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January 13, 2010

Subject: Request for Proposals  
RFP #NI09104  
Public Art for Millcreek Community Center

Dear Interested Consultant / Provider:

Letter of interest and qualifications are requested from artists both regional and national working in a variety of media who are interested in participating in an open competition for works of public art for the new Millcreek Community Center located in Salt Lake City, Utah. Up to \$130,000.00 has been designated for art obtained through this process. At a date to be determined, approximately five finalists will be asked to make individual presentations of their work and their approach to the Selection Committee. Travel and hotel will be reimbursed to the selected finalists. No specific proposals are being requested or considered at this point.

Two copies of your written material and one copy of your slides/digital images in a sealed envelope will be accepted until **1:00 PM on Friday, February 26, 2010** at the Office of Contracts & Procurement, 2001 South State Street, Room N4500, Salt Lake City, Utah 84190-3100. No responses will be accepted after that date and time.

The sealed transmittal is to have **"Millcreek Art"** clearly marked on the outside of the package. The proposal must include a cover letter indicating the firm's willingness to enter into an agreement with Salt Lake County.

For any questions regarding this "Request for Proposals", submit through [www.BidSync.com](http://www.BidSync.com).

Sincerely,

Sharon Pierce  
Consultant Manager

**REQUEST FOR PROPOSAL**  
Phase 1 – Qualifications  
Phase 2 – Project Development

**SALT LAKE COUNTY**

**Millcreek Community Center**  
**2266 Evergreen Avenue, Salt Lake City, Utah**



**# NI09104**



**Parks & Recreation**

**Aging Services**

**Library Services**

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# MILLCREEK COMMUNITY CENTER REQUEST FOR PROPOSAL

## I. INTRODUCTION

Letter of interest and qualifications are requested from artists both regional and national working in a variety of media who are interested in participating in an open competition for works of public art for the new Millcreek Community Center located in Salt Lake City, Utah. Up to \$130,000.00 has been designated for art obtained through this process. At a date to be determined, approximately five finalists will be asked to make individual presentations of their work and their approach to the Selection Committee. Travel and hotel will be reimbursed to the selected finalists. No specific proposals are being requested or considered at this point.

## II. PURPOSE

The County plans to contract with an artist or artist teams to create unique artworks that will be installed at the Millcreek Community Center. The project presents an opportunity for a diverse and exciting range of public artworks ranging from exterior treatments including pavers and interior wall and/or floor treatments and mobiles. The public art project site has been identified following meetings with the project architects, planners, the Salt Lake County Public Art Office, and representative from Salt Lake County.

## GOALS

The artwork selected for this project should address one or more of the following goals:

- To respond to the environment and history of the Millcreek neighborhood.
- To create a visual connection from Evergreen Park to Evergreen Avenue.
- To create an identity for the Millcreek Community Center and its functions as a community gathering place, library, senior center and recreational facility.
- Should reflect a sense of spirit, motivation, learning, family and fun.
- Should appeal to all people off all ages.
- To be aesthetically compatible with the building's architecture and the neighboring park.
- To be safe and deter climbing.
- To be a quality work of art.
- The work must be able to hold up and be easily maintained in a public setting.

It is the intent of the County to enter into a contract with an artist or artist team for this site to assure the project requirements are met, to assure the best value for the project, to assure the project budget is not exceeded, to expedite the project to completion and to encourage a unified approach by all members of the project team.

### III.BACKGROUND

The Millcreek area, located in the east central portion of the Salt Lake Valley, is a mostly residential community in flux. As the traditional population ages, a new generation of families are moving into this well established area.

Millcreek was one of the early settlements in Salt Lake Valley established in 1848 when the first flour mill in Utah was built along the banks of the Mill Creek. The mill played an invaluable role in helping the Mormon pioneers survive the early settlement years. The oldest pioneer homes were located around Evergreen Avenue, reportedly named for the wide variety of evergreen trees found in the area. Several large mansions were built in the neighborhood beginning in the 1890's through the 1910's. Through 1930 the population of the neighborhood grew steadily as the pioneer family homesteads were slowly divided. The Millcreek neighborhood continues to be an attractive neighborhood today, partly due to its large lots, greenery and proximity to the creek. Most of the older homes, of every size have been maintained over the years.

The Millcreek Community Center has many functions and houses a Recreation Center, Senior Center and Library, all accessible through the centers main lobby/atrium. The Recreation Center includes a gymnasium, fitness/weight room and a running track. The Senior Center has a lounge, a pool room, arts and crafts and general classrooms. The Library includes books for adults, children and teens; a public copy center, computer commons and conference/study rooms. In addition to the three Centers there is a common café and community meeting rooms.

The design concept for the Millcreek Community Center is two-fold. The first concept is centered on the idea of layering; education and learning takes place in stages, and that layer and boundaries exist, before each individual can progress to a new level. Architecturally this is seen in layers of surfaces, color, materials and texture. The second concept is the idea of youth, energy and vitality and is connected to recognition of "evergreen" park and evergreen trees. This is expressed in the warped surface that spans the breadth of the building facade and becomes an iconic statement to the park. We encourage the artist to understand the architectural metaphor and philosophy of the project and then of course, use his or her creative force in bringing an enlightened work of art to the project.

### IV.SCOPE OF WORK

One major public art site has been identified in and on the grounds of the Recreation center. **Exhibit B** of this document includes a detailed drawing of the site. The artist or artist team is free to choose the medium of his/her choice, addressing both the interior and exterior sites, with recognition of a desire to link the park through the atrium and to Evergreen Avenue.

### V.SELECTION PROCESS

The Selection Committee, comprised of community members, Division Managers from Salt Lake County Park & Recreation, Aging Services and Library Services;

architects and arts professionals will review all submissions and make the final recommendation to the Salt Lake County Mayor

The Selection Process is designed in two phases. For the first phase, artists are requested to submit a letter of interest including a brief written statement about how they would approach the project, up to 10 images of relevant work, and biographical information. (See Section IX for more detailed description of submissions materials.) Artists in a team should each prepare separate applications and submit them as a package. The Selection Committee will then review the materials and select approximately five finalists.

For the second phase finalists will be invited, with expense compensation, to travel to Salt Lake County to tour the site and meet with the Selection Committee. They will have an opportunity to ask more detailed questions of the Committee and will be asked their initial observations and response to the site. Finalists will have the opportunity to present additional materials such as slides or CD images that reinforce and illustrate their particular approach. Finalists are not expected to bring specific project plans at that time.

During the interview the Selection Committee will assess each artist on his or her ability and qualifications as illustrated in previous artworks of similar scale and scope; their written project statement about how they would approach the project and why they feel their work or approach is best suited for the site. The artists selected as finalists will be evaluated in part based on their flexibility and creativity in approaching different sites, their potential ability to work with the design team and their capacity to evolve a significant and well-integrated solution.

**Optional Phase:** Those artists being considered for commissions may be asked to prepare a detailed drawing and/or maquette to reflect their concept of art at the site. A stipend would be paid to each of those artists developing such a drawing or maquette. This design fee would be deducted from the total commission costs from the artists awarded a commission.

## **VI. TASKS TO BE COMPLETED**

Once awarded a contract for public art, the artist or team would be expected to interact with the design team and community members, and engage in a dialogue in which concepts can be presented in sketch form and can go through a normal and productive design-development cycle. It is expected that this approach will lead to public artwork far more integrated and sensitive to the site and the client as the process allows for exploration, invention, discovery, and a real interaction between artist and client.

1. Meet with the Design Team.
2. Prepare and submit detailed working drawings of the artwork and its site at the project.

3. Prepare and submit proposed time line for Artist's services, including fabrication, transportation, and installation of artwork.
4. Provide insurance requirements as listed in Attachment E - sample agreement.
5. Prepare artwork in accordance with approved design.
6. Document the fabrication and installation of the work.
7. Provide Engineering Reports as necessary for the artwork.
8. Transport artwork to site.
9. Install Artwork at site.
10. Provide maintenance instructions as necessary and information regarding the work and its creation.
11. Be available for opening or exhibition ceremonies or events.

