

**POLICY HANDBOOK**

**OF THE**

**GLOUCESTER COMMITTEE FOR THE ARTS**

**GLOUCESTER, MA**

2005

## Welcome

The City of Gloucester has long supported and embraced the arts. The Gloucester Committee for the Arts works to further the city's deep, cultural heritage. Our mission is detailed in this Policy Handbook. We fervently hope it will help create and promote great art in a great city.

- Through establishing awards and honors recognizing artists and their work.
  - By encouraging visual public art.
    - With an expansion of locations available to public art.
      - Through commissioning of public art.
  - By encouraging literary arts and through establishing the position of Poet Laureate.
    - By encouraging Dance, Theater, and Music.
- Through encouraging film and television art and by attracting productions for the artistic and economic benefit of the city.
  - Through the promotion of a film archive and film festivals.
- In the fostering art programs for all children in all Gloucester schools.
  - By welcoming artists to the community.
- By furthering awareness of Gloucester heritage by helping projects created in, by, and about the city.
- In advising city officials and agencies on the value of diverse, cultural life for all citizens.
- Through maintaining a website to showcase Gloucester internationally.

**City of Gloucester**

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## I. GENERAL PURPOSES

Gloucester is, and has for centuries been, a City of the Arts. There are long traditions of painting, literature, crafts, and other art forms well established here and the purpose of this document is to help keep those traditions dynamic and energize. This policy outline establishes the specific goals, objectives, functions and legal duties of the Gloucester Committee for the Arts (GCFTA) to help the Committee carry out the mission assigned to it in the *Community Development Plan, 2001*: "Its mission includes promoting the arts, fostering knowledge and appreciation of artistic endeavors, seeking funding sources, establishing premises and offices, and promoting public awareness of the community's arts and cultural resources." (See Appendix B.)

The scope of this outline covers, but is not limited to: visual, written, performed, and spoken arts, including sculpture, painting, furniture, pottery, jewelry, quilts, poetry, theater and dance, concerts, film, television, other media arts, and digital and graphic arts. It provides guidelines for acquiring and commissioned art works, and for sponsoring temporary and/or permanent art forms on city property. It applies to all forms of art loaned to, donated to, purchased by, performed in the public spaces of, or commissioned by the City of Gloucester.

Before the creation of the *Community Development Plan*, responsibilities for public art were distributed among different city personnel, committees and departments. There had been no effort to standardize the policy or to focus efforts under a single city body. The *Community Development Plan*, as well as the city ordinance which created the GCFTA (See Appendix C.) were welcome efforts to make Gloucester's art policies worthy of the city's heritage and traditions.

The policies outlined below will be subject to periodic review. From time to time, the GCFTA may adopt and incorporate into this policy such additional guidelines as it deems necessary.

Security Deposit Amount:

Line of Credit

Notification of Affected Residents,  
Occupants, Businesses

Letters from Fire, Police, and  
Ambulance Services

## **II. SPECIFIC PURPOSES**

### **A. Goals & Objectives**

The goals of GCFTA are to promote, enhance, enliven and enrich the City while reflecting the values of the community. The program objectives are to:

1. Strengthen community identity and pride;
2. Provide the highest quality artwork available, promoting excellence and demonstrating diversity and variety in all forms and all media;
3. Increase public exposure for artists who live or work in Gloucester;
4. Encourage public participation and interaction with public spaces identified by the GCFTA and the City Council;
5. Enrich the public environment for both residents and visitors through incorporation of the various arts; and
6. Strive for diversity, reflecting the social, ethnic and cultural fabric of the city.

### **B. Funding : GCFTA will operate in the public interest as a non-profit organization. Public art projects and acquisitions may be funded through a variety of sources, including (but not limited to):**

1. 1% arts funding from the city budget
2. Grants, gifts, benefits, corporate sponsorships, private contributions that shall be placed in a special endowment fund, as recommended by the *Community Development Plan, 2001*, for the use of the Committee only and established by GCFTA.

### **C. Administration**

The Gloucester GCFTA shall approve by majority vote all public arts programs and art-related appointments in the City of Gloucester fitting the definition of such programs in the Policy Handbook. (See Appendix E.) All program proposals submitted to or created by city personnel, agencies, committees, departments, or other entities, including proposals for public art displays, performances, readings, exhibitions, film presentations and other forms, whether commissioned, donated, solicited or otherwise proposed, must be referred to the GCFTA before being forwarded to the mayor, city council, department of public works or other appropriate authority for final approval. In the case of certain major, permanent installations or projects, the GCFTA may hold public hearings open to Gloucester residents or recommend a city-wide referendum on the proposal. In addition, GCFTA will:

1. Participate in identifying and developing possible Public Art sites for City Council approval.
2. Manage the process of city commissioned public art in conjunction with appropriate City committees. (See Appendix A.)
3. Serve as resource, guide, and counsel to the City Council and City staff regarding all issues related to public art.
4. Conduct a periodic review of all holdings of the City-owned public art.
5. Present a bi-annual report to the Mayor on GCFTA activities.
6. Assure that applications are considered without regard to political, ethnic, religious, gender or other orientations in their sponsorship; projects of purely commercial, political or religious nature, which in the view of the GCFTA are intended to persuade rather than entertain, will not be considered.
7. Provide all applicants with a general form to begin the application process. (See Appendix G.)
8. Follow Policy Handbook guidelines, formed in response to strategies assigned in *Community Development Plan, 2001*, in all decisions and administrative actions.

D. Maintenance, protection, presentation and display of art : The City will be responsible for the proper maintenance, protection, and of visual and plastic art in the City and for facilities maintenance for performance or presentation arts. These activities will be conducted in accordance with any written instructions provided by the artist/donor at the time of delivery/presentation of the work to the extent feasible. In fulfilling these duties, the City will:

1. Exert reasonable efforts to protect the art and artists from work from theft, vandalism;
2. Maintain insurance policies providing coverage for theft, vandalism or other damages to the artwork;
3. Exert reasonable efforts to ensure that acquired artwork or performance art such as music, theater, or dance, is available for public viewing in an appropriate venue and in a respectful manner;
4. Provide official acknowledgement of receipt or performance.
5. The City will not intentionally destroy, damage, alter, modify or otherwise change any art in any form or media, previously approved by GCFTA, without GCFTA approval. If unapproved alteration occurs, the artist has the right to request that the work no longer be represented to be the work of the artist.

E. In the case of non-profit organizations formed in Gloucester and dealing with Gloucester, the heritage of the City of Gloucester, or seeking to work within Gloucester schools, elements of the Policy Handbook procedures may be waived at the discretion of the GCFTA.

### **III. ADMINISTRATION OF VISUAL and PLASTIC ARTS**

A. Artwork Selection Criteria. Artistic integrity and highest quality of aesthetic experience will be the primary considerations in the selection of public art in Gloucester, as defined by the GCFTA. (See Appendix E.) The following criteria shall apply:

1. Media: All visual art forms and materials will be considered consistent with the purpose of the acquisition.

2. Quality: Artwork shall be of lasting value and artistic merit that will enhance the City's collection.

3. Audience: The artwork will be suitable for display to a diverse audience including children and employees. It should enhance its setting and help create a sense of place. The City may not acquire public art that would, when displayed, create a hostile work environment for public employees.

4. Style: The artwork should be suitable in scale, materials, and form for its surroundings, or capable of being sited in a variety of public areas. Artwork selected for the City's collection should advance the purpose specified by the GCFTA at the time an acquisition project is undertaken.

5. Range: Artwork may be functional or non-functional; conceptual or tangible; portable or site-specific; temporarily or permanently installed.

6. Condition & Permanence: The artwork will be of materials and method of construction suitable to the setting. Artwork for outdoor exhibition will be resistant to theft, vandalism, weathering and constructed to avoid extensive maintenance and repair. At the time of acquisition, the artwork will be in good condition or worthy of restoration.

7. Technical Feasibility: The City will consider for Committee only those artwork proposals it finds likely to be completed according to design. The City will only select artworks for which it has an immediate location or storage capacity.

8. Fiscal Feasibility: The City will consider only such artworks for which it possesses adequate funding for appropriate display, maintenance, insurance, and safeguarding. An estimate of maintenance expenses associated with a proposed artwork shall be presented to the City Council prior to acceptance of the work.

9. Public Safety: The City will not consider works that the City determines may pose a threat to public safety.

B. Artwork Selection Process. The City may acquire artwork for a specific purpose (e.g., for a particular location or to commemorate an event) or in response to an offer of donation separate from a specific acquisition process. All acquisitions shall be approved by the GCFTA before submission to the City Council.

1. Specific Purpose Acquisitions. When artwork is to be acquired for a specific purpose, the GCFTA shall work with the appropriate City Committees to adopt a resolution stating the purpose of the acquisition. The Public Art(s) Acquisition Process will be followed. (See Appendix A.)

2. Proposed Donations. When artwork is proposed to be donated to the City, the proposed donation shall be reviewed by the GCFTA. The Committee may recommend immediate acceptance or rejection of the offer or may adopt a resolution establishing a process for further review of the offer. The Committee may convene an Art Selection Panel to assist in the review process. The Committee shall consult with any City Committees affected by the proposed donation. The Committee may form a subcommittee to assist in the review process. Proposed donations must be approved by the GCFTA before submission to the City Council.

C. Art Selection Panels. The GCFTA may appoint Art Selection Panels on an as-needed basis to coordinate and review the acquisition of artwork for the Public Art Program. The Committee shall consider the Panel's determinations before making its final recommendations to the City Council. (See Appendix D.)

#### D. Acquisition Methods

Artwork may be acquired by purchase, Committee, donation, or long-term loan as follows:

1. Purchase: When an existing artwork satisfies the selection criteria of both the Public Art Program and a specific public art project, the GCFTA may recommend that the City Council authorize direct purchase of the artwork.

2. Committee: Based on a recommendation from the GCFTA the City Council may award Committees by following the Public Art(s) Acquisition Process. (See Appendix A.)

3. The selected artist would be commissioned to create original work consistent with the artist's proposal.

3. Donation: The GCFTA may recommend that the City Council accept artwork offered as a contribution to the City by a citizen if the work satisfies Public Art Program selection criteria and an appropriate site exists to exhibit the work.

4. Loan: When an existing artwork satisfies Public Art Program selection criteria and is suited to a particular purpose or is well-suited to a particular site, the GCFTA may recommend that the City Council authorize the City to borrow the work from the artist or owner. The terms of the loan, including the period for which the work is loaned, any instructions for proper care and maintenance of the work, and all relevant insurance arrangements, shall be specified in a Loan Agreement.

E. Ownership of Purchased, Commissioned, or Donated Artwork. Artwork purchased, commissioned, or accepted as a donation will be the property of the City of Gloucester. Title for each work will be transferred to the City as necessary. (See Appendix F.)

**F. Criteria for Artwork Placement.**

When identifying the proposed location of artwork, the GCFTA shall consider the following: Visibility, Lighting, Traffic patterns (interior, exterior, foot, and auto), Function of the existing facility or site and pre-existing works of art on the site, Future development plans for the area, Landscape design, Environmental assessment, Public accessibility, Appropriateness of the physical characteristics of the site, Relationships to the social and cultural identity of immediate local community.

**G. Public Safety.**

No work will be displayed before the City has inspected it and ascertained that it poses no threat to public safety. Through evaluation by qualified staff, the City will ascertain that no aspect of the installation creates a substantial risk of injury when the work and any adjacent property are used with due care in a reasonably foreseeable manner. The City will further ascertain that installation of the work will not pose a substantial or unreasonable risk of serious bodily harm to persons using the work or adjacent property with due care appropriate to their age in a reasonably foreseeable manner. After a display has been installed, the City will monitor the installation as needed to ensure that no such risks are created due to changed circumstances.

**H. Relocation or Removal of Purchased or Commissioned Artwork**

The City may, as necessary or appropriate, transfer City-owned artwork from one public site to another, remove artwork to storage, or make a temporary loan of artwork to another agency or organization.

1. The GCFTA will review proposals to relocate or remove a city-owned artwork and make a recommendation to the City Council. The Committee may appoint an Art Selection Panel for assistance. Considerations include, but are not limited to:

- a. Security of the artwork can no longer be reasonably guaranteed
- b. Maintenance costs are higher than anticipated
- c. Faults of design or workmanship make repair unfeasible
- d. The artwork has been damaged and repair is unfeasible
- e. As erected, the artwork poses risks to public safety not identified during the selection process
- f. Once installed, the artwork does not conform to the expectations according to which it was selected
- g. Significant changes in the use, character, or design of the site have occurred, affecting the integrity or appeal of the artwork
- h. The aesthetic quality of the artwork is called in to question;
- i. Receipt of written request from the donor to deaccession the artwork.

