JACKSON COUNTY TOURISM DEVELOPMENT AUTHORITY
PUBLIC ART FUNDING AGREEMENT

This Public Art Funding Agreement (the "Agreement") is made as of the date on which the last party signs this Agreement (the "Effective Date") by and among the Jackson County Tourism Development Authority (the "JCTDA"), [APPLICANT LEGAL NAME] (the "Applicant"), [ARTIST LEGAL NAME] (the "Artist"), and [PROPERTY OWNER LEGAL NAME] (the "Property Owner"). If one person or entity serves in more than one role, that person or entity assumes the obligations applicable to each role.

RECITALS

WHEREAS, the Applicant requested JCTDA funding for a permanent or semi-permanent public-art project consisting of [BRIEF PROJECT DESCRIPTION], to be installed at [PROJECT LOCATION] (the "Project");

WHEREAS, the JCTDA has determined that the Project will serve as a destination-marketing asset and constitutes a tourism-related expenditure designed to attract visitors to Jackson County;

WHEREAS, the JCTDA approved the final design attached as Exhibit A (the "Approved Design") and an award of up to $[AMOUNT], subject to this Agreement and the JCTDA Public Art Policy (the "Policy"); and

WHEREAS, the Project is selected and controlled by the JCTDA to communicate its destination-marketing message, attract visitors to Jackson County, and support the JCTDA's statutory tourism mission, and is not a forum for unrestricted private expression;

NOW, THEREFORE, the parties agree as follows:

1. PROJECT APPROVAL AND COMPLETION

1.1 Approved Project. The Project shall be fabricated and installed at the approved location in substantial conformity with the Approved Design, including its approved subject matter, dimensions, materials, colors, attribution, and JCTDA branding.

1.2 Changes. No material change to the Approved Design, Project location, materials, dimensions, or content may be made without the JCTDA's prior written approval. Unauthorized changes may result in withholding or forfeiture of funding and may require correction, covering, or removal.

1.3 Completion. The Project shall be completed and installed by [COMPLETION DATE]. The JCTDA may approve a written extension for good cause.

1.4 Project Responsibility. The Applicant is responsible for coordinating the Project and ensuring compliance with this Agreement. The Artist is responsible for completing the artwork in conformity with the Approved Design. The Property Owner authorizes installation and public display of the Project at the approved location.

1.5 Permits and Safety. The Applicant and Property Owner are responsible, according to their respective roles and control, for required permits, site and structural review, accessibility, utility clearances, lawful installation, contractor supervision, security, and public safety.

2. FUNDING AND REIMBURSEMENT

2.1 Award. The JCTDA will reimburse the Applicant for approved and documented costs of fabricating and installing the Project, up to a maximum amount of $[AMOUNT] (the "Award"). The Applicant will be entitled to reimbursement of all such costs incurred, up to the maximum Award amount. The maximum Award amount represents a cap on reimbursement and does not guarantee payment of the full amount.

2.2 Post-Completion Reimbursement. No advance or progress payment will be made. After completion and installation, the Applicant shall submit high-resolution photographs, itemized paid invoices and receipts, proof of payment, and any other documentation reasonably requested by the