## **VII.COSTS/FEES**

Approximately \$130,000 has been dedicated to the artists for public art commissioned projects. These funds are intended to cover all costs associated with the artists' participation on the team, the public art commissions, travel and all related expenses.

Upon selection of artist(s), a contract between the artist(s) and Salt Lake County will be required.

It should be noted that the artists' fees awarded for the selected projects will be allocated to cover all design fees, architectural and engineering design work, related insurance, equipment, fabrication, materials, transportation and installation of artwork(s).

Salt Lake County reserves the right to select none of the applications submitted.

## **VIII.SUBMISSION REQUIREMENTS**

### ***First Phase***

- **APPLICATION – Exhibit A**
- **TWO-PAGE LETTER OF INTEREST** -- that explains why the artist is interested in the project, how the artist's work is appropriate for the project, and relevant past experience. If submitting as a team, the letter should include a description of how the team works together and clearly explain any collaborative work experiences. Clearly indicate the site/s you are interested in and how you might approach the site.
- **TWO-PAGE ARTIST'S RESUME** -- for team applications please include resumes for all team members (again not to exceed 2 pages per resume).
- **UP TO TEN 35MM SLIDES OR DIGITAL IMAGES OF RELEVANT PAST WORK.**
  - Each slide must be labeled with the slide number referenced on application, artist's name, title, location (for public art), size of work, date, and front and top of slide. Slides must be submitted in a plastic slide sheet.

- Digital images must be submitted on a CD. Each image must be saved in JPEG format and cannot be larger than 1MB. Images must be listed on the CD with the slide number referenced on application.

Artists are encouraged to submit images of past work that best illustrates their qualifications for this opportunity. A slide identification sheet must accompany documentation or use the application form provided (see Exhibit A).

- **A SELF-ADDRESSED, STAMPED ENVELOPE IF APPLICABLE** – with sufficient postage for return of slides only. Salt Lake County will make every effort to protect submitted materials; however, Salt Lake County does not assume responsibility for damage or loss to any submitted material.

*Written application materials will be photocopied for the selection committee. Please do not staple or bind application materials. Please submit written materials on plain white 8 ½ x 11” paper.*

### **Second Phase**

- **INTERVIEW WITH THE PUBLIC ART SELECTION COMMITTEE**

Finalists will be compensated up to \$1,300 to assist with the costs associated with travel for an interview with the selection committee. Receipts will be required for travel expenses. Finalists will be asked to submit at least 3 references.

## **IX.SUBMISSION OF APPLICATIONS**

Two copies of your written material and one copy of your slides/digital images in a sealed envelop will be **accepted until 1:00 p.m. on Friday, February 26, 2010** at:

Division of Contracts and Procurement  
Salt Lake County  
2001 South State Street, N4500  
Salt Lake City, Utah 84190-3100

No responses will be accepted after that date and time. The sealed transmittal is to have “Millcreek Art” clearly marked on the outside of the package.

All costs associated with the preparation of the application, as well as any other related materials will be borne by the Artist. All applications become the property of Salt Lake County. Salt Lake County reserves the right to stop the selection process at any time if it is considered to be in the best interest of the County. Salt Lake County also reserves the right to reject any or all applications submitted. A binding agreement between the County and any Artist shall be dependent upon the negotiation, drafting, and execution of a formal contract.

## X.TENTATIVE SCHEDULE FOR THE RFP PROCESS

<u>Activity</u>	<u>Date</u>
Phase I - Qualifications Proposal Due	February 26
Committee Meeting to Review Qualifications	March 17
Notification of Preliminary Review Decisions	March 18
Finalists' Interview with Selection Committee:	April 5 <sup>th</sup> – 9th

Salt Lake County reserves the right to modify this schedule at its discretion.

## XI.REVIEW CRITERIA

Review criteria is considered around the following:

<b>%</b>	<b>CRITERIA</b>
35	<b>QUALITY:</b> Quality and strength of past work as demonstrated in the submitted application materials
25	<b>GOALS:</b> Ability to create artwork appropriate in concepts, materials form and scale for this convention center.
30	<b>EXPERIENCE:</b> Experience with projects of a comparable scope and budget
10	<b>TIME COMMITMENT:</b> Availability to start design work
100	TOTAL

## XII.WRITTEN AGREEMENT REQUIRED

The selected Artists must be willing to enter into a written agreement with Salt Lake County. A binding agreement between the County and any Artist will be dependent upon the negotiation, preparation, and execution of a formal contract.

## XIII.CONTRACT AND APPLICATION INFORMATION

Submitting a proposal acknowledges your firm has read, understands, and agrees to be bound and fulfill the requirements and terms and conditions of this solicitation.

- A. **Firm Pricing:** All prices, quotes, or proposals are to remain firm for 120 days after the closing date, unless a different period is stated in the County's RFP. Any proposal that does not offer to remain firm for the required period may be considered to be non-responsive.
- B. **Conflict of Interest:** Any officer, employee, agent, representative or member of the council, board, committee, or commission of the county must disclose any interest or conflict they have in their proposal as required by the Utah Public Officer's and Employee's Ethics Act, Utah Code Ann. 67-16-1, et seq., the County Officers and Employees Disclosure, Utah Code Ann. 17-16a-1, et seq.,

and Chapters 2.07 Salt Lake County Ethics Code 3.16.120, and 3.20.060, Salt Lake County Code of Ordinances, 2001. The disclosure document is found at [www.slco.org](http://www.slco.org) and must be included in your proposal.

- C. Licensing: All applicable federal, state, and local licenses must be acquired before the contract is entered into. Licenses must be maintained throughout the entire contract period.
- Persons doing business as an Individual, Association, Partnership, Corporation, or otherwise shall be registered with the Utah State Division of Corporations and Commercial Code. NOTE: Forms and information on registration may be obtained by calling (801) 530-4849 or toll free at 877-526-3994, or by accessing: [www.commerce.utah.gov](http://www.commerce.utah.gov).
- D. Public Domain: Offerors are advised that Utah law and County ordinances provide that, upon full execution of a contract subsequent to an RFP, the contents of the awarded proposal accepted by the County shall be subject to public disclosure and may become public records subject to examination by any interested parties in accordance to the Government Records Access Management Act (GRAMA), Utah Code Ann. 63G-2-101 et seq. and County ordinance. Trade secrets and proprietary information, recognized by the County as such, may be protected from public disclosure if the Offeror clearly identifies in writing any part of their proposals that they claim to be proprietary information, trade secrets or other commercial information, or non-individual financial information that may be protected under GRAMA. Proposals in total will not be considered proprietary. All materials submitted by an Offeror in response to the County's RFPs will become the property of the County upon delivery and will be managed in accordance with GRAMA.
- E. Inquiries: All inquiries relating to the specifications or proposal procedure should be submitted through [www.bidsync.com](http://www.bidsync.com). Bid Sync will then e-mail the answer to all firm that have expressed an interest in the RFP. **Do not contact the agency, division, department, or other County officers or employees.**
- F. Costs: All costs associated with the preparation of the proposal, as well as any other related materials and delivery will be borne by the Offeror. All proposals become the property of the Salt Lake County. The County will not be responsible for said costs in any event, including but not limited to, termination of the project in whole or in part, rejection of a proposal as non-responsive, or rejection of the Offeror as non-responsible.
- G. Changes or Modifications: Any changes or modification to the Request for Proposals will be accomplished in writing by addendum. Offerors submitting a proposal based on any information other than that contained in the County's RFP, or any addendum thereto, do so at their own risk.
- H. Receiving Proposals: The Division of Contracts and Procurement will administer receipt of all proposals and opening of the same. Proposals will be held,

unopened, by the Division of Contracts and Procurement in the same condition as received if delivered prior to the date and closing time designated in the RFP. After the closing time, only the identity of each Offeror will be made public. If only one proposal is received in response to the County's request, the Division of Contracts and Procurement, in coordination with the organization requesting the project may recommend an award of a contract to the single Offeror if the proposal is responsive. Alternatively, if time permits, the Division of Contracts and Procurement may re-solicit for the purpose of obtaining additional proposals. Offerors are advised that no contract will be formed with the County until a proposal is accepted by the proper signing authority and the contract is signed by all parties.

