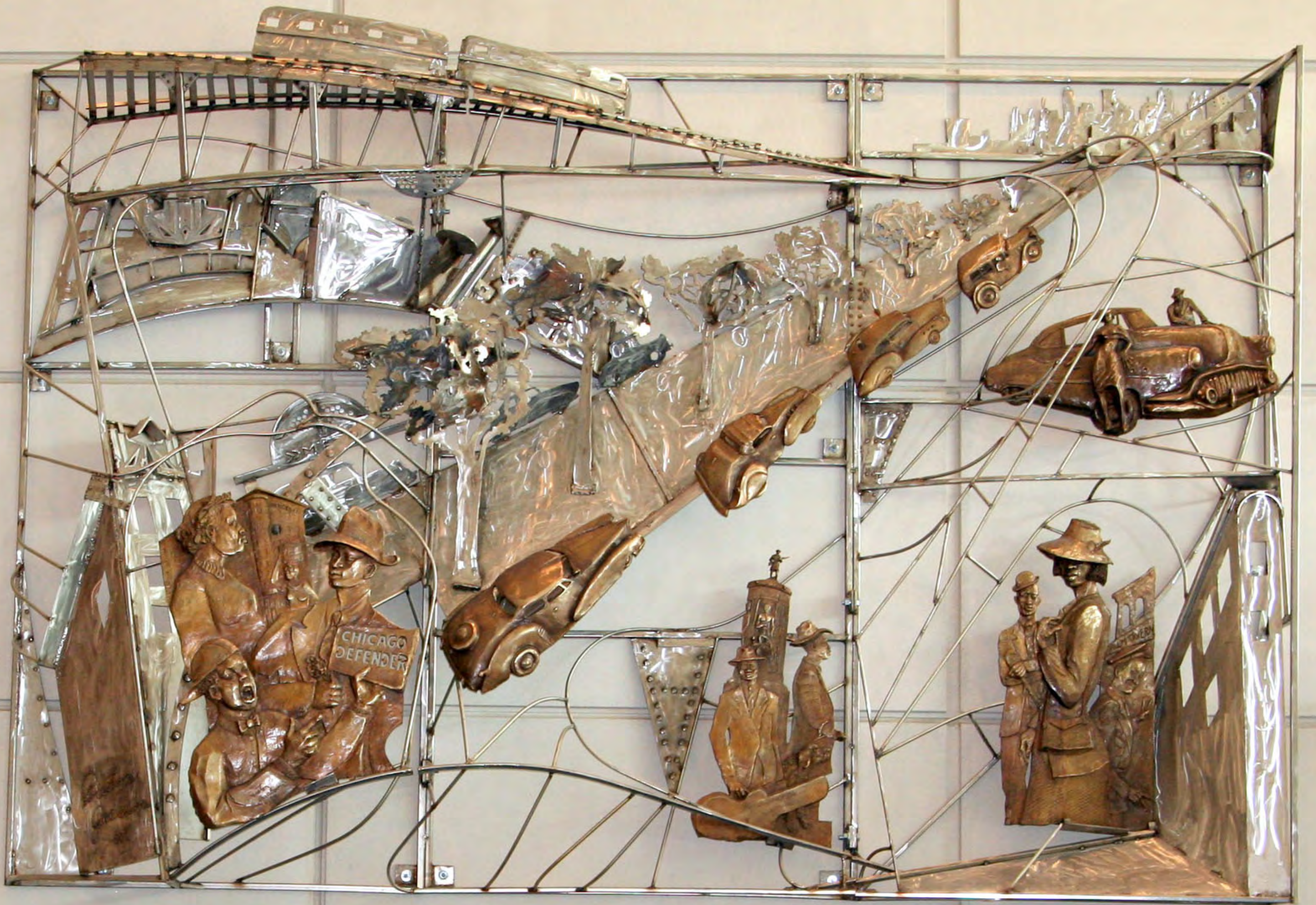


















Public Art Design Services Agreement

This **AGREEMENT FOR PUBLIC ART DESIGN SERVICES** (together with all Exhibits, hereinafter the "Agreement") is made and entered into as of this 18 day of Sept., 2012, by and between the CITY OF URBANA, (hereinafter the "City", an Illinois municipal corporation whose principal office is located in Champaign County, Illinois and Douglas Kornfeld (hereinafter the "Artist") whose principal office is located at 33 Crescent Street, Cambridge, MA 02138.

