

ASSIGNMENT OF INTEREST AGREEMENT

THIS ASSIGNMENT OF INTEREST AGREEMENT is made and entered into by and between the **CITY AND COUNTY OF DENVER** (the "City"), and **PARK CREEK METROPOLITAN DISTRICT**, a Colorado political subdivision of the State (the "Assignor"), whose address is 7350 East 29th Avenue, Suite 300, Denver, Colorado 80238.

WITNESSETH:

WHEREAS, the parties entered into an Individual Facilities Development Agreement Art-1 ("IFDA A-1") dated August 9, 2005, whereby the Assignor agreed to enter into contracts with artists under the terms of the Assignor's Art Master Plan, which includes Infrastructure sites that are conveyed upon completion with the site's accompanying art to the City.

WHEREAS, the Assignor entered into an agreement with artist **DAVID FRANKLIN**, whose mailing address is P.O. Box 596, Indianola, WA 98342 ("Artist Franklin") for artwork named Drift Inversion ("Franklin Work") a description of which is attached as **Exhibit A** to be installed at Sandhills Prairie Park (the "Franklin Site") dated June 17, 2016 (the "Franklin Agreement" or collectively with other artists' agreements described herein the "Artist Agreements"), attached hereto as **Exhibit B** and incorporated herein by this reference, to perform the Franklin Work;

WHEREAS, the Assignor entered into an agreement with artist **RODRIGO NAVA**, whose address is 272 Kim Hubbard Road, Putney, VT 05346 ("Artist Nava") for artwork named Wind Gate Art Suite ("Nava Work") a description of which is attached as **Exhibit C** to be installed at Bluff Park (the "Nava Site") dated April 8, 2018 (the "Nava Agreement" or collectively with other artists' agreements described herein the "Artist Agreements"), attached hereto as **Exhibit D** and incorporated herein by this reference, to perform the Nava Work;

WHEREAS, the Assignor entered into an agreement with artist **VOLKAN ALKANOGLU DESIGN, LLC**, whose address is 1378 NW 18th Avenue, Unit 530, Portland, OR 97209 ("Artist Alkanoglu") for artwork named Phantom Pavilion ("Alkanoglu Work") a description of which is attached as **Exhibit E** to be installed at Prairie Basin Park (the "Alkanoglu Site") dated December 10, 2015 (the "Alkanoglu Agreement" or collectively with other artists' agreements described herein the "Artist Agreements"), attached hereto as **Exhibit F** and incorporated herein by this reference, to perform the Alkanoglu Work;

WHEREAS, the Artist Agreements have all been performed and the Franklin Work, the Nava Work, and the Alkanoglu Work have been completed and accepted by Assignor;

WHEREAS, the Assignor and the City have agreed to the acceptance of the conveyance of the Site, including the Franklin Work, the Nava Work, and the Alkanoglu Work;

WHEREAS, the City is ready willing and able to accept the Franklin Work, the Nava Work, and the Alkanoglu Work into its public art collection and accept the assignment of the Artist Agreement and ownership of the Franklin Work, the Nava Work, and the Alkanoglu Work for the City.

NOW, THEREFORE, in consideration of the premises herein, and other good and valuable consideration, the adequacy of which is acknowledged, the parties agree as follows:

1. ASSIGNMENT OF MATERIALS: The Assignor does hereby convey, donate, assign, deliver, and forever relinquish to the City for the use and benefit of the people of Denver, and the City does hereby assume, the Artist Agreement, ownership of the Franklin Work, the Nava Work, and the Alkanoglu Work and all of Assignor's rights, title and interest in and to the Franklin Work, the Nava Work, and the Alkanoglu Work, including its rights under the Artist Agreement which Assignor now owns or may hereafter acquire for the purposes of this Assignment of Interest Agreement (“Agreement”) or otherwise. It is understood and agreed by Assignor that the City may display, store, move, relocate, dismantle, remove from public display, deaccession or demolish the Franklin Work, the Nava Work, and/or the Alkanoglu Work, at its sole discretion, and the Assignor disclaims any right or interest in the Franklin Work, the Nava Work, and the Alkanoglu Work in that event. The Assignor shall provide within thirty (30) days of the execution of this Agreement, complete and legible copies or originals of any and all documentation, designs, plans, materials lists, maintenance records, installation contracts, correspondence and any and all other documentation of whatever nature in Assignor’s files related to the Artist Agreement and the Franklin Work, the Nava Work, and the Alkanoglu Work.

The parties intend that all property rights to any and all materials, text, logos, documents, booklets, manuals, references, guides, brochures, advertisements, music, sketches, drawings, photographs, specifications, software, data, products, ideas, inventions, or any other work or recorded information created pursuant to the Artist Agreement and conveyed to the City pursuant to this Agreement, in preliminary or final form and on any media whatsoever, shall

belong to the City.

2. **TERM OF AGREEMENT:** The term of the Agreement shall commence upon completed execution of this Agreement and remain in effect perpetually.

3. **WHEN RIGHTS AND REMEDIES NOT WAIVED:** In no event shall any act performed by either party hereunder constitute or be construed to be a waiver by other party of any breach of term, covenant, or condition or any default which may then exist on the part of the defaulting party, and any act or failure to act by either party when any such breach or default shall exist shall not impair or prejudice any right or remedy available to either party with respect to such breach or default; and no assent, expressed or implied, to any breach of any one or more terms, covenants, or conditions of this Agreement shall be construed as a waiver of any succeeding or other breach.

4. **TAXES, PERMITS AND LICENSES:** The Assignor represents that it has no knowledge that any lien, mortgage, judgment or execution exists on the Franklin Work, the Nava Work, and the Alkanoglu Work for any taxes, excises, licenses fees or permit fees of whatever nature. The Assignor further agrees to cooperate with the City in any action for lien, mortgage, judgment, or execution to be filed which will in any way impair the rights of the City under this Agreement, to the extent that such action alleges facts occurring prior to the effective date of this Agreement.

5. **VENUE, GOVERNING LAW:** Each and every term, condition, or covenant herein is subject to and shall be construed in accordance with the provisions of Colorado law, any applicable federal law, the Charter of the City and County of Denver and the ordinances, regulations, and Executive Orders enacted and/or promulgated pursuant thereto. Such applicable law, together with the Charter, Revised Municipal Code and regulations of the City and County of Denver, as the same may be amended from time to time, is hereby expressly incorporated into this Agreement as if fully set out herein by this reference. Venue for any action arising hereunder shall be in the Denver County or Denver District Court in the City and County of Denver, Colorado.

6. **INDEMNIFICATION AND INSURANCE:** Both the Assignor and the City are subject to the "Colorado Governmental Immunity Act, § 24-10-101, *et seq.*, C.R.S., as now or hereafter amended ("Immunity Act"), and no term or condition shall be deemed a waiver of any provision of the Immunity Act. The parties understand and agree that the liability of the

Assignor, its departments, institutions, agencies, boards, officials and employees is controlled and limited by the provisions of the Immunity Act.

Assignor shall provide the City with copies of insurance certificates related to the Franklin Work, the Nava Work, and the Alkanoglu Work or to the Artist Agreement, if any, with liability limits.

7. CONFLICT OF INTEREST:

a. No employee of the City shall have any personal or beneficial interest in the services or property described in the Agreement; and the Contractor shall not hire, or contract for services with, any employee or officer of the City that would be in violation of the City's Code of Ethics, D.R.M.C. §2-51, et seq. or the Charter §§ 1.2.8, 1.2.9, and 1.2.12.

b. The Contractor shall not engage in any transaction, activity or conduct that would result in a conflict of interest under the Agreement. The Contractor represents that it has disclosed any and all current or potential conflicts of interest, including transactions, activities or conduct that would affect the judgment, actions or work of the Contractor by placing the Contractor's own interests, or the interests of any party with whom the Contractor has a contractual arrangement, in conflict with those of the City. The City, in its sole discretion, will determine the existence of a conflict of interest and may terminate the Agreement in the event it determines a conflict exists, after it has given the Contractor written notice describing the conflict.

8. NO THIRD PARTY BENEFICIARY: It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the City and the Assignor, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on such Agreement. It is the express intention of the City and the Assignor that any person or entity other than the City or the Assignor receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

9. DISPUTES: All disputes of whatsoever nature between the City and Assignor regarding this Agreement shall be resolved by administrative hearings pursuant to the procedure established by Denver Revised Municipal Code 56-106. For the purposes of that procedure, the City official rendering a final determination shall be the City's Director of Economic Development.

10. TAXES, CHARGES, AND PENALTIES: The City shall not be liable for the payment of taxes, late charges or penalties of any nature except as required by the City's Revised Municipal Code.

11. PARAGRAPH HEADINGS: The captions and headings set forth herein are for convenience of reference only, and shall not be construed so as to define or limit the terms and provisions hereof.

12. NOTICES: All notices, requests, demands, and other communications which are required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given upon the delivery or receipt thereof, as the case may be, if delivered personally or sent by certified mail, return receipt requested, postage prepaid, as follows:

If to the City: Denver Arts and Venues
1345 Champa Street, First Floor
Denver, Colorado 80204

If to the Assignor: The address first above written.

13. SEVERABILITY: It is understood and agreed by the parties hereto that if any part, term, or provision of this Agreement is held by the Courts to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

14. SURVIVAL OF CERTAIN AGREEMENT PROVISIONS: The parties understand and agree that all terms, conditions and covenants of this Agreement, together with the exhibits and attachments hereto, if any, any or all of which, by reasonable implication, contemplate continued performance or compliance beyond the expiration or termination of this Agreement (by expiration of the term or otherwise), shall survive such expiration or termination and shall continue to be enforceable as provided herein for a period equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims, matters, or actions begun within that period.

15. AGREEMENT AS COMPLETE INTEGRATION; AMENDMENTS:

A. The parties assure and guarantee that the signatory possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into this Agreement.

B. The person or persons signing and executing this Agreement on behalf of

the parties, do hereby warrant and guarantee that he/she or they have been fully authorized by the respective party to execute this Agreement on behalf of the party and to validly and legally bind the party to all the terms, performances and provisions herein set forth.

16. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS: Assignor consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

(Remainder of page left intentionally blank.)

Contract Control Number:
Contractor Name:

THTRS-202160909-00
PARK CREEK METROPOLITAN DISTRICT

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of:

SEAL

CITY AND COUNTY OF DENVER:

ATTEST:

By:

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

Attorney for the City and County of Denver

By:

By:

By:

Contract Control Number:
Contractor Name:

THTRS-202160909-00
PARK CREEK METROPOLITAN DISTRICT

By: _____

Name: _____
(please print)

Title: _____
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

Contract Control Number:
Contractor Name:

THTRS-202160909-00
PARK CREEK METROPOLITAN DISTRICT

By: King H. Harris

Name: King H. Harris
(please print)

Title: President
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

EXHIBIT A

(exhibit follows)





PUBLIC ART COLLECTION

TITLE OF ARTWORK: *Drift Inversion*

ARTIST: David Franklin
P.O Box 596
Indianola, WA 98342
360-297-5261 (c)
david@davidfranklinart.net

COLLABORATOR: Aaron Whelton
Portland, OR

LOCATION: Sandhills Prairie Park
5311 North Central Park Boulevard (Conspan)
Stapleton
(Filing #47)

NEIGHBORHOOD: Willow Park East

OWNERSHIP: Park Creek Metropolitan District until conveyed to
the City and County of Denver

INSTALLED: 2017

NOTES: This 23' x 128' installation was inspired by the sand dunes that were a predominant topographical feature of north Stapleton and now Sandhills Prairie Park. The aluminum profiles of this sculpture create an inverted version of sand dunes that now covers the ceiling of the conspan pedestrian underpass under North Central Park Boulevard. *Drift Inversion* transforms the space and relates to the natural history of this area.

The Board of The Park Creek Metropolitan District voted to accept this public art

installation on August 24, 2017.

November 2019: Insects are drawn to the lights in the ceiling and the debris collects on the profiles adjacent to the lights. PCMD approved a recommendation to clean this artwork. Noah Manos of Paper Airplane Design powerwashed the profiles. This cleaning should be done every two years.

FACT SHEET
Public Art Installation
Sandhills Prairie Park
Stapleton

Title: *DRIFT INVERSION*

Artist: David Franklin, Indianola, WA

Assisted by Aaron Whelton, Portland, OR

Commissioned by: Park Creek Metropolitan District with funding from Denver Urban Renewal Authority

Funding: \$175,000

Installed: May 2017

Long before Stapleton's runways and facilities transformed the area into a busy urban landscape, this particular corner of the Denver metro area was covered in sand dunes. They were the inspiration for "Drift Inversion," a 23' x 128' installation that turns the original landscape upside-down to create a surreal experience for any visitor who happens upon the underpass.

Located at the East end of Sandhills Prairie Park this pedestrian underpass, transformed by this sculpture, lies hidden under the traffic of North Central Park Boulevard and transforms this space for park visitors. The east-west orientation transforms the space throughout the day and the seasons as light and shadow play on the artwork.

The proposal for *Drift Inversion*, now a part of the Stapleton Public Art Collection, was selected by a committee that included members of the community, neighbors, artists, engineers, landscape architects, and representatives from Denver Parks.

This sculpture is composed of more than 12,400 individual elements; brackets, bushings, nuts, bolts, washers and 258 unique aluminum fins. The artist worked closely with Denver Public Works, Denver Parks, engineers, and designers on the execution of the final design and installation of this artwork.

The channel adjacent to the roadway serves as part of the essential stormwater management function of the parks at Stapleton.

Enjoy this engaging artwork that animates the underpass and speaks to the history of this part of Stapleton.

For more information, please contact Barbara Neal, Public Art Consultant for Stapleton, at barbneal@mindspring.com or by phone at 303-830-8791.

RESUME

DAVID FRANKLIN
PO Box 596
Indianola, WA 98342
360-297-5261

david@davidfranklinart.net

Education:

12 year apprenticeship to Master Carver/Artist Duane Pasco
Colorado Aero Tech (licensed airplane mechanic)

Teaching

Woodcarving Instructor (2014) - Pratt Fine Arts School, Seattle -
Instructor (2013 - current) - Marc Adams School of Woodworking, Franklin, Indiana
Woodworking Instructor Sub (2011 - present) - University of Washington Art Department
Instructor of Woodcarving (2009 - present) - Madrona School Bainbridge Island, WA
Instructor of Woodcarving and Design (2000-2004) - Olympic Park Institute

Commissions:

2014 - Lane Field development, Port of San Diego - Partnership with John Portman and Associates
2013 - FS21 in Portland Oregon through RACC
2013 - Free standing outdoor sculpture for the Green Hill School in Chehalis, Washington
2012 - Grouping of Tentacles - John Michael Kohler Arts Center, Sheboygan, Wisconsin
2011 - Team Pain designed skate park Northglenn Colorado's Don Anema Memorial Skate Park
2011 - Cheney Stadium in Tacoma, Tacoma Arts Commission
2010 - City of Shoreline Washington for Kayu Kayu AC Park in Shoreline WA.
2009 - Upper Willapa Valley High School and Junior High with the Washington State Arts Commission
2008 - Major installation at a private residence in Misty Fjords National Monument near Ketchikan, AK.
2006 - Sculpture at Grays Harbor College, Aberdeen, WA through Washington State Arts Commission with SRG Partnership Architects.
2005 - Boeing CEO Alan Mulaly presented the Prime Minister of Vietnam Phan Van Khai with a sculpture carved by David Franklin
2005 - Kitsap County Administration Building with Miller Hull Architects
2003 - Incline Village, NV several sculptural and architectural pieces at a private residence
2000 - Integrated Norwegian architectural details for the Poulsbo Library, through Friends of the Library
1999 - Don Pratt memorial at the Don Pratt Memorial Transportation Center, Bremerton, WA

Shows:

2014 - Arts/Industry: Collaboration and Revelation! Retrospective show of 40 years of Arts/Industry, John Michael Kohler Arts Center, Sheboygan WI
2013 - "New Works" Stonington Gallery Seattle, WA
2008 - "David Franklin: A Solo Exhibition." Stonington Gallery Pioneer Square, Seattle, WA

Awards, Public Arts Rosters, Residencies and Grants:

2015- Public art Network year in Review Award for The Rippling Wall installed at Fire Station 21, Portland, Oregon
2014 - John Michael Kohler 40th Anniversary Celebration Arts/Industry residency contest winner for a 2015 residency
2013 - Sound Transit pre-qualified artist pool for Eastside Light rail and transit projects.
2012 - John Michael Kohler Arts/Industry Residency in Kohler Wisconsin.
2011- 2013- Oregon Arts Commission pre-qualified artist roster
2011 - GAP Grant for Artist Projects from Artist Trust for Seattle Storefront Surreal Seascape
2009 - 4Culture "Parts" registry of pre-qualified professional artists for King County
2005 - 2013 - Member of the Washington State Arts Commission Artist Roster
2000 - The Young Presidents Organization Alaska 2000 Cruise Grants

Publications:

2014- "Arts/Industry: Collaboration and Revelation" 2014 by Ruth Kohler, Ezra Shales, and Glen Brown
2013 - "Life as Art" by Barbera Winther and Duane Pasco
2013 - John Michael Kohler Arts Center Newsletter
2004 - October, 3 The Seattle Times Pacific Northwest Magazine featured 2003-July Southwest Art Magazine
2002 - "Tearing Down The Streets: Adventures in Urban Anarchy" by Jeff Ferrell.

June 2015

AARON WHELTON BIO

Aaron Whelton is an Assistant Professor in Portland State University's School of Architecture. His teaching focuses on digital design and fabrication. He holds a Master of Architecture from University of California, Los Angeles and a Bachelor of Architecture from the University of Kentucky. He is a registered architect in Oregon and a LEED-accredited professional. Aaron conducts design research through his practice, *Whelton Architecture*, which currently explores parametric design's capacity to augment our experience of public space. His specific interests focus on the intersection of digital and material technologies and the use of mathematical formula to generate novel tectonics. These applications take on many forms, time spans, and scales from installations and memorials to buildings and larger speculations about urban morphology. He often collaborates with architects, artists and other allied disciplines to explore the cultural implications of making architecture in contemporary, digital society. Collaborative public works with the artist David Franklin are located in San Diego, CA and Denver, CO. Their next project will be in Riverdale Park, Maryland as part of the Maryland Transit Administration's Art-In-Transit program.

9/2017

EXHIBIT B

(exhibit follows)

PUBLIC ART PROGRAM

CONTRACT FOR COMMISSION

THIS CONTRACT FOR COMMISSION (the "Agreement") is made and entered into as of this 17 day of June, 2016, by and between the PARK CREEK METROPOLITAN DISTRICT (hereinafter "PCMD"), a quasi-municipal corporation and political subdivision of the State of Colorado, whose mailing address is 7350 E. 29th Avenue, Suite 200, Denver, Colorado 80238, and DAVID FRANKLIN (hereinafter "the Artist"), whose mailing address is: David Franklin, P. O. Box 596, Indianola, WA 98342, Phone: 360-297-5261, E-mail address: david@davidfranklinart.net.

WHEREAS, PCMD has implemented a public art program in accordance with the Public Art Master Plan for Stapleton allocating certain funds for the purchase and/or commissioning of artworks in spaces accessible to the public and authorizing payments for the design, execution, fabrication, transportation and installation of works of art and the support of an artist selection process; and

WHEREAS, PCMD has designated the Conspan at Sandhills Prairie Park at Stapleton (hereinafter "the Site") as the location at which to place a work of art; and

WHEREAS, PCMD has invited the Artist to develop, complete, and represent to the Project Selection Committee for Prairie Basin Park the drawings, scale model, media demonstration, and narrative description, including maintenance plan and budget, for a work of art as part of the art selection process set forth in the Public Art Master Plan for Stapleton; and

WHEREAS, the Artist was selected through jury procedures set forth in the Public Art Master Plan for Stapleton, and then reviewed and approved by the Public Art Advisory Committee and the Board of Directors of PCMD, to design, execute, fabricate, install and complete a work of art ("the Work") at the Site in consideration of the payment as hereinafter set forth; and

WHEREAS, each party wishes to promote and maintain the integrity and clarity of the Artist's ideas and statements as represented by the Work; and

WHEREAS, the Artist has visited the Site and familiarized himself with the local conditions under which he is to work and in which the Work is to be installed; and

WHEREAS, the Artist will produce the Work in a professional manner; and

WHEREAS, the parties desire to enter into this Agreement.

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

AGREEMENT

ARTICLE 1. SCOPE OF SERVICES

1.1 General.

- a. The Artist will design, execute, fabricate, install and document the Work as follows:

Title: Drift Inversion

Dimensions: This Work will be approximately 128' long, approximately 22' wide and depth varying from 0" to 3'6". The Work will not interfere with the 10' clearance requirement.

Medium: The Work will be composed of approximately 230 painted aluminum blades or fins suspended from the ceiling of the Conspan. These blades will be placed approximately 12" apart, and arranged to leave the existing light fixtures unobstructed. The blades will be attached to a unistrut which will be anchored with stainless steel bolts every four feet and will not interfere with any rebar or underlying bridge members.

The permanent location for the Work shall be: The ceiling of the Conspan under Central Park Boulevard south of 55th Avenue in Sandhills Prairie Park.

- b. The Artist shall perform all services and furnish all supplies, materials and equipment as necessary for the design, execution, fabrication, transportation and installation of the Work.
- c. The Artist shall be responsible for obtaining all permits and fees associated with the fabrication and installation of the Work.
- d. The Artist will coordinate with PCMD or Forest City Stapleton or other parties affected by this project as designated by PCMD with respect to Site preparation and installation of the Work.
- e. The Artist shall determine the artistic expression, scope, design, color, size, location, material and texture of the Work, subject to review and acceptance by PCMD as set forth in this Agreement.

1.2 Artist's Proposal and Preliminary Design.

The Artist will submit an initial proposal and develop the design for the Work, in accordance with the proposal letter to PCMD, a copy of which is attached hereto and incorporated herein as Exhibit A. The Artist will, under this Agreement, prepare the final design and perform the other services specified herein.

1.3 Preliminary Design Review.

- a. Within sixty (60) days after receipt by the Artist of Notice to Proceed issued to the Artist by PCMD's Public Art Consultant, the Artist shall prepare and submit to PCMD detailed preliminary working drawings of the Work and the Site, together with such other graphic material as may reasonably be requested by PCMD in order to permit PCMD to carry out preliminary design review and to certify the compliance of the Work with the finally approved preliminary design of the Work. Upon request by the Artist, PCMD shall promptly furnish all readily available information and assistance required by the Artist in connection with said submission. However, PCMD does not guarantee its information, materials and assistance, and assumes no liability therefore. The Artist shall be solely responsible for designing the Work in compliance with all applicable local, state and/or federal statutes, ordinances, and/or regulations.
- b. During the preliminary design review, PCMD may also require the Artist to make such revisions to the design as are necessary for the Work to comply with the finally approved conceptual design of the Work.
- c. PCMD may also request revisions for other practical and/or non-aesthetic reasons.
- d. After its receipt of the Artist's submission(s) pursuant to this Section 1.3, PCMD shall notify the Artist of its approval (or disapproval) of such submission and budget and of all revisions made in the initial proposal as a result thereof. PCMD's approval shall be in its sole discretion. Revisions made pursuant to this Section 1.3 become a part of the Preliminary Design. The Preliminary Design Proposal ("Proposal") will be incorporated herein as Exhibit B.

1.4 Final Design Review.

- a. Within sixty (60) days after the date of approval of the preliminary design by PCMD, the Artist shall prepare and submit to PCMD detailed working drawings of the Work and the Site, together with such other graphic material as may reasonably be requested by the PCMD in order to permit the PCMD to carry out final design review and to certify the compliance of the Work with applicable statutes, ordinances, and regulations. Upon request by the Artist, PCMD shall promptly furnish all readily available information and assistance required by the Artist in connection with said submission. However, PCMD does not guarantee its information, materials and assistance, and assumes no liability therefore. The Artist shall be solely responsible for designing, fabricating, constructing, delivering and installing the Work in compliance with all applicable local, state and/or federal statutes, ordinances, and/or regulations. It is expressly understood that the Artist shall have his or her final design reviewed and stamped as approved as to structural integrity by a professional engineer licensed to practice in the State of Colorado.
- b. The submission shall also include a budget, not to exceed One Hundred Sixty Seven Thousand Five Hundred Dollars (\$167,500.00), as described herein, that includes all costs for design, engineering, execution, fabrication, transportation, delivery, installation, insurance, contingencies, consultant fees, fees and permits, and any other costs associated with the Work, and the Artist's fee.

