



CONTRACT

THIS CONTRACT, made and entered into this ____ day of _____, 2015, by and between:

MARGATE COMMUNITY REDEVELOPMENT AGENCY, FLORIDA, a Florida corporation organized and existing under the laws of the State of Florida, 5790 Margate Blvd., Margate, Florida, 33063, (hereinafter referred to as "MCRA"); and **ART & SCULPTURE UNLIMITED** (hereinafter referred to as "ARTIST").

WITNESSETH:

IN CONSIDERATION of the mutual covenants and conditions as herein expressed and of the faithful performance of all such covenants and conditions, the parties do mutually agree as follows:

ARTICLE I

THE CONTRACT DOCUMENTS

The Contract Documents consist of all of the following: Project Information Sheet, ARTIST's Written Quote, and Certificate of Insurance, which are made a part of this contract, or any additional documents which are required to be submitted under the Contract, and all amendments, modifications and supplements issued on or after the effective date of the Contract.

ARTICLE 2

SERVICES AND RESPONSIBILITIES

ARTIST hereby agrees to create a public art sculpture described in the attached proposal, as further enumerated in the Scope of Services set forth in Article 3 herein below.

The public art sculpture shall be located at Kaye Stevens Parks, 5825 Royal Palm Boulevard, Margate, FL.

ARTIST hereby represents to MCRA, with full knowledge that MCRA is relying upon these representations when entering into this Contract with ARTIST, that ARTIST has the professional expertise, talent, experience and ability to perform the services to be provided by ARTIST pursuant to the terms of this Contract.

ARTIST certifies, to their knowledge, that all work performed pursuant to this agreement, including but not limited to the public art sculpture, is an original creation and does not infringe upon or violate any copyrights or other rights of any person, firm or organization.

The MCRA recognizes the ARTIST's rights pursuant to the Federal Visual Artist Rights Act of 1990, known as "VARA". The MCRA will not intentionally distort and/or modify the public art elements, where the modifications or distortion would prejudice the ARTIST's and collaborator's honor or reputation.

The MCRA is entitled to exhibit, publish, broadcast, advertise and otherwise use the likeness of the public art elements, in any manner the MCRA sees fit.

The MCRA agrees to give the ARTIST full acknowledgement and credit as the creator of the public art elements if installed.

The value of the public art sculpture is established when the price of the art is commissioned.

The MCRA agrees to coordinate access to the Property with the City of Margate ("City"), owner of the Property, for the installation of the sculpture by the ARTIST.

ARTICLE 3

SCOPE OF SERVICES

ARTIST shall perform the following Scope of Services with the terms and conditions of this Contract:

Model, Mold and Bronze Casting of a Sculpture of Kaye Stevens, including plaque delivery and installation of all pieces at Kaye Stevens Park.

ARTIST shall furnish all of the labor, materials, equipment, transportation, supplies and services necessary to perform all of the work required by the Contract Documents as further described as Exhibit "A" Estimate and Quote for model, mold and bronze casting of a sculpture of Kaye Stevens, including plaque, delivery and installation of all pieces at Kaye Stevens Park.

1. All work performed under this Contract shall be done in a professional manner.
2. The public art elements shall be produced to the MCRA's satisfaction and in conformity with the appropriate moral and ethical standards for the community in which the MCRA is located. The quality of the completed materials is a matter of prime importance and shall meet all applicable industry standards.
3. The ARTIST shall first meet with MCRA staff and designated representatives to determine how Ms. Stevens will be portrayed in the statue (i.e. age, clothing, pose, etc.). Once the mold of the statue is prepared, the MCRA Executive Director or her designee must authorize in writing that the portrayal is acceptable prior to the statue being cast in bronze.
4. The MCRA Executive Director or her designee must give written approval of the design for the base and plaque prior to fabrication.
5. The MCRA shall have the right to approve and/or reject the public art elements or any portion thereof. The display of the public art elements shall be subject to the sole discretion of the MCRA.
6. The ARTIST shall insure that the public art sculpture and associated installation materials meet the 2007 Florida Building Code requirements relating to wind load requirements.
- 7.

ARTICLE 4

CONTRACT TIME

TIME IS OF THE ESSENCE OF THIS CONTRACT. The work to be performed under this Contract shall be commenced upon the date of Contract Commencement specified in the Notice to Proceed and subject to authorized adjustments.

