

**ARTIST’S COMMISSION
FLAT BRANCH PARK PUBLIC ART PROJECT**

THIS AGREEMENT between the City of Columbia, Missouri, a constitutional charter city ("City") and Matthew Moyer ("Artist") is entered into on the date of the last signatory noted below (the "Effective Date"). City and Artist are each individually referred to herein as a "Party" and collectively as the "Parties".

WHEREAS, the City seeks an artist to create a new, original, durable media public artwork for display in the City’s Flat Branch Park ("Public Art Project" or "Project"); and

WHEREAS, the City’s Office of Cultural Affairs (OCA) issued a Request for Qualifications on Jan. 9, 2026 for the Public Art Project (attached as Exhibit A); and

WHEREAS, Artist submitted its application for the Public Art Project; and

WHEREAS, the Commission on Cultural Affairs has reviewed the Artist’s application and recommends Artist for the Public Art Project.

NOW, THEREFORE, the Parties hereto, for good and sufficient consideration, the receipt of which is hereby acknowledged, intending to be legally bound, do hereby agree as follows.

1. Scope of Services

Artist shall create the Public Art Project as set forth in Exhibit A. Artist shall meet with and work cooperatively with City’s Cultural Affairs Manager and Parks and Recreation Department on the Project so as to execute and fabricate the City Council approved design proposal for the Project. Project shall be an artistic work suitable and appropriate to the Flat Branch Park (the "Park") and the specific site designated by City as available for the Project as set forth in Exhibit A.

Artist shall execute and fabricate the Project to enhance the Park. Artist shall perform all services and furnish all supplies, materials and equipment necessary for the design, execution, fabrication, transportation and installation of the work.

2. City Responsibilities

City shall be responsible for the engineered footing and foundation to create the concrete pad for the Project and shall assist Artist with installation of the Project.

3. Artistic Expression

Artist shall determine the artistic expression, scope, design, size, color, material and texture of the Project, subject to review and acceptance of the Project by City as set forth in this Agreement. The preliminary design proposal is subject to the approval of the City Council. Location of the Project within the Park will be determined by City upon the approval of the final Project plans.

4. **Proposal**

- A. As promptly as possible after the execution of this Agreement and issuance of a notice to proceed, Artist shall visit City, make site inspections, and meet with the City officials involved with the Project. Artist shall maintain close contact with the City officials so that Artist has the necessary knowledge and background relating to the Park and matters affecting the site and potential installation of the Work.
- B. Within sixty (60) days after City issues a notice to proceed, Artist shall prepare and submit a proposal for the Project. The proposal shall be a detailed explanation of the Project and be accompanied by full color artist's renderings. The Artwork shall be durable, taking into consideration that the Site is an unsecured outdoor public space that may be exposed to harsh temperature and weather, and considerable movement of people and equipment. Artist shall ensure that all maintenance requirements will be reasonable in terms of time and expense.
- C. The proposal shall state the materials, dimensions, weight, finish of the Work, as well as engineering, mounting, and maintenance needs and set out an expected budget. The budget shall include estimated costs for design, execution, fabrication, transportation, installation, and the Artist's fee. The budget for the Work and all Artist's fees shall in no case exceed twenty thousand and dollars (\$20,000.00).

5. **REVIEW OF THE PROPOSAL**

- A. Immediately upon receipt of the Artist's proposal, the City's Cultural Affairs Manager and Parks and Recreation Department Director shall review the proposal and determine whether the proposal will meet the goals of Exhibit A and the parameters of the Park site. The proposal shall also be reviewed by the Commission on Cultural Affairs Standing Committee on Public Art and the Commission on Cultural Affairs. Comments and recommendations from the City and others responsible for the preliminary review shall be forwarded to Artist.
- B. City may require Artist to make such revisions to the proposal as are necessary for the Project to comply with applicable laws, codes or regulations and to meet structural requirements of the Park. City may request other changes to the proposal for practical reasons.
- C. Within sixty (60) days of receipt of the proposal, City shall finish its preliminary review and provide Artist with its written concerns, provide a period of public review of the proposed work and solicit its comments, and the City Council shall vote to accept or reject the proposal.
- D. If the proposal is rejected, Artist shall be provided a statement in writing of the reasons for the rejection. Upon a rejection, Artist shall have thirty (30) days to submit a new or revised proposal which conforms to the requirements of the original proposal approved and City shall have thirty (30) days to review, consider and accept or reject this second proposal. If the second proposal is rejected, either party may terminate or seek to renegotiate this agreement.

