

CITY SQUARE SCULPTURE AGREEMENT BETWEEN THE CITY OF JOLIET AND SIJIA CHEN STUDIO

THIS AGREEMENT is made and entered into this ____ day of ____, 2025, by and between the City of Joliet, Illinois, an Illinois Municipal Corporation, (hereinafter called the "City") and Sijia Chen (hereinafter called the "Artist").

WHEREAS, the City has implemented the City Square Sculpture Program pursuant to local ordinance by allocating \$197,000 for the establishment of a signature sculpture within the future City Square; and

WHEREAS, authority lies with the City to make payments for the design execution, fabrication, transportation, and installation of artwork, including payments for the support of an artist; and

WHEREAS, the Artists is a recognized artist whose work and reputation make the Artist uniquely qualified to create the Artwork; and

WHEREAS, the Artist was selected by the City and the Joliet Arts Commission to design, execute, fabricate, and install the Artwork as described in Exhibit A in a public space located within the 100 block of N. Chicago Street (hereinafter called the "Site").

WHEREAS, the Artist and City wish to undertake the obligations expressed herein;

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

ARTICLE 1 – SCOPE OF SERVICES

1.1 ARTIST'S OBLIGATIONS

- a. The Artist shall perform all services and furnish all supplies, materials, and/or equipment as necessary for the design and fabrication 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 City as set forth in this Agreement. To ensure that the Artwork as installed shall not interfere with the intended use of the Site, pedestrian and other traffic flow, parking, and safety devices and procedures at the Site, the Artist's proposal shall be reviewed and approved by the City and other applicable City departments such as Public Works or Planning and, where appropriate, the project architect, to ensure compliance with these objectives.
- c. The Artist shall prepare the design concept, and the corresponding budget described in Sections 1.3 and 1.4 of this Agreement. The design concept shall include a description of all materials and products utilized in the Artwork and the required routing care and upkeep involved.
- d. Artist shall attend design and construction coordination meetings with the City 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 fabrication 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 City. If the Artist does not install the Artwork, the Artist shall supervise and approve the installation.

- h. Artist shall provide required insurance in the amounts and limits specified in Article 6 and Exhibit D.
- 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.

1.2 CITY'S OBLIGATIONS

- a. The City shall perform all obligations in strict compliance with all terms and conditions in this Agreement.
- b. The City shall be responsible for providing the Artist, at no expense to the Artist, copies of existing designs, drawings, reports, list of required permits, and other existing relevant data, if any, which is needed by Artist in order to perform.
- c. The City shall be responsible for compliance with all applicable laws and regulations, including but not limited to zoning or environmental regulations, and shall explain any limitations imposed by such laws and/or regulations to the Artist.
- d. The City shall prepare the Site in accordance with the specifications detailed in the approved design concept in Section 1.3 of this Agreement. The City shall be responsible for all expense, labor, and equipment to prepare the Site for the timely transportation and installation of the Artwork. The City shall complete the Site preparations by the scheduled installation date as provided in Section 1.4(b)(i) of this Agreement or shall contact the Artist in writing informing them of any delays.
- e. The City shall provide and install lighting to the Site.
- f. The City shall not permit any use of the Artist's name or misuse of the Artwork which would reflect discredit on the Artist's reputation as an artist or which would violate the spirit of the Artwork, should such use or misuse be within the City's control.
- g. The City shall be responsible for leading the Artist through the required review process. The City shall be responsible for organizing and scheduling meetings with review entities and for providing the Artist written instructions for the materials required at such meetings.
- h. The City shall be responsible for the proper care and maintenance of the Artwork.

1.3 DESIGN

- a. Concept
 - i. The Artist submitted a design concept (hereinafter called the "Design") with an accompanying budget, pursuant to a competition organized for the procurement of an Artist to design and fabricate an Artwork suitable for the current project, which Design was selected and approved by the City and Joliet Arts Commission. The Design and Budget shall be attached to this Agreement as Exhibit A and Exhibit B respectively.
 - ii. The Artist shall visit, examine, research, and consider the Site and surrounding area. The Artist shall also consult with representatives of the community and consider their input and concerns.
 - iii. The Artist is encouraged, but not required, to incorporate symbology that is emblematic of Joliet's history and culture into the paper-cut design of the Artwork.
- b. Approval
 - i. Within 30 days after the execution of this Agreement, the City shall notify the Artist if it requires any revisions to the Design to comply with any applicable laws, ordinances, and/or regulations or for other reasons including, but not limited to, ensuring the physical integrity of the Artwork or its installation at the Site. If agreed upon by both parties, such revisions will become a part of the Design.
- c. Final Construction Documents
 - i. The Artist shall submit stamped structural drawings detailing every physical feature of the construction of the Artwork and its integration with the Site. These drawings shall indicate

any risks involved in the construction, integration, and maintenance of the Artwork, as well as any third-party subcontractors needed to work on the project.