1. Design, fabrication and installation of the public art sculpture shall be completed no later than one hundred twenty (120) days from the date of the Agreement executed by the MCRA.
2. All documents, plans, work products, material, equipment and tools belonging to the MCRA will be furnished upon completion and/or termination of the Agreement, whichever occurs first.
3. The MCRA's right to exhibit, publish, broadcast, advertise and otherwise use of the likeness of the public art elements shall survive the termination of the Agreement.

ARTICLE 4

CONTRACT SUM

MCRA shall pay to ARTIST for the work described in the Scope of Services (Article 3) as follows:

Model, mold and casting of statue:	\$29,000.00
Delivery and installation of statue:	\$ 1,500.00
Bronze plaque, delivery and installation:	\$ 1,000.00
Contingency for plaque (if wording changes)	<u>\$ 500.00</u>
Maximum Contract Amount:	\$32,000.00

This price shall be full compensation for all costs associated with completion of all the work in full conformity with the requirements as stated and/or shown in the Contract Documents.

ARTICLE 5

PAYMENT

1. The ARTIST shall requisition payment of 50% deposit upon approval and execution of this Contract and final payment for work completed. Thereafter, payments shall be made upon MCRA'S determination that the invoiced portions of the work have been successfully completed up to and including the full contract amount.
2. Payment shall be made as above provided upon full completion of the job as determined by MCRA, together with receipt of properly executed releases of liens by all subcontractors, suppliers and materialmen as may utilized for this work. MCRA shall make payment to ARTIST within 30 calendar days after its approval.
3. MCRA may withhold in whole or in part, payment to such extent as may be necessary to protect itself from loss on account of:
 - a. Defective work not remedied.
 - b. Claims filed or unreasonable evidence indicating the probable filing of claims by other parties against the ARTIST.
 - c. Failure of the ARTIST to make payment to subcontractors or suppliers for materials or labor.
 - d. Damage to the MCRA or another ARTIST not remedied.
 - e. Reasonable evidence that the work will not be completed within the Contract Time.
 - f. Persistent failure to carry out the work in accordance with the Contract Documents.

When the above grounds are removed or resolved or the ARTIST provides a surety bond or a consent of surety satisfactory to the MCRA which will protect the MCRA in the amount withheld, payment may be made in whole or in part.

ARTICLE 6

FINAL PAYMENT

Final payment, constituting the entire unpaid balance of the Contract Sum, shall be paid by the MCRA to the ARTIST when all outstanding work has been completed and any dispute as outlined in the preceding section has been settled to the MCRA'S satisfaction.

ARTICLE 7

MISCELLANEOUS PROVISIONS

1. This Contract shall have been deemed to have been executed within the State of Florida. The validity, construction, and effect of this Contract shall be governed by the laws of the State of Florida. Any claim, objection or dispute arising out of this Contract shall be litigated in the Seventeenth Judicial Circuit in and for Broward County, Florida.
2. Should any part, term or provision of this Contract be by the courts decided to be invalid, illegal or in conflict with any law of the State, the validity of the remaining portion or provision shall not be affected thereby.
3. ARTIST shall not assign or transfer the Contract or its rights, title or interests therein without MCRA'S prior written approval. The obligations undertaken by ARTIST pursuant to the Contract shall not be delegated or assigned to any other person or firm unless MCRA shall first consent in writing to the assignment. Violation of the terms of this Paragraph shall constitute a breach of Contract by ARTIST and the MCRA may, at its discretion, cancel the Contract and all rights, title and interest of ARTIST shall thereupon cease and terminate.
4. This Contract, and attachments, represents the entire understanding of the parties as to the matters contained herein. No prior oral or written understanding shall be of any force and effect with respect to those matters covered hereunder. This Contract may only be modified by amendment in writing signed by each party.
5. Venue: This Contract shall have been deemed to have been executed within the State of Florida. The validity, construction, and effect of this Contract shall be governed by the laws of the State of Florida. Any claim, objection or dispute arising out of this Contract shall be litigated in the Seventeenth Judicial Circuit in and for Broward County, Florida.