- I. Modifying or Withdrawing Proposals: Offerors may modify or withdraw their proposals at any time prior to the closing time. The County requests that any desire to retrieve a proposal for the purpose of withdrawing or to modify a proposal must be submitted in a written request to the Division of Contracts and Procurement. Offerors may withdraw their offer if the County and Offeror cannot agree on contract terms.
  
- J. Rejection of Proposals: The County reserves the right to reject any or all proposals and to accept any proposal, in total or in part, unless the Offeror clearly states in their proposal that acceptance must be on an "all or none" basis. County may waive any minor irregularity or technical error in the form of a proposal or in compliance with the instructions to Offerors. County may the selection process at any time it is considered to be in the best interests of the County. Any proposal containing significant deviations from the specifications of the RFP will be rejected as non-responsive. Offerors claiming minor irregularities or technical errors must assume the burden of identifying them and justifying them to the County in order for the proposal to receive consideration.
  
- K. Protests: Persons who are aggrieved by the written specifications or recommended award may protest to the Purchasing Agent. A protest in regard to the specifications shall be submitted in writing prior to the proposal closing date. All other protests shall be submitted in writing within 5 (five) working days after the aggrieved person knows, or should have known, of the recommended award.  
Protest letters should specifically and completely state the facts that constitute error in the RFP or the intent to award and the desired remedy. Further details are set forth in section 3.20.140, Salt Lake County Code of Ordinances.
  
- L. Free and Competitive Selection: Any Agreement or collusion among prospective Offerors to fix a price or limit competition shall render the proposal void, and such conduct shall be unlawful and subject to criminal sanction. Offerors certify that neither Offeror nor anyone in its firm or company has either directly or indirectly restrained free and competitive selection, participated in any collusion, or otherwise taken any action unauthorized by the Salt Lake County Purchasing Ordinances or applicable law.

- M. Insurance: If awarded the contract, Offerors will, at their sole cost and expense, secure and maintain during the term of the contract, including all renewal or additional terms, minimum insurance coverage as stated in the sample agreement (Attachment E)
- N. Reasonable Accommodations: Reasonable accommodations (including auxiliary communicative aids and services) for individuals with disabilities may be provided upon receipt of a request within 3 (three) working days notice. This document is available in alternate formats such as Braille, audio cassette, large print, etc. For assistance, please call 801-468-2556 or e-mail: spierce@slco.org.
- O. Political Campaign Contributions: Salt Lake County ordinances limit campaign contributions to county candidates by individuals or businesses contracting with Salt Lake County. In order to avoid criminal penalties, please check the County's website: [www.slco.org](http://www.slco.org) for details of the County's rules concerning political campaign contributions and contracting.
- P. Infringement: An Offeror shall not infringe on patents, copyrights, trademarks, or intellectual property rights. The consequences from violation, including costs of defending a claim and indemnification from an action of claim by a third party shall be borne by the Offeror.
- Q. Environmentally Responsible Procurement Practices: In compliance with Executive Order #2006-1, Salt Lake County has implemented environmentally responsible procurement practices. Please refer to Attachment C.
- R. Employee Status Verification System: The Proposer shall register and participate in the Status Verification System before entering into a contract with the County as required by Utah Code Section 63G-11-103(3). The Status Verification System is an electronic system operated by the federal government, through which an authorized official of a state agency or a political subdivision of the state may inquire by exercise of authority delegated pursuant to 8 U.S.C. § 1373 to verify the citizenship or immigration status of an individual within the jurisdiction of the agency or political subdivision. The Proposer is individually responsible for verifying the employment status of only new employees who work under the Proposer supervision or direction and not those who work for another contractor or subcontractor, except each contractor or subcontractor who works under or for another contractor shall certify to the main contractor by affidavit that the contractor or subcontractor has verified, through the Status Verification System, the employment status of each new employee of the respective contractor or subcontractor. The Proposer shall comply in all respects with the provisions of Utah Code Section 63G-11 – 103 (3). Proposer failure to so comply may result in the immediate termination of its contract with the County.

#### XIV.CHECK LIST

	Application Form – Exhibit A (two copies)
	Application Letter – 2 page maximum (two copies)
	Slides (correctly labeled) with identification sheet (or included on Application Form) (one set)
	Resume (2 pages maximum) per team member (two copies)
	Have you clearly identified the sites you are interested in?
	Self-addressed and stamped return envelope (to return slides)

## Exhibit A

### Requests For Applications/ Millcreek Community Center Public Art

Please complete this application form and attach to submission materials.

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Name (for collaborative projects, please fill out one form for each artist involved)

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Mailing Address

---

City

State

Zip Code

---

Daytime Phone

Evening Phone

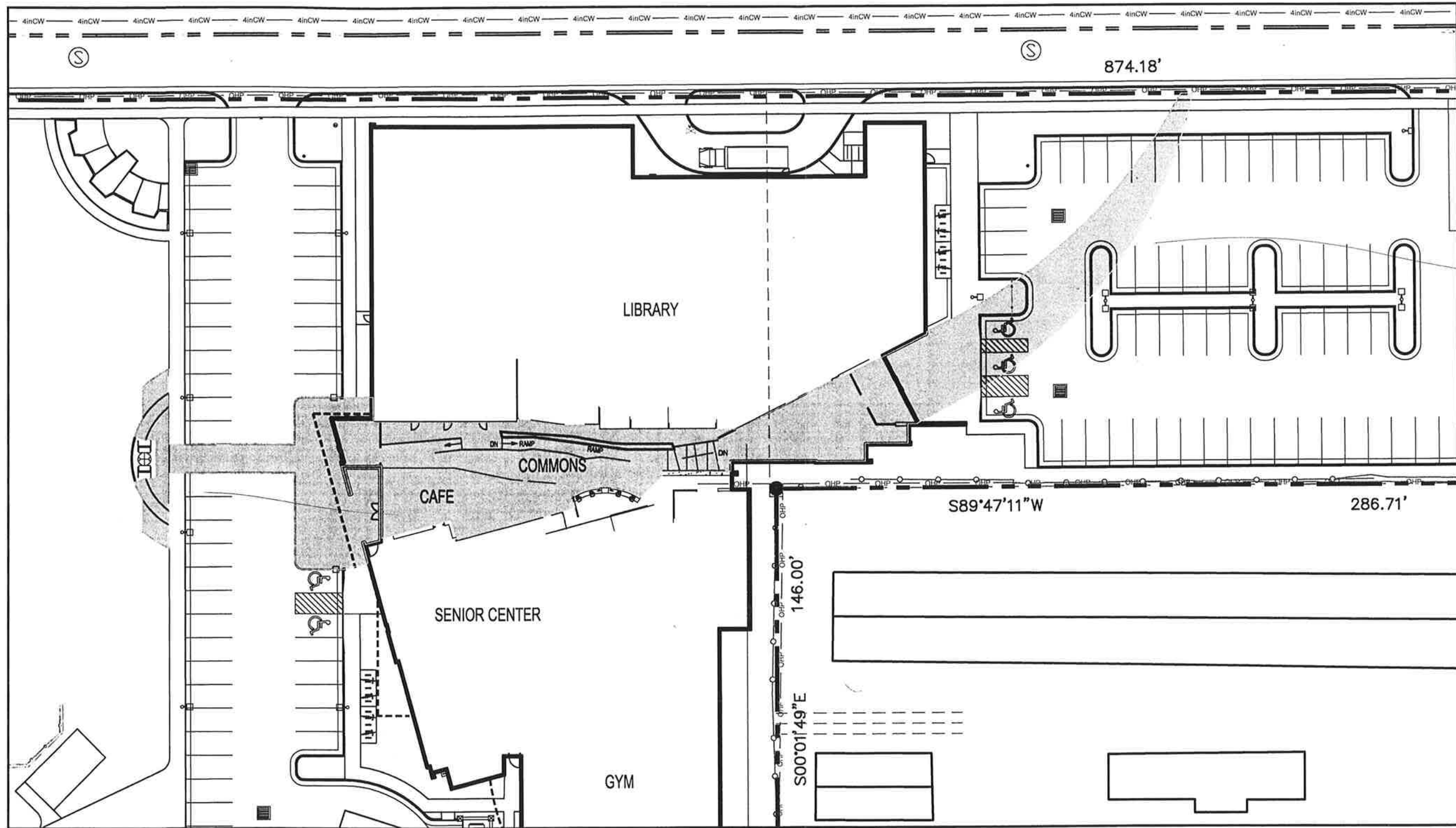
E-mail address

I am willing to enter into an agreement with Salt Lake County per the attached terms and conditions: \_\_\_\_\_

