



Budget Amendment Form

Department Capital Projects	Date 12/12/2023
---------------------------------------	---------------------------

Fund(s) to be changed: Capital Projects Fund

GL Account	GL Line Item	Transfer to:	Transfer from:
320.61.630.6201	Park Improvements	\$ 15,000.00	
320.00.389.3890	Appropriation of Fund Balance		\$ 15,000.00
TOTAL (Columns must be equal)		\$ 15,000.00	\$ 15,000.00

Description:

Appropriation of Capital Projects Fund Balance for Capital Project CP24-09 Vogel Park Sculpture Frame Project

RESOLUTION NO. 2023-154

A RESOLUTION OF THE MAYOR AND COMMISSION OF NORTH BAY VILLAGE, FLORIDA, SELECTING JEFF WHIPPLE FOR THE VOGEL PARK SCULPTURE FRAME PROJECT IN AN AMOUNT NOT TO EXCEED \$15,000; AMENDING THE BUDGET FOR FISCAL YEAR 2023-2024; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on or about July 28, 2023, North Bay Village (the "Village") issued a Call to Artists (the "Solicitation") for the design and installation of a sculpture frame (the "Services") to be located near the southwest corner of Vogel Park (the "Property"); and

WHEREAS, 12 sealed bids were received by the Solicitation deadline; and

WHEREAS, on November 8, 2023, an Evaluation Committee appointed by the Village Manager shortlisted the responding artists and ranked the artists in the following order: 1. Jeff Whipple; and 2. John Shircliffe; and

WHEREAS, the Village Commission desires to select Jeff Whipple (the "Artist") as the most responsive, responsible, and qualified artist for the Services; and

WHEREAS, the Village Commission desires to authorize the Village Manager to negotiate and execute an agreement with the Artist in an amount not to exceed \$15,000; and

WHEREAS, on September 28, 2023, the Village Commission adopted Resolution No. 2023-109 approving the budget for fiscal year 2023-2024 (the "Budget"); and

WHEREAS, pursuant to Section 166.241, Florida Statutes, the Village Commission may amend a budget at any time within a fiscal year; and

WHEREAS, pursuant to Section 35.21 of the Village Code of Ordinances and Florida Law, the Village Commission desires to amend the Budget consistent with the staff memorandum accompanying this resolution by authorizing the line item transfers as further provided in Exhibit "B" attached hereto and incorporated herein; and

WHEREAS, the Village Commission finds that this Resolution is in the best interest and welfare of the residents of the Village.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COMMISSION OF NORTH BAY VILLAGE, FLORIDA, AS FOLLOWS:

Section 1. Recitals. That each of the above-stated recitals are hereby adopted, confirmed, and incorporated herein.

Section 2. Selection. That the Village Commission hereby selects the Artist for the Services.

Section 3. Authorization. That the Village Commission hereby authorizes the Village Manager to negotiate and execute an agreement with the Artist, in substantially the form attached hereto as Exhibit “A,” in an amount not to exceed budgeted funds, subject to the final approval of the Village Attorney as to form, content, and legal sufficiency. In the event the Village Manager is unable to negotiate a satisfactory agreement with the top-ranked artist, then the Village Manager is authorized to negotiate an agreement with the next highest ranked artist in order of ranking until a mutually acceptable agreement is reached.

Section 4. Amending Budget. That the Village Commission hereby approves an amendment to the budget by authorizing the line item transfers as further provided in Exhibit “B” attached hereto and incorporated herein.

Section 5. Effective Date. That this Resolution shall be effective immediately upon adoption.

The foregoing Resolution was offered by Vice Mayor Chervony who moved its adoption. The motion was seconded by Commissioner Streitfeld and upon being put to a vote, the vote was as follows:

Mayor Brent Latham	<u>Yes</u>
Vice Mayor Richard Chervony	<u>Yes</u>
Commissioner Goran Cuk	<u>Yes</u>
Commissioner Andy Rotondaro	<u>Yes</u>
Commissioner Rachel Streitfeld	<u>Yes</u>

PASSED AND ADOPTED on this 12th day of December, 2023.

Brent Latham

Brent Latham, Mayor

ATTEST:

Alba L. Chang

Alba L. Chang, CMC
Village Clerk



APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Haydee Serota

Weiss Serota Helfman Cole & Bierman, PL
Village Attorney

EXHIBIT "A"

**ARTIST AGREEMENT
BETWEEN
NORTH BAY VILLAGE
AND
JEFF WHIPPLE**

THIS ARTIST AGREEMENT (“Agreement”) is made on December 29, 2023 (“Effective Date”) by and between **NORTH BAY VILLAGE**, a Florida municipal corporation, (“Village”), and **JEFF WHIPPLE**, an individual (“Artist”). The Village and Artist are hereinafter collectively referred to as the “Parties.”

RECITALS

On July 28, 2023, the Village issued a Call to Artists (the “Solicitation”). A copy of the Solicitation is attached hereto and incorporated herein as **Exhibit A**.

The Solicitation calls for the design, creation, and installation of a sculpture frame near the SW corner of Vogel Park (the “Site”). The Site is further described and depicted in **Exhibit B** attached hereto and incorporated herein.

In response to the Solicitation, Jeff Whipple submitted an artist statement, resume, and work samples (the “Response”) to perform the services contemplated by the Solicitation in the Village area (the “Artwork”). A copy of the Response is attached hereto and incorporated herein as **Exhibit C**.

On December 12, 2023, the Village Commission adopted Resolution No. 2023-___ selecting the Artist to design, create, and install the Artwork and perform the Services, as defined in this Agreement and **Exhibit D**, and authorized the Village Manager to negotiate and execute an agreement with the Artist.

The Village and the Artist, through mutual negotiation, have agreed upon a fee for the Artist to paint the Artwork and provide the Services.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Parties agree as follows:

1. Scope of Services.

- 1.1.** The Artist shall perform the Services set forth in the Scope of Services attached hereto as **Exhibit “D”** (the “Services”). The Artwork shall be installed at the Site consistent with the provisions of Exhibit D attached hereto.
- 1.2.** The Services shall be produced to the Village’s satisfaction. The quality of the complete Artwork shall meet all applicable industry standards. The Village shall have the right to approve or reject the Artwork or any portion thereof. The display and location of the Artwork shall be determined in the sole discretion of the Village.

2. Term.

- 2.1. The Artist shall complete the Services by no later than February 13, 2024 (the “Completion Date”).
- 2.2. The term of this Agreement shall be from the Effective Date through the Completion Date, unless terminated or extended as specified herein.
- 2.3. Artist agrees that time is of the essence and Artist shall complete the Services within the term of this Agreement, unless extended by the Village Manager.

3. Compensation and Payment.

- 3.1. The Village shall pay the Artist a total fee in the amount of \$15,000.00 (the “Fee”) for the creation of the Artwork and delivery of the Services. The Fee shall be paid to the Artist as follows:
 - 3.1.1. \$7,500 shall be paid to the Artist within five (5) days of the Effective Date and shall constitute a non-refundable deposit for the performance of the Services (the “Deposit”); and
 - 3.1.2. \$7,500 shall be paid to the Artist within fourteen (14) days following the final completion of the Artwork.
- 3.2. The Fee shall constitute full compensation from Village to Artist for any and all services, costs, and expenses related to the Services performed under this Agreement, including the irrevocable, perpetual license. Artist shall be responsible for payment of any and all taxes due and owing for payment received under this Agreement.
- 3.3. Artist shall deliver an invoice to Village upon completion of all Services detailing Services completed and the amount due to Artist under this Agreement. The Village shall pay the Artist in accordance with the Florida Prompt Payment Act after approval and acceptance of the Services by the Village Manager.

4. Subcontractors.

- 4.1. Artist shall be responsible for all payments to any subcontractors and shall maintain responsibility for all work related to the Services.
- 4.2. Artist may only utilize the services of a particular subconsultant with the prior written approval of the Village Manager, which approval may be granted or withheld in the Village Manager’s sole and absolute discretion.

5. Village’s Responsibilities.

- 5.1. Village shall make available any maps, plans, existing studies, reports, staff and representatives, and other data pertinent to the Services and in possession of the Village, and provide criteria requested by Artist to assist Artist in performing the Services.

5.2. Upon Artist's request, Village shall reasonably cooperate in arranging access to public information that may be required for Artist to perform the Services.

6. Artist and Artist Responsibilities; Representations and Warranties.

6.1. The Artist shall exercise the same degree of care, skill and diligence in the performance of the Services as is ordinarily provided by an artist under similar circumstances. If the Village determines that the Artwork is incorrect, not properly rendered, defective, or fails to conform to the Village requests, the Village shall notify the Artist within thirty (30) days from the date of the Village's final acceptance of the Artwork (as defined in Section 6.b. of Exhibit D). Upon receipt of such notice, the Artist shall, at Artist's sole cost and expense, correct the Artwork within thirty (30) days.

6.2. The Artist hereby warrants and represents that at all times during the term of this Agreement it shall maintain in good standing all required licenses, certifications and permits required under Federal, State and local laws applicable to and necessary to perform the Services for Village as an independent contractor of the Village. Artist further warrants and represents that it has the required knowledge, expertise, and experience to perform the Services and carry out its obligations under this Agreement in a professional and first class manner.

6.3. The Artist represents that is an entity validly existing and in good standing under the laws of Florida. The execution, delivery and performance of this Agreement by Artist have been duly authorized, and this Agreement is binding on Artist and enforceable against Artist in accordance with its terms. No consent of any other person or entity to such execution, delivery and performance is required.

6.4. The Artist represents and warrants that all work performed pursuant to this Agreement, including but not limited to the Artwork, is an original creation and does not infringe upon or violate any copyrights or other rights of any person, firm, or organization.

6.5. Artist does hereby indemnify and hold the Village harmless from and against any and all claims and liabilities that may arise as a result of any breach of the foregoing representation and warranty.

6.6. The Artist shall not disseminate publicity or news releases regarding the Artwork without the prior written approval of the Village during the Term of this Agreement. Artist may use images of the Artwork for their portfolio and non-commercial promotional use.

7. Ownership and Intellectual Property Rights.

7.1. **Ownership.** Title to the Artwork shall pass to the Village upon the Village's written final acceptance and payment for the Artwork pursuant to Section 3.2.

7.2. **Copyright.** Subject to the restrictions and usage rights and licenses granted to the Village hereunder, and unless otherwise agreed to by the parties in writing, Artist shall retain all rights under the Copyright Act of 1976, 17 U.S.C. §101 et seq. If Artist is comprised of two or more individual persons, the individual persons shall be deemed joint authors of the Artwork.

7.3. Village's Intellectual Property Rights.

7.3.1. Artist grants to Village an irrevocable, perpetual license to reproduce the image of the Artwork, including but not limited to digital and/or photographic reproductions, and to authorize third parties to do the same for the Village's use as contemplated by this Agreement. All reproduction by the Village may contain a credit to the Artist. The Artist shall not make any claim to the copyright of the Artwork or transfer in the ownership of the copyright that conflicts with the Village's irrevocable and perpetual license.

7.3.2. Artist acknowledges and agree that the process of photographing, digitizing, printing, and/or reproducing images of the Artwork may require that the image, or portions thereof, be cropped, resized, or otherwise altered in order to utilize the image of the original Artwork for any purpose, in the Village's sole discretion.

7.3.3. The Artist authorizes the Village to use the Artwork solely for the purposes set forth in this Agreement including photographic, filmed, or videotaped reproductions created by the Village for advertisement, publicity, exhibition, publication, or other promotional activities.

7.3.4. Artist further agrees that the Village, without charge to the Village, may make photographs or other reproductions, including publication or recordings of the Artwork without payment of royalty or other payment to Artist.

7.4. Third Party Infringement. Artist represents and warrants that the Artwork is the sole work of the Artist and does not infringe the intellectual property rights of any third parties. The Village is not responsible for any third party infringement of Artist's copyright or for protecting Artist's intellectual property rights. Further, Artist agrees to indemnify the Village against any claims brought against Village alleging that the Artwork infringes on intellectual property rights of any third parties.

7.5. Waiver of Artists' Rights.

7.5.1. The parties agree that the Artwork may be considered to be a "work of visual art" subject to the provisions of the federal Visual Artists Rights Act of 1990 ("VARA"), specifically the rights of certain authors to attribution and integrity, as codified at 17 U.S.C. §106A(a) and §113(d)(1). Artist understands and agrees that installation of the Artwork may subject the Artwork to destruction, distortion, mutilation, or other modification, by reason of its removal, and that the Village has the absolute right to remove the Artwork in its sole discretion.

7.5.2. Artist, as author of the Artwork, is authorized to waive the rights conferred by 17 U.S.C. §106A(a) and §113(d)(1), in accordance with the waiver provisions of §106A(e)(1) and §113(d)(1)(B), and hereby agrees to permanently waive voluntarily all rights pursuant to such provisions with respect to the Artwork, and any and all claims as may arise thereunder, or any other local, state foreign or international law, as currently drafted or as may be hereafter amended, that conveys the same of similar

rights (“Moral Rights Laws”), to prevent any removal of the Artwork that would cause the destruction, distortion, mutilation, or other modification of the Artwork. This waiver does not extend to the rights of attribution conferred by 17.U.S.C. §106A(a)(1) or §106A(a)(2).

7.5.3. The Village has the absolute right to remove, repair or restore the Artwork, in whole or in part, in the Village’s sole discretion. The Village will use its best efforts to repair or restore the Artwork in accordance with the maintenance manual provided by the Artist. With respect to significant or substantial repairs or restorations, the Village will use its best efforts to consult with the Artist prior to such repair or restoration of the Artwork. Notwithstanding, Artist specifically waives the right to claim any remedy concerning the modification, removal, or alteration of the Artwork or portion thereof.