2. In reviewing proposals for relocation or removal, the GCFTA will:

- a. Consult the Acquisition Agreement and other pertinent agreements;
- b. Discuss with the artist the circumstances prompting the review;
- c. Seek opinions of more than one independent professional qualified to recommend on the concern prompting the review (conservators, engineers, architects, landscape architects, critics, art historians, safety experts, etc.);
- d. Review written correspondence, press, and other public suggestions;
- e. Explore means of resolving the concerns prompting review short of relocation or removal;
- f. If no such means are satisfactory, seek a suitable relocation of the artwork. If the artwork was designed for a specific site, the Committee will endeavor to relocate it to a site consistent with the artist's intention. If possible, the Committee will obtain the artist's assistance in making this determination; and
- g. If no relocation is suitable, the Committee will store the work or seek deaccession consistent with the deaccession policy below.

3. Nothing in this policy shall limit the City's ability to take whatever action is deemed appropriate to protect artwork and human health and safety in the event of an emergency.

#### J. Deaccession of City-owned Artwork

The City of Gloucester recognizes that the deaccession of artwork must be handled with great care, as apprehension that public art might be disposed of to pay operating expenses or satisfy the trading desires of the City could discourage potential donors or artists. Moreover, haphazard deaccessioning could cause irreparable harm to the City's collection. The GCFTA may recommend that an artwork should be permanently removed from the City's collection according to the procedures that follow.

1. Criteria for Selecting Works for Deaccessioning. A work may be deaccessioned if at least one of the following applies:
  - a. The City cannot properly care for or store the work
  - b. Security of the artwork can no longer be reasonably guaranteed
  - c. There is no suitable site for relocation of a work that must be moved
  - d. Maintenance costs are higher than anticipated
  - e. The artwork requires repairs that are unfeasible
  - f. The work's condition requires restoration in excess of its aesthetic value
  - g. The work is so deteriorated that restoration would prove unfeasible or misleading;
  - h. If, as erected or exhibited, the artwork poses risks to public safety not identified during the selection process
  - i. It is determined that the work lacks significant aesthetic, historical and/or cultural value

#### 2. Notifying Donors/Heirs

Once it is determined that a work is to be deaccessioned, the City will make all reasonable efforts to locate the donor or his/her heirs. The City will explain in writing its decision to deaccession the work and offer appropriate assurances that:

a. If the work is sold, the City will attempt to use any monies realized to purchase other works for the collection; and

b. Every effort will be made to honor the wishes of the donors/heirs concerning the sale. Written concurrence of donors/heirs will be solicited, but is not required.

3. Disposal Procedures. If an artwork's Acquisition Agreement specifies terms of deaccession, the City shall dispose of the work accordingly. Otherwise, the City may dispose of deaccessioned works by sale, trade or destruction.

No works may be sold, traded, or transferred to a member of the Gloucester GCFTA, its supporting staff, or its agents. Once deaccessioned from the City's collection, a work may not be installed on City property.

K. Exhibition Policy. For the purposes of the Public Art Program, an "exhibition" is a temporary display of art at a specific location sponsored by the City. The City of Gloucester encourages exhibitions of interest, information, and enlightenment for all the people of the community. The City Council shall approve the location of all exhibitions in the City. The GCFTA shall define the theme of each exhibition. When coordinating exhibitions of multiple artworks about controversial issues, the City will endeavor to ensure that the exhibitions represent a wide array of viewpoints. This Exhibition Policy does not apply to art festivals and other arts promotion events sponsored by the City.

1. Scheduling of Exhibitions. Exhibitions will normally be scheduled for a three-month period of time but may be extended. The GCFTA reserves the right to reschedule exhibits. If there are numerous requests for exhibition space, new exhibitors will take precedence.

2. Exhibition Selection Criteria. Artistic integrity and highest quality of aesthetic experience will be the primary considerations in the selection of public art for exhibition in Gloucester. In addition to any exhibition-specific criteria established by the GCFTA, the following criteria shall apply:

a. Audience: The artwork will be suitable for display to a diverse audience including children and employees. It should enhance its setting and help create a sense of place. The City may not acquire public art that would, when displayed, create a hostile work environment for public employees.

b. Style: The artwork should be suitable in scale, materials, and form for its surroundings.

c. Public Safety: The City will not consider works that the City determines may pose a threat to public safety.

3. Selection of Exhibition Materials. Artwork shall be selected from the City's existing collection or by one of the following methods by the GCFTA with the advice of an Arts Selection Panel where appropriate:

a. Closed Competition - Works chosen through a limited competition, for which selected artists are invited to submit proposals according to criteria established by the GCFTA. Such criteria will reasonably expedite the goals of the competition without unduly excluding qualified participation.

b. Open Competition - All artists are welcome to propose works that meet the exhibit criteria established by the GCFTA.

c. Invitation - Artists chosen by the GCFTA on the basis of their qualifications (as demonstrated by past work, past experience with public art, and successful completion of previous projects similar in scope and demand) will be asked or paid to develop a proposal tailored to the criteria.

d. Loans - When the GCFTA determines that an existing artwork satisfies the exhibition criteria, the City may borrow it from the artist or owner.

e. Students - The City encourages exhibitions of artwork by students. Accordingly, the City may, from time to time, solicit works directly from students, or create limited competitions or exhibitions targeting student contributions.

4. Loans of Exhibition Materials . All artists loaning works for an exhibition must complete a City of Gloucester Exhibit Agreement before installation. The Exhibition Agreement shall specify the extent of the City's obligations to insure and indemnify loaned materials. In addition, the following guidelines apply to all exhibitions:

a. To facilitate publicity, the donor may be asked to submit a written article to the GCFTA six weeks prior to the exhibition date or to complete a publicity check sheet;

b. Exhibitions are not intended as a means of commercial sales. However, if the artist files a price list and contact information with the City at the time a work is loaned, the City will provide it to viewers upon request;

c. From time to time, the City may authorize artists to set up their own exhibits on City property. The City assumes no responsibility for providing materials or special assistance to donors in setting up such exhibitions. In addition:

d. Wall, pillars or other structures may not be defaced in any way;

e. Works of art may be mounted only in authorized areas;

f. Exhibitors must provide their own printed or typed identifying labels;

g. No prices should be affixed to items; and

h. If there is a question regarding materials or layout, the final approval rests with the GCFTA.

#### **IV. ADMINISTRATION OF PERFORMING AND LITERARY ARTS**

A. Dance, Theater and Music. The City of Gloucester and the GCFTA will encourage the creation, production, and presentation of the performing arts within the City and by Gloucester residents.

1. The City will make available municipal facilities and municipal spaces to groups wishing to perform.
2. Groups wishing to perform shall be reviewed without regard to political, ethnic, religious, gender or other orientations, while consistent with the values of the community.
3. Suitability of performances may be a factor in the decision of the GCFTA to approve or disapprove an application.
4. Facility availability and rates will be published and available to the public.

B. Literary Arts.

1. The City of Gloucester establishes the non-salaried position of Poet Laureate of the City of Gloucester. It will be the Laureate's role to compose and read original poetry at Mayoral inaugurations, participate in writing and reading programs in the schools, and perform other functions at the request of the Mayor or GCFTA.
  - a. The position of Laureate shall last five years after which the poet becomes a Poet Emeritus.
  - b. The GCFTA will generate nominations from within the Committee and accept nominations from the public.
  - c. The GCFTA will jury the applications and submit a candidate to the Mayor for approval.
2. The establishment of the position of Poet Laureate of the City of Gloucester will not preclude the recognition, in different forms and ways, of other literary accomplishments and their authors.

C. Selection Panels for Performing and Literary Arts. The GCFTA may appoint Selection Panels on an as-needed basis to coordinate and review proposals in the Performing and Literary Arts. The Committee shall consider the panels' determinations before making its final recommendations to the City Council. (See Appendix D.)

D. Acquisitions and Committees. If it is decided by the GCFTA to acquire or Committee a performance or literary artifact, the general acquisition process should be followed. (See Appendix A.)

## V. ADMINISTRATION OF FILM AND TELEVISION ARTS

- A. The City of Gloucester and the GCFTA will encourage the production of film and television arts within the City by Gloucester residents and by non-resident individuals, groups, and corporations. Proposals to film in Gloucester must be approved by the GCFTA in the same fashion as other art projects, as described in section II. C. of this Handbook. Insurance, deposit, and other requirements specified below supplement rather than supercede requirements of the standard artist contract.
1. Projects considered for on-location filming will be: Feature Films, T.V. Commercial, Documentaries, Educational Film, Films for Television, Television Network Programs, Music Videos. Other projects not specified here may also be approved.
  2. As with other art forms, film and television projects must reflect the values of the community and not break or condone the breaking of law.
- B. The GCFTA will work to coordinate and make welcome efforts to produce film and television materials through an orderly application process. All requests for approval of location filming in the City of Gloucester must begin with a standard application form. (See Appendix G.) In the cases of small-scale film productions by non-profit organizations, especially those generated in or dealing with Gloucester, elements of the application process may be waived by the GCFTA.
1. A certificate of insurance for general comprehensive public liability in the amount of five million dollars (\$5,000,000.00), with the specific host municipality as an additional named insured, including a cross liability clause. Any other special coverage which may be required must be provided, depending on the nature of the filming.
  2. In the event that the location is privately owned, it is advisable that the production company contact the City of Gloucester to request information on any policy and procedures, municipal restrictions or by-laws which may affect the film shoot. Also the production company should obtain written permission from the property owner and copy same to the city.
  3. Given the differing time constraints and exigencies of film production, the production company should give the GCFTA as much lead time as possible to process the application. This does not apply to previously permitted locations where rescheduling is necessary. However, if an alternate shoot date is required and it is not on the permit or is a date other than what is on the permit, a subsequent letter of notification is required, but the application period is waived.

4. Filming that includes but is not limited to road closures, multi-lane closures and special effects may require the formal approval of the mayor's office or city council and/or departments and will need to conform to the specific notification and procedures required.

a. Film companies must identify their intent to use special effects involving the following substances: guns and simulated gunfire, explosives, bombs/mock ups, flash powder, detonators, fireworks

b. Applicants must contact directly the respective police force and fire department to acquire appropriate approvals for the use of these substances. The Applicant is responsible to pay any associated costs for carrying out reviews by Police Officers and Firefighters as well as any associated cost to ensure compliance with such approvals.

5. Security Deposit. Because it is important that any location and its content be restored to its original condition as found prior to filming upon completion of the project. A security deposit in the form of an irrevocable letter of credit or certified cheque will be required before the Permit is issued. The amount of the deposit is dependent upon the value of the property considered for location filming. However, a minimum amount of \$5,000 (Five Thousand Dollars) is required unless the Applicant is informed, in advance of shooting, of a varying amount.

C. Production. The following guidelines are designed to protect the health and safety of citizens and workers and must be adhered to during actual shooting.

1. Notifications. The film company must notify, in writing, affected residents, occupants and businesses, in advance of filming, of the duration and location of filming, including information about planned special effects, road and lane closures, sidewalk usage without obstructing pedestrians and the time that cones will be placed on the road to restrict parking. Filming involving the use of catastrophic special effects will not be approved unless a majority of affected residents, businesses and owners have given their written approval, including name, address, and telephone number.

2. Restrictions on Hours/Days for Filming. Permits authorizing filming in areas between 11:00 p.m. and 7:00 a.m. will not be approved unless all affected residents have been notified in advance. A majority of affected residents, businesses and owners will have to give their written approval, including name, address, and telephone number.

3. Noise and Lighting. The Applicant must adhere to noise and light by-laws. Generators must be equipped with silencing attachments. Lighting for filming should be oriented away from neighboring residences unless residents have been contacted and do not express any objection. Lighting must not interfere with the safe movement of traffic. Night filming involving intensive lighting between 11:00 p.m. and 7:00 a.m. requires written approval of a majority of affected residents, businesses and owners, including name, address, and telephone number.

4. **Traffic, Access and Clean Up.** It is the Applicant's responsibility to ensure that there is a minimum of disruption to residents, occupants, businesses and municipal employees where filming occurs. This includes ensuring residents, owners, tenants, employees and customers have access to their respective premises and ensuring pedestrian and vehicular access to adjoining properties.

a. No interference with pedestrian or vehicular traffic is to occur without being noted on the permit. Every opportunity is to be taken to ensure that access, either vehicular or pedestrian, is not restricted to persons with disabilities.