- c. The submission shall also include a written statement detailing anticipated regular and routine maintenance, such maintenance to be provided by PCMD in its sole discretion, as appropriate to maintain the Work in its intended condition.
- d. During the final design review, PCMD may also require the Artist to make such revisions to the design as are necessary for the Work to comply with applicable local, state and federal statutes, ordinances, or regulations.
- e. PCMD may also request revisions for other practical and/or non-aesthetic reasons.
- f. After its receipt of the Artist's submission(s) pursuant to this Section 1.4, PCMD shall notify the Artist of its approval (or disapproval) of such submission and budget and of all revisions made in the initial proposal as a result thereof. PCMD's approval shall be in its sole discretion. Revisions made pursuant to this Section 1.4 become a part of the Final Design. The Final Design Proposal (the "Proposal") will be incorporated herein as Exhibit C.

1.5 Execution of Work.

- a. After written approval by PCMD of the Final Design, the Artist shall furnish to PCMD a schedule for the completion of fabrication and installation of the Work, including a schedule for the submission of progress reports, if any. After written approval of the schedule by PCMD, the Artist shall fabricate, transport and install the Work in accordance with such schedule. Such approval schedule shall be incorporated into this Agreement by reference as Exhibit D and may be amended by written agreement between PCMD and the Artist.
- b. The Artist shall complete the Work and the installation thereof within twelve (12) months of written notification to proceed. Upon notification of completion of the Work by the Artist according to Section 1.6 (Delivery and Installation) below, PCMD shall determine the actual date for installation.
- c. The Artist shall provide to PCMD a written plan for installation of the Work (the "Installation Plan") on Site. This Installation Plan shall be provided ninety (90) days prior to the date of installation referenced in Section 1.5.b. The Installation Plan shall include the following information: specifications for installation and for Site preparation, including materials needed for preparation or any physical alteration of the Site as contemplated by the Artist. The Artist understands and agrees that preparation of the Site will be performed and completed by PCMD and that the Installation Plan is subject to the prior written approval of PCMD.

1.6 Delivery and Installation.

- a. The Artist shall notify PCMD in writing when fabrication of the Work is completed and the Artist is ready to deliver the Work and install it at the Site.
- b. The Artist shall deliver and install the completed Work at the Site by the 31st day following the scheduled installation date determined pursuant to Section 1.5.b (the "Installation Date"), except as otherwise authorized in Section 4.3 (Time Extensions) below. In the event that the installation of the Work has not been completed by the 60th day following the Installation Date, the Artist shall incur a

penalty of five percent (5%) of the balance of the remaining fee due to the Artist upon completion and installation of the Work. For each monthly period that passes thereafter without completion and installation of the Work, the Artist shall incur an additional penalty as follows: (i) for the next monthly period, ten percent (10%) of the remaining balance due; (ii) for the next monthly period, fifteen percent (15%) of the remaining balance due; (iii) for the next monthly period, twenty percent (20%) of the remaining balance due; (iv) for the next monthly period, twenty-five percent (25%) of the remaining balance due; and (v) for each monthly period thereafter, twenty-five percent (25%) of the remaining balance due.

- c. The Artist may request an extension of time from PCMD no later than thirty (30) days before the originally scheduled Installation Date. If an extension is granted, a new installation date shall be agreed upon in writing, and the above penalty shall apply if the new completion and installation dates are not met.

1.7 Post-Installation.

- a. Within forty-five (45) days after installation of the Work, the Artist shall furnish PCMD with the following photographs of the Work as installed:
 - (i) Two (2) sets of high resolution digital color photographs of the completed Work, one taken from each of three (3) different viewpoints, and labeled as follows: the Artist's name, last name first, the title of the Work and the dimensions (height x width x depth) and date of completion and the medium; and
 - (ii) Two (2) sets of 8" x 10" glossy black and white prints of the Work and negatives labeled with the Artist's name and the title of the Work.
- b. The Artist shall also furnish PCMD with a full written narrative description of the Work.
- c. The Artist shall provide to PCMD and other parties affected by this project detailed written instructions for appropriate maintenance and preservation of the Work including materials specifications, sources, appropriate cleaning agents and processes and schedules, subject to the reasonable approval of PCMD.
- d. The Artist shall provide and install an identification plaque for the Work. The written contents of the plaque shall include the following information:

(Title of Work)		(Year)
(Artist)	(Artist's City)	(State of Residence)

Commissioned by the Board of Directors of the Park Creek Metropolitan District with funding provided by the Denver Urban Renewal Authority.

The plaque shall be of such medium and design as to be appropriate to the Work itself and the permanent location of the Work.

1.8 Final Acceptance.

- a. The Artist shall advise PCMD in writing when all services required including those described in Section 1.7 (Post Installation), have been completed.
- b. PCMD or an authorized representative will, following inspection and approval of the Work on Site, notify the Artist in writing of its final acceptance of the Work.
- c. Final acceptance shall be determined solely by PCMD and shall constitute PCMD's acknowledgement that the Work has been completed, delivered, installed and accepted for all purposes according to the terms of this Agreement.
- d. All risk of loss or damage to the Work shall remain with the Artist until final acceptance by PCMD.

1.9 Ownership and Reproduction Rights.

- a. Title to and ownership of the Work shall pass to PCMD upon final acceptance. In addition, PCMD may retain all plans, drawings, slides, photographs, submittals, studies, designs, maquettes and models, and other documents submitted to PCMD by the Artist related to the Work. These items, when submitted, become and are the property of PCMD, and the Artist expressly licenses PCMD to, without restriction and at their sole option and without further approval or compensation to the Artist, make use of such documents for educational, public relations, promotional and other non-commercial purposes without further approval of the Artist. PCMD, without amendment to this Agreement, shall have the right to negotiate separate license arrangements with the Artist for use of such documents for commercial purposes. The Artist shall not be liable for any damage which may result from any use of such documents by PCMD for purposes other than these described in this Agreement.
- b. The Artist retains all rights under the Copyright Act of 1976, 17 U.S.C. §§101 et seq., except for the Artist's rights under 17 U.S.C. §106A(a)(2), 17 U.S.C. §106A(a)(3) and 17 U.S.C. §113(d), which are specifically waived by this Agreement, or otherwise granted to PCMD under this Agreement. All other rights in and to the work, including but not limited to all rights in the nature of "Droit Morale" in regard to any continuing interest the Artist may have in the maintenance or modification of the Work, are expressly waived by the Artist and, insofar as such rights are transferable, are assigned to PCMD.
- c. In view of the intention that the Work in its final dimension shall be unique, the Artist shall not make any additional exact duplicate, two or three-dimensional reproductions of the final Work, nor shall the Artist grant permission to others to do so, except with the written permission of PCMD. This restriction shall not

apply to the Artist's use of photographic reproductions of the Work in portfolio or in critical and scholarly writings. The Artist grants to PCMD and its respective assigns an irrevocable license to make two-dimensional reproductions of the Work for non-commercial purposes, including but not limited to reproductions used in advertising brochures, media publicity, and catalogues or other similar publications.

- d. All reproductions by PCMD shall contain a credit to the Artist and a copyright notice.
- e. The Artist shall use his best efforts to give a credit reading substantially, "an original work commissioned through the Public Art Program at Stapleton", in any public showing under the Artist's control of reproduction of the Work.
- f. The Artist shall, at the Artist's expense cause to be registered with the United States Register of Copyrights a copyright of the Work in the Artist's name.

1.10 Waiver of Artist's Rights

- a. The Artist understands and agrees that, as to his rights in the Work, the provisions of this Article shall control over the provisions of 17 U.S.C. §106A(a)(2) and 17 U.S.C. §106A(a)(3), and shall constitute a waiver by the Artist of any rights in the work set out in or otherwise granted by the provisions of 17 U.S.C. §106A(a)(2) and 17 U.S.C. §106A(a)(3).
- b. The Artist understands and agrees that, as to his rights in the Work, the provisions of this Article shall control over the provisions of 17 U.S.C. §113(d), and shall constitute a waiver by the Artist of any rights in the work set out in or otherwise granted by this provision. The Artist acknowledges and represents that the Artist has been informed and is aware of the method and location of installation of the work at the Site and, to the extent that the Work is incorporated into the Site in such a way that removing the work from the Site will cause the destruction, mutilation, or other modification of the work, the Artist agrees that execution of the Agreement satisfies the requirements for waiver of the requirements of 17 U.S.C. §106A(a)(2) and 17 U.S.C. §106A(a)(3).

ARTICLE 2. MAINTENANCE, REPAIR AND RESTORATION

2.1 Maintenance

- a. PCMD shall have the right to determine, in its sole discretion, when and if maintenance, repairs and restorations to the Work will be made.
- b. Any repairs and restorations shall be made in accordance with the Artist's recommendations and recognized principles of conservation.

2.2 Repairs and Restoration

- a. PCMD will, if practicable, consult with the Artist as to recommendations with regard to all repairs and restoration made during the Artist's lifetime. To the extent practicable and in accordance with recognized principles of professional

conservation, the Artist or his/her representative shall be given the opportunity to accomplish such repairs and restoration and shall, if agreed to in advance in writing by the parties, be paid a reasonable fee for such services.

- b. At any point after delivery and installation of the Work, the Artist may inspect the Work and shall notify PCMD in writing as to the necessity of any repairs. PCMD shall make the final determination, in its sole discretion, whether repairs are needed and can be funded.

2.3 Alteration of Work

- a. PCMD agrees that it will not consent to intentional alteration, modification, change, destruction of or damage to the Work without consulting the Artist. This stipulation includes outright removal or change in location resulting from public or private opinion regarding the artwork. "Alteration" of the Work includes, but is not limited to, a change in the interrelationship or relative locations of parts of the Work.
- b. In the event of any alteration or damage, whether intentional, accidental, within or without the control of PCMD or otherwise, the Artist shall have the right to disclaim authorship of the Work; and upon written request of the Artist to PCMD shall remove the identification plaque at its own expense. The Artist may take such other action as he/she may choose in order to disavow the Work.

2.4 Alteration of the Site.

PCMD shall notify the Artist in advance of any proposed significant alteration of the Site that would affect the intended character, appearance or function of the Work. PCMD may consult with the Artist in the planning and execution of any such alteration.

2.5 Permanent Record.

PCMD shall maintain on permanent file a record of this Agreement and of the location and disposition of the Work.

2.6 Artist's Address.

The Artist shall notify PCMD of changes in his address. The failure to do so, if such failure prevents PCMD from locating the Artist, shall be deemed a waiver by the Artist of the right subsequently to enforce those provisions of Article 2 that require the express approval of the Artist. PCMD shall make every reasonable effort to locate the Artist when matters arise relating to the Artist's rights.

2.7 Removal, Sale, Donation or Destruction.

Nothing in this Agreement shall preclude any right of PCMD, (1) to remove the Work from public display, (2) to move or relocate the Work to another location selected solely by PCMD for public display, (3) donate the Work, (4) sell or transfer the Work, or (5) to destroy the Work. Any donee, transferee or buyer of the Work shall assume all of PCMD's duties toward the Artist stated herein and will take the Work subject to all of the Artist's rights as stated herein, and the donee, transferee or buyer shall be given a copy of this executed Agreement at the time.

of donation or sale. If PCMD shall at any time decide to destroy the Work, it shall by notice to the Artist offer the Artist the option to take possession of the Work no less than ninety (90) days following receipt of notice at no cost to the Artist, except for an obligation of the Artist to indemnify and reimburse PCMD for the amount by which the cost to PCMD of such conveyance exceeds the costs to PCMD of the proposed destruction as determined solely by PCMD. In such event, title to the Work shall pass to the Artist at the time that the Artist takes possession of the Work.

2.8 Surviving Covenants.

The covenants and obligations set forth in this Article 2 shall be binding upon the parties, their heirs, legatees, executors, administrators, assigns, transferees and all their successors in interest, and such covenants shall attach and run with the Work and shall be binding to and until twenty (20) years after the death of the Artist. PCMD shall give any subsequent owner of the Work notice in writing of the covenants herein and shall cause each such owner to be bound thereby.

2.9 Additional Rights and Remedies.

Nothing contained in this Article 2 shall be construed as a limitation on such other rights and remedies available to the Artist under the law which may now or in the future be applicable.

ARTICLE 3. COMPENSATION AND PAYMENT SCHEDULE

3.1 Fixed Fee.

PCMD shall pay the Artist a fixed fee of One Hundred Sixty Seven Thousand Five Hundred Dollars (\$167,500.00) (the "Fixed Fee"), which shall constitute full compensation for all services and materials to be performed and furnished by the Artist and for the design fabrication, installation and completion of the Work in accordance with the terms set forth herein. The Fixed Fee shall be paid in the installments, expressed as percentages thereof, each installment to represent full and final, nonrefundable payment for all services and materials provided prior to the due date thereof as follows:

The fee shall be paid in the following installments upon completion of such phase, subject to receipt by PCMD of acceptable periodic invoices and supporting documentation from the Artist, each installment to represent full and final payment for all services and materials provided by the Artist for the specific phase of performance:

a.	Execution of Contract	(5%)	\$8,375.00
b.	Preliminary Design Review	(10%)	\$16,750.00
c.	Final Design Review	(30%)	\$50,250.00
d.	Mid-Point Fabrication	(30%)	\$50,250.00
e.	Installation	(20%)	\$33,500.00
f.	Post-Installation and Final Acceptance	(5%)	<u>\$8,375.00</u>

Total Contract Amount Not to Exceed (100%) \$167,500.00

In order to receive all except the initial payment, which will be made automatically after each party has signed this Agreement, the Artist shall submit a written billing or invoice to

PCMD when each of the last three (3) installments outlined above has been reached. The invoice shall be signed by the Artist, contain photographs documenting that the required work has been completed, and include a signed payment request form. PCMD shall have sole discretion for determining whether the Work has reached each such state of completion. The parties agree that no interest or other costs shall accrue on the Fixed Fee at any time during the term of this Agreement.

ARTICLE 4. TIME OF PERFORMANCE

4.1 Construction Delays.

If, when the Artist completes fabrication of the Work and notifies PCMD that the Work is ready for installation, the Artist is delayed from installing the Work more than sixty (60) days from the Installation Date, and PCMD finds that this delay was caused as a result of PCMD's failure to complete preparation of the Site to permit installation of the Work herein, PCMD shall reimburse the Artist for reasonable transportation and storage costs incurred for the period between the date provided in Exhibit D for commencement of installation and the date upon which the Site is sufficiently complete to permit installation of the Work. However, this clause shall not go into effect if PCMD has issued an extension of time as contemplated in Section 1.6.c.

4.2 Early Completion of Artist Services.

The Artist shall bear any transportation and storage costs resulting from the completion of his services hereunder prior to the time provided in Section 1.5 for installation.

4.3 Time Extensions.

PCMD shall grant a reasonable extension of time to the Artist in the event there is a delay on the part of PCMD in performing its obligations under this Agreement, or if conditions beyond the Artist's control or Acts of God render timely performance of the Artist's services impossible. Failure to fulfill contractual obligations due to conditions beyond the reasonable control of either party will not be considered a breach of contract, provided that all obligations hereunder shall be deferred or suspended as applicable only for the duration of such conditions.

ARTICLE 5. WARRANTIES

5.1 Warranties of Title.

The Artist represents and warrants that:

- a. The Work is solely the result of the artistic and creative efforts of the Artist;
- b. Except as otherwise disclosed in writing to PCMD, the Work is unique and original and does not infringe upon on any copyright;
- c. The Work has not been accepted for sale elsewhere; and
- d. The Work is free and clear of any liens from any source whatever.

5.2 Warranties of Quality and Condition.

The Artist represents and warrants that:

- a. The Work, as fabricated and installed, will be free of defects in material and workmanship, including any defects of "inherent vice" or qualities which cause or accelerate deterioration of the Work; and
- b. Reasonable maintenance of the Work will not require procedures substantially in excess of those described in the maintenance recommendations to be submitted by the Artist to PCMD according to the Section 1.7.c (Post-Installation).

The warranties described in this Section 5.2 shall survive for a period of three (3) years after the final acceptance of the Work. PCMD shall give notice to the Artist of any observed breach of warranty with reasonable promptness following actual discovery. The Artist shall, at the request of PCMD and at no cost to PCMD, promptly cure the breach of any such warranty, which is curable by the Artist and which cure is consistent with professional conservation standards, including but not limited to cure by means of repair or refabrication of the Work.

ARTICLE 6. ARTIST AS INDEPENDENT CONTRACTOR

The Artist agrees to perform all work under this Agreement as an independent contractor and not as an agent or an employee of PCMD. The Artist as an independent contractor shall furnish all creative work, supervision, labor, materials, equipment, supplies other incidentals, as well as transportation, shipping and installation of the Work. The Artist shall not be supervised by any employee or official of PCMD, nor shall the Artist exercise supervision over any employee or official of PCMD.

ARTICLE 7. INSURANCE

The Artist, as independent contractor, is responsible for complying with local, state and federal requirements pertaining to Workmen's Compensation insurance and comprehensive general liability insurance, with a minimum of \$1,000,000 all-inclusive coverage, and name PCMD, Forest City Enterprises, its subsidiaries and affiliates, the City and County of Denver (the "City") and the Denver Urban Renewal Authority as additional insureds thereunder. The Artist may, at his expense, insure the Work for damage or loss prior to final acceptance by PCMD. PCMD shall have no responsibility to insure the Work at any time, either before or after final acceptance.

ARTICLE 8. ASSIGNMENT OF WORK

The Work and services required of the Artist hereunder are personal and shall not be assigned, sublet or transferred. This shall not prohibit the Artist from employing qualified persons who shall work under his supervision.

ARTICLE 9. TERMINATION

9.1 Termination.

The services to be performed under this Agreement may be terminated by either party, subject to written notice submitted thirty (30) days before termination, provided that attempts to reconcile the reason for termination have been undertaken but failed. The notice shall specify whether the termination is for convenience or cause.

- a. If either party to this Agreement shall willfully or negligently fail to fulfill in a timely and proper manner, or otherwise violate any of the covenants, agreements or stipulations material to this Agreement, the other party shall thereupon have the right to terminate this Agreement for cause by giving written notice to the defaulting party of its intent to terminate specifying the grounds for termination. The defaulting party shall have thirty (30) days after receipt of the notice to cure the default or undertake and diligently complete curative action. If such default is not cured or curative action is not being diligently pursued, then this Agreement shall terminate. In the event of default by PCMD, PCMD shall promptly compensate the Artist for all services performed by the Artist prior to such default. In the event of default by the Artist, the Artist shall remit to PCMD a sum equal to all payments, if any, made to the Artist pursuant to this Agreement prior to such default.
- b. If such termination is for the convenience of PCMD and occurs before notice to proceed has been given to the Artist, the Artist shall retain the fee set forth in Section 3.1.a in full payment of all Work and services provided by the Artist. If such termination is for the convenience of PCMD and occurs after notice to proceed has been given to the Artist, the Artist shall, if the fee set forth in Section 3.1 has not been fully paid, have the right to an equitable adjustment in the fee on the basis of the Work performed to the date of such written notice (without allowance for anticipated profit or unperformed services), in which event PCMD shall have the right at its discretion to possession and transfer of title to the sketches, designs and models already prepared and submitted or prepared for submission to PCMD by the Artist under this Agreement prior to the date of termination, provided that no right to fabricate or execute the Work shall pass to PCMD.
- c. If such termination is for the convenience of the Artist, the Artist shall remit to PCMD a sum equal to all payments, if any, made to the Artist pursuant to this Agreement prior to termination.

9.2 Event of Artist's Default or Incapacity.

- a. In the event of default by the Artist, all finished and unfinished drawings, sketches, photographs, and other work products prepared and submitted or prepared for submission by the Artist under this Agreement shall at PCMD's sole option become its property, including the right to fabricate or execute the Work. Notwithstanding the previous sentence, the Artist shall not be relieved of liability to PCMD for damages sustained by PCMD by virtue of any breach of this Agreement by the Artist, and PCMD may reasonably withhold payments to the Artist, until such time as the exact amount of such damages due PCMD from the Artist is determined and may exercise any of its other rights hereunder.
- b. In the event of incapacity or death of the Artist, such event will not be deemed a breach of this Agreement or a default on the part of the Artist. The Artist has the

right to appoint a successor artist to complete the Work in the event of incapacity or death. The successor artist shall, however, be subject to approval of PCMD and shall be bound to complete the Work under the terms of this Agreement, including the compensation set forth in Article 3; however, the successor artist shall be automatically given an extension of an additional sixty (60) days to complete the Work. The Artist shall be paid only for that portion of Work or services satisfactorily completed at the time of incapacity or death with any remaining payments to be made to the successor artist. The Work shall pass to PCMD in accordance with the terms of this Agreement, and all copyright described under this Agreement shall remain with the original Artist. The Artist shall provide a copy of this Agreement to the successor artist, and the successor artist shall provide to PCMD, a written acknowledgement of the successor artist's agreement to comply with and be bound by the terms of this Agreement, which assignment of rights and obligations shall be in a form acceptable to PCMD.

- c. In the event of incapacity or death of the Artist and where no successor artist has been appointed or where an appointed successor artist does not complete the Work, all finished and unfinished drawings, sketches, photographs, and other work products prepared and submitted or prepared for submission by the Artist under this Agreement shall, at PCMD's sole option, become its property. If the Work was at mid-point of fabrication or beyond at the time of death or incapacity and no successor is appointed, PCMD retains the rights to select a successor artist to finish the Work at PCMD's expense, but with no further compensation to the Artist. If the Work was not at mid-point of fabrication or beyond at time of death or incapacity of the Artist, and no successor is appointed, PCMD retains possessory rights to the Work as then in existence and to exhibit the Work with the designation that it is "unfinished." The Artist shall be paid only for that portion of work or services satisfactorily completed at the time of incapacity or death. In the event of incapacity or death of the Artist and where no successor artist has been appointed, the copyright described hereunder shall remain with the Artist.

ARTICLE 10. DISPUTE RESOLUTION

If, prior to final acceptance of the Work, there arises a dispute between the Artist and PCMD, both parties will make every effort to affect a mutually satisfactory resolution of such dispute or to enter into a dispute resolution process in accordance with the Colorado Rules of Civil Procedure.

ARTICLE 11. MODIFICATION

No alteration, amendment, change or modification of the terms of this Agreement shall be valid unless made in writing and signed by each party hereto.

ARTICLE 12. CONFLICT WITH LAW

Any provision of this Agreement which is hereafter found by a court of law or otherwise to be in conflict with the laws, rules, and/or regulations of the United States or the State of Colorado shall be considered null and void. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this Agreement to the extent the

remaining terms of this Agreement are feasible of execution. Venue for any action or proceeding hereunder shall be in the District Court in the City and County of Denver. Colorado law shall govern.

ARTICLE 13. EFFECTIVE DATE

The effective date of this Agreement shall be the date set forth in the introductory paragraph of this Agreement.

PARK CREEK METROPOLITAN DISTRICT

By: 
Name: Rus Heise
Title: Vice President
Date: June 23, 2016

ARTIST:


David Franklin
EIN #: Soc: 524-23-7214
Date: June 17 2014

EXHIBIT C

(exhibit follows)



PUBLIC ART COLLECTION

TITLE OF ARTWORK: *Wind Gate Art Suite*
The Five
First Light
Beyond the Plains

ARTIST: Rodrigo Nava
272 Kim Hubbard Road
Putney, VT 05346
646-644-5724 (c)
mail@rodrigonava.com

LOCATION: Arc Promenade
Dallas Street between 57th Avenue and 60th Avenue
Stapleton
(Filing #54)

NEIGHBORHOOD: North End

OWNERSHIP: Park Creek Metropolitan District until conveyed to
the City and County of Denver

INSTALLED: 2019

NOTES: The artwork for this area of the Arc Promenade consists of a suite of three groupings of sculpture, three different installations of expanded weathered steel elements. *The Five* to the south of the Windbreak Field is comprised of five sculptures 6' high by 5' wide arranged in a circular configuration. *First Light* in the center of the Windbreak Field is a line of nine sculptures 12' high and 7' wide. *Beyond the Plains* adjacent to the Big Green features three sculptures 6' high and 6.75' wide arranged in geometric response to each other. The Work will be fabricated using 17 A606-4 16GA Weathering Steel and square tube as structural support.

The Board of The Park Creek Metropolitan District voted to accept the *First Light* component of this public art suite on March 28, 2019. The two other components of this artwork, *The Five* and *Beyond the Plains* were accepted by the Board of The Park Creek Metropolitan District on November 21, 2019.