WITNESSETH:

WHEREAS, the City Council has determined that it is in the public interest to support public art; and

WHEREAS, the City desires to obtain public art design services in connection with the development of a design for public art elements to be installed at King Park ("site"); and

WHEREAS, the Artist is in the business of creating original works of art; and

WHEREAS, the Artist was selected by the City through a Request for Qualifications process by the City to design and develop public art elements for the Project; and

WHEREAS, the City desires to enter into an agreement with the Artist to fully develop a design of artwork in anticipation of fabrication and installation of it.

NOW, THEREFORE, in consideration of the above-stated premises and subject to the conditions hereinafter set forth, the parties agree as follows:

1. Scope of Services. The Artist shall provide design services (the "Services") and deliverables ("Deliverables") as set forth in Exhibit A, which is hereby incorporated by reference into this Agreement. The Services shall result in Deliverables embodying a final design (the "Design") including, but not limited to, a plan for fabrication and installation.

2. Schedule of Performance. The Public Art design services shall be completed and submitted within the time periods defined in the detailed Scope of Services attached as Exhibit A.

3. Extension of Time. The City agrees to grant extensions of time to the Artist in the event that there is a delay caused by the City, or pursuant to those circumstances set out in Section 20 of this Agreement. Extensions of time shall comply with the requirements of Section 18 of this Agreement.

4. Compensation. The City agrees to pay Artist \$5,000 for the Design.

5. Representations and Warranties. Artist represents and warrants that the services rendered pursuant to this Agreement shall result in an original Design that, to the best of Artist's knowledge, does not infringe on any third-party intellectual property rights. The City shall make available for Artist's examination and use all information regarding the Site and Project, including but not limited to: plans, specifications, reports, narratives, publications, statistics, records and other information pertinent to Artist's performance under this Agreement, at no cost to Artist. Where appropriate, the City shall direct their Design Team (ie. engineers, landscape architects, and other design professionals) to work in cooperation with Artist to fully develop the design and fabrication and/or installation plans for the Public Art. Further, the City shall provide its reviews and approvals of Artist's public art designs in a prompt and timely manner.

6. Design Approval Process.

It is anticipated that the design and development approval process shall be in phases, all of which is more fully set forth in Exhibit A relating to "deliverables". To insure a "meeting of the minds" as the design is developed, each deliverable must be approved by the Urbana Public Arts Commission and the Urbana Park District Project representatives before the next phase is produced. The final design must be approved by both the Urbana Public Arts Commission and the Urbana Park District Project representatives. Upon approval of the final design, Artist shall provide a plan for fabrication and installation of the final design piece for approval by the Urbana Public Arts Commission and the Urbana Park District Project representatives. After such approval of the plan for fabrication and installation, the Public Arts Commission and the Artist shall negotiate an addendum to this Agreement to provide details respecting the fabrication and installation of the final design piece. This addendum must be approved by the Urbana Public Arts Commission and the Urbana Park District Project representatives.

7. The approved design concept submitted to the City under this agreement and the resulting Artwork will be the sole property of the City and subject to the provisions of the Visual Artists Rights Act of 1990. The design concept and maquette may be used for exhibition purposes.

8. Copyright Ownership. Artist retains all copyrights in the design and any plans, drawings, model, and the like prepared by the Artist in connection with this agreement. The Artist is responsible, at his/her option, for registering any copyrightable material in his or her name with the U.S. Register of Copyrights, at no additional cost to Client.

9. Publicity and Public Information: The City may inform the general public about the Artwork by issuing news releases and news stories. In addition, the City may provide information to persons interested in learning more about the Artist. The City will have no liability for errors or omissions in any publications.

10. Motion Pictures, Television Productions, and Photographs: The Artist grants the City a perpetual license which allows, without limitation, the Artist's Artwork to be included in any motion picture, television production, photographs (to be used on

the City website or in City promotional materials), taken at the Location, or in any other media promoting the City or its activities. No further and additional consideration shall be remitted to the Artist for said license. Such license grants to the City an irrevocable license to graphically depict the Work in any non-commercial manner whatsoever. For the purposes of this Agreement, the graphic depiction of the Work on materials designed to promote the City or its services or shall be deemed to be non-commercial use. In addition, the Artist grants a perpetual license to the production company and/or photographer to exhibit all or any part of said film or photographs throughout the world. Such exhibitions will be for non-commercial purposes only and will credit the City as owner of the Work and the Artist as creator of the Work.