Production vehicles must comply with appropriate traffic regulations unless stated otherwise on the permit and except where a road is closed for filming, where a moving vehicle is involved, the Applicant will adhere to the posted speed limits and to lawful conditions.

b. Traffic stoppages should not exceed three to five minutes in duration, unless special arrangements have been made in advance with the municipality and applicable Police Service.

c. Requests for road closures must be made in compliance with specific notification and procedures in advance of scheduled shooting. A complete traffic plan, outlining the details of the closure, traffic diversion, detour route, and appropriate notification must be included in the request and any associated costs must be arranged at the Applicant's expense.

d. A parking plan must be submitted with the appropriate municipal departments and service providers (ie. police, fire, ambulance). The bulk of the production and crew vehicles should be parked off major municipal road allowances when filming occurs and a copy of the film's permit must be displayed in the windows of all production vehicles. The Applicant will not block fire hydrants, emergency routes or interfere with pedestrians or vehicular movement when parking film unit vehicles.

e. Production crews must clean the location at the end of each day of shooting with a minimum amount of noise and disruption. If the necessary clean-up and restoration of the location is not carried out adequately by the Applicant then the Line of Credit may be drawn on to complete any required work.

It is the responsibility of the production company that their staff operate in a safe and professional manner in the course of their duties.

5. **Credits.** The City of Gloucester should be named in any credits, as well as, where possible, individuals, institutions, and city agencies or departments that helped in the production.

C. In keeping with its founding ordinance and the directives contained in *Community Development Plan, 200*, the GCFTA will especially strive to promote film and television of, about, and for the citizens of the City.

1. The GCFTA will encourage the production of materials on Gloucester that may be used to educate, expand commerce, draw tourists and business the City, and otherwise increase the understanding and knowledge of the City of Gloucester nationally.
2. The GCFTA recognizes the economic impact of film and television and will actively seek to draw productions to spur local economy. Such projects have wide-reaching business and employment impact.
  - a. Immediate cash benefits derive from:
    - \* Catering to the cast and crew.
    - \* Accommodation.
    - \* Casting of local residents as extras.
    - \* Use of local trades people for construction.
    - \* Use of maintenance and cleaning businesses.
    - \* Use of rental equipment businesses.
    - \* Rental of locations and equipment, municipal and private.
    - \* Cast and crew shopping and entertainment.
    - \* Use of transportation services.
    - \* Potential growth of specialty businesses.
    - \* Gain in off duty wages (e.g., police, fire fighters, municipal staff)
    - \* Media advertising.
  - b. Long-range benefits include:
    - \* Publicity and national exposure.
    - \* Increased tourism.
    - \* State and federal funding.
    - \* Future media productions.
3. The GCFTA will encourage screenings and festivals of film and television artistic materials for public display and within the Gloucester School system.
4. The GCFTA will encourage the creation of a film and television archive of materials that were shot in the City, are about Gloucester, or are otherwise important to the moving image heritage of Gloucester.

**VI. ADMINISTRATION OF OTHER ART FORMS** (Crafts - e.g. jewelry, furniture, quilts, pottery; Electronic and Digital Arts; Mixed Media; Demonstrations and Exhibitions, et. al.)

The administration of applications and implementation of proposals in other arts forms will follow the same guidelines and standards specified above. Proposals in forms that do not easily fit into will be as welcome as traditional forms and the GCFTA will be as open and as accommodating as possible to innovative projects.

## **VII. GLOUCESTER COMMITTEE FOR THE ARTS: OTHER FUNCTIONS**

- A. Awards. The GCFTA will establish as it sees fit awards and honors to recognize special contributions to the various artistic fields.
- B. Juries. The establishment of such awards, whether presented uniquely or on a regularized and permanent basis, will be the sole responsibility of the GCFTA and will be juried according to the Selection Panels procedures. (See Appendix D.)
- C. Advisory and collaboration efforts with the Gloucester Cultural Council (GCC), building, parks and gardens, zoning, housing, community development, and other city committees and agencies.
  - 1. The GCFTA will promote and hold an annual forum on the arts in Cooperation with the GCC.
  - 2. The GCFTA will seek to expand the use of city facilities for the arts and to create new facilities. This effort will include inventories of facilities and cost analysis of their use.
  - 3. The GCFTA will seek to attract artists to Gloucester through the promotion of affordable housing, appropriate zoning and funding aid.
  - 4. The GCFTA will advise the city on quality of life issues such as lighting, architecture, signage, noise, et al.
- D. The GCFTA will energetically seek to promote the position of arts in the schools through:
  - 1. An expanded use of facilities.
  - 2. Establishment of student programs.
  - 3. Establishment of adult programs.
- E. The GCFTA will regard it a special mission to promote Gloucester heritage And to encourage art created by, for, and about the city.
- F. The GCFTA will maintain a website presence that explains the committee's mission, promotes the city's art and artists, and invites participation in the city's cultural life.
- G. The GCFTA will prepare as needed impact studies dealing with the arts in Gloucester and stress:

1. Civic benefits of a rich artistic and cultural urban life.
  2. Economic benefits in jobs, increased taxes, licensing fees, marketing, and art tourism.
- H. The GCFTA will coordinate activities with local, regional and state agencies.

## APPENDIX A:

### **Public Art(s) Acquisition Process.**

The Mayor's office announces its intention to commission a public project in any art form or medium. The GCFTA manages the process in conjunction with appropriate City Committees and Offices such as the Community Development Grants Office.

#### Prior to the Public Process:

- \* GCFTA works with CDGO to create a time-line for phases from announcement of intention through completion.
- \* GCFTA and CDGO review budget, legal and insurance issues and appropriate City Departments and incorporate into timeline
- \* GCFTA proposes a spokesperson for the project
- \* GCFTA provides a list of possible candidates for the Selection Panel
- \* The Mayor selects and appoints the Panel

#### Start of Public Involvement

- \* Notification of public meeting involving project is sent to all members of SEArts, GCFTA, NS Arts Association, Cape Ann Historical, Rockport Art Association and all other appropriate organizations
- \* Notification sent to Chamber of Commerce and Downtown Development Committee
- \* Gloucester Daily Times is notified and writes article to kick off project - announces public meeting and RFP
- \* Bulletin Board announcements posted at Library, City Hall

#### City Issues a Request for Proposals

- \* GCFTA provides CDGO with template
- \* GCFTA and CDGO work together to identify criteria for Request for Proposal
- \* Grants office reviews and completes RFP with Purchasing Department and any other relevant department (insurance, legal, etc) using criteria developed
- \* GCFTA and CDGO determine whether the RFP will be issued regionally or nationally (depends on funds available)
- \* GCFTA notifies artists of RFP - advertising, societies, UrbanArts, guild.com, etc.

#### Public Meeting

- \* Appointed spokesperson will chair the meeting
- \* CDGO will provide a packet of background information for handouts
- \* Discussion will review appropriate historical context, proposed renovations, etc.

#### Deadline for Submissions

- \* CDGO and GCFTA will determine this when writing the RFP - 6-8 weeks?

#### Review Process

- \* Art Selection Panel reviews proposals and selects a "short list" of possibilities
- \* Art Selection Panel determines that artists on "short list" can meet our timeline and other criteria
  - \* Performance, Demonstration, Exhibition (whichever is most appropriate) presentations are held either at City Hall or the Library
  - \* Newspaper article is generated from spokesperson
  - \* Public comment is actively solicited
  - \* Possible public meeting with finalists

#### Final Recommendation from the GCFTA to the Mayor

#### Decision and Committee

#### Creation of Work

#### Delivery and Performance, Demonstration, or Installation, etc.

- \* Coordinate with City Architect, public works, planners - incorporate into timeline

#### APPENDIX B:

(B)

## **Community Development Plan for the City of Gloucester, 2001**

### **IV.E. ARTS AND CULTURE IN THE COMMUNITY**

Culture builds community, and an investment in the City's cultural assets is an investment in the City's future.

Gloucester is home to the oldest working art colony in the country, the Rocky Neck Art Colony, and is internationally known for its artistic and cultural achievements. It has long served as a subject and home for renowned artists, writers and performers. These visionaries also serve as archivists of the city's fascinating, culturally rich and diverse heritage.

Though relatively small in size, Gloucester offers residents and visitors an astonishing array of artistic and cultural treasures, visual, written, performed, and spoken, including sculpture, painting, furniture, pottery, jewelry, quilts, poetry, theater and dance, concerts, films and media arts, and digital and graphic arts. There are exhibitions, performances, guided tours and festivals, museums, historic buildings and architecture, art associations, and galleries; art is displayed in public buildings and businesses throughout the City.

The entire community gains by supporting and promoting the special and valuable art and cultural resources in the city. Acknowledging this, the City of Gloucester has created two official groups, the Gloucester Cultural Council and the newly formed Committee for the Arts, with missions to bring contributions of the arts and cultural community to light.

#### **IV.E. 1. Resources and Trends**

"New England's creative occupations are projected to grow 18 percent between 1996 and 2006, faster than the total of all occupations . . ." according to a definitive study by the Creative Economy Initiative. A quick inventory of Gloucester's artistic and cultural resources (a walk through the yellow pages of the phone book, for example) underscores the importance of the community's creative industry to the wellbeing of this community. The challenge for Gloucester is to be a steward of its cultural riches by preserving and highlighting the impressive quality and quantity of all these resources and encouraging their development and success. It is helpful to think of the arts and cultural resources roughly falling into three categories:

- The Arts and Cultural Community - There are hundreds, if not thousands, of artists and other highly creative people who either live, work, or visit Gloucester and are linked to arts and culture in other communities, especially Rockport. The diversity of artists and cultural events should be recognized as contributing significantly to the community, not only visually but also to its character and its economy.

- Buyers and the Economy - Gloucester has become internationally recognized for the type of artwork that has been created here for over a century. Thousands of people come to Cape Ann annually to view and purchase artwork and to participate in art-related activities such as plays and art tours, while also enjoying restaurants, accommodations and other attractions.

- Art Support Organizations, Businesses and Promoters - Our valuable cultural resources not only attract viewers of artwork; they provide jobs and contribute substantially to the local economy. That rich heritage is now augmented by an influx of artists from Boston and surrounding areas, adding to the growth and seriousness of the contemporary art community. Businesses such as restaurants and inns that rely on tourism are linked to the arts and cultural attractions of the community as are galleries, libraries, museums, schools, art associations, community service organizations, Internet-based organizations, digital art reproduction companies and recording studios.

Because artists give back to cities in many ways, the City also has an important role to support all these groups and organizations by providing the changes in zoning and tax incentive to facilitate artists in establishing live/work spaces. The City Economic Development Plan should include outlets and potential revenue sources for local art products.

Gloucester's Community Development Department, especially Tourism, Planning and Economic Development components, and the Grants Office have resources and expertise to be tapped in order to assist the arts and cultural community, and the city as a whole, to achieve the Arts and Cultural objectives. Collaboration with the Chamber of Commerce, the Downtown Development Committee, the

Historical Committee, local art associations, and arts-related organizations are also essential in this process.

In November 2000, the City Council recognized the importance of the Arts to Gloucester by establishing a Committee for the Arts. Its mission includes promoting the arts, fostering knowledge and appreciation of artistic endeavors, seeking funding sources, establishing premises and offices, and promoting public awareness of the community's arts and cultural resources. With the help of the City and interested community members, the Committee has already begun several initiatives, an office/ resource center, a web site and the beginning of a "Who's Who" directory of artists and cultural institutions on Cape Ann.

The Gloucester Cultural Council (GCC) is a mayor-appointed City Committee and an extension of the Massachusetts Cultural Council, which "provides support to local art by promoting excellence, access, education and diversity in the arts, humanities and interpretive sciences in order to improve the quality of life for all Massachusetts residents." In its twenty year history, the GCC has granted over \$200,000 to the arts through many different initiatives, perhaps most notably their annual fall grant awards to local artists, cultural organizations, and schools. The GCC also sponsors events that bring together groups of people with common interests in the arts and culture.

The Gloucester Lyceum and Sawyer Free Library is another significant City arts and cultural asset. It hosts frequent and significant arts and cultural events, such as the recent T.S. Elliot Society's Annual Meeting and Festival, and it often sponsors events that tell "The Gloucester Story," a popular subject for many residents and visitors. Plans for the physical expansion of this facility are underway.

## IV.E. 2. GOAL

Support Gloucester's arts and cultural community as a cultural and economic resource by integrating the arts and culture into the life of the community, downtown and in villages and neighborhoods.

## IV.E. 3. OBJECTIVES

- Empower the two officially appointed committees, the Committee for the Arts and the Gloucester Cultural Council, to support, promote and coordinate the endeavors of all of the City's artistic and cultural entities.

- Expand cultural and arts activities as an economic and civic benefit.
- Employ school programs and facilities for increased awareness and cultural education about Gloucester's heritage, and promote special programs for the arts within the school system for children and adults.
- Support policies and programs that use existing or create additional space for arts and cultural work, exhibitions and performances.

#### IV.E. 4. STRATEGIES

Strategy 1. Support the efforts of the Gloucester Cultural Council and the Committee for the Arts.