6. **EXECUTION OF THE WORK**

- A. Upon acceptance of Artist's proposal by the City Council, Artist shall furnish to City for approval a written schedule for the execution, fabrication and installation of

the Work, including a listing of and contact information for any and all sub-contractors. Artist shall complete, deliver and install the Work substantially in conformance with the approved proposal and in accordance with the written schedule approved by City.

- B. City shall have the right to review the Work at reasonable times during the fabrication thereof or to request and receive written progress reports and photographs.

7. DELIVERY AND INSTALLATION

- A. Artist shall notify City in writing when fabrication of the Project is completed and shall thereafter deliver and work collaboratively with the City to install the completed Project in compliance with the approved schedule in section 1.6.
- B. City shall be responsible for preparing the site for Artist's timely installation of the Work.
- C. Artist shall provide City written instructions for the appropriate maintenance and preservation of the Project. The Project shall be designed so as to not routinely require extensive or extraordinary maintenance or conservation measures.
- D. The risk of loss or damage to the Project shall remain with Artist until the Work is installed at the Park. Upon installation, the risk of loss or damage to the Project shall be borne by City.

8. FINAL ACCEPTANCE

- A. Artist shall advise City in writing when the Project is delivered and installed and completed to Artist's satisfaction.
- B. City shall inspect the installed Project and shall present Artist with a detailed listing of any observed flaws or any service required by this Agreement left undone.
- C. Upon all the terms of the agreement being satisfied, City shall notify Artist in writing of its final acceptance of the Project.

9. PAYMENT AND COMPENSATION

- A. For the design, execution, fabrication, delivery and installation of the Public Art Project contemplated by this Agreement, Artist shall be paid an amount not to exceed twenty thousand dollars (\$20,000.00). This amount shall be full compensation for all travel and services rendered by Artist and all supplies, materials and equipment used by Artist to design, execute, fabricate, deliver and install the Work.
- B. Payments shall be made to Artist in the following installments:
 - a. One thousand dollars (\$1,000.00) upon the execution of this Agreement to retain Artist and to meet expenses in preparing final design for the City's review.
 - b. Seven thousand five hundred dollars (\$7,500.00) within thirty (30) days of City's written approval of Artist's proposal.
 - c. Seven thousand five hundred dollars (\$7,500.00) during fabrication of the Project upon reaching a point roughly fifty percent (50%) completed as set

out in Artist's schedule, provided Artist has provided City with a summary of the Project completed and photographic documentation of the Project's progress.

- d. Three thousand five hundred dollars (\$3,500.00) within thirty (30) days after Artist notifies City that the Project is fabricated and ready for installation at the Park.
 - e. Five hundred dollars (\$500.00) within thirty (30) days after the final acceptance of the Project by City.
- C. Artist shall pay any sales, use or excise taxes, and all mailing and shipping charges, the cost of transporting the Project to City, installation costs, and the costs of all travel by Artist and any Agent of Artist, which may be due or necessary in the proper performance of the services required by this Agreement.

10. TIME OF PERFORMANCE

- A. Artist shall complete the Project within the time set out in the schedule approved by City for the Project's execution. If the Project is completed on time and installation is delayed by City, Artist shall store and protect the Project. City shall pay all reasonable storage costs until the Project can be transported and installed at the Park.
- B. If Artist completes the Project prior to the time set out in the approved schedule, Artist shall protect and store the Project at Artist's cost.
- C. The time of performance may be extended or modified by written agreement between Artist and City.

11. TITLE AND WARRANTIES

- A. Title to the Project shall pass to City upon final acceptance. Upon final acceptance, City shall retain the proposal and all written documentation regarding the Project and shall have the right to a copy of all drawings, sketches and designs submitted with the proposal to be used for maintenance, historical documentation and display purposes, and any other lawful purpose.
- B. Artist represents and warrants that the Project is solely the result of the artistic effort of Project and is original and unique, does not infringe upon any copyright, trademark or other intellectual property rights, has not been sold elsewhere, and is free from any liens, and that there are no outstanding disputes in connection with property rights, intellectual property rights or any other rights in the Artwork or any parts of the Artwork.
- C. Artist represents and warrants that the Project will be durable and executed and fabricated in a workman-like manner and will be free from defects in material and workmanship including defects known as "inherent vice" or qualities which cause or accelerate deterioration of the Project.
- D. Artist represents and warrants that, for a period of three (3) years after final acceptance, the Work will be free of defects in workmanship or materials, including Inherent Defects (as defined below), and that the Work will be executed in permanent, non-fugitive materials that will not tend to degrade or fade over long-

