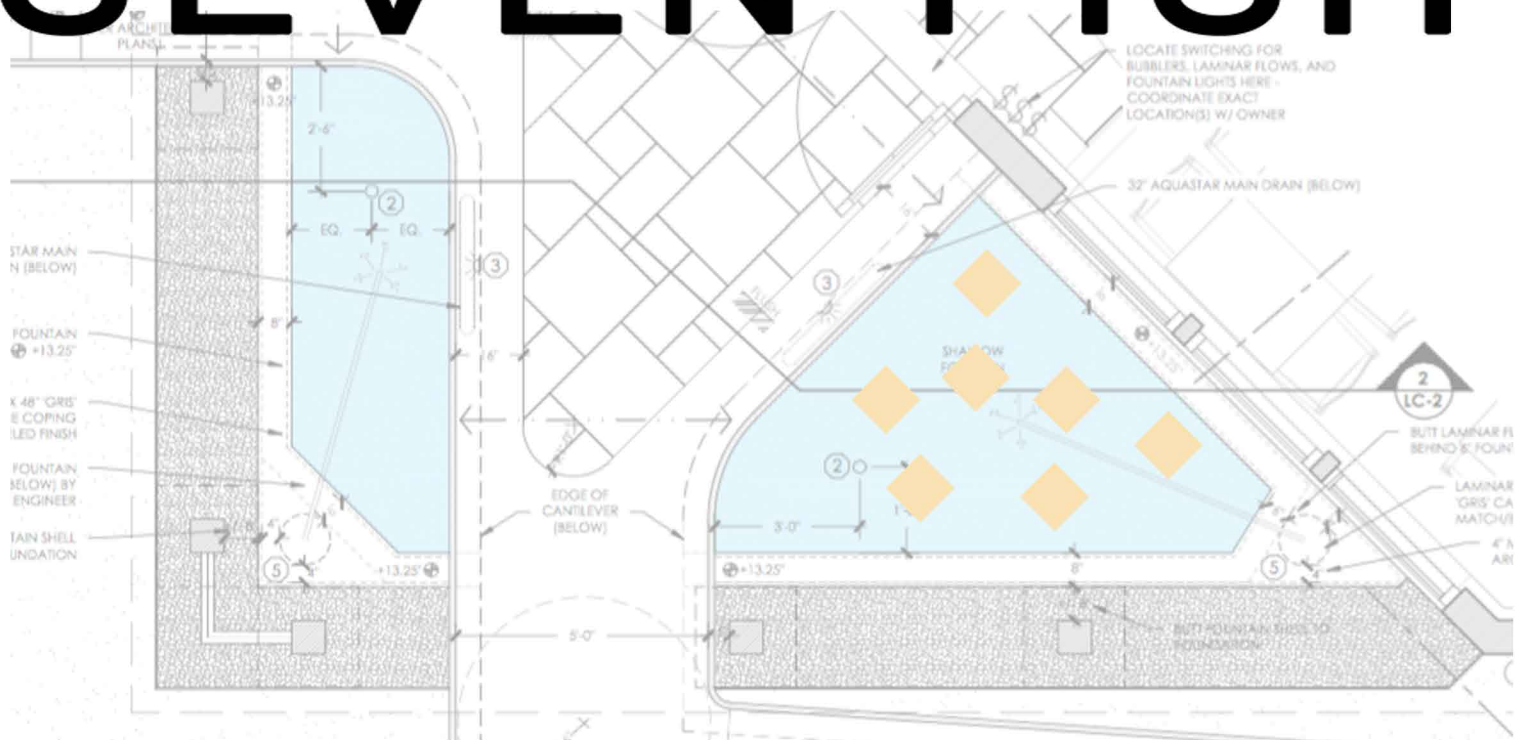




Adam Russell

SEVEN FISH





“Seven Fish” By Adam Russell

Concept: Seven colorfully patterned ceramic ‘totems’ holding 17” bronze Fish sculptures at varying heights over a rippling reflecting pool. Each of the seven towers will be of unique height, color, pattern and contour-- 6 of which will be either neutral in color or monochromatic blue akin to the color family of the building. The remaining, central column will be glazed in a brilliant orange to act as a complimentary focal point in the composition. All the separate towers will be anchored into tiled, concrete piers that are integrated into the structure of the reflecting pond. The pond itself, an existing and approved part of the site plan acts as a rippling mirror, Doubling the visual effect of the sculpture. The location of the sculpture has patrons inside the main seating area of the restaurant looking through the composition out to Truman Ave., as well as passersby enjoying the permanent artwork from A1A . The space also has 24 hour lighting and fountain gets as a requirement of the pool and will be passed by literally every patron entering the property.