The art and cultural heritage should be preserved and promoted under the stewardship of the two appointed bodies, the Gloucester Cultural Council and the newly appointed Committee for the Arts. Although the arts and cultural activities are part of the Gloucester heritage, they have not been promoted in a coordinated fashion, and untapped opportunities should be used to bring the arts, artists and the public together. By using these two Committees to work with the many entities and individuals associated with the arts and culture, the City can create effective new programs and initiatives that expand cultural opportunities.

Strategy 2. Develop a comprehensive arts and cultural strategy which includes marketing and exploring educational opportunities.

The City can best support this dimension of the community through a coordination role by developing a coherent arts and cultural strategy through the joint efforts of two City committees, the Committee for the Arts and the Gloucester Cultural Council. The strategy should be developed and refined through the combined efforts of arts and cultural individuals and organizations, and include commitments by the City to support particular activities as an active sponsor or supporting participant. Subsequent to creating this strategy, the two Committees should then become the stewards of its recommendations.

Strategy 3. Prepare an economic and civic impact study for the arts.

The positive economic contribution of the arts to the community is clearly substantial, but it has not been measured. As part of the City Economic Development Plan, the Committee for the Arts and the Community Development

Department should conduct an economic impact study that provides the foundation for future public actions and programs. This study should build on preliminary research that has already begun and should include an inventory of groups and businesses engaged in this sector of the local economy, and establish an understanding of the contributions and needs of each. The study should consider both the direct and indirect benefits of jobs, expenditures and taxes that are linked to arts activities. Recommendations for specific actions to best support the arts, as contributors to the local economy as well as to the quality of life in Gloucester should be included.

**Connecting Art, the Schools, and the Community**

*The Gloucester School Connection is an excellent example of how the community and the schools can work together to enrich the artistic life of Gloucester. The School Connection is a fund-raising group of volunteers that, among other activities, supports the arts in the schools.*

**Strategy 4. Create an organized forum for establishing collaborations between the City and its cultural organizations about new initiatives.**

The City should host an organized cultural forum, in conjunction with the Gloucester Cultural Council's annual "Community Input" meeting and/or The Gloucester Lyceum and Sawyer Free Library, with invited participation of those with interests in the cultural future within the City. This forum should be the starting point for the development of strategies for shared resources, new events, and marketing and information programs. As a resource, the economic impact study for the arts should be prepared in advance of this, and serve as a basis for discussion. This event should be repeated as needed to provide a clearing house for new information, for new events and for new coordination opportunities.

**Strategy 5. Actively pursue additional funding of arts programs and programs that support the arts community.**

Personnel time and resources should be allocated by the City to actively pursue new sources of funding for arts programs. This should be done in partnership with the organizations or institutions that will direct or manage the programs. This search should include research on other cities and towns similarly endowed with a rich artistic and cultural community and use positive examples to help establish paths towards funds.

There are many sources of funding which could be targeted, such as the as the Massachusetts Cultural Council. Gloucester's Community Development

Department, especially its Tourism, Planning and Economic Development, and the Grants Office have resources and expertise that should be tapped in order to assist the arts and cultural community and the community as a whole. In addition, collaborations with the Chamber of Commerce, the Downtown Development Committee, the Historical Committee, local art associations and other arts-related organizations are essential in this process.

The City should also consider creating a special endowment fund for promotion of art. Such a fund could receive private donations, nonprofit grants and public funding. Although it could begin modestly, such a fund could increase and contribute to a regular program of events or art works.

Strategy 6. Explore expansion of space and facilities for artists and sources and conditions for funding.

One of the major constraints on expansion and success of the artist community is the lack of affordable, adaptable space for their work. The Community Development Department and the Committee for the Arts should, as part of the economic impact study, examine various models for public support and funding for such space. Then, it should pursue grants or other sources. Examples for such sources include the state's Department of Housing and Community Development (DHCD) and the federal Department of Housing and Urban Development (HUD); and nonprofit foundations. The City should support projects that provide for these uses in appropriate locations within the community, in concert with its land use planning.

Strategy 7. Support live/work art space through zoning revisions and support for lower cost housing for artists and craftspeople.

Artists, craftspeople and others who are self-employed can benefit from having housing arrangements that also include workspace. Some forms of art require large open areas in which the artist can work, for example, to create large paintings and sculptures. There are many examples of "loft space" available in other art communities throughout the country.

Also, artists need affordable housing. Many artists' incomes are low to moderate, and they make up a large portion of the Gloucester residents who are being impacted by the area's housing crisis. Therefore, it is essential for members of the Committee for the Arts and the Gloucester Cultural Council to be involved in planning efforts that deal with housing and zoning issues.

Zoning that allows combined living and working space would go a long way toward helping members of the artistic and cultural community to stay in

Gloucester, as would low cost purchase arrangements that would ensure affordability. Without these actions, the city risks losing one of its most precious assets, the arts community, which has, so long, shaped the character of Gloucester.

The City should also support the creation of low cost housing solutions for artists and craftspeople, such as reduced equity requirements for ownership. By supporting the use of grant funds for such a program, for example, the City would help promote its resident arts and cultural life.

**Strategy 8. Expand the use of City facilities as art venues.**

The City's own facilities can serve as venues for art and performances that are inviting and exciting for residents and visitors alike. The Department of Public Works, in conjunction with the Committee for the Arts, should do a simple internal inventory of the spaces and places that have been used for such uses, and prepare recommendations for additional venues that might be created. Estimates of capital and operating costs associated with this role should be included in a summary report that should serve as the basis for expanded funding of these activities.

**Strategy 9. Expand school-related arts programs and explore educational opportunities.**

The City's schools provide extensive arts programming, and may be able to serve an expanded role that is a resource to the entire community. As part of its educational and facility planning responsibilities, the School Department and School Committee should consider how this strategy might be implemented, and present ideas and requirements for funding, so that grant initiatives and other resources can be coordinated to create new opportunities.

## **APPENDIX C:**

### **City Ordinance Establishing the Gloucester Committee for the Arts**

DIVISION 10. COMMITTEE FOR THE ARTS

Sec. 2-508. Created.

This is hereby created and established a committee to be known as the committee for the arts.

(Ord. No. 112-2000, ' I, 11-28-00)

Sec. 2-509. Composition; appointment and terms of members.

The committee for the arts shall consist of a minimum of five (5) members , and a maximum of seven (7) members, one to be the mayor or his designee from time to time acting in his stead and the other four (4) to be residents of the city appointed by the mayor to serve staggered terms of four (4) years. The mayor in office shall continue his membership on the committee for the term for which he is elected.

(Ord. No. 112-2000, ' I, 11-28-00)

Sec. 2-510. Qualifications of members; city officers not eligible except as mayoral designee from time to time.

- (a) At least three (3) of the appointed members of the committee for the arts shall have had experience in the arts by reason of vocation, avocation, or by membership in a private or public entity devoted to the arts.
- (b) None of the appointed members of the committee for the arts shall hold any elected office.

(Ord. No. 112-2000, ' I, 11-28-00)

Sec. 2-511. Chairman.

The chairman of the committee for the arts shall be elected by majority vote of the membership.

(Ord. No. 112-2000, ' I, 11-28-00)

Sec. 2-512. Assistance of city officials, board and employees.

The committee shall receive regular support and assistance from the community development department. Such department may undertake planning, implementation and review responsibilities on behalf of the committee. Further, the committee may request the services and assistance of any of the officials, boards, and through the mayor, employees of the city at all reasonable times when the committee determines that it requires the assistance and advice of such officials and employees in the performance of its duties.

(Ord. No. 112-2000, ' I, 11-28-00)

**Sec. 2-513. Duties.**

It shall be the duty of the committee for the arts to promote the arts, visual, written, performed and spoken, to foster within the community, a knowledge and appreciation of artistic endeavors, commercial or otherwise, to seek out private or public assistance by way of donations or grants and to do all appropriate acts that encourage the continuation of artistic endeavors within the city; to establish premises and offices and to spread the fame of local artists and educate the public.

(Ord. No. 112-2000, ' I, 11-28-00)

Secs. 2-514--2-559. Reserved.

**APPENDIX D:**

**Selections Panels**

- I. Structure: Panels will be chaired by a member of the GCFTA, who will vote only to break a tie.
  - A. Each Panel will consist of four voting members and such non-voting members as the Committee sees fit to include based on the application or purpose under consideration and the interests of other City Committees and departments.
  - B. Voting members shall be selected on the basis of aesthetic expertise and may include artists in the appropriate discipline, as well as other arts professionals and members of the general public.
  - C. Separate panels may be convened for separate proposals or a single panel may be used for multiple proposals in a general field.
  - D. No individual may serve for more than two consecutive years as a voting member on any Selection Panel or succession of such panels. No individual may serve as a voting member on more than one Selection Panel at any time.
- II. Duties. Each Panel shall:
  - A. Review, evaluate, and discuss the credentials, proposals, and/or materials submitted, requiring additional information and discussion as it deems necessary.
  - B. Vote on a recommendation regarding the selection at issue.
  - C. Inform the GCFTA of the Selection Panel's recommendation in writing.
  - E. Selection Panels may not consider any proposal by a member of the Panel or any person with whom a panel member maintains a close personal or professional relationship.

## **APPENDIX E:**

### **A Definition of Public Art**

Public art includes all forms and media. As suggested in the *Community Development Plan*, this includes visual, written, performed and spoken arts, as well as monuments, sculpture, painting, furniture, pottery, jewelry, quilts, poetry, theater and dance, concerts, films and media arts, and digital and graphic arts. A bridge, bench, or fountain may fit the definition of public art; a recited poem, a play, or concert would also fit the definition.

The detailed considerations in this Public Art Policy must be applied broadly and openly to bring all arts and artists to as much of the public as is possible and so enhance the life of the city.

## **APPENDIX F.**

### **Sample Artist Contract.**

The relationship between the City and the artist will be defined by a standard contract addressing the terms of acquisition or performance, any instructions for proper care and maintenance of the work, and any special agreements regarding the manner in which the work may be deaccessioned, as well as future care and ownership, liability, copyright, license rights, reproduction, resale and other issues. The GCFTA does not anticipate that the sample contract below will be fully necessary in many cases, but it does provide a grounding document from which to draw necessary contractual language for varied contracts in any form or media.

A basic contract would be approved by the GCFTA before being presented to the mayor, city council, department of public works, city solicitor or other appropriate authority for final approval. The basic contract might include, but not be limited to, the items in this sample:

\*\*\*\*\*

THIS AGREEMENT (hereafter "Agreement") is made as of [insert date], in Gloucester, MA, by and between [insert name of individual], an individual ("Artist"), and the CITY, a municipal corporation (the "City"), acting by and through the Gloucester Committee for the Arts (GCFTA).

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

1. Definitions.

Where any word or phrase defined below, or a pronoun used in place thereof, is used in any part of this Agreement or the Contract Documents, it shall have the meaning set forth below:

"Agreement" shall mean this agreement, including all addenda, appendices and modifications, whether created now or in the future.

"Alter" or "Alteration" shall mean, with respect to the Artwork, to alter, repair, modify, remove, relocate, sell, dispose of, distort, destroy, mutilate, or deface.

"Approved Costs" shall mean such costs as are scheduled on Appendix B, including the maximum expenditure authorized for each item.

"Architect" shall mean [INSERT ARCHITECT NAME IF APPLICABLE].

"Artist" shall mean: [INSERT NAME AND ADDRESS OF ARTIST].

"Artwork" shall mean the work of art in any form or media designed by Artist for the Site under the terms of this Agreement, as described and defined in Artist's Proposal. In brief, the Artwork will consist of [INSERT BRIEF DESCRIPTION OF PROJECT].

"Authorization" shall mean a Term Purchase Agreement, Contract Order, or Purchase Order of City properly executed by the by the Controller for the specific funding of this Agreement or any modification thereof.

"Budget" shall mean a specific and detailed document identifying the cost of completion of all Work under this Agreement, including all modifications. The Budget shall include the costs for all design fees and costs; preliminary and final engineering requirements; estimates of ongoing maintenance needs; materials and labor for fabrication, including Artist costs; transportation of Artwork; installation of Artwork, including any necessary permits; permits and licenses; required insurance; any sales tax; post-installation maintenance required of the Artwork by Artist; and a 10% contingency allowance.

"City" shall mean City of Gloucester, a municipal corporation.

“Client” shall mean [INSERT NAME OF PROJECT SITE AGENCY].

“Committee” shall mean the GCFTA.

“Conceptual Design” shall mean drawings (in plan and elevation) and/or 3-dimensional models, a written description, proposed materials and samples and cost estimates at 30% design completion. The information provided in Conceptual Design shall be complete enough to fully illustrate the design intent of the Artwork.

“Construction Documents” shall mean final and complete architectural, structural, mechanical and engineering drawings, written specifications, structural and engineering calculations at 100% design completion, prepared by Artist, setting forth in detail the design of the Artwork and which are suitable for bidding. Construction Documents shall describe and fix the location, size, materials and character of the Artwork with respect to architectural, structural engineering, mechanical and electrical systems, materials, colors, method of attachment and fabrication methods, and other such elements as may be appropriate. Construction Documents must be signed and stamped by design professionals licensed in the State of Massachusetts as required by the Massachusetts Building Code and any local amendments thereto.