term installation at the Site. “Inherent Defect” refers to a quality within the material or materials, which comprise the Work which, either alone or in combination, results in the tendency of the Work to destroy itself. “Inherent Defect” does not include any tendency to deteriorate that is specifically identified in the Contract Documents approved by City. Artist shall, at Artist’s sole cost and expense, remedy any defects in workmanship or materials that appear within a period of one (1) year from the date of final acceptance of the Artwork by City. All repairs or cures to defects shall be consistent with professional conservation standards.

12. WARRANTY OF PUBLIC SAFETY

Artist represents and warrants that the Project will not pose a danger to public health or safety in view of the possibility of misuse, if such misuse is in a manner that was reasonably foreseeable at any time during the term of this Agreement.

13. WARRANTY OF ACCEPTABLE STANDARD OF DISPLAY AND OPERATION

Artist represents and warrants that:

- A. The Project will conform with design specifications and the Project will operate, function or perform in accordance with Artist’s representations to City without any costs beyond the final Budget for the Project or any additional staff assistance.
- B. Occasional or minimal cleaning and repair of the Project and any associated working parts and/or equipment will maintain the Project within an acceptable standard of public display;
- C. Foreseeable exposure to the elements and general wear and tear will cause the Project to experience only minor repairable damages and will not cause the Project to fall below an acceptable standard of public display; and
- D. With general routine cleaning and repair, and within the context of foreseeable exposure to the elements and general wear and tear, the Project 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.

14. MANUFACTURER’S WARRANTIES

To the extent the Work incorporates products covered by a manufacturer’s warranty, Artist shall provide copies of such warranties to City.

15. COPYRIGHT

- A. Artist agrees that City owns the original Public Art Project. Artist agrees that this Project shall be a unique example of Artist’s work and Artist shall not anywhere else produce such Project in full scale or in three-dimensional models for commercial purposes, nor allow others to do so, without the express written

consent of City. Other than the preliminary design proposal materials, all models, final designs, drawings and other work of Artist done in preparation for the Project are to remain the Artist's sole property. Copies of the Project can be made by Artist for the purposes of display or applications for further commission provided City is credited with commissioning the original Work. Whenever Artist sells or displays any model, design work, drawing or copy of the Project, Artist shall credit City with commissioning the original Work.

- B. City may retain and use a full set of Artist's copyrighted plans and design drawings and other work for maintenance and repair of the Project. City may also use a full set of Artist's copyrighted plans and design drawings for inclusion in an exhibit about the piece or about City's Public Art Project program.
- C. Artist grants to City an irrevocable license to make two-dimensional reproductions of the Project for commercial and non-commercial purposes, including but not limited to, reproductions used in advertising, brochures, media, publicity and catalogues. Artist hereby grants City the right to use two dimensional reproductions of the Project as a logo for City. City may place this logo upon clothing, hats, cups, cup holders, and any similar items for its own use, the use of City employees, or for sale to the general public.
- D. The City of Columbia agrees and acknowledges Artist retains all copyrights not herein granted to City. City agrees not to make any reproductions of the Project for profit, other than those previously granted, without prior negotiations with Artist and having received Artist's written permission.

16. ARTIST AS INDEPENDENT ARTIST

Artist shall perform all work under this Agreement as an independent Artist and not as an agent or an employee of City. Artist shall not be supervised by any employee or official of City nor shall Artist exercise supervision over any employee or official of City.

17. EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED

- A. Artist agrees to comply with Missouri State Statute section 285.530 in that they shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the state of Missouri.
- B. As a condition for the award of this Agreement Artist shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. Artist shall also sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services.
- C. Artist shall require each subcontractor to affirmatively state in its contract with Artist that the subcontractor shall not knowingly employ, hire for employment or continue to employ an unauthorized alien to perform work within the state of Missouri. Artist shall also require each subcontractor to provide Artist with a sworn affidavit under the penalty of perjury attesting to the fact that the subcontractor's employees are lawfully present in the United States.

