

Public Art Advisory Committee Meeting

February 8, 2022

12:00 p.m.

Council Chambers, 305 SW A Street

Contact skerr@bentonville.com to request participation via Zoom.



AGENDA

Members

- 1 Steven Baker
- 2 Grant Cottrell
- 3 Chad Nicholson
- 4 Kate Schaffer
- 5 Vacant
- 6 Kaitlin Garcia-Maestes
- 7 Tom Hoehn, Chair

Ex Officio

- Gayatri Agnew (City Council)
- Kalene Griffith (Visit Bentonville)

Staff

- Shelli Kerr
- David Wright
- Josh Stacey

1. Call meeting to order *Tom*

2. Approve minutes - January* *Tom*

3. Election of officers – bylaws attached* *Tom*

4. Budget report* *Shelli*

PROPOSALS

5. *Hold Me Up* – Ben Pierce* *Shelli*

NEW BUSINESS

6. Universal Inseparability – end of lease* *Shelli*

7. Phillips Park RFP *Shelli/Josh*

8. Cricket Pitch Field RFP *Shelli*

PROJECT UPDATES

9. Lettering project, *Found*, update *Shelli*

10. Multicultural Festival update *Shelli*

OTHER BUSINESS

11. Vacant position *Shelli*

12. Adjournment *Tom*

* Attachment

Public Art Advisory Committee Meeting

January 11, 2022

12:00 p.m.



MINUTES

Attendance

Voting Members		Ex Officio	Staff
✓ 1 Steven Baker	5 Vacant	Gayatri Agnew (City Council)	✓ Shelli Kerr
✓ 2 Grant Cottrell	6 Kaitlin Garcia-Maestes	✓ Kalene Griffith (VB)	✓ David Wright
✓ 3 Chad Nicholson	✓ 7 Tom Hoehn		✓ Josh Stacey
✓ 4 Kate Schaffer			

1. Call Meeting to Order. Chairperson Tom Hoehn called the meeting to order at 12:02PM

2. Minutes from December meeting. Tom asked for approval of the minutes from December 2021.

Steven made a motion to approve the December 2021 minutes. Grant seconded the motion. All in favor; motion passed 5-0.

PROPOSALS –

3. Lettering Project RFP. We received revised proposals from the three artist. Tom went over why we have these three projects. Shelli went over the resubmittals.

a. This is the Place – Amanda Wilshire

Shelli gave the details of this project as Amanda (the artist) redid some artwork to make it more relatable to the city of Bentonville. Shelli also provided the time frame of when the project could be completed and gave the price information.

b. All Roads Lead to Bentonville – Jordan Anson

The artist added a bench at the request of the committee. Shelli then went over specifics of the design, maintenance and cost.

c. Found – Tim Jorgensen

The artist presented a couple of different design options. Fabrication time is 1-2 months. Maintenance is cleaning every 1-2 years.

Kate had several questions about the budget. Tom opened the floor for discussion on each project.

Steven made a motion to recommend Tim Jorgensen's project with the stacked letter version and the varying fonts, shown on page 5 of the revised proposal. Tom seconded the motion. All in favor, motion passed, 5-0.

PROJECT UPDATES

4 The Commons—Bentonville Greens not Commons

Sign Language Installation

David Wright provided details about this project. The city wants this to be an interactive green space. The city council chambers will be expanded in the future and the city wants it to interact with the part. Construction is expected to begin in about 12 months. David is working with Christopher Warren of the sign language lettering installation, expected to cost approximately \$30,000 to \$45,000. They will bring the artist back in during the design process.

5. 28th Street Park

The Physics of Being

David Wright provided details on the road and the park where they are starting construction. The park will be a good location for a couple of sculptures in the future. Water splash pad and 1.6 miles trail that will take you to Osage Park and maybe, in the future Bella Vista. This park will include a Cricket pitch. The park has to be more developed before talking about art structures, but they are continuing to talk to the artist of the *Physics of Being*.

6. Phillips Park RFP

Josh explained that Phillips Park is being redesigned with 5 to 10 ball facilities, with open green space and maybe a food truck court area. The group that used to run baseball handed off the program to the Parks and Recreation Department. They would like to use the remainder of their money, approximately \$20,000, to install a legacy art piece focused on volunteerism and coaching. Shelli and Josh are working on this RFP and will present a draft to the committee once prepared.