Signature

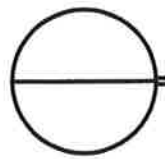
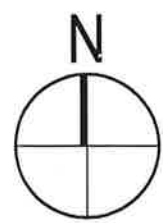
Please complete SLIDE LISTING below, corresponding to slides submitted:

No.#	TITLE	Date Completed	Dimensions	Medium	Current Location
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**MILLCREEK COMMUNITY CENTER**

2266 EAST EVERGREEN AVE.  
 SALT LAKE CITY, UT 84109



**ENHANCED PAVING AREA**

SCALE: 1" = 40'

NEXUS PROJECT #:	06230
CHECKED BY:	XXX
DRAWN BY:	XXX
CURRENT/BID DATE:	08/13/09

SHEET CONTENTS  
**ENHANCED PAVING  
 AREA CONCEPT**

## **Attachment A**

### **Preference Given for Local Business**

The County Council passed a policy that County purchases shall be awarded through a local preference system.

A local preference may accrue to a vendor who submits the low, responsive price for a goods and/or services contract if other factors are met. To be considered for a preference, offerors must agree to provide a complete and signed Local Certification Form, which includes a street address within the County that is not a post office box, a copy of a current business license issued by the County or any of the cities within the boundaries of the County and proof of registration with the State of Utah of an authorized agent to accept service of process. In addition, offeror must maintain local business status and current business license as required for the period of the contract. Completion of required information under the Alternative A portion of this document shall serve as compliance of submittal of a Local Certification Form.

For the preference to apply, the preferred offeror's price cannot be higher than 104% of the lowest offeror who does not claim a preference for award of this contract if the total amount of the contract is under \$250,000. If the amount of the contract is between \$250,001 and \$1,000,000 the offeror's price cannot be higher than 101% of the low offeror who does not claim a preference for this award of contract. For contracts of \$1,000,001 and greater, the preferred offeror's bid cannot be higher than \$50,000 of the low offeror who does not claim a preference for award of this contract.

- Alternative A** shall be to complete a signed Local Certification Form, which includes a street address within the County that is not a post office box, a copy of a current business license issued by the County or any of the cities within the boundaries of the County and proof of registration with the State of Utah of an authorized agent to accept service of process. If marking this box as requesting Alternative A, please complete the Local Certification Form on page 2 of this Attachment A and submit required documentation with bid response.
- Alternative B** Marking this box as Alternative B the vendor is choosing not to submit under a local preference.

If no Alternative A bids are submitted or the Alternative A bid does not fall within the limits shown above, the bid will be awarded to the lowest responsive responsible bidder without preference.

Vendors may qualify for either the health care preference or the local business preference, but not both.

If required documents are not submitted with the solicitation requesting Alternative A preference, documentation must be provided within (5) five days after being notified that their bid is under consideration for award based upon this preference. If the documentation is not received within the five-day limit, the County will disqualify the preference status.

The County will have the right to monitor the contractor's compliance with requirements for local preference status. Violation of this contract condition shall be the basis for immediate termination of the contract for default by the contractor.

# Local Preference Certification Form

*(Offeror to provide documentation qualifying them for local preference as stated)*

**Company Name:** \_\_\_\_\_

**Street Address:** \_\_\_\_\_

**Signature of Authorized Agent:** \_\_\_\_\_

**Proof of Registration with the State of Utah:** \_\_\_\_\_

**Copy of Business License within Salt Lake County Attached:**

Yes     No

**Business License Number:** \_\_\_\_\_

**Business License Issue Date:** \_\_\_\_\_

## **Attachment B**

### **Preference Given for Health Benefit to Employees**

The County Council passed a resolution that service contracts shall be awarded through a preference system. Service contracts may include services combined with goods.

A preference may accrue to a vendor who submits the lowest price to a solicitation for a service contract if other factors are met. To be considered for a preference, offerors must agree to provide at least catastrophic health benefits\* to their employees for the period of time covered under a contract awarded from this RFP. The contract period will include all option years and extension periods.

For the preference to apply, the preferred offeror's price cannot be higher than 104% of the lowest offeror who does not claim a preference for award of this contract if the total amount of the contract is under \$250,000. If the amount of the contract is between \$250,001 and \$1,000,000 the offeror's price cannot be higher than 101% of the low offeror who does not claim a preference for this award of contract. For contracts of \$1,000,001 and greater, the preferred offeror's bid cannot be higher than \$50,000 of the low offeror who does not claim a preference for award of this contract.

Please refer to the "Evaluation Criteria" section of the RFP for weighting of the proposed fee. An offer that falls within the preference guidelines will be given a higher rating on the proposed fee criteria.

Proposers may submit offers as described below. Proposers are not required to submit both alternates and may submit under either format. Proposers may also submit under both alternatives. The formats are:

Alternate A shall be the offer to provide services under a contract while providing their employees with at least catastrophic health care benefits as defined below.

Alternate B shall be the offer to provide services under the contract but not providing their employees with health benefits as defined below.

**Your proposal must state if you are requesting Alternate A preference.**

If there are no Alternate A offers submitted or the Alternate A offer does not fall within the limits shown above, the preference will not be part of the evaluation process.

A signed letter from the offeror's health insurance carrier or agent must accompany the Alternate A preference request. The letter from the carrier or agent must state the policy period or dates of coverage and that the policy provides health insurance coverage for all employees at least equivalent to Catastrophic Health Benefits as defined below.

Proposals should not contain any documents that provide personally identifying information (i.e. protected health information) including but not limited to the Social Security numbers of, or any private health information about the employees covered under the health insurance program.

If not submitted with the proposal requesting Alternate A preference, evidence of catastrophic health benefits must be provided within (5) five days after being notified that the Mayor has approved award of the contract to your firm. If the proof of this insurance coverage is not received within the five-day limit, the County will disqualify the preference status. The health benefit must be in effect prior to submission of the bid package.

The County will have the right to monitor the contractor's compliance when providing the health benefit. Violation of this contract condition shall be the basis for immediate termination of the contract for default by the contractor.

\* "Catastrophic Health Benefits" are defined in County policy as a policy of insurance for health care coverage of all medical-related expenses arising from catastrophic events, and which shall provide for coverage of affected employees and their families after payment by said employees of initial charges of \$3,000 for a single covered individual for medical costs arising out of any one catastrophic event, and initial charges of \$5,000 of two or more covered individuals for medical costs arising out of any one catastrophic event.

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### **Alternate A – Pricing Schedule**

*(Offeror to provide services while providing employees catastrophic health benefits)*

### **Alternate B – Pricing Schedule**

*(Offeror to provide services while NOT providing employee catastrophic health benefits)*

## **Attachment C**

### **Environmentally Responsible Procurement Practices**

1. In compliance with Executive Order #2006-1, Salt Lake County has implemented environmentally responsible procurement practices. The County requires all persons, businesses, corporations and other entities doing business or entering into a contract with the County to comply with all federal, state and local environmental laws, rules and regulations. Compliance with environmental laws, rules and regulations is a relevant factor in evaluating the integrity and responsibility of a business. The County, in its sole discretion, may not solicit proposals from, award contracts to, procure, or otherwise enter into business arrangements with any person, business, corporation or other organization that is non-compliant. If a bidder, vendor or contractor is: suspended, proposed for debarment, debarred, ineligible or excluded from contracting with another government entity due to environmental non-compliance, the County in its sole discretion, may deem the bidder, vendor or contractor non-responsible and decline to award a contract.