Construction: The ceramic elements of the sculpture will be rendered from premium quality high-fire stoneware and subsequently covered with fired on glass. Each 24 inch ceramic component fits over a central 3/4” stainless steel rod to which they are connected with stainless Nylox at two different intervals by way of a flexible polyethylene diaphragm. The fish will be rendered in bronze and will thread onto the top of the same 3/4” Rod with a thread-locking adhesive. The entire composition will be fastened onto the submarine pedestals integrated into the construction of the pond.

Budget: \$20,000. \$2K in surplus of 1% of Project

Bronze Mold/Model, Casting, Patina, Plaque	\$8000
Steel, Polythylene, Submarine Adhesives	\$2000
Glazed Ceramic Production	\$10,000

Total Budget \$20,000.00



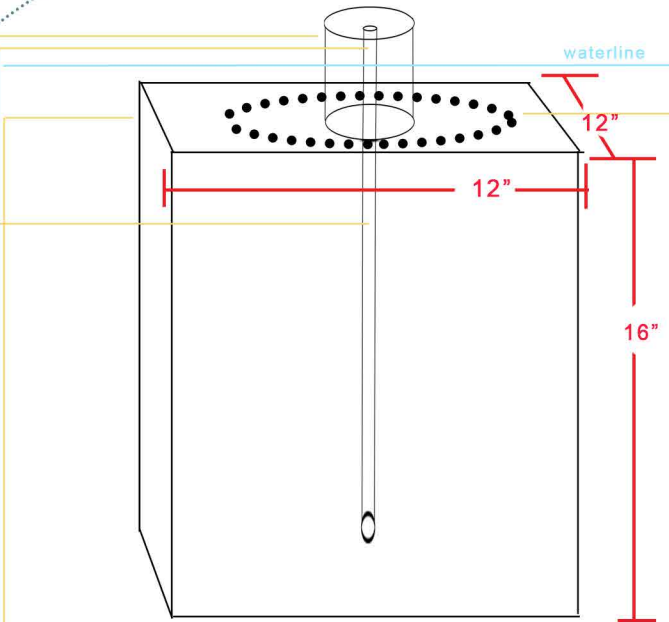
Bronze Sculpture
Approximately 18 lbs.

Polyethylene Diaphragm

3/4" SS AllThread

3/4" Thick Double Glazed
Cone 6 Stoneware Shell

SS Connectors/Couplings



Pedestals: $12" \times 12" \times 16.5" = 1.33$ Cubic Feet of Concrete = 199.5 lbs Cured Weight.

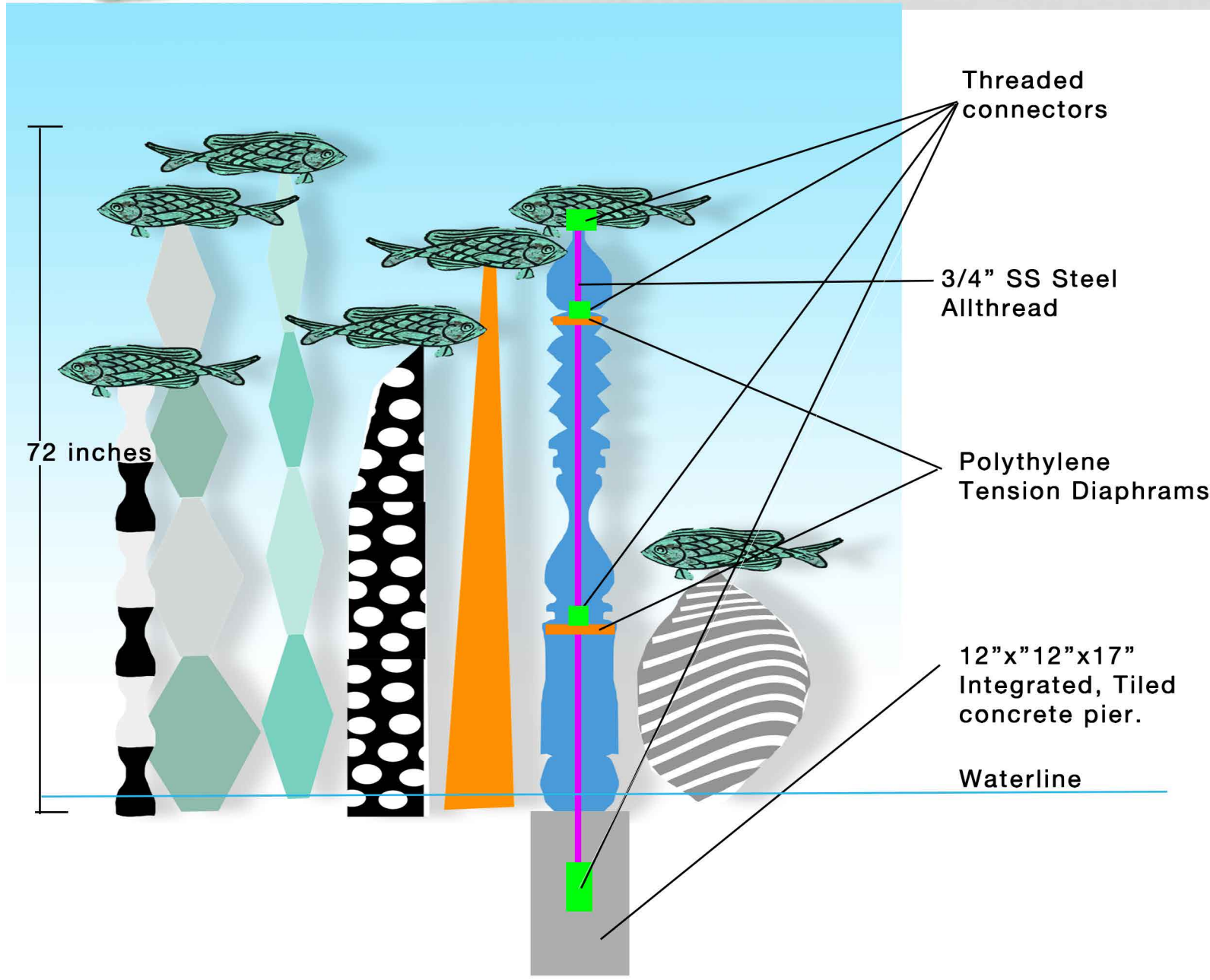
- Fully integrated with substructure as part of pool contract, ie: physically anchored to building foundation
- Tiled with "White Ice" veneer to match over all pool tiling, per pool contract