7. Buffalo Float Proposal

Shelli said that construction is underway.

OTHER BUSINESS

4. Storm drain artwork maintenance

Shelli provided information about restoration of the storm drain art work. The NWA Urban Stormwater program will work with the artists about restoring their pieces.

6. 2022 Work Program

Shelli asked for this to be tabled to next meeting.

7. Adjournment.

Tom made a motion to adjourn, Grant seconded. Motion approved, 5-0. Meeting adjourned at 1:16 p.m.

**BYLAWS OF THE
PUBLIC ART ADVISORY COMMITTEE OF THE
CITY OF BENTONVILLE, ARKANSAS**

Adopted by the PAAC on April 14, 2020

ARTICLE I PURPOSE

- 1.1** Ordinance No. 2007-24, amended with Ordinance No. 2013-40, adopts the Public Art Policy which establishes the Public Art Advisory Committee and authorizes it to adopt bylaws.
- 1.2** The within bylaws have been adopted by the Public Art Advisory Committee of the City of Bentonville, and all previously adopted bylaws are hereby repealed.
- 1.3** Pursuant to Ordinance No. 2007-42, as amended, this board shall be known as the Public Art Advisory Committee, hereinafter referred to as “Committee” or “PAAC.”
- 1.4** The purpose of these bylaws is to establish rules and procedures necessary to carry out the purpose and duties of this committee, as set forth in Ordinance No. 2007-42, as amended.

ARTICLE II ROLE OF PUBLIC ART ADVISORY COMMITTEE

- 2.1 Role established.** The Public Art Policy establishes the role of the Public Art Advisory Committee to serve in an advisory capacity to:
 - (a)** Review artist proposals for placement of artworks on city-maintained property, making recommendations for fabrication and acquisition.
 - (b)** Serve as a jury for artwork competitions, making recommendations of finalists to the City Council.
 - (c)** Provide technical advisement to staff to develop a public art program.

ARTICLE III MEMBERSHIP

- 3.1 Voting Members.** Membership on the committee will be in accordance with Sec. D.2 of the Public Art Policy and the following:
 - (a)** At least three people and no more than seven recommended by the Mayor and approved by the City Council shall serve on the Public Art Advisory Committee (PAAC).
 - (b)** Membership shall be made up of arts professionals and members of the community. Arts professionals for these purposes are defined as: curators, visual artists, art critics, art historians, art collectors, art fabricators, architects, landscape architects, art educators, and other persons with visual arts backgrounds, respected in their field and willing to engage effectively in a panel process.

- (c) Other organizations and agencies, such as Downtown Bentonville, Inc. and Benton County, may be requested to participate in discussions should a piece of artwork directly impact that organization or agency. Benton County, through the County Judge's Office will be asked to participate should a piece of artwork impact the Bentonville Square.
- (d) When a new member is appointed to the committee, the position number he or she is filling will be so designated at the time of appointment.

3.2 Ex-officio, non-voting members. The following organizations may participate as an ex-officio, non-voting member of the committee.

- (a) One member of the Bentonville City Council.
- (b) One representative of the Bentonville Convention and Visitors Bureau.
- (c) One representative of the Bentonville Public Schools.

3.3 Staff support. The City of Bentonville shall provide staff support to the Public Art Advisory Committee.

- (a) *Primary staff support.* At least one representative from the Planning Department shall serve as a non-voting member on the Public Art Advisory Committee as primary staff support, hereinafter referred to as the "staff liaison," responsible for the following support and assistance.
 - (1) Establish, notify committee and post online a schedule with meeting date, times and locations.
 - (2) Prepare, distribute to committee, and post online committee meeting agendas.
 - (3) Provide necessary documents for meetings and decision making.
 - (4) Ensure that minutes are taken and posted online.
 - (5) Ensure meetings are recorded in accordance with Arkansas state law.
 - (6) Ensure that actions and activities of the committee are consistent with policies and procedures of the city.
 - (7) Offer insights about city organization, policies and efforts.
 - (8) Notify the committee of events, meetings or circumstances when the staff support is asked to speak on behalf of the committee.
 - (9) Update the committee's presence on the city website.