1.4 BUDGET, PAYMENT SCHEDULE, CONSTRUCTION SCHEDULE, AND PROGRESS REPORTS

- a. Budget
 - i. The Artist shall prepare a budget, which shall include all goods, services, and materials, with such costs itemized. The Budget shall be attached to this Agreement as Exhibit B.
 - ii. Calculation of the budget will take into consideration the possible inflation of service and material costs between the date of execution of this Agreement and the anticipated completion date.
 - iii. The Artist shall keep a log of the Artist's project hours and shall retain all original receipts pertaining directly to the project.
 - iv. If the Artist incurs costs in excess of the amount listed in the budget, the Artist shall pay such excess from the Artist's own funds unless the Artist previously obtained approval for such costs from the City (or such costs were the result of actions or inaction of the City).
- b. Schedule
 - i. The Artist shall notify the City of the tentative schedule for the fabrication and installation of the Artwork, including a schedule for the submission of progress reports and inspections if any. The Schedule may be amended by written agreement.
 - ii. A schedule for the payment of budget installments is attached to this Agreement as Exhibits B and C.

1.5 FABRICATION STAGE

- a. The Artist shall fabricate and install the Artwork in substantial conformity with the Design. The Artist may not deviate from the approved design without written approval of the City.
- b. The Artist shall take reasonable measures to protect or preserve the integrity of the Artwork such as the application of protective or anti-graffiti coatings, if applicable, unless the City disapproves. If the Artwork is being constructed on-site, the Artist shall avoid creating nuisance conditions arising out of the Artist's operations. Prior to requesting authorization to transport and install the Artwork, the Artist shall be required to provide the City with a list of all workers or subcontractors and equipment to be used along with the hours of operation and the scope of work to be performed on site. All additional workers or subcontractors must provide proof of insurance prior to entering the site.
- c. The City shall have the right to review the Artwork at reasonable times during the fabrication thereof upon reasonable notice.
- d. If the City, upon review of the Artwork, reasonably and in good faith determines that the Artwork does not conform to the Design or Revised Design, the City reserves the right to notify the Artist in writing of the deficiencies and that the City intends to withhold the next budget installment.
- e. The Artist will promptly cure the City's objections and will notify the City in writing of completion of the cure. The City shall promptly review the Artwork, and upon approval shall release the next budget installment. If the Artist disputes the City's determination that the Artwork does not conform, the City shall promptly submit reasons in writing to the Artist within 5 business days of the City's prior notification to the contrary. The City shall make reasonable efforts to resolve the dispute with the Artist in good faith. Final determination as to whether the Artist has complied with the terms of this Agreement shall be made by an objective third party, which shall be mutually agreed upon by both parties.
- f. The Artist shall notify the City in writing when fabrication of the Artwork has been completed, and that the Artwork is ready for delivery and installation at the Site if the Artwork was fabricated off-site.
- g. The City shall inspect the Artwork within 10 business days after receiving notification pursuant to paragraph (f), prior to installation, to determine that the Artwork conforms with the Design and to give final approval of the Artwork. The City shall not unreasonably withhold final approval of the fabricated Artwork. In the event that the City does withhold final approval, the City shall submit the reasons for such disapproval in writing within 5 business days of examining the fabricated Artwork.

The Artist shall then have 30 days from the date of the City's notice of the disapproval to make the necessary adjustments to the fabricated Artwork in accordance with such writing. The Artist shall not be penalized for any delay in the delivery and installation of the Artwork to the Site unless the Artist has willfully and substantially deviated from the Design without prior approval of the City. The Artist shall then be held responsible for any expenses incurred in correcting such deviation.

- h. The City shall promptly notify the Artist of any delays impacting installation of the Artwork. Any additional storage fees incurred as a result of such delays are the responsibility of the City. The City shall be required to inspect the Site prior to the transportation and installation of the Artwork and shall notify the Agency of any adverse Site conditions that will impact the installation of the Artwork which are in need of correction.

1.6 CHANGES TO DESIGN

- a. Prior to the execution of any change in the approved design, Artist shall present proposed changes in writing to the City for further review and approval. The Artist must provide a detailed description of any significant changes in the artistic expression, design, dimensions, and materials of the Artwork that is not permitted by, nor in substantial conformity with, the already approved design. Such notice will also include a detailed description of any additional costs that may be incurred or changes in the budget. A significant change is any change which materially affects installation, scheduling, site preparation, or maintenance of the Artwork or the concept of the Artwork as represented in the Design.
- b. If the City approves the changes, the City shall promptly notify the Artist in writing.
- c. If the City disapproves of the changes, the City shall promptly notify the Artist in writing and the Artist shall continue to fabricate the Artwork in substantial conformity with the Design.
- d. The Artist's fee shall be equitably adjusted for any increase or decrease in the Artist's cost of, or time required for, performance of any services under this Agreement as a result of revisions made to the Design under Section 1.6(a). Any claim of the Artist for adjustment under this paragraph must be asserted in writing within 10 days after the date of the revision by the Artist.