18. INSURANCE AND INDEMNIFICATION

- A. Artist shall take out and maintain during the life of this Agreement such comprehensive general liability insurance as shall protect Artist and City, its employees and any officers, agents, and subcontractors performing work covered by this Agreement, from claims for damages for personal injury including accidental death, as well as from claims for property damages, which may arise from operations or work under this Agreement, whether such operations or work be by Artist, City, its employees, officers or agents, or by any subcontractor or by anyone directly or indirectly employed by them. The amounts of insurance shall be not less than \$500,000 combined single limit for any one occurrence covering both body injury and property damage, including accidental death.
- B. The Artist shall furnish City with certificates of insurance which name City as additional insured in an amount as required above and requiring a thirty (30) day mandatory cancellation notice. In addition, such insurance shall be on an occurrence basis and shall remain in effect until such time as City has made final acceptance of the work.
- C. Artist shall at all times hereafter defend, indemnify and hold harmless City, its officers, agents, employees, against any and all claims, costs, losses and liabilities of any kind, caused by acts or omissions of Artist, its employees or agents, or accruing, resulting from, or related to the subject matter of this Agreement including, without limitation, any and all claims, demands, or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property. Any sums due Artist under this Agreement may be retained by City until any claim made against City subject to this section has been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by City.
- D. The parties agree that obligations under sections 11, 12, 13, 14, 15, 18, 19 and 33 shall survive the completion or termination of this Agreement.

19. HOLD HARMLESS AGREEMENT

To the fullest extent not prohibited by law, Artist shall indemnify and save harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all loss, cost, damage, injury, liability, and claims thereof for injury to or death of a person, including employees of Artist or loss of or damage to property, arising directly or indirectly from Artist's performance of this Agreement, including, but not limited to, Artist's use of facilities or equipment provided by City or others, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on City, except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this Agreement, and except where such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of City and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Artist, its subcontractors or either's agent or employee. The foregoing indemnity shall include,

without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating any claims against City.

In addition to Artist's obligation to indemnify City, Artist specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Artist by City and continues at all times thereafter.

Artist shall indemnify and hold City harmless from all loss and liability, including attorneys' fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark, and all other intellectual property claims of any person or persons in consequence of the use by City, or any of its officers or agents, of articles or services to be supplied in the performance of this Agreement.

20. ARTIST'S SAFETY RESPONSIBILITIES

Artist, rather than City, is responsible for site conditions and the health and safety of Artist's employees, subcontractors and agents, and all other persons that work on the Artwork or visit the Park at the invitation of Artist.

21. ASSIGNMENT, SUBCONTRACTING

Artist understands and agrees that the essence of this Agreement is Artist's personal skill, judgment and creativity and that the Agreement is a personal services contract. Artist shall not assign this Agreement to any other person or party. Artist may subcontract portions of the services to be provided under this Agreement, at Artist's expense, provided that said subcontracting shall not affect the design, appearance or visual quality of the Project and shall be carried out under the personal supervision of Artist. Artist represents herein that any and all of Artist's subcontractors have the knowledge and skills either by training, experience or education to adequately and competently perform the tasks assigned.

22. TERMINATION

- A. Artist may terminate this agreement if City is in substantial nonperformance with the terms of this Agreement and after thirty (30) days written notice of the noncompliance fails to cure the same.
- B. City may terminate this agreement at any time for any reason by giving Artist thirty (30) days written notice of its intent to terminate the agreement. Upon receipt of such notice, Artist shall cease work and not incur any further expenses on the Project.
- C. The parties agree that obligations under sections 11, 12, 13, 14, 15, 18, 19 and 33 shall survive the completion or termination of this Agreement.