“Contract Documents” shall mean any work, including but not limited to, Design and Construction Documents, Shop Drawings, Mock-ups, models, Samples, engineering calculations, approved Installation Plans, and all material Samples and product data, the project Budget, and any and all additional documents and submittals produced under this Agreement that the Committee has approved and to which the completed Artwork is expected to conform.

“Controller” shall mean the Controller of City.

“Design Development Documents” shall mean presentation quality materials, which shall include colored drawings or computer-generated color images (in plan and elevation) and/or 3-dimensional models that accurately reflect the Artwork and how it will be installed at the Site, mock-ups, final color and materials samples, proposed fabrication methods, feasibility studies and cost estimates at 60% design completion. When used in reference to the proposed Artwork, Design Development Documents shall fix and describe the size and character of the Artwork with respect to its relationship to the Site, including architectural, structural, mechanical and electrical systems, materials and other elements as may be appropriate.

“Force Majeure” with respect to a delay in or prevention of performance shall mean (a) any strike, lockout or other labor or industrial disturbance (whether or not on the part of the employees of either party), civil disturbance, future order claiming jurisdiction, act of the public enemy, war, riot, sabotage, blockade, embargo, inability to secure customary materials, supplies or labor through ordinary sources by reason of regulation or order of any government or regulatory body; (b) any changes in any applicable laws or the interpretation thereof; or (c) any flood, washout, explosion, or any other cause beyond the reasonable control of the party from whom performance is required.

“General Contractor” shall mean the general contractor hired by City to construct the capital improvement for the Site.

“Mock-ups” or “Samples” shall mean illustrations such as standard schedules, performance charts, instructions, brochures, diagrams, and physical samples of all or any portion of the Work, and other information furnished by Artist to illustrate materials or equipment for all or any portion of the Work. The purpose of the Mock-ups and Samples is to provide physical examples that illustrate materials, equipment or workmanship and establish the standards by which the Work will be judged.

“Proposal” shall mean the proposed visual, aesthetic, and artistic intent and design of the Artwork. The most recent design approved by the Committee is incorporated herein as part of the Contract Documents and is binding unless changes are approved by resolution of the Committee.

“Purchaser” shall mean the Director of Purchasing of City.

“Site” shall mean [INSERT DESCRIPTION OF PROJECT SITE].

“Shop Drawings” shall mean drawings, diagrams and other data specifically prepared by Artist illustrating in detail exactly how the Work, or any element thereof, is to be fabricated and installed. Shop Drawings shall be signed and stamped by a licensed design professional unless this requirement is specifically waived by the GCFTA.

“Work” shall mean the work of Artist pertaining to providing the Committee with the services and deliverables as required under the Agreement. In addition to all other services and deliverables required, Work shall include the design, fabrication, delivery and installation of the Artwork.

Whenever the words “as directed,” “as required,” “as permitted,” or words of like effect are used, it shall be understood as the direction, requirement, or permission of the Committee. The words “sufficient,” “necessary,” or “proper,” and the like, mean sufficient, necessary or proper in the judgment of the Committee. The words “approval,” “acceptable,” “satisfactory,” or words of like import, shall mean approved by, or acceptable to, or satisfactory to the Committee, unless otherwise indicated by the context. The terms “include,” “included” or “including” and similar terms shall be deemed to be followed by the words “without limitation.”

2. Term. Subject to Section 2, the term of this Agreement shall start on the later of [insert date] or the date on which the City’s Controller certifies to the availability of funds, as described in Section 2. Unless sooner terminated as set forth herein, the term shall end on [insert date].

3. Fiscal Limitations. THIS SECTION 2 SUPERSEDES ANY CONFLICTING PROVISION OF THIS AGREEMENT.

Artist's responsibility to coordinate the Design Development Documents for the Artwork with the Architect's design development and/or construction documents for the Site.

b) Design Development Documents shall reflect a Proposal that continues to express the artistic intent of the Conceptual Design Documents and satisfies the requirements of the Committee and Client in accordance with Contract Documents approved in Phase I.

c) Artist shall provide an updated Budget for the design, fabrication, transportation and installation of the Artwork, and provide written estimates and other documentation on the sources and/or assumptions upon which the Budget figures are based.

d) Artist shall review Architect's design development documents to ensure accurate integration of Artist's design into the Site and provide the Committee and Architect with written comments and/or corrections.

e) Artist shall deliver a schedule describing Artist's specific timelines for completing the Work.

f) Artist shall deliver a General Maintenance Plan for the Artwork.

g) Artist shall attend project meetings and make presentations to City staff, Architects, Committees, and other individuals and organizations, as needed. Artist agrees to collaborate closely with Architect through in-person meetings and other necessary means of communication to allow Architect to thoroughly integrate the Artwork into architectural presentation drawings. Artist shall review architectural presentation drawings and related design material for accuracy of the integration of the proposed Artwork within the Site. Artist shall provide written comments on the accuracy of the Architect's documents to the Committee and Architect.

h) Artist shall deliver all or any Work.

#### 4. Schedule of Deliverables.

Deliverable Due Date

Design Development Documents

Budget

Description of Maintenance Requirements

Documentation

5. Compensation. Artist's compensation for Phase II shall be [INSERT AMOUNT]. Such compensation shall cover all of Artist's costs and fees for Phase II.

6. Insurance and/or Bond Requirements. Artist shall obtain the following insurance and/or bonds before commencement of Phase II. [INSERT INSURANCE REQUIREMENTS]

7. Payment Schedule. [DESCRIBE MILESTONES AND TIMING OF PAYMENT]

8. Other Requirements (i.e., liquidated damages):

Attachment A: Services to be Provided by Artist  
Phase III - Construction Documents

1. Authorization. Phase III has been authorized by Arts Committee Resolution Number [INSERT NUMBER].

2. Term of Agreement. The Term of this Agreement is extended to [INSERT DATE].

3. Scope of Work.

a) Artist shall deliver Construction Documents for construction of the Proposal as approved under Phase II, which must be signed and stamped as conforming to state and city building codes.

b) Construction Documents shall reflect the artistic intent of the Proposal as expressed in the Contract Documents produced and approved under Phase II, and as discussed and generally agreed upon in Artist's communications with the Committee.

c) Artist shall review Architect's Construction Documents for accuracy of the integration of Artist's Proposal within the Site and provide the Committee and Architect with written comments and/or corrections.

d) Artist shall deliver Mock-ups and Samples, as required by Committee or its staff.

e) Artist shall attend project meetings and make presentations to City staff, Architects, Committees, and other individuals and organizations, as needed. Artist agrees to collaborate closely with Architect through in-person meetings and other necessary means of communication to allow Architect to thoroughly integrate the final design into architectural conceptual presentation drawings. Artist shall review Architect's conceptual drawings and related design material for accuracy of the integration of the final design within the Site. Artist shall provide written comments on the accuracy of the Architect's documents to the Committee and Architect.

4. Schedule of Deliverables.

Deliverable Due Date

Construction Documents

Mock-ups

Documentation

5. Compensation. Artist's compensation for Phase III shall be [INSERT AMOUNT]. Such compensation shall cover all of Artist's costs and fees for Phase III.

6. Insurance and/or Bond Requirements. Artist shall obtain the following insurance and/or bonds before commencement of Phase III:

Professional Liability Insurance for design professionals in the amount of \$ \_\_\_\_\_.

7. Payment Schedule. [DESCRIBE MILESTONES AND TIMING OF PAYMENT]

8. Other Requirements (i.e., liquidated damages):

Attachment A: Services to be Provided by Artist  
Phase IV - Fabrication of Artwork

1. Authorization. Phase IV has been authorized by Arts Committee Resolution Number [INSERT NUMBER].

2. Term of Agreement. The Term of this Agreement is extended to [INSERT DATE].

3. Scope of Work.

a) Artist shall fabricate the Artwork in accordance with all Contract Documents approved by the Committee through Phase III.

b) Shop Drawings. Artist shall deliver Shop Drawings as needed for framing and attachment hardware, produced by Artist's fabricator. The Shop Drawings shall be signed and stamped by the fabricator's structural engineer and by Artist's structural engineer, as conforming to all state and city building codes.

c) Transportation Plan. Artist shall deliver a written list of the workers, vehicles, and equipment that will be involved in the transportation of the Artwork to the Site.

d) Installation Map. Artist shall deliver a numbered map indicating location and sequence of installation and evidence that Artist has numbered the Artwork and its individual components to correspond with the Installation Map.

4. Schedule of Deliverables.

Deliverable Due Date

Completed Fabrication of Artwork

Shop Drawings

Transportation Plan

Installation Map

5. Compensation. Artist's compensation for Phase IV shall be [INSERT AMOUNT]. Such compensation shall cover all of Artist's costs and fees for Phase IV.

6. Insurance and/or Bond Requirements. Artist shall obtain the following insurance and/or bonds before commencement of Phase IV:

Fine Arts Insurance in the amount of \$\_\_\_\_\_.

a) Labor and Materials Bond in the amount of \$\_\_\_\_\_.

b) Performance and Payment Bond in the amount of \$\_\_\_\_\_.

7. Payment Schedule. [DESCRIBE MILESTONES AND TIMING OF PAYMENT]

8. Other Requirements (i.e., liquidated damages):

Attachment A - Services to be Provided by Artist  
Phase V - Transportation and Installation of Artwork

1. Authorization. Phase V has been authorized by Arts Committee Resolution Number [INSERT NUMBER].

2. Term of Agreement. The Term of this Agreement is extended to [INSERT DATE].

3. Scope of Work.

a) Artist shall provide for the transportation of the Artwork in accordance with the Transportation Plan approved by the Committee in Phase IV. Artist shall not transport the Artwork until access to the Site has been approved and scheduled by the Committee in coordination with the Client. Artist shall prepare the Artwork for transportation in accordance with customary industry standards for the transportation of fine works of art, and in accordance with the following additional specifications:

[Insert specific art transport specifications, if any]

b) Artist shall install the Artwork in accordance with Contract Documents approved in Phase IV.

c) Artist shall consult with the Committee, the Project Construction Management Team and General Contractor prior to and during the installation of the Artwork. Artist shall coordinate Artist's activities on site with the General Contractor through the Construction Management Team and/or the Committee staff.

d) Maintenance Documents. Artist shall deliver all information necessary for the Committee to properly care for and maintain the Artwork, including information regarding the physical make-up of the Artwork, methods and materials, and information about the artistic intent of Artist in the Design, Fabrication and Installation of the Artwork..

e) Photographic Documentation. Artist shall deliver a set of color transparencies and/or black and white photographs of the installed Artwork for the Committee's Archives.

f) Artist is responsible for rental, erection and removal of all scaffolding, lifts, and all other equipment needed for installation. Artist shall supply all hardware and personnel necessary for installation. Artist is responsible for repairing or paying for the repair of any damage to the Site, the Artwork, or the work of other contractors to the extent such damage is caused by Artist, Artist's agents, employees, subcontractors or contractors. At the completion of installation, Artist shall clean and restore the Site and the work area to the condition it was in at the beginning of installation.

g) Approval of Site: The preparation of the Site for installation of the Artwork shall be the responsibility of the General Contractor in accordance with a separate written agreement between City and the General Contractor. Where Artist's Work is associated with that of the General Contractor, or any other contractor engaged by the City to do work on the Site, Artist shall examine the work of such other contractors and report in writing to the Committee any visible defect or condition preventing the proper execution of Artist's Work. If Artist proceeds without giving notice, the Artist shall be held to have approved the work or material and the existing conditions, and shall be responsible for any defects in Artist's own Work consequent thereon, and shall not be relieved of any obligation or any guarantee because of any such condition or imperfection. To the extent that any part of the Artist's Work is to interface with work performed or installed by the General Contractor or other contractor engaged by City to perform work on the Site, Artist shall inspect and measure the in-place work and promptly report to the City any defect in such in-place work that will impede or increase the cost of Artist's interface unless corrected. City and/or its authorized representatives will require the party responsible for the defective work to make corrections so as to conform to its contract requirements, or if the defect is the result of a default or omission in the contract documents, may issue a change order. If Artist fails to measure, inspect and/or report defects that are reasonably discoverable, all costs of accomplishing the interface shall be borne by Artist. The forgoing does not apply to latent defects. Artist shall report to City any latent defects in another contractor's work at any time such defects become known. City or its authorized representatives shall promptly thereafter take such steps as may be appropriate. Any difference or conflict that may arise between Artist and the General Contractor, or other contractors engaged by City to perform work on the Site, shall be adjusted as determined by City, its agents, or its authorized representatives when necessary to facilitate the work of Artist and/or other contractors or workers. No damages or claims by Artist will be allowed other than an extension of time for the completion of Work. Such an extension will be for the period of time City shall consider Artist to have been delayed in the completion of Work by reason of the work of other contractors or workers.