Narrative, Stapleton Arc Promenade

I would like to once again thank the committee for selecting me for the Stapleton Arc Promenade Art Opportunity. Having time and space to compose this sweeping array of art features has been an inspiring exploration; the opportunity to expand my work in new and dramatic swaths of space is a true gift. My goal for these sculpture vignettes is to endow the neighborhood with three distinct art interludes that circulate through the Arc Promenade. Each sculpture array will feature distinct geometries both in their 3D form and the composition of their siting; there will be multiple layers of viewership interaction. I am proud to share and discuss the 'Wind Gate Art Suite' with the Team.

My Stapleton site visit was vital to my design process and the aesthetic narrative I developed for this opportunity. The potential at Stapleton for curating truly spectacular art experiences is unparalleled. The scope of your civic master plan is superb; inclusion of public art within the grand open spaces, along the miles of walking trails, and in public parks, punctuates the Stapleton experience with enduring landmarks. This is a visionary undertaking and I am energized to participate in the endeavor with significant place-making art features. I have identified three visually prominent, accessible sites that would support a harmonious integration of freestanding sculpture. Each sculptural array will elevate its site, be a way-finding landmark, and create a platform for engagement and interaction. The confluence of sculptural vignettes shall provide powerful visuals from pedestrian, motorist, and aerial vantages. The Art Suite will harmoniously integrate into the envelope of the Arc Promenade and provide enduring destinations for the community. Of particular interest will be the interplay between positive and negative forms vis a vis the art and the ever-changing skyline. Each sculpture array supports distinct negative spaces that define natural viewports to the horizon. These iconic geometric vantages will function as a living canvas, encouraging people to experience the art features often.

The three art features comprising the Wind Gate Art Suite are: 'The Five' in Location 1; 'First Light' in Location 2; and 'Beyond The Plains' in Location 3. My site visit inspired me to research natural elements that sculpt and define the Stapleton landscape; wind, water, and sunshine are all dynamic forces which profoundly impact the Stapleton Prairie. I further considered the genre of humans who have and who will interact with this slice of Colorado Prairie. I arrived at simple visual themes for the sites and designed sculptural elements to underscore the sensibilities that captivated my interest. There is a duality in the aesthetic tenor of the Art Suite. One impression is the art appears as a mysterious artifact having settled into the landscape; a harbinger of a rich and culturally inquisitive past. The other impression is of a sophisticated, contemporary art feature that heralds a thoughtful renaissance in Stapleton. Both impressions are valid and readily tangible to a wide audience.

NAVA STUDIO

The Five is a series of five (5) sculptures whose folded geometries lean upon one another for support. Symbolically, I see these forms as analogous to community; groups of people stand shoulder to shoulder to make their home healthy and strong. I have arranged these elements in a protective semi-circle. To me this array is emblematic of the safe, inclusive community springing up in Stapleton.

First Light is a series of nine (9) noble vertical forms arranged in a crisp, determined, linear array. First Light is oriented towards the morning sun and the Rocky Mountain Arsenal; this array quietly evokes the wisdom of people who lived in harmony with their ecosystem. To me this array is symbolic of visionaries who seek to restore balance between the natural and built environment; we pay homage to the forces that bring life and hope.

Beyond The Plains is a series of three (3) zig sagging shapes arranged in a nimble "herd" as they move towards new things on the horizon. This array is inspired by both the native bison that used to populate the Prairie, and explorers, people on the move always seeking out new adventures and possibilities. This array has great energy, motion, and liveliness.

The newly envisioned Stapleton community embodies sustainable, healthy approaches to civic planning; this multi-faceted approach champions the preservation of green spaces, inclusion of gateway artworks, and creates a small-town feel amidst a bustling population. These are tricky needles to simultaneously thread; I congratulate the Team and Stakeholders on their efforts and accomplishments. I am most enthusiastic to contribute my work to further your goals. Cultivating robust, outdoor art environments inspires interaction, conversation, and the opportunity to enter into lively discourse. Art nested within nature supports healthy activities and provides a destination; these features may be just the catalyst to encourage Stapleton residents to take that extra evening stroll or spend unplugged family time ambling down the paths to meet up with friends and neighbors. These experiences, made possible through an integrated art environment bring people and ideas together in an honest, authentic way. It is my intent for the Wind Gate Art Suite to be a happy constant within the Stapleton community. I am impressed the committee has prioritized exterior art for Stapleton; defining dynamic environments improves the daily lives of residents and underscores your appreciation for a safe, healthy, strong, and nurturing community. I am honored to participate in your valuable mission. When reviewing my proposal please not that these initial concepts are my initial response to the criteria. If selected to realize these works, I understand additional revisions and refinements are likely to occur; I welcome this collaborative process. I appreciate your consideration for the Stapleton Arc Promenade Public Art and I thank you for participating in the public art process.

NAVA STUDIO

TECHNICAL OVERVIEW, Stapleton Arc Promenade

Dimensions

I anticipate the following dimensions for each of the Wind Gates Art Suite features:

“The Five” consists of (five) 6' H x 5' W x 2.5' D sculptures, arranged in a circular configuration, approximately 21' in diameter. I anticipate each sculpture will weigh 450 lbs.

“First Light” consists of (nine) 12' H x 7' W x 5' D sculptures. They will be arranged 20' apart in a crisp linear array pointing 15 degrees East-North East, towards sunrise. The approximate length of the array is 160'. I anticipate each sculpture will weigh 550 lbs.

“Beyond the Plains” consists of (three) 6' H x 6.75' W x 2.5' D sculptures. They will be arranged organically but in geometric response to one another. Their site footprint is approximately 27' x 27'. I anticipate each sculpture will weigh 350 lbs.

I expect to finalize dimensions for these concepts in consultation with the Team and engineer.

Fabrication

I anticipate using A606-4 1/2" GA Weathering Steel for each sculpture. Additionally, I may employ A36 4" GA Square Tube (4" x 4") as structural support for the attachment points on each sculpture. I will have each component CNC cut to precise tolerances to insure each sculpture is uniform in their proportions. I will weld each form and transport them in flat bundles to Colorado. Once I reach Stapleton, I will complete the expansion process in an authorized staging area. There may be a component of community engagement when I expand the forms; I am open to having the process filmed for local television or observed by a select group of Stapleton residents. Transporting the sculptures in their non-expanded forms saves significant transportation costs and allows some work to be realized in Colorado. As always, where possible, I will work with Stapleton businesses to insure my contribution to the local economy. As with all my commissions, care and attention will be paid to the safety issues during final expansion and installation.

Finishes & Maintenance

Each concept proposed is envisioned in 1/2" gauge A606-4 weathering steel. This is an ideal material for the Stapleton climate. The weathering steel is durable, responsible, and nearly maintenance free. If it is “tagged” it is simple to remove the paint, give the sculpture a quick, light sanding, and the weathering steel will immediately regain its beautiful, multicolored patina. Strategically integrated in each sculpture will be a series of weep vents and weep holes to insure condensation is mitigated. I will work with the team to define the long-term maintenance plan.

Site Preparation

I will provide the architect and project manager detailed drawings and descriptions of the attachment points, footers, and load bearing information for the artwork(s). Any special needs necessary to integrate the art into the site will be carefully considered. Currently, I am focused on two options for the footers. Further analysis and discussion with the Team and engineer will determine which system I employ. If I am selected for the commission, I will work with you to resolve all site preparation questions well in advance of installation. I have installed significant art in similar sites; I anticipate installing the footers personally while I am on site. Tailoring each footer to perfectly accommodate the newly expanded artworks (onsite) insures precise alignments; due to the nature of expanded forms, subtle differences in the forms will occur during expansion. It is imperative to curate the exact geometries of installation and personally supervise the placement of every footer. This is labor intensive but yields optimal results. I will employ industry standard processes to install the sculptures; the Team will have confidence in the safety, durability, and interface between the art and site.

NAVA STUDIO

Installation

The installation for any of the proposed art features will be efficient but require several weeks onsite. The bolt patterns will be pre-determined allowing for a seamless integration of the sculptures into the footers. Some contouring of the landscape may be necessary to insure a harmonious integration of art and landscape. I am prepared to realize or supervise this work personally; I will leave the site with soft contours and reseed it to insure the proper variety of grass grows up around the installation. If necessary, I can install during "off" hours and I am prepared to coordinate these details with the Project Manager. I will do my utmost to minimize impact to the site while the art is being installed.

Lighting

I do not anticipate including external lighting for the Art Suite. Should you desire external lighting, I will work with you to arrive at optimal lighting options.

Schedule

Should I be awarded this commission, I will finalize design, scale, technical criteria, and delivery with the stakeholders. I will resolve all engineering concerns and finalize any technical questions in advance of fabrication. During this refinement period, I will resubmit any necessary visuals, drawings, or materials samples. I anticipate this project will require 24 weeks to fabricate and 3-4 weeks for installation. I realize the project will require careful coordination of install and I will realize your art feature within the schedule we agree upon.

Insurance

I maintain excellent insurance coverage for my work throughout fabrication, travel, and installation. I have an excellent safety record for the monumental installations I have realized.

NAVA STUDIO

BUDGET, Stapleton Arc Promenade

Artist Fee	\$ 36,000 (preliminary & final design)
Administration	\$ 3,500 (correspondence)
Prof. Services	\$ 16,000
Design Devel.	\$ 3,000
Travel	\$ 12,500 (5 trips for site prep, meetings, coordination)
Engineering	\$ 3,500 (Bob Malouff, Malouff Engineering)
Conservator	\$ 0,000
Modeling	\$ 4,500
Studio Overhead	\$ 6,500
Shop Drawings	\$ 1,500
Cor-Ten Steel	\$ 14,000
Welding Rod	\$ 1,500
Welding Gases	\$ 2,000
Supplies	\$ 2,000
Fabrication	\$117,000
CNC Cutting	\$ 2,500
Art transport	\$ 13,000 (transit from Vermont to Colorado)
Hardware	\$ 1,500
Crating	\$ 1,500
Site Preparation	\$ 4,500
Footers	\$ 10,200
Installation	\$ 8,500
On Site Fab	\$ 12,500
Prairie Seeding	\$ 1,500
Equip. Rental	\$ 9,000
Photography	\$ 1,000
Copyright Reg. Fee	\$ 300
Contingency	\$ 30,000
TOTAL	\$300,000

RODRIGO NAVA

b. 1978, Lives and Works in Putney, VT

EDUCATION

The American University of Paris, France

SELECTED COLLECTIONS

Berg Family Collection, Miami, FL

De Ponton D'Amecourt Family Collection, Paris, France

Krugar Family Collection, Greenwich, CT

The Putney School, Putney, VT

Private Collections, Putney, VT, Camden, ME, & New York, NY

SOLO EXHIBITIONS

2016 FUERZAS VISIBLES, Peligro Amarillo Gallery/Santurce, San Juan, Puerto Rico

2015 COLLAGRAPHS FOR SCULPTURE, CX Silver Gallery, Brattleboro VT

2015 EXPANDED FORMS, Brattleboro Museum and Art Center, Brattleboro, VT

2013 VISIBLE FORCE, Yellow Peril Gallery, Providence, RI

2012 NEW PRINTS, Colo Colo Gallery, New Bedford, MA

EXPANDED FORMS Catherine Dianich Gallery, Brattleboro, VT

2011 EXPANSIONS Partners & Spade, New York, NY

SELECTED GROUP EXHIBITIONS

2016 Michael S. Currier Gallery and Art Center, Putney, VT

2015 Vermont Arts Council, Montpelier, VT

2015 Exposed, Helen Day Art Center, Stowe VT

2015 Catherine Dianich Gallery, Brattleboro, VT

2014 Michael S. Currier Gallery and Art Center, Putney, VT.

2014 New Bedford Art Museum, New Bedford, MA

2013 LightSpace, Brooklyn, NY

2012 Yellow Peril Gallery, Providence, RI

2011 Catherine Dianich Gallery, Brattleboro, VT

2009 Sears Peyton Gallery, New York, NY

Catherine Dianich Gallery, Brattleboro, VT

2008 Michael S. Currier Gallery and Art Center, Putney, VT.

Catherine Dianich Gallery, Brattleboro, VT

ART FAIRS

2016 Satellite Art Show, Miami, FL (forthcoming)

Governors Island Art Fair, Lower Manhattan Cultural Council, New York, NY

Portal Art Fair, Federal Hall, New York, NY

2015 Governors Island Art Fair, Lower Manhattan Cultural Council, New York, NY

2015 Art Hamptons, Long Island, NY

2014 Scope New York, NY

2013 Governors Island Art Fair, Lower Manhattan Cultural Council, New York, NY

Scope Miami, FL

RESIDENCIES

- 2009 The Putney School, Putney, VT
- 2006 The Carving Studio & Sculpture Center, Rutland, VT
- 2004 El Taller, Tepoztlán, Mexico

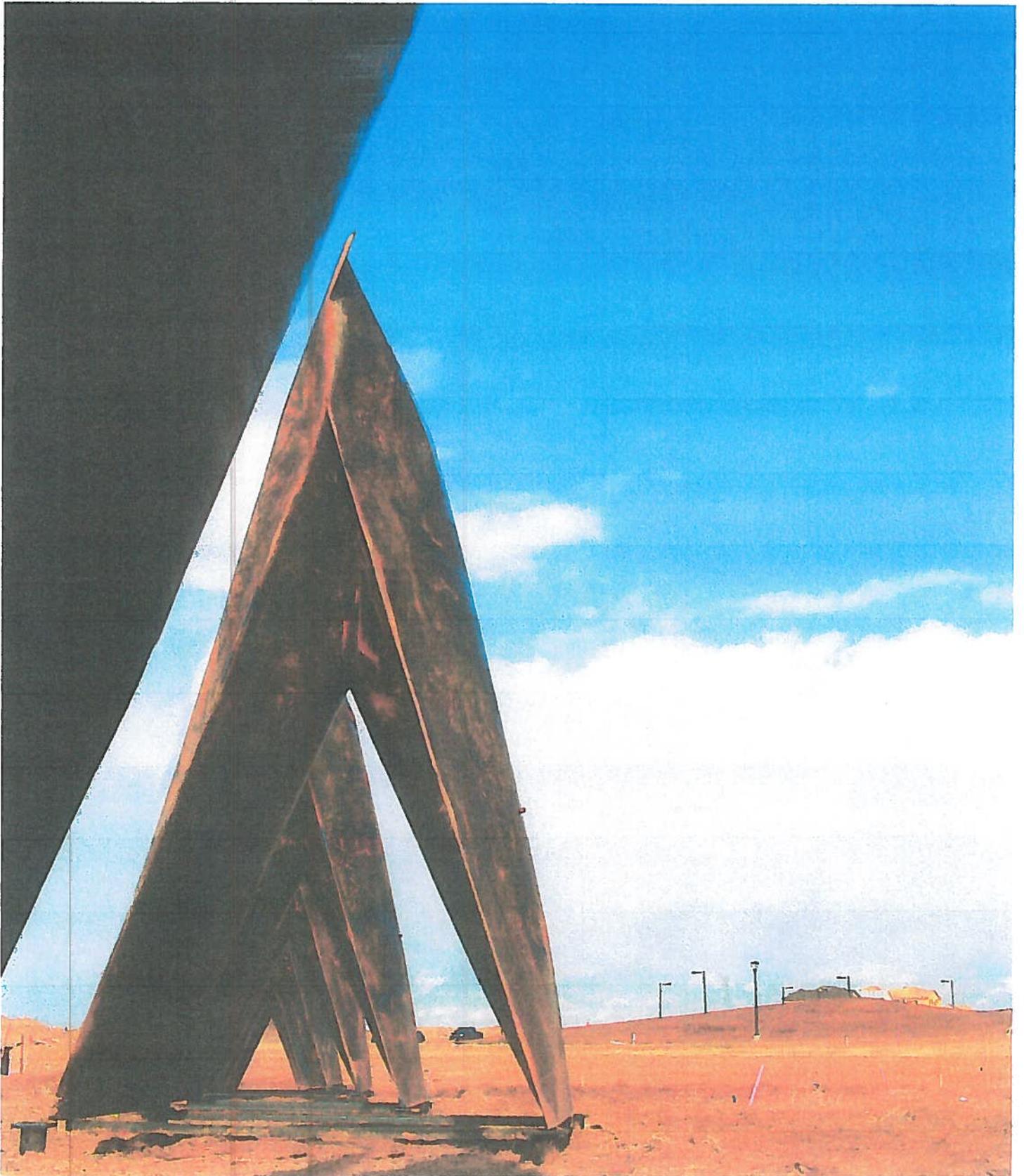
AWARDS

- 2014 Vermont Arts Council and National Endowment for the Arts
- 2013 Vermont Arts Council and National Endowment for the Arts

SELECTED BIBLIOGRAPHY/PRESS

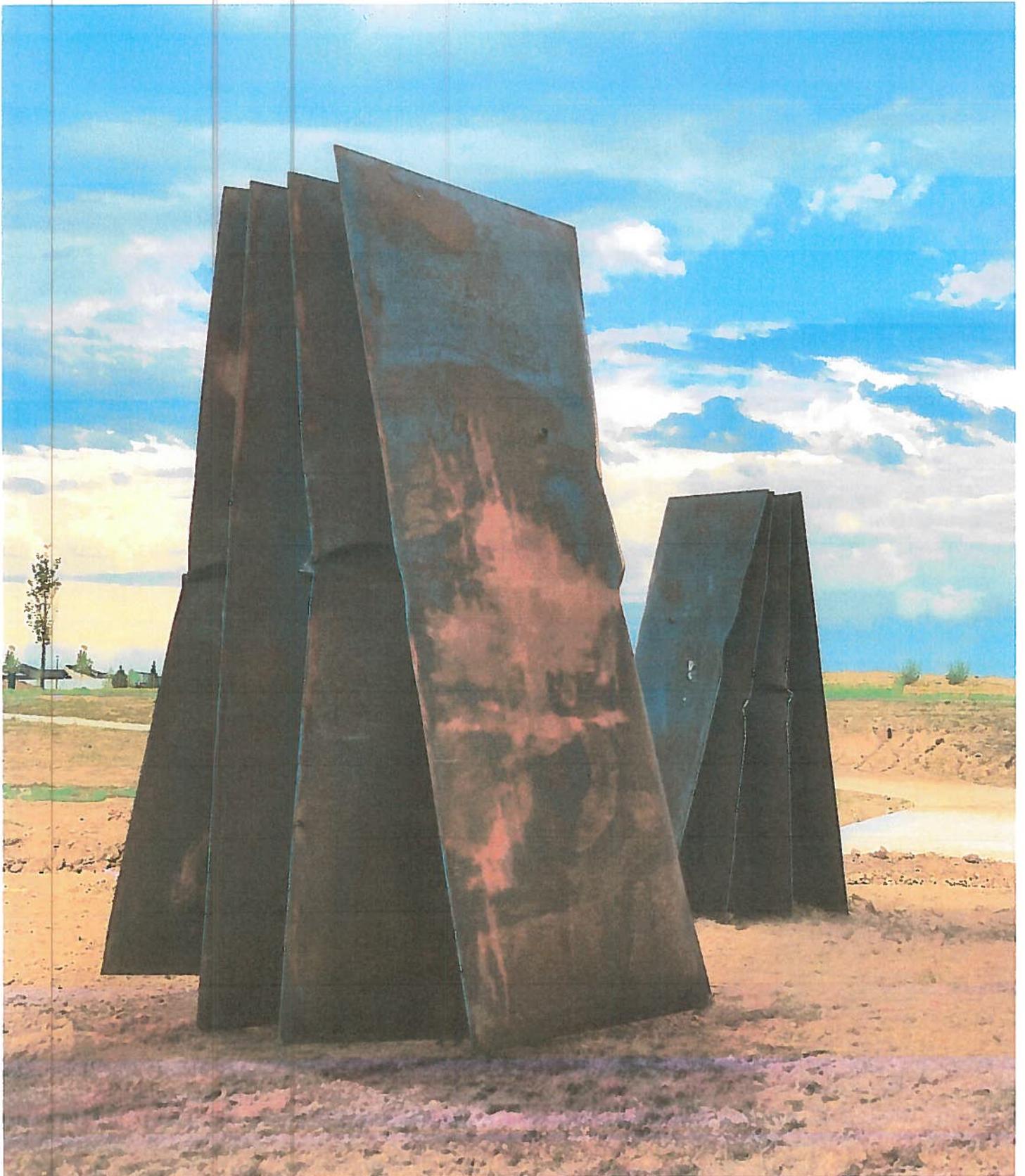
- B. Amore "Brattleboro Museum and Art Center"
Sculpture Magazine May 2015 (reproductions)
- Jonathan Wolfe "Sprawling Art Show in Brooklyn Bridge Park and on Governors Island",
New York Times, September 2015 (reproductions)
- Mcvay, Marcel, "Marcel Mcvay Interviews Rodrigo Nava"
Collect Magazine, June 2012 (reproductions)
- Volmer, Suzanne, "Rodrigo Nava: Metal Mania at Yellow Peril"
ArtScope Magazine, July 2012 (reproductions)
- Authentic New York – "Partners & Spade"
Pen with Attitude Magazine, JAPAN October 2011 (reproductions)

NAVA STUDIO



First Light

NAVA STUDIO



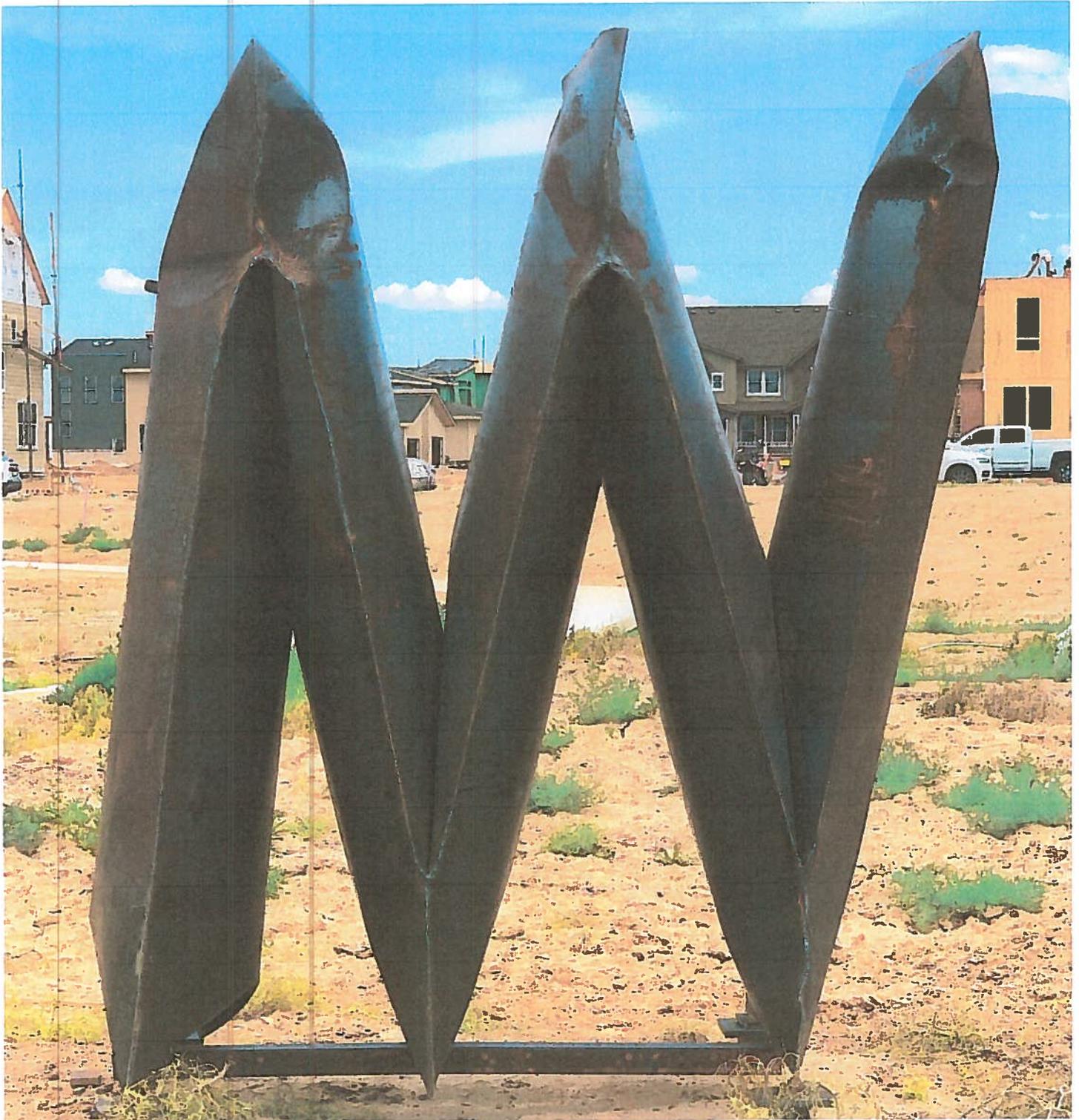
The Five

NAVA STUDIO



Beyond the Plains

NAVA STUDIO



Beyond The Plains is a series of three (3) zig sagging shapes arranged in a nimble “herd” as they move towards new things on the horizon. This array is inspired by both the native bison that used to populate the Prairie, and explorers, people on the move always seeking out new adventures and possibilities. This array has great energy, motion, and liveliness.