1.7 INSTALLATION

- a. Upon the City's final approval of the fabricated Artwork, as being in conformity with the Design, the Artist shall deliver and install the completed Artwork to the Site in accordance with the schedule provided for in Section 1.4(b). Transportation fees shall be paid by the Artist.
- b. The Artist will coordinate closely with the City to ascertain that the Site is prepared to receive the Artwork. Artist must notify the City 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 City to ensure timely coordination with City staff. The Artist may not install the Artwork until authorized to do so by the City.
- 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 City for purposes of Article 4 and Article 6 of this Agreement.
- e. Within 30 days after installation of the Artwork, the Artist shall furnish the City with the following:
 - i. Two sets of three 35 mm color slides of the completed and installed Artwork, one take from each of three different viewpoints.
 - ii. Two sets of three different glossy black and white prints of the complete and installed Artwork and negatives.
 - iii. A set of three digital 300 dpi, JPG, or TIFF files, of the completed and installed Artwork. Photographs must be labeled with the name of the Artwork, the date upon which the photograph was taken, and the viewpoints from which the photograph was taken.
 - iv. A full written narrative description of the Artwork.
- f. Upon installation of the Artwork, the Artist shall provide the City with written instructions for the appropriate maintenance and preservation of the Artwork along with product data sheets for any material or finish used. The Artwork must be durable, taking into consideration that the Site is an unsecured public space that may be exposed to elements such as weather, temperature variation,

and considerable movement of people and equipment. The Artist must ensure that all maintenance requirements will be reasonable in terms of time and space.

1.8 APPROVAL AND ACCEPTANCE

- a. The Artist shall notify the City 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 City shall promptly notify the Artist of its final acceptance of the Artwork within 30 days after the Artist submitted written notice pursuant to paragraph (a) above. The effective date of final acceptance shall be the date the City submits written notice to the Artist of its final acceptance of the Artwork. The final acceptance shall be understood to mean that the City acknowledges completion of the Artwork in substantial conformity with the Design, and that the City 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 City disputes that all the services have been performed, the City shall notify the Artist in writing of those services the Artist has failed to perform within 10 after the Artist submitted written notice pursuant to paragraph (a) above. The Artist shall promptly perform those services indicated by the City.
- d. If the Artist disputes the City's determination that not all services have been performed, the Artist shall submit reasons in writing to the City within 5 business days of the City's prior notification to the contrary. The City shall make reasonable efforts to resolve the dispute with the Artist in good faith.
- e. Upon resolution of any disputes that arise under paragraphs (c) and (d) of this section, the City shall notify the Artist of its final acceptance of the Artwork pursuant to paragraph (b).
- f. After the final acceptance of the Artwork, the Artist shall be available at such times as may be mutually agreed upon by the City 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.
- g. The City shall be solely responsible for coordinating public information materials and activities related to public presentations.

ARTICLE 2 – TAXES

Any state or federal sales, use or excise taxes, or similar charges relating to the services and materials under this Agreement shall be paid by the Artist in a timely fashion. The City shall report payments made to the Artist annually to the Internal Revenue Department in a 1099 statement.

ARTICLE 3 – TERM OF AGREEMENT

3.1 DURATION

- a. This Agreement shall be effective the date that this contract has been signed by both parties, and, unless terminated earlier pursuant to such provisions in the Agreement, shall extend until final acceptance by the City under Section 1.8(b), or submission of final payment to the Artist by the City under Exhibit C, whichever is later. Extension of time of performance hereunder may be granted upon the request of one Party and the consent of the other thereto, which consent shall not be unreasonably withheld. Such extension shall be in writing, signed by both parties, and attached to the schedule under section 1.4(b)(i).

3.2 FORCE MAJEURE

- a. The City shall grant to the Artist a reasonable extension of time in the event that conditions beyond the Artist's control render timely performance of the Artist's services impossible or unduly burdensome. All such performance obligations shall be suspended for the duration of the condition. Both parties shall take all reasonable steps during the existence of the condition to assure performance of their contractual obligations when the condition no longer exists. Failure to fulfill

contractual obligations due to conditions beyond either Party's reasonable control will not be considered a breach of contract, provided that such obligations shall be suspended only for the duration of such conditions.

ARTICLE 4 – RISK OF LOSS

The Artist shall bear the risk of loss or damage to the Artwork until the City's final acceptance of the Artwork under Section 1.8(b). The Artist shall take such measures as are reasonably necessary to protect the Artwork from loss or damage. The City shall bear the risk of loss or damage to the Artwork prior to final acceptance only if, during such time, the partially or wholly completed Artwork is in the custody, control, or supervision of the City or its agent(s) for the purposes of transporting, storing, installing, or performing other services to the Artwork.