8. Termination.

8.1. The Village Manager, without cause, may terminate this Agreement upon five (5) calendar days’ written notice to the Artist, or immediately with cause.

8.2. Upon receipt of the Village's written Notice of Termination, Artist shall immediately stop work on the Services unless directed otherwise by the Village Manager.

8.3. In the event of termination by the Village, the Artist shall be paid for all work accepted by the Village Manager up to the date of termination, provided that the Artist has first complied with the provisions of Paragraph 8.4.

8.4. The Artist shall transfer all books, records, reports, working drafts, documents, maps, and data pertaining to the Services to the Village, in a hard copy and electronic format within fourteen (14) days from the date of the written notice of termination or the date of expiration of this Agreement.

9. Insurance.

9.1. Artist shall secure and maintain throughout the duration of this agreement insurance of such types and in such amounts not less than those specified below as satisfactory to Village, naming the Village as Additional Insured, underwritten by a firm rated A-X or better by A.M. Best and qualified to do business in the State of Florida. The insurance coverage shall be primary insurance with respect to the Village, its officials, employees, agents, and volunteers naming the Village as additional insured. Any insurance maintained by the Village shall be in excess of the Artist’s insurance and shall not contribute to the Artist’s insurance. The insurance coverages shall include at a minimum the amounts set forth in this section and may be increased by the Village as it deems necessary or prudent.

9.1.1. Commercial General Liability coverage with limits of liability of not less than a \$1,000,000 per Occurrence combined single limit for Bodily Injury and Property Damage. This Liability Insurance shall also include Completed Operations and Product Liability coverages and eliminate the exclusion with respect to property under the care, custody and control of Artist. The General Aggregate Liability limit and the

Products/Completed Operations Liability Aggregate limit shall be in the amount of \$2,000,000 each.

9.1.2. Workers Compensation and Employer's Liability insurance, to apply for all employees for statutory limits as required by applicable State and Federal laws. The policy(ies) must include Employer's Liability with minimum limits of \$1,000,000.00 for each accident. No employee, subcontractor or agent of the Artist shall be allowed to provide Services pursuant to this Agreement who is not covered by Worker's Compensation insurance. In order for this requirement to be waived, Artist must provide proof of exemption from such laws. Information regarding eligibility for an exemption from the State of Florida Workers' Compensation Law is available at:

<https://www.myfloridacfo.com/Division/wc/PublicationsFormsManualsReports/Brochures/Key-Coverage-and-Eligibility.pdf>.

Exemptions may be applied for online through the Florida Department of Financial Services, Division of Workers' Compensation at:

<https://www.myfloridacfo.com/Division/wc/Employer/Exemptions/default.htm>.

9.2. Certificate of Insurance. Certificates of Insurance shall be provided to the Village, reflecting the Village as Additional Insured (except with respect to Professional Liability Insurance and Worker's Compensation Insurance), no later than ten (10) days after award of this Agreement and prior to the execution of this Agreement by Village and prior to commencing Services. Each certificate shall include no less than (30) thirty-day advance written notice to Village prior to cancellation, termination, or material alteration of said policies or insurance. The Artist shall be responsible for assuring that the insurance certificates required by this Section remain in full force and effect for the duration of this Agreement, including any extensions or renewals that may be granted by the Village. The Certificates of Insurance shall not only name the types of policy(ies) provided, but also shall refer specifically to this Agreement and shall state that such insurance is as required by this Agreement. The Village reserves the right to inspect and return a certified copy of such policies, upon written request by the Village. If a policy is due to expire prior to the completion of the Services, renewal Certificates of Insurance shall be furnished thirty (30) calendar days prior to the date of their policy expiration. Each policy certificate shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the Village before any policy or coverage is cancelled or restricted. Acceptance of the Certificate(s) is subject to approval of the Village.

9.3. Additional Insured. Except with respect to Professional Liability Insurance and Worker's Compensation Insurance, the Village is to be specifically included as an Additional Insured for the liability of the Village resulting from Services performed by or on behalf of the Artist in performance of this Agreement. The Artist's insurance, including that applicable to the Village as Additional Insured, shall apply on a primary basis and any other insurance maintained by the Village and shall be in excess of and shall not contribute to the Artist's insurance. The Artist's insurance shall contain a severability of interest provision providing that, except with respect to the total limits of liability, the insurance shall apply to each Insured or Additional Insured (for applicable policies) in the same manner as if separate policies had been issued to each.

9.4. Deductibles. All deductibles or self-insured retentions must be declared to and be reasonably approved by the Village. The Artist shall be responsible for the payment of any deductible or self-insured retentions in the event of any claim.

9.5. The provisions of this section shall survive termination of this Agreement.

10. Nondiscrimination. During the term of this Agreement, Artist shall not discriminate against any of its employees or applicants for employment because of their race, color, religion, sex, or national origin, and will abide by all Federal and State laws regarding nondiscrimination.

11. Attorneys Fees and Waiver of Jury Trial.

11.1. In the event of any litigation arising out of this Agreement, the prevailing party shall be entitled to recover its attorneys' fees and costs, including the fees and expenses of any paralegals, law clerks and legal assistants, and including fees and expenses charged for representation at both the trial and appellate levels.

11.2. IN THE EVENT OF ANY LITIGATION ARISING OUT OF THIS AGREEMENT, EACH PARTY HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY AND INTENTIONALLY WAIVES ITS RIGHT TO TRIAL BY JURY.

12. Indemnification.

12.1. Artist shall indemnify and hold harmless the Village, its officers, agents and employees, from and against any and all demands, claims, losses, suits, liabilities, causes of action, judgment or damages, arising from Artist's and Artist's acts, errors, or omissions arising out of the performance or non-performance of any provision of this Agreement, including, but not limited to, liabilities arising from contracts between the Artist and third parties made pursuant to this Agreement. Artist shall reimburse the Village for all its expenses including reasonable attorneys' fees and costs incurred in and about the defense of any such claim or investigation and for any judgment or damages arising from Artist's performance or non-performance of this Agreement.

12.2. Nothing herein is intended to serve as a waiver of sovereign immunity by the Village nor shall anything included herein be construed as consent to be sued by third parties in any matter arising out of this Agreement or any other contract. The Village is subject to section 768.28, Florida Statutes, as may be amended from time to time.

12.3. The provisions of this section shall survive termination of this Agreement.

13. Notices/Authorized Representatives. Any notices required by this Agreement shall be in writing and shall be deemed to have been properly given if transmitted by hand-delivery, by registered or certified mail with postage prepaid return receipt requested, or by a private postal service, addressed to the parties (or their successors) at the addresses listed on the signature page of this Agreement or such other address as the party may have designated by proper notice.

14. Governing Law and Venue. This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Venue for any proceedings arising out of this Agreement shall be proper exclusively in Miami-Dade County, Florida.

15. Entire Agreement/Modification/Amendment.

15.1. This writing contains the entire Agreement of the parties and supersedes any prior oral or written representations. No representations were made or relied upon by either party, other than those that are expressly set forth herein.

15.2. No agent, employee, or other representative of either party is empowered to modify or amend the terms of this Agreement, unless executed with the same formality as this document.

16. Ownership and Access to Records and Audits.

16.1. Artist acknowledges that all inventions, innovations, improvements, developments, methods, designs, analyses, drawings, reports, compiled information, and all similar or related information (whether patentable or not) which relate to Services to the Village which are conceived, developed or made by Artist during the term of this Agreement (“Work Product”) belong to the Village. Artist shall promptly disclose such Work Product to the Village and perform all actions reasonably requested by the Village (whether during or after the term of this Agreement) to establish and confirm such ownership (including, without limitation, assignments, powers of attorney and other instruments).

16.2. Artist agrees to keep and maintain public records in Artist’s possession or control in connection with Artist’s performance under this Agreement. The Village Manager or her designee shall, during the term of this Agreement and for a period of three (3) years from the date of termination of this Agreement, have access to and the right to examine and audit any records of the Artist involving transactions related to this Agreement. Artist additionally agrees to comply specifically with the provisions of Section 119.0701, Florida Statutes. Artist shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Agreement, and following completion of the Agreement until the records are transferred to the Village.

16.3. Upon request from the Village’s custodian of public records, Artist shall provide the Village with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119, Florida Statutes, or as otherwise provided by law.

16.4. Unless otherwise provided by law, any and all records, including but not limited to reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of the Village.

16.5. Upon completion of this Agreement or in the event of termination by either party, any and all public records relating to the Agreement in the possession of the Artist shall be delivered by the Artist to the Village Manager, at no cost to the Village, within seven

(7) days. All such records stored electronically by Artist shall be delivered to the Village in a format that is compatible with the Village's information technology systems. Once the public records have been delivered upon completion or termination of this Agreement, the Artist shall destroy any and all duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

16.6. Any compensation due to Artist shall be withheld until all records are received as provided herein.

16.7. Artist's failure or refusal to comply with the provisions of this section shall result in the immediate termination of this Agreement by the Village.

16.8. Notice Pursuant to Section 119.0701(2)(a), Florida Statutes. **IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE ARTIST'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS: ALBA L. CHANG, CMC, 1666 KENNEDY CAUSEWAY, SUITE 300, NORTH BAY VILLAGE, FL 33141, 305-756-7171, VILLAGECLERK@NBVILLAGE.COM.**

17. Nonassignability. This Agreement shall not be assignable by Artist unless such assignment is first approved by the Village Manager. The Village is relying upon the apparent qualifications and expertise of the Artist, and such firm's familiarity with the Village's area, circumstances and desires.

18. Severability. If any term or provision of this Agreement shall to any extent be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.

19. Independent Contractor. The Artist and its employees, volunteers and agents shall be and remain an independent contractor and not an agent or employee of the Village with respect to all of the acts and services performed by and under the terms of this Agreement. This Agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking, enterprise or venture between the parties.

20. Compliance with Laws. The Artist shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities in carrying out Services under this Agreement, and in particular shall obtain all required permits from all jurisdictional agencies to perform the Services under this Agreement at its own expense.

21. Waiver. The failure of either party to this Agreement to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any future violation, breach or wrongful conduct.

- 22. Survival of Provisions.** The provisions contained in Section 7 shall survive the expiration or termination of this Agreement. Additionally, any terms or conditions of either this Agreement that require acts beyond the date of the term of the Agreement, shall survive termination of the Agreement, shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.
- 23. Prohibition of Contingency Fees.** The Artist warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Artist, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for the Artist, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.
- 24. Public Entity Crimes Affidavit.** Artist shall comply with Section 287.133, Florida Statutes (Public Entity Crimes Statute), notification of which is hereby incorporated herein by reference, including execution of any required affidavit.
- 25. Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterparts shall constitute one and the same instrument.
- 26. E-Verify Affidavit.** In accordance with Section 448.095, Florida Statutes, the Village requires all contractors doing business with the Village to register with and use the E-Verify system to verify the work authorization status of all newly hired employees. The Village will not enter into a contract unless each party to the contract registers with and uses the E-Verify system. The contracting entity must provide of its proof of enrollment in E-Verify. For instructions on how to provide proof of the contracting entity's participation/enrollment in E-Verify, please visit: <https://www.e-verify.gov/faq/how-do-i-provide-proof-of-my-participationenrollment-in-e-verify>. By entering into this Agreement, the Artist acknowledges that it has read Section 448.095, Florida Statutes; will comply with the E-Verify requirements imposed by Section 448.095, Florida Statutes, including but not limited to obtaining E-Verify affidavits from subcontractors; and has executed the required affidavit attached hereto and incorporated herein.
- 27. Non-Exclusive Agreement.** The Village reserves the right to procure or acquire similar services from another provider while this Agreement is in full force and effect.
- 28. Termination Due To Lack of Funding.** This Agreement is subject to the condition precedents that: (i) Village funds are available, appropriated and budgeted, for the Services annually for each year of the Term; (ii) the Village secures and obtains any necessary proceeds, grants or loans for the accomplishment of the Services pursuant to any borrowing legislation adopted by the Village Commission relative to the Services; and (iii) the Village Commission enacts legislation or other necessary resolutions, which awards and authorizes the execution of this Agreement and the annual appropriation and budgeting for the Services. The Village represents to Artist that the Village has adopted a resolution authorizing execution of this Agreement, if required by applicable law.

29. Conflicts; Order of Priority. This document without exhibits is referred to as the “Base Agreement.” In the event of a conflict between the terms of this Agreement and any exhibits or attachments hereto, or any documents incorporated herein by reference, the conflict shall be resolved in the following order of priorities and the more stringent criteria for performance of the Services shall apply:

29.1.1. Agreement

29.1.2. Exhibit D: Scope of Services

29.1.3. Exhibit B: Site Description

29.1.4. Exhibit A: Solicitation (Call to Artists issued July 28, 2023)

29.1.5. Exhibit C: Artist’s Response to Solicitation

[THIS SPACE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year as first stated above.

NORTH BAY VILLAGE

JEFF WHIPPLE

By: _____
Dr. Ralph Rosado, AICP
Village Manager

By: Jeff Whipple
Name: Jeff Whipple

Attest:

Title: Artist

By: _____
Alba L. Chang, CMC
Village Clerk

Approved as to form and legal sufficiency:

By: _____
Weiss Serota Helfman Cole & Bierman,
P.L.
Village Attorney

Addresses for Notice:

North Bay Village
Attn: Dr. Ralph Rosado, AICP, Village
Manager
1666 Kennedy Causeway, 3rd Floor
North Bay Village, FL 33141
305-758-7171 (telephone)
rrosado@nbvillage.com (email)

Addresses for Notice:

Jeff Whipple
2650 Rosselle St. Ste 3
Jacksonville, Florida 32204
813.223.6190 (telephone)
jeff@jeffwhipple.com (email)

With a copy to:

Weiss Serota Helfman Cole & Bierman,
P.L.
Attn: Haydee Sera, Esq.
North Bay Village Attorney
2800 Ponce de Leon Boulevard, 12th Floor
Coral Gables, FL 33134
hsera@wsh-law.com (email)

With a copy to:

_____ (telephone)
_____ (email)

E-VERIFY AFFIDAVIT

In accordance with Section 448.095, Florida Statutes, the Village requires all contractors doing business with the Village to register with and use the E-Verify system to verify the work authorization status of all newly hired employees. The Village will not enter into a contract unless each party to the contract registers with and uses the E-Verify system.