EXHIBIT D

(exhibit follows)

PUBLIC ART PROGRAM
CONTRACT FOR COMMISSION

THIS CONTRACT FOR COMMISSION (the "Agreement") is made and entered into as of this 8 day of April, 2018, by and between the **PARK CREEK METROPOLITAN DISTRICT** (hereinafter "PCMD"), a quasi-municipal corporation and political subdivision of the State of Colorado, whose mailing address is 7350 E. 29th Avenue, Suite 200, Denver, Colorado 80238, and **RODRIGO NAVA** (hereinafter "the Artist"), whose mailing address is: Rodrigo Nava, 272 Kim Hubbard Road, Putney, VT 05346, Phone: 646-644-5724, E-mail address: mail@rodrigonava.com

WHEREAS, PCMD has implemented a public art program in accordance with the Public Art Master Plan for Stapleton allocating certain funds for the purchase and/or commissioning of artworks in spaces accessible to the public and authorizing payments for the design, execution, fabrication, transportation and installation of works of art and the support of an artist selection process; and

WHEREAS, PCMD has designated the Arc Promenade area in Section 10 at Stapleton (hereinafter "the Site") as the location at which to place a work of art; and

WHEREAS, PCMD has invited the Artist to develop, complete, and represent to the Project Selection Committee for the Arc Promenade the drawings, scale model, media demonstration, and narrative description, including maintenance plan and budget, for a work of art as part of the art selection process set forth in the Public Art Master Plan for Stapleton; and

WHEREAS, the Artist was selected through jury procedures set forth in the Public Art Master Plan for Stapleton, and then reviewed and approved by the Public Art Advisory Committee and the Board of Directors of PCMD, to design, execute, fabricate, install and complete a work of art ("the Work") at the Site in consideration of the payment as hereinafter set forth; and

WHEREAS, each party wishes to promote and maintain the integrity and clarity of the Artist's ideas and statements as represented by the Work; and

WHEREAS, the Artist has visited the Site and familiarized himself with the local conditions under which he is to work and in which the Work is to be installed; and

WHEREAS, the Artist will produce the Work in a professional manner; and

WHEREAS, the parties desire to enter into this Agreement.

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

AGREEMENT

ARTICLE 1. SCOPE OF SERVICES

1. General.

- a. The Artist will design, execute, fabricate, install and document the Work as follows:

Title: Wind Gate Art Suite

Dimensions: This Work will be composed of three groupings of sculpture: "The Five" to the south of the Windbreak Field. Five sculptures will be 6' high by 5' wide arranged in a circular configuration. "First Light" in the center of the Windbreak Field is a line of nine sculptures 12' high and 7' wide. "Beyond the Plains" adjacent to the Big Green will be composed of three sculptures 6' high and 6.75' wide arranged in geometric response to each other.

Medium: The Work will be composed of 17 A606-4 16GA Weathering Steel and square tube as structural support

The permanent location for the Work shall be: Three specific sites along the Arc Promenade. _____

- b. The Artist shall perform all services and furnish all supplies, materials and equipment as necessary for the design, execution, fabrication, transportation and installation of the Work.
- c. The Artist shall be responsible for obtaining all permits and fees associated with the fabrication and installation of the Work.
- d. The Artist will coordinate with PCMD or Forest City Stapleton or other parties affected by this project as designated by PCMD with respect to Site preparation and installation of the Work.
- e. The Artist shall determine the artistic expression, scope, design, color, size, location, material and texture of the Work, subject to review and acceptance by PCMD as set forth in this Agreement.

1.2 Artist's Proposal and Preliminary Design.

The Artist will submit an initial proposal and develop the design for the Work, in accordance with the proposal letter to PCMD, a copy of which is attached hereto and incorporated herein as Exhibit A. The Artist will, under this Agreement, prepare the final design and perform the other services specified herein.

1.3 Preliminary Design Review.

- a. Within sixty (60) days after receipt by the Artist of Notice to Proceed issued to the Artist by PCMD's Public Art Consultant, the Artist shall prepare and submit to PCMD detailed preliminary working drawings of the Work and the Site, together with such other graphic material as may reasonably be requested by PCMD in order to permit PCMD to carry out preliminary design review and to certify the compliance of the Work with the finally approved preliminary design of the Work. Upon request by the Artist, PCMD shall promptly furnish all readily available information and assistance required by the Artist in connection with said submission. However, PCMD does not guarantee its information, materials and assistance, and assumes no liability therefore. The Artist shall be solely responsible for designing the Work in compliance with all applicable local, state and/or federal statutes, ordinances, and/or regulations.

- b. During the preliminary design review, PCMD may also require the Artist to make such revisions to the design as are necessary for the Work to comply with the finally approved conceptual design of the Work.
- c. PCMD may also request revisions for other practical and/or non-aesthetic reasons.
- d. After its receipt of the Artist's submission(s) pursuant to this Section 1.3, PCMD shall notify the Artist of its approval (or disapproval) of such submission and budget and of all revisions made in the initial proposal as a result thereof. PCMD's approval shall be in its sole discretion. Revisions made pursuant to this Section 1.3 become a part of the Preliminary Design. The Preliminary Design Proposal ("Proposal") will be incorporated herein as Exhibit B.

1.4 Final Design Review.

- a. Within sixty (60) days after the date of approval of the preliminary design by PCMD, the Artist shall prepare and submit to PCMD detailed working drawings of the Work and the Site, together with such other graphic material as may reasonably be requested by the PCMD in order to permit the PCMD to carry out final design review and to certify the compliance of the Work with applicable statutes, ordinances, and regulations. Upon request by the Artist, PCMD shall promptly furnish all readily available information and assistance required by the Artist in connection with said submission. However, PCMD does not guarantee its information, materials and assistance, and assumes no liability therefore. The Artist shall be solely responsible for designing, fabricating, constructing, delivering and installing the Work in compliance with all applicable local, state and/or federal statutes, ordinances, and/or regulations. It is expressly understood that the Artist shall have his or her final design reviewed and stamped as approved as to structural integrity by a professional engineer licensed to practice in the State of Colorado.
- b. The submission shall also include a budget, not to exceed Three Hundred Thousand Dollars (\$300,000.00), as described herein, that includes all costs for design, engineering, execution, fabrication, transportation, delivery, installation, insurance, contingencies, consultant fees, fees and permits, and any other costs associated with the Work, and the Artist's fee.
- c. The submission shall also include a written statement detailing anticipated regular and routine maintenance, such maintenance to be provided by PCMD in its sole discretion, as appropriate to maintain the Work in its intended condition.
- d. During the final design review, PCMD may also require the Artist to make such revisions to the design as are necessary for the Work to comply with applicable local, state and federal statutes, ordinances, or regulations.
- e. PCMD may also request revisions for other practical and/or non-aesthetic reasons.
- f. After its receipt of the Artist's submission(s) pursuant to this Section 1.4, PCMD shall notify the Artist of its approval (or disapproval) of such submission and budget and of all revisions made in the initial proposal as a result thereof. PCMD's approval shall be in its sole discretion. Revisions made pursuant to this Section 1.4 become a part of the Final Design. The Final Design Proposal (the "Proposal") will be incorporated herein as Exhibit C.

1.5 Execution of Work.

- a. After written approval by PCMD of the Final Design, the Artist shall furnish to PCMD a schedule for the completion of fabrication and installation of the Work, including a schedule for the submission of progress reports, if any. After written approval of the schedule by PCMD, the Artist shall fabricate, transport and install the Work in accordance with such schedule. Such approval schedule shall be incorporated into this Agreement by reference as Exhibit D and may be amended by written agreement between PCMD and the Artist.
- b. The Artist shall complete the Work and the installation thereof within twelve (12) months of written notification to proceed. Upon notification of completion of the Work by the Artist according to Section 1.6 (Delivery and Installation) below, PCMD shall determine the actual date for installation.
- c. The Artist shall provide to PCMD a written plan for installation of the Work (the "Installation Plan") on Site. This Installation Plan shall be provided ninety (90) days prior to the date of installation referenced in Section 1.5.b. The Installation Plan shall include the following information: specifications for installation and for Site preparation, including materials needed for preparation or any physical alteration of the Site as contemplated by the Artist. The Artist understands and agrees that preparation of the Site will be performed and completed by PCMD and that the Installation Plan is subject to the prior written approval of PCMD.

1.6 Delivery and Installation.

- a. The Artist shall notify PCMD in writing when fabrication of the Work is completed and the Artist is ready to deliver the Work and install it at the Site.
- b. The Artist shall deliver and install the completed Work at the Site by the 31st day following the scheduled installation date determined pursuant to Section 1.5.b (the "Installation Date"), except as otherwise authorized in Section 4.3 (Time Extensions) below. In the event that the installation of the Work has not been completed by the 60th day following the Installation Date, the Artist shall incur a penalty of five percent (5%) of the balance of the remaining fee due to the Artist upon completion and installation of the Work. For each monthly period that passes thereafter without completion and installation of the Work, the Artist shall incur an additional penalty as follows: (i) for the next monthly period, ten percent (10%) of the remaining balance due; (ii) for the next monthly period, fifteen percent (15%) of the remaining balance due; (iii) for the next monthly period, twenty percent (20%) of the remaining balance due; (iv) for the next monthly period, twenty-five percent (25%) of the remaining balance due; and (v) for each monthly period thereafter, twenty-five percent (25%) of the remaining balance due.
- c. The Artist may request an extension of time from PCMD no later than thirty (30) days before the originally scheduled Installation Date. If an extension is granted, a new installation date shall be agreed upon in writing, and the above penalty shall apply if the new completion and installation dates are not met.

1.7 Post-Installation.

- a. Within forty-five (45) days after installation of the Work, the Artist shall furnish PCMD with the following photographs of the Work as installed:

- (i) Two (2) sets of high resolution digital color photographs of the completed Work, one taken from each of three (3) different viewpoints, and labeled as follows: the Artist's name, last name first, the title of the Work and the dimensions (height x width x depth) and date of completion and the medium; and
- (ii) Two (2) sets of 8" x 10" glossy black and white prints of the Work and negatives labeled with the Artist's name and the title of the Work.
- b. The Artist shall also furnish PCMD with a full written narrative description of the Work.
- c. The Artist shall provide to PCMD and other parties affected by this project detailed written instructions for appropriate maintenance and preservation of the Work including materials specifications, sources, appropriate cleaning agents and processes and schedules, subject to the reasonable approval of PCMD.
- d. The Artist shall provide and install an identification plaque for the Work. The written contents of the plaque shall include the following information:

WIND GATE ART SUITE	2018
(Title of Work)	(Year)
RODRIGO NAVA	Putney
(Artist)	(State of Residence)
Commissioned by the Board of Directors of the Park Creek Metropolitan District with funding provided by the Denver Urban Renewal Authority.	

The plaque shall be of such medium and design as to be appropriate to the Work itself and the permanent location of the Work.

1.8 Final Acceptance.

- a. The Artist shall advise PCMD in writing when all services required including those described in Section 1.7 (Post Installation), have been completed.
- b. PCMD or an authorized representative will, following inspection and approval of the Work on Site, notify the Artist in writing of its final acceptance of the Work.
- c. Final acceptance shall be determined solely by PCMD and shall constitute PCMD's acknowledgement that the Work has been completed, delivered, installed and accepted for all purposes according to the terms of this Agreement.
- d. All risk of loss or damage to the Work shall remain with the Artist until final acceptance by PCMD.

1.9 Ownership and Reproduction Rights.

- a. Title to and ownership of the Work shall pass to PCMD upon final acceptance. In addition, PCMD may retain all plans, drawings, slides, photographs, submittals, studies, designs, maquettes and models, and other documents submitted to PCMD by the Artist related to the Work. These items, when submitted, become and are the property of PCMD, and the Artist expressly licenses PCMD to, without restriction and at their sole option and without further approval or compensation to the Artist, make use of such documents for educational, public relations, promotional and other non-commercial purposes without further approval of the Artist. PCMD, without amendment to this Agreement, shall have the right to negotiate separate license arrangements with the Artist for use of such documents for commercial purposes. The Artist shall not be liable for any damage which may result from any use of such documents by PCMD for purposes other than these described in this Agreement.
- b. The Artist retains all rights under the Copyright Act of 1976, 17 U.S.C. §§101 et seq., except for the Artist's rights under 17 U.S.C. §106A(a)(2), 17 U.S.C. §106A(a)(3) and 17 U.S.C. §113(d), which are specifically waived by this Agreement, or otherwise granted to PCMD under this Agreement. All other rights in and to the work, including but not limited to all rights in the nature of "Droit Morale" in regard to any continuing interest the Artist may have in the maintenance or modification of the Work, are expressly waived by the Artist and, insofar as such rights are transferable, are assigned to PCMD.
- c. In view of the intention that the Work in its final dimension shall be unique, the Artist shall not make any additional exact duplicate, two or three-dimensional reproductions of the final Work, nor shall the Artist grant permission to others to do so, except with the written permission of PCMD. This restriction shall not apply to the Artist's use of photographic reproductions of the Work in portfolio or in critical and scholarly writings. The Artist grants to PCMD and its respective assigns an irrevocable license to make two-dimensional reproductions of the Work for non-commercial purposes, including but not limited to reproductions used in advertising brochures, media publicity, and catalogues or other similar publications.
- d. All reproductions by PCMD shall contain a credit to the Artist and a copyright notice.
- e. The Artist shall use his best efforts to give a credit reading substantially, "an original work commissioned through the Public Art Program at Stapleton", in any public showing under the Artist's control of reproduction of the Work.
- f. The Artist shall, at the Artist's expense cause to be registered with the United States Register of Copyrights a copyright of the Work in the Artist's name.

1.10 Waiver of Artist's Rights

- a. The Artist understands and agrees that, as to his rights in the Work, the provisions of this Article shall control over the provisions of 17 U.S.C. §106A(a)(2) and 17 U.S.C. §106A(a)(3), and shall constitute a waiver by the Artist of any rights in the work set out in or otherwise granted by the provisions of 17 U.S.C. §106A(a)(2) and 17 U.S.C. §106A(a)(3).

- b. The Artist understands and agrees that, as to his rights in the Work, the provisions of this Article shall control over the provisions of 17 U.S.C. §113(d), and shall constitute a waiver by the Artist of any rights in the work set out in or otherwise granted by this provision. The Artist acknowledges and represents that the Artist has been informed and is aware of the method and location of installation of the work at the Site and, to the extent that the Work is incorporated into the Site in such a way that removing the work from the Site will cause the destruction, mutilation, or other modification of the work, the Artist agrees that execution of the Agreement satisfies the requirements for waiver of the requirements of 17 U.S.C. §106A(a)(2) and 17 U.S.C. §106A(a)(3).

ARTICLE 2. MAINTENANCE, REPAIR AND RESTORATION

1. Maintenance

- a. PCMD shall have the right to determine, in its sole discretion, when and if maintenance, repairs and restorations to the Work will be made.
- b. Any repairs and restorations shall be made in accordance with the Artist's recommendations and recognized principles of conservation.

2. Repairs and Restoration

- a. PCMD will, if practicable, consult with the Artist as to recommendations with regard to all repairs and restoration made during the Artist's lifetime. To the extent practicable and in accordance with recognized principles of professional conservation, the Artist or his/her representative shall be given the opportunity to accomplish such repairs and restoration and shall, if agreed to in advance in writing by the parties, be paid a reasonable fee for such services.
- b. At any point after delivery and installation of the Work, the Artist may inspect the Work and shall notify PCMD in writing as to the necessity of any repairs. PCMD shall make the final determination, in its sole discretion, whether repairs are needed and can be funded.

2.3 Alteration of Work

- a. PCMD agrees that it will not consent to intentional alteration, modification, change, destruction of or damage to the Work without consulting the Artist. This stipulation includes outright removal or change in location resulting from public or private opinion regarding the artwork. "Alteration" of the Work includes, but is not limited to, a change in the interrelationship or relative locations of parts of the Work.
- b. In the event of any alteration or damage, whether intentional, accidental, within or without the control of PCMD or otherwise, the Artist shall have the right to disclaim authorship of the Work; and upon written request of the Artist to PCMD shall remove the identification plaque at its own expense. The Artist may take such other action as he/she may choose in order to disavow the Work.

2.4 Alteration of the Site.

PCMD shall notify the Artist in advance of any proposed significant alteration of the Site that would affect the intended character, appearance or function of the Work. PCMD may consult with the Artist in the planning and execution of any such alteration.

2.5 Permanent Record.

PCMD shall maintain on permanent file a record of this Agreement and of the location and disposition of the Work.

2.6 Artist's Address.

The Artist shall notify PCMD of changes in his address. The failure to do so, if such failure prevents PCMD from locating the Artist, shall be deemed a waiver by the Artist of the right subsequently to enforce those provisions of Article 2 that require the express approval of the Artist. PCMD shall make every reasonable effort to locate the Artist when matters arise relating to the Artist's rights.

7. Removal, Sale, Donation or Destruction.

Nothing in this Agreement shall preclude any right of PCMD, (1) to remove the Work from public display, (2) to move or relocate the Work to another location selected solely by PCMD for public display, (3) donate the Work, (4) sell or transfer the Work, or (5) to destroy the Work. Any donee, transferee or buyer of the Work shall assume all of PCMD's duties toward the Artist stated herein and will take the Work subject to all of the Artist's rights as stated herein, and the donee, transferee or buyer shall be given a copy of this executed Agreement at the time of donation or sale. If PCMD shall at any time decide to destroy the Work, it shall by notice to the Artist offer the Artist the option to take possession of the Work no less than ninety (90) days following receipt of notice at no cost to the Artist, except for an obligation of the Artist to indemnify and reimburse PCMD for the amount by which the cost to PCMD of such conveyance exceeds the costs to PCMD of the proposed destruction as determined solely by PCMD. In such event, title to the Work shall pass to the Artist at the time that the Artist takes possession of the Work.

2.8 Surviving Covenants.

The covenants and obligations set forth in this Article 2 shall be binding upon the parties, their heirs, legatees, executors, administrators, assigns, transferees and all their successors in interest, and such covenants shall attach and run with the Work and shall be binding to and until twenty (20) years after the death of the Artist. PCMD shall give any subsequent owner of the Work notice in writing of the covenants herein and shall cause each such owner to be bound thereby.

2.9 Additional Rights and Remedies.

Nothing contained in this Article 2 shall be construed as a limitation on such other rights and remedies available to the Artist under the law which may now or in the future be applicable.

ARTICLE 3. COMPENSATION AND PAYMENT SCHEDULE

3.1 Fixed Fee.

PCMD shall pay the Artist a fixed fee of Three Hundred Thousand Dollars (\$300,000.00) (the "Fixed Fee"), which shall constitute full compensation for all services and materials to be performed and furnished by the Artist and for the design fabrication, installation and completion

of the Work in accordance with the terms set forth herein. The Fixed Fee shall be paid in the installments, expressed as percentages thereof, each installment to represent full and final, nonrefundable payment for all services and materials provided prior to the due date thereof as follows:

The fee shall be paid in the following installments upon completion of such phase, subject to receipt by PCMD of acceptable periodic invoices and supporting documentation from the Artist, each installment to represent full and final payment for all services and materials provided by the Artist for the specific phase of performance:

a.	Execution of Contract	(5%)	\$15,000.00
b.	Preliminary Design Review	(10%)	\$30,000.00
c.	Final Design Review	(30%)	\$90,000.00
d.	Mid-Point Fabrication	(30%)	\$90,000.00
e.	Installation	(20%)	\$60,000.00
f.	Post-Installation and Final Acceptance	(5%)	\$15,000.00
Total Contract Amount Not to Exceed		(100%)	\$300,000.00

In order to receive all except the initial payment, which will be made automatically after each party has signed this Agreement, the Artist shall submit a written billing or invoice to PCMD when each of the last three (3) installments outlined above has been reached. The invoice shall be signed by the Artist, contain photographs documenting that the required work has been completed, and include a signed payment request form. PCMD shall have sole discretion for determining whether the Work has reached each such state of completion. The parties agree that no interest or other costs shall accrue on the Fixed Fee at any time during the term of this Agreement.

ARTICLE 4. TIME OF PERFORMANCE

4.1 Construction Delays.

If, when the Artist completes fabrication of the Work and notifies PCMD that the Work is ready for installation, the Artist is delayed from installing the Work more than sixty (60) days from the Installation Date, and PCMD finds that this delay was caused as a result of PCMD's failure to complete preparation of the Site to permit installation of the Work herein, PCMD shall reimburse the Artist for reasonable transportation and storage costs incurred for the period between the date provided in Exhibit D for commencement of installation and the date upon which the Site is sufficiently complete to permit installation of the Work. However, this clause shall not go into effect if PCMD has issued an extension of time as contemplated in Section 1.6.c.

4.2 Early Completion of Artist Services.

The Artist shall bear any transportation and storage costs resulting from the completion of his services hereunder prior to the time provided in Section 1.5 for installation.

3. Time Extensions.

PCMD shall grant a reasonable extension of time to the Artist in the event there is a delay on the part of PCMD in performing its obligations under this Agreement, or if conditions beyond the Artist's control or Acts of God render timely performance of the Artist's services impossible. Failure to fulfill contractual obligations due to conditions beyond the reasonable

control of either party will not be considered a breach of contract, provided that all obligations hereunder shall be deferred or suspended as applicable only for the duration of such conditions.

ARTICLE 5. WARRANTIES

5.1 Warranties of Title.

The Artist represents and warrants that:

- a. The Work is solely the result of the artistic and creative efforts of the Artist;
- b. Except as otherwise disclosed in writing to PCMD, the Work is unique and original and does not infringe upon on any copyright;
- c. The Work has not been accepted for sale elsewhere; and
- d. The Work is free and clear of any liens from any source whatever.

5.2 Warranties of Quality and Condition.

The Artist represents and warrants that:

- a. The Work, as fabricated and installed, will be free of defects in material and workmanship, including any defects of "inherent vice" or qualities which cause or accelerate deterioration of the Work; and
- b. Reasonable maintenance of the Work will not require procedures substantially in excess of those described in the maintenance recommendations to be submitted by the Artist to PCMD according to the Section 1.7.c (Post-Installation).

The warranties described in this Section 5.2 shall survive for a period of three (3) years after the final acceptance of the Work. PCMD shall give notice to the Artist of any observed breach of warranty with reasonable promptness following actual discovery. The Artist shall, at the request of PCMD and at no cost to PCMD, promptly cure the breach of any such warranty, which is curable by the Artist and which cure is consistent with professional conservation standards, including but not limited to cure by means of repair or refabrication of the Work.

ARTICLE 6. ARTIST AS INDEPENDENT CONTRACTOR

The Artist agrees to perform all work under this Agreement as an independent contractor and not as an agent or an employee of PCMD. The Artist as an independent contractor shall furnish all creative work, supervision, labor, materials, equipment, supplies other incidentals, as well as transportation, shipping and installation of the Work. The Artist shall not be supervised by any employee or official of PCMD, nor shall the Artist exercise supervision over any employee or official of PCMD.

ARTICLE 7. INSURANCE

The Artist, as independent contractor, is responsible for complying with local, state and federal requirements pertaining to Workmen's Compensation insurance and comprehensive general liability insurance, with a minimum of \$1,000,000 all-inclusive coverage, and name PCMD, Forest City Enterprises, its subsidiaries and affiliates, the City and County of Denver

(the "City") and the Denver Urban Renewal Authority as additional insureds thereunder. The Artist may, at his expense, insure the Work for damage or loss prior to final acceptance by PCMD. PCMD shall have no responsibility to insure the Work at any time, either before or after final acceptance.

ARTICLE 8. ASSIGNMENT OF WORK

The Work and services required of the Artist hereunder are personal and shall not be assigned, sublet or transferred. This shall not prohibit the Artist from employing qualified persons who shall work under his supervision.

ARTICLE 9. TERMINATION

9.1 Termination.

The services to be performed under this Agreement may be terminated by either party, subject to written notice submitted thirty (30) days before termination, provided that attempts to reconcile the reason for termination have been undertaken but failed. The notice shall specify whether the termination is for convenience or cause.