- (10) Act as point person for contact with other city liaisons, departments, or boards, unless otherwise designated.
 - (11) Facilitate communication among members in compliance with Arkansas open meeting laws.
 - (12) Assist the chairperson during the meeting, if necessary.
- (b) *Additional support.* At least one representative from the Bentonville Parks and Recreation Department shall serve as a non-voting member on the Public Art Advisory Committee as staff support.

3.4 Compensation. All members shall serve without compensation.

3.5 Conflict of Interest. Members of the Public Art Advisory Committee shall not hold any other municipal office or position on a standing municipal board, commission or authority, except that members of the committee may serve on other temporary committees, task forces or similar ad hoc groups. This does not apply to the one member of the Bentonville City Council serving as an ex-officio, non-voting member.

3.6 Terms. Terms shall be limited to three years. No member shall serve more than two three-year consecutive terms. Past members may serve again three years after the date their last term expired.

3.7 Resignation. Resignation of members of the committee shall be made in writing to the primary staff liaison who shall forward such resignation to the City Clerk. The resignation of the committee member shall be effective immediately upon receipt and verification by the City Clerk's office.

3.8 Attendance.

- (a) *Notification of absence.* Members should advise the staff liaison before the meeting date if they expect to be absent or late.
- (b) *Multiple absences.* Any member who misses two consecutive regular meetings or three meetings in a six-month period shall receive a written notification from the staff liaison advising the member of his/her absences.
- (c) *Cause for removal.* Any member who misses three consecutive meetings or more than four meetings within a one-year period, except in extraordinary cases, may, at the recommendation of the committee, constitute cause for removal by the City Council.

3.9 Vacancy. A vacancy in a member position shall be filled by appointment by the Mayor upon approval by the City Council. The term of the member appointed to fill the vacancy shall be fulfillment of the term of the member being replaced.

ARTICLE IV. OFFICERS, TERMS, DUTIES AND ELECTIONS

- 4.1 Chairperson and Vice Chairperson.** The officers of the committee shall be a chairperson and vice chairperson. Officers shall serve one-year terms and may serve a maximum of two consecutive terms in a single office.
- 4.2 Duties of Chairperson.** The chairperson shall preside at meetings and shall decide points of order or procedure, following Robert's Rules of Order. They shall call the meeting to order, call for votes when necessary, and call for adjournment. The chairperson may designate a parliamentarian to keep the meeting running in an orderly fashion. The chairperson shall serve as the primary contact between the committee and the staff liaison.
- 4.3 Temporary Chairperson.** In case the chairperson is absent, the vice chairperson shall assume the duties as chairperson. If both are absent and a quorum is present, those members shall elect from among themselves a chairperson to proceed.
- 4.4 Elections.** Officers shall be elected by a majority vote of the members present at the first regular meeting of the calendar year. Nominations for an officer position do not require a second. Nominees shall have an opportunity to speak to their nomination before the vote is taken. A voice vote shall be taken to elect all officers.
- 4.5 Vacancy.** A vacancy in an officer position shall be filled by election at the next regular meeting of the committee among the board members present. Until such election, the Vice Chairperson shall serve as acting Chairperson if the chairperson position is vacant. All officers elected to fill a vacant officer position shall serve until the next officer election.

ARTICLE V. MEETINGS

- 5.1 Minimum requirement.** The Public Art Advisory Committee shall meet at least quarterly.
- 5.2 Schedule.** Meetings shall occur on the regularly scheduled meeting dates established for the committee. Regular meetings may be postponed, rescheduled or cancelled by the staff support if necessary or if there is no business to conduct.
- 5.3 Meeting agendas.** The form of agendas shall be determined by the committee and shall be posted on the city website. Meeting agendas shall include a designated time for public comments.
- 5.4 Notice of meetings.** Posting of meeting agendas on the city website shall serve as notice of the meeting. Notice of any regular or special meeting shall be posted no less than 24 hours prior to the holding of such meeting, unless an emergency requires posting within 24 hours of the meeting time.
- 5.5 Special meetings.** Special meetings may be called by the chairperson plus one regular member. When a special meeting is scheduled, all members must be notified at least 24 hours prior to the time set for such meeting by phone and written notice, including a listing of all items to be considered at the special meeting, unless an emergency requires posting within less than 24 hours prior to such meeting. Formal action taken at a special meeting called in accordance herewith

shall be considered as though it were taken in a regular meeting for those, and only those, matters referred to in the agenda contained in the notice of the meeting.