#### 4. Schedule of Deliverables.

Deliverable Due Date  
Transportation of Artwork

Installation of Artwork  
Installation Documentation  
Maintenance Documents  
Photographic Documentation

5. Compensation. Artist's compensation for Phase V shall be [INSERT AMOUNT]. Such compensation shall cover all of Artist's costs and fees for Phase V.

6. Insurance and/or Bond Requirements. Artist shall obtain the following insurance and/or bonds before commencement of Phase V:

Commercial General Liability Insurance in the amount of \$ \_\_\_\_\_.

c) Labor and Materials Bond in the amount of \$ \_\_\_\_\_.

d) Performance and Payment Bond in the amount of \$ \_\_\_\_\_.

7. Payment Schedule. [DESCRIBE MILESTONES AND TIMING OF PAYMENT]

8. Other Requirements (i.e., liquidated damages):

Attachment B: Artist's Approved Costs  
Personnel or Hourly Rate

Flat rate for specified period (e.g., monthly)

Rate for use of Artist's equipment, if applicable

Rates for faxes (sending only), mileage, etc.

Actual costs for Artist meals accommodations, long distance and cellular phone charges, postage, vehicle rental, etc., subject to the approval of City.

Cost of any goods or materials to be provided by Artist.

Any other applicable rates or charges under the Agreement.

(a) The Controller cannot authorize payments unless funds have been certified as available in the budget or in a supplemental appropriation. This Agreement shall automatically terminate, without liability to the City, if funds are not properly appropriated by the Mayor and Board of Supervisors or certified by the Controller. The City's obligations hereunder shall never exceed the amount certified by the Controller for the purpose and period stated in such certification.

(b) The City, its employees and officers are not authorized to request services, materials, equipment or supplies that are beyond the scope of those expressly described herein, unless this Agreement is amended in writing and approved as required by law. Without such an amendment or approval, the City shall not be required to pay Artist for any such services, materials, equipment or supplies.

(c) The City, its employees and officers are not authorized to offer or promise any additional funding that would exceed the maximum amount specified in Section 4. Such additional funding requires lawful approval and certification by the Controller. Without such lawful approval and certification, the City shall not be required to provide such additional funding.

#### 4. Services Artist Agrees to Perform; Procedure for Execution of Work; Budget; Supplies.

a. Services. Artist agrees to perform the services provided for in Attachment B, "Services to be Provided by Artist," attached hereto and incorporated by reference as though fully set forth herein, as well as any scope of services included in any subsequent modification to this Agreement.

##### b. Procedure for Execution of Work.

(1) It is the general intent of the parties that Artist will complete the design, fabrication and installation of the Artwork at the Site, provided that City determines, in its sole discretion, to go forward with the completion of the Artwork. The Work shall be completed in separately defined, successive stages ("Phases"). In addition to the Phase(s) set forth in Appendix B at the time this initial Agreement is entered into, the parties may modify this Agreement to include subsequent Phases. Each Phase shall be governed by this Agreement, and by any modifications to this Agreement setting forth specific terms and conditions governing each Phase of Work. Each modification will include the Phase for which the Committee has given authorization, the scope of work covered by that Phase, the schedule of deliverables, insurance requirements, and payment terms.

(2) By authorizing any particular Phase, the Committee is not obligated to authorize any subsequent Phase. Subject to the limitations contained in this Agreement, the Committee may terminate this Agreement at any time and is under no obligation to modify the Agreement to include subsequent Phases.

(3) Artist shall not commence any Phase nor incur any expense in anticipation of commencing any Phase unless the Committee has given prior written authorization and the Controller has certified the availability of funds. Prior to beginning each Phase, Artist shall obtain the necessary approval of the previous Phase. In no event shall City be liable for any claims or damages arising from Artist's unauthorized actions.

(4) If requested to do so in writing by the Committee, Artist shall enter into modifications of this Agreement to include later Phases of the Work, up to and including final installation at City's option. Artist's fee for such subsequent Phases shall be in accordance with the approved Budget. City must exercise its option to require a subsequent Phase within 3 years of completion of the prior Phase. If City fails timely to exercise its option, Artist is released from its obligation under this Section. Artist acknowledges that Committee has provided to Artist a model contract template for Phases I through V of the Work, from conceptual design through fabrication and installation. Artist agrees that, if City exercises its option to enter into subsequent Phases of Work, Artist shall be bound to modify this Agreement to include such additional Phases of Work under the terms and conditions set forth in such model contract templates.

(5) The Work to be completed by Artist is unique and personal to Artist, and may not be capable of completion by anyone other than Artist. Therefore, if Artist fails or refuses to modify this Agreement to include subsequent Phases after having been requested to do so by the Committee, or fails to complete the Work required by any Phase, the Committee may require that Artist return all payments made under this Agreement from the initiation of the Agreement. If the Committee determines, in its sole and reasonable discretion, that Artist's failure or refusal to complete subsequent Phases is justifiable and in good faith and for reasons beyond the control of Artist, the Committee may authorize Artist to keep payments made under this Agreement for prior completed Phases. In such case, the Committee may, at its option, engage another Artist to complete the Work.

c. Budget. Unless otherwise specified in a modification to this Agreement, at the completion of Design Development Documents, Artist shall submit a final Budget for the entire cost of completion of the Artwork, including design, fabrication, transportation and delivery, installation and any post-installation maintenance required of Artist. Once adopted by the Committee as part of the approval of the Design Development phase, such Budget shall be binding upon Artist. If Artist is unable to provide the completed and installed Artwork to City within the approved Budget, Artist will be considered to be in breach of this Agreement. The Budget, in addition to allowing for all costs anticipated for the design, fabrication, transportation and installation of the Work, must also allow for a 10% contingency allowance. Artist's use of the contingency allowance must be approved in-advance in writing by Committee staff. Any balance remaining in the materials budget or contingency allowance at the conclusion of the Agreement reverts to the Committee. The Budget shall also include an estimate of the costs of on-going maintenance of the Work. Such maintenance costs shall not be provided out of the Contract Amount unless the Committee specifically requires in writing that the Artist allocate a portion of the Contract Amount to on-going maintenance costs.

d. Suppliers. Artist shall provide the Committee with the name, address and telephone number of suppliers whose total invoices are expected to exceed one thousand dollars (\$1000.00) prior to Artist beginning work under this Agreement, or as such expenses are incurred by Artist after certification of this Agreement.

5. Compensation. The total payment amount due to Artist under this Agreement shall not exceed [INSERT WHOLE DOLLAR AMOUNT IN NUMBERS AND WORDS -- NO PENNIES]. This total amount shall include Artist's fee and all reimbursable expenses. Out of the total contract amount, Artist shall be responsible for paying all of Artist's costs and expenses associated with the Work, including the costs of suppliers, fees, taxes, permits, insurance, transportation to and from meetings, and all other expenses associated with the scope of the Work specified in this Agreements (hereinafter "Artist's Costs").

Fee: Artist's fee for coordinating and producing the Work (hereinafter "Artist's Fee") is [INSERT WHOLE DOLLAR AMOUNT IN NUMBERS AND WORDS -- NO PENNIES].

Reimbursables: In addition to Artist's fee, as set forth immediately above, Artist shall be reimbursed up to [INSERT WHOLE DOLLAR AMOUNT IN NUMBERS AND WORDS -- NO PENNIES] for Approved Artist's Costs based on the submittal of original receipts or invoices. The breakdown of Approved Costs associated with this Agreement appears in Attachment B, attached hereto and incorporated by reference as though fully set forth herein. Artist shall be entitled to reimbursement only to the extent Artist has actually incurred such costs, and City shall retain the benefit of any cost savings below those costs reflected in Attachment B and in the Budget.

Compensation shall be made to Artist based upon Artist's successful completion, in the sole reasonable discretion of the Committee, of the milestones set forth in the Appendices to this Agreement.

No charges shall be incurred under this Agreement nor shall any payments become due to Artist until deliverables, services, or both, required under this Agreement are received from Artist and approved by the Committee as being in accordance with this Agreement. City may withhold payment to Artist in any instance in which Artist has failed or refused to satisfy any material obligation provided for under this Agreement.

In no event shall City be liable for interest or late charges for any late payments.

6. Invoices. Artist shall submit invoices for the Services in a form acceptable to the City.

7. False Claims. Artist acknowledges that it is subject to any and all legal sanctions for the submission of false claims.

8. Taxes. Contractor shall pay all taxes levied in connection with this Agreement or the Services, including any self-employment, possessory interest or sales and use taxes.

9. Payment Does Not Imply Acceptance of Work; Consultation; Approval and Final Acceptance

a. Payment does not imply acceptance of work. The granting of any payment by City, or the receipt thereof by Artist, shall in no way lessen the liability of Artist to replace unsatisfactory work, equipment, or materials although the unsatisfactory character of such work, equipment or materials may not have been apparent or detected at the time such payment was made. Materials, equipment, components, or workmanship that does not conform to the requirements of this Agreement may be rejected by City and in such case must be replaced by Artist without delay.

b. Consultation. Artist agrees to cooperate in good faith with the Committee and to be available as reasonably necessary for consultation with the Committee, Architect, Client, and General Contractor during all stages of the Work. Committee agrees to facilitate cooperation and arrange for and coordinate all necessary consultation among the Committee, Artist, Architect, Client, and General Contractor.

(1) Artist shall incorporate into the Contract Documents any changes made by the Architect to the Site design during the design process.

(2) Artist shall copy Committee on all correspondence between Artist, Architect, Client, Construction Management Team, or General Contractor in which Committee is not a party. Artist shall notify Committee in writing of any verbal agreements and /or understandings that are arrived at in conversations or meetings between Artist and Architect, Client, Construction Management Team and/or General Contractor to which Committee is not a party. Artist understands that failure to inform Committee of such agreements, and failure to confirm such agreements in writing with Committee and/or Client, Architect, Construction Management Team and/or General Contractor may result in such agreements not being honored.

c. Approval and Final Acceptance.

(1) The granting or withholding of any approval by the Committee shall be determined by the Committee in its sole and reasonable discretion. However, the Committee shall approve all deliverables if they conform to plans or Contract Documents previously approved by the Committee. If the Committee withholds approval of any deliverables or Phase, in addition to other rights or remedies available to the Committee under the Agreement or applicable law, the Committee shall have the right to terminate this Agreement immediately and shall have no further obligations under this Agreement.

(2) Final Acceptance. Artist shall advise the Committee in writing when Artist has completed all obligations, services and deliverables under this Agreement and all modifications. The Committee promptly shall send a Notice of Response identifying in

writing any obligations, services or deliverables that Artist has not satisfactorily met, any defects in Artist's performance, and the requirements for Artist to cure any such default. Artist shall have 20 days from dispatch of the Notice of Response to cure any defects in Artist's performance identified in the Committee's Notice of Response. The Artwork shall not be finally accepted by City unless the Committee has taken formal action of Final Acceptance. City shall make a good faith effort to make a determination as to Final Acceptance promptly.

(3) Civic Art Collection. Upon Final Acceptance, the Committee shall accession the Artwork into the Civic Art Collection.

10. Independent Contractor. Artist or any agent or employee of Contractor shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested by City under this Agreement. Artist or any agent or employee of Contractor shall not have employee status with City, nor be entitled to participate in any plans, arrangements, or distributions by City pertaining to or in connection with any retirement, health or other benefits that City may offer its employees. Artist or any agent or employee of Artist is liable for the acts and omissions of itself, its employees and its agents. Artist shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Artist's performing services and work, or any agent or employee of Artist providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between City and Artist or any agent or employee of Artist.

Any terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Artist's work only, and not as to the means by which such a result is obtained. City does not retain the right to control the means or the method by which Artist performs work under this Agreement.

#### 11. Insurance.

a. Required Insurance. Without in any way limiting Artist's liability pursuant to the "Indemnification" section of this Agreement, Artist must maintain in force insurance in the following amounts and coverages, or as modified in Attachment A. Artist must obtain such insurance on or before the time specified below; if no time is specified below, Artist shall obtain such insurance when required to do so by Attachment A or a modification to this Agreement. Artist must maintain all required insurance continuously from the time originally specified, throughout the term of this Agreement until Final Acceptance of the Work.

(1) Professional Liability Insurance for all design professionals (such as architects, landscape architects or engineers) who provide Artist with signed stamped drawing or calculations. Such insurance shall have limits not less than \$1 million each claim with

respect to negligent acts, errors and omissions, and any deductible may not exceed \$50,000 each claim. Artist shall obtain such insurance when Artist subcontracts for any work from such a design professional, and prior to the submittal of Construction Documents. Any design professional required to obtain professional liability insurance must maintain proof of insurance for the term of this Agreement.