The contracting entity must provide of its proof of enrollment in E-Verify. For instructions on how to provide proof of the contracting entity's participation/enrollment in E-Verify, please visit: <https://www.e-verify.gov/faq/how-do-i-provide-proof-of-my-participationenrollment-in-e-verify>

By signing below, the contracting entity acknowledges that it has read Section 448.095, Florida Statutes and will comply with the E-Verify requirements imposed by it, including but not limited to obtaining E-Verify affidavits from subcontractors.

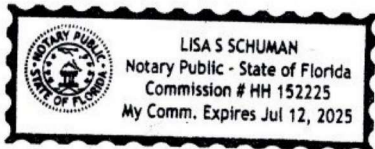
Check here to confirm proof of enrollment in E-Verify has been attached to this Affidavit.

In the presence of: Jeff Whipple Signed, sealed and delivered by:
Veronica Grimaldo Witness #1 Print Name: VERONICA GRIMALDO Print Name: JEFF WHIPPLE
Jeanne Coste Witness #2 Print Name: Jeanne Coste Title: ARTIST
Entity Name: JEFF WHIPPLE

ACKNOWLEDGMENT

State of Florida
County of Duval

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 28 day of December, 2023, by Jeffrey K. Whipple (name of person) as contractor (type of authority) for Jeffrey K. Whipple (name of party on behalf of whom instrument is executed).



Lisa Schuman
Notary Public (Print, Stamp, or Type as Commissioned)

Personally known to me: or

EXHIBIT A

[COPY OF CALL TO ARTISTS SOLICITATION ON THE FOLLOWING PAGES]

Call to Artists



Sculpture Frame – Vogel Park

Brief

Project Names

Sculpture Frame – Vogel Park

Owner

North Bay Village

Budget

\$15,000

Location

Southwestern Corner of Dr. Paul Vogel Community Park
7920 West Drive
North Bay Village, FL

How to Apply

Deadline: Wednesday, August 30th, 11:59PM

Submit at:

publicart@nbvillage.com

Submission should include:

-5 samples of completed work

-CV

-Brief artist statement of how vision aligns with
North Bay Village brand and vision

Eligibility

Open to professional visual artists or artist-led teams.

Eligible artists create artwork on a regular basis for a
duration of time.

Detailed Description

North Bay Village's Dr. Paul Vogel Community Park (Vogel Park) is the premier event space in the Village for everything from signature events (4th of July, Halloween, Easter, etc.) to birthday party rentals. The waterfront park has a state-of-the-art playground and swing set, as well as a gazebo and newly painted bathroom building featuring much of the flora and fauna that residents typically see in the "Heart of the Bay." It is located on Harbor Island, the Village's most populated of its three islands.

This project entails the construction of a sculpture frame in the style of various world-renowned tourist sites (see pictures below). The sculpture should be made with durable, weather-resistant materials given that it will be located outdoors with a body of salt water several feet away.



Examples of sculpture frames located at major tourist sites around the world.



The grassy area where the sculpture frame will be placed.

About North Bay Village

North Bay Village (NBV) is a 3-island city located in Biscayne Bay between Miami and Miami Beach, serving as the northernmost access/evacuation route of four causeways connecting the two major, metropolitan cities in Miami-Dade, one of the US' most populous counties. As a result, NBV's main boulevard (Kennedy Causeway, aka State Road 934) is among Florida's busiest roads, with @42,000 vehicles/day. NBV has over 8,200 residents in just over 1/3-square-mile of land, making it Florida's 2nd densest city; almost 3/4 of NBV residents are Latino, African-American or Asian, making it one of the US' most diverse (US Census). Given its density, location, and daily car trips, Miami-Dade has designated Kennedy Causeway and its adjacent roads as a principal "public art gateway corridor" countywide.

While celebrating its 75th anniversary in 2020, pursuant to dozens of public engagement meetings involving hundreds of residents, the NBV Village Commission unanimously adopted the NBV100 Master Plan (northbayvillage-fl.gov/nbv-100/), setting a vision for the Village's next 25 years (75 + 25 = 100, hence NBV100). The Florida Chapter of the American Planning Association awarded NBV100 the award for best master plan by a Florida community under 50,000, in 2021! NBV100's three guiding "Pillars" are Livability, Resilience (because of NBV's vulnerability to Sea Level Rise), and Prosperity.

In 2021 NBV conducted a public engagement process resulting in adoption of a Village Brand Guide (northbayvillagefl.gov/communications) with a design aesthetic incorporating vibrant, tropical colors and celebrating preservation of the natural environment, especially Biscayne Bay. In 2022 we undertook 3 public art projects (northbayvillage-fl.gov/public-art) consistent with the Guide.

Opportunities for Public Art

The proposed area for this project is a grass area measuring roughly 10 feet wide by 8 feet deep, adjacent to a walking path that traverses the entirety of Vogel Park.

Estimated Schedule

**Dates are subject to change.*

July 28, 2023	Call to Artists released
August 30, 2023	Deadline to submit qualifications
September 19, 2023	Public Art Selection Committee meeting – finalist
September 20, 2023	Finalist notified and provided draft contract
October 10, 2023	Village Commission approval of finalist
December 6, 2023	Submission of proposed design(s) <i>Adjustments may be made after this date.</i>
December 13, 2023	Final design presentation – Online meeting <i>*A 30 minute presentation appointment time on a defined date will be provided for artist's confirmation.</i> <i>*Final version of the proposal as presented is requested to be uploaded prior to presentation</i>
February 6, 2024	Estimated completion

Process

Pursuant to the processes of the North Bay Village Art in Public Places Program, the Village's Public Art Selection Committee will recommend a finalist to create a full proposal for review by the Village Commission. The primary criteria for selection will be previous artistic accomplishment as demonstrated in images of completed artwork, public art experience, and/or initial design approach to the project as demonstrated in the artist's statement. Artists who have not created public art before are invited to apply.

Artists will receive detailed information regarding the opportunities for public art. The finalist will be invited to do a site visit and will have the opportunity to meet with Village staff.

The finalist may choose to present their final proposals via video conference. Village staff will be available to support inquiries throughout the process. Upon the presentation of proposals, the Public Art Selection Committee will make the decision on a final design.

For more information about North Bay Village: <https://northbayvillage-fl.gov/>

Points of Contact

LEO COSIO
CHIEF OF STAFF TO THE VILLAGE MANAGER/ART IN PUBLIC PLACES
NORTH BAY VILLAGE
lcosio@nbvillage.com / 786-750-0873 (Mobile)

EXHIBIT B

Site Description/Photos of Vogel Park Sculpture Frame Location

The location of the Vogel Park Sculpture Frame will be in the Southwest corner of Vogel Park, South of the gazebo between the fence and the walking path. Vogel Park is located on West Drive in Harbor Island.



EXHIBIT C

[COPY OF ARTIST RESPONSE ON THE FOLLWING PAGES]

2650 Rosselle St., Ste 3, Jacksonville, Florida 32204, (813) 223-6190, jeff@jeffwhipple.com, www.jeffwhipple.com

M.F.A., 1980 University of South Florida, B.F.A., 1978, Northern Illinois University

PUBLIC AND CORPORATE ART COMMISSIONS, PROJECTS AND PURCHASES

- 2023 **ArtSS In the Open 2023**, One-year display of Jeff Whipple's sculpture in Sandy Springs, Georgia
- 2023 **Artscape 7**, One-year display of Jeff Whipple's sculpture in downtown Fayetteville, North Carolina
- 2021 **Roser Park Sculpture Commission**, City of St. Petersburg Public Art, St. Petersburg, Florida
Five cast concrete sculptures for a park, \$65,000
- 2021 **University of Florida**, Gainesville, Florida, \$30,000
6 ft. x 12 ft. painting for the Herbert Wertheim Laboratory for Engineering
- 2019 **Hyde-Addison Elementary**, Washington, DC Public Art, \$50,000
Two 27-foot oil and acrylic murals for a large multipurpose room.
- 2108 **Jacksonville Jazz Festival**, City of Jacksonville, Florida, \$10,000
Two painted portraits made into 450 signed commemorative posters.
- 2014 **Ballou Senior High School**, Washington, DC, \$50,000
Entrance Lobby Mural Painting, 9 feet by 74 feet
- 2012 **Boca Raton Museum of Art**, Boca Raton, Florida, \$5000
Commissioned art mini golf hole for "Big Art: Mini Golf", Boca Raton Museum of Art, Boca Raton, Florida
- 2011 **East New Orleans Regional Library**, New Orleans, Louisiana, \$40,000
11 commissioned paintings
Selected for the Public Art Network 2012 Year in Review as one of the top 50 public art projects in the USA.
- 2008 **Oasis Towers 1 & 2**, Related Group, Inc., Fort Myers, Florida, \$26,500
Four framed art photographs
- 2007 **Florida A&M University**, Tallahassee, Florida, \$3000
12-foot mural for the Coleman Library Extension
- 2006 **Tampa Museum of Art**, Tampa, Florida, \$20,000
Outdoor video installation in Miami Beach during Art Basel Miami Beach, 3 screens, 10 ft. by 33 ft., 7 nights, 15-minute loop
- 2006 **City of Tampa Public Art Program**, Tampa, Florida, \$25,000
Outdoor video installation at the Tampa Museum of Art, 15 feet by 75 feet, 15-minute video on loop nightly for 4 weeks.
- 2006 **City of Tampa Public Art Program**, Tampa, Florida, \$25,000
Lighted mural for exterior plaza of the Tampa Museum of Art, 4 feet by 300 feet.
- 2004 **Ringling Museum of Art**, Tibbals Learning Center, Sarasota, Florida
Faux sky with clouds (teamed with artist Pamela Marwede) for 6000 sq. ft. of walls and ceiling above scale model circus diorama.
- 2004 **Hospice of Chiefland**, Chiefland, Florida, \$1500
Two commissioned sculptural, cast concrete benches.
- 2004 Jackye and Curtis Finch, Jr., Portrait commission donated to the **Little Rock Art Museum**, Little Rock, Arkansas
Pencil drawing on paper titled, "Long Time No See", 24" x 42"
- 2003 **MacDill Air Force Base**, Tampa, Florida
Portrait of General Benjamin O. Davis, Jr., oil on canvas, 36" x 24", \$20,000
- 2003 **Hospice of the Lakes**, Palatka, Florida
Two commissioned sculptural, cast concrete benches, \$1200
- 2002 **Johnson Branch Library**, St. Petersburg, Florida
Mural, 3 feet high by 150 feet long, \$20,000
- 2001 **The Volusia County Courthouse**, De Land, Florida
Four commissioned oil paintings for the entrance floor lobby, 64" X 64" each, \$20,000
- 2001 **Alachua Regional Service Center**, Alachua County, Florida
Two oil paintings purchased by the Florida Art in Public Buildings Program.
- 1996-01 **Haven Hospice**, Gainesville, Florida
Seven commissioned sculptural, cast concrete benches, \$4200
- 2000 **McGraw-Hill Companies**, New York, New York
Six oil paintings purchased for their corporate headquarters.
- 1999 **The European Academy of Early Education**, Nokomis, Florida
Mural, 3 feet by 140 feet, \$30,000
- 1998 **Volusia County Agricultural Center**, De Land, Florida
Four commissioned oil paintings, 6 feet by 12 feet each, \$20,000

AWARDS AND FELLOWSHIPS

2021 Art Ventures Individual Artist Award, Community Foundation of NE Florida, \$3500
2018 Pollock-Krasner Foundation Artist Grant, \$25,000
2017 Art Ventures Individual Artist Award, Community Foundation of NE Florida, \$3500
2014 Florida Individual Artist Fellowship, \$2500
2012 Public Art Network 2012 Year in Review
2008 Artist Grant, Hillsborough County Arts Council, \$2000
2007 Artist Enhancement Grant, Florida Arts Council, \$1000
2006 Florida Individual Artist Fellowship, \$5000
2001 Fulton Ross Fund for Artists, \$10,000
1996 Florida Individual Artist Fellowship, \$5000
1990 Illinois Individual Artist Fellowship, \$5000
1985 Illinois Individual Artist Fellowship, \$5000
1982 Florida Individual Artist Fellowship, \$2500

PUBLIC AND CORPORATE COLLECTIONS

Polk Museum of Art, Lakeland, Florida
MacDill Air Force Base, Tampa, Florida
Gulf Coast Museum of Art, Largo, Florida
Arkansas Art Center, Little Rock, Arkansas
East New Orleans Library, New Orleans, Louisiana
Graphic Chemical Corporation, Oak Park, Illinois
Holland and Knight Law Offices, Tampa, Florida
McGraw-Hill Companies, New York, New York
Ballou Senior High School, Washington, D.C.
Metropolitan Museum, Coral Gables, Florida (1982)
Tampa Museum of Art /City of Tampa, Tampa, FL
University of South Florida, Tampa, Florida
Valencia Community College, Orlando, Florida
Ringling Museum of Art, Sarasota, Florida
Florida A&M University, Tallahassee, Florida
Hospice of North Central Florida, Gainesville, Florida
Pensacola State College, Pensacola, Florida