22.1 10.1. PAYMENT UPON TERMINATION

- A. If Artist terminates the agreement because of substantial nonperformance of City, Artist shall be entitled to keep all payments made by City prior to termination plus an amount equal to the actual out-of-pocket expenses incurred by Artist in furtherance of the Project which is in excess of the amounts previously paid by City.
- B. If City terminates the agreement after retaining Artist and before accepting Artist's proposal for the Project, Artist shall be entitled to keep the amount paid as a retainer.
- C. If City accepts Artist's final design but Artist is unable or unwilling to execute the Project, then the proposed work plans, drawings, sketches, models and design work shall become the property of City unless Artist returns all funds paid Artist by City. If Artist refuses to return the funds paid and all plans, drawings, sketches, models and design work becomes City property; neither City nor Artist shall fabricate or execute the Project.
- D. If City does not accept the finished Project, Artist shall keep the work and all design document plans, drawings and sketches, provided Artist returns all funds paid

23. DEATH OR DISABILITY OF ARTIST

Should Artist die or become physically unable to execute or complete the proposed Project, City may accept the Project as is or if the Project is of the nature that reasonably skilled Artists or Artisans can faithfully execute or complete the Project to Artist's original design, City may negotiate with Artist or Artist's estate for the execution or completion of the Project. If such negotiations are in City's sole opinion unsuccessful, this Agreement shall terminate and Artist or Artist's estate shall be entitled to no payments from City other than those made prior to the death or disability of Artist.

24. THIRD PARTY BENEFICIARIES

Neither Artist nor City intend to directly or substantially benefit any third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and no third party shall be entitled to assert any claim against Artist or City based upon this Agreement.

25. NOTICE

Whenever either party desires to give notice to the other, or such notice is required by this Agreement to be in writing, such notice shall be delivered to the parties designated below:

FOR CITY:

City of Columbia
 Office of Cultural Affairs
 PO Box 6015
 Columbia, MO 65205
 ATTN: Manager

ARTIST:

Matthew Moyer
 111 W. Leslie Lane
 Columbia, MO 65202

26. ENTIRE AGREEMENT

This writing embodies the entire agreement and understanding between the parties hereto and there are no other agreements and understandings, oral or written, with

reference to the subject matter herein between the parties.

27. MODIFICATION

No modification alteration or change of the terms of this agreement shall be valid unless made in writing, approved by City, and signed by the parties.

28. GOVERNING LAW

This Agreement shall be governed by, interpreted and enforced in accordance with the laws of the State of Missouri and/or the laws of the United States, as applicable. The venue for all litigation arising out of, or relating to this Contract Document, shall be Boone County, Missouri or the United States Western District of Missouri. The parties hereto irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of Missouri and waive any defense of forum non conveniens.

29. NO WAIVER OF IMMUNITIES

In no event shall the language of this Agreement constitute or be construed as a waiver or limitation for either party's rights or defenses with regard to each party's applicable sovereign, governmental, or official immunities and protections as provided by federal and state constitutions or laws.

30. ACCESS TO RECORDS AND REPORTS

Artist must maintain an acceptable cost accounting system. Artist agrees to provide the City or any of their duly authorized representatives access to any books, documents, papers and records of the Artist which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. Artist agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

31. GENERAL LAWS

Contractor shall comply with all federal, state, and local laws, rules, regulations, and ordinances.

32. COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT (ADA)

Artist acknowledges that, pursuant to the ADA, programs, services and other activities provided by a public entity to the public, whether directly or through Artist, shall be accessible to the persons with disabilities. Artist shall provide the services specified in this Agreement in a manner that complies with the ADA and its related regulations. Artist shall not discriminate against persons with disabilities in the provision of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of Artist, its employees, agents or assigns will constitute a material breach of this Agreement.

Artist shall cooperate with City and allow City to take reasonable steps to ensure that the Artwork is accessible to the disabled, with respect to the elimination of both architectural and programmatic barriers. Such cooperation shall include assisting with modifications to the Artwork, or preparing or authorizing tactile models, reproductions, or other

materials necessary to provide access to the Artwork. If requested by City, Artist shall engage with the City to review the Artwork for compliance with the ADA

33. ARTIST'S MORAL RIGHTS; CITY'S OWNERSHIP RIGHTS

- A. City, having expended considerable public funds to commission the Project, intends to display the Project at the Park as originally created by Artist and to maintain the Project in good condition. Public artworks commissioned by City are sometimes integrated into their site, such that they become an integral, permanent and site-specific part of the site's architecture or landscaped environment and removal of the artwork would result in significant changes to the artwork and the site's architecture. City, however, shall preserve complete flexibility to operate and manage City property in the public's interest. Therefore, City retains the absolute right to alter the Project in City's sole judgment. For example, City may alter the Project to eliminate hazard, to comply with the ADA, to otherwise aid City in the management of its property and affairs, or through neglect or accident. If, during or after the term of this Agreement, City finds the Site to be inappropriate, City has the right to install the Project at an alternate location that City chooses in its sole discretion. If the Project is free-standing such that it can be removed without significant damage to the Project or the site, and if City authorizes the removal of the Project, City shall take reasonable precautions to minimize alteration of the Project during removal.