(2) Commercial General Liability Insurance, with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations. Artist shall obtain such insurance prior to transporting or installing the Work at the Site,

(3) Automobile Liability Insurance: Personal Automobile Liability Insurance with limits not less than \$100,000/\$300,000 each occurrence. Artist shall obtain such insurance prior to certification of this Agreement.

(4) Fine Arts Insurance or other insurance against loss in an amount to be specified in a subsequent contract modification. Artist shall obtain such insurance prior to commencing fabrication of the Artwork.

(5) Transportation and/or Installation Coverage, as necessary and appropriate.

(b) With the exception of Professional Liability and Personal Automobile Liability, each policy shall: (i) name as additional insured "the City of Gloucester, its officers, agents and employees"; (ii) provide that it is primary to any other insurance available to any additional insured, with respect to any claims arising out of this Agreement; (iii) provide that it applies separately to each insured against whom claim is made or suit is brought; and (iv) provide for at least thirty (30) days' advance written notice to the City of cancellation or modification.

(c) If any policy is on a claims-made form, Artist shall maintain such coverage, without lapse, for a period of three years after termination hereof so that if any occurrence during the term hereof gives rise to a claim made after such termination, such claim is covered.

Before commencing any operations under this Agreement, Contractor shall do the following: (a) furnish to City certificates of insurance, and additional insured policy endorsements with insurers that are authorized to do business in the State of Massachusetts, and that are satisfactory to City, in form evidencing all coverages set forth above, and (b) furnish complete copies of policies promptly upon City request.

(e) The City's acceptance or approval of any insurance shall not limit Contractor's liability hereunder.

(e) In the event of loss or damage and where any insurance proceeds are paid to City, the Committee shall make a determination, in its sole discretion, as to whether the Work shall be restored, reconstructed or abandoned. If the Committee determines that Artist

shall restore or reconstruct the Work, all insurance proceeds received by City shall be paid to Artist to the extent the proceeds are used for such restoration or recreation.

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

13. Liability of City. THE CITY'S PAYMENT OBLIGATIONS HEREUNDER SHALL BE LIMITED TO THE PAYMENTS UNDER SECTION 4. CITY SHALL NOT BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES.

14. Timely Provision of Services; Damages for Delayed Performance; Liquidated Damages

a. Time is of the essence in this Agreement. Artist agrees to provide all deliverables in accordance with the timelines contained herein unless changes are approved in writing by the Committee.

b. Damages for Delayed Performance

(1) Generally. Artist shall be liable for all incidental and consequential damages resulting, directly or indirectly, from delays in performance caused by Artist's acts or omissions. Artist shall not be liable to City for damages resulting from delays caused by force majeure or by acts or omissions of City, Architect or the General Artist, except to the extent Artist failed reasonably to mitigate such damages.

(2) Illness, Injury, Death or Incapacity. Should Artist die, become ill, injured or otherwise incapacitated (collectively, "incapacitated") such that Artist is unable to work for any period not exceeding 30 days (whether consecutive or non-consecutive), any delay arising out of such incapacity will be allowed by City whenever it is practicable to do so, considering the facts and circumstances of the Work, the Project, the Architect, the General Artist and the Client. City may require Artist to provide medical certification of

any claimed incapacity. In the event Artist is incapacitated such that Artist is unable to work for a period exceeding a total of 30 days (whether consecutive or non-consecutive), City may, at its option, undertake to complete and install the Work in Artist's absence, so long as the final Artwork is substantially similar to that designed by Artist. If City undertakes to complete the Work, City shall give due consideration to Artist's suggestions, and Artist may disclaim authorship of the Work. If City exercises its option to implement the Artwork in Artist's absence, any compensation paid or payable to Artist shall be reduced by the costs and expenditures of City in completion and installation of the Work. In case of incapacity exceeding 30 days, the following person shall be Artist's representative vis-à-vis the City for purposes of this Section:

[INSERT NAME AND ADDRESS OF ARTIST'S REPRESENTATIVE]

b. Liquidated Damages.

(1) By entering into this Agreement, Artist acknowledges that in the event the Work is delayed beyond the scheduled milestones and timelines provided in this Agreement, City may suffer actual damages that will be extremely difficult to determine. Committee may determine that specification of liquidated damages is appropriate for some or all phases of Work under this Agreement and, if so, shall specify the amount of liquidated damages in the appropriate phase of Work under Attachment A. Artist agrees that the specified sum of damages per day for each calendar day of delay beyond scheduled milestones and timelines is not a penalty, but is a reasonable estimate of the loss that City will incur based on the delay, established in light of the circumstances existing at the time this Agreement was awarded.

(2) City may deduct a sum representing the liquidated damages from any money due to Artist. Such deductions shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Artist's failure to deliver to City within the time fixed or such extensions of time permitted in writing by the Committee.

(3) In case of delay in Artist's services through no fault of Artist, including construction delay, Artist shall store the Work at no additional cost to City for up to 6 months. If Artist's work is delayed due to construction delays at the Site or other delays caused by City or its contractors, so that Artist suffers documented direct cost impacts in the form of increased costs of materials and/or labor, Artist may apply to the City for reimbursement of those expenses, which City may award in its sole discretion.

15. Default. Artist shall be in default if Artist: (a) fails to perform any covenant (including a lapse in insurance coverage); (b) files or is the subject of a petition for bankruptcy or insolvency; or, (c) has a court-ordered receiver or trustee appointed with respect to Artist's assets.

16. Remedies. If a default under Section 15 has occurred and is continuing, the City may, individually or in combination with any other remedy: (a) terminate this Agreement; (b) offset the amount of any outstanding liability of Artist against funds otherwise due and owing hereunder or any other agreement with Artist; (c) withhold

funds due hereunder; (d) cure the default, in which event all amounts expended by the City in effecting such cure shall be payable upon demand, with interest from the date of incurrence at the maximum rate permitted by law; or (e) exercise any other remedy available by law. The City shall have no obligation to exercise any of the foregoing remedies.

17. Termination for Convenience. The City may terminate this Agreement without cause or penalty upon at least thirty (30) days' prior written notice to Artist. In such event, Artist shall continue to perform the Services until the termination effective date, and Artist will be paid for those Services adequately performed through such date. Thereafter, this Agreement shall terminate, subject to Sections 48. Artist disclaims any right to anticipated profits or losses or any other expense not expressly covered under Section 4 and incurred prior to such termination effective date.

#### 18. Rights and Duties Upon Termination or Expiration

If the Committee terminates this Agreement for any reason, City shall be automatically vested with title to any Work produced under this Agreement up to the date of termination. Artist shall deliver any such Work to City in the manner, at the times, and to the extent directed by City. If termination is due to the default of Artist, City may, at its option, require Artist to refund to City any interim payments received under the Agreement; in such case, City may transfer title to the Work to Artist. This subsection shall survive termination of this Agreement.

#### 19. Artist's Warranties

a. Warranty of Title. Artist represents and warrants that Artist is the sole author of the Artwork and that Artist is the sole owner of any and all copyrights pertaining to the Artwork. Artist further represents that the Artwork is free and clear of 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.

b. Warranty of Workmanship. Artist represents and warrants that, for a period of three 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 the Committee. Artist shall, at Artist's sole cost and expense, remedy any defects in workmanship or materials that appear within a period of three years from the date of final acceptance of the Artwork by City.

c. Warranty of Public Safety. Artist represents and warrants that the Work 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.

d. Acceptable Standard of Display. Artist represents and warrants that:

(1) general routine cleaning and repair of the Artwork and any associated working parts and/or equipment will maintain the Work within an acceptable standard of public display;

(2) foreseeable exposure to the elements and general wear and tear will cause the Work to experience only minor repairable damages and will not cause the Work to fall below an acceptable standard of public display; and

(3) with general routine cleaning and repair, and within the context of foreseeable exposure to the elements and general wear and tear, the Work 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.

e. 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.

## 20. Instructions for Maintenance

Unless specifically provided in this Agreement, Artist shall not be responsible for ongoing maintenance of the Artwork. Artist shall provide the Committee a General Maintenance Plan for the Artwork, generally describing anticipated maintenance requirements; a recommended maintenance schedule; anticipated and required care and/or replacement of any part of the Artwork and associated moving parts or equipment; and written instructions and manufacturer's specifications for reasonably foreseeable maintenance and preservation activities relating to the Artwork. The Artwork must be durable, taking into consideration that the Site is an unsecured public space that may be exposed to elements such as weather, temperature variation, and considerable movement of people and equipment. Artist must ensure that all maintenance requirements will be reasonable in terms of time and expense.

Although City strives to maintain the Civic 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 Artwork to deteriorate in accordance with the Artwork's temporary life span, if deemed appropriate by City or if City lacks sufficient funds for required maintenance and/or conservation. If the Artwork suffers deterioration, City shall have sole discretion to determine whether to remove the Artwork from display as a result of deterioration, or whether to maintain the Artwork on display despite its deteriorated condition.

The anticipated life span of the Artwork is \_\_\_\_\_ years from the date of final acceptance by the Committee. After that time, the Committee in its sole discretion may

re-evaluate the Artwork 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 Artwork. If no life span is specified above or pursuant to a subsequent contract modification, the anticipated life span of the Artwork shall be 25 years. If the Committee determines that, through decay, vandalism or other forces, the Artwork has lost its integrity to the point where it should be destroyed, the Committee shall first offer the Artwork to Artist free of charge.

## 21. Artist's Moral Rights; City's Ownership Rights.

a. The Committee intends to display the Artwork at the Site as originally created by Artist and to maintain the Artwork in good condition. Public artwork approved by the Committee are sometimes integrated into their site, such that they become an integral, permanent and site-specific part of the building's architecture or landscaped environment and removal of the artwork would result in significant changes to the artwork and the building's architecture. City, however, must preserve complete flexibility to operate and manage City property in the public's interest. Therefore, City retains the absolute right to Alter the Artwork in City's sole judgment. For example, if during or after the term of this Agreement, City finds the Site to be inappropriate, City has the right to install the Artwork at an alternate location that City chooses in its sole discretion. If the Artwork is free-standing such that it can be removed without significant damage to the Artwork or the Site, and if the Committee authorizes the removal of the Artwork, the Committee shall take reasonable precautions to minimize Alteration of the Artwork during removal.

b. With respect to the Artwork 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. If the Artwork 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 Artwork.

c. If City intends to take any action with respect to the Site or the Artwork that would Alter the Artwork, other than routine cleaning and maintenance, the following procedures shall apply:

(1) Notice. Where time permits, Committee shall make reasonable good faith efforts to notify Artist at least 20 calendar days prior to authorizing any Alteration of the Artwork, at the last phone number or address provided by Artist to the Committee's Collections Manager. Where time does not permit prior to Alteration of the Artwork – for example, in cases of public hazard, accident or unauthorized Alteration – Committee shall notify Artist within 30 calendar days after such Alteration.

(2) Consultation. After receiving such notice, Artist shall consult with City to determine whether the Artwork can be restored or relocated, and to attempt to come to a mutually agreeable plan for disposition of the Artwork. Such consultation shall be

without charge by Artist unless otherwise specifically agreed in writing. If City intends to remove the Artwork, Artist shall consult regarding methods to minimize or repair any Alteration to the Artwork caused by such removal and the potential costs of such removal.

(3) Restoration. If the Artwork 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 Artwork 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 Artwork to its original condition, to compensate Artist for any restoration work, or to maintain the Artwork 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 or artist for such restoration. During Artist's lifetime, City shall make best efforts not to display or deaccession only a portion of the Artwork without Artist's consent.

(4) Removal by Artist. Where time permits, if City intends to take action that will destroy or significantly Alter the Artwork, such as destruction of all or part of the Site, and City determines that it will not remove the Artwork itself, City shall allow Artist to remove the Artwork at Artist's expense within 60 days of notice from the City of the need to remove the Artwork, in which case title shall revert to Artist. If Artist fails to remove the Artwork within that 60 day period, City may Alter the Artwork in any manner, including destroying it, in City's sole discretion.

(5) 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 Artwork if that remains possible. If City Alters the Artwork without providing Artist a required prior notice of Alteration, Artist shall be given the first right of refusal to restore the Artwork 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 Artwork at Artist's expense. If Artist elects not to restore the Artwork, City may retain another artist or conservator to restore it, or may Alter the Artwork in any manner, at City's sole discretion.

d. If City Alters the Artwork without Artist's consent in a manner that is prejudicial to Artist's reputation, Artist retains the right to disclaim authorship of the Artwork.

e. 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 Artwork. Accordingly, nothing herein shall prevent Artist from pursuing a claim for Alteration of the Artwork 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 Artwork. However, as owner of the

Artwork, City may pursue claims against third parties for damages or to restore the Artwork if the Artwork has been Altered without City's authorization.