- 5.6 Public meetings.** Committee meetings shall be open to the public as provided by the Arkansas Freedom of Information act. All meetings of a quorum or of two or more members of the committee at which any public business is discussed or at which any formal action may be taken, shall constitute a meeting for purpose of this section.
- 5.7 Public participation.** All public comments must be made during the public comment segment of the agenda. Public attendees shall sit in the audience unless asked to sit with the committee during their comments. The committee may identify time limits for public comments at its discretion.
- 5.8 Quorum.** A quorum shall exist when a majority of the voting members of the committee are present. When all seven positions are filled, a quorum shall consist of four members. Ex-officio member or staff support shall not be counted in arriving at a quorum. In absence of a quorum, no business shall be conducted by the committee, except rescheduling of the meeting.
- 5.9 Order of business.** The order of business shall follow the distributed agenda unless otherwise agreed to by the members.
- 5.10 Rules of procedure.** The committee may adopt its own rules of procedure, or may conduct its meetings in accordance with Robert's Rules of Order.
- 5.11 Decision making.** The affirmative vote of a simple majority of those members present shall carry any motion or resolution. All voting members of the committee shall have equally weighted votes. Any member may make a motion, which must be seconded for further consideration. All voting shall be made by roll-call or voice vote.
- 5.12 Meeting minutes.** Written minutes shall be made for all committee meetings. The minutes shall be posted to the city website when the agenda for the upcoming meeting is posted. The minutes of each meeting shall be approved by the committee at its next meeting.

ARTICLE VI. SPECIAL AND STANDING COMMITTEES

- 6.1 Special committees.** The chairperson may establish special committees to work on specific issues or projects as needed. Special committees may include persons other than members of the PAAC. The special committee shall serve only until completion of the purpose for which it was formed. Recommendations of a special committee must be approved by the PAAC before being considered officially adopted.
- 6.2 Standing committees.** There shall be no standing committee(s) of the PAAC unless authorized by City Council.
- 6.3 Committee chairperson.** A member of the PAAC shall serve as the chairperson of any committee.

ARTICLE VII. COMMITMENT TO THE PUBLIC

- 7.1 Commitment to the public.** Committee members commitment to the public shall be demonstrated by adherence to all Arkansas and City of Bentonville laws, rules and regulations regarding conduct of public officials.
- 7.2 Conflict of interest.** The committee and its members shall adhere to all Arkansas and City of Bentonville laws, rules and regulations that may pertain to the avoidance of conflict of interest.
- 7.3 Communication among members.** Committee members shall adhere to all Arkansas and City of Bentonville laws, rules and regulations governing government communications.
- 7.4 Communications outside committee.** The committee may give individual members the authority to speak on behalf of the committee as needs arise. Individuals shall not speak for the committee without the committee's authorization and shall not make commitments on behalf of the committee unless the committee has formally approved such a commitment.

ARTICLE VIII. AMENDMENTS TO BYLAWS.

- 8.1** These bylaws shall be adopted, and later suspended, amended or canceled only after an affirmative vote of 2/3rds of the membership of the committee. Copies of the proposed amendment(s) shall be provided to each member at least one week prior to the date of any regular or special meeting at which the bylaw amendment(s) are on the agenda for consideration.

BY A 2/3 VOTE OF THE APPOINTED VOTING MEMBERS OF THE PUBLIC ART ADVISORY COMMITTEE, THESE BYLAWS FOR THE PUBLIC ART ADVISORY COMMITTEE OF THE CITY OF BENTONVILLE ARE HEREBY PASSED AND APPROVED THIS FOURTEENTH DAY OF APRIL 2020.