With respect to the Project produced under this Agreement, and in consideration of the procedures and remedies specified in this Agreement, Artist waives any and all claims, arising at any time and under any circumstances, against City, its officers, agents, employees, successors and assigns, arising under the federal Visual Artists Rights Act (17 U.S.C. §§106A and 113(d)), and any other local, state, federal or international laws that convey rights of the same nature as those conveyed under 17 U.S.C. §106A, or any other type of moral right protecting the integrity of works of art. If the Project is incorporated into a building such that the Artwork cannot be removed from the building without Alteration of the Artwork, Artist waives any and all such claims against any future owners of the Site, and its agents, officers and employees, for Alteration of the Project.

- B. If City intends to take any action with respect to the Park site or Project that would alter the Project, other than routine cleaning and maintenance, the following procedures shall apply:
- a) Notice. Where time permits, City shall make reasonable good faith efforts to notify Artist at least 20 calendar days prior to authorizing any alteration of the Project, at the last phone number or address provided by Artist to City. Where time does not permit prior to alteration of the project – for example, in cases of public hazard, accident or unauthorized alteration – City shall notify Artist within thirty (30) calendar days after such alteration.
 - b) Consultation. After receiving such notice, Artist shall consult with City to

- determine whether the Project can be restored or relocated, and to attempt to come to a mutually agreeable plan for disposition of the Project. Such consultation shall be without charge by Artist unless otherwise specifically agreed in writing. If City intends to remove the Project, Artist shall consult regarding methods to minimize or repair any Alteration to the Project caused by such removal and the potential costs of such removal.
- c) Restoration. If the Project is altered, with or without prior notice to Artist, and City intends to maintain the Artwork on display, City shall make a reasonable good faith effort to engage Artist in the restoration of the Project and to compensate Artist for Artist's time and efforts at fair market value, which may be the subject of a future Agreement between Artist and City. However, City has no obligation under this Agreement to restore the Project to its original condition, to compensate Artist for any restoration work, or to maintain the Project on display. If Artist fails or refuses to negotiate with City in good faith with respect to any restoration, City may contract with any other qualified art conservator for such restoration. During Artist's lifetime, City shall make good faith efforts not to display or deaccession only a portion of the Project without Artist's consent.
 - d) Removal by Artist. Where time permits, if City intends to take action that will destroy or significantly alter the Project, such as destruction of all or part of the Site, and City determines that it will not remove the Project itself, City shall allow Artist to remove the Project at Artist's expense within 60 days of notice from City of the need to remove the Project, in which case title shall revert to Artist upon Artist's removal of the Art. If Artist fails to remove the Project within that 60 day period, City may alter the Project in any manner, including destroying it, in City's sole discretion.
 - e) Remedies. If City breaches any of its obligations under this Section, Artist's remedies shall be limited as follows: If City inadvertently fails to provide a required prior notice of Alteration, City will provide notice as soon as it discovers the omission, and before Alteration of the Project if that remains possible. If City Alters the Project without providing Artist a required prior notice of Alteration, Artist shall be given the first right of refusal to restore the Project at the same location and City shall make reasonable efforts to provide funding for the restoration. If City funds cannot be made available after reasonable efforts are made to secure such funding, Artist may, but is not obligated to, restore the Project at Artist's expense. If Artist elects not to restore the Project, City may retain another artist or conservator to restore it, or may Alter the Project in any manner, at City's sole discretion.
- C. If City Alters the Project without Artist's consent in a manner that is prejudicial to Artist's reputation, Artist retains the right to disclaim authorship of the Project in accordance with 17 U.S.C. §106A(a)(2).
 - D. Except as provided in this Agreement, with respect to third parties who are not officers, employees, agents, successors or assigns of City, Artist retains Artist's moral rights in the Project, as established in the Visual Artists Rights Act (17 U.S.C.

§§106A and 113(d)), or any other local, state, federal or international moral rights laws that protect the integrity of works of art. Accordingly, nothing herein shall prevent Artist from pursuing a claim for Alteration of the Project against a third party who is not an officer, employee, agent, successor or assign of City. City has no obligation to pursue claims against third parties to remedy or prevent Alteration of the Project. However, as owner of the Project, City may pursue claims against third parties for damages or to restore the Project if the Project has been altered without City's authorization.