11. Alterations of Site or Removal of Artwork:

- a. The City shall notify the Artist in writing upon adoption of a plan of construction or alteration of the Site which would entail removal or relocation of the Artwork which might result in the Artwork being destroyed, distorted or modified. The Artist shall be granted the right of consultation regarding the removal or relocation of the Artwork. If the Artwork cannot be successfully removed or relocated as determined by the City, the Artist may disavow the Artwork or have the Artwork returned to the Artist at the Artist's expense. If the City and the Artist agree that the Artwork can be included in the alteration of the Site with modifications, parties agree to negotiate fair compensation for the Artist's services to appropriately and adequately modify the Artwork to meet new site conditions.
- b. The Artwork may be removed or relocated or destroyed by the City pursuant to the Visual Artists Rights Act of 1990, should the Artist and the City not reach mutual agreement on the removal or relocation of the Artwork after a period not to exceed 90 days after written notice to the Artist. During the 90 day period, the Parties shall engage in good faith negotiations concerning the Artwork's removal or relocation.
- c. If the City reasonably determines that the Artwork presents imminent harm or hazard to the public, other than as a result of the City's failure to maintain the Artwork as required under this Agreement, the City may authorize the removal of the Artwork without the prior approval of the Artist.
- d. This clause is intended to replace and substitute for the rights of the Artist under the Visual Artists' Rights Act to the extent that any portion of this Agreement is in direct conflict with those rights. The parties acknowledge that this Agreement supersedes that law to the extent that this Agreement is in direct conflict therewith.

12. Transfer of Title. Simultaneous with Artist's receipt of the final payment, Artist shall transfer title to the Deliverables to the City.

13. Indemnification.

- a. The Artist shall indemnify and hold harmless the City, its officers, and employees from and against any and all claims, actions, damages, fees, fines,

penalties, defense costs, suits or liabilities which may arise out of any act, neglect, omission or default of the Artist arising out of or in any way connected with the Artist (or Artist's officers, employees, agents, volunteers and sub-contractors, if any) performance or failure to perform under the terms of this agreement.

- b. The City shall indemnify and hold harmless the Artist from and against any and all claims, actions, damages, fees, fines, penalties, defense costs, suits or liabilities which may arise out of any act, neglect, omission or default of the City arising out of or in any way connected with the City's (or the City's officers, employees, agents, volunteers and sub-contractors, if any) performance or failure to perform under the terms of this agreement.

14. Independent Contractor. Artist is furnishing his/her services hereunder as an independent contractor, and nothing herein creates any association, partnership or joint venture between the Parties hereto or any employer-employee relationship.

15. Modification. Any modification of this Agreement shall be in writing and signed by all the parties.

16. Termination. Either party may terminate this Agreement upon thirty (30) days written notice to the other party delivered by certified mail or in person. Termination of this Agreement for any cause shall be without prejudice to any obligations or liabilities of either party accrued prior to or because of such termination. Should the City elect to terminate the Agreement under this Section, the City does not have the right to commission any other party to create the Design, or any part thereof, without the written approval of the Artist. Further, the City shall be liable under the payment provisions of this Agreement only for payment for services rendered before the effective date of termination. In the event of a breach, the non-breaching party may terminate this Agreement upon ten (10) days notice to the other, if the breaching party is in material breach of this Agreement and fails to cure the breach before the end of the ten (10) day notice period.

17. Death or Incapacity of Artist. Should the Artist become ill, disabled, injured, or otherwise incapacitated at any time between the execution of this Agreement and the date of completion, the Artist or one of his representatives will notify the City promptly. In the event of the Artist's physical incapacity or death prior to the completion of the Agreement, all payments made up to the point of incapacity or death will be retained by Artist or Artist's estate and all work performed to date of incapacity or death will be compensated. If the Design is substantially completed and it is feasible for the work to be fully completed without undue delay, the City may elect to proceed under the terms of this Agreement with the written consent of the Artist's estate. In the event that the City elects to proceed with the completion of the Design, and/or a commission of the Artwork, all remaining work to be completed in accordance with this Agreement will be delegated to the Artist's studio personnel.

18. Force Majeure. The Parties will be excused from performing under this Agreement if performance is prevented by a condition beyond the control of the Parties

such as acts of God, war, civil insurrection, government action or public emergency (but only for as long as such unforeseen occurrences exist). Both Parties will take all reasonable steps to assure performance of their contractual obligation when the unforeseen occurrences have ceased to exist, but resumption of performance will be subject to negotiation between the Parties if more than one (1) year has passed since either suspension of obligations under this Agreement or substantially changed circumstances.