PAAC Annual Budgets

As of 01/18/2022

	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>
BUDGETED	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00
Rolled from Previous Year	\$ -	\$ -	\$ -	\$ 21,038.00
	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 46,038.00
Open Heart	\$ 19,480.00			
Relocating Sassy		\$ 3,000.00		
Universal Inseparability		\$ 3,962.00	\$ 3,962.00	\$ 1,000.00
Osage Prairie		\$ 5,050.00		
Guide These My Hands		\$ 9,600.00		
<i>Found</i>				\$ 35,000.00
Amount Spent	\$ 19,480.00	\$ 21,612.00	\$ 3,962.00	\$ 36,000.00
Remaining:	\$ 5,520.00	\$ 3,388.00	\$ 21,038.00	\$ 10,038.00

From: noreply@civicplus.com
To: [Shelli Kerr](#)
Subject: Online Form Submittal: Public Art Proposal
Date: Sunday, February 6, 2022 8:53:41 PM

Public Art Proposal

Proposal for Public Art

Is the proposal independent or in response to a request for proposals?	Independent Proposal
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Date	2/6/2022
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1) CONTACT INFORMATION

Complete this section with the primary contact for this project, which may include someone other than the artist, such as a curator or organization donating artwork to be placed on public property.

Name	Ben Pierce
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Title	<i>Field not completed.</i>
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Organization Name	Ben Pierce Sculpture
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Street Address	151 South Minnesota St
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City	Cape Girardeau
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State	Missouri
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Zip Code	63703
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Email Address	benpiercesculpture@gmail.com
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Phone Number	573-200-0692
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2) ARTIST INFORMATION

Name	Ben Pierce
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City	Cape Girardeau
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State	mo
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Email Address	benpiercesculpture@gmail.com
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Phone Number	573-200-0692
Upload artist resume / CV	2022 FULL RESUME.pdf
Artist portfolio	Bentonville.docx
Artist website	www.benpiercesculpture.com
For Collaborative Proposals: <i>Please use this section to provide information for partnering artists.</i>	
Name	Ben Pierce
City	Cape Girardeau
State	Missouri
Upload artist resume/CV	<i>Field not completed.</i>
Artist portfolio	<i>Field not completed.</i>
Artist website	<i>Field not completed.</i>
3) ARTWORK DETAILS	
Title of artwork	"hold me up"
Medium	stainless steel
Location	T.B.D.
Height	14ft
Width and depth	6ft x 3ft
Description of artwork	Made with a minimalist design to offer information without leading the viewer too much. This approach allows the viewer to see what they want to see and answer the question for themselves rather than be told "what is it?". Created of three curves of various size and radius, and each with a unique surface finish. This design choice is intentional- it can be a commentary on the diversity of our communities. And I suggest that when we bring our differences together we can become MORE than just the sum of our parts.
Upload description of artwork	<i>Field not completed.</i>
Upload image of	Untitled-1.jpg

artwork

4) INSTALLATION AND MAINTENANCE

Is the proposal for temporary or permanent display?

Permanent

If temporary, what is the requested display period?

Not applicable

Is the artwork already complete?

Yes

If artwork is complete, is it currently on display?

No

If artwork is currently on display, when will it be available?

Field not completed.

If artwork is not complete, how much time is needed for fabrication?

None - artwork is ready for installation

Is the artwork best suited for indoor or outdoor display?

Outdoor

Is a foundation required to install the artwork?

Yes

If a foundation is required, indicate the size and shape needed.

5ft round pad would be ideal

Does the artwork require access to electricity?

No

Does the artwork require access to water?

No

11 or more years

What is the life expectancy of the artwork?

Are there any special maintenance needs for this artwork?

No

If there are maintenance needs, please describe here.

Field not completed.

5) BUDGET

Cost of materials \$6,500

Cost of production \$17,000

Delivery and installation cost \$1,500

Artist's Fee \$2,500

Total budget \$27,500

If project is a temporary display, please upload budget.

Field not completed.

6) FUNDING

What is the planned funding for this proposal?

City of Bentonville funding as part of a request for proposals

Is the artwork a donation to the City of Bentonville?