- a. If either party to this Agreement shall willfully or negligently fail to fulfill in a timely and proper manner, or otherwise violate any of the covenants, agreements or stipulations material to this Agreement, the other party shall thereupon have the right to terminate this Agreement for cause by giving written notice to the defaulting party of its intent to terminate specifying the grounds for termination. The defaulting party shall have thirty (30) days after receipt of the notice to cure the default or undertake and diligently complete curative action. If such default is not cured or curative action is not being diligently pursued, then this Agreement shall terminate. In the event of default by PCMD, PCMD shall promptly compensate the Artist for all services performed by the Artist prior to such default. In the event of default by the Artist, the Artist shall remit to PCMD a sum equal to all payments, if any, made to the Artist pursuant to this Agreement prior to such default.
- b. If such termination is for the convenience of PCMD and occurs before notice to proceed has been given to the Artist, the Artist shall retain the fee set forth in Section 3.1.a in full payment of all Work and services provided by the Artist. If such termination is for the convenience of PCMD and occurs after notice to proceed has been given to the Artist, the Artist shall, if the fee set forth in Section 3.1 has not been fully paid, have the right to an equitable adjustment in the fee on the basis of the Work performed to the date of such written notice (without allowance for anticipated profit or unperformed services), in which event PCMD shall have the right at its discretion to possession and transfer of title to the sketches, designs and models already prepared and submitted or prepared for submission to PCMD by the Artist under this Agreement prior to the date of termination, provided that no right to fabricate or execute the Work shall pass to PCMD.
- c. If such termination is for the convenience of the Artist, the Artist shall remit to PCMD a sum equal to all payments, if any, made to the Artist pursuant to this Agreement prior to termination.

9.2 Event of Artist's Default or Incapacity.

- a. In the event of default by the Artist, all finished and unfinished drawings, sketches, photographs, and other work products prepared and submitted or prepared for submission by the Artist under this Agreement shall at PCMD's sole option become its property, including the right to fabricate or execute the Work. Notwithstanding the previous sentence, the Artist shall not be relieved of liability to PCMD for damages sustained by PCMD by virtue of any breach of this Agreement by the Artist, and PCMD may reasonably withhold payments to the Artist, until such time as the exact amount of such damages due PCMD from the Artist is determined and may exercise any of its other rights hereunder.
- b. In the event of incapacity or death of the Artist, such event will not be deemed a breach of this Agreement or a default on the part of the Artist. The Artist has the right to appoint a successor artist to complete the Work in the event of incapacity or death. The successor artist shall, however, be subject to approval of PCMD and shall be bound to complete the Work under the terms of this Agreement, including the compensation set forth in Article 3; however, the successor artist shall be automatically given an extension of an additional sixty (60) days to complete the Work. The Artist shall be paid only for that portion of Work or services satisfactorily completed at the time of incapacity or death with any remaining payments to be made to the successor artist. The Work shall pass to PCMD in accordance with the terms of this Agreement, and all copyright described under this Agreement shall remain with the original Artist. The Artist shall provide a copy of this Agreement to the successor artist, and the successor artist shall provide to PCMD, a written acknowledgement of the successor artist's agreement to comply with and be bound by the terms of this Agreement, which assignment of rights and obligations shall be in a form acceptable to PCMD.
- c. In the event of incapacity or death of the Artist and where no successor artist has been appointed or where an appointed successor artist does not complete the Work, all finished and unfinished drawings, sketches, photographs, and other work products prepared and submitted or prepared for submission by the Artist under this Agreement shall, at PCMD's sole option, become its property. If the Work was at mid-point of fabrication or beyond at the time of death or incapacity and no successor is appointed, PCMD retains the rights to select a successor artist to finish the Work at PCMD's expense, but with no further compensation to the Artist. If the Work was not at mid-point of fabrication or beyond at time of death or incapacity of the Artist, and no successor is appointed, PCMD retains possessory rights to the Work as then in existence and to exhibit the Work with the designation that it is "unfinished." The Artist shall be paid only for that portion of work or services satisfactorily completed at the time of incapacity or death. In the event of incapacity or death of the Artist and where no successor artist has been appointed, the copyright described hereunder shall remain with the Artist.

ARTICLE 10. DISPUTE RESOLUTION

If, prior to final acceptance of the Work, there arises a dispute between the Artist and PCMD, both parties will make every effort to affect a mutually satisfactory resolution of such dispute or to enter into a dispute resolution process in accordance with the Colorado Rules of Civil Procedure.

ARTICLE 11. MODIFICATION

No alteration, amendment, change or modification of the terms of this Agreement shall be valid unless made in writing and signed by each party hereto.

ARTICLE 12. CONFLICT WITH LAW

Any provision of this Agreement which is hereafter found by a court of law or otherwise to be in conflict with the laws, rules, and/or regulations of the United States or the State of Colorado shall be considered null and void. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this Agreement to the extent the remaining terms of this Agreement are feasible of execution. Venue for any action or proceeding hereunder shall be in the District Court in the City and County of Denver. Colorado law shall govern.

ARTICLE 13. EFFECTIVE DATE

The effective date of this Agreement shall be the date set forth in the introductory paragraph of this Agreement.

PARK CREEK METROPOLITAN DISTRICT

By: 
Name: Tammi T. Holloway
Title: Assistant Secretary
Date: April 14, 2018

ARTIST:


Rodrigo Nava
EIN #: 38-3924447 NAVA STUDIO LLC.
Date: 8, april 2018

EXHIBIT A
PROPOSAL LETTER
(attached)

NAVA STUDIO

Narrative, Stapleton Arc Promenade

I would like to once again thank the committee for selecting me for the Stapleton Arc Promenade Art Opportunity. Having time and space to compose this sweeping array of art features has been an inspiring exploration; the opportunity to expand my work in new and dramatic swaths of space is a true gift. My goal for these sculpture vignettes is to endow the neighborhood with three distinct art interludes that circulate through the Arc Promenade. Each sculpture array will feature distinct geometries both in their 3D form and the composition of their siting; there will be multiple layers of viewership interaction. I am proud to share and discuss the 'Wind Gate Art Suite' with the Team.

My Stapleton site visit was vital to my design process and the aesthetic narrative I developed for this opportunity. The potential at Stapleton for curating truly spectacular art experiences is unparalleled. The scope of your civic master plan is superb; inclusion of public art within the grand open spaces, along the miles of walking trails, and in public parks, punctuates the Stapleton experience with enduring landmarks. This is a visionary undertaking and I am energized to participate in the endeavor with significant place-making art features. I have identified three visually prominent, accessible sites that would support a harmonious integration of freestanding sculpture. Each sculptural array will elevate its site, be a way-finding landmark, and create a platform for engagement and interaction. The confluence of sculptural vignettes shall provide powerful visuals from pedestrian, motorist, and aerial vantages. The Art Suite will harmoniously integrate into the envelope of the Arc Promenade and provide enduring destinations for the community. Of particular interest will be the interplay between positive and negative forms vis a vis the art and the ever-changing skyline. Each sculpture array supports distinct negative spaces that define natural viewports to the horizon. These iconic geometric vantages will function as a living canvas, encouraging people to experience the art features often.

The three art features comprising the Wind Gate Art Suite are: 'The Five' in Location 1; 'First Light' in Location 2; and 'Beyond The Plains' in Location 3. My site visit inspired me to research natural elements that sculpt and define the Stapleton landscape; wind, water, and sunshine are all dynamic forces which profoundly impact the Stapleton Prairie. I further considered the genre of humans who have and who will interact with this slice of Colorado Prairie. I arrived at simple visual themes for the sites and designed sculptural elements to underscore the sensibilities that captivated my interest. There is a duality in the aesthetic tenor of the Art Suite. One impression is the art appears as a mysterious artifact having settled into the landscape; a harbinger of a rich and culturally inquisitive past. The other impression is of a sophisticated, contemporary art feature that heralds a thoughtful renaissance in Stapleton. Both impressions are valid and readily tangible to a wide audience.

NAVA STUDIO

The Five is a series of five (5) sculptures whose folded geometries lean upon one another for support. Symbolically, I see these forms as analogous to community; groups of people stand shoulder to shoulder to make their home healthy and strong. I have arranged these elements in a protective semi-circle. To me this array is emblematic of the safe, inclusive community springing up in Stapleton.

First Light is a series of nine (9) noble vertical forms arranged in a crisp, determined, linear array. First Light is oriented towards the morning sun and the Rocky Mountain Arsenal; this array quietly evokes the wisdom of people who lived in harmony with their ecosystem. To me this array is symbolic of visionaries who seek to restore balance between the natural and built environment; we pay homage to the forces that bring life and hope.

Beyond The Plains is a series of three (3) zig sagging shapes arranged in a nimble “herd” as they move towards new things on the horizon. This array is inspired by both the native bison that used to populate the Prairie, and explorers, people on the move always seeking out new adventures and possibilities. This array has great energy, motion, and liveliness.

The newly envisioned Stapleton community embodies sustainable, healthy approaches to civic planning; this multi-faceted approach champions the preservation of green spaces, inclusion of gateway artworks, and creates a small-town feel amidst a bustling population. These are tricky needles to simultaneously thread; I congratulate the Team and Stakeholders on their efforts and accomplishments. I am most enthusiastic to contribute my work to further your goals. Cultivating robust, outdoor art environments inspires interaction, conversation, and the opportunity to enter into lively discourse. Art nested within nature supports healthy activities and provides a destination; these features may be just the catalyst to encourage Stapleton residents to take that extra evening stroll or spend unplugged family time ambling down the paths to meet up with friends and neighbors. These experiences, made possible through an integrated art environment bring people and ideas together in an honest, authentic way. It is my intent for the Wind Gate Art Suite to be a happy constant within the Stapleton community. I am impressed the committee has prioritized exterior art for Stapleton; defining dynamic environments improves the daily lives of residents and underscores your appreciation for a safe, healthy, strong, and nurturing community. I am honored to participate in your valuable mission. When reviewing my proposal please not that these initial concepts are my initial response to the criteria. If selected to realize these works, I understand additional revisions and refinements are likely to occur; I welcome this collaborative process. I appreciate your consideration for the Stapleton Arc Promenade Public Art and I thank you for participating in the public art process.



TECHNICAL OVERVIEW, Stapleton Arc Promenade

Thank you for providing a forum to outline the technical scope of my Stapleton Arc Promenade concept. I find this genre of advanced collaboration quite beneficial to the final refinements of successful public art. I look forward to your comments and insight on the enclosed concept to inform the final aesthetic and parameters of the Art Suite.

My Stapleton site visit was vital to my design process. The vast expanse of land and site options was very exciting. Stapleton is undertaking a visionary endeavor of establishing both a new community and restoring the beauty of sweeping landscapes to this former airfield. These are important goals and I am inspired to provide significant place-making options for the Arc Promenade and Stapleton. I have identified three visually prominent, accessible sites that would support a harmonious integration of freestanding sculpture. Each sculptural array will elevate its site, be a way-finding landmark, and create a platform for engagement and interaction. Overall, the confluence of sculptural vignettes work together as a unified art suite within the envelope of the Arc Promenade neighborhood.

The Wind Gate Art Suite will encompass three sites along the Arc Promenade. Each site will support an array of repeating Cor-Ten steel forms. I have not mixed and matched forms within the sites; I feel the purity of form, repeated, is powerful and will provide iconic aesthetics in both the placement and sculptural composition. To unify the Art Suite, I will employ the same alloy of weathering steel (Cor-Ten) and expanded metal fabrication throughout the series, clearly underscoring a relationship between the artworks.

Dimensions

I anticipate the following dimensions for each of the Wind Gates Art Suite features:

“The Five” consists of (five) 6' H x 5' W x 2.5' D sculptures, arranged in a circular configuration, approximately 21' in diameter. I anticipate each sculpture will weigh 450 lbs.

“First Light” consists of (nine) 12' H x 7' W x 5' D sculptures. They will be arranged 20' apart in a crisp linear array pointing 8 degrees East-North East, towards sunrise. The approximate length of the array is 160'. I anticipate each sculpture will weigh 550 lbs.

“Beyond the Plains” consists of (three) 6' H x 6.75' W x 2.5' D sculptures. They will be arranged organically but in geometric response to one another. Their site footprint is approximately 27' x 27'. I anticipate each sculpture will weigh 350 lbs.

Fabrication

I anticipate using A606-4 16GA Weathering Steel for each sculpture. Additionally, I may employ A847 11GA Square Tube (1" x 1") as structural support for the attachment points on each sculpture. I will have each component CNC cut to precise tolerances to insure each sculpture is uniform in their proportions. I will weld each form and transport them in flat bundles to Colorado. Once I reach Stapleton, I will complete the expansion process in an authorized staging area. There may be a component of community engagement when I expand the forms; I am open to having the process filmed for local television or observed by a select group of Stapleton residents. Transporting the sculptures in their non-expanded forms saves significant transportation costs and allows some work to be realized in Colorado. As always, where possible, I will work with Stapleton businesses to insure my contribution to the local economy. As with all my commissions, care and attention will be paid to the safety issues during final expansion and installation.

Finishes & Maintenance

Each concept proposed is envisioned in 16 gauge A606-4 weathering steel. This is an ideal material for the Stapleton climate. The weathering steel is durable, responsible, and nearly maintenance free.



If it is "tagged" it is simple to remove the paint, give the sculpture a quick, light sanding, and the weathering steel will immediately regain its beautiful, multicolored patina. Strategically integrated along each footer post are a series of weep holes to insure condensation is mitigated.

Site Preparation

I will provide the architect and project manager detailed drawings and descriptions of the attachment points, footers, and load bearing information for the artwork(s). Any special needs necessary to integrate the art into the site will be carefully considered. Currently, I am focused on two options for the footers. Further analysis and discussion with the Team and engineer will determine which system I employ. If I am selected for the commission, I will work with you to resolve all site preparation questions well in advance of installation. I have installed significant art in similar sites; I anticipate installing the footers personally while I am on site. Tailoring each footer to perfectly accommodate the newly expanded artworks (onsite) insures precise alignments; due to the nature of expanded forms, subtle differences in the forms will occur during expansion. It is imperative to curate the exact geometries of installation and personally supervise the placement of every footer. This is labor intensive but yields optimal results. I will employ industry standard processes to install the sculptures; the Team will have confidence in the safety, durability, and interface between the art and site.

Installation

The installation for any of the proposed art features will be efficient but require several weeks onsite. The bolt patterns will be pre-determined allowing for a seamless integration of the sculptures into the footers. Some contouring of the landscape may be necessary to insure a harmonious integration of art and landscape. I am prepared to realize or supervise this work personally; I will leave the site with soft contours and reseed it to insure the proper variety of grass grows up around the installation. If necessary, I can install during "off" hours and I am prepared to coordinate these details with the Project Manager. I will do my utmost to minimize impact to the site while the art is being installed.

Lighting

I do not anticipate including external lighting for the Art Suite. Should you desire external lighting, I will work with you to arrive at optimal lighting options.

Schedule

Should I be awarded this commission, I will finalize design, scale, technical criteria, and delivery with the stakeholders. I will resolve all engineering concerns and finalize any technical questions in advance of fabrication. During this refinement period, I will resubmit any necessary visuals, drawings, or materials samples. I anticipate this project will require 24 weeks to fabricate and 3-4 weeks for installation. I realize the project will require careful coordination of install and I will realize your art feature within the schedule we agree upon.

Insurance

I maintain excellent insurance coverage for my work throughout fabrication, travel, and installation. I have an excellent safety record for the monumental installations I have realized.

SUMMARY

I truly appreciate the privilege of creating public art; I am fortunate to have a career that allows me to elevate the public environment. I work hard to insure every Nava commission is built with my hands, my attention to detail, and museum-caliber standards for design and craftsmanship. I anticipate if selected for this commission, I will work with the Team on refinements, siting, and scale. I would be very pleased to undertake this effort in concert with the committee. It is the spirit of collaboration that breathes true life into a site specific installation; I will work with you to address any concerns you have regarding the final details of this concept. Thank you once more for your consideration.



BUDGET

Artist Fee	\$ 36,000 (preliminary & final design)
Administration	\$ 3,500 (correspondence)
Prof. Services	\$ 16,000
Design Devel.	\$ 3,000
Travel	\$ 12,500 (5 trips for site prep, meetings, coordination)
Engineering	\$ 3,500 (Bob Malouff, Malouff Engineering)
Conservator	\$ 0,000
Modeling	\$ 4,500
Studio Overhead	\$ 6,500
Shop Drawings	\$ 1,500
Cor-Ten Steel	\$ 14,000
Welding Rod	\$ 1,500
Welding Gases	\$ 2,000
Supplies	\$ 2,000
Fabrication	\$ 117,000
CNC Cutting	\$ 2,500
Art transport	\$ 13,000 (transit from Vermont to Colorado)
Hardware	\$ 1,500
Crating	\$ 1,500
Site Preparation	\$ 4,500
Footers	\$ 10,200
Installation	\$ 8,500
On Site Fab	\$ 12,500
Prairie Seeding	\$ 1,500
Equip. Rental	\$ 9,000
Photography	\$ 1,000
Copyright Reg. Fee	\$ 300
Contingency	\$ 30,000
TOTAL	\$300,000

EXHIBIT B
PRELIMINARY DESIGN PROPOSAL
(to be attached)

RODRIGO NAVA



CONSERVATOR OVERVIEW

Wind Gate Art Suite, Stapleton Arc Promenade

Rodrigo Nava

272 Kim Hubbard Road, Putney, VT 05346

646-644-5724

www.RodrigoNava.com

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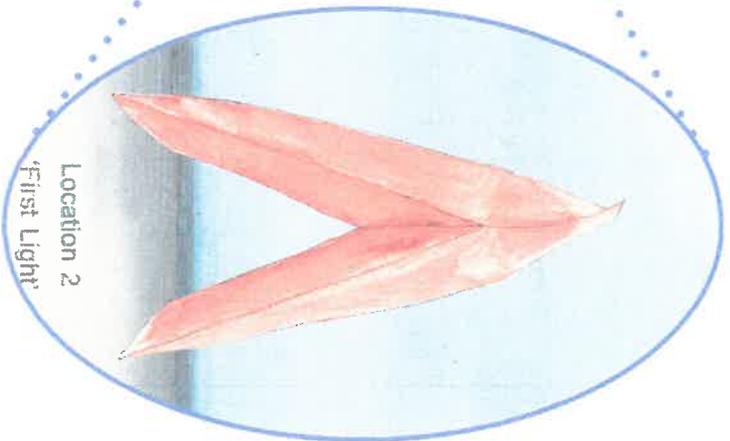
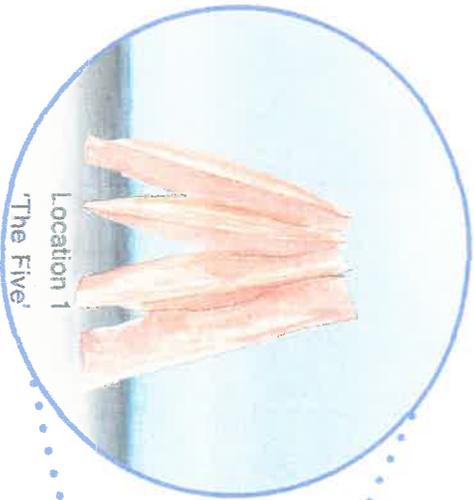
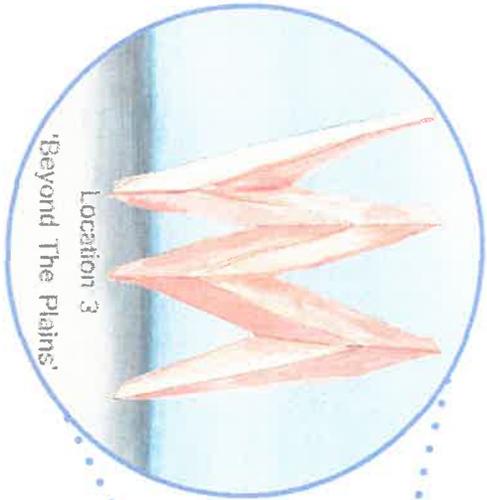
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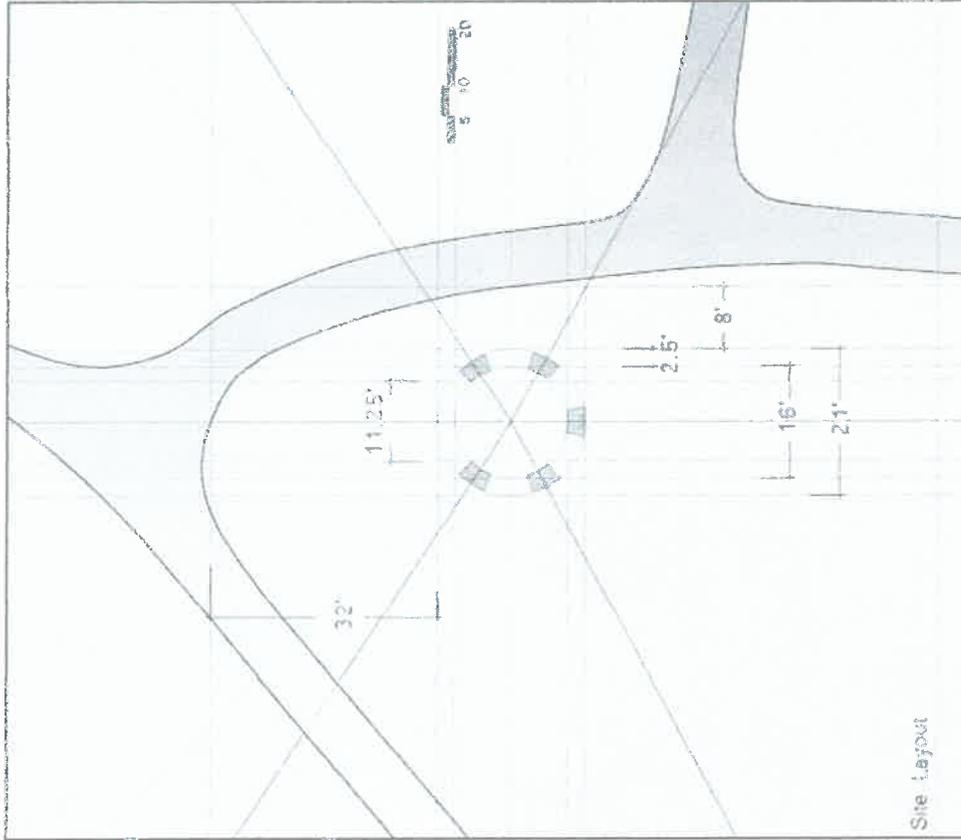
S T U D I O