2. Based on the foregoing, the bidder/vendor/contractor certifies, to the best of its knowledge, that neither the bidder/vendor/contractor nor any owner, officer or agent of the bidder/vendor/contractor:

- 2.1 is presently debarred, suspended, proposed for debarment, declared ineligible, or excluded from the award of a contract or purchase by any federal, state or local agency based on a finding, determination, notice of violation or order of environmental non-compliance;
- 2.2 is presently indicted or charged by a government entity in a criminal, civil or administrative proceeding with the commission of any offense, violation, or failure to comply with any federal, state, or local environmental law, rule or regulation, indicating a lack of business integrity or business honesty affecting its responsibility as a county contractor;
- 2.3 has, within the last 3 (three) years, been convicted, or had a civil judgment or administrative order rendered against it for any offense or violation, including but not limited to environmental non-compliance, indicating a lack of business integrity or business honesty affecting its responsibility as a county contractor;
- 2.4 has, within the last 3 (three) years, had a contract/purchase terminated due to an act or omission, including but not limited to environmental non-compliance, demonstrating a lack of business integrity or business honesty affecting its responsibility as a county contractor.

3. Bidder/vendor/contractor shall require any subcontractor/supplier to disclose in writing, whether at the time of the award of the subcontract, the subcontractor complies with the certification requirements in subparagraphs 2.1, 2.2, 2.3 and 2.4 above.

4. Bidder/vendor/contractor shall immediately notify the county in writing if, at any time before the award, the bidder/vendor/contractor learns that its certification was erroneous when submitted or has since become erroneous because of changed circumstances.

5. If it is later determined that bidder/vendor/contractor knowingly rendered an erroneous certification under this provision, in addition to other available remedies, the county in its sole discretion, may terminate the contract/purchase for default.

# Public Art for Millcreek Community Center

Firm Name: \_\_\_\_\_

Proposal Evaluation Criteria	Weight	*Rating	Weighted Rating
<b>QUALITY:</b> Quality and strength of past work as demonstrated in the submitted application materials	3.5	X _____	= _____
<b>GOALS:</b> Ability to create artwork appropriate in concepts, materials form and scale for this convention center.	2.5	X _____	= _____
<b>EXPERIENCE:</b> Experience with projects of a comparable scope and budget	3	X _____	= _____
<b>TIME COMMITMENT:</b> Availability to start design work	1	X _____	= _____
TOTAL	10	GRAND TOTAL	_____

Maximum score possible is 50

<u>*Rating</u>	
5	Excellent
4	Good
3	Acceptable
1-2	Poor
0	Unacceptable

\_\_\_\_\_  
Committee Member Name Date

\_\_\_\_\_  
Signature

This Score Sheet corresponds with Section VI of the RFP "Proposal Submission Criteria". Please refer for complete description of the criteria.

**This score sheet is a confidential protected record.**

**AGREEMENT BETWEEN  
SALT LAKE COUNTY  
AND**

\_\_\_\_\_  
Artist's Commissioned Work to Include Design, Fabrication,  
Transportation and Installation of Work of Art

THIS AGREEMENT is made and executed this \_\_\_\_ day of \_\_\_\_\_, 2010,  
by and between SALT LAKE COUNTY "County", a body corporate and politic of the State of  
Utah and \_\_\_\_\_ "Artist", an individual, with the business address \_\_\_\_\_.

**R E C I T A L S:**

A. County determined to commission an artist to design a work of art ("Artwork"), in  
conjunction with the construction of the **Millcreek Community Center** ("Project"), and  
appointed and authorized the Committee to supervise and control the selection of art within the  
budget allocated for such art.

B. The Committee, through the County, solicited proposals from artists for the  
Artwork and several proposals were received. The County, through the Committee has  
determined that the Artist submitted the most favorable proposal for the Artwork for the Project  
and desires to contract with Artist for these services.

**AGREEMENT**

NOW, THEREFORE, in exchange for valuable consideration, including without  
limitation, the mutual covenants, agreements and representations contained in this Agreement, the  
receipt of which is acknowledged, County and Artist, with the intent to be legally bound,  
covenant and agree as follows:

1. SCOPE OF SERVICES.

A. General. County agrees to and commissions Artist to prepare the Artwork for the Project as specified in the Request for Proposals dated \_\_\_\_\_, which is attached as Exhibit 2 and as proposed by Artist in his Proposal dated \_\_\_\_\_, which proposal is attached as Exhibit 3 and incorporated into this Agreement as though fully set forth. Upon the execution of this Agreement, Artist will commence performance of his obligations under this Agreement, which performance will be subject to the terms and conditions of this Agreement.

B. Artist's Responsibilities.

(1) Artist agrees to provide and perform all work necessary to the completion and installation of the Artwork. Artist will be responsible for all costs and expenses incurred in the performance of his obligations under this Agreement, which costs and expenses may include the creation of the Artwork, transporting it to the site, installing the Artwork at the site, and any necessary travel by Artist or Artist's agents and employees necessary for the proper performance of this Agreement. All necessary fixtures and hardware for the installation of the Artwork shall be provided by the Artist. Site preparation shall be the responsibility of the County.

(2) Artist acknowledges and agrees that the final design of the Artwork will be presented to and approved by the Committee prior to actual fabrication and installation. Artist agrees that there shall be no significant departures from the approved Artwork, including but not limited to design, color, size, material, texture and other significant aspects of the Artwork without the prior written approval of the Committee.

(3) Within 60 days after execution of this agreement, Artist shall, after collaboration and consultation with the Project architects and engineers, prepare and submit to County detailed working drawings of the Artwork and its site at the Project, together with such other graphic materials as may be necessary to permit adequate structural design review and to certify compliance of the Artwork with applicable statutes, ordinances and building codes. The working drawings shall also include a proposed time line for the Artist's services, including fabrication, transportation and installation of the Artwork. County agrees to furnish all necessary information and materials as requested by Artist to prepare the working drawings and time line for fabrication and installation of the Artwork. Artist shall ensure that the Artwork design meets all necessary design characteristics regarding engineering such as footings, materials, fabrication methods, and windloads as well as site requirements to include site preparation, installation methods and timing. County may require Artist to make such revisions to the working drawings and time line as may be necessary for the work to comply with applicable law, site requirements and construction scheduling.

(4) Artist acknowledges that time is of the essence in the completion of this agreement and that the timing of transportation and installation of the Artwork must be carefully coordinated with the Project Manager, to be completed at the appropriate time during the Project. The parties agree to cooperate and coordinate with one another in order to assure the timely completion and installation of the Artwork.

(5) Artist agrees to provide to the County "in-process" photographs and other documentation relating to the fabrication, transportation and installation of the Artwork such as would be adequate to provide a visual record of the Artist's services under this agreement. Such photographs and other documentation shall become the property of the County, to be used primarily for archival purposes.

(6) The Artist agrees to be available for public appearances regarding the Artwork, including but not limited to an unveiling or presentation ceremony, as scheduled by the County.

C. County's Responsibilities.

(1) County agrees to promptly review and consider all working drawings and other initial plans of the Artist and to promptly respond with any necessary changes to or approval of the initial documents. County shall have the right to and agrees to promptly review the Artwork at reasonable times during the fabrication thereof. County agrees to coordinate and cooperate with the Artist and other Project contractors in developing a work and installation schedule for the Artwork.

(2) County agrees to provide prompt access by the Artist to plans, schedules, and other materials held by County regarding the Project and to coordinate and facilitate cooperation and communication between the Artist and contractors, architects, engineers, and other persons involved in the Project. County has named the Director of Facilities Management or her designee (current designee is Valerie Price) to serve as contract administrator for the completion of this agreement and to serve as a liaison between Artist and County personnel and contractors.

(3) County agrees to provide site access to Artist. Site preparation and utility hook-ups shall be provided by County. All other hardware, fixtures and materials necessary for installation of the Artwork shall be the responsibility of Artist.