E. For purposes of this Section, "alter" or "alteration" means, with respect to the Project, to alter, repair, modify, remove, relocate, sell, dispose of distort, destroy, mutilate, or deface.

F. Although City strives to maintain City's Art Collection in good repair and condition, City is not required by this Agreement to maintain the Artwork to any particular standard. City may determine to allow the Project to deteriorate in accordance with the Project's temporary life span, if deemed appropriate by City or if City lacks sufficient funds for required maintenance and/or conservation. If the Project suffers deterioration, City shall have sole discretion to determine whether to remove the Project from display as a result of deterioration, whether to replace any portion of the Project or translate any component into new media, or whether to maintain the Project on display despite its deteriorated condition. City in its sole discretion may re-evaluate the Project to determine if it retains its identity as a work of art and, if not, whether to take appropriate action, including the possibility of destroying the Project. If City determines that, through decay, vandalism or other forces, the Project has lost its integrity to the point where it should be removed or destroyed, City may take whatever action City deems appropriate.

34. This Agreement may be signed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. Faxed signatures, or scanned and electronically transmitted signatures, on this Agreement or any notice delivered pursuant to this Agreement, shall be deemed to have the same legal effect as original signatures on this Agreement.

35. **CONTRACT DOCUMENTS:**

The Contract Documents include this Agreement and the following attachments or exhibits, which are incorporated herein by reference:

<u>Exhibit</u>	<u>Description</u>
A	City's Request for Qualifications

In the event of a conflict between the terms of any Exhibit or Attachment and the terms of this Agreement, the terms of this Agreement control. In the event of a conflict between the terms of any Exhibit and any Attachment, the terms of the documents control in the order listed above.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have hereunto executed this Agreement on the day and the year of the last signatory noted below.

CITY OF COLUMBIA, MISSOURI

By: _____
De'Carlton Seewood, City Manager/sd

Date: _____

ATTEST:

Sheela Amin, City Clerk

APPROVED AS TO FORM:

Nancy Thompson, City Counselor/bt

CERTIFICATION: I hereby certify that the above expenditure is within the purpose of the appropriation to which it is charged, Account No. 44008850 604990 00686, and that there is an unencumbered balance to the credit of such appropriation sufficient to pay therefore.

Matthew Lue, Finance Director

ARTIST

By: Matthew Lue

Date: 5-4-2026



REQUEST FOR QUALIFICATIONS

Flat Branch Park
Public Art Project | Columbia, Missouri

Deadline to apply: Monday, Feb. 9, 2026 at 5:00 p.m. CST



OVERVIEW

The City of Columbia, Missouri invites **Missouri artists** to apply for a public art project in Flat Branch Park. The city seeks an artist or artist team to create a new, original, public artwork for the park. Works in a variety of durable media and forms will be considered. At this point, artists should submit qualifications only, not a design proposal (see Selection Process and Application Information). Once an artist is selected, a design proposal will be prepared for the site.

ABOUT FLAT BRANCH PARK

Flat Branch Park is located in the heart of downtown Columbia and stretches along Flat Branch Creek across two city blocks. The park features a gazebo, picnic areas, spraygrounds, a playground, a demonstration rain garden, and historical plaques. It also serves as a trailhead for the MKT Trail, allowing visitors to travel from Flat Branch Park all the way to the statewide Katy

Trail without crossing a street. A pedestrian bridge provides convenient access to the Convention and Visitors Bureau located on the opposite side of the creek.

The expansion of the park connects the intersection of Providence Road and Broadway Street to the park via a bridge over the Flat Branch Creek. The project continues the City's efforts to revitalize this area of Columbia and clean up the creek.

See Appendix A at the end of this document for site plans and additional photos of planned location for the artwork.

THEME FOR ART PROJECT

There is an opportunity for permanent public art in the park, in a location that has been designated just to the east of the new pedestrian bridge that connects from Providence Road. The project will be focused on a positive heart-related theme such as "strong heart," "brave heart," "kind at heart," "heart health," or "heart forward." The location of the art will also include a 18' x 24' plaque (or smaller) in remembrance of Justin Gay. Justin was a long-time Emery Sapp & Sons employee that tragically passed away in 2021 due to cardiac arrest. A large portion of the Flat Branch Park expansion project was funded by Emery Sapp & Sons in honor of Justin. Our desire to have a positive heart-related theme coincides with honoring Justin and promotion of good heart health.