Rodrigo Nava
272 Kim Hubbard Road
Putney, VT 05346
T. 646-644-5724

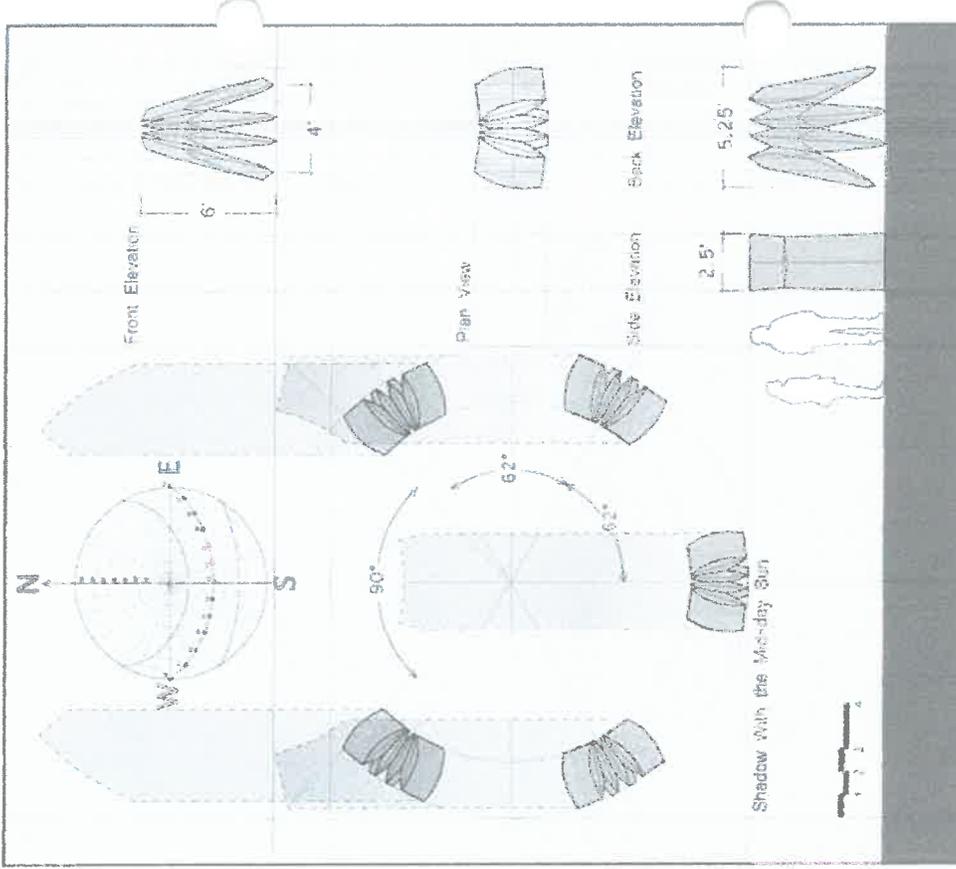
www.RodrigoNava.com



PLAN VIEW: 'Wind Gate' Art Suite



Plan View, The Five In Situ



The Five Specifications

LOCATION 1: The Five

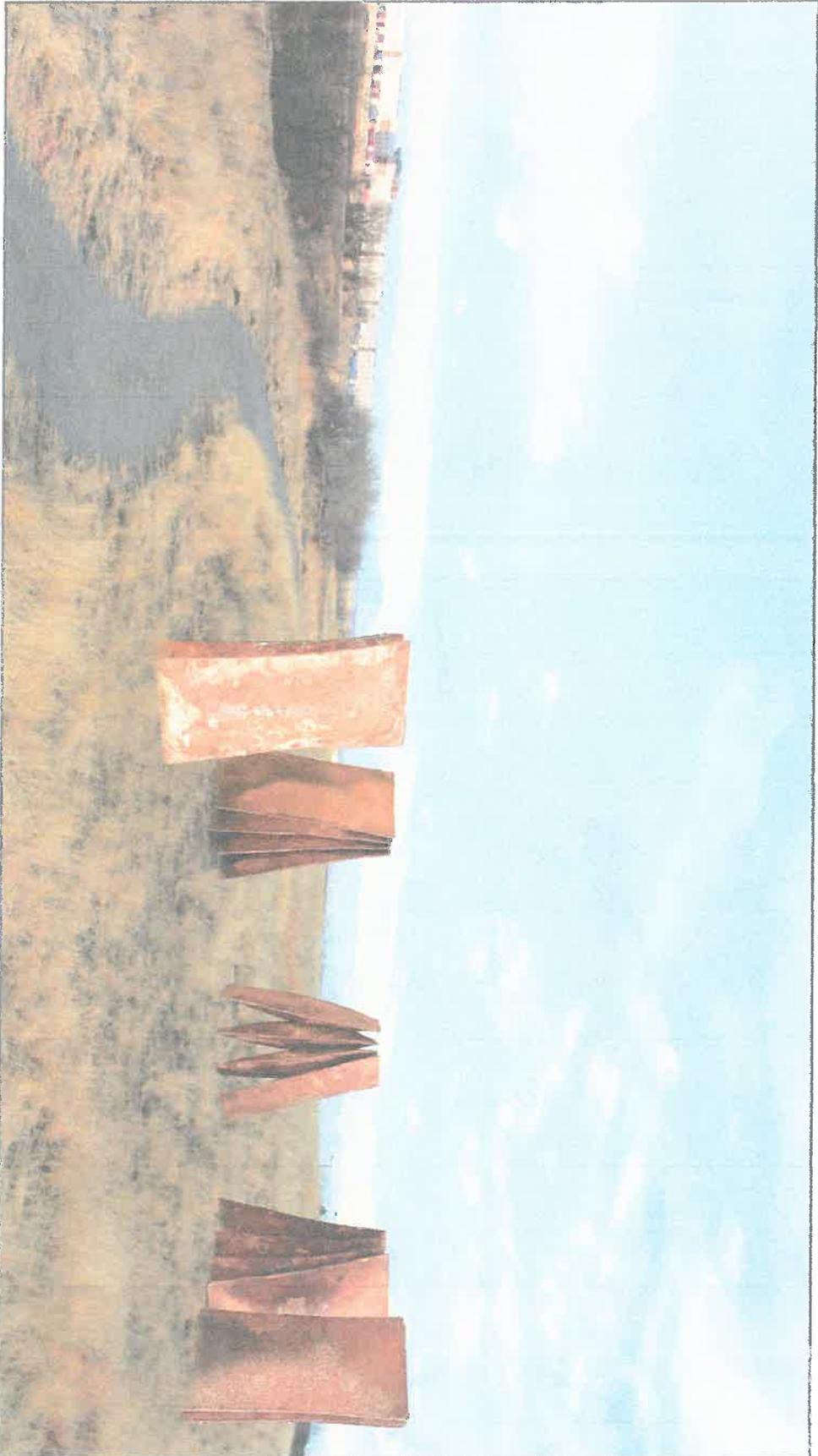
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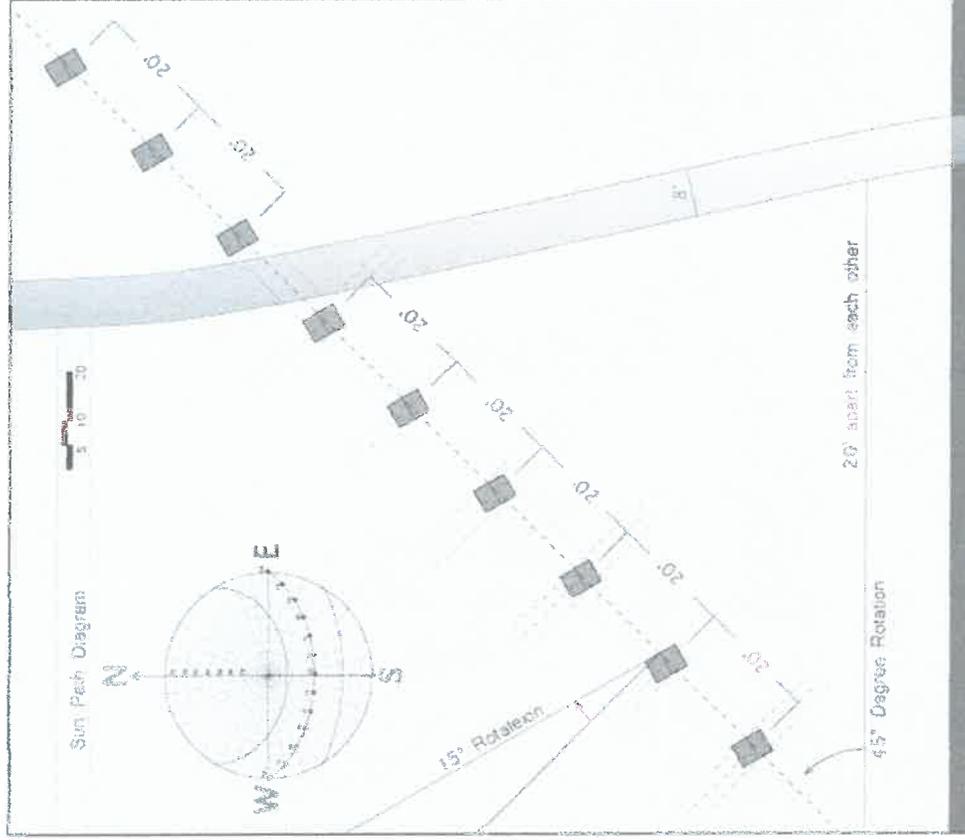
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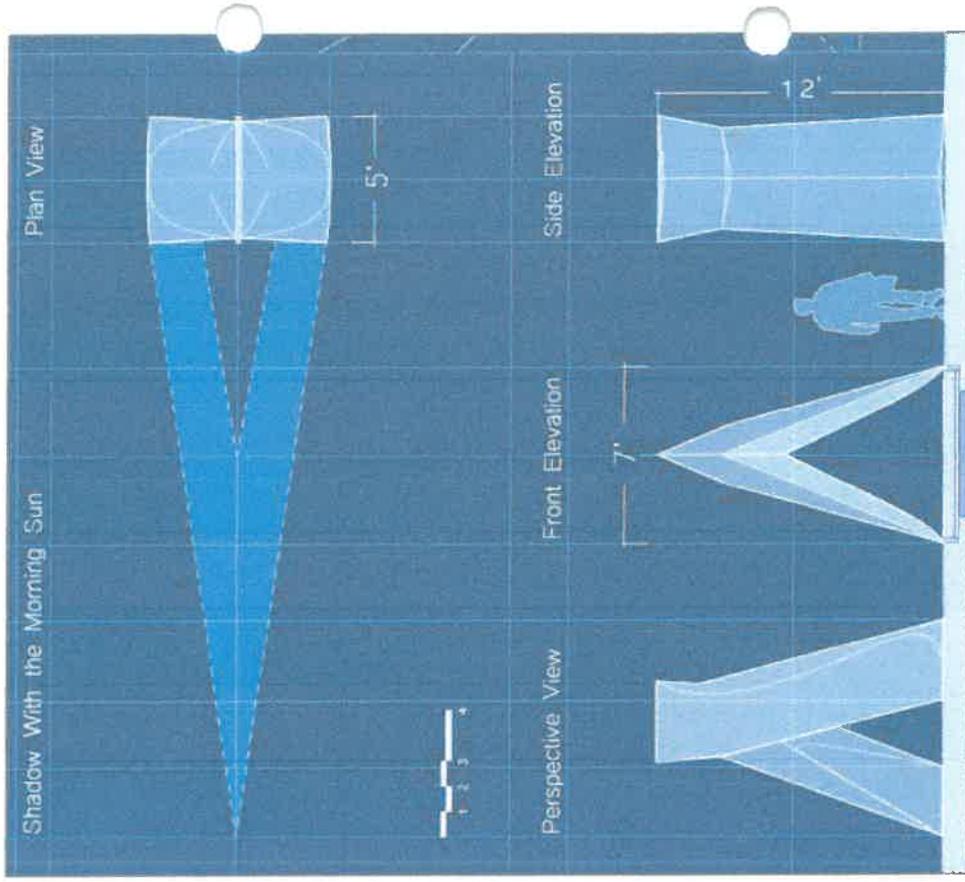


The Five in Placeholder Landscape

Rodrigo Nava
272 Kim Hubbard Road
Putney, VT 05346
T: 646-644-5724
www.Rodrigonava.com



Plan View, First Light In Situ



First Light Specifications

LOCATION 2: First Light

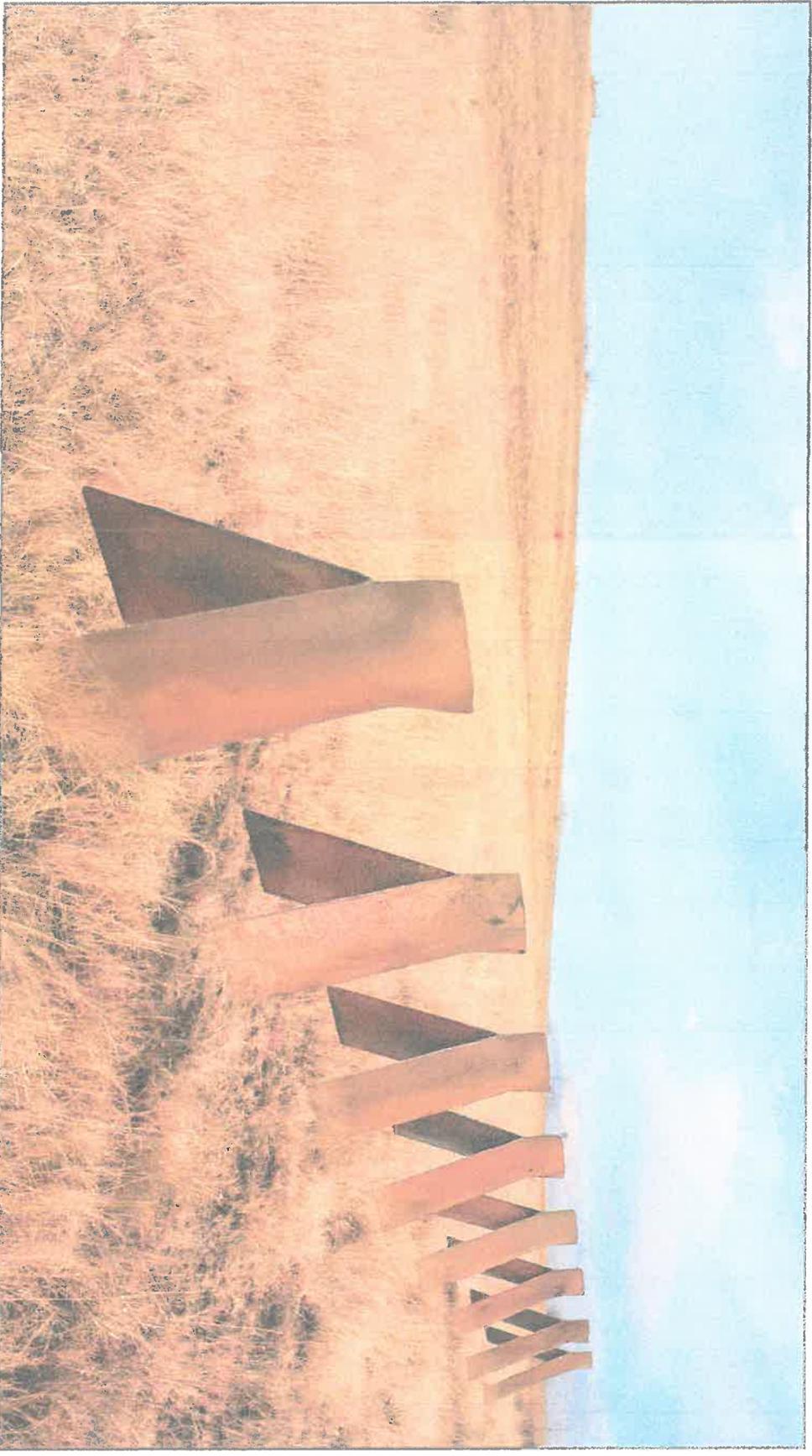
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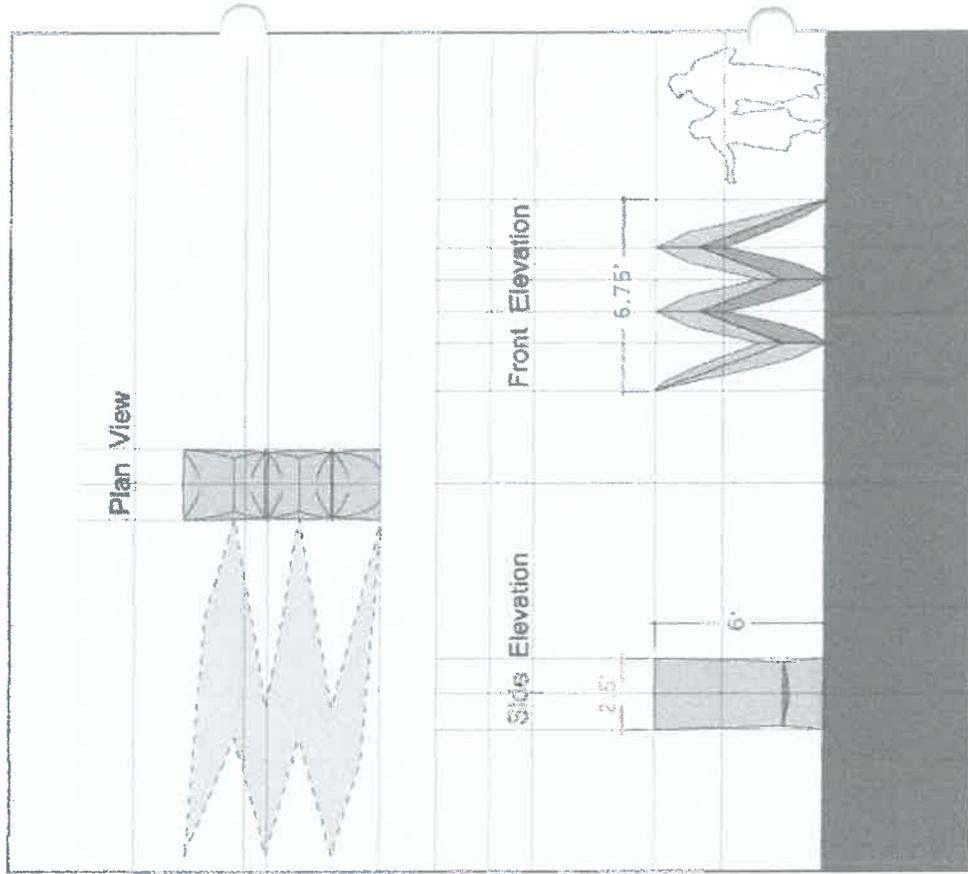
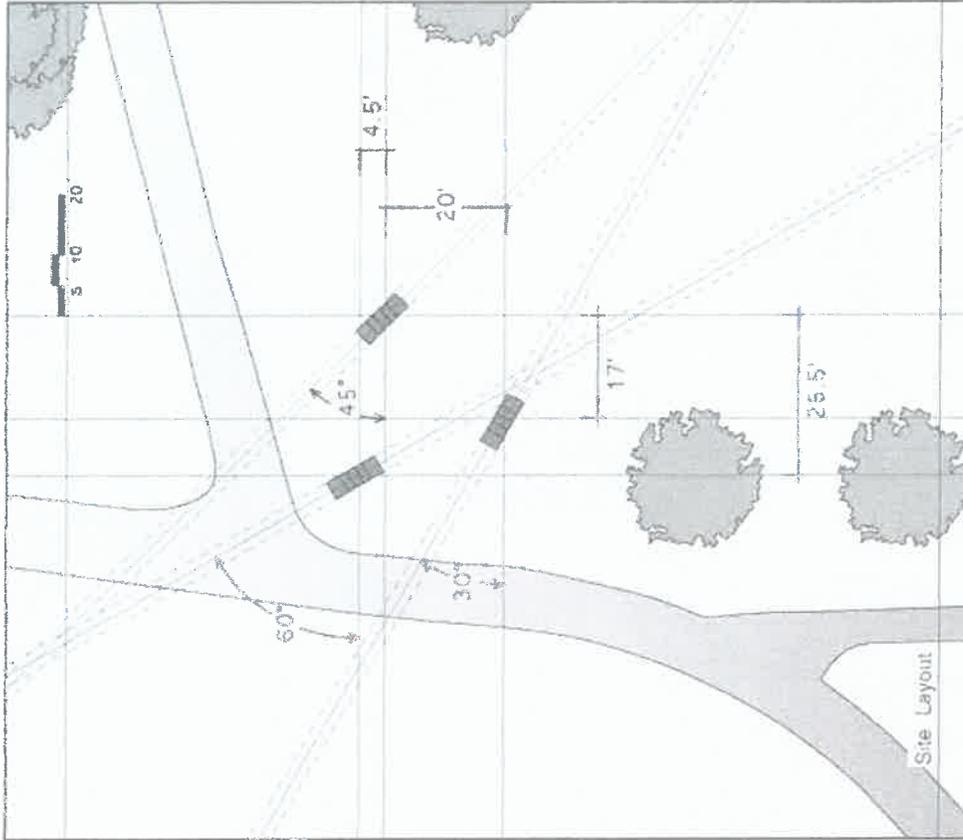
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S T U D I O



First Light in Placeholder Landscape

Rodrigo Nave
272 Kim Hubbard Road
Putney, VT 05346
T: 646-644-5724
www.RodrigoNave.com



Beyond The Plains Specifications

LOCATION 3: Beyond The Plains

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Beyond The Plains in Placeholder Landscape

Rodrigo Nava
272 Kim Hubbard Road
Putney, VT 05346
T: 646-644-5724

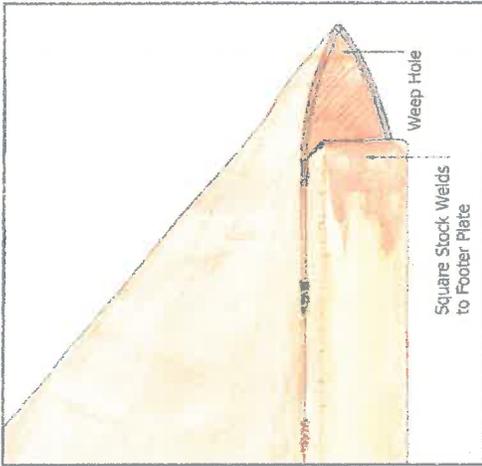
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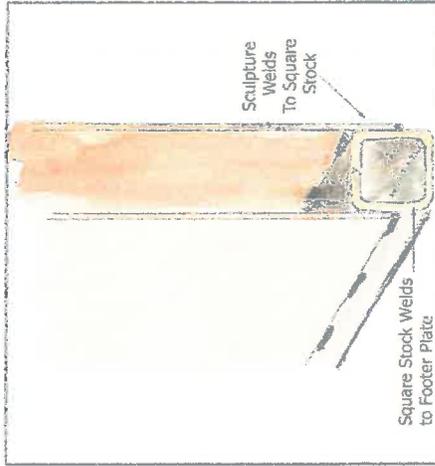
S T U D I O

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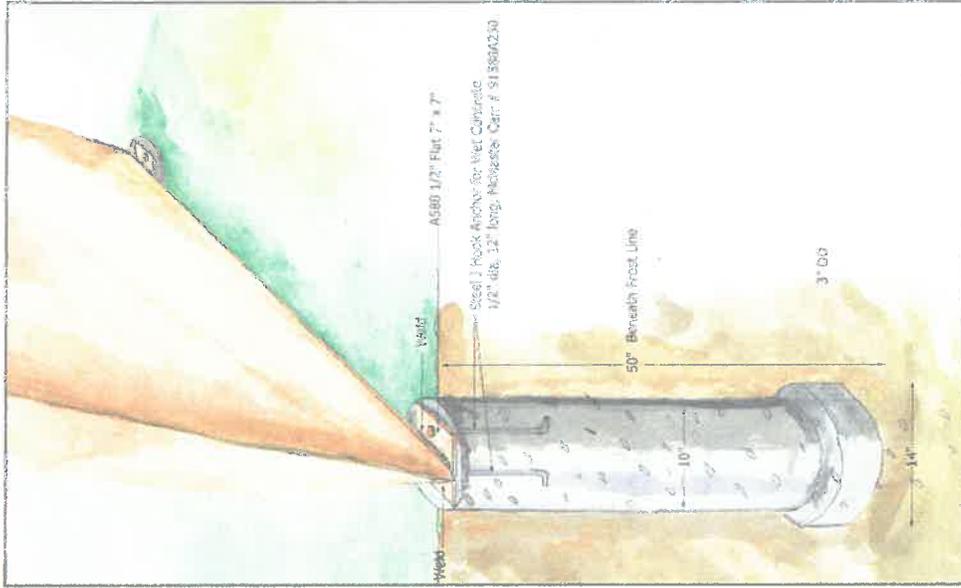
www.RodrigoNava.com



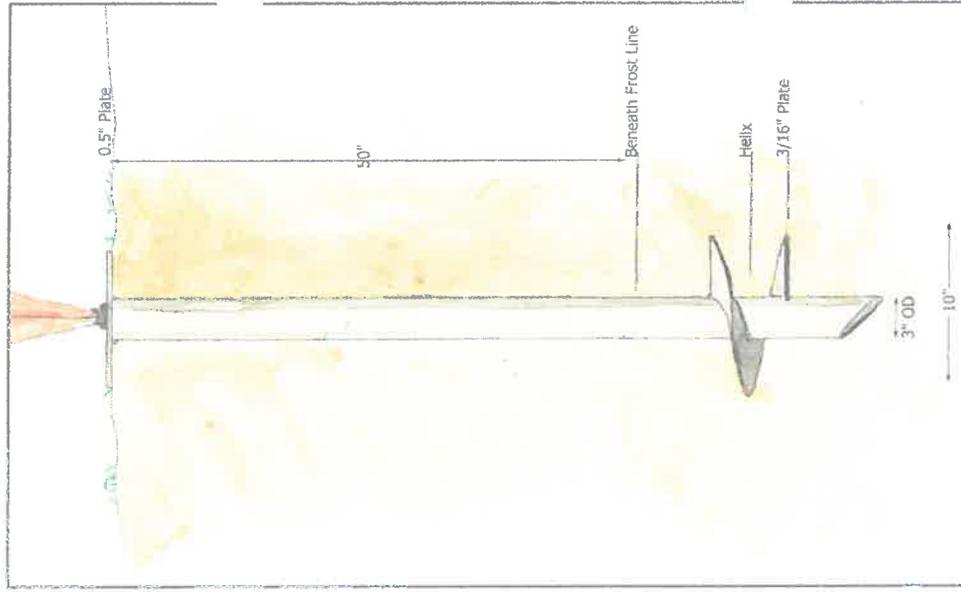
Weep Hole Detail



Attachment Details



Pour in place steel & concrete footer option



Galvanized threaded rod footer option

FOOTER OPTIONS: Wind Gate Art Suite

EXHIBIT C
FINAL DESIGN PROPOSAL
(to be attached)

EXHIBIT D
SCHEDULE FOR COMPLETION AND INSTALLATION
(to be attached)

EXHIBIT E

(exhibit follows)





PUBLIC ART COLLECTION

TITLE OF ARTWORK: *Phantom Pavilion*

ARTIST: Volkan Alkanoglu
Volkan Alkanoglu DESIGN LLC
4440 SW Hillside Drive
Portland, OR 97221
857-654-4126
volkan@alkanoglu.com
www.alkanoglu.com

LOCATION: Prairie Basin Park
4592 North Trenton Street
Stapleton
(Filing #36)

NEIGHBORHOOD: Conservatory Green

OWNERSHIP: Park Creek Metropolitan District until conveyed to
the City and County of Denver

INSTALLED: 2018

NOTES: This pavilion structure offers both shade and a colorful presence in this large, landscaped park. In addition to a color palette of teal, turquoise, black, white and slate, there is a complex pattern of openings on the surface that create shadows on the ground and a play of light throughout the day. The combination of light, shadows and colors create a sense of motion, a dynamic that is intended to attract the local community and visitors to this destination. The structure is

fabricated out of aluminum is approximately 18' high and fills the 30' diameter circle of the promontory.