6. Usage Rights: After final acceptance of the artwork by the MCRA, the following ARTIST' rights shall be guaranteed:

- 6.1. Maintenance of public artworks shall be the responsibility of the MCRA/City and not the ARTIST. The responsible party shall make reasonable efforts to maintain the artwork in good repair. The responsible party shall attempt to consult the ARTIST and collaborator on major repairs.
- 6.2. The artwork shall not be altered, modified, removed or relocated from a site integral to the concept for the work without first consulting with the ARTIST and collaborator, if reasonably possible. If a work, nevertheless, has been significantly altered, the ARTIST and collaborator shall have the right to disclaim authorship.
- 6.3. Copyright of the artwork shall belong to the creator(s), but the MCRA/City shall be granted the right to make two-dimensional reproductions for non-commercial purposes.

7. MCRA AND ARTIST HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY ACTION, PROCEEDING, LAWSUIT OR COUNTERCLAIM BASED UPON THE CONTRACT, ARISING OUT OF, UNDER, OR IN CONNECTION WITH THE WORK, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR THE ACTIONS OR INACTIONS OF ANY PARTY.

8. DISPUTES: NOT WITHSTANDING ANY OTHER PROVISIONS PROVIDED IN THIS CONTRACT, ANY DISPUTE ARISING UNDER THIS CONTRACT WHICH IS NOT DISPOSED OF BY AGREEMENT SHALL BE DECIDED BY THE EXECUTIVE DIRECTOR OF THE MARGATE COMMUNITY REDEVOPMENT AGENCY, WHO SHALL REDUCE THEIR DECISION IN WRITING AND FURNISH A COPY THEREOF TO THE ARTIST. THE DECISION OF THE EXECUTIVE DIRECTOR OF THE MARGATE COMMUNITY REDEVOPMENT AGENCY AND THOSE PERSONS TO WHOM SHE DELEGATES AUTHORITY TO DECIDE DISPUTES, SHALL BE FINAL AND CONCLUSIVE UNLESS DETERMINED BY A COURT OF COMPETENT JURISDICTION TO BE FRAUDULENT, CAPRICIOUS, ARBITRARILY, OR GROSSLY ERRONEOUS AS TO NECESSARILY IMPLY BAD FAITH, OR NOT SUPPORTED BY SUBSTANTIAL EVIDENCE.

9. TERMINATION FOR CONVENIENCE OF MCRA: Upon seven (7) days written notice to ARTIST, MCRA may, without cause and without prejudice to any other right or remedy, terminate the Contract for MCRA'S convenience whenever MCRA determines that such termination is in the best interests of MCRA. Where the Contract is terminated for the

convenience of MCRA, the notice of termination to ARTIST must state that the Contract is being terminated for the convenience of MCRA under the termination clause, the effective date of the termination and the extent of termination. Upon receipt of the notice of termination for convenience, ARTIST shall promptly discontinue all Work at the time and to the extent indicated on the notice of termination, terminate all outstanding Sub-contractors and purchase orders to the extent that they relate to the terminated portion of the Contract, and refrain from placing further orders and Subcontracts. ARTIST shall be compensated for all work completed up until the date of termination.

IN WITNESSETH WHEREOF, MCRA and ARTIST have signed this Contract in duplicate. One counterpart each has been delivered to MCRA and ARTIST. All portions of the Contract Documents have been signed or identified by MCRA and ARTIST.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

MARGATE COMMUNITY REDEVELOPMENT AGENCY

Frank B. Talerico, Chair

____ day of _____, 2015

ATTEST:

Rita Rodi, CRA Coordinator

____ day of _____, 2015

Diane Colonna, Executive Director

____ day of _____, 2015

APPROVED AS TO FORM:

Eugene M. Steinfeld, Board Attorney

____ day of _____, 2015

FOR ARTIST

FOR CORPORATION: Art & Sculpture Unlimited.

President

____ day of _____, 2015

(CORPORATE SEAL)

Secretary

____ day of _____, 2015

AGREEMENT BETWEEN MARGATE COMMUNITY REDEVELOPMENT AGENCY (MCRA) AND ART & SCULPTURE UNLIMITED FOR MODEL, MOLD, BRONZE CASTING, PLAQUE AND INSTALLATION OF A BRONZE SCULPTURE OF KAYE STEVENS TO BE PLACED IN KAYE STEVENS PARK.