No

Email not displaying correctly? [View it in your browser.](#)



City of Bentonville, Arkansas
PUBLIC ART LEASE AGREEMENT FOR DISPLAY ON PUBLIC PROPERTY

Universal Inseparability by Ben Pierce

THE AGREEMENT IS ENTERED INTO THIS 20 MARCH 2020 (DATE) BY AND BETWEEN THE CITY OF BENTONVILLE, ARKANSAS, (HEREINAFTER THE "CITY") AND BEN PIERCE (HEREINAFTER "ARTIST") FOR UNIVERSAL INSEPARABILITY (HEREINAFTER "ARTWORK") TO BE INSTALLED TEMPORARILY ON PUBLIC PROPERTY IN PARK SPRINGS PARK AT THE SOUTHWEST CORNER OF THE INTERSECTION OF NW A STREET AND TIGER BOULEVARD (HEREINAFTER "DISPLAY SITE").

WHEREAS, the City Council of the City of Bentonville has established the importance of integrating public art into the daily lives of the citizens of Bentonville by adopting a Public Art Policy with Ordinance No. 2013 – 40 on May 14, 2013; and,

WHEREAS, the Public Art Advisory Committee selected this Artwork for the Display Site on November 12, 2019 as part of a request for proposals for temporary artwork, and,

WHEREAS, the Bentonville Parks and Recreation Advisory Board and Bentonville City Council have approved this Artwork for the Display Site;

WHEREAS, the Artist is allowed to place the Artwork at the Display Site to promote visual arts in the City on the terms and conditions set forth below.

NOW, THEREFORE, the City and Artist agree as follows:

1. **Generally.** The Artist agrees to install the Artwork titled "Universal Inseparability", as described and shown in Exhibit A, attached herein, as a temporary display at the Display Site.
2. **Display Site Preparation.** The Artist shall provide to the City a written description of the manner in which the Artwork will be installed, including a statement of details addressing any preparatory work which must be performed by the Artist to prepare the site.

The City shall cooperate with the Artist in the preparation of the Display Site prior to installation; however, it shall be the responsibility of the Artist to apply for, pay for, secure and comply with the conditions and requirements of any and all costs associated with and related to the installation of the Artwork, including, but not limited to, permits that may be required by law for such installation.
3. **Delivery and Installation.** The Artist, at their cost and expense, shall be responsible for delivery and installation of the Artwork to the Display Site. The Artwork shall not be installed until after the existing artwork at the Display Site has been removed and no later than June 1, 2020.
4. **Letter of Final Acceptance.** The Artist shall notify the City when the Artwork installation is complete. The City shall notify in writing to the Artist the date on which the City accepts the Artwork as fully installed and documenting the official Removal Date.
5. **Display Period.** The Artwork shall be on display at the Display Site for two (2) years starting from the date of Final Acceptance. The City reserves the right to negotiate a longer Display Period or purchase of the Artwork with the Artist.