15" Threaded 3/4" Stainless Rod Set into wet concrete.

3" Waterproof Ceramic Conduit Splashguard

Dotted Line Shows the 11" Maximum Diameter of Artwork

72" max



Proven Wind Load Efficacy of Similarly Designed Artworks in Key West Shown Against NAS Windspeed Records for 2013, 2014, 2015, and 2016

Numerous artworks of this design have been successfully deployed in both private and public art arrangements in our local, outdoor environment since 2013. Many of these artworks are considerably taller and wider than those proposed for Seven Fish (see accompanying ‘Examples’ slide-sheet) as well as many that are installed with no architectural wind shelter. No breakage or failure has ever been reported because of wind. This circumstantial evidence compared against 4 years of NAS Wind Speed Records suggest the Sculpture’s maximum wind load is (at least) in excess of both 2015 and 2016 record for a maximum SUSTAINED WIND SPEED of 56 mph. See Tables Below.

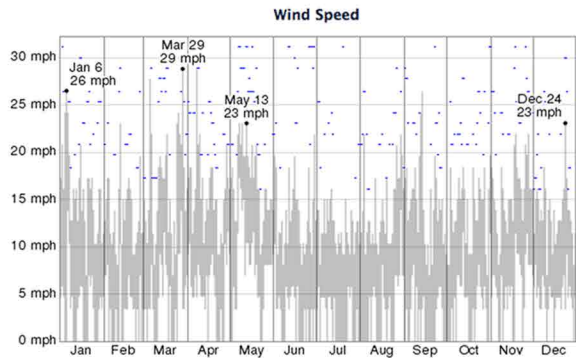
These artworks are explicitly designed to be removed before a categorized windstorm event as discussed with owners.

A full Wind Shear Engineering Analysis can be arranged upon concept approval and contract to produce the artwork. The 7 vertical elements arranged in this proposal range from 24 to 72 inches in height and 50 to 100 pounds of weight-- as measured above the pedestal. That means a minimum 2:1 (base:sculpture) Weight Ratio compared to the solid concrete pedestal construction itself, not to mention the integrated, stationary nature of the pedestals construction, the hydrodynamic effect of the surrounding water, decorative fill stone and tiling (as detailed on the schematics page of this presentation.)

Our Polyethylene Diaphragm design mitigates thermal expansion variability between the 4 construction materials (stoneware, stainless steel, bronze, concrete, and polyethylene), with potential energy torque loading; which also acts as a wind load compensation mechanism.