ART BUDGET & PROJECT DETAILS

The budget has been established at \$20,000. The amount must include all artist fees, materials, fabrication, shipping, installation, etc. Parks & Recreation will be responsible for the engineered footing/foundation creating the concrete pad for the final artwork. Necessary details for the concrete pad will be determined once the artist finalizes the project design and provides the information to park staff.

ARTIST ELIGIBILITY

The project is open to all artists and artist teams, 18 years and older, **who are legal residents of the United States residing in Missouri** (will also consider artists across state lines in Kansas City and St. Louis metro areas). Professional artists with experience in the field of public art are encouraged to apply. All applicants, regardless of race, sex, religion, nationality, origin or disability, will be considered.

ARTIST SELECTION PROCESS

The City's Standing Committee on Public Art – made up of artists, arts professionals, community representatives and project staff – will review applications and choose finalists. Applications will be evaluated on the basis of artistic and technical merit and strength of past work. Though not required, relevant work in the field of public art is desirable. The number of finalists is not pre-determined.

All finalists will be invited to interview with the project selection panel and will receive a \$150 honorarium for doing so. Finalists will not be asked to develop design proposals for the

interviews, but should be prepared to discuss how they might approach the project as well as present a survey of their past work and answer questions from the panel. The selection panel will recommend the applicant(s) they believe to be most qualified for the project to the City's Commission on Cultural Affairs. The City Council will finalize the decision. Once the contract has been approved by City Council, the selected artist(s) will be able to begin developing a proposal for the project. The design will be reviewed and approved by the Standing Committee on Public Art, Commission on Cultural Affairs and City Council in a similar process for artist selection.

TIMELINE

Subject to change based on project schedule:

- Monday, Feb. 9, 2026: Deadline for RFQ submission (5 p.m. CST).
- February-March 2026: Finalist notifications and interviews
- April-May 2026: Commission on Cultural Affairs and City Council approval
- June-August 2026: Design and approval
- Fall 2026: Fabrication and installation

APPLICATION INFORMATION

To be considered, artists will be asked to submit the following:

- Current résumé
- Contact information for two professional references
- Up to 10 images of previously completed artwork with project details.
- A typed statement of interest, no more than 500 words, that outlines how you might approach this project, if selected, what materials you might use, how this project could relate to your current work, etc. Do not include sketches or a developed description of a possible installation, just the basic statement of interest.

Do not send any materials not specifically requested. If sent, they will not be reviewed by the selection panel.

APPLICATION DEADLINE

Applications must be submitted via online form by Monday, Feb. 9, 2026 at 5:00 p.m. CST. Emailed applications cannot be accepted. Late and incomplete submissions will not be considered.

SUBMISSION INFORMATION

Access the online submission form on the Office of Cultural Affairs website at <https://www.como.gov/arts/category/call-for-artists/>

INQUIRIES

City of Columbia, Missouri, Office of Cultural Affairs, 573-874-7512 or OCA@CoMo.gov

TERMS AND CONDITIONS

This request for qualification (RFQ) does not commit the City of Columbia (City) to enter into an agreement with any applicant and is not an offer for contract. All City arts programs are contingent upon availability of funds. At its sole discretion, the City may reject any or all applications, may modify or terminate the application or selection processes and without prior notice. Applicant agrees that all materials submitted become the property of the City and shall not be returned. Notwithstanding the foregoing, applicant shall retain all copyright in the work which may be held by applicant. The applicant certifies that the information contained in the application is true and correct to the best of his or her knowledge. The City is not responsible for damage or loss of materials submitted. Failure to comply with all the requirements of this RFQ will constitute an invalid application.

RESERVATION OF RIGHTS

The City of Columbia (City) reserves the right at any time to supplement, amend or otherwise modify this solicitation and to request additional information from any participating artists for any reason and without prior notice. In addition, the City reserves the right to accept or reject at any time prior to the commissioning of a work, any or all proposals; to waive any defect or technicality; and to advertise for new requests for qualifications.



Photo 1: Approximate installation location.



Photo 2: Wide view of installation location.