22. No Conflict of Interest. Artist understands and knows of no facts that would constitute a violation of such laws of conflict of interest laws.

23. Confidentiality. Artist shall keep strictly confidential any of the City's proprietary or confidential information to which Artist has access while performing the Services and shall not make any disclosure thereof without the prior written consent of the City.

24. Notices. Unless otherwise indicated elsewhere in this Agreement, all written communications sent by the parties may be by U.S. mail, e-mail or by fax, and shall be addressed as follows:

To City: [insert name of department] To Artist: [insert Artist's name]  
[insert contact person] [insert contact person]  
[insert address] [insert address]  
[insert e-mail address] [insert e-mail address]  
[insert fax number] [insert fax number]

Any notice of default must be sent by registered mail.

#### 25. Ownership of Results and Risk of Loss

a. Title Transfer. Except in the case of early termination of this Agreement, title to the Artwork shall transfer from Artist to City upon the Committee's Final Acceptance of the Artwork. Title transfer shall be self-executing upon Committee's Final Acceptance. Artist will cooperate in providing to City any title transfer documents City may request or require during or after the Term of this Agreement.

b. Risk of Loss. The risk of loss or damage to the Artwork shall be borne solely by Artist until Final Acceptance of the Artwork by the Committee. Artist shall take steps to protect the Artwork from loss or damage. The Committee staff shall make a good faith effort to inspect the Artwork within 15 days after completion so that the Committee can approve the Artwork by resolution in a timely fashion.

c. Ownership of Documents. Conceptual Design, Design Development Documents, Construction Documents, Samples, Mock-ups and all other documents prepared and submitted by Artist to the Committee pursuant to this Agreement shall belong to the Committee. Artist may retain originals of such documents and items and provide copies to City.

#### 26. Intellectual Property and Publicity Rights

a. Copyright. Subject to usage rights and licenses granted to City hereunder, Artist shall retain all 17 U.S.C. §106 copyrights in all original works of authorship produced

under this Agreement. Artist's copyright shall not extend to predominantly utilitarian aspects of the Work, such as landscaping elements, furnishings, or other similar objects. If Artist is comprised of two or more individual persons, the individual persons shall be deemed joint authors of the Work.

b. City's Intellectual Property License. Artist grants to City, and to City's agents, authorized contractors and assigns, an unlimited, non-exclusive and irrevocable license to do the following with respect to the Work, the Artwork, and any original works of authorship created under this Agreement, whether in whole or in part, in all media (including electronic and digital) throughout the universe:

(1) Implementation, Use and Display. City may use and display the Work (to the extent the Work includes graphic representations or models) and the Artwork. To the extent the Work involves design elements that are incorporated by City into the design of the Site, City may implement such elements at the Site.

(2) Reproduction and Distribution. City may make and distribute, and authorize the making, display and distribution of, photographs and other 2-dimensional reproductions. City may use such reproductions for any City-related purpose, including advertising, educational and promotional materials, brochures, books, flyers, postcards, print, broadcast, film, electronic and multimedia publicity, gifts for the Committee benefactors, documentation of City's Civic Art Collection, and catalogues or similar publications. City shall ensure that such reproductions are made in a professional and tasteful manner, in the sole and reasonable judgment of the Committee. The proceeds from the sale of any such reproductions shall be used to maintain and support the Committee or for any other public purposes that City deems appropriate. The license granted hereunder does not include the right to create 3-dimensional reproductions on items such as tote-bags, T-shirts, coffee mugs and similar merchandise. Such reproductions may only be created pursuant to separate license agreements with Artist.

(3) Public Records Requests. Any documents provided by Artist to City are public records and City may authorize third parties to review and reproduce such documents.

c. Third Party Infringement. The Committee is not responsible for any third party infringement of Artist's copyright and not responsible for protecting the intellectual property rights of Artist.

d. Credit. Artist hereby agrees that all formal references to the Artwork and any reproductions of the Artwork in any form shall include the following credit: "Gloucester Committee for the Arts, Gloucester, MA." City shall credit Artist for the Artwork upon publication of any two dimensional reproductions of the Artwork.

e. Publicity. City shall have the right to use Artist's name, likeness, and biographical information, in connection with the display or reproduction and distribution of the Artwork including all advertising and promotional materials regarding City or the

Committee. Artist shall be reasonably available to attend any inauguration or presentation ceremonies relating to the public dedication of the Artwork.

f. Trademark. In the event that City's use of the Artwork creates trademark, service mark or trade dress rights in connection with the Artwork, City shall have an exclusive and irrevocable right in such trademark, service mark, or trade dress.

g. Unique. Artist warrants that the design of the Artwork as expressed in the Proposal is an edition of one, and that neither Artist nor Artists' agents will execute or authorize another to execute another work of the same or substantially similar image, design, dimensions and materials as the Artwork. Artist may create works that utilize or incorporate various individual art elements that comprise the Artwork, so long as the work utilizing or incorporating such individual elements (1) does not consist predominantly of such elements (2) is not the same or substantially similar in image, design, dimensions and materials as the Artwork, and (3) is not displayed in an environment that is the same or substantially similar to the environment in which the Artwork is to be displayed at the Site. This warranty shall continue in effect for a period consisting of the life of Artist plus 70 years or for the duration of the Artwork's copyright protected status, whichever is longer, and shall be binding on Artist and Artist's heirs and assigns. In the case where Artist is comprised of two or more individual persons or a group of people, the measuring life shall be the life of the last surviving individual person comprising Artist. Recognizing that City has no adequate remedy at law for Artist's violation of this warranty, Artist agrees that, in the event Artist breaches this warranty, City shall be entitled to enjoin Artist's breach. Nothing hereunder shall be construed to constrain Artist from creating posters, notecards, or other reproductions of the Artwork.

h. Resale Royalty. If City sells the Artwork as a fixture to real property, and if the resale value of the Artwork is not itemized separately from the value of the real property, the parties agree that the resale price of the Artwork shall be presumed to be less than the purchase price paid by City under this Agreement. If City sells the Artwork as an individual piece, separate from or itemized as part of a real property transaction, City shall pay to Artist a resale royalty to the extent required by law, based upon the sale price of the Artwork.

27. Audit. Artist shall maintain accurate books and records relating to this Agreement and the Services, including and accounting records copies of all invoices. Artist shall make such books and records available to the City for review and audit for at least three (3) years after termination of this Agreement, at a location that is readily accessible to the City.

28. No Employees, No Assignment or Subcontracting. The Services are personal in nature and shall be performed by Artist individually and without the assistance of any employee, agent, subcontractor or any other person or entity. Neither this Agreement nor any duties or obligations hereunder may be assigned, subcontracted or delegated by Artist without the prior written consent of the City.

29. Artist understands that any public official who approved this contract may not accept campaign contributions, gifts, or future employment from Artist. Artist agrees to notify any other individuals or entities that may be deemed "public benefit recipients" because of this contract. Upon request, Artist agrees to furnish, before this contract is entered into, such information as any public official approving this contract may require in order to ensure such official's compliance with the relevant conduct codes. Upon request, the City agrees to provide, before this contract is entered into, Artist with a list of public officials who approved this contract. Failure of any public official who approved this contract to abide by this shall not constitute a breach by either the City or Artist of this contract. Notwithstanding anything to the contrary in this contract, neither party shall have the right to terminate the contract due to any failure by the other party to provide the information described in this paragraph.

30. Nondiscrimination. In the performance of this Agreement, Artist agrees not to discriminate against any employee, City and County employee working with such contractor or subcontractor, applicant for employment with such contractor or subcontractor, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes. Failure to so comply shall be deemed a material breach of this Agreement, and Artist shall be liable for, a penalty of fifty dollars (\$50) for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement. Any such penalty shall be payable upon demand.

31. Drug-Free Workplace. Artist acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. Artist agrees to comply with such Act. Any violation of this Section shall be deemed a material breach of this Agreement.

32. Sunshine Ordinance. Artist understands that contracts, contractors' bids, responses to requests for proposals and all other records of communications between the City and persons or firms seeking contracts, must be open to public inspection immediately after a contract has been awarded. All such relevant information provided by Artist will be made available to the public upon appropriate request.

33. Prohibition on Political Activity with City Funds. Artist may not participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure (collectively, "Political Activity") in the performance of the services provided under this Agreement. In the event Artist violates the provisions of this section, the City may, in addition to any other rights or remedies available hereunder, (i) terminate this

Agreement, and (ii) prohibit Artist from bidding on or receiving any new City contract for a period of two (2) years.

34. Bonds

a. Labor, Materials and Performance Bonds may be required at the Committee's discretion. Such bonds must include such terms and conditions as are required by the City of Gloucester. The bonds shall name as dual obligees Artist and the City.

35. No Waiver. Any failure to enforce any right or to require performance of any provision of this Agreement shall not be considered a waiver of such right or performance.

36. Modifications. This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed by each party hereto.

37. Administrative Remedy. If a dispute occurs as to the meaning hereof, then prior to resort to any other legal remedy, such dispute shall be resolved by the City's Purchasing Division.

38. This Agreement shall be governed by the laws of Massachusetts. As far as it is judicially possible, the venue for all litigation or other disputes relative to this Agreement shall be Gloucester.

39. Construction. Section headings are for reference only and shall not be used to interpret this Agreement.

40. Entire Agreement. This Agreement contains the entire agreement between the parties, and supersedes all other oral or written provisions. Attachment A and Attachment B are a part of this Agreement.

41. Compliance with Laws. Artist shall comply with the City's charter, codes, ordinances and regulations and with applicable state and federal laws and regulations (including the Americans with Disabilities Act), as they may be amended from time to time.

47. Severability. If any provision hereof is found to be invalid or unenforceable, such finding shall not affect the validity of any other provision hereof; and such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties.

Attachment A: Services to be Provided by Artist  
Phase I - Conceptual Design of Artwork

1. Authorization. Phase I has been authorized by Arts Committee Resolution Number [INSERT NUMBER].

2. Scope of Work.

a) Artist shall deliver a Proposal for the Artwork ("Proposal"). The Proposal shall include drawings (in plan and elevation) and/or 3-dimensional models, proposed materials and samples, and a written description of the Artwork in sufficient detail that Artist's design intent is clearly expressed.

b) Proposal shall reflect the requirements of the Client and Committee, as expressed in the Request for Qualifications and as further discussed in communications with the Committee, Client and Architect. It is Artist's responsibility to coordinate Artist's Proposal and Conceptual Design Documents with the Architect's design for the Site.

c) Proposal shall include a Budget for the cost of design, fabrication, transportation and installation of the Artwork. The Budget shall include documentation of the sources and/or assumptions upon which the Budget figures are based.

d) Artist shall attend project meetings and make presentations to City staff, Architects, Committees, and other individuals and organizations, as needed. Artist agrees to collaborate closely with Architect through in-person meetings and other necessary means of communication to allow Architect to thoroughly integrate the Proposal into architectural conceptual presentation drawings.

3. Schedule of Deliverables. Proposal is due on or before [INSERT DATE].

4. Compensation. Artist's compensation for Phase I shall be [INSERT AMOUNT]. Such compensation shall cover all of Artist's costs and fees for Phase I.

5. Insurance Requirements. Artist shall obtain the following insurance before commencement of Phase I:

Automobile Liability Insurance in the amount of \$ \_\_\_\_\_.

6. Payment Schedule. [DESCRIBE MILESTONES AND TIMING OF PAYMENT].

7. Other Requirements:

Attachment A: Services to be Provided by Artist  
Phase II - Design Development Documents

1. Authorization. Phase II has been authorized by Arts Committee Resolution Number [INSERT NUMBER].

2. Term of Agreement. The Term of this Agreement is extended to [INSERT DATE].

3. Scope of Work.

a) Artist shall deliver Design Development Documents. Design Development Documents shall incorporate the further development and refinement of the Proposal developed under Phase I, including the input of the Committee, Client, and Architect. It is

**APPENDIX G:**

**General Application Form**

Gloucester Committee for the Arts Application (p. 1)

Fax to: 978-281-9738

Date of Application:

Or mail to:

Mayor's Office

City of Gloucester

Dale Ave.

Gloucester, MA 10930

Attn: GCFTA

Permit # (office use):

Company or Individual:

Address and contact number:

Email:

Location of Project:

Date(s):

Describe your organizations project, including proposed dates, locations and how the project will be funded. Use additional sheets if necessary.

Gloucester Committee for the Arts Application (p. 2)

Include the Following Support Information (if applicable and required) with the Application:

Structural Design

Parking Plan

Script

Number of Workers

Stunts or Special Effects

Cert. of Insurance

(41)

Security Deposit Amount:

Line of Credit

Notification of Affected Residents,  
Occupants, Businesses

Letters from Fire, Police, and  
Ambulance Services