Alachua Regional Service Center, Alachua, Florida
City of Palm Desert, Palm Desert, California
Edison College, Fort Myers, Florida
Northfield Mount Hermon, Massachusetts
Hospice of Chiefland, Chiefland, Florida
Hospice of the Lakes, Palatka, Florida
European Academy of Early Education, Venice, Florida
Oasis Towers, The Related Group, Ft. Myers, Florida
Volusia County Agricultural Center, De Land, Florida
Volusia County Courthouse, De Land, Florida
Armor Holdings, Jacksonville, Florida
Hyde-Addison Elementary, Washington, DC
Whole Foods, Sarasota, Florida
Johnson Library, St. Petersburg, Florida
Williams Properties, Orange City, Florida
Baptist Medical Center South, Jacksonville, FL
University of Florida, Gainesville, FL

TEACHING EXPERIENCE

2012-21 University of North Florida, Jacksonville, Florida
2010-11 Florida State University, Tallahassee, Florida
2005-09 University of Tampa, Tampa, Florida
1990-92 Ringling College of Art, Sarasota, Florida
1988-90 Northern Illinois University, De Kalb, Illinois
1982-83 SouthWestern State College, Fort Myers, Florida
1982 Arizona State University, Tempe, Arizona

SOLO EXHIBITIONS selected from a total of 84

2023 Mills Gallery, Orlando, Florida
2022 Touché Gallery, Jacksonville, Florida
2020 Space 42 Gallery, Jacksonville, Florida
2016 Haskell Gallery, Jacksonville International Airport, Jacksonville, Florida
2010 *Seizing the Day*, Museum of Florida Art, DeLand, Florida
2007 *Signs of Life*, Lake Eustis Museum of Art, Eustis, Florida
2006 *Long Time No See*, Light, video and painting installation, Tampa Museum of Art, Tampa, Florida
2002 *Twenty-five year Retrospective*, Gulf Coast Museum of Art, Largo, Florida
2000 Museum of Florida Art and Culture, Avon Park, Florida
1993 Boca Raton Museum of Art, Boca Raton, Florida
1987 Sybil Larney Gallery, Chicago, Illinois
1983 Pensacola State College, Pensacola, Florida

GROUP EXHIBITIONS selected from more than 200 shows

2023 *ArtScape 7*, one-year sculpture display, The Arts Council of Fayetteville, Fayetteville, North Carolina
2022 *32nd All Florida Juried Show*, Martin County Arts Council, Stuart, Florida
2017 *Naples National*, von Liebig Art Center, Naples, Florida, **Juror's Award**
2014 *Our Shared Past*, curated themed exhibition, Cummer Museum, Jacksonville, Florida
2012 *Big Art: Mini Golf*, Boca Raton Museum of Art, Boca Raton, Florida
2011 *Pinnacle III*, national art competition, Florida A&M University, Tallahassee, Florida, **Best of Show Award**
2010 *Biennial V*, Museum of Florida Art, DeLand, Florida, **Best In Show Award**
Florida Contemporary, Naples Museum of Art, Naples, Florida
About Face, two artist show, Ormond Memorial Art Museum, Ormond Beach, Florida
2009 *All-Media National Exhibition IV*, 621 Gallery, Tallahassee, Florida, **Best In Show Award**
2006 *56th Fine Arts Exhibition*, Ridge Art Center, Winter Haven, Florida, **Best of Show Award**
2004 *Undercurrents/Overcurrents 7*, curated survey, Tampa Museum of Art, Tampa, Florida
2000 *Ringling Biennial*, Curated Florida artists, Ringling Museum of Art, Sarasota, Florida
1996 *Featuring Florida*, Ringling Museum, Sarasota, Florida, **Purchase Award**
1992 *Annual Juried Exhibition*, Orlando Museum, Orlando, Florida, **Best of Show Award**
1982 *Florida Painting '82*, Jacksonville Art Museum, Jacksonville, Florida
1978 *Vicinity Competition*, Art Institute of Chicago, Chicago, Illinois

Public Art References for Jeff Whipple

Elizabeth Brincklow
Independent Cultural Arts Manager and Consultant
Brincklow Arts, LLC
Dunedin, Florida
elizabeth@brincklow.com
727-420-8869

Ms. Brincklow has served as the public art administrator for the City of St. Petersburg, Florida and has been a consultant for Pinellas County, and the Dunedin, Florida Public Art Program.

Morgana King
king.morgana@gmail.com
504-615-3425

Ms. King was the public art coordinator for the City of New Orleans, Louisiana during the review and installation of the eleven paintings I did for the East New Orleans Regional Library. That project was selected for the Public Art Network 2012 review.

Sandy Bellamy
Public Art
Department of General Services
Construction Services
District of Columbia Government
1250 U Street, N.W., 3rd Floor
Washington, DC 20009
Office: (202) 202-727-9192
Mobile: (202) 202-253-7398
Email: sandy.bellamy@dc.gov

Ms. Bellamy coordinated the two mural commissions I made for Washington, D.C. public art.

Ken Rollins
Art Consultant and former Executive Director of four art museums
Rollins Fine Art
St. Petersburg, Florida 33701
kenrollins42@gmail.com

727-831-1610

Mr. Rollins oversaw three large scale public art installations I created in coordination with the Tampa Museum of Art, where he was the Executive Director.

Sculpture Frame – Vogel Park North Bay Village

Statement by Jeff Whipple

I could make a sculptural frame that includes sculpted and painted images and words. The images would be realistic shallow relief sculptures of animals and fauna regularly seen in the area. That could be manatees, pelicans, palm trees, redfish, shells, and flowers all collaged together on the frame. I would paint it in bright colors.

The sculptural images would be cast from rubber molds in GFRC (glass fiber reinforced concrete) and attached to a hand-built concrete frame structure. The structure would be reinforced with fiberglass rebar because iron rebar would be susceptible to corrosion next to the saltwater. (Iron rebar corrosion is the biggest problem for concrete. Fiberglass rebar, a relatively new material, eliminates internal corrosion and subsequent concrete expansion and cracking.)

I would paint the finished concrete artwork with concrete stain and UV stable acrylic paint. I use several coats of an industrial clear coating that is impervious to water and protects the colors from UV light. It also can be cleaned if vandals spray paint it. Otherwise, general cleaning can be done with soap and water.

The frame structure can be mounted on concrete pads and would be strong enough to withstand high winds and waves splashing over the sea wall. (Like we're having here in Jacksonville today as Idalia passes by.)

I've been using GFRC for many years in my sculpture. It's commonly used in architecture where it's lightweight, thin and durable on the exteriors of high rise buildings. GFRC has an acrylic polymer that bonds with the concrete, sand and fiberglass and is much lighter than regular concrete. It can be painted any color.

I like GFRC because I can cast it from molds of detailed clay sculptures. It's tremendously cheaper than cast metals so I can do much more on a smaller budget. I also make the molds myself, which saves a lot on fabrication costs.

I recently used GFRC to make 5 sculptures for a park in St. Petersburg, Florida. The sculptures are large disks that appear to be rolling down a hill. There are shallow relief sculptures of the fauna that can be found in the park. I put banners from the animal's mouths with words that imply they are saying silly things. There are also painted quotes about the importance of parks from famous people. The sculptures are meant to guide visitors through the park and show the transition when people engage with nature, and retreat from their job and life stresses.

My commissioned artworks have always been completed and installed way ahead of schedule. I've had great experiences working with public art committees, contractors and architects to determine the best application of my skills for creating artworks that have a lasting quality not only in materials but also in aesthetics.

Jeff Whipple

813.223.6190 jeff@jeffwhipple.com www.jeffwhipple.com



"The Reader" by Jeff Whipple 2023
Concrete and paint with UV protection clearcoat, 68" x 14" x 24" (Life size boy)
"ArtSS in the Open", Sandy Springs, Georgia



Jeff Whipple, "All or Nothing at All", GFRG concrete, paint, UV protection, 84" x 42" diameter, 2017 - 2023, Artscape 7, Fayetteville, North Carolina



Jeff Whipple, "Relaxation Rollers", hand-built and cast GFRC, concrete stain, gloss clearcoat UV filter protection, 42" diameter x 6" wide, 2021. Commissioned by the City of St. Petersburg, Florida for Roser Park. THEME: Relaxation in a Park. There are quotes about relaxation and bas-relief "talking" animals on both sides.



Jeff Whipple, "Relaxation Rollers", hand-built and cast GFRC, concrete stain, gloss clearcoat UV filter protection, 42" diameter x 6" wide, 2021. Commissioned by the City of St. Petersburg, Florida for Roser Park. THEME: Relaxation in a Park. There are quotes about relaxation and bas-relief "talking" animals on both sides.



Jeff Whipple, "Relaxation Rollers", hand-built and cast GFRC, concrete stain, gloss clearcoat UV filter protection, 42" diameter x 6" wide, 2021. Commissioned by the City of St. Petersburg, Florida for Roser Park. THEME: Relaxation in a Park. There are quotes about relaxation and bas-relief "talking" animals on both sides.

EXHIBIT D
SCOPE OF SERVICES

For purposes of this Exhibit, “Artwork” means a sculpture frame with NBV branding, colors, and any artistic aspects that reflect the location’s distinctiveness as the “Heart of the Bay.”

1. Artist’s Obligations

- a. The Artist shall perform all services and furnish all supplies, material and/or equipment as necessary for the design and installation of the Artwork at the Site in accordance with the specified schedule. Services shall be performed in a professional manner and in strict compliance with all terms and conditions in this Agreement.
- b. The Artist shall determine the artistic expression, design, dimensions and materials of the Artwork, subject to review and acceptance by the Village as set forth in this Agreement.
- c. The Artist shall prepare the design concept and the corresponding budget described in Section 3 of this Scope of Services. The design concept shall include a description of all materials and products utilized in the Artwork and the required routine care and upkeep involved.
- d. Artist shall attend public information meetings with the general public, attend design and coordination meetings with Village, Artist, and other parties, as appropriate, to communicate about the Artwork and to ensure appropriate integration and/or installation of the Artwork.
- e. The Artist shall complete the design of the Artwork by the scheduled installation date as provided in Section 1.4(b)(i) of this Agreement.
- f. The Artist shall secure any and all required licenses, permits and similar legal authorizations at the Artist’s expense as may be necessary for the installation and maintenance of the Artwork at the Site.
- g. The Artist shall arrange the transportation and installation of the Artwork in consultation with the Village. If the Artist does not install the Artwork himself or herself, Artist shall supervise and approve the installation.
- h. Artist shall provide required insurance in amounts and limits specified in Section 9 of the Agreement.
- i. Artist shall provide a list of all subcontractors along with a copy of the agreement between the Artist and each subcontractor.
- j. Artist shall provide a maintenance manual with a description of all materials and products utilized in the Artwork and the required care and upkeep involved.
- k. Artist shall provide photographic documentation of the Artwork.
- l. Artist shall be available with reasonable advance notice for meetings, ceremonies and the like, as necessary.

2. Design

a. Concept/Schematic

- i. By January 3, 2024, the Artist/Artist shall submit to the Village the proposed design concept (the “Design”) in the form of [detailed color drawings, models, and/or other documents] as are required to present a meaningful representation of the Artwork. The Artwork shall incorporate materials and paint, as needed, be applied using a paint designed for application on concrete/streets to preserve the Artwork’s integrity and protect it from natural elements.
- ii. The Artist shall visit, examine, research, and consider the Site and surrounding area. If applicable, the Artist shall also consult with representatives of the community and consider their input and concerns.
- iii. The Design will include: a description of the method by which the Artwork is to be fabricated and installed; a description of any operational, maintenance and conservation requirements for the Artwork; a description of the placement of the Artwork at the Site and any site preparations that may be required by the Village.
- iv. The Design must provide sufficient detail to permit the Village to assure compliance with applicable local, state or federal laws, ordinances and/or regulations.

3. Approval

- a. Within 7 days after the Artist submits the Design, the Village shall notify the Artist whether it approves or disapproves of the Design. The Village shall have discretion in approving outright or with conditions or rejecting the Design.
- b. If the Village disapproves of the Design, the Village will submit to the Artist in writing the reasons for such disapproval. In such event, the Artist will submit a Revised Design within 21 days after the Village has notified the Artist of its disapproval. The Artist will not be paid an additional fee for the Revised Design.
- c. Once the Village has approved the Design, the Village will schedule a final design presentation before the Public Art Selection Committee. If the Public Art Selection Committee requires any revisions to the Design, the Village will submit those in writing to the Artist. The Artist will have 21 days to comply with such revisions. If agreed upon by both parties, such revisions will become a part of the Design.

4. Budget, Payment Schedule, Construction Schedule and Progress Reports

a. Budget

- i. If the Artist incurs costs in excess of the project budget, the Artist shall pay such excess from the Artist’s own funds unless the Artist previously obtained approval for such costs from the Village (or such costs were the result of actions or inaction of the Village).

b. Schedule

- i. The Artist shall notify the Village of the tentative schedule for the design and installation of the Artwork, including a schedule for the submission of progress reports and inspections if any. The Village Manager may agree to amend the Schedule by written agreement.

5. Installation

- a. Upon the Village's final approval of the Artwork, as being in conformity with the Design, the Artist shall paint and install the Artwork onto the Site in accordance with the schedule provided for in Section 4(b) of this Scope of Services.
- b. The Artist will coordinate closely with the Village to ascertain that the Site is prepared to receive the Artwork. Artist must notify Village of any adverse conditions at the Site that would affect or impede the installation of the Artwork. The Artist is responsible for timely installation of the Artwork. The Artist will confer and coordinate with the Village to ensure timely coordination with the Village's Public Works Department. Artist may not install the Artwork until authorized to do so by the Village.
- c. The Artist shall be present to supervise the installation of the Artwork.
- d. Upon written acceptance of the installation, the Artwork shall be deemed to be in the custody of the Village for purposes of Article 4 and Article 6 of this Agreement.
- e. Within 5 days after installation of the Artwork, the Artist shall furnish the Village with the following photographs of the Artwork as installed: A set of three digital, 300 dpi, JPG or TIFF files, of the Artwork, provided to the Village. Photographs must be labeled with the name of the Artwork, the date upon which the photograph was taken, and the viewpoint from which the photograph was taken. The Artist shall also furnish the Village with a full written narrative description of the Artwork.