2. CONSIDERATION.

A. County shall pay Artist a fixed fee of \$\_\_\_\_\_, which shall constitute full compensation for all services and materials to be performed and furnished by the Artist under this Agreement. The fee shall be paid in the following installments, expressed as percentages of the fixed fee: (1) 25% of the fixed fee shall be paid within 15 working days after the execution of this Agreement; (2) 25% of the fixed fee shall be paid upon Artist's submission and County's approval of the working drawings; (3) 25% of the fixed fee shall be paid upon the substantial completion of the Artwork, as determined by County; and (4) 25% of the fixed fee shall be paid upon final acceptance of the Artwork by County, following transportation and installation of the Artwork and final completion of Artist's services under this Agreement. Final acceptance by the COUNTY shall not be unreasonably withheld.

3. TERM.

A. The term of this Agreement shall commence on the day and date first above written and shall continue until completion of the Artwork by Artist, installation, and final acceptance by County. All time frames for services to be performed by Artist under this Agreement shall be governed by the Timeline Commission Schedule attached as Exhibit 1 and made part of this Agreement as though fully set forth.

B. In the event that the permanent location is not sufficiently prepared to permit installation, an extension of the installation date for the Artwork will be negotiated by County and Artist.

4. WARRANTIES.

A. Artist represents and warrants that the execution and fabrication of the Artwork shall be performed in a workmanlike manner, that the Artwork as fabricated and installed will be free of defects in material and workmanship, including qualities which cause or accelerate deterioration of the work, except for any natural processes inherent in the materials used for the Artwork which are specifically identified in Exhibit 3, Artist's proposal. Artist warrants that 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 County under this Agreement. The workmanship warranty shall survive for a period of one year after final acceptance of the Artwork. County shall give notice to Artist of any observed breach with reasonable promptness. Artist shall come at the request of County and, at no cost to County, promptly cure the breach of such warranty which is curable by Artist and which cure is consistent with professional conservation standards.

B. Artist represents and warrants that title to the Artwork shall pass to County upon final acceptance of the installation of the Artwork by Artist free and clear of any liens from any source whatsoever.

C. Artist represents and warrants that the proposal, is solely the result of the artistic effort of Artist, is unique and original and does not infringe upon any copyright or other intellectual property right. Artist further represents and warrants that the Artwork or its duplicate has not been accepted for sale elsewhere. In the event of any claim by any third party against County based upon any violation of a copyright or other proprietary right of a third party as to the Artwork, County shall promptly notify Artist. Artist shall indemnify, defend and hold harmless County against any loss, cost, expense or liability arising out of or resulting from such claim, whether or not such claim is successful. In the event that Artist fails to defend any such claims, legal actions or proceedings brought against the County, County may, in addition to any other legal remedies County might have, defend such claim or action. Artist shall be liable for any and all judgments, damages and costs awarded against County because of any such claim or action. Artist shall also pay all reasonable expenses, including attorney's fees, incurred by County in defending such claim or action.

5. TITLE AND RISK OF LOSS.

Title to and risk of loss to the Artwork shall remain with Artist until the Artwork is permanently installed and final acceptance by County. Upon final acceptance by County, title to the Artwork shall vest in County. Upon final acceptance, all studies, drawings, models and similar materials prepared and submitted by Artist under this Agreement shall be returned to Artist and shall belong to Artist. County may select and Artist shall convey to County, at no cost, one of the original drawings submitted by Artist for non-commercial archive or exhibition use by County. Artist shall also convey to County such in-process materials provided by Artist pursuant to paragraph 1(B)(5) above.

6. COPYRIGHT.

Artist will retain all rights to the Artwork pursuant to copyright laws of the United States and all other rights in and to the Artwork and planning materials except rights of ownership of reproductions and possession of the Artwork as provided in this Agreement. Artist agrees not to make any additional reproductions of the Artwork for sale or submission to other persons or entities. Artist and County may create reproductions of the Artwork, including photographs, for non-commercial and portfolio purposes (including publicity, brochures, catalogs, web site, educational materials, and other similar purposes). Written permission from the other party is required to make reproductions for commercial purposes. Artist may, at his or her sole expense cause to be registered, with the United States Register of Copyrights, a copyright regarding the Artwork in Artist's name. Artist shall use his or her best efforts to give a credit reading in any public showing or reproductions of the Artwork with substantially the following language: "an original work owned and commissioned by Salt Lake County." County agrees to use its best efforts to acknowledge Artist by name in any formal presentation materials which depict the Artwork.

7. MAINTENANCE, RENOVATION AND RELOCATION.

A. County agrees to take reasonable care to ensure that the Artwork is properly maintained and protected in accordance with instructions provided by Artist. Artist agrees to provide to County written instructions regarding appropriate maintenance and preservation of the Artwork. County shall have the right to determine, after consultation with a professional conservator, when and if repairs and restorations to the work will be made. During Artist's lifetime, Artist shall have the right to approve all repairs and restorations, provided however, that Artist shall not unreasonably withhold approval for any repair or restoration of the work. To the extent practical, Artist shall be given the opportunity to make or personally supervise significant repairs and restorations and shall be paid a reasonable fee for such services, pursuant to an agreement between County and Artist to be entered into at that time.

B. County reserves the right to relocate the Artwork, as determined in its sole discretion, as may be necessary from time to time. County agrees that it will first attempt to obtain the recommendations of Artist concerning any such relocation; however, County will not be bound by such recommendations.

C. If County wishes to sell the Artwork, Artist shall, if reasonably practicable, be given the rights of first refusal to purchase the work from County at its then value as determined by the average of at least two qualified appraisers who are approved by County. In the event Artist determines not to exercise the right of first refusal under this paragraph, he or she shall be entitled to receive fifteen percent (15%) of the proceeds of any sale of the Artwork by County to any person or entity other than to Artist. The rights of Artist under this subparagraph shall expire after fifteen (15) years from the date this Agreement is fully executed, and such rights shall not be transferable to any other person by inheritance, contract, or otherwise.

D. Artist agrees to keep County notified in writing of any address change and failure to do so shall be deemed a waiver by Artist of his or her rights set out in this section.

8. INDEPENDENT CONTRACTOR AND TAXES.

The relationship of County and Artist under this Agreement shall be that of an independent contractor status. Each party shall have the entire responsibility to discharge all of the obligations of an independent contractor under federal, state and local law, including but not limited to, those obligations relating to employee supervision, benefits and wages; taxes; unemployment compensation and insurance; social security; worker's compensation; disability pensions and tax withholdings, including the filing of all returns and reports and the payment of all taxes, assessments and contributions and other sums required of an independent contractor. Nothing contained in this Agreement shall be construed to create the relationship between County and Artist of employer and employee, partners or joint venturers.

The parties agree that Artist's obligations under this Agreement are solely to the County. This Agreement shall not confer any rights to third parties unless otherwise expressly provided for under this Agreement.

9. STANDARD OF PERFORMANCE/PROFESSIONALISM.

Artist acknowledges the standard of performance and professionalism required in the performance of its services under this Agreement. Artist agrees to perform the services under this Agreement with the level of professionalism expected in its industry/profession in the community. Further, Artist, while performing its obligations under this Agreement, will conduct itself in such a manner that will promote the best interests of the County. Artist further agrees that it will not accept any fee or financial remuneration from any entity or person other than Salt Lake County for its performance under this Agreement.

10. INDEMNIFICATION.

Artist agrees to indemnify, hold harmless and defend the County, its officers, agents and employees from and against any and all losses, damages, injuries, liabilities, and claims, including claims for personal injury, death, or damage to personal property or profits and liens of workmen and material men (suppliers), however allegedly caused, resulting directly or indirectly from, or arising out of, negligent acts or omissions by Artist, its agents, representatives, officers, employees or subcontractors in the performance of this Agreement.

11. GOVERNMENTAL IMMUNITY.

County is a body corporate and politic of the State of Utah, subject to the Utah Governmental Immunity Act (“Act”), Utah Code Ann. §§ 63-30d-101, et. seq. (1953, as amended). The Parties agree that County shall only be liable within the parameters of the Governmental Immunity Act. Nothing contained in this Agreement shall be construed in any way, to modify the limits of liability set forth in that Act or the basis for liability as established in the Act.