19. Non-assignability. The Artist will not assign, transfer or subcontract the creative and artistic portions of the Design or the Artwork to another party without the prior written consent of the City.

20. Severability. Each paragraph and provision of this Agreement is severable from the entire Agreement, and if any provision is declared invalid, the remaining provisions will remain in effect.

21. Compliance: The Artist agrees to abide by and be governed by all applicable federal, state, and local laws or regulations as said laws and regulations exist and are amended from time to time. Failure to comply with this provision will be considered a breach of this Agreement. In entering into this Agreement, City does not waive the requirements of any City or local ordinance or the requirements of obtaining any permits or licenses which are normally required to conduct business or activity contemplated by the Artist.

22. Jurisdiction and Venue. This Agreement will be governed by and construed in accordance with the laws of the State of Illinois, without reference to conflicts of laws principles. The parties hereby agree that the State and Federal Courts of Champaign County and the State of Illinois shall have exclusive jurisdiction to hear and determine any claims or disputes pertaining directly or indirectly to this Agreement or any matter arising therefrom or relating thereto. Each Party agrees to service of process through the procedure defined in Section 25.

2. Notices. All notice, submittals, requests, and reports required under this Agreement will be hand delivered or sent by certified mail as follows:

For Artist: Douglas Kornfeld
Awaka, Inc.
33 Crescent Street
Cambridge, MA 02138

For the City: Public Arts Coordinator
Community Development Services
City of Urbana
400 S. Vine Street
Urbana, IL 61801

Notice is deemed to have been received either upon the date recipient signs the return certificate, or five (5) days after the notice is transmitted to recipient, whichever is

sooner. A change in the designation of the person or address to which submittal, requests, notices and reports will be delivered is effective when the other party has received notice of the change by certified mail.

24. Dispute Resolution. In the event of any disputes arising from the terms of or performance under this Agreement, the parties shall first attempt resolution through good faith discussion and/or mediation. For disputes and differences of opinion regarding aesthetic matters, the dispute will be presented to the Urbana Public Arts Commission for recommendation. If discussion and/or mediation do not resolve the dispute(s), the parties may resort to litigation and equitable relief to resolve disputes that still exist after good faith discussion and/or mediation. In addition, either party may seek equitable relief (injunction and/or specific performance) at any time when immediate enforcement or cessation of performance under this Agreement is required to avoid foreseeable damages to relief-seeking party's interests, including but not limited to intellectual property interests.

25. Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes all previous agreements in this matter. There are no other written or oral agreements, representations or understandings with respect to the subject matter of this Agreement. This Agreement and its terms may be amended, modified, or waived only by written agreement, signed by both parties.

26. Non-waiver. No waiver will be binding on a party unless it is in writing and signed by the party making the waiver. A party's waiver of a breach of a provision of this Agreement will not be a waiver of any other provision or a waiver of a subsequent breach of the same provision.

27. Execution by Counterpart and Facsimile. This Agreement may be executed in counterpart and by facsimile.

THE PARTIES TO THIS AGREEMENT by their signatures acknowledge they have read and understand this agreement and intend to be bound by its terms.

CITY OF URBANA

By:
MAYOR
Date: 9/18/12

ARTIST

By:
ARTIST
Date: 9-6-2012

ATTEST:

CITY CLERK Deputy Clerk
Date: 9/18/12

ATTACHMENTS:

~~EXHIBIT A: DESIGN SERVICES & DELIVERABLES~~

EXHIBIT B: PAYMENT SCHEDULE

EXHIBIT C: INSURANCE

EXHIBIT D: PROJECT SCHEDULE

EXHIBIT A: DESIGN SERVICES & DELIVERABLES

DESIGN SERVICES

1. **Scope of Services.** The Artist will perform the following "Services", which include all other obligations required of the Artist by this Agreement, in a satisfactory and proper manner as determined by the City:
 - a. **Design/Consultation Services.** The Artist will work in collaboration with the City staff, Urbana Park District staff, community stakeholders, and project personnel to gather information, share ideas and identify themes or concepts for the for the **Martin Luther King, Jr. Park Public Art Project (the "Project")**. The Artist will conduct independent research as necessary to develop concepts and opportunities for the integration of artwork into the Project and will influence the overall Project design and strive to integrate art ideas into the Project. The Artist will work within the constraints of the right-of-way, easements, timeline and established project alignment to maximize resources wherever possible to impact the Project. The Artist will meet with the various community groups associated with the Project to listen to concerns, consider their interests, and gather Project information and foster communication. The Artist will develop a written description and appropriate visual materials to explain and illustrate the artwork concepts, site selections, and materials, which will comprise the artworks ("Work.")
 - b. **Approval.** The Work must be approved by the **Urbana Public Arts Commission and Urbana Park District Board**. The Artist will provide consultation through any City Department approval processes as may be required. Based on comments, the Artist will develop a complete and detailed artwork proposal(s) that may be developed as stand-alone artworks.
 - i. Proposed works shall include:
 1. Detailed design drawing of the proposed artwork clearly indicating scale
 2. Written description of the artwork
 3. Written description of proposed materials with samples as appropriate
 4. Proposed artwork implementation budget.
 - ii. Artworks designed and fabricated by the Artist will be engineered and estimated through the Artist with the cost estimate including payment of all applicable local, state and federal taxes and costs of all labor and materials required to produce and install the artwork.
 - c. **Implementation of Designs.** Upon agreement of the parties, an addendum for fabrication and installation of the Work by the Artist may be entered into following satisfactory completion of the Services under this Agreement.

DELIVERABLES

1. **Schematic Design:** Artist (in collaboration with City staff, Urbana Parks District Staff, and other design professionals as appropriate) shall submit to the City of Urbana a Schematic Design for the Artwork.
 - a. Schematic design shall include information sufficient to describe the Artwork in detail, including but not limited to:
 - i. Dimensioned drawings such as plan(s), section(s), elevation(s), site plans
 - ii. Models, materials and samples
 - iii. Structural considerations
 - iv. Preliminary assessment of maintenance requirements, surface integrity, protection against theft and vandalism
 - v. Preliminary sub-consultant reports as appropriate, such as structural, lighting, electrical, mechanical, hydraulic engineers/consultants
 - vi. Preliminary fabrication narrative
 - vii. Preliminary installation narrative
 - viii. Estimated fabrication budget
 - ix. Preliminary fabrication budget
 - x. Estimated installation budget
 - xi. Preliminary installation schedule
 - xii. Ability to meet Client provided preliminary installation timeline
 - b. **Revisions:** The City may require the Artist to make such revisions to the Schematic Design(s) as are necessary for the Work to comply with applicable statutes, ordinances, or regulations of any governmental agency having jurisdiction of the Project. The City may also request or require revisions for other practical non-aesthetic reasons.

Schematic Design shall be submitted to the City by September 28, 2012 for review and approval by the Urbana Public Arts Commission and Urbana Park District at their October 16, 2012 meeting.

2. **Construction Documents:** Artist (in collaboration with City staff, Urbana Parks District Staff, and other design professionals as appropriate) shall submit to the City a set of Construction Documents detailing every physical feature of the construction of the Artwork and its integration with the Site. Construction Documents include:
 - a. Detailed drawings to meet standards specified by Client
 - b. Material samples
 - c. Final consultant reports/drawings/specifications where appropriate
 - d. Final budget for artist fees
 - e. Final fabrication budget
 - f. Final fabrication schedule

- g. Final maintenance requirements/instructions
- h. Final installation narrative
- i. Final installation budget

Construction Documents shall be submitted to the City by November 29, 2012 for review and approval by the Urbana Public Arts Commission and Urbana Park District at their December 11, 2012 meeting.

3. All deliverables will be provided in form easily printed and/or reproduced and suitable for distribution in 8 1/2" X 11" format. Deliverables can be made in hard copy print or electronic format (PDF or JPEG).

EXHIBIT B: PAYMENT SCHEDULE

1. Compensation and Method of Payment.

- a. **Compensation for Design Consultation Services and Purchase of Design:** For the Artist's Services, the City agrees to pay the Artist up to a total of Five Thousand Dollars (\$5,000) ("Compensation"). The Compensation includes any applicable taxes, which must be paid by the Artist. The Compensation constitutes full and complete compensation for the Artist's Services under this Agreement. The City shall pay Artist's invoices within sixty (60) days following receipt of invoice. Parties anticipate addendum for additional services of \$45,000 for commission and fabrication of artwork upon design approval.
- b. **Method of Payment:** The Compensation will be paid to the Artist in the following installments within a reasonable period of time after completion of the Services described below:

2. Payment Schedule:

- a. Five Thousand Dollars (\$5,000) following the City's approval and execution of this Agreement, for travel, lodging, meals, design services, printing costs, and any other expenses related to the performance of Services ("First Payment");