Wind

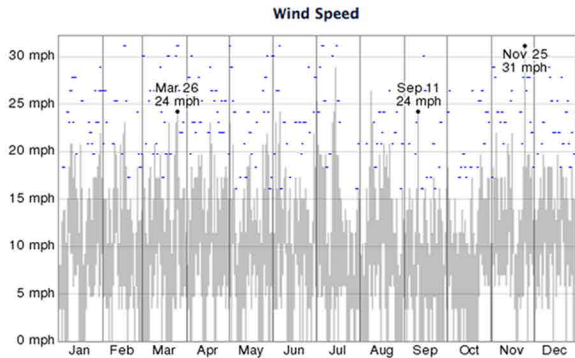
The highest sustained wind speed was 29 mph, occurring on March 29; the highest daily mean wind speed was 20 mph (May 8); and the highest wind gust speed was 49 mph (August 31). The windiest month was May, with an average wind speed of 13 mph. The least windy month was July, with an average wind speed of 7 mph.



The daily low and high wind speed (light gray area) and the maximum daily wind gust speed (tiny blue dashes).

Wind

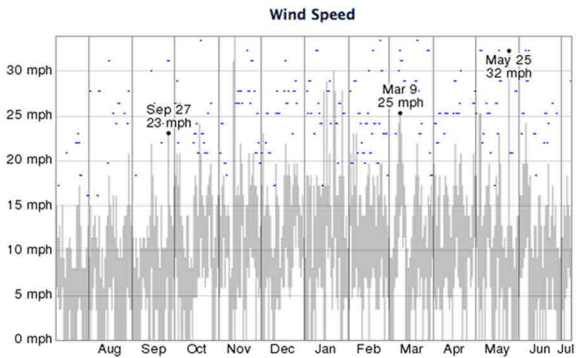
The highest sustained wind speed was 31 mph, occurring on November 25; the highest daily mean wind speed was 17 mph (March 26); and the highest wind gust speed was 47 mph (August 9). The windiest month was November, with an average wind speed of 11 mph. The least windy month was September, with an average wind speed of 8 mph.



The daily low and high wind speed (light gray area) and the maximum daily wind gust speed (tiny blue dashes).

Wind

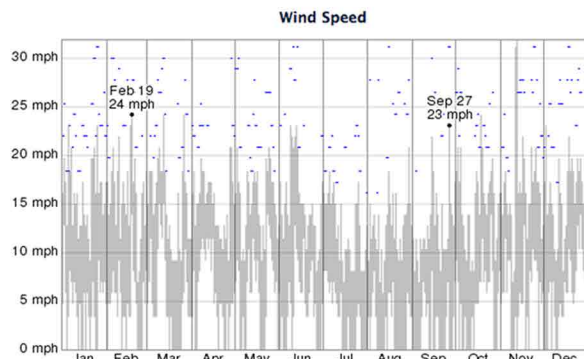
The highest sustained wind speed was 56 mph, occurring on November 13; the highest daily mean wind speed was 21 mph (November 13); and the highest wind gust speed was 41 mph (January 17). The windiest month was November, with an average wind speed of 11 mph. The least windy month was August, with an average wind speed of 7 mph.



The daily low and high wind speed (light gray area) and the maximum daily wind gust speed (tiny blue dashes).

Wind

The highest sustained wind speed was 56 mph, occurring on November 13; the highest daily mean wind speed was 21 mph (November 13); and the highest wind gust speed was 59 mph (June 10). The windiest month was November, with an average wind speed of 11 mph. The least windy month was August, with an average wind speed of 7 mph.



The daily low and high wind speed (light gray area) and the maximum daily wind gust speed (tiny blue dashes).



Adam Russell

WWW.ADAMJRUSSELL.COM

AGREEMENT FOR COMMISSION OF PUBLIC ART WORK

THIS AGREEMENT, is entered into this 1st_ day of June, 2015, by and between _____, (hereinafter the “Owner”) with offices at _____ and Adam Russell (hereinafter, “Artist”) with offices at 1203 Duval St, Key West, FL 33040.

WHEREAS, the Owner requires the services of an artist to create a work of art (hereinafter the “Artwork” in a public space located at _____ (hereinafter the “Site”); and

WHEREAS, the Artist is a professional artist whose work and qualifications make the Artist uniquely qualified to create the Artwork;

WHEREAS, the Owner has selected the Artist based upon the Artist’s work and qualifications; and

WHEREAS, the Artist and the Owner wish to perform under the terms and conditions of this Agreement;

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

- a. “Agency” shall mean AIPP, Art in Public Places
- b. “Artist” shall mean: **ADAM RUSSELL**. Artist shall be jointly and severally responsible for satisfying Artist’s obligations under this contract.
- c. “Artwork” shall mean the work of art designed by Artist for the Site under the terms of this Agreement, as described in Artist Proposal. Attached as Appendix “A”.