6. Approval and Acceptance

- a. The Artist shall notify the Village in writing when all services as required of both Parties by this Agreement prior to this paragraph have been completed in substantial conformity with the Design.
- b. The Village shall promptly notify the Artist of its final acceptance of the Artwork within 5 days after the Artist submitted written notice pursuant to paragraph (a) above. The effective date of final acceptance shall be the date the Village submits written notice to the Artist of its final acceptance of the Artwork. The final acceptance shall be understood to mean that the Village acknowledges completion of the Artwork in substantial conformity with the Design, and that the Village confirms that all services as required of both Parties by this Agreement prior to paragraph (c) of this section have been completed. Title to the Artwork passes upon final acceptance and final payment.
- c. If the Village disputes that all the services have been performed, the Village shall notify the Artist in writing of those services the Artist has failed to perform within 5 days after

the Artist submitted written notice pursuant to paragraph (a) above. The Artist shall promptly perform those services indicated by the Village.

- d. If the Artist disputes the Village's determination that not all services have been performed, the Artist shall submit reasons in writing to the Village within 5 days of the Village's prior notification to the contrary. The Village shall make reasonable efforts to resolve the dispute with the Artist in good faith. However, final determination as to whether all services have been performed shall remain with the Village.
- e. Upon the resolution of any disputes that arise under paragraphs (c) and (d) of this section, the Village shall notify the Artist of its final acceptance of the Artwork pursuant to paragraph (b).
- f. After final acceptance of the Artwork, the Artist shall be available at such time(s) as may be mutually agreed upon by the Village and the Artist to attend any public meetings and community outreach functions, as well as any inauguration or presentation ceremonies relating to the dedication of the Artwork.
 - i. During such public presentations by the Artist, the Artist shall acknowledge the Village's role in funding the Artwork.
 - ii. The Village shall be solely responsible for coordinating public information materials and activities related to public presentations.

EXHIBIT "B"



Budget Amendment Form

Department Capital Projects	Date 12/12/2023
---------------------------------------	---------------------------

Fund(s) to be changed: Capital Projects Fund

GL Account	GL Line Item	Transfer to:	Transfer from:
320.61.630.6201	Park Improvements	\$ 15,000.00	
320.00.389.3890	Appropriation of Fund Balance		\$ 15,000.00
TOTAL (Columns must be equal)		\$ 15,000.00	\$ 15,000.00

Description:

Appropriation of Capital Projects Fund Balance for Capital Project CP24-09 Vogel Park Sculpture Frame Project

**ARTIST AGREEMENT
BETWEEN
NORTH BAY VILLAGE
AND
JEFF WHIPPLE**

THIS ARTIST AGREEMENT (“Agreement”) is made on December 29, 2023 (“Effective Date”) by and between **NORTH BAY VILLAGE**, a Florida municipal corporation, (“Village”), and **JEFF WHIPPLE**, an individual (“Artist”). The Village and Artist are hereinafter collectively referred to as the “Parties.”

RECITALS

On July 28, 2023, the Village issued a Call to Artists (the “Solicitation”). A copy of the Solicitation is attached hereto and incorporated herein as **Exhibit A**.

The Solicitation calls for the design, creation, and installation of a sculpture frame near the SW corner of Vogel Park (the “Site”). The Site is further described and depicted in **Exhibit B** attached hereto and incorporated herein.

In response to the Solicitation, Jeff Whipple submitted an artist statement, resume, and work samples (the “Response”) to perform the services contemplated by the Solicitation in the Village area (the “Artwork”). A copy of the Response is attached hereto and incorporated herein as **Exhibit C**.

On December 12, 2023, the Village Commission adopted Resolution No. 2023-____ selecting the Artist to design, create, and install the Artwork and perform the Services, as defined in this Agreement and **Exhibit D**, and authorized the Village Manager to negotiate and execute an agreement with the Artist.

The Village and the Artist, through mutual negotiation, have agreed upon a fee for the Artist to paint the Artwork and provide the Services.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Parties agree as follows:

1. Scope of Services.

- 1.1.** The Artist shall perform the Services set forth in the Scope of Services attached hereto as **Exhibit “D”** (the “Services”). The Artwork shall be installed at the Site consistent with the provisions of Exhibit D attached hereto.
- 1.2.** The Services shall be produced to the Village’s satisfaction. The quality of the complete Artwork shall meet all applicable industry standards. The Village shall have the right to approve or reject the Artwork or any portion thereof. The display and location of the Artwork shall be determined in the sole discretion of the Village.

2. Term.

- 2.1. The Artist shall complete the Services by no later than February 13, 2024 (the “Completion Date”).
- 2.2. The term of this Agreement shall be from the Effective Date through the Completion Date, unless terminated or extended as specified herein.
- 2.3. Artist agrees that time is of the essence and Artist shall complete the Services within the term of this Agreement, unless extended by the Village Manager.

3. Compensation and Payment.

- 3.1. The Village shall pay the Artist a total fee in the amount of \$15,000.00 (the “Fee”) for the creation of the Artwork and delivery of the Services. The Fee shall be paid to the Artist as follows:
 - 3.1.1. \$7,500 shall be paid to the Artist within five (5) days of the Effective Date and shall constitute a non-refundable deposit for the performance of the Services (the “Deposit”); and
 - 3.1.2. \$7,500 shall be paid to the Artist within fourteen (14) days following the final completion of the Artwork.
- 3.2. The Fee shall constitute full compensation from Village to Artist for any and all services, costs, and expenses related to the Services performed under this Agreement, including the irrevocable, perpetual license. Artist shall be responsible for payment of any and all taxes due and owing for payment received under this Agreement.
- 3.3. Artist shall deliver an invoice to Village upon completion of all Services detailing Services completed and the amount due to Artist under this Agreement. The Village shall pay the Artist in accordance with the Florida Prompt Payment Act after approval and acceptance of the Services by the Village Manager.

4. Subcontractors.

- 4.1. Artist shall be responsible for all payments to any subcontractors and shall maintain responsibility for all work related to the Services.
- 4.2. Artist may only utilize the services of a particular subconsultant with the prior written approval of the Village Manager, which approval may be granted or withheld in the Village Manager’s sole and absolute discretion.

5. Village’s Responsibilities.

- 5.1. Village shall make available any maps, plans, existing studies, reports, staff and representatives, and other data pertinent to the Services and in possession of the Village, and provide criteria requested by Artist to assist Artist in performing the Services.

5.2. Upon Artist's request, Village shall reasonably cooperate in arranging access to public information that may be required for Artist to perform the Services.

6. Artist and Artist Responsibilities; Representations and Warranties.

6.1. The Artist shall exercise the same degree of care, skill and diligence in the performance of the Services as is ordinarily provided by an artist under similar circumstances. If the Village determines that the Artwork is incorrect, not properly rendered, defective, or fails to conform to the Village requests, the Village shall notify the Artist within thirty (30) days from the date of the Village's final acceptance of the Artwork (as defined in Section 6.b. of Exhibit D). Upon receipt of such notice, the Artist shall, at Artist's sole cost and expense, correct the Artwork within thirty (30) days.

6.2. The Artist hereby warrants and represents that at all times during the term of this Agreement it shall maintain in good standing all required licenses, certifications and permits required under Federal, State and local laws applicable to and necessary to perform the Services for Village as an independent contractor of the Village. Artist further warrants and represents that it has the required knowledge, expertise, and experience to perform the Services and carry out its obligations under this Agreement in a professional and first class manner.

6.3. The Artist represents that is an entity validly existing and in good standing under the laws of Florida. The execution, delivery and performance of this Agreement by Artist have been duly authorized, and this Agreement is binding on Artist and enforceable against Artist in accordance with its terms. No consent of any other person or entity to such execution, delivery and performance is required.

6.4. The Artist represents and warrants that all work performed pursuant to this Agreement, including but not limited to the Artwork, is an original creation and does not infringe upon or violate any copyrights or other rights of any person, firm, or organization.

6.5. Artist does hereby indemnify and hold the Village harmless from and against any and all claims and liabilities that may arise as a result of any breach of the foregoing representation and warranty.

6.6. The Artist shall not disseminate publicity or news releases regarding the Artwork without the prior written approval of the Village during the Term of this Agreement. Artist may use images of the Artwork for their portfolio and non-commercial promotional use.

7. Ownership and Intellectual Property Rights.

7.1. **Ownership.** Title to the Artwork shall pass to the Village upon the Village's written final acceptance and payment for the Artwork pursuant to Section 3.2.

7.2. **Copyright.** Subject to the restrictions and usage rights and licenses granted to the Village hereunder, and unless otherwise agreed to by the parties in writing, Artist shall retain all rights under the Copyright Act of 1976, 17 U.S.C. §101 et seq. If Artist is comprised of two or more individual persons, the individual persons shall be deemed joint authors of the Artwork.

7.3. Village's Intellectual Property Rights.

7.3.1. Artist grants to Village an irrevocable, perpetual license to reproduce the image of the Artwork, including but not limited to digital and/or photographic reproductions, and to authorize third parties to do the same for the Village's use as contemplated by this Agreement. All reproduction by the Village may contain a credit to the Artist. The Artist shall not make any claim to the copyright of the Artwork or transfer in the ownership of the copyright that conflicts with the Village's irrevocable and perpetual license.

7.3.2. Artist acknowledges and agree that the process of photographing, digitizing, printing, and/or reproducing images of the Artwork may require that the image, or portions thereof, be cropped, resized, or otherwise altered in order to utilize the image of the original Artwork for any purpose, in the Village's sole discretion.

7.3.3. The Artist authorizes the Village to use the Artwork solely for the purposes set forth in this Agreement including photographic, filmed, or videotaped reproductions created by the Village for advertisement, publicity, exhibition, publication, or other promotional activities.

7.3.4. Artist further agrees that the Village, without charge to the Village, may make photographs or other reproductions, including publication or recordings of the Artwork without payment of royalty or other payment to Artist.

7.4. Third Party Infringement. Artist represents and warrants that the Artwork is the sole work of the Artist and does not infringe the intellectual property rights of any third parties. The Village is not responsible for any third party infringement of Artist's copyright or for protecting Artist's intellectual property rights. Further, Artist agrees to indemnify the Village against any claims brought against Village alleging that the Artwork infringes on intellectual property rights of any third parties.

7.5. Waiver of Artists' Rights.

7.5.1. The parties agree that the Artwork may be considered to be a "work of visual art" subject to the provisions of the federal Visual Artists Rights Act of 1990 ("VARA"), specifically the rights of certain authors to attribution and integrity, as codified at 17 U.S.C. §106A(a) and §113(d)(1). Artist understands and agrees that installation of the Artwork may subject the Artwork to destruction, distortion, mutilation, or other modification, by reason of its removal, and that the Village has the absolute right to remove the Artwork in its sole discretion.

7.5.2. Artist, as author of the Artwork, is authorized to waive the rights conferred by 17 U.S.C. §106A(a) and §113(d)(1), in accordance with the waiver provisions of §106A(e)(1) and §113(d)(1)(B), and hereby agrees to permanently waive voluntarily all rights pursuant to such provisions with respect to the Artwork, and any and all claims as may arise thereunder, or any other local, state foreign or international law, as currently drafted or as may be hereafter amended, that conveys the same of similar

rights (“Moral Rights Laws”), to prevent any removal of the Artwork that would cause the destruction, distortion, mutilation, or other modification of the Artwork. This waiver does not extend to the rights of attribution conferred by 17.U.S.C. §106A(a)(1) or §106A(a)(2).

7.5.3. The Village has the absolute right to remove, repair or restore the Artwork, in whole or in part, in the Village’s sole discretion. The Village will use its best efforts to repair or restore the Artwork in accordance with the maintenance manual provided by the Artist. With respect to significant or substantial repairs or restorations, the Village will use its best efforts to consult with the Artist prior to such repair or restoration of the Artwork. Notwithstanding, Artist specifically waives the right to claim any remedy concerning the modification, removal, or alteration of the Artwork or portion thereof.

8. Termination.

8.1. The Village Manager, without cause, may terminate this Agreement upon five (5) calendar days’ written notice to the Artist, or immediately with cause.

8.2. Upon receipt of the Village's written Notice of Termination, Artist shall immediately stop work on the Services unless directed otherwise by the Village Manager.

8.3. In the event of termination by the Village, the Artist shall be paid for all work accepted by the Village Manager up to the date of termination, provided that the Artist has first complied with the provisions of Paragraph 8.4.

8.4. The Artist shall transfer all books, records, reports, working drafts, documents, maps, and data pertaining to the Services to the Village, in a hard copy and electronic format within fourteen (14) days from the date of the written notice of termination or the date of expiration of this Agreement.

9. Insurance.

9.1. Artist shall secure and maintain throughout the duration of this agreement insurance of such types and in such amounts not less than those specified below as satisfactory to Village, naming the Village as Additional Insured, underwritten by a firm rated A-X or better by A.M. Best and qualified to do business in the State of Florida. The insurance coverage shall be primary insurance with respect to the Village, its officials, employees, agents, and volunteers naming the Village as additional insured. Any insurance maintained by the Village shall be in excess of the Artist’s insurance and shall not contribute to the Artist’s insurance. The insurance coverages shall include at a minimum the amounts set forth in this section and may be increased by the Village as it deems necessary or prudent.

9.1.1. Commercial General Liability coverage with limits of liability of not less than a \$1,000,000 per Occurrence combined single limit for Bodily Injury and Property Damage. This Liability Insurance shall also include Completed Operations and Product Liability coverages and eliminate the exclusion with respect to property under the care, custody and control of Artist. The General Aggregate Liability limit and the

Products/Completed Operations Liability Aggregate limit shall be in the amount of \$2,000,000 each.