6. **Maintenance.** At all times the maintenance of the Artwork shall be the sole responsibility of the Artist. Any and all costs associated with or related to the maintenance of the Artwork shall be the sole responsibility of the Artist.
7. **Removal.** The Artist, at their cost and expense, shall be responsible for removal of the Artwork from the Display Site, unless a purchase agreement has been made. The removal of the Artwork shall occur two years from the date of Final Acceptance and by the Removal Date as indicated on letter of Final Acceptance, and no later than June 1, 2022 (Removal Date). The City reserves the right to have the Artwork removed prior to the Removal Date if it is deemed at any time to interfere with the City operations or if the Artwork creates a health or safety hazard.
8. **Compensation.** The City shall pay to the Artist an annual lease for performance of the Work and for the Artwork as provided in this Part of the Agreement; however, in no event shall the Artist be paid an amount in excess of the sum of Seven Thousand Nine Hundred Twenty Four Dollars (\$7,924). This amount shall constitute full and complete compensation for the Artist's Work and Artwork; the Artist shall be solely responsible for all expenses necessary for the performance of this Agreement, including any cost overruns. Payments shall be made to the Artist upon his or her submission of detailed invoice to the City, according to the following schedule:
 - a. Upon execution of this Agreement, the Commission shall pay the Artist an amount not to exceed One Thousand Nine Hundred Eighty One Dollars (\$1,981), one-half of the first year installation and lease cost;
 - b. Upon Installation and final acceptance by City, the City shall pay the Artist an amount not to exceed One Thousand Nine Hundred Eighty One Dollars (\$1,981) which shall fulfill the lease agreement for the first year; and,
 - c. At the beginning of the second year, as determined by the date of final acceptance, the City shall pay the artist an amount not to exceed Two Thousand Five Hundred Dollars (\$2,962) for the lease agreement for the second year.
 - d. If the City decides to remove the artwork at the end of the lease agreement, the City shall pay the artist an amount not to exceed One Thousand Dollars (\$1,000) for removal.
9. **No Security; Assumption of Liability and Waiver of Damages.** Artist acknowledges and agrees that the City will not provide any security for the Artwork, and the City shall not for any reason be liable for any lost, stolen and/or damaged Artwork and/or the related materials, equipment and/or any other items associated and/or used in conjunction with the Artwork. **ARTIST HEREBY RELEASES THE CITY, ITS OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES AND WAIVES ANY AND ALL RIGHTS TO ANY AND ALL CLAIMS FOR DAMAGES, OR OTHERWISE, THAT HE/SHE MAY HAVE WITH REGARD TO LOST, STOLEN AND/OR DAMAGED ARTWORK AND/OR RELATED MATERIALS, EQUIPMENT AND/OR ANY OTHER ITEMS ASSOCIATED AND/OR USED IN CONJUNCTION WITH THE ARTWORK AND/OR DISPLAY SITE.**
10. **Removal of Artwork and Waiver of Damages.** Should Artist fail to remove the Artwork by the Removal Date, the City shall have the right to dispose of the Artwork and any other items related thereto in any manner deemed appropriate in the sole discretion of the City. Artist shall be responsible for any and all costs and expenses associated with the City's removal of the Artwork and/or the related materials, equipment and/or any other items associated and/or used in conjunction with the Display

Site as provided in this Paragraph. Furthermore, the Artist agrees to leave the Display Site in the same condition as it existed when the Artwork was installed and the Artist is responsible for making any and all necessary repairs to the Display Site in order to return it to its original state, as determined under the reasonable discretion of the City. **ARTIST HEREBY RELEASES THE CITY AND COMMISSION, ITS OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES AND WAIVES ANY AND ALL RIGHTS TO ANY AND ALL CLAIMS FOR DAMAGES THAT HE/SHE MAY HAVE WITH REGARD TO THE CITY'S REMOVAL OF THE ARTWORK AND/OR RELATED MATERIALS, EQUIPMENT AND/OR ANY OTHER ITEMS ASSOCIATED AN/DOR USED IN CONJUNCTION WITH THE DISPLAY SITE AS PROVIDED IN THIS PARAGRAPH.**