Article 1 Scope of Services

1. Artist’s Obligations

- a. The Artist shall perform all services and furnish [all supplies, material and/or work equipment (specify if not all)] as necessary for the design, fabrication, transportation of the Artwork. Services shall be performed in a professional manner and in strict compliance with all terms and conditions in this Agreement.
- b. The Artist shall determine the artistic expression, design, dimensions (Minimum 24” height) and materials of the Artwork, subject to review and acceptance by the Owner and any regulatory agencies with project oversight, as set forth in this Agreement. The Artist will do so in a manner that ensures that the Artwork as installed shall not interfere with the intended use of the Site, pedestrian and other traffic flow, parking, safety devices and procedures, and other needs and

- functions of the site as defined by Owner and/or ordinance prior to the development of a design by the Artist
- c. The Artist shall prepare the design concept described in Section 1.3 of this Agreement.
 - d. The Artist shall complete the fabrication, transportation and installation of the Artwork by _____
 - e. The Artist shall secure any and all required licenses, permits and similar legal authorizations at the Artist's expense as may be necessary for the installation of the Artwork at the Site.
 - f. The Artist shall arrange for the transportation and installation of the Artwork in coordination with Owner. If the Artist does not install the Artwork himself, Artist shall supervise and approve the installation. Prior to the installation of the Artwork, Artist shall inspect site to ensure that it is ready to accept the artwork and compliant with the specifications provided by the Artist. Artist shall notify Owner of any perceived conflict, defect or non-compliance with specifications. All work shall be performed by qualified professionals and by licensed contractors as required by law.
 - g. Artist shall provide a list of all subcontractors along with a copy of the agreement between the Artist and each subcontractor.
 - h. Artist shall provide a maintenance manual with a description of all materials, processes and products utilized in the Artwork and the required care and upkeep involved, as well as recommended procedures in the event of necessary conservation.
 - i. Artist shall provide a set of "as built" drawings if there is significant deviation from approved and permitted construction documents.
 - j. Artist shall provide photographic documentation of the Artwork in a format acceptable to Artist and Owner.
 - k. Artist shall be available with reasonable advance notice for a reasonable number of meetings required to coordinate design and project implementation, ceremonies and the like, as necessary.

2. Owner's Obligations

- a. The Owner shall perform all obligations in strict compliance with all terms and conditions in this Agreement.
- b. The Owner shall be responsible for providing the Artist, at no expense to the Artist, copies of existing designs, drawings, reports, list of required permits, and other existing relevant data, if any, which is needed by Artist in order to perform.
- c. The Owner shall be responsible for compliance with all applicable laws and regulations, including but not limited to zoning or environmental regulations, and prior to Artist's development of design, shall provide to the artist in writing an explanation of any specific limitations imposed by such laws and/or regulations that may impact the Artwork including the policies, guidelines and approvals required by regulatory or oversight agencies such as a cultural affairs office.

- d. The Owner shall prepare the Site in accordance with the specifications detailed in the approved design concept in Section 1.3 of this Agreement. The Owner shall be responsible for [all expenses, labor and equipment (specify if not all)] to prepare the Site for the timely transportation and installation of the Artwork. The Owner shall complete the Site preparations for final installation in December 2015.
- e. The Artist shall provide and install a plaque on or near the Artwork containing a credit to the Artist and a copyright notice substantially in the following form:
Copyright © [Artist's name, date of publication].
- f. The Owner shall not permit any use of the Artist's name or misuse of the Artwork which would reflect discredit on the Artist's reputation as an artist or which would violate the spirit of the Artwork, should such use or misuse be within the Owner's control.

3. Design

- a. Concept/Schematic
 - i. The Artist submitted a design concept/schematic (the "Design") which was selected and approved by the Owner. The Design shall be attached to this Agreement as Exhibit A.
- b. Approval
 - i. Owner approves the design of "Seven Fish" as submitted.
- c. Final Design
 - i. Upon approval of the schematic design by Owner, Artist is authorized to proceed with Final Design which shall include the following: 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 final cost estimates at design completion. When used in reference to the proposed Artwork, Final Design 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.
- d. Final/Construction Documents
 - i. Artist shall submit Construction Documents for construction and/or installation of the proposed Artwork.

1.4 Budget, Payment and Deliverables Schedule

- a. Budget
 - i. The Owner shall prepare a budget, which shall include all goods, services and materials with such costs itemized. The Budget shall be attached to this Agreement as Exhibit B.
 - ii. Payment will be \$10,000 upon approval by AIPP, \$5,000 upon delivery and \$5,000 due upon final approval.