County represents that it is self-insured pursuant to the provisions of Section 63-30d-801 of the Utah Code.

12. NON-FUNDING CLAUSE.

County intends to request the appropriation of funds to be paid for the services provided by Artist under this Agreement. If funds are not available beyond December 31 of any effective fiscal year of this Agreement, the County’s obligation for performance of this Agreement beyond that date shall be null and void. This Agreement shall create no obligation on the County as to succeeding fiscal years and shall terminate and become null and void on the last day of the fiscal year for which funds were budgeted and appropriated, except as to those portions of payments agreed upon for which funds were appropriated and budgeted. Said termination shall not be construed as a breach of this Agreement or any event of default under this Agreement and said termination shall be without penalty, whatsoever, and no right of action for damages or other relief shall accrue to the benefit of Artist, its successors, or its assigns, as to this Agreement, or any portion thereof, which may terminate and become null and void.

If funds are not appropriated for a succeeding fiscal year to fund performance by County under this Agreement, County shall promptly notify Artist of said non-funding and the termination of this Agreement, and in no event, later than 30 days prior to the expiration of the fiscal year for which funds were appropriated.

13. INSURANCE.

13.1 Artist shall, at its sole cost and expense, secure and maintain during the term of this Agreement, including all renewal or additional terms, the following minimum insurance coverage:

13.1.1 GENERAL INSURANCE REQUIREMENTS FOR ALL POLICIES.

A. Any insurance coverage required herein that is written on a “claims made” form rather than on an “occurrence” form shall (i) provide full prior acts coverage or have a retroactive date effective before the date of this Agreement, and (ii) be maintained for a period of at least three (3) years following the end of the term of this Agreement or contain a comparable “extended discovery” clause. Evidence of current extended discovery coverage and the purchase options available upon policy termination shall be provided to the County.

B. All policies of insurance shall be issued by insurance companies licensed to do business in the State of Utah and either:

(1) Currently rated A- or better by A.M. Best Company;

—OR—

(2) Listed in the United States Treasury Department's current *Listing of Approved Sureties (Department Circular 570)*, as amended.

C. Artist shall furnish certificates of insurance, acceptable to the County, verifying the foregoing matters concurrent with the execution hereof and thereafter as required.

D. In the event any work is subcontracted, Artist shall require its subcontractor, at no cost to the County, to secure and maintain all minimum insurance coverages required of the Artist hereunder.

E. In the event that governmental immunity limits are subsequently altered by legislation or judicial opinion, Artist shall provide a new certificate of insurance within thirty (30) days after being notified thereof in writing by the County, certifying coverage in compliance with the modified limits or, if no new limits are specified, in an amount acceptable to the County.

F. All required certificates and policies shall provide that coverage thereunder shall not be canceled or modified without providing (30) days prior written notice to the County in a manner approved by the County District Attorney.

G. In the event Artist fails to maintain and keep in force any insurance policies as required herein, County shall have the right at its sole discretion to obtain such coverage and reduce payments to Artist for the costs of said insurance.

#### 13.1.2 REQUIRED INSURANCE POLICIES.

Artist agrees to secure and maintain the following required policies of insurance in accordance with the general insurance requirements set forth in the preceding subsection:

A. Workers' compensation and employer's liability insurance as required by the State of Utah unless a waiver of coverage is allowed and acquired pursuant to Utah law. This requirement includes contractors who are doing business as an individual and/or as a sole proprietor as well as corporations, limited liability companies, joint ventures and partnerships. In the event any work is subcontracted, Artist shall require its subcontractor(s) similarly to provide workers' compensation insurance for all of the latter's employees, unless a waiver of coverage is allowed and acquired pursuant to Utah law.

B. Commercial general liability insurance on an occurrence form with the County as an additional insured, in the minimum amount of \$1,000,000 per occurrence with a \$2,000,000 general policy aggregate and \$2,000,000 products completed operations policy aggregate. The policy shall protect the County, Artist, and any subcontractor from claims for damages for personal injury, including accidental death, and from claims for property damage that may arise from Artist's operations under this Agreement, whether performed by Artist itself, any

subcontractor, or anyone directly or indirectly employed by either of them. Such insurance shall provide coverage for premises operations, acts of independent contractors, and completed operations.

C. Commercial automobile liability insurance that provides coverage for owned, hired, and non-owned automobiles, with the County as an additional insured, in the minimum amount of \$1,000,000 per occurrence.

14. AGENCY.

No agent, employee or servant of Artist or County is or shall be deemed to be an employee, agent or servant of the other party. None of the benefits provided by each party to its employees, including but not limited to worker's compensation insurance, health insurance and unemployment insurance, are available to the employees, agents, or servants of the other party. Artist and County shall each be solely and entirely responsible for its acts and for the acts of its agents, employees, and servants during the performance of this Agreement. Artist and County shall each make all commercially reasonable efforts to inform all persons with whom they are involved in connection with this Agreement to be aware that Artist is an independent contractor.

15. NO OFFICER OR EMPLOYEE INTEREST.

It is understood and agreed that no officer or employee of the County has or shall have any pecuniary interest, direct or indirect, in this Agreement or the proceeds resulting from the performance of this Agreement. No officer or employee of Artist or any member of their families shall serve on any County board or committee or hold any such position which either by rule, practice, or action nominates, recommends, or supervises Artist's operations, or authorizes funding or payments to Artist.

16. ETHICAL STANDARDS.

Artist represents that it has not: (a) provided an illegal gift or payoff to any County officer or employee, or former County officer or employee, or to any relative or business entity of a County officer or employee, or relative or business entity of a former County officer or employee; (b) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees of bona fide commercial agencies established for the purpose of securing business; (c) breached any of the ethical standards set forth in State statute or Salt Lake County's Ethics Code, Chapter 2.07, Salt Lake County Code of Ordinances, 2001; or (d) knowingly influenced, and hereby promises that it will not knowingly influence, any County officer or employee or former County officer or employee to breach any of the ethical standards set forth in State statute or Salt Lake County ordinances.

17. CAMPAIGN CONTRIBUTIONS.

The Salt Lake County campaign finance disclosure ordinance limits campaign contributions by contractors to County candidates. Chapter 2.72A, Salt Lake County Code of Ordinances, 2001. Artist acknowledges and understands those limitations on campaign

contributions mean that any person, business, corporation or other entity that enters into a contract or is engaged in a contract with the County is prohibited from making campaign contributions in excess of \$100 to County candidates during the term of the contract and during a single election cycle as defined in the ordinance. Artist further acknowledges that violation of those provisions governing campaign contributions may result in criminal sanctions as well as termination of this Agreement.

17. PUBLIC FUNDS AND PUBLIC MONIES.

A. Definitions: “Public funds” and “public monies” mean monies, funds, and accounts, regardless of the source from which they are derived, that are owned, held, or administered by the state or any of its boards, commissions, institutions, departments, divisions, agencies, bureaus, laboratories, or other similar instrumentalities, or any county, city, school district, political subdivision, or other public body. The terms also include monies, funds or accounts that have been transferred by any of the aforementioned public entities to a private contract provider for public programs or services. Said funds shall maintain the nature of “public funds” while in Artist’s possession.

B. Artist’s Obligation: Artist, as recipient of “public funds” and “public monies” pursuant to this and other contracts related hereto, expressly understands that it, its officers, and employees are obligated to receive, keep safe, transfer, disburse and use these “public funds” and “public monies” as authorized by law and this Agreement for the provision of services to Salt Lake County. Artist understands that it, its officers, and employees may be criminally liable under Utah Code Ann. ' 76-8-402, for misuse of public funds or monies. Artist expressly understands that County may monitor the expenditure of public funds by Artist. Artist expressly understands that County may withhold funds or require repayment of funds from Artist for contract noncompliance, failure to comply with directives regarding the use of public funds, or for misuse of public funds or monies.