11. **Insurance.** Prior to the installation of the Artwork the Artist shall procure and maintain such comprehensive general liability insurance as will protect the Parties, and each of their respective officers, agents, employees and subcontractors performing any of the work covered by this Agreement, from claims of damages for personal injury including accidental death, as well as from claims of property damages, which may arise from operations or work under this Agreement, whether such operations or work be by any of the Parties, or any of their respective officers, agents, employees or subcontractors performing any of the work during the life of this Agreement. The Artist understands that the City will not insure the Artwork and that the Artist bears the risk of any loss or damage to the Artwork. The insurance policy procured shall name the City as an additional insured party and shall require a thirty-day cancellation notice.
12. **Photographic Rights.** Artist hereby grants permission to the City and Commission to photograph and/or videotape and/or to authorize others to photograph and/or videotape the Artwork for any non-commercial use, including but not limited to, installation documentation, publicity of the Artwork, record keeping and additional non-commercial purposes such as among others, educational, public relations and promotion of the arts.
13. **Termination/Waiver of Damages.** This Agreement may, at any time, be terminated for any reason or no reason at all. Should the City terminate this Agreement, **ARTIST HEREBY RELEASES THE CITY, ITS OFFICERS, AGENTS, REPRESENTATIVES, AND EMPLOYEES AND WAIVES ANY AND ALL RIGHTS TO ANY AND ALL CLAIMS FOR DAMAGES, OR OTHERWISE, HE/SHE MAY HAVE WITH REGARD TO THE CITY'S TERMINATION OF THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, AND ACTUAL AND/OR CONSEQUENTIAL DAMAGES.**
14. **Indemnification.** **ARTIST SHALL DEFEND, INDEMNIFY, SAVE HARMLESS, AND EXEMPT THE CITY, ITS OFFICERS, AGENTS, REPRESENTATIVES, AND EMPLOYEES FROM AND AGAINST ALL LAWSUITS, ACTIONS, LEGAL PROCEEDINGS, CLAIMS, DEMANDS, DAMAGES, COSTS, EXPENSES AND ATTORNEYS' FEES INCIDENT TO THE OBLIGATIONS AND PROVISIONS OF THIS AGREEMENT, THE VIEWING OF ARTWORK BY THE PUBLIC OR ANY LEGAL CLAIMS OR ACTIONS ARISING OUT OF A NEGLIGENT ACT OR OMISSION OF THE CITY, THEIR RESPECTIVE OWNERS, OFFICERS, PARTNERS, AGENTS, REPRESENTATIVES, CONTRACTORS, SUBCONTRACTORS, VOLUNTEERS AND/OR EMPLOYEES.** This Paragraph shall survive the termination of this Agreement.
15. **Governing Jurisdiction.** This Agreement is governed by the laws of the State of Arkansas.
16. **Default.** In the event the Artist fails to comply with any of the provisions of this Agreement, the City and Commission shall have the following remedies, in addition to the City's and Commission's other rights and remedies:

- a. To immediately terminate this Agreement without any liability to the City and Commission as previously provided herein; and/or
- b. To require the immediate cessation of the set-up, operation and/or removal of the Artwork.

17. Miscellaneous Provisions.

- a. **No third Party Beneficiaries.** Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the parties do not intend to create any third party beneficiaries by entering into this Agreement.
- b. **Assignment.** This Agreement is not assignable without the prior written consent of the City and Commission.
- c. **Notices.** Any notice provided or permitted to be given under this Agreement must be in writing and may be served by electronic mail, depositing same in the United States Mail, addressed to the party to be notified or by delivering the same in person to such party via a hand-deliver service. For purposes of notice, the addresses of the parties shall be as follows:

If to Artist, to: Ben Pierce
 151 South Minnesota
 Cape Girardeau, MO 63703
benpiercesculpture@gmail.com

If to City, to: Shelli Kerr, AICP
 City of Bentonville
 305 SW A Street
 Bentonville, AR 72712
skerr@bentonvillear.com

- d. **Entire Agreement.** This Agreement contains the entire agreement of the parties with respect to the matters contained herein and may not be modified or terminated except upon the mutual written agreement of the parties hereto.
- e. **Counterparts.** This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original. A separate signature will be deemed to constitute an original if properly executed.
- f. **Authority to Execute.** The individuals executing this Agreement on behalf of the respective parties below represent to each other that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.
- g. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns, as allowed herein.
- h. **Severability.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect any other provision thereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

EXHIBIT A
DESCRIPTION OF ARTWORK
***Universal Inseparability* by Ben Pierce**



Title	Universal Inseparability
Artist	Ben Pierce
Medium	Stainless Steel
Dimensions	12 ft x 5 ft x 5 ft
Description	A single large circle that appears to be drooping or bent in a way that appears to be drooping or bent in a way that at first glance is unrecognizable as circle.
Narrative	The sculpture pulls influence from nature and architecture. Tying together the use of stainless steel as the medium and a dynamic composition utilizing graceful curves, the sculpture expands on the artist's use of the circle. Just as a circle has no start and stop, this sculpture too has no beginning or end.

IN WITNESS WHEREOF, the parties have executed this Agreement and caused this Agreement to be effective on the latest day as reflected by the signatures below.

Ben Pierce

20 MARCH 2020
Date

CITY OF BENTONVILLE:



City of Bentonville, Arkansas

March 23 2020
Date

APPROVED AS TO FORM AND LEGALITY:

Camille Thompson, Staff Att.
City of Bentonville, Arkansas

3/23/2020
Date