ARTICLE 5 – ARTIST'S REPRESENTATIONS AND WARRANTIES

5.1 WARRANTIES OF TITLE

The Artist represents and warrants that:

- a. The Artwork is solely the result of the artistic effort of the Artist.
- b. Except as otherwise disclosed in writing to the City, the Artwork is unique and original and does not infringe upon any copyright or the rights of any person.
- c. The Artwork (or duplicate thereof) has not been accepted for sale elsewhere.
- d. The Artist has not sold, assigned, transferred, licensed, granted, encumbered, or utilized the Artwork or any element thereof or any copyright related thereto which may affect or impair the rights granted pursuant to this Agreement.
- e. The Artwork is free and clear of any liens from any source whatsoever.
- f. All Artwork created or performed by the Artist under this Agreement, whether created by the Artist alone or in collaboration with others, shall be wholly original with the Artist and shall not infringe upon or violate the rights on any third party.
- g. The Artist has the full power to enter into and perform this Agreement and to make the grant of rights contained in this Agreement.
- h. All services performed hereunder shall be performed in accordance with all applicable laws, regulations, ordinances, etc., and with all necessary care, skill, and diligence.
- i. These representations and warranties shall survive the termination or other extinction of this Agreement.

5.2 WARRANTIES OF QUALITY AND CONDITION

- a. The Artist represents and warrants that all work will be performed in accordance with professional "workmanlike" standards and free from defective or inferior materials and workmanship, including any defects consisting of "inherent vice", or qualities that cause or accelerate deterioration of the Artwork for one year after the date of final acceptance by the City under Section 1.8(b).
- b. The Artist represents and warrants that the Artwork and the materials used are not currently known to be harmful to public health and safety.
- c. The Artist represents and warrants that reasonable maintenance of the Artwork will not require procedures substantially in excess of those described in the maintenance and preservation recommendations submitted by the Artist pursuant to Section 1.7(f).
- d. If within one year the City observes any breach of warranty described in this Section 5.2 that is curable by the Artist, the Artist shall, at the request of the City, cure the breach promptly, satisfactorily, and consistent with professional conservation standards, at no expense to the City. The City shall give notice to the Artist of such breach with reasonable promptness.
- e. If after one year the City observes any breach of warranty described in this Section 5.2 that is not curable by the Artist, the City shall contact the Artist to make or supervise repairs or restorations at a reasonable fee during the Artist's lifetime. The Artist shall have the right of first refusal to make or supervise repairs or restorations. Should the Artist be unavailable or unwilling to accept

reasonable compensation under the industry standard, the City may seek the services of a qualified restorative conservator and maintenance expert.

- f. If within one year the City observes a breach of warranty described in this Section 5.2 that is not curable by the Artist, the Artist is responsible for reimbursing the City for damages, expenses, and loss incurred by the City as a result of the breach. However, if the Artist disclosed the risk of this breach in the Proposal and the City accepted that it may occur, it shall not be deemed a breach for purposes of this Section 5.2 of this Agreement.
- g. Acceptable Standards of Display. Artist represents and warrants that:
 - i. General routine cleaning and repair of the Artwork and any associated working parts and/or equipment will maintain the Artwork within an acceptable standard of public display.
 - ii. Foreseeable exposure to the elements and general wear and tear will cause the Artwork to experience only minor repairable damages and will not cause the Artwork to fall below an acceptable standard of public display.
 - iii. With general routine cleaning and repair, and within the context of foreseeable exposure to the elements and general wear and tear, the Artwork will not experience irreparable conditions that do not fall within an acceptable standard of public display, including mold, rust, fracturing, staining, chipping, tearing, abrading, and peeling.
 - iv. Manufacturer's Warranties. To the extent the Artwork incorporates products covered by a manufacturer's warranty, Artist shall provide copies of such warranties to the City.

The foregoing warranties are conditional and shall be voided by the failure of the City to maintain the Artwork in accordance with the Artist's specifications and the applicable conservation standards. If the City fails to maintain the Artwork in good condition, the Artist, in addition to other rights or remedies the Artist may have in equity or at law, shall have the right to disown the Artwork as the Artist's creation and request that all credits be removed from the Artwork and reproductions thereof until the Artwork's condition is satisfactorily repaired.

ARTICLE 6 – INSURANCE

6.1 GENERAL

- a. The Artist acknowledges that until final acceptance of the Artwork by the City under Section 1.8(b), any injury to property or persons caused by the Artist's Artwork or any damage to, theft of, vandalism to, or acts of God, affecting the Artist's Artwork are the sole responsibility of the Artist, including, but not limited to, any loss occurring during the creation, storage, transportation or delivery of the Artist's Artwork, regardless of where such loss occurs.
- b. Terms for the procurement and duration of insurance are provided in Exhibit D.
- c. Required insurance policies are described in Exhibit D.