Orientation of the pavilion features views of the Front Range and Longs Peak. The existing concrete cylinders would provide seating.

2018 Artwork accepted by PCMD in April 2018.

2019 Graffiti on the interior was removed by Demiurge, the fabricator.

EDUCATION

University College London, The Bartlett School, Master Architectural Design, 2003
Peter Behrens School, FH Düsseldorf, Diploma, 2001

QUALIFICATIONS

LEED Accredited Professional, United States Green Building Council, 2009

SELECTED COMMISSIONS

San Francisco, ON Mission, to be completed December 2015
Fort Lauderdale Airport, Terminal 1, to be completed July 2016
Red Line Station, West Baltimore, to be completed in August 2016
UC Denver, New Academic Building, Denver, to be completed in August 2015
Transit Center, Redondo Beach, to be completed October 2016
Georgia Tech, Clough Building, Atlanta, 2015
WMATA Police Training Facility, Police Memorial, Washington DC, 2014
U.S. Cellular Convention Center, Cedar Rapids, 2013
Salt Lake City Community College, Taylorsville 2013
University of Oregon, Fenton Hall, Eugene, 2013
Art Basel Miami Beach, GGG Pavilion, 2011
Union Square Park, Sukkah City, New York City, 2010

ACADEMIC APPOINTMENTS

Georgia Tech, SOA, Atlanta, GA, Assistant Professor, 2012-2015
SCI-Arc, Faculty Los Angeles, 2009 - 2012
Princeton University, SOA, Teaching Associate, Fall 2008
Harvard University, Graduate School of Design, Cambridge, MA, Spring 2008
AA School, London, United Kingdom, Instructor, Summer 2007

PROFILE

Volkan Alkanoglu is an artist and designer based in Boston whose innovative work and academic contributions have received international recognition. Since entering practice, he has contributed to design and research in the field of public design and sustainable projects and received awards and recognition for visionary spatial designs, art installations, exhibitions, product design, and sustainable environments.

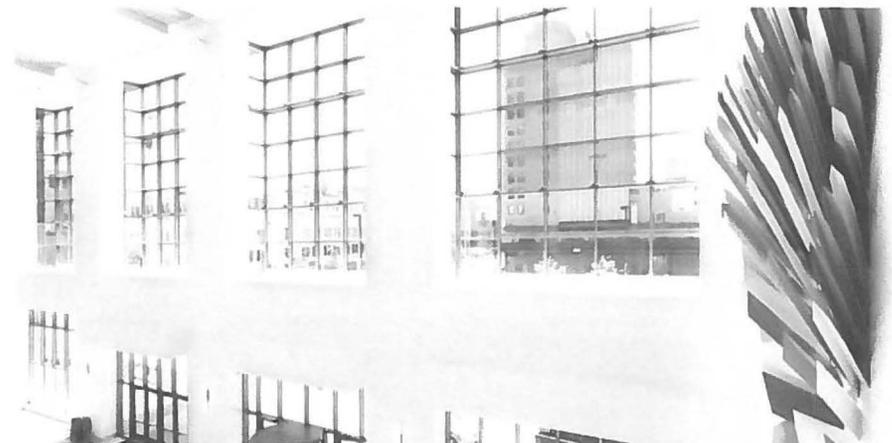
Prior to opening his own practice, he has worked as a Designer for firms such as Foster & Partners and Future Systems in London and Asymptote Architecture in New York. He was responsible for award winning projects including the National Library in Prague, the London City Hall, and an exhibition for the 2008 Venice Architecture Biennial.

His research and design work has been exhibited at several institutions including Union Square Park, Yeshiva Museum in New York, the Royal Academy of Arts, Slade Gallery in London, Weissenhof Gallery in Stuttgart, YA Forum in Atlanta and has been featured in many international publications. Volkan Alkanoglu has collaborated as a Designer in several architectural practices in Germany, United Kingdom, and the United States.

Within his academic background, Volkan Alkanoglu has taught at the Georgia Institute of Technology, in Atlanta after having served as the Director of Professional Studies. He was appointed previously as the TVS Design Distinguished Critic and held a long term faculty position at SCI-Arc, the Southern California Institute of Architecture in Los Angeles, California.



Police Memorial Project by Volkan Alkanoglu



Distortion Project by Volkan Alkanoglu

EXHIBIT F
(exhibit follows)

PUBLIC ART PROGRAM

CONTRACT FOR COMMISSION

THIS CONTRACT FOR COMMISSION (the "Agreement") is made and entered into as of this 10th day of December, 2015, by and between the PARK CREEK METROPOLITAN DISTRICT (hereinafter "PCMD"), a quasi-municipal corporation and political subdivision of the State of Colorado, whose mailing address is 7350 E. 29th Avenue, Suite 200, Denver, Colorado 80238, and VOLKAN ALKANOGU DESIGN LLC (hereinafter "the Artist"), whose business address is Volkan Alkanoglu DESIGN LLC, and whose legal address is: Volkan Alkanoglu DESIGN LLC, 3953 Casteel Court, Marietta, GA 30064, and whose mailing address is: Volkan Alkanoglu DESIGN LLC, 26 W Broadway, Unit 5.02, Boston, MA 02127, Phone: 857-654-4126, E-mail address: volkan@alkanoglu.com.

WHEREAS, PCMD has implemented a public art program in accordance with the Public Art Master Plan for Stapleton allocating certain funds for the purchase and/or commissioning of artworks in spaces accessible to the public and authorizing payments for the design, execution, fabrication, transportation and installation of works of art and the support of an artist selection process; and

WHEREAS, PCMD has designated the promontory at Prairie Basin Park at Stapleton (hereinafter "the Site") as the location at which to place a work of art; and

WHEREAS, PCMD has invited the Artist to develop, complete, and represent to the Project Selection Committee for Prairie Basin Park the drawings, scale model, media demonstration, and narrative description, including maintenance plan and budget, for a work of art as part of the art selection process set forth in the Public Art Master Plan for Stapleton; and

WHEREAS, the Artist was selected through jury procedures set forth in the Public Art Master Plan for Stapleton, and then reviewed and approved by the Public Art Advisory Committee and the Board of Directors of PCMD, to design, execute, fabricate, install and complete a work of art ("the Work") at the Site in consideration of the payment as hereinafter set forth; and

WHEREAS, each party wishes to promote and maintain the integrity and clarity of the Artist's ideas and statements as represented by the Work; and

WHEREAS, the Artist has visited the Site and familiarized himself with the local conditions under which he is to work and in which the Work is to be installed; and

WHEREAS, the Artist will produce the Work in a professional manner; and

WHEREAS, the parties desire to enter into this Agreement.

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

AGREEMENT

ARTICLE 1. SCOPE OF SERVICES

1.1 General

- a. The Artist will design, execute, fabricate, install and document the Work as follows:

Title: Wing Pavilion

Dimensions: This Work will be approximately 18' high and approximately 28' in diameter. The canopy will feature a palette of blue and white colors and a complex pattern of openings on the surface which will produce shadows on the ground. The pavilion will incorporate the seven existing concrete cylinders that provide seating.

Medium: There will be a stainless steel substructure with cladding fabricated on individual aluminum tiles. The structure will be painted with a catalyzed urethane coating with a UV-inhibiting clear top coat.

The permanent location for the Work shall be: The promontory on the east side of the Prairie Basin Park at the intersection of Trenton Street and Stoll Place

- b. The Artist shall perform all services and furnish all supplies, materials and equipment as necessary for the design, execution, fabrication, transportation and installation of the Work.
- c. The Artist shall be responsible for obtaining all permits and fees associated with the fabrication and installation of the Work.
- d. The Artist will coordinate with PCMD or Forest City Stapleton or other parties affected by this project as designated by PCMD with respect to Site preparation and installation of the Work.
- e. The Artist shall determine the artistic expression, scope, design, color, size, location, material and texture of the Work, subject to review and acceptance by PCMD as set forth in this Agreement.

1.2 Artist's Proposal and Preliminary Design

The Artist will submit an initial proposal and develop the design for the Work, in accordance with the proposal letter to PCMD, a copy of which is attached hereto and incorporated herein as Exhibit A. The Artist will, under this Agreement, prepare the final design and perform the other services specified herein.

1.3 Preliminary Design Review

- a. Within sixty (60) days after receipt by the Artist of Notice to Proceed issued to the Artist by PCMD's Public Art Consultant, the Artist shall prepare and submit to PCMD detailed preliminary working drawings of the Work and the Site, together with such

other graphic material as may reasonably be requested by PCMD in order to permit PCMD to carry out preliminary design review and to certify the compliance of the Work with the finally approved preliminary design of the Work. Upon request by the Artist, PCMD shall promptly furnish all readily available information and assistance required by the Artist in connection with said submission. However, PCMD does not guarantee its information, materials and assistance, and assumes no liability therefore. The Artist shall be solely responsible for designing the Work in compliance with all applicable local, state and/or federal statutes, ordinances, and/or regulations.

- b. During the preliminary design review, PCMD may also require the Artist to make such revisions to the design as are necessary for the Work to comply with the finally approved conceptual design of the Work
- c. PCMD may also request revisions for other practical and/or non-aesthetic reasons.
- d. After its receipt of the Artist's submission(s) pursuant to this Section 1.3, PCMD shall notify the Artist of its approval (or disapproval) of such submission and budget and of all revisions made in the initial proposal as a result thereof. PCMD's approval shall be in its sole discretion. Revisions made pursuant to this Section 1.3 become a part of the Preliminary Design. The Preliminary Design Proposal ("Proposal") will be incorporated herein as Exhibit B.

1.4 Final Design Review.

- a. Within sixty (60) days after the date of approval of the preliminary design by PCMD, the Artist shall prepare and submit to PCMD detailed working drawings of the Work and the Site, together with such other graphic material as may reasonably be requested by the PCMD in order to permit the PCMD to carry out final design review and to certify the compliance of the Work with applicable statutes, ordinances, and regulations. Upon request by the Artist, PCMD shall promptly furnish all readily available information and assistance required by the Artist in connection with said submission. However, PCMD does not guarantee its information, materials and assistance, and assumes no liability therefore. The Artist shall be solely responsible for designing, fabricating, constructing, delivering and installing the Work in compliance with all applicable local, state and/or federal statutes, ordinances, and/or regulations. It is expressly understood that the Artist shall have his or her final design reviewed and stamped as approved as to structural integrity by a professional engineer licensed to practice in the State of Colorado.
- b. The submission shall also include a budget, not to exceed One Hundred Seventy Five Thousand Dollars (\$175,000.00), as described herein, that includes all costs for design, engineering, execution, fabrication, transportation, delivery, installation, insurance, contingencies, consultant fees, fees and permits, and any other costs associated with the Work, and the Artist's fee.
- c. The submission shall also include a written statement detailing anticipated regular and routine maintenance, such maintenance to be provided by PCMD in its sole discretion, as appropriate to maintain the Work in its intended condition

- d. During the final design review PCMD may also require the Artist to make such revisions to the design as are necessary for the Work to comply with applicable local, state and federal statutes, ordinances, or regulations.
- e. PCMD may also request revisions for other practical and/or non-aesthetic reasons.
- f. After its receipt of the Artist's submission(s) pursuant to this Section 1.4, PCMD shall notify the Artist of its approval (or disapproval) of such submission and budget and of all revisions made in the initial proposal as a result thereof. PCMD's approval shall be in its sole discretion. Revisions made pursuant to this Section 1.4 become a part of the Final Design. The Final Design Proposal (the "Proposal") will be incorporated herein as Exhibit C.

1.5 Execution of Work.

- a. After written approval by PCMD of the Final Design, the Artist shall furnish to PCMD a schedule for the completion of fabrication and installation of the Work, including a schedule for the submission of progress reports, if any. After written approval of the schedule by PCMD, the Artist shall fabricate, transport and install the Work in accordance with such schedule. Such approval schedule shall be incorporated into this Agreement by reference as Exhibit D and may be amended by written agreement between PCMD and the Artist.
- b. The Artist shall complete the Work and the installation thereof within twelve (12) months of written notification to proceed. Upon notification of completion of the Work by the Artist according to Section 1.6 (Delivery and Installation) below, PCMD shall determine the actual date for installation.
- c. The Artist shall provide to PCMD a written plan for installation of the Work (the "Installation Plan") on Site. This Installation Plan shall be provided ninety (90) days prior to the date of installation referenced in Section 1.5.b. The Installation Plan shall include the following information: specifications for installation and for Site preparation, including materials needed for preparation or any physical alteration of the Site as contemplated by the Artist. The Artist understands and agrees that preparation of the Site will be performed and completed by PCMD and that the Installation Plan is subject to the prior written approval of PCMD.

1.6 Delivery and Installation.

- a. The Artist shall notify PCMD in writing when fabrication of the Work is completed and the Artist is ready to deliver the Work and install it at the Site.
- b. The Artist shall deliver and install the completed Work at the Site by the 31st day following the scheduled installation date determined pursuant to Section 1.5.b (the "Installation Date"), except as otherwise authorized in Section 4.3 (Time Extensions) below. In the event that the installation of the Work has not been completed by the 60th day following the Installation Date, the Artist shall incur a penalty of five percent (5%) of the balance of the remaining fee due to the Artist upon completion and installation of the Work. For each monthly period that passes thereafter without completion and installation of the Work, the Artist shall incur an additional penalty as follows: (i) for the next monthly period, ten percent (10%) of the remaining balance due; (ii) for the next monthly period, fifteen

percent (15%) of the remaining balance due; (iii) for the next monthly period, twenty percent (20%) of the remaining balance due, (iv) for the next monthly period, twenty-five percent (25%) of the remaining balance due; and (v) for each monthly period thereafter, twenty-five percent (25%) of the remaining balance due.

- c. The Artist may request an extension of time from PCMD no later than thirty (30) days before the originally scheduled Installation Date. If an extension is granted, a new installation date shall be agreed upon in writing, and the above penalty shall apply if the new completion and installation dates are not met.

1.7 Post-Installation.

- a. Within forty-five (45) days after installation of the Work, the Artist shall furnish PCMD with the following photographs of the Work as installed:
 - (i) Two (2) sets of high resolution digital color photographs of the completed Work, one taken from each of three (3) different viewpoints, and labeled as follows: the Artist's name, last name first, the title of the Work and the dimensions (height x width x depth) and date of completion and the medium, and
 - (ii) Two (2) sets of 8" x 10" glossy black and white prints of the Work and negatives labeled with the Artist's name and the title of the Work.
- b. The Artist shall also furnish PCMD with a full written narrative description of the Work.
- c. The Artist shall provide to PCMD and other parties affected by this project detailed written instructions for appropriate maintenance and preservation of the Work including materials specifications, sources, appropriate cleaning agents and processes and schedules, subject to the reasonable approval of PCMD.
- d. The Artist shall provide and install an identification plaque for the Work. The written contents of the plaque shall include the following information:

(Title of Work)	(Year)
(Artist)	(Artist's City) (State of Residence)
Commissioned by the Board of Directors of the Park Creek Metropolitan District with funding provided by the Denver Urban Renewal Authority.	

The plaque shall be of such medium and design as to be appropriate to the Work itself and the permanent location of the Work.

1.8 Final Acceptance.

- a. The Artist shall advise PCMD in writing when all services required including those described in Section 1.7 (Post Installation), have been completed.
- b. PCMD or an authorized representative will, following inspection and approval of the Work on Site, notify the Artist in writing of its final acceptance of the Work.
- c. Final acceptance shall be determined solely by PCMD and shall constitute PCMD's acknowledgement that the Work has been completed, delivered, installed and accepted for all purposes according to the terms of this Agreement.
- d. All risk of loss or damage to the Work shall remain with the Artist until final acceptance by PCMD.

1.9 Ownership and Reproduction Rights.

- a. Title to and ownership of the Work shall pass to PCMD upon final acceptance. In addition, PCMD may retain all plans, drawings, slides, photographs, submittals, studies, designs, maquettes and models, and other documents submitted to PCMD by the Artist related to the Work. These items, when submitted, become and are the property of PCMD, and the Artist expressly licenses PCMD to, without restriction and at their sole option and without further approval or compensation to the Artist, make use of such documents for educational, public relations promotional and other non-commercial purposes without further approval of the Artist. PCMD, without amendment to this Agreement, shall have the right to negotiate separate license arrangements with the Artist for use of such documents for commercial purposes. The Artist shall not be liable for any damage which may result from any use of such documents by PCMD for purposes other than these described in this Agreement.
- b. The Artist retains all rights under the Copyright Act of 1976, 17 U.S.C. §§101 et seq., except for the Artist's rights under 17 U.S.C. §106A(a)(2), 17 U.S.C. §106A(a)(3) and 17 U.S.C. §113(d), which are specifically waived by this Agreement, or otherwise granted to PCMD under this Agreement. All other rights in and to the work, including but not limited to all rights in the nature of "Droit Morale" in regard to any continuing interest the Artist may have in the maintenance or modification of the Work, are expressly waived by the Artist and, insofar as such rights are transferable, are assigned to PCMD.
- c. In view of the intention that the Work in its final dimension shall be unique, the Artist shall not make any additional exact duplicate, two or three-dimensional reproductions of the final Work, nor shall the Artist grant permission to others to do so, except with the written permission of PCMD. This restriction shall not apply to the Artist's use of photographic reproductions of the Work in portfolio or in critical and scholarly writings. The Artist grants to PCMD and its respective assigns an irrevocable license to make two-dimensional reproductions of the Work for non-commercial purposes, including but not limited to reproductions used in advertising brochures, media publicity, and catalogues or other similar publications.

- d. All reproductions by PCMD shall contain a credit to the Artist and a copyright notice
- e. The Artist shall use his best efforts to give a credit reading substantially, "an original work commissioned through the Public Art Program at Stapleton", in any public showing under the Artist's control of reproduction of the Work.
- f. The Artist shall, at the Artist's expense cause to be registered with the United States Register of Copyrights a copyright of the Work in the Artist's name.

1.10 Waiver of Artist's Rights

- a. The Artist understands and agrees that, as to his rights in the Work, the provisions of this Article shall control over the provisions of 17 U.S.C. §106A(a)(2) and 17 U.S.C. §106A(a)(3), and shall constitute a waiver by the Artist of any rights in the work set out in or otherwise granted by the provisions of 17 U.S.C. §106A(a)(2) and 17 U.S.C. §106A(a)(3).
- b. The Artist understands and agrees that, as to his rights in the Work, the provisions of this Article shall control over the provisions of 17 U.S.C. §113(d), and shall constitute a waiver by the Artist of any rights in the work set out in or otherwise granted by this provision. The Artist acknowledges and represents that the Artist has been informed and is aware of the method and location of installation of the work at the Site and, to the extent that the Work is incorporated into the Site in such a way that removing the work from the Site will cause the destruction, mutilation, or other modification of the work, the Artist agrees that execution of the Agreement satisfies the requirements for waiver of the requirements of 17 U.S.C. §106A(a)(2) and 17 U.S.C. §106A(a)(3).

ARTICLE 2. MAINTENANCE, REPAIR AND RESTORATION

2.1 Maintenance

- a. PCMD shall have the right to determine, in its sole discretion, when and if maintenance, repairs and restorations to the Work will be made.
- b. Any repairs and restorations shall be made in accordance with the Artist's recommendations and recognized principles of conservation.

2.2 Repairs and Restoration

- a. PCMD will, if practicable, consult with the Artist as to recommendations with regard to all repairs and restoration made during the Artist's lifetime. To the extent practicable and in accordance with recognized principles of professional conservation, the Artist or his/her representative shall be given the opportunity to accomplish such repairs and restoration and shall, if agreed to in advance in writing by the parties, be paid a reasonable fee for such services.
- b. At any point after delivery and installation of the Work, the Artist may inspect the Work and shall notify PCMD in writing as to the necessity of any repairs. PCMD shall make the final determination, in its sole discretion, whether repairs are needed and can be funded.

2.3 Alteration of Work

- a. PCMD agrees that it will not consent to intentional alteration, modification, change, destruction of or damage to the Work without consulting the Artist. This stipulation includes outright removal or change in location resulting from public or private opinion regarding the artwork. "Alteration" of the Work includes, but is not limited to, a change in the interrelationship or relative locations of parts of the Work.
- b. In the event of any alteration or damage, whether intentional, accidental, within or without the control of PCMD or otherwise, the Artist shall have the right to disclaim authorship of the Work; and upon written request of the Artist to PCMD shall remove the identification plaque at its own expense. The Artist may take such other action as he/she may choose in order to disavow the Work.

2.4 Alteration of the Site

PCMD shall notify the Artist in advance of any proposed significant alteration of the Site that would affect the intended character, appearance or function of the Work. PCMD may consult with the Artist in the planning and execution of any such alteration.

2.5 Permanent Record

PCMD shall maintain on permanent file a record of this Agreement and of the location and disposition of the Work.

2.6 Artist's Address

The Artist shall notify PCMD of changes in his address. The failure to do so, if such failure prevents PCMD from locating the Artist, shall be deemed a waiver by the Artist of the right subsequently to enforce those provisions of Article 2 that require the express approval of the Artist. PCMD shall make every reasonable effort to locate the Artist when matters arise relating to the Artist's rights.

2.7 Removal, Sale, Donation or Destruction

Nothing in this Agreement shall preclude any right of PCMD, (1) to remove the Work from public display, (2) to move or relocate the Work to another location selected solely by PCMD for public display, (3) donate the Work, (4) sell or transfer the Work, or (5) to destroy the Work. Any donee, transferee or buyer of the Work shall assume all of PCMD's duties toward the Artist stated herein and will take the Work subject to all of the Artist's rights as stated herein, and the donee, transferee or buyer shall be given a copy of this executed Agreement at the time of donation or sale. If PCMD shall at any time decide to destroy the Work, it shall by notice to the Artist offer the Artist the option to take possession of the Work no less than ninety (90) days following receipt of notice at no cost to the Artist, except for an obligation of the Artist to indemnify and reimburse PCMD for the amount by which the cost to PCMD of such conveyance exceeds the costs to PCMD of the proposed destruction as determined solely by PCMD. In such event, title to the Work shall pass to the Artist at the time that the Artist takes possession of the Work.

2.8 Surviving Covenants

The covenants and obligations set forth in this Article 2 shall be binding upon the parties, their heirs, legatees, executors, administrators, assigns, transferees and all their successors in interest, and such covenants shall attach and run with the Work and shall be binding to and until twenty (20) years after the death of the Artist. PCMD shall give any subsequent owner of the Work notice in writing of the covenants herein and shall cause each such owner to be bound thereby.

2.9 Additional Rights and Remedies.

Nothing contained in this Article 2 shall be construed as a limitation on such other rights and remedies available to the Artist under the law which may now or in the future be applicable.