9.1.2. Workers Compensation and Employer's Liability insurance, to apply for all employees for statutory limits as required by applicable State and Federal laws. The policy(ies) must include Employer's Liability with minimum limits of \$1,000,000.00 for each accident. No employee, subcontractor or agent of the Artist shall be allowed to provide Services pursuant to this Agreement who is not covered by Worker's Compensation insurance. In order for this requirement to be waived, Artist must provide proof of exemption from such laws. Information regarding eligibility for an exemption from the State of Florida Workers' Compensation Law is available at:

<https://www.myfloridacfo.com/Division/wc/PublicationsFormsManualsReports/Brochures/Key-Coverage-and-Eligibility.pdf>.

Exemptions may be applied for online through the Florida Department of Financial Services, Division of Workers' Compensation at:

<https://www.myfloridacfo.com/Division/wc/Employer/Exemptions/default.htm>.

9.2. Certificate of Insurance. Certificates of Insurance shall be provided to the Village, reflecting the Village as Additional Insured (except with respect to Professional Liability Insurance and Worker's Compensation Insurance), no later than ten (10) days after award of this Agreement and prior to the execution of this Agreement by Village and prior to commencing Services. Each certificate shall include no less than (30) thirty-day advance written notice to Village prior to cancellation, termination, or material alteration of said policies or insurance. The Artist shall be responsible for assuring that the insurance certificates required by this Section remain in full force and effect for the duration of this Agreement, including any extensions or renewals that may be granted by the Village. The Certificates of Insurance shall not only name the types of policy(ies) provided, but also shall refer specifically to this Agreement and shall state that such insurance is as required by this Agreement. The Village reserves the right to inspect and return a certified copy of such policies, upon written request by the Village. If a policy is due to expire prior to the completion of the Services, renewal Certificates of Insurance shall be furnished thirty (30) calendar days prior to the date of their policy expiration. Each policy certificate shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the Village before any policy or coverage is cancelled or restricted. Acceptance of the Certificate(s) is subject to approval of the Village.

9.3. Additional Insured. Except with respect to Professional Liability Insurance and Worker's Compensation Insurance, the Village is to be specifically included as an Additional Insured for the liability of the Village resulting from Services performed by or on behalf of the Artist in performance of this Agreement. The Artist's insurance, including that applicable to the Village as Additional Insured, shall apply on a primary basis and any other insurance maintained by the Village and shall be in excess of and shall not contribute to the Artist's insurance. The Artist's insurance shall contain a severability of interest provision providing that, except with respect to the total limits of liability, the insurance shall apply to each Insured or Additional Insured (for applicable policies) in the same manner as if separate policies had been issued to each.

9.4. Deductibles. All deductibles or self-insured retentions must be declared to and be reasonably approved by the Village. The Artist shall be responsible for the payment of any deductible or self-insured retentions in the event of any claim.

9.5. The provisions of this section shall survive termination of this Agreement.

10. Nondiscrimination. During the term of this Agreement, Artist shall not discriminate against any of its employees or applicants for employment because of their race, color, religion, sex, or national origin, and will abide by all Federal and State laws regarding nondiscrimination.

11. Attorneys Fees and Waiver of Jury Trial.

11.1. In the event of any litigation arising out of this Agreement, the prevailing party shall be entitled to recover its attorneys' fees and costs, including the fees and expenses of any paralegals, law clerks and legal assistants, and including fees and expenses charged for representation at both the trial and appellate levels.

11.2. IN THE EVENT OF ANY LITIGATION ARISING OUT OF THIS AGREEMENT, EACH PARTY HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY AND INTENTIONALLY WAIVES ITS RIGHT TO TRIAL BY JURY.

12. Indemnification.

12.1. Artist shall indemnify and hold harmless the Village, its officers, agents and employees, from and against any and all demands, claims, losses, suits, liabilities, causes of action, judgment or damages, arising from Artist's and Artist's acts, errors, or omissions arising out of the performance or non-performance of any provision of this Agreement, including, but not limited to, liabilities arising from contracts between the Artist and third parties made pursuant to this Agreement. Artist shall reimburse the Village for all its expenses including reasonable attorneys' fees and costs incurred in and about the defense of any such claim or investigation and for any judgment or damages arising from Artist's performance or non-performance of this Agreement.

12.2. Nothing herein is intended to serve as a waiver of sovereign immunity by the Village nor shall anything included herein be construed as consent to be sued by third parties in any matter arising out of this Agreement or any other contract. The Village is subject to section 768.28, Florida Statutes, as may be amended from time to time.

12.3. The provisions of this section shall survive termination of this Agreement.

13. Notices/Authorized Representatives. Any notices required by this Agreement shall be in writing and shall be deemed to have been properly given if transmitted by hand-delivery, by registered or certified mail with postage prepaid return receipt requested, or by a private postal service, addressed to the parties (or their successors) at the addresses listed on the signature page of this Agreement or such other address as the party may have designated by proper notice.

14. Governing Law and Venue. This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Venue for any proceedings arising out of this Agreement shall be proper exclusively in Miami-Dade County, Florida.

15. Entire Agreement/Modification/Amendment.

15.1. This writing contains the entire Agreement of the parties and supersedes any prior oral or written representations. No representations were made or relied upon by either party, other than those that are expressly set forth herein.

15.2. No agent, employee, or other representative of either party is empowered to modify or amend the terms of this Agreement, unless executed with the same formality as this document.

16. Ownership and Access to Records and Audits.

16.1. Artist acknowledges that all inventions, innovations, improvements, developments, methods, designs, analyses, drawings, reports, compiled information, and all similar or related information (whether patentable or not) which relate to Services to the Village which are conceived, developed or made by Artist during the term of this Agreement (“Work Product”) belong to the Village. Artist shall promptly disclose such Work Product to the Village and perform all actions reasonably requested by the Village (whether during or after the term of this Agreement) to establish and confirm such ownership (including, without limitation, assignments, powers of attorney and other instruments).

16.2. Artist agrees to keep and maintain public records in Artist’s possession or control in connection with Artist’s performance under this Agreement. The Village Manager or her designee shall, during the term of this Agreement and for a period of three (3) years from the date of termination of this Agreement, have access to and the right to examine and audit any records of the Artist involving transactions related to this Agreement. Artist additionally agrees to comply specifically with the provisions of Section 119.0701, Florida Statutes. Artist shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Agreement, and following completion of the Agreement until the records are transferred to the Village.

16.3. Upon request from the Village’s custodian of public records, Artist shall provide the Village with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119, Florida Statutes, or as otherwise provided by law.

16.4. Unless otherwise provided by law, any and all records, including but not limited to reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of the Village.

16.5. Upon completion of this Agreement or in the event of termination by either party, any and all public records relating to the Agreement in the possession of the Artist shall be delivered by the Artist to the Village Manager, at no cost to the Village, within seven

(7) days. All such records stored electronically by Artist shall be delivered to the Village in a format that is compatible with the Village's information technology systems. Once the public records have been delivered upon completion or termination of this Agreement, the Artist shall destroy any and all duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

16.6. Any compensation due to Artist shall be withheld until all records are received as provided herein.

16.7. Artist's failure or refusal to comply with the provisions of this section shall result in the immediate termination of this Agreement by the Village.

16.8. Notice Pursuant to Section 119.0701(2)(a), Florida Statutes. **IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE ARTIST'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS: ALBA L. CHANG, CMC, 1666 KENNEDY CAUSEWAY, SUITE 300, NORTH BAY VILLAGE, FL 33141, 305-756-7171, VILLAGECLERK@NBVILLAGE.COM.**

17. Nonassignability. This Agreement shall not be assignable by Artist unless such assignment is first approved by the Village Manager. The Village is relying upon the apparent qualifications and expertise of the Artist, and such firm's familiarity with the Village's area, circumstances and desires.

18. Severability. If any term or provision of this Agreement shall to any extent be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.

19. Independent Contractor. The Artist and its employees, volunteers and agents shall be and remain an independent contractor and not an agent or employee of the Village with respect to all of the acts and services performed by and under the terms of this Agreement. This Agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking, enterprise or venture between the parties.

20. Compliance with Laws. The Artist shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities in carrying out Services under this Agreement, and in particular shall obtain all required permits from all jurisdictional agencies to perform the Services under this Agreement at its own expense.

21. Waiver. The failure of either party to this Agreement to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any future violation, breach or wrongful conduct.

- 22. Survival of Provisions.** The provisions contained in Section 7 shall survive the expiration or termination of this Agreement. Additionally, any terms or conditions of either this Agreement that require acts beyond the date of the term of the Agreement, shall survive termination of the Agreement, shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.
- 23. Prohibition of Contingency Fees.** The Artist warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Artist, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for the Artist, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.
- 24. Public Entity Crimes Affidavit.** Artist shall comply with Section 287.133, Florida Statutes (Public Entity Crimes Statute), notification of which is hereby incorporated herein by reference, including execution of any required affidavit.
- 25. Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterparts shall constitute one and the same instrument.
- 26. E-Verify Affidavit.** In accordance with Section 448.095, Florida Statutes, the Village requires all contractors doing business with the Village to register with and use the E-Verify system to verify the work authorization status of all newly hired employees. The Village will not enter into a contract unless each party to the contract registers with and uses the E-Verify system. The contracting entity must provide of its proof of enrollment in E-Verify. For instructions on how to provide proof of the contracting entity's participation/enrollment in E-Verify, please visit: <https://www.e-verify.gov/faq/how-do-i-provide-proof-of-my-participationenrollment-in-e-verify>. By entering into this Agreement, the Artist acknowledges that it has read Section 448.095, Florida Statutes; will comply with the E-Verify requirements imposed by Section 448.095, Florida Statutes, including but not limited to obtaining E-Verify affidavits from subcontractors; and has executed the required affidavit attached hereto and incorporated herein.
- 27. Non-Exclusive Agreement.** The Village reserves the right to procure or acquire similar services from another provider while this Agreement is in full force and effect.
- 28. Termination Due To Lack of Funding.** This Agreement is subject to the condition precedents that: (i) Village funds are available, appropriated and budgeted, for the Services annually for each year of the Term; (ii) the Village secures and obtains any necessary proceeds, grants or loans for the accomplishment of the Services pursuant to any borrowing legislation adopted by the Village Commission relative to the Services; and (iii) the Village Commission enacts legislation or other necessary resolutions, which awards and authorizes the execution of this Agreement and the annual appropriation and budgeting for the Services. The Village represents to Artist that the Village has adopted a resolution authorizing execution of this Agreement, if required by applicable law.

29. Conflicts; Order of Priority. This document without exhibits is referred to as the “Base Agreement.” In the event of a conflict between the terms of this Agreement and any exhibits or attachments hereto, or any documents incorporated herein by reference, the conflict shall be resolved in the following order of priorities and the more stringent criteria for performance of the Services shall apply:

29.1.1. Agreement

29.1.2. Exhibit D: Scope of Services

29.1.3. Exhibit B: Site Description

29.1.4. Exhibit A: Solicitation (Call to Artists issued July 28, 2023)

29.1.5. Exhibit C: Artist’s Response to Solicitation


[THIS SPACE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year as first stated above.

NORTH BAY VILLAGE

JEFF WHIPPLE

By: _____
Dr. Ralph Rosado, AICP
Village Manager

By: 
Name: Jeff Whipple

Attest:

Title: Artist

By: _____
Alba L. Chang, CMC
Village Clerk

Approved as to form and legal sufficiency:

By: _____
Weiss Serota Helfman Cole & Bierman,
P.L.
Village Attorney

Addresses for Notice:

North Bay Village
Attn: Dr. Ralph Rosado, AICP, Village
Manager
1666 Kennedy Causeway, 3rd Floor
North Bay Village, FL 33141
305-758-7171 (telephone)
rrosado@nbvillage.com (email)

Addresses for Notice:

Jeff Whipple
2650 Rosselle St. Ste 3
Jacksonville, Florida 32204
813.223.6190 (telephone)
jeff@jeffwhipple.com (email)

With a copy to:

Weiss Serota Helfman Cole & Bierman,
P.L.
Attn: Haydee Sera, Esq.
North Bay Village Attorney
2800 Ponce de Leon Boulevard, 12th Floor
Coral Gables, FL 33134
hsera@wsh-law.com (email)

With a copy to:

_____ (telephone)
_____ (email)

E-VERIFY AFFIDAVIT

In accordance with Section 448.095, Florida Statutes, the Village requires all Artists doing business with the Village to register with and use the E-Verify system to verify the work authorization status of all newly hired employees. The Village will not enter into a contract unless each party to the contract registers with and uses the E-Verify system.

The contracting entity must provide of its proof of enrollment in E-Verify. For instructions on how to provide proof of the contracting entity’s participation/enrollment in E-Verify, please visit: <https://www.e-verify.gov/faq/how-do-i-provide-proof-of-my-participationenrollment-in-e-verify>

By signing below, the contracting entity acknowledges that it has read Section 448.095, Florida Statutes and will comply with the E-Verify requirements imposed by it, including but not limited to obtaining E-Verify affidavits from subconsultants.

Check here to confirm proof of enrollment in E-Verify has been attached to this Affidavit.

In the presence of:

Signed, sealed and delivered by:

Witness #1 Print Name: _____

Print Name: _____

Witness #2 Print Name: _____

Title: _____
Entity Name: _____

ACKNOWLEDGMENT

State of Florida
County of _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ____ day of _____, 20__, by _____ (name of person) as _____ (type of authority) for _____ (name of party on behalf of whom instrument is executed).