1.5 Schedule and Progress Reports

- a. The Artist shall notify the Owner of the anticipated schedule for the fabrication, transportation and installation of the Artwork, including a schedule for the submission of progress reports and inspections if any required by Owner.
- b. The Artist shall inform the client of the progress of each phase of work completed under the Agreement.

1.6 Fabrication Stage

- a. The Artist shall fabricate the Artwork in substantial conformity with the Design. The Artist may not deviate from the approved design without written approval of the Owner.
- b. If the Artwork is being constructed on site, the Artist shall avoid creating nuisance conditions arising out of the Artist's operations.
- c. The Owner shall have the right to review the Artwork at reasonable times during the fabrication thereof upon reasonable notice.
- d. If the Owner, upon review of the Artwork, determines that the Artwork does not conform to the approved Final Design, the Owner reserves the right to notify the Artist in writing of the deficiencies.
- e. The Artist will have 30 days to cure the Owner's objections and will notify the Owner in writing of completion of the cure. The Owner shall promptly review the Artwork, and upon approval shall release the next budget installment. If the Artist disputes the Owner's determination that the Artwork does not conform, the Artist shall promptly submit reasons in writing to the Owner within 10 days of the Owner's prior notification to the contrary. The Owner shall make reasonable efforts to resolve the dispute with the Artist in good faith. However, final determination as to whether the Artist has complied with the terms of this Agreement shall remain with the Owner.
- f. The Artist shall notify the Owner in writing when fabrication of the Artwork has been completed, and that the Artwork is ready for delivery and installation at the Site if the Artwork was fabricated off-site.

1.7 Installation

- a. Upon the Owner's final approval of the fabricated Artwork as being in conformity with the Design, the Artist shall deliver the completed Artwork to the Site.
- b. The Artist will coordinate closely with the Owner to ascertain that the Site is prepared to receive the Artwork.
- c. The Artist and Owner are responsible for timely installation of the Artwork. Artist may not install the Artwork until authorized to do so by the Owner.
- d. The Artist shall be present to supervise the installation of the Artwork.
- e. Upon installation, the Artwork shall be deemed to be in the custody of the Owner for purposes of Article 3 and Article 5 of this Agreement; the Owner assumes

liability for any damage to the Artwork or injury to persons or property caused by the Artwork or any activity related to the Artwork.

- f. Upon completion of the installation of the Artwork, the Artist shall provide the Owner with written instructions for the future maintenance and preservation of the Artwork. The Owner is responsible for the proper care and maintenance of the Artwork.

1.8 Approval and Acceptance

- a. The Artist shall notify the Owner in writing when all services as required of both Parties by this Agreement prior to this paragraph have been completed in substantial conformity with the Design, approval by AIPP, City of Key West and contract documents.
- b. The Owner shall promptly notify the Artist in writing of its final acceptance of the Artwork within 10 days after the Artist submitted written notice pursuant to paragraph (a) above. The effective date of final acceptance shall be the date the Owner submits written notice to the Artist of its final acceptance of the Artwork. The final acceptance shall be understood to mean that the Owner acknowledges completion of the Artwork in substantial conformity with the Design, and that the Owner confirms that all services as required of both Parties by this Agreement prior to paragraph (c) of this section have been completed. Title to the Artwork to the Owner passes upon final acceptance of the Artwork and final payment by Owner to Artist. If a regulatory agency must approve the completed artwork, the Owner should move promptly to gain such approval as it will be a precondition to the Owner's ability to accept and approve the finished artwork from the Artist.
- c. If the Owner disputes that all the services have been performed, the Owner shall notify the Artist in writing of those services the Artist has failed to perform within

Article 2. Terms of Agreement

- a. Duration
 - i. This Agreement shall be effective on the date that this contract has been signed by both parties, and, unless terminated earlier pursuant to such provisions in the Agreement, shall extend until final acceptance by the Owner under Section 1.8(b), or submission of final payment to the Artist by the Owner under Exhibit B, whichever is later.

Article 3. Risk of Loss

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

Discussion

Article 4 Artist's Representations and Warranties

4.1 Warranties of Title

The Artist represents and warrants that:

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

1. Warranties of Quality and Condition

- a. The Artist represents and warrants that all work will be performed in accordance with professional "workmanlike" standards and free from defective or inferior materials and workmanship (including any defects consisting of "inherent vice," or qualities that cause or accelerate deterioration of the Artwork) for year after the date of final acceptance by the Owner under Section 1.8(b).
- b. The Artist represents and warrants that the Artwork and the materials used are not currently known to be harmful to public health and safety.
- c. The Artist represents and warrants that reasonable maintenance of the Artwork will not require procedures substantially in excess of those described in the maintenance and preservation recommendations submitted by the Artist.