6.2 INDEMNITY

- a. Artist shall indemnify, protect, defend, and hold harmless the City and its subdivisions, officials, employees and agents from and against all liabilities, obligations, losses, damages, judgements, costs, or expenses, including legal fees and costs of investigation, arising from, in connection with or caused by: (a) any personal injury or property damage caused, directly or indirectly, by any act or omission of Artist; or (b) any infringement of patent, copyright, trademark, trade secret or other proprietary right caused by the Artist. Notwithstanding the foregoing, Artist shall have no obligation under this Section with respect to any Loss that is caused solely by the active negligence or willful misconduct of the Covered Party and is not contributed to by any act or omission (including and failure to perform any duty imposed by law) by Artist. Artist acknowledges and agrees that its obligation to defend in this Section: (i) is an immediate obligation, independent of its other obligations hereunder; (ii) applies to any Loss which actually or potentially falls within the scope of this Section, regardless of whether the applicable allegations are or may be groundless, false, or fraudulent; and (iii) arises at and continues after the time the Loss is tendered to Artist.

ARTICLE 7 – OWNERSHIP AND INTELLECTUAL PROPERTY RIGHTS

7.1 TITLE

- a. Title to the Artwork shall pass to the City upon the City's written final acceptance and payment for the Artwork pursuant to Article 1.8 and Exhibit E. Artist shall provide City with a Transfer of Title in substantially the form attached hereto as Exhibit E.

7.2 OWNERSHIP OF DOCUMENTS

- a. One set of presentation materials prepared and submitted under this Agreement shall be retained by the City for possible exhibition and to hold for permanent safekeeping.

7.3 COPYRIGHT OWNERSHIP

- a. The Artist shall retain all rights under the Copyright Act of 1976, 17 U.S.C. & 101 et seq. as the sole author of the Artwork for the duration of the copyright.

7.4 REPRODUCTION RIGHTS

- a. In view of the intention that the final Artwork shall be unique, the Artist shall not make any additional exact duplicate three-dimensional reproductions of the final Artwork, nor shall the Artist grant permission to others to do so except with the written permission of the City. However, nothing shall prevent the Artist from creating future Artworks in the Artist's manner and style of artistic expression.
- b. The Artist grants to the City and its assigns an irrevocable license to make two-dimensional reproductions of the Artwork for non-commercial purposes, including, but not limited to, reproductions used in brochures, media publicity, and exhibition catalogues or other similar publications provided that these rights are exercised in a tasteful and professional manner.
- c. All reproductions by the City shall contain a credit to the Artist and a copyright notice in substantially the following form: Copyright [Artist's name, date of publication].
- d. The Artist shall use the Artist's best efforts in any public showing or resume use of reproductions to give acknowledgement to the City in substantially the following form: "an original Artwork commissioned by and in the public art collection of the City of Joliet."
- e. The Artist shall, at the Artist's expense, cause to be registered with the United States Register of Copyrights, a copyright in the Artwork in the Artist's name.
- f. If the City wishes to make reproductions of the Artwork for commercial purposes, including, but not limited to, tee shirts, post cards, and posters, the Parties shall execute a separate agreement to address the terms of the license granted by the Artist and the royalty the Artist shall receive.
- g. Third Party Infringement. The City is not responsible for any third-party infringement of Artist's copyright and not responsible for protecting the intellectual property rights of Artist.

ARTICLE 8 – ARTIST'S RIGHTS

8.1 GENERAL

- a. The Artist retains all rights under state and federal laws including 106A of the Copyright Act of 1976.
- b. The City agrees that it will not intentionally alter, modify, change, destroy, or damage the Artwork without first obtaining permission from the Artist.
- c. If any alteration or damage to the Artwork occurs, the Artist shall have the right to disclaim authorship of the Artwork in addition to any remedies the Artist may have in law or equity under this contract. Upon written request, the Artist shall remove the identification plaque and all attributive references to the Artist at its own expense within 60 days of receipt of the notice. No provision of this Agreement shall obligate the City to alter or remove any such attributive reference printed or published prior to the City's receipt of such notice.