Notary Public (Print, Stamp, or Type as Commissioned)

Personally known to me; or

Produced identification (Type of Identification: _____)

Did take an oath; or

Did not take an oath

EXHIBIT A

[COPY OF CALL TO ARTISTS SOLICITATION ON THE FOLLOWING PAGES]

Call to Artists



Sculpture Frame – Vogel Park

Brief

Project Names

Sculpture Frame – Vogel Park

Owner

North Bay Village

Budget

\$15,000

Location

Southwestern Corner of Dr. Paul Vogel Community Park
7920 West Drive
North Bay Village, FL

How to Apply

Deadline: Wednesday, August 30th, 11:59PM

Submit at:

publicart@nbvillage.com

Submission should include:

-5 samples of completed work

-CV

-Brief artist statement of how vision aligns with
North Bay Village brand and vision

Eligibility

Open to professional visual artists or artist-led teams.
Eligible artists create artwork on a regular basis for a
duration of time.

Detailed Description

North Bay Village’s Dr. Paul Vogel Community Park (Vogel Park) is the premier event space in the Village for everything from signature events (4th of July, Halloween, Easter, etc.) to birthday party rentals. The waterfront park has a state-of-the-art playground and swing set, as well as a gazebo and newly painted bathroom building featuring much of the flora and fauna that residents typically see in the “Heart of the Bay.” It is located on Harbor Island, the Village’s most populated of its three islands.

This project entails the construction of a sculpture frame in the style of various world-renowned tourist sites (see pictures below). The sculpture should be made with durable, weather-resistant materials given that it will be located outdoors with a body of salt water several feet away.



Examples of sculpture frames located at major tourist sites around the world.



The grassy area where the sculpture frame will be placed.

About North Bay Village

North Bay Village (NBV) is a 3-island city located in Biscayne Bay between Miami and Miami Beach, serving as the northernmost access/evacuation route of four causeways connecting the two major, metropolitan cities in Miami-Dade, one of the US' most populous counties. As a result, NBV's main boulevard (Kennedy Causeway, aka State Road 934) is among Florida's busiest roads, with @42,000 vehicles/day. NBV has over 8,200 residents in just over 1/3-square-mile of land, making it Florida's 2nd densest city; almost 3/4 of NBV residents are Latino, African-American or Asian, making it one of the US' most diverse (US Census). Given its density, location, and daily car trips, Miami-Dade has designated Kennedy Causeway and its adjacent roads as a principal "public art gateway corridor" countywide.

While celebrating its 75th anniversary in 2020, pursuant to dozens of public engagement meetings involving hundreds of residents, the NBV Village Commission unanimously adopted the NBV100 Master Plan (northbayvillage-fl.gov/nbv-100/), setting a vision for the Village's next 25 years ($75 + 25 = 100$, hence NBV100). The Florida Chapter of the American Planning Association awarded NBV100 the award for best master plan by a Florida community under 50,000, in 2021! NBV100's three guiding "Pillars" are Livability, Resilience (because of NBV's vulnerability to Sea Level Rise), and Prosperity.

In 2021 NBV conducted a public engagement process resulting in adoption of a Village Brand Guide (northbayvillagefl.gov/communications) with a design aesthetic incorporating vibrant, tropical colors and celebrating preservation of the natural environment, especially Biscayne Bay. In 2022 we undertook 3 public art projects (northbayvillage-fl.gov/public-art) consistent with the Guide.

Opportunities for Public Art

The proposed area for this project is a grass area measuring roughly 10 feet wide by 8 feet deep, adjacent to a walking path that traverses the entirety of Vogel Park.

Estimated Schedule

**Dates are subject to change.*

July 28, 2023	Call to Artists released
August 30, 2023	Deadline to submit qualifications
September 19, 2023	Public Art Selection Committee meeting – finalist
September 20, 2023	Finalist notified and provided draft contract
October 10, 2023	Village Commission approval of finalist
December 6, 2023	Submission of proposed design(s) <i>Adjustments may be made after this date.</i>
December 13, 2023	Final design presentation – Online meeting <i>*A 30 minute presentation appointment time on a defined date will be provided for artist's confirmation.</i> <i>*Final version of the proposal as presented is requested to be uploaded prior to presentation</i>
February 6, 2024	Estimated completion

Process

Pursuant to the processes of the North Bay Village Art in Public Places Program, the Village's Public Art Selection Committee will recommend a finalist to create a full proposal for review by the Village Commission. The primary criteria for selection will be previous artistic accomplishment as demonstrated in images of completed artwork, public art experience, and/or initial design approach to the project as demonstrated in the artist's statement. Artists who have not created public art before are invited to apply.

Artists will receive detailed information regarding the opportunities for public art. The finalist will be invited to do a site visit and will have the opportunity to meet with Village staff.

The finalist may choose to present their final proposals via video conference. Village staff will be available to support inquiries throughout the process. Upon the presentation of proposals, the Public Art Selection Committee will make the decision on a final design.

For more information about North Bay Village: <https://northbayvillage-fl.gov/>

Points of Contact

LEO COSIO
CHIEF OF STAFF TO THE VILLAGE MANAGER/ART IN PUBLIC PLACES
NORTH BAY VILLAGE
lcosio@nbvillage.com / 786-750-0873 (Mobile)

EXHIBIT B

Site Description/Photos of Vogel Park Sculpture Frame Location

The location of the Vogel Park Sculpture Frame will be in the Southwest corner of Vogel Park, South of the gazebo between the fence and the walking path. Vogel Park is located on West Drive in Harbor Island.



EXHIBIT C

[COPY OF ARTIST RESPONSE ON THE FOLLWING PAGES]

2650 Rosselle St., Ste 3, Jacksonville, Florida 32204, (813) 223-6190, jeff@jeffwhipple.com, www.jeffwhipple.com

M.F.A., 1980 University of South Florida, B.F.A., 1978, Northern Illinois University

PUBLIC AND CORPORATE ART COMMISSIONS, PROJECTS AND PURCHASES

- 2023 **ArtSS In the Open 2023**, One-year display of Jeff Whipple's sculpture in Sandy Springs, Georgia
- 2023 **Artscape 7**, One-year display of Jeff Whipple's sculpture in downtown Fayetteville, North Carolina
- 2021 **Roser Park Sculpture Commission**, City of St. Petersburg Public Art, St. Petersburg, Florida
Five cast concrete sculptures for a park, \$65,000
- 2021 **University of Florida**, Gainesville, Florida, \$30,000
6 ft. x 12 ft. painting for the Herbert Wertheim Laboratory for Engineering
- 2019 **Hyde-Addison Elementary**, Washington, DC Public Art, \$50,000
Two 27-foot oil and acrylic murals for a large multipurpose room.
- 2108 **Jacksonville Jazz Festival**, City of Jacksonville, Florida, \$10,000
Two painted portraits made into 450 signed commemorative posters.
- 2014 **Ballou Senior High School**, Washington, DC, \$50,000
Entrance Lobby Mural Painting, 9 feet by 74 feet
- 2012 **Boca Raton Museum of Art**, Boca Raton, Florida, \$5000
Commissioned art mini golf hole for "Big Art: Mini Golf", Boca Raton Museum of Art, Boca Raton, Florida
- 2011 **East New Orleans Regional Library**, New Orleans, Louisiana, \$40,000
11 commissioned paintings
Selected for the Public Art Network 2012 Year in Review as one of the top 50 public art projects in the USA.
- 2008 **Oasis Towers 1 & 2**, Related Group, Inc., Fort Myers, Florida, \$26,500
Four framed art photographs
- 2007 **Florida A&M University**, Tallahassee, Florida, \$3000
12-foot mural for the Coleman Library Extension
- 2006 **Tampa Museum of Art**, Tampa, Florida, \$20,000
Outdoor video installation in Miami Beach during Art Basel Miami Beach, 3 screens, 10 ft. by 33 ft., 7 nights, 15-minute loop
- 2006 **City of Tampa Public Art Program**, Tampa, Florida, \$25,000
Outdoor video installation at the Tampa Museum of Art, 15 feet by 75 feet, 15-minute video on loop nightly for 4 weeks.
- 2006 **City of Tampa Public Art Program**, Tampa, Florida, \$25,000
Lighted mural for exterior plaza of the Tampa Museum of Art, 4 feet by 300 feet.
- 2004 **Ringling Museum of Art**, Tibbals Learning Center, Sarasota, Florida
Faux sky with clouds (teamed with artist Pamela Marwede) for 6000 sq. ft. of walls and ceiling above scale model circus diorama.
- 2004 **Hospice of Chiefland**, Chiefland, Florida, \$1500
Two commissioned sculptural, cast concrete benches.
- 2004 Jackye and Curtis Finch, Jr., Portrait commission donated to the **Little Rock Art Museum**, Little Rock, Arkansas
Pencil drawing on paper titled, "Long Time No See", 24" x 42"
- 2003 **MacDill Air Force Base**, Tampa, Florida
Portrait of General Benjamin O. Davis, Jr., oil on canvas, 36" x 24", \$20,000
- 2003 **Hospice of the Lakes**, Palatka, Florida
Two commissioned sculptural, cast concrete benches, \$1200
- 2002 **Johnson Branch Library**, St. Petersburg, Florida
Mural, 3 feet high by 150 feet long, \$20,000
- 2001 **The Volusia County Courthouse**, De Land, Florida
Four commissioned oil paintings for the entrance floor lobby, 64" X 64" each, \$20,000
- 2001 **Alachua Regional Service Center**, Alachua County, Florida
Two oil paintings purchased by the Florida Art in Public Buildings Program.
- 1996-01 **Haven Hospice**, Gainesville, Florida
Seven commissioned sculptural, cast concrete benches, \$4200
- 2000 **McGraw-Hill Companies**, New York, New York
Six oil paintings purchased for their corporate headquarters.
- 1999 **The European Academy of Early Education**, Nokomis, Florida
Mural, 3 feet by 140 feet, \$30,000
- 1998 **Volusia County Agricultural Center**, De Land, Florida
Four commissioned oil paintings, 6 feet by 12 feet each, \$20,000

AWARDS AND FELLOWSHIPS

2021 Art Ventures Individual Artist Award, Community Foundation of NE Florida, \$3500
2018 Pollock-Krasner Foundation Artist Grant, \$25,000
2017 Art Ventures Individual Artist Award, Community Foundation of NE Florida, \$3500
2014 Florida Individual Artist Fellowship, \$2500
2012 Public Art Network 2012 Year in Review
2008 Artist Grant, Hillsborough County Arts Council, \$2000
2007 Artist Enhancement Grant, Florida Arts Council, \$1000
2006 Florida Individual Artist Fellowship, \$5000
2001 Fulton Ross Fund for Artists, \$10,000
1996 Florida Individual Artist Fellowship, \$5000
1990 Illinois Individual Artist Fellowship, \$5000
1985 Illinois Individual Artist Fellowship, \$5000
1982 Florida Individual Artist Fellowship, \$2500

PUBLIC AND CORPORATE COLLECTIONS

Polk Museum of Art, Lakeland, Florida
MacDill Air Force Base, Tampa, Florida
Gulf Coast Museum of Art, Largo, Florida
Arkansas Art Center, Little Rock, Arkansas
East New Orleans Library, New Orleans, Louisiana
Graphic Chemical Corporation, Oak Park, Illinois
Holland and Knight Law Offices, Tampa, Florida
McGraw-Hill Companies, New York, New York
Ballou Senior High School, Washington, D.C.
Metropolitan Museum, Coral Gables, Florida (1982)
Tampa Museum of Art /City of Tampa, Tampa, FL
University of South Florida, Tampa, Florida
Valencia Community College, Orlando, Florida
Ringling Museum of Art, Sarasota, Florida
Florida A&M University, Tallahassee, Florida
Hospice of North Central Florida, Gainesville, Florida
Pensacola State College, Pensacola, Florida

Alachua Regional Service Center, Alachua, Florida
City of Palm Desert, Palm Desert, California
Edison College, Fort Myers, Florida
Northfield Mount Hermon, Massachusetts
Hospice of Chiefland, Chiefland, Florida
Hospice of the Lakes, Palatka, Florida
European Academy of Early Education, Venice, Florida
Oasis Towers, The Related Group, Ft. Myers, Florida
Volusia County Agricultural Center, De Land, Florida
Volusia County Courthouse, De Land, Florida
Armor Holdings, Jacksonville, Florida
Hyde-Addison Elementary, Washington, DC
Whole Foods, Sarasota, Florida
Johnson Library, St. Petersburg, Florida
Williams Properties, Orange City, Florida
Baptist Medical Center South, Jacksonville, FL
University of Florida, Gainesville, FL

TEACHING EXPERIENCE

2012-21 University of North Florida, Jacksonville, Florida
2010-11 Florida State University, Tallahassee, Florida
2005-09 University of Tampa, Tampa, Florida
1990-92 Ringling College of Art, Sarasota, Florida
1988-90 Northern Illinois University, De Kalb, Illinois
1982-83 SouthWestern State College, Fort Myers, Florida
1982 Arizona State University, Tempe, Arizona

SOLO EXHIBITIONS selected from a total of 84

2023 Mills Gallery, Orlando, Florida
2022 Touché Gallery, Jacksonville, Florida
2020 Space 42 Gallery, Jacksonville, Florida
2016 Haskell Gallery, Jacksonville International Airport, Jacksonville, Florida
2010 *Seizing the Day*, Museum of Florida Art, DeLand, Florida
2007 *Signs of Life*, Lake Eustis Museum of Art, Eustis, Florida
2006 *Long Time No See*, Light, video and painting installation, Tampa Museum of Art, Tampa, Florida
2002 *Twenty-five year Retrospective*, Gulf Coast Museum of Art, Largo, Florida
2000 Museum of Florida Art and Culture, Avon Park, Florida
1993 Boca Raton Museum of Art, Boca Raton, Florida
1987 Sybil Larney Gallery, Chicago, Illinois
1983 Pensacola State College, Pensacola, Florida

GROUP EXHIBITIONS selected from more than 200 shows

2023 *ArtScape 7*, one-year sculpture display, The Arts Council of Fayetteville, Fayetteville, North Carolina
2022 *32nd All Florida Juried Show*, Martin County Arts Council, Stuart, Florida
2017 *Naples National*, von Liebig Art Center, Naples, Florida, **Juror's Award**
2014 *Our Shared Past*, curated themed exhibition, Cummer Museum, Jacksonville, Florida
2012 *Big Art: Mini Golf*, Boca Raton Museum of Art, Boca Raton, Florida
2011 *Pinnacle III*, national art competition, Florida A&M University, Tallahassee, Florida, **Best of Show Award**
2010 *Biennial V*, Museum of Florida Art, DeLand, Florida, **Best In Show Award**
Florida Contemporary, Naples Museum of Art, Naples, Florida
About Face, two artist show, Ormond Memorial Art Museum, Ormond Beach, Florida
2009 *All-Media National Exhibition IV*, 621 Gallery, Tallahassee, Florida, **Best In Show Award**
2006 *56th Fine Arts Exhibition*, Ridge Art Center, Winter Haven, Florida, **Best of Show Award**
2004 *Undercurrents/Overcurrents 7*, curated survey, Tampa Museum of Art, Tampa, Florida
2000 *Ringling Biennial*, Curated Florida artists, Ringling Museum of Art, Sarasota, Florida
1996 *Featuring Florida*, Ringling Museum, Sarasota, Florida, **Purchase Award**
1992 *Annual Juried Exhibition*, Orlando Museum, Orlando, Florida, **Best of Show Award**
1982 *Florida Painting '82*, Jacksonville Art Museum, Jacksonville, Florida
1978 *Vicinity Competition*, Art Institute of Chicago, Chicago, Illinois

Public Art References for Jeff Whipple

Elizabeth Brincklow
Independent Cultural Arts Manager and Consultant
Brincklow Arts, LLC
Dunedin, Florida
elizabeth@brincklow.com
727-420-8869

Ms. Brincklow has served as the public art administrator for the City of St. Petersburg, Florida and has been a consultant for Pinellas County, and the Dunedin, Florida Public Art Program.