EXHIBIT C: ANTICIPATED PROJECT SCHEDULE

1. **August-September 2012:** Artist initial trip to Urbana to meet with key stakeholders
2. **October-November 2012:** Approval of Schematic Design by Urbana Public Arts Commission and Urbana Park District
 - a. Engineer Drawings/City staff for review about safety and parts
 - b. Bidding phase, cost estimates
 - c. Construction Documents produced
3. **December 2012-January 2013:** Approval of Construction Documents by Urbana Public Arts Commission and Urbana Park District
4. **January-February 2013:** Approval of Addendum for Commission and Fabrication of Design
5. **March-May 2013:** Fabrication & Installation of Artwork in progress.
6. **May-June 2013:** Installation Completion & Dedication of Artwork

CONSENT TO PARTIAL ASSIGNMENT

WHEREAS, the City of Urbana, Illinois (City) and Douglas Kornfeld (Artist) have heretofore entered into an agreement which was approved by the Urbana City Council on August 20, 2012 (Resolution 2012-08-057R) relating to the Artist creating a Work of Art for placement at Martin Luther King Park Agreement, and

WHEREAS, Artist has requested that the City consent to the assignment to Awaka LLC, of those portions of the agreement relating to matters that are not closely related to the artistic and design creative effort, and

WHEREAS, the City is willing to so consent to such partial assignment.

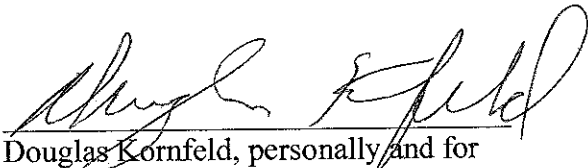
IT IS THEREFORE AGREED that, except for those duties set forth in the agreement that are closely related to the artistic creative and design function of the agreement, the agreement is hereby assigned to Awaka LLC, (a limited liability corporation wholly owned by the Artist). Provided, however, that this assignment is not intended to affect in any way the representations and warranties of the Artist set forth in the Section 5 of the agreement relating to assurances that the work of the Artist in creating the Work of Art, will not infringe on any third party intellectual property rights.

COMMUNITY DEVELOPMENT

ACCEPTED



Elizabeth Tyler, Director



Douglas Kornfeld, personally and for
AWAKA LLC.

Date: Sept 12, 2012

Date: 9-6-2012

MUTUAL RELEASE

PARTIES: City of Urbana, Illinois, a municipal corporation (“City”).

Douglas Kornfeld, personally and for AWAKA, LLC, (“Artist”).

BACKGROUND: The City and Artist entered into an agreement dated September 18, 2012 (“Agreement”), for the Artist to design and, after the design offered by Artist was approved by City, the performance of further such further steps as indicated in the agreement. At the request of Artist, the parties subsequently agreed to a partial assignment of the agreement to AWAKA, LLC, a limited liability corporation wholly owned by Douglas Kornfeld.

The design offered by Artist was not approved by the selection committee of City staff, Public Arts Commission representatives, Urbana Park District staff and board members, community stakeholders, and project personnel and Artist is unwilling to explore changes to the design he offered and thus the parties now agree that they should enter into a mutual release of all obligations of the parties respectively, subject to the return to the City of \$_____ by Artist, which amount is the amount the parties have agreed is a fair apportionment of the \$5,000.00 paid to Artist upon execution of the Agreement for Artist’s out-of-pocket expenses and compensations for performing the contract.

NOW THEREFORE, in consideration of the mutual release of all obligations to each other under the agreement (subject to the payment of \$_____ as provided in paragraph 2 below), the parties agree as follows:

1. The parties waive all of their rights and obligations regarding termination set forth in paragraph 16 (Termination) of the Agreement and expressly agree that the Mutual Release set forth herein is a fully satisfactory method of proceeding to terminate the Agreement.

2. Artist shall, within thirty (30) days of the effective date of this Agreement, remit to City \$_____ representing the agreed amount of the \$5,000.00 paid to Artist under the Agreement.
3. Artist agrees that retaining \$_____ of the \$5,000.00 paid to him for his efforts to create and present a design is full and complete compensation to him for his efforts.
4. The effective date of this Agreement is the date set forth in the line immediately below the signature of Douglas Kornfeld accepting this Mutual Release Agreement.

CITY OF URBANA

By: _____
MAYOR

Date: _____

ARTIST

By: _____
DOUGLAS KORNFELD,
personally and for AWAKA, LLC.

Date: _____

ATTEST:

CITY CLERK

Date: _____