8.2 ALTERATIONS OF SITE OR REMOVAL OF ARTWORK

- a. The City shall notify the Artist in writing upon adoption of a plan of construction or alteration of the Site which would entail removal or relocation of the Artwork which might result in the Artwork being destroyed, distorted, or modified. The Artist shall be granted the right of consultation regarding the removal or relocation of the Artwork. If the Artwork cannot be successfully removed or relocated as determined by the City, the Artist may disavow the Artist or have the Artwork returned to the Artist at the Artist's expense.
- b. The Artwork may be removed or relocated or destroyed by the City should the Artist and the City not reach mutual agreement on the removal or relocation of the Artwork after a period not to exceed 90 days after written notice to the Artist. During the 90-day period, the Parties shall engage in good faith negotiations concerning the Artwork's removal or relocation.
- c. In the event of changes in building codes or zoning laws or regulations that cause the Artwork to be in conflict with such codes, laws, or regulations, the City may authorize the removal or relocation of the Artwork without the Artist's prior permission. In the alternative, the City may commission the Artist by a separate agreement to make any necessary changes to the Artwork to render it in conformity with such codes, laws, or regulations.
- d. If the City reasonably determines that the Artwork presents imminent harm or hazard to the public, other than as a result of the City's failure to maintain the Artwork as required under this Agreement, the City may authorize the removal of the Artwork without prior approval of the Artist.
- e. This clause is intended to replace and substitute for the rights of the Artist under the Visual Artist' Right Act to the extent that any portion of this Agreement is in direct conflict with those rights. The parties acknowledge that this Agreement supersedes that law to the extent that this Agreement is in direct conflict therewith.

ARTICLE 9 – PERMANENT RECORD

The City shall maintain on permanent file a record of this Agreement and of the location and disposition of the Artwork.

ARTICLE 10 – ARTIST AS AN INDEPENDENT CONTRACTOR

The Artist agrees to perform all Artwork under this Agreement as an independent contractor and not as an agent or employee of the City. The Artist acknowledges and agrees that the Artist shall not hold himself or herself out as an authorized agent of the City with the power to bind in any manner.

The Artist shall provide the City with the Artist's Tax Identification Number and any proof of such number as requested by the City.

ARTICLE 11 – NONDISCRIMINATION

The Artist shall not discriminate, in any way, against any person on the basis of race, sex, color, age, religion, sexual orientation, disability, ethnicity, or national origin, in connection with or related to the performance of this Agreement.

ARTICLE 12 – ASSIGNMENT OF ARTWORK

The Artwork and services required of the Artist are personal and shall not be assigned, sublet, or transferred. Any attempt by the Artist to assign this Agreement or any rights, duties, or obligations arising hereunder shall be void and of no effect unless prior written consent is given by the City. The City shall have the right to assign or transfer any and all of the City's rights and obligations under this Agreement, subject to the Artist's consent, if ownership of the Site is transferred; if the Artist refuses to give consent, this Agreement shall terminate.

ARTICLE 13 – TERMINATION

- a. Either party may terminate this Agreement without recourse by the other where performance is rendered impossible or impractical for reasons beyond such Party's reasonable control such as, but not limited to, acts of nature, war or warlike operations, superior governmental regulation or control, public emergency or strike or other labor disturbance. Notice of termination of this Agreement shall be given to the non-terminating Party in writing not less than 30 days prior to the effective date of termination.
- b. The City may terminate this Agreement without cause upon 10 days written notice to the Artist. The City shall pay the Artist for services performed and commitments made prior to the date of termination, consistent with the schedule of payments set forth in Exhibit C of this Agreement. The Artist shall have the right to an equitable adjustment in the fee for services performed and expenses incurred beyond those for which the Artist has been compensated to date under Exhibit C with allowance for lost opportunities unless the parties come to a settlement otherwise.
- c. If either Party to this Agreement shall willfully or negligently fail to fulfill in a timely and proper manner, or otherwise violate any of the covenants, agreements, or stipulations material to this Agreement, the other Party shall thereupon have the right to terminate this Agreement by giving written notice to the defaulting Party of its intent to terminate specifying the grounds for termination. The defaulting Party shall have 60 days after the effective date of the notice to cure the default. If it is not cured by that time, this Agreement shall terminate.
- d. If the Artist defaults [for cause other than death or incapacitation], the Artist shall return to the City all funds provided by the City in excess of expenses already incurred. The Artist shall provide an accounting. All finished and unfinished drawings, sketches, photographs, and other Artwork products prepared and submitted or prepared for submission by the Artist under this Agreement shall be retained by the Artist. The City shall retain the right to have the Artwork completed, fabricated, executed, delivered, and installed. However, the Artist shall retain the copyright in the Artwork and all rights under Article 7 and Article 8.
- e. If the City defaults, the City shall promptly compensate the Artist for all services performed by the Artist prior to termination. The City shall pay the Artist for services performed and commitments made prior to the date of termination, consistent with the schedule of payments set forth in Exhibit C. The Artist shall have the right to an equitable adjustment in the fee for services performed and expenses incurred beyond those for which the Artist has been compensated to date with reasonable allowance for lost opportunities. The Artist shall retain possession and title to the studies, drawings, designs, maquettes, and models already prepared and submitted or prepared for submission to the City by the Artist under this Agreement prior to the date of termination.
- f. Upon notice of termination, the Artist and his/her subcontractors shall cease all services affected.

ARTICLE 14 – DEATH OR INCAPACITY

If the Artist becomes unable to complete this Agreement due to death or incapacitation, such death or incapacity will not be deemed a breach of this Agreement or a default on the part of the Artist for the purpose of Article 13. However, nothing in this Article shall obligate the City to accept the Artwork.