1. General

- a. The Artist acknowledges that until installation of the Artwork under Section 1.7(e), any injury to property or persons caused by the Artist's Artwork or any damage to, theft of, vandalism to, or acts of God affecting the Artist's Artwork are the sole responsibility of the Artist, including, but not limited to, any loss occurring during the creation, storage, transportation or delivery of the Artist's Artwork, regardless of where such loss occurs.

- b. Terms for the procurement and duration of insurance are provided in Exhibit C.
- c. Required insurance policies are described in Exhibit C.

2. Indemnity

- a. The Artist shall indemnify the Owner, its respective officers, agents, and employees, from any claims brought arising out of the breach of this Agreement or any negligent occurrence which occurs pursuant to the performance of this Agreement by the Artist, its subcontractors, agents or employees.
- b. The Owner shall indemnify the Artist, Artist's subcontractors, agents or employees from any claims brought arising out of the breach of this Agreement or any negligent occurrence which occurs pursuant to the performance of this Agreement by the Owner, its respective officers, agents, and employees.
- c. Each Party shall immediately notify the other of any written claim regarding any matter resulting from or relating to the Party's obligations under this Agreement. Each Party shall cooperate, assist, and consult with the other in the defense or investigation of any such claim arising out of or relating to the performance of this Agreement.
- d. This indemnification shall survive the termination or expiration of this Agreement.
- e. Notwithstanding any provision of this Agreement to the contrary, no Party shall recover from a Party to this Agreement in an action, of whatever nature, in contract or tort, any consequential or incidental damages, lost profits, or any type of expectancy damages.

Article 6 Ownership and Intellectual Property Rights

1. Title

Title to the Artwork shall pass to the Owner upon the Owner's written final acceptance and payment for the Artwork pursuant to Section 1.8(b) and Exhibit B.

2. Ownership of Documents

One set of presentation materials prepared by Artist and submitted to Owner under this Agreement shall be retained by Owner.

3. Copyright Ownership

The Artist retains all rights under the Copyright Act of 1976, 17 U.S.C. §101 et seq., as the sole author of the Artwork for the duration of the copyright.

4. Reproduction Rights

- a. In view of the intention that the final Artwork shall be unique, the Artist shall not make any additional exact duplicate [three]-dimensional reproductions of the final Artwork, nor shall the Artist grant permission to others to do so except with the

written permission of the Owner. However, nothing shall prevent the Artist from creating works in the Artist's manner and style of artistic expression.

- b. The Artist grants to the Owner and its assignees an irrevocable license to make two-dimensional reproduction of the Artwork for non-commercial purposes, including, but not limited to, reproductions used in brochures, media publicity, and exhibition catalogues or other similar publication provided that these rights are exercised in a tasteful and professional manner.
- c. All reproductions by the Owner shall contain a credit to the Artist and a copyright notice in substantially the following form: © [Artist's name, date of publication].
- d. The Artist shall use his best efforts in any public showing or resume use of reproductions to give acknowledgment to the Owner in substantially the following form: "An original artwork owned and commissioned by the Owner."
- e. The Artist shall, at the Artist's expense, cause to be registered with the United States Register of Copyrights, a copyright in the Artwork in the Artist's name.
- f. If the Owner wished to make reproductions of the Artwork for commercial purposes including, but not limited to, tee shirts, post cards and posters, the Parties shall execute a separate agreement to address the terms of the license granted by the Artist and the royalty the Artist shall receive.

Article 7 Artist's Rights

1. General

- a. The Artist retains all rights under state and federal laws including §106A of the Copyright Act of 1976.
- b. The Owner agrees that it will not intentionally alter, modify, change, destroy or damage the Artwork without first obtaining permission from the Artist. The Owner further agrees to take reasonable measures to avoid these from occurring from the gross negligence of the Owner, its representatives, or employees pursuant to the federal Visual Artists' Rights Act.

2. Alteration of Site or Removal of Artwork

- a. The Owner shall notify the Artist of any proposed significant alteration of the Site that would affect the intended character and appearance of the Artwork. The Owner shall consult with the Artist in the planning and execution of any such alteration. The Owner shall make a reasonable effort to maintain the integrity of the Artwork.
- b. The Owner agrees not to arbitrarily remove or relocate the Artwork without first obtaining the Artist's express permission to do so. The Artist shall not unreasonably withhold approval of removal or relocation of the Artwork. Should the Artist agree to such removal or relocation of the Artwork, the Artist shall provide the Owner with written handling instructions. In the event that the Artist is deceased or unable to otherwise give his consent, the then current owner of the

copyright of the Artwork shall not unreasonably withhold permission, keeping in mind the intentions of the Artist at the time of commission and fabrication.