ARTICLE 3. COMPENSATION AND PAYMENT SCHEDULE

3.1 Fixed Fee.

PCMD shall pay the Artist a fixed fee of One Hundred Seventy Five Thousand Dollars (\$175,000.00) (the "Fixed Fee"), which shall constitute full compensation for all services and materials to be performed and furnished by the Artist and for the design fabrication, installation and completion of the Work in accordance with the terms set forth herein. The Fixed Fee shall be paid in the installments, expressed as percentages thereof, each installment to represent full and final, nonrefundable payment for all services and materials provided prior to the due date thereof as follows:

The fee shall be paid in the following installments upon completion of such phase, subject to receipt by PCMD of acceptable periodic invoices and supporting documentation from the Artist, each installment to represent full and final payment for all services and materials provided by the Artist for the specific phase of performance:

a.	Execution of Contract	(5%)	\$8,750.00
b.	Preliminary Design Review	(10%)	\$17,500.00
c.	Final Design Review	(30%)	\$52,500.00
d.	Mid-Point Fabrication	(30%)	\$52,500.00
e.	Installation	(20%)	\$35,000.00
f.	Post-Installation and Final Acceptance	(5%)	\$8,750.00

Total Contract Amount Not to Exceed (100%) \$175,000.00

In order to receive all except the initial payment, which will be made automatically after each party has signed this Agreement, the Artist shall submit a written billing or invoice to PCMD when each of the last three (3) installments outlined above has been reached. The invoice shall be signed by the Artist, contain photographs documenting that the required work has been completed, and include a signed payment request form. PCMD shall have sole discretion for determining whether the Work has reached each such state of completion. The parties agree that no interest or other costs shall accrue on the Fixed Fee at any time during the term of this Agreement.

ARTICLE 4. TIME OF PERFORMANCE

4.1 Construction Delays.

If, when the Artist completes fabrication of the Work and notifies PCMD that the Work is ready for installation, the Artist is delayed from installing the Work more than sixty (60) days from the Installation Date, and PCMD finds that this delay was caused as a result of PCMD's failure to complete preparation of the Site to permit installation of the Work herein, PCMD shall reimburse the Artist for reasonable transportation and storage costs incurred for the period between the date provided in Exhibit D for commencement of installation and the date upon which the Site is sufficiently complete to permit installation of the Work. However, this clause shall not go into effect if PCMD has issued an extension of time as contemplated in Section 1.6.c.

4.2 Early Completion of Artist Services.

The Artist shall bear any transportation and storage costs resulting from the completion of his services hereunder prior to the time provided in Section 1.5 for installation.

4.3 Time Extensions.

PCMD shall grant a reasonable extension of time to the Artist in the event there is a delay on the part of PCMD in performing its obligations under this Agreement, or if conditions beyond the Artist's control or Acts of God render timely performance of the Artist's services impossible. Failure to fulfill contractual obligations due to conditions beyond the reasonable control of either party will not be considered a breach of contract, provided that all obligations hereunder shall be deferred or suspended as applicable only for the duration of such conditions.

ARTICLE 5. WARRANTIES

5.1 Warranties of Title.

The Artist represents and warrants that:

- a. The Work is solely the result of the artistic and creative efforts of the Artist;
- b. Except as otherwise disclosed in writing to PCMD, the Work is unique and original and does not infringe upon on any copyright;
- c. The Work has not been accepted for sale elsewhere; and
- d. The Work is free and clear of any liens from any source whatever.

5.2 Warranties of Quality and Condition.

The Artist represents and warrants that:

- a. The Work, as fabricated and installed, will be free of defects in material and workmanship, including any defects of "inherent vice" or qualities which cause or accelerate deterioration of the Work, and

- b. Reasonable maintenance of the Work will not require procedures substantially in excess of those described in the maintenance recommendations to be submitted by the Artist to PCMD according to the Section 1.7 c (Post-Installation).

The warranties described in this Section 5.2 shall survive for a period of three (3) years after the final acceptance of the Work. PCMD shall give notice to the Artist of any observed breach of warranty with reasonable promptness following actual discovery. The Artist shall, at the request of PCMD and at no cost to PCMD, promptly cure the breach of any such warranty, which is curable by the Artist and which cure is consistent with professional conservation standards, including but not limited to cure by means of repair or refabrication of the Work.

ARTICLE 6. ARTIST AS INDEPENDENT CONTRACTOR

The Artist agrees to perform all work under this Agreement as an independent contractor and not as an agent or an employee of PCMD. The Artist as an independent contractor shall furnish all creative work, supervision, labor, materials, equipment, supplies other incidentals, as well as transportation, shipping and installation of the Work. The Artist shall not be supervised by any employee or official of PCMD, nor shall the Artist exercise supervision over any employee or official of PCMD.

ARTICLE 7. INSURANCE

The Artist, as independent contractor, is responsible for complying with local, state and federal requirements pertaining to Workmen's Compensation insurance and comprehensive general liability insurance, with a minimum of \$1,000,000 all-inclusive coverage, and name PCMD, Forest City Enterprises, its subsidiaries and affiliates, the City and County of Denver (the "City") and the Denver Urban Renewal Authority as additional insureds thereunder. The Artist may, at his expense, insure the Work for damage or loss prior to final acceptance by PCMD. PCMD shall have no responsibility to insure the Work at any time, either before or after final acceptance.

ARTICLE 8. ASSIGNMENT OF WORK

The Work and services required of the Artist hereunder are personal and shall not be assigned, sublet or transferred. This shall not prohibit the Artist from employing qualified persons who shall work under his supervision.

ARTICLE 9. TERMINATION

9.1 Termination.

The services to be performed under this Agreement may be terminated by either party, subject to written notice submitted thirty (30) days before termination, provided that attempts to reconcile the reason for termination have been undertaken but failed. The notice shall specify whether the termination is for convenience or cause.

- a. If either party to this Agreement shall willfully or negligently fail to fulfill in a timely and proper manner, or otherwise violate any of the covenants, agreements or stipulations material to this Agreement, the other party shall thereupon have the right to terminate this Agreement for cause by giving written notice to the defaulting party of its intent to terminate specifying the grounds for termination.

The defaulting party shall have thirty (30) days after receipt of the notice to cure the default or undertake and diligently complete curative action. If such default is not cured or curative action is not being diligently pursued, then this Agreement shall terminate. In the event of default by PCMD, PCMD shall promptly compensate the Artist for all services performed by the Artist prior to such default. In the event of default by the Artist, the Artist shall remit to PCMD a sum equal to all payments, if any, made to the Artist pursuant to this Agreement prior to such default.

- b. If such termination is for the convenience of PCMD and occurs before notice to proceed has been given to the Artist, the Artist shall retain the fee set forth in Section 3.1.a in full payment of all Work and services provided by the Artist. If such termination is for the convenience of PCMD and occurs after notice to proceed has been given to the Artist, the Artist shall, if the fee set forth in Section 3.1 has not been fully paid, have the right to an equitable adjustment in the fee on the basis of the Work performed to the date of such written notice (without allowance for anticipated profit or unperformed services), in which event PCMD shall have the right at its discretion to possession and transfer of title to the sketches, designs and models already prepared and submitted or prepared for submission to PCMD by the Artist under this Agreement prior to the date of termination, provided that no right to fabricate or execute the Work shall pass to PCMD.
- c. If such termination is for the convenience of the Artist, the Artist shall remit to PCMD a sum equal to all payments, if any, made to the Artist pursuant to this Agreement prior to termination.

9.2 Event of Artist's Default or Incapacity.

- a. In the event of default by the Artist, all finished and unfinished drawings, sketches, photographs, and other work products prepared and submitted or prepared for submission by the Artist under this Agreement shall at PCMD's sole option become its property, including the right to fabricate or execute the Work. Notwithstanding the previous sentence, the Artist shall not be relieved of liability to PCMD for damages sustained by PCMD by virtue of any breach of this Agreement by the Artist, and PCMD may reasonably withhold payments to the Artist, until such time as the exact amount of such damages due PCMD from the Artist is determined and may exercise any of its other rights hereunder.
- b. In the event of incapacity or death of the Artist, such event will not be deemed a breach of this Agreement or a default on the part of the Artist. The Artist has the right to appoint a successor artist to complete the Work in the event of incapacity or death. The successor artist shall, however, be subject to approval of PCMD and shall be bound to complete the Work under the terms of this Agreement, including the compensation set forth in Article 3; however, the successor artist shall be automatically given an extension of an additional sixty (60) days to complete the Work. The Artist shall be paid only for that portion of Work or services satisfactorily completed at the time of incapacity or death with any remaining payments to be made to the successor artist. The Work shall pass to PCMD in accordance with the terms of this Agreement, and all copyright described under this Agreement shall remain with the original Artist. The Artist

shall provide a copy of this Agreement to the successor artist, and the successor artist shall provide to PCMD, a written acknowledgement of the successor artist's agreement to comply with and be bound by the terms of this Agreement, which assignment of rights and obligations shall be in a form acceptable to PCMD.

- c. In the event of incapacity or death of the Artist and where no successor artist has been appointed or where an appointed successor artist does not complete the Work, all finished and unfinished drawings, sketches, photographs, and other work products prepared and submitted or prepared for submission by the Artist under this Agreement shall, at PCMD's sole option, become its property. If the Work was at mid-point of fabrication or beyond at the time of death or incapacity and no successor is appointed, PCMD retains the rights to select a successor artist to finish the Work at PCMD's expense, but with no further compensation to the Artist. If the Work was not at mid-point of fabrication or beyond at time of death or incapacity of the Artist, and no successor is appointed, PCMD retains possessory rights to the Work as then in existence and to exhibit the Work with the designation that it is "unfinished." The Artist shall be paid only for that portion of work or services satisfactorily completed at the time of incapacity or death. In the event of incapacity or death of the Artist and where no successor artist has been appointed, the copyright described hereunder shall remain with the Artist.

ARTICLE 10. DISPUTE RESOLUTION

If, prior to final acceptance of the Work, there arises a dispute between the Artist and PCMD, both parties will make every effort to affect a mutually satisfactory resolution of such dispute or to enter into a dispute resolution process in accordance with the Colorado Rules of Civil Procedure.

ARTICLE 11. MODIFICATION

No alteration, amendment, change or modification of the terms of this Agreement shall be valid unless made in writing and signed by each party hereto.

ARTICLE 12. CONFLICT WITH LAW

Any provision of this Agreement which is hereafter found by a court of law or otherwise to be in conflict with the laws, rules, and/or regulations of the United States or the State of Colorado shall be considered null and void. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this Agreement to the extent the remaining terms of this Agreement are feasible of execution. Venue for any action or proceeding hereunder shall be in the District Court in the City and County of Denver. Colorado law shall govern.

ARTICLE 13. EFFECTIVE DATE

The effective date of this Agreement shall be the date set forth in the introductory paragraph of this Agreement.

PARK CREEK METROPOLITAN DISTRICT

By: King H. Harris

Name: King H. Harris

Title: President

Date: 12-16-15

ARTIST:


Volkan Alkanoglu

EIN #: 46-0618519

Date: 12/7/15

EXHIBIT A
PROPOSAL LETTER

(attached)

WING PAVILION

The 'Wing Pavilion' will be situated within the Prairie Basin Park in Stapleton, CO. The structure will offer both shading to visitors and a colorful addition to the park. The main color selection of the pavilion is white while it introduces a gradient of blue shades from left to right and top to bottom. The skin forms a complex pattern of openings on the surface which will produce playful shadows on the ground. The Pavilion will be around 18 feet tall and around 29 feet in diameter.

We will keep the location of the existing seating drums which will complement the pavilion in its use and function. The orientation of the pavilion and its opening is designed to offer views onto the surrounding mountain scape and landscape.

The art piece will be digitally fabricated out of lightweight aluminum (skin) and stainless steel (structure) material giving the opportunity for every component to be custom and individual, yet being integrated into a larger assemblage. It represents the forward looking and dynamic community of the area. Our choice of vibrant colors and gradient motion is homage to the colorful wings of the many local butterflies, while providing an opportunity to celebrate multiplicity, diversity and integration. The project will be conceived as a precious formation in both its sweeping and curvilinear design.

The components will be envisioned with extreme control over dynamic form and spatiality. The foundation for the project will be concrete while all connection hardware is stainless steel. The connections of the substructure will be welded by certified welders. All hardware will be stainless steel. We will use a powder coat finish with a catalyzed urethane coating with a UV inhibiting clear top coating for durability and ease of repair/maintenance. All paint will be AAMA 2604 rated with a Sherwin Williams color supply. Due to high occurrence of chalking in high UV environments and this area, we will use high-quality acrylic coatings. In order to prevent areas of accelerated corrosion (i.e. coating neoprene washers etc.) we will maintain an isolating barrier between dissimilar metals.

This expression will provide an inspiring experience for all users and strong identity for the park and landscape at large.

The Public Art Commission has allocated a maximum of \$175,000 to complete the overall project. Our design proposal is guaranteed to stay within the margin of this benchmark due to our innovative fabrication techniques, our collaborative nature, and our previous experience in construction, our project management record of similar projects and full understanding of project logistic.

EXHIBIT B
PRELIMINARY DESIGN PROPOSAL
(to be attached)

CONTRACT AMENDMENT

THIS AMENDMENT, made this 23rd day of March 2017, by and between the Board of The Park Creek Metropolitan District (hereinafter "the Client") and Volkan Alkanoglu (hereinafter "the Artist").

FACTUAL RECITALS

The parties entered into a contract dated December 16, 2015 for creation and installation of a sculpture entitled *Wing Pavilion* on the promontory in Prairie Basin Park located at the intersection of Trenton Street and Stoll Place at Stapleton. After completing the required design development review, the artist was given the notice to proceed on July 6, 2016.

The original deadline for the installation of this sculpture is no longer feasible because of unavoidable delays the Artist experienced in securing a building permit for this structure from the City and County of Denver. This approval was finally granted in January 2017. The Artist also requests additional time for developing and completing the computation and writing of algorithmic code definitions that take every single component of the skin, give each a dimension, name, number and locate the opening to place the fasteners to the component below. When this process is complete, then fabrication of the sculptures can proceed and lastly, installation. The final phase of this work was delayed until after receipt of the building permit.

A deadline acceptable to each party for installation of this sculpture, *Wing Pavilion*, and delivery of required documentation would be August 31, 2017.

NOW THEREFORE, it is hereby agreed that

1. ~~Consideration for this amendment to the original contract consists of the payments which will be made pursuant to this amendment and the promises and agreements herein set forth.~~
2. It is expressly agreed by the parties that this amendment is supplemental to the original Contract dated December 16, 2015 referred to as the "original contract," which is, by this reference, incorporated and made a part hereof, and all terms, conditions, and provisions thereof, unless specifically modified herein, are to apply to this amendment as though they were expressly rewritten, incorporated, and included herein.

3. It is agreed the original contract is and shall be modified, altered, and changed in the following respect only:
 - a. Article I. Scope of Services, 1.2e shall be changed to read: The artist shall complete the work and the installation thereof by August 31, 2017. Upon notification of completion of the Work by the Artist according to Section 1.3 (Delivery and Installation) below, the Client shall determine the actual date of installation.
4. The effective date of this amendment is March 23, 2017.
5. In the event of any conflict, inconsistency, variance, or contradiction between the provisions of this amendment and any of the provisions of the original contract, the provisions of this amendment shall in all respects supersede, govern and control.

IN WITNESS WHEREOF, the parties hereto have executed this amendment on the day first above written.

THE PARK CREEK METROPOLITAN DISTRICT

By: *King H. Harris*

Date: 3/23-17

ARTIST

Name: Volkan Alkanoglu DESIGN LLC

Social Security or FEIN Number: 46-0618519

Date: 3/20/2017

Alkanoglu

AMENDMENT TO CONTRACT FOR COMMISSION

THIS AMENDMENT TO CONTRACT FOR COMMISSION ("Amendment"), made this 27th day of July 2017, by and between the PARK CREEK METROPOLITAN DISTRICT (hereinafter "the Client") and VOLKAN ALKANOGLU DESIGN, LLC (hereinafter "the Artist").

RECITALS

WHEREAS, the parties entered into that Contract for Commission dated December 16, 2015 (the "Contract") for creation and installation of a sculpture entitled *Phantom Pavilion* (fka *Wing Pavilion*) (the "Work") on the promontory in Prairie Basin Park located at the intersection of Trenton Street and Stoll Place at Stapleton; and

WHEREAS, after completing the required design development review, the Artist was given the notice to proceed on July 6, 2016; and

WHEREAS, due to delays in securing the building permit for the Work from the City and County of Denver, in March 2017, Park Creek Metropolitan District authorized an extension of the completion date in the Contract until August 31, 2017 because of the complexity of the project and its fabrication; and

WHEREAS, the Artist has requested a second extension because a problem with CNC file nesting, cataloging the sheets and parts is taking much longer than expected, which has resulted in a delay of the paint application and curing for the high quantity of parts and five separate colors; and

WHEREAS, the Artist has proposed the following production schedule for the Work:

- July + August 2017:
Production of main structure (nearly 100% complete) + internal and external skins.
- September 2017:
Paint Application + Curing.
Minimum 4 weeks to complete all paint due to high quantity of parts and 5 separate colors.
- October 2017:
Production Contingency.
Installation
- ~~November 1st~~, 2017: completion of Work and installation.

December 31, 2017

by amendment

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WHEREAS, the new deadline of November 1, 2017 for installation of Work and delivery of required documentation is acceptable to the parties.

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

1. It is expressly agreed by the parties that this Amendment is supplemental to the Contract, which is, by this reference, incorporated and made a part hereof, and all terms, conditions, and provisions thereof, unless specifically modified herein, are to apply to this Amendment as though they were expressly rewritten, incorporated, and included herein.
2. It is agreed the Contract is and shall be modified, altered, and changed in the following respect only:
 - a. Article I. Scope of Services, Section 1.5.b. is deleted in its entirety and replaced with the following:

The Artist shall complete the Work and the installation thereof by November 1, 2017. Upon notification of completion of the Work by the Artist according to Section 1.6 (Delivery and Installation) below, PCMD shall determine the actual date for installation.

3. The effective date of this Amendment is July 27, 2017.
4. In the event of any conflict, inconsistency, variance, or contradiction between the provisions of this amendment and any of the provisions of the original contract, the provisions of this amendment shall in all respects supersede, govern and control.

IN WITNESS WHEREOF, the parties hereto have executed this amendment on the day first above written.

THE PARK CREEK METROPOLITAN DISTRICT

By: John E. Mays

Date: Board Member

ARTIST

Name: Volkan Alkanoglu

Social Security or FEIN Number: 116963115

Date: 7/22/2017

Alkanoglu



AMENDMENT TO CONTRACT FOR COMMISSION

THIS AMENDMENT TO CONTRACT FOR COMMISSION (“Amendment”), made this 22nd day of December 2017, by and between the PARK CREEK METROPOLITAN DISTRICT (hereinafter “the Client”) and VOLKAN ALKANOGLU DESIGN, LLC (hereinafter “the Artist”).

RECITALS

WHEREAS, the parties entered into that Contract for Commission dated December 16, 2015 (the “Contract”) for creation and installation of a sculpture entitled *Phantom Pavilion* (fka *Wing Pavilion*) (the “Work”) on the promontory in Prairie Basin Park located at the intersection of Trenton Street and Stoll Place at Stapleton; and

WHEREAS, after completing the required design development review, the Artist was given the notice to proceed on July 6, 2016; and

WHEREAS, due to delays in securing the building permit for the Work from the City and County of Denver, in March 2017, Park Creek Metropolitan District authorized an extension of the completion date in the Contract until August 31, 2017 because of the complexity of the project and its fabrication; and

WHEREAS, due to a problem with CNC file nesting, cataloging the sheets and parts is taking much longer than expected, which has resulted in a delay of the paint application and curing for the high quantity of parts and five separate colors, in July 2017, Park Creek Metropolitan District an extension of the completion date in the Contract until December 31, 2017; and

WHEREAS, the Artist has not been able to complete the installation of the Work because the painting contractor is unable to complete the paint application and curing for ~~the high quantity of parts and five separate colors until early February 2018.~~

The Artist has proposed the updated production schedule and installation for the Work:

- January 2018:
Paint Application + Curing.
Minimum 4 weeks to complete all paint due to high quantity of parts and 5 separate colors.
- February 2018:
Production Contingency.
Installation
- March 31st, 2018: completion of Work and installation

WHEREAS, the new deadline of March 31, 2018 for completion of the painting and installation of Work and delivery of required documentation is acceptable to the parties.

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

1. It is expressly agreed by the parties that this Amendment is supplemental to the Contract, which is, by this reference, incorporated and made a part hereof, and all terms, conditions, and provisions thereof, unless specifically modified herein, are to apply to this Amendment as though they were expressly rewritten, incorporated, and included herein.

2. It is agreed the Contract is and shall be modified, altered, and changed in the following respect only:

a. Article I. Scope of Services, Section 1.5.b. is deleted in its entirety and replaced with the following:

The Artist shall complete the Work and the installation thereof by March 31, 2018. Upon notification of completion of the Work by the Artist according to Section 1.6 (Delivery and Installation) below, PCMD shall determine the actual date for installation.

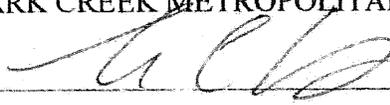
3. It is expressly agreed by the parties that no additional funds be requested or awarded to this project. Retainage in the amount of \$8,750.00 will not be released until all Work has been completed and satisfactorily installed and accepted by the Client."

4. The effective date of this Amendment is December 22, 2017.

5. In the event of any conflict, inconsistency, variance, or contradiction between the provisions of this amendment and any of the provisions of the original contract, the provisions of this amendment shall in all respects supersede, govern and control.

IN WITNESS WHEREOF, the parties hereto have executed this amendment on the day first above written.

THE PARK CREEK METROPOLITAN DISTRICT

By: 

Date: 12-27-17

ARTIST

Name: Volkan Alkanoglu

Alkanoglu

Social Security or FEIN Number: 46-0618519

Date: 12/24/2017





CITY AND COUNTY OF DENVER

<http://www.denvergov.org>



DENVER

THE MILE HIGH CITY

Zoning Permit

Parcel #: **0116500082000**

Permit #: **2016-ZONE-0006612**

Applicant / Property / Owner Information

Applicant Name: Volkan Alkanoglu
Owner Name: PARK CREEK METROPOLITAN DISTRICT
Tenant Name:
Project Address(es):

4952 TRENTON

Zone Lot Master Address

Address:

Zone Lot Master Accela Record #:

Property Zone District

OS-B

Applicable Zoning Code:

Denver Zoning Code

Zoning Permit Final Action:

Approved 11/10/2016
Approved By: Ken Brewer
USE AND PARKING

Prairie Basin Park-Park Creek Metropolitan District
Open Space, Recreation
Parking Required: 0
Parking Provided: 0

STRUCTURE

Wing Pavilion
Outdoor Art Pavilion
Open Structure
Lot Coverage: 150 sf
Height: 16' 4"

Reference to Approved Plans and Conditions:

Site Development Plan: No
SDP Record #:
SDP Project Name:
Zoning Approved Plan Set as Part of Permit: Yes
Zoning Approval Letter: No

Valuation: \$108,000.00

Type	Amount	Fund/Org/Rev#	Payment Date	Void	Trans #
ZONING PERMIT FEE	\$204.00	371100-01010-0142200-Z0000-Z0000	11/14/2016		2672856

PERMITTED SCOPE OF WORK

Permitted Use(s):

Use #	Type of Request	Legal Status of Use	Use Type	Permitted Use
1	New Use	Conforming	Primary	Open Space - Recreation

Permitted Structure(s):

Structure #	Type of Request	Type of Structure	Building Form	Admin. Adjustment	Variance

Permitted Accessory Fence/Wall/Retaining Wall Structure(s):

Type of Request: None
Remarks:

Permitted Sign(s):

Type of Request: None
Remarks:

Permitted General Site Improvement(s):

Type of Request: None
Remarks:

Standard Notes:

Disclaimers:

1. The construction and/or operation described herein shall be accomplished in strict compliance with this Zoning Permit, the zoning regulations of the City and County of Denver, and with all other applicable ordinances and regulations. Any change in construction and/or operations may require changes to the existing permit, or require issuance of new or additional permits. If inspection reveals work beyond or different from what was permitted and shown on the zoning-approved plan set, the City shall act to ensure all violations are corrected, including exercising its right to stop work through suspension or revocation of this zoning permit.
2. Zoning Permits issued in error by the City, or issued in reliance on a permittee's material misrepresentation of fact, will be subject to enforcement action, including but not limited to cease and desist orders, suspension, or revocation of the Zoning Permit.
3. This Zoning Permit is subject to expiration per the zoning regulations of the City and County of Denver. All final inspections shall be made on all final items of work before occupancy is permitted.
4. Appeal rights are set forth in the zoning regulations of the City and County of Denver.

Internal Use

Inspection Sign Off _____

Inspector _____ Date _____