18. TERMINATION.

18.1 Termination for Default. County may terminate this Agreement for an “Event of Default” as defined, upon written notice from County to Artist.

18.2 Termination by Artist for Default. Artist may terminate this Agreement for an Event of Default upon written notice from Artist to County.

18.3 Event of Default. As used in this Agreement, the term “Event of Default” means (a) a party fails to make any payment hereunder when the same becomes due and such failure continues for a period of thirty (30) days after written notice to the party failing to make such payment; (b) a party hereto fails to perform any of its material obligations and such failure continues for a period of thirty (30) days after written notice to such defaulting party; or (c) any material representation or warranty of a party contained in this Agreement proves to be untrue or incorrect in any material respect when made.

18.4 Force Majeure. Neither party shall be liable for any excess costs if the failure to perform arises from causes beyond the control and without the fault or negligence of that party, e.g., acts of God, fires, floods, strikes, or unusually severe weather. If such condition continues

for a period in excess of 60 days, Artist or County shall have the right to terminate this Agreement without liability or penalty effective upon written notice to the other party.

18.5 No Limitation of Rights. The rights and remedies of the parties hereto are in addition to any other rights and remedies provided by law or under this Agreement. The parties agree that the waiver of any breach of this Agreement by either party shall in no event constitute a waiver as to any future breach.

18.6 Termination for Convenience. County reserves the right to terminate this Agreement, in whole or in part, at any time during the Term or any Additional Terms whenever County determines, in its sole discretion that it is in the County's interest to do so. If County elects to exercise this right, County shall provide written notice to Artist at least thirty (30) days prior to the date of termination for convenience. Upon such termination, Artist shall be paid for all services up to the date of termination. Artist agrees that the County's termination for convenience will not be deemed a termination for default nor will it entitle Artist to any rights or remedies provided by law or this Agreement for breach of contract by the County or any other claim or cause of action.

19. DEFAULT.

If either party defaults in the performance of its obligations under this Agreement resulting in an event of default defined in paragraph 18.3 above, the defaulting party shall pay all costs and expenses including reasonable attorneys' fees, which may arise or accrue from enforcing this Agreement or from pursuing any remedy available.

The parties agree that the waiver of any breach of this Agreement by either party shall in no event constitute a waiver as to any future breach.

20. COMPLIANCE WITH LAWS.

Each party agrees to comply with all federal, state and local laws, rules and regulations in the performance of its duties and obligations under this Agreement. Any violation by Artist of applicable law shall constitute an event of default under this Agreement and Artist shall be liable for and hold the County harmless and defend the County from and against any and all liability arising out of or connected with the violation, to include all attorney fees and costs incurred by the County as a result of the violation.

Artist is responsible, at its expense, to acquire, maintain and renew during the term of this Agreement, all necessary permits and licenses required for its lawful performance of its duties and obligations under this Agreement.

21. NON-DISCRIMINATION.

Artist, and all persons acting on its behalf, agree that they shall comply with all federal, state and County laws, rules and regulations governing discrimination and they shall not discriminate in the engagement or employment of any professional person or any other person qualified to perform the services required under this Agreement.

22. LABOR REGULATIONS AND REQUIREMENTS.

Artist agrees to comply with all applicable provisions of Title 34 of the Utah Code, and with all applicable federal, state and local labor laws. Artist shall indemnify and hold County harmless from and against any and all claims for liability arising out of any violation of this paragraph or the laws referenced by Artist, its agents or employees.

23. CONFIDENTIALITY.

Artist shall hold all information provided to it by County for the purposes of its performance of this Agreement, whether provided in written or other form, in strict confidence, shall make no use thereof other than for the performance of the Agreement, and shall not release any of said information to any third party, any member of Artist's firm who is not involved in the performance of services under the Agreement, or to any representative of the news media without prior written consent of County. Materials, information, data, reports, plans, analyses, budgets and similar documentation provided to or prepared by Artist in performance of this Agreement shall also be held confidential by Artist. County shall have the sole obligation or privilege of releasing such information as required by law.

24. GOVERNMENT RECORDS ACCESS MANAGEMENT ACT.

Artist acknowledges that County is a governmental entity subject to the Utah Government Records Access Management Act ("GRAMA"), Utah Code Ann. §§ 63-2-101, et seq. As a result, County is required to disclose certain information and materials to the public, upon request. Artist agrees to timely refer all requests for documents, materials and data in its possession relating to this Agreement and its performance to the County Representative for response by the County.

25. INTERPRETATION.

The Agreement documents are complementary and what is called for by any one of them shall be as binding as if called for by all. In the event of any inconsistency between any of the provisions of the Agreement documents, the inconsistency shall be resolved by giving precedence in the following order:

- A. This Agreement;
- B. Timeline Commission Schedule as Exhibit 1
- C. Request for Proposals incorporated as Exhibit 2
- D. Artist's Proposal incorporated as Exhibit 3

County and Artist agree that where possible, each provision of this Agreement shall be interpreted in such a manner as to be consistent and valid under applicable law; but if any provision of this Agreement shall be invalid, prohibited or unenforceable under applicable law, such provision shall be ineffective to the extent of such invalidity or prohibition, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

26. ASSIGNMENT.

Artist shall not assign or transfer its duties of performance nor its rights to compensation under this Agreement, without the prior written approval of County. County reserves the right to

assert any claim or defense it may have against Artist and against any assignee or successor-in-interest of Artist.

27. SUBCONTRACTING.

Artist agrees that it shall not subcontract to provide any of the services under this agreement or execute performance of its obligations under this agreement without prior express and written consent of Salt Lake County.

28. NOTICES.

All notices to be given under this Agreement shall be made in writing and shall be deemed given upon personal delivery, upon the next business day immediately following the day sent if sent by overnight express carrier, or upon the third business day following the day sent if sent postage prepaid by certified or registered mail, return receipt requested, to the parties at the following addresses (or to such other address or addresses as shall be specified in any notice given):

COUNTY: Valerie Price  
Salt Lake County  
Public Art Collection  
2001 South State, #N4100  
Salt Lake City, Utah 84190-3300

ARTIST: Name  
Address

29. TIME.

The Parties stipulate that time is of the essence in the performance of this Agreement. The time set forth for performance in this Agreement shall be strictly followed and any default in performance according to the times required shall be a default of this Agreement and shall be just cause for immediate termination by County of this Agreement and pursuit of any remedy allowed by this Agreement and by law.

30. ENTIRE AGREEMENT.

County and Artist acknowledge and agree that this Agreement constitutes the entire integrated understanding between County and Artist, and that there are no other terms, conditions, representations or understanding, whether written or oral, concerning the rights and obligations of the parties to this Agreement except as set forth in this Agreement. This Agreement may not be enlarged, modified or altered, except in writing, signed by the parties.

31. GOVERNING LAW.

It is understood and agreed by the parties hereto that this Agreement shall be governed by the laws of the State of Utah and the Ordinances of Salt Lake County, both as to interpretation and performance.

All actions, including but not limited to court proceedings, administrative proceedings,



ARTIST:  
\_\_\_\_\_

By \_\_\_\_\_  
\_\_\_\_\_

STATE OF UTAH            )  
                                  : ss.  
COUNTY OF SALT LAKE )

On this \_\_\_ day of \_\_\_\_\_, 2010, personally appeared before me \_\_\_\_\_, signer(s) of the foregoing instrument, who duly acknowledged to me that (s)he executed the same.

[SEAL]

\_\_\_\_\_  
NOTARY PUBLIC  
Residing in \_\_\_\_\_ County, Utah

Exhibit 1

**TIMELINE COMMISSION SCHEDULE**

ARTIST:

PROJECT:

DUE DATES:

Beginning (Execution of the Agreement)

\_\_\_\_\_

Mid-point (Submission of and County Approval  
Of Working Drawings)

\_\_\_\_\_

Completion (Substantial Completion of Artwork)

\_\_\_\_\_

Transportation of Artwork to Project

\_\_\_\_\_

Installation of Artwork at Project

\_\_\_\_\_

\_\_\_\_\_

Artist

Date