Morgana King
king.morgana@gmail.com
504-615-3425

Ms. King was the public art coordinator for the City of New Orleans, Louisiana during the review and installation of the eleven paintings I did for the East New Orleans Regional Library. That project was selected for the Public Art Network 2012 review.

Sandy Bellamy
Public Art
Department of General Services
Construction Services
District of Columbia Government
1250 U Street, N.W., 3rd Floor
Washington, DC 20009
Office: (202) 202-727-9192
Mobile: (202) 202-253-7398
Email: sandy.bellamy@dc.gov

Ms. Bellamy coordinated the two mural commissions I made for Washington, D.C. public art.

Ken Rollins
Art Consultant and former Executive Director of four art museums
Rollins Fine Art
St. Petersburg, Florida 33701
kenrollins42@gmail.com

727-831-1610

Mr. Rollins oversaw three large scale public art installations I created in coordination with the Tampa Museum of Art, where he was the Executive Director.

Sculpture Frame – Vogel Park North Bay Village

Statement by Jeff Whipple

I could make a sculptural frame that includes sculpted and painted images and words. The images would be realistic shallow relief sculptures of animals and fauna regularly seen in the area. That could be manatees, pelicans, palm trees, redfish, shells, and flowers all collaged together on the frame. I would paint it in bright colors.

The sculptural images would be cast from rubber molds in GFRC (glass fiber reinforced concrete) and attached to a hand-built concrete frame structure. The structure would be reinforced with fiberglass rebar because iron rebar would be susceptible to corrosion next to the saltwater. (Iron rebar corrosion is the biggest problem for concrete. Fiberglass rebar, a relatively new material, eliminates internal corrosion and subsequent concrete expansion and cracking.)

I would paint the finished concrete artwork with concrete stain and UV stable acrylic paint. I use several coats of an industrial clear coating that is impervious to water and protects the colors from UV light. It also can be cleaned if vandals spray paint it. Otherwise, general cleaning can be done with soap and water.

The frame structure can be mounted on concrete pads and would be strong enough to withstand high winds and waves splashing over the sea wall. (Like we're having here in Jacksonville today as Idalia passes by.)

I've been using GFRC for many years in my sculpture. It's commonly used in architecture where it's lightweight, thin and durable on the exteriors of high rise buildings. GFRC has an acrylic polymer that bonds with the concrete, sand and fiberglass and is much lighter than regular concrete. It can be painted any color.

I like GFRC because I can cast it from molds of detailed clay sculptures. It's tremendously cheaper than cast metals so I can do much more on a smaller budget. I also make the molds myself, which saves a lot on fabrication costs.

I recently used GFRC to make 5 sculptures for a park in St. Petersburg, Florida. The sculptures are large disks that appear to be rolling down a hill. There are shallow relief sculptures of the fauna that can be found in the park. I put banners from the animal's mouths with words that imply they are saying silly things. There are also painted quotes about the importance of parks from famous people. The sculptures are meant to guide visitors through the park and show the transition when people engage with nature, and retreat from their job and life stresses.

My commissioned artworks have always been completed and installed way ahead of schedule. I've had great experiences working with public art committees, contractors and architects to determine the best application of my skills for creating artworks that have a lasting quality not only in materials but also in aesthetics.

Jeff Whipple

813.223.6190 jeff@jeffwhipple.com www.jeffwhipple.com



"The Reader" by Jeff Whipple 2023
Concrete and paint with UV protection clearcoat, 68" x 14" x 24" (Life size boy)
"ArtSS in the Open", Sandy Springs, Georgia



Jeff Whipple, "All or Nothing at All", GFRG concrete, paint, UV protection, 84" x 42" diameter, 2017 - 2023, Artscape 7, Fayetteville, North Carolina



Jeff Whipple, "Relaxation Rollers", hand-built and cast GFRC, concrete stain, gloss clearcoat UV filter protection, 42" diameter x 6" wide, 2021. Commissioned by the City of St. Petersburg, Florida for Roser Park. THEME: Relaxation in a Park. There are quotes about relaxation and bas-relief "talking" animals on both sides.



Jeff Whipple, "Relaxation Rollers", hand-built and cast GFRC, concrete stain, gloss clearcoat UV filter protection, 42" diameter x 6" wide, 2021. Commissioned by the City of St. Petersburg, Florida for Roser Park. THEME: Relaxation in a Park. There are quotes about relaxation and bas-relief "talking" animals on both sides.



Jeff Whipple, "Relaxation Rollers", hand-built and cast GFRC, concrete stain, gloss clearcoat UV filter protection, 42" diameter x 6" wide, 2021. Commissioned by the City of St. Petersburg, Florida for Roser Park. THEME: Relaxation in a Park. There are quotes about relaxation and bas-relief "talking" animals on both sides.

EXHIBIT D
SCOPE OF SERVICES

For purposes of this Exhibit, “Artwork” means a sculpture frame with NBV branding, colors, and any artistic aspects that reflect the location’s distinctiveness as the “Heart of the Bay.”

1. Artist’s Obligations

- a. The Artist shall perform all services and furnish all supplies, material and/or equipment as necessary for the design and installation of the Artwork at the Site in accordance with the specified schedule. Services shall be performed in a professional manner and in strict compliance with all terms and conditions in this Agreement.
- b. The Artist shall determine the artistic expression, design, dimensions and materials of the Artwork, subject to review and acceptance by the Village as set forth in this Agreement.
- c. The Artist shall prepare the design concept and the corresponding budget described in Section 3 of this Scope of Services. The design concept shall include a description of all materials and products utilized in the Artwork and the required routine care and upkeep involved.
- d. Artist shall attend public information meetings with the general public, attend design and coordination meetings with Village, Artist, and other parties, as appropriate, to communicate about the Artwork and to ensure appropriate integration and/or installation of the Artwork.
- e. The Artist shall complete the design of the Artwork by the scheduled installation date as provided in Section 1.4(b)(i) of this Agreement.
- f. The Artist shall secure any and all required licenses, permits and similar legal authorizations at the Artist’s expense as may be necessary for the installation and maintenance of the Artwork at the Site.
- g. The Artist shall arrange the transportation and installation of the Artwork in consultation with the Village. If the Artist does not install the Artwork himself or herself, Artist shall supervise and approve the installation.
- h. Artist shall provide required insurance in amounts and limits specified in Section 9 of the Agreement.
- i. Artist shall provide a list of all subcontractors along with a copy of the agreement between the Artist and each subcontractor.
- j. Artist shall provide a maintenance manual with a description of all materials and products utilized in the Artwork and the required care and upkeep involved.
- k. Artist shall provide photographic documentation of the Artwork.
- l. Artist shall be available with reasonable advance notice for meetings, ceremonies and the like, as necessary.

2. Design

a. Concept/Schematic

- i. By January 3, 2024, the Artist/Artist shall submit to the Village the proposed design concept (the “Design”) in the form of [detailed color drawings, models, and/or other documents] as are required to present a meaningful representation of the Artwork. The Artwork shall incorporate materials and paint, as needed, be applied using a paint designed for application on concrete/streets to preserve the Artwork’s integrity and protect it from natural elements.
- ii. The Artist shall visit, examine, research, and consider the Site and surrounding area. If applicable, the Artist shall also consult with representatives of the community and consider their input and concerns.
- iii. The Design will include: a description of the method by which the Artwork is to be fabricated and installed; a description of any operational, maintenance and conservation requirements for the Artwork; a description of the placement of the Artwork at the Site and any site preparations that may be required by the Village.
- iv. The Design must provide sufficient detail to permit the Village to assure compliance with applicable local, state or federal laws, ordinances and/or regulations.

3. Approval

- a. Within 7 days after the Artist submits the Design, the Village shall notify the Artist whether it approves or disapproves of the Design. The Village shall have discretion in approving outright or with conditions or rejecting the Design.
- b. If the Village disapproves of the Design, the Village will submit to the Artist in writing the reasons for such disapproval. In such event, the Artist will submit a Revised Design within 21 days after the Village has notified the Artist of its disapproval. The Artist will not be paid an additional fee for the Revised Design.
- c. Once the Village has approved the Design, the Village will schedule a final design presentation before the Public Art Selection Committee. If the Public Art Selection Committee requires any revisions to the Design, the Village will submit those in writing to the Artist. The Artist will have 21 days to comply with such revisions. If agreed upon by both parties, such revisions will become a part of the Design.

4. Budget, Payment Schedule, Construction Schedule and Progress Reports

a. Budget

- i. If the Artist incurs costs in excess of the project budget, the Artist shall pay such excess from the Artist’s own funds unless the Artist previously obtained approval for such costs from the Village (or such costs were the result of actions or inaction of the Village).

b. Schedule

- i. The Artist shall notify the Village of the tentative schedule for the design and installation of the Artwork, including a schedule for the submission of progress reports and inspections if any. The Village Manager may agree to amend the Schedule by written agreement.

5. Installation

- a. Upon the Village's final approval of the Artwork, as being in conformity with the Design, the Artist shall paint and install the Artwork onto the Site in accordance with the schedule provided for in Section 4(b) of this Scope of Services.
- b. The Artist will coordinate closely with the Village to ascertain that the Site is prepared to receive the Artwork. Artist must notify Village of any adverse conditions at the Site that would affect or impede the installation of the Artwork. The Artist is responsible for timely installation of the Artwork. The Artist will confer and coordinate with the Village to ensure timely coordination with the Village's Public Works Department. Artist may not install the Artwork until authorized to do so by the Village.
- c. The Artist shall be present to supervise the installation of the Artwork.
- d. Upon written acceptance of the installation, the Artwork shall be deemed to be in the custody of the Village for purposes of Article 4 and Article 6 of this Agreement.
- e. Within 5 days after installation of the Artwork, the Artist shall furnish the Village with the following photographs of the Artwork as installed: A set of three digital, 300 dpi, JPG or TIFF files, of the Artwork, provided to the Village. Photographs must be labeled with the name of the Artwork, the date upon which the photograph was taken, and the viewpoint from which the photograph was taken. The Artist shall also furnish the Village with a full written narrative description of the Artwork.

6. Approval and Acceptance

- a. The Artist shall notify the Village in writing when all services as required of both Parties by this Agreement prior to this paragraph have been completed in substantial conformity with the Design.
- b. The Village shall promptly notify the Artist of its final acceptance of the Artwork within 5 days after the Artist submitted written notice pursuant to paragraph (a) above. The effective date of final acceptance shall be the date the Village submits written notice to the Artist of its final acceptance of the Artwork. The final acceptance shall be understood to mean that the Village acknowledges completion of the Artwork in substantial conformity with the Design, and that the Village confirms that all services as required of both Parties by this Agreement prior to paragraph (c) of this section have been completed. Title to the Artwork passes upon final acceptance and final payment.
- c. If the Village disputes that all the services have been performed, the Village shall notify the Artist in writing of those services the Artist has failed to perform within 5 days after

the Artist submitted written notice pursuant to paragraph (a) above. The Artist shall promptly perform those services indicated by the Village.

- d. If the Artist disputes the Village's determination that not all services have been performed, the Artist shall submit reasons in writing to the Village within 5 days of the Village's prior notification to the contrary. The Village shall make reasonable efforts to resolve the dispute with the Artist in good faith. However, final determination as to whether all services have been performed shall remain with the Village.
- e. Upon the resolution of any disputes that arise under paragraphs (c) and (d) of this section, the Village shall notify the Artist of its final acceptance of the Artwork pursuant to paragraph (b).
- f. After final acceptance of the Artwork, the Artist shall be available at such time(s) as may be mutually agreed upon by the Village and the Artist to attend any public meetings and community outreach functions, as well as any inauguration or presentation ceremonies relating to the dedication of the Artwork.
 - i. During such public presentations by the Artist, the Artist shall acknowledge the Village's role in funding the Artwork.
 - ii. The Village shall be solely responsible for coordinating public information materials and activities related to public presentations.