- a. In the event of incapacity, the Artist's obligations and services under this contract may be assigned to another artist provided that the City, in its sole discretion, approves of the new artist. Alternatively, the City may elect to terminate this Agreement. The Artist shall retain all rights under Article 7 and Article 8. The Artwork and any reproductions thereof shall contain a credit to the Artist and a copyright notice in substantially the following form: Copyright [Artist's name, date of publication].
- b. In the event of death, this Agreement shall terminate effective the date of death. The Artist's heirs shall retain all rights under Article 7 and Article 8.

ARTICLE 15 – NOTICES AND DOCUMENTS

Notices required under this Agreement shall be delivered personally or through the mail, postage prepaid, to the addresses stated below, or to any other address as may be notified by a Party:

For the City: City of Joliet
 Planning Division

150 W. Jefferson Street
Joliet, IL 60432

For the Artist: Sijia Chen Studio
5633 Observation Lane
Los Angeles, CA 90028

Notices shall be deemed effective on the date personally delivered or, if mailed, (3) days after the postmarked date.

ARTICLE 16 – WAIVER

The Parties agree that a waiver of any breach of violation of any term or condition of this Agreement shall not be deemed to be a waiver of any other term or condition contained herein or a waiver of any subsequent breach or violation of the same or any other term or condition.

ARTICLE 17 – AUDIT

The City shall maintain records of all documents, notices, checks, and other records required or procured under this Agreement or related thereto. The Artist agrees to the maintenance of such records for archival purposes. Such records shall be made available for the inspection or audit, at any time during the regular business hours, upon written request by the City Manager or representative. Copies of such documents shall be provided to the City for inspection when it is practical to do so. Access to such records and documents shall also be granted to any Party authorized by the Artist, the Artist's representatives, or the Artist's successors-in-interest. The City will comply with any open records law applicable to these records.

ARTICLE 18 – CONFLICT OF INTEREST

The Artist and City shall avoid all conflicts of interest or appearance of conflicts of interest in the performance of this Agreement.

ARTICLE 19 – AMENDMENTS

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

ARTICLE 20 – ENTIRE AGREEMENT

This Agreement, including the exhibits, comprises all of the covenants, promises, agreements, and conditions between the parties. No verbal agreements or conversations between the Parties prior to the execution of this Agreement shall affect or modify any of the terms or obligations.

For City of Joliet:

For Artist:

Name

Name

Signature

Signature

Title

Date

ATTEST:

Name

Signature

Title

Date

Title

Date

EXHIBIT A

THE ARTIST'S DESCRIPTION OF THE ARTWORK

My concept is a domed structure that is intended to be functional, adaptive, and creatively driven by my artistic viewpoints. A recurring motif in my public art practice is to interpret and present organic and natural objects that are representative of our natural environment. I also wanted to ensure the work addresses the functional elements of providing a shade structure, and that the artwork serves as the visual framework for a holistic lighting concept, to enhance the work's presence. To emulate traditional Chinese paper cut art techniques, which I've incorporated in several of my previous public artworks, sections of the dome would be transparent. The purpose of employing paper cut art techniques is to dynamically present a diverse range of subject matter, in both figurative and abstract forms. The visual content for the paper cut sections would be explored and developed through site visits and a community engagement program, to give the public a direct opportunity to contribute to the artwork's final design. This community activation is an integral component of my public art practice, to advocate and express a viewpoint that public art should proactively reflect and respond to individual and communal narratives and values.

Taking into consideration the space guidelines provided for the project site, the work's tentative dimensions would be about 18-19 feet in width, and 10 feet at its highest point. The sculpture would be fabricated out of stainless-steel members and panels. A practical consideration and benefit of the perforations is the reduction of mass, allowing for the passage of light and air, and the enhancement of structural rigidity for wind loads and other adverse weather conditions. The perforations' size would be dynamically adjusted so that it serves the intended function of a shade structure. The work would be painted in a monochromatic white color palette.

The work would be fabricated into several modular components, and would be installed to the current base by installing epoxy reinforced mounting bolts and securing them to the mounting plates. Installation for a work of this size would be completed in two days. The work would weigh about 3,000 pounds.

EXHIBIT B

ARTWORK BUDGET

PROJECT BUDGET

Description	Amount
Design, Machining, Tooling, and Fabrication Labor	\$100,000
Materials	\$30,000
Shipping, Installation Costs	\$20,000
Engineering Review	\$5,000
Insurance, Administrative Costs	\$2,000
Artist Fee	\$40,000
Total	\$197,000

PROJECT FINANCING SCHEDULE

Milestone/Deliverable	Amount
Upon Contract Signing	30%
Approval of Final Design	20%
Approval of Fabricated Artwork	30%
Final Installation and Acceptance of Artwork	20%