Article 8 Artist as an Independent Contractor

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

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

Article 9 Assignment of Artwork

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

Article 10 Termination

- a. Either Party may terminate this Agreement without recourse by the other where performance is rendered impossible or impracticable for reasons beyond such Party's reasonable control such as, but not limited to, acts of nature; war or warlike operation; superior governmental regulation or control; public emergence; or strike or other labor disturbances. Notice of termination of this Agreement shall be given to the non-terminating party in writing not less than 15 days prior to the effective date of termination.
- b. The Owner may terminate this Agreement without cause upon [60] days written notice to the Artist. The Owner shall pay the Artist for services performed and commitments made prior to the date of the termination, consistent with the schedule of payments set forth in Exhibit B of this Agreement. The Artist shall have the right to an equitable adjustment in the fee for services performed and expenses incurred beyond those for which the Artist has been compensated to date under Exhibit B with allowance for documented lost opportunities, unless the parties come to a settlement otherwise. The Artist shall retain possession and title to the [studies, drawing, designs, maquettes, and models] already prepared and submitted or prepared for submission to the Owner by the Artist under this Agreement prior to the date of termination.
- c. If either party to this agreement shall willfully or negligently fail to fulfill in a timely and proper manner, or otherwise violate any of the covenants, agreements or stipulations material to this Agreement, the other party shall thereupon have the right to terminate this Agreement by giving written notice to the defaulting party of its intent to terminate specifying the grounds for termination. The defaulting

party shall have 10 days after the effective date of the notice to cure the default. If it is not cured by that time, this Agreement shall terminate.

- d. If the Artist defaults [for cause other than death or incapacitation], the Artist shall return to the Owner all funds provided by the Owner in excess of the expenses already incurred. The Artist shall provide an accounting of these expenses. All finished and unfinished drawings, sketches, photographs and other work products prepared and submitted or prepared for submission by the Artist under this Agreement shall be retained by the Artist. [The Owner [shall] retain the right to have the Artwork fabricated or executed.] However, the Artist shall retain the copyright in the Artwork and all rights under Article 7 and Article 8.
- e. Upon notice of termination, the Artist and his subcontractors shall cease all services affected.

Article 11 Death or Incapacity

- a. If the Artist becomes unable to complete this Agreement due to death or incapacity, such death or incapacity will not be deemed a breach of this Agreement or a default on the part of the Artist for purposes of Article 10.
- b. In the event of incapacity, the Artist shall assign his obligations and services under this contract to another artist provided that the Owner approves of the new artist and so agrees in writing. If the Owner does not agree, the Owner may elect to terminate this Agreement. The Artist shall retain all rights under Article 6 and Article 7. The Artwork and any reproductions thereof shall contain a credit to the Artist and a copyright notice in substantially the following form: © [Artist's name, date of publication].
- c. In the event of death, this Agreement shall terminate effective the date of death. The Artist's heirs shall retain rights under Article 6 and Article 7. [The Artist's executor shall deliver to the Owner the Artwork in whatever form or degree of completion it may be in at the time. Title to the Artwork shall then transfer to the Owner. However, the Artwork shall not be represented to be the completed work of the Artist unless the Owner is otherwise directed by the Artist's heirs.]

Article 12 Notices and Documents

Notices under this Agreement shall be delivered personally or through the [registered or certified mail, return receipt requested] mail, postage prepaid, to the addresses stated below, or to any other address as may be noticed by a Party:

For the Owner:

For the Artist:
Adam Russell
1203 Duval st
Key West, FL 33040

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

Article 13 Waiver

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

Article 14 Conflict of Interest

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

Article 15 Arbitration

If, during the creation of the Artwork, its installation and subsequent existence, either Party breaches this Agreement, each Party agrees to submit to arbitration upon the request of the other Party provided that the breach is not cured within a reasonable time under paragraph (c) of Article 11.

If an ambiguity arises regarding this Agreement upon which the Parties cannot agree or a dispute arises as to the completion of a provision, the Parties shall submit to arbitration.

Each party agrees to be responsible for its own attorney's fees except as otherwise provided by statute.

Article 16 Amendments

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

Article 17 Conflict with the Law

If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall be held by a court of competent jurisdiction or arbitration panel to be in conflict with the laws, rules and/or regulations of the United States or the State of Florida, invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of this Agreement, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby to the extent the

remainder of the terms, covenants, conditions or provisions of this Agreement are capable of execution.

Article 19 Entire Agreement

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

For Owner:

Name

Title

Date

For Artist:

Name

Title

Date

Exhibit A

Description of Project