PROJECT TIMELINE

Phase	Amount
Community Engagement	4 weeks
Final Design Development	10 weeks
Engineering Testing and Validation	2 weeks
Fabrication	10 weeks
Transportation	3 weeks
Final Installation	1-2 days
Total	30 weeks

EXHIBIT C

PAYMENT SCHEDULE

PROJECT FINANCING SCHEDULE

Milestone/Deliverable	Amount
Upon Contract Signing	30%
Approval of Final Design	20%
Approval of Fabricated Artwork	30%
Final Installation and Acceptance of Artwork	20%

EXHIBIT D

INSURANCE

- a. The Artist shall procure and maintain for the duration of this Agreement, at the Artist's expense, insurance in the kinds and amounts as provided in this Exhibit D with insurance companies authorized to do business in the State of Illinois. The required insurance shall cover the Artist's employees, agents, contractors, or subcontractors. The Agency, its officials, employees, agents, and contractors shall be named as additional insureds. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officials, employees, agents, and contractors.
- b. The duration of the general liability insurance described in Exhibit D shall extend for one year after the termination of this Agreement.
- c. The Artist and the Artist's subcontractor's insurance coverage shall be the primary insurance with respect to the City, its officials, employees, agents, and contractors. Any insurance or self-insurance maintained by the City, its officials, employees, agents, and contractors shall be in excess of the Artist's or Artist's subcontractors' insurance and shall not contribute with the Artist's or the Artist's subcontractors' insurance. The coverage shall state that the Artist's or the Artist's subcontractor's insurance shall apply separately to each insured against whom a claim is made, or suit is brought, except with respect to the limits of the insurer's liability.
- d. Prior to undertaking any Artwork under this Agreement, the Artist, at no expense to the City, shall furnish to the City a certificate of insurance with original endorsements affecting coverage for each of the insurance policies provided in Exhibit D. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates must be current, and the Artist must submit replacement or renewal certificates of insurance for all the policies expiring during the term of this Agreement. Each certificate shall clearly indicate that the Artist has obtained insurance in the type, amount, and classification as specified in Exhibit D and that no material changes, cancellation, suspension, or reduction in limits of insurance shall be effective except after 30 days prior written notice to the City. Each certificate shall indicate that the subcontractors are additional insureds, or the Artist shall furnish separate certificates for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated in this Agreement, including, but not limited to, naming the parties as additional insureds.
- e. Despite any changes to or cancellation of insurance, the Artist remains responsible for maintaining the required insurance coverage for the duration of the Agreement.
- f. Failure of the Artist to comply with any of the terms of this Exhibit D shall be considered a material breach of this Agreement and cause for its immediate termination.

Insurance Policies

- a. Commercial General Liability insurance policy, written on an occurrence form, including all the usual coverages known as:
 - i. Premises/operations liability
 - ii. Products/completed operations
 - iii. Personal/advertising injury
 - iv. Contractual liability
 - v. Broad-form property damage
 - vi. Independent contractor's liabilitySaid policy must provide coverages in amounts that are acceptable to the City of Joliet.
- b. Automobile liability insurance policy, including coverage for owned, non-owned, leased or hired vehicles, providing the following minimum coverage:
 - i. Bodily injury liability of \$50,000 for each person
 - ii. \$300,000 per occurrence
 - iii. Property damage liability of \$25,000 for each occurrence
- c. Transportation/Cartage insurance all-risk. Coverage must include loading, transportation, and unloading of the Artwork. If the Artwork is to be loaded, transported, or unloaded by a person or

entity other than the Artist, the insurance coverage must cover that person or entity. The minimum limits shall be the total amount of compensation paid to Artist through the date of loading under Exhibit C.

- d. All Risk Installation insurance which covers physical damage to or destruction of the Artwork. If the Artwork is to be installed by a person or entity other than the Artist, the insurance coverage must cover that person or entity. The minimum limit shall be the total amount of compensation paid to Artist through the date of the beginning of installation of the Artwork under Exhibit C.
- e. Worker's Compensation and Employer's Liability insurance in accordance with the statutory requirements of the State of California and State of Illinois, providing coverage for any and all employees of the Artist. The Artist shall also require all subcontractors to carry this coverage. The minimum coverage for the Worker's Compensation and Employers' Liability insurance shall be \$100,000.

EXHIBIT E

TRANSFER OF TITLE

STATE OF: Illinois

COUNTY OF: Will

Transfer of Title

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, the undersigned Artist located at the address noted below does hereby sell, transfer, and convey to the City, located in Joliet, Illinois, its assigns and successors, all right, title, and interest in the ownership of the Artwork commissioned by Agreement of _____ and as described therein.

Title: _____

Location: _____

IN WITNESS WHEREOF, Artist has executed this written transfer of title on this the ____ day of _____, 20__.

WITNESS

ARTIST

Sworn to a subscribed
Before me this ____ day
Of _____, 20__.

ADDRESS

NOTARY PUBLIC
My Commission Expires: _____
(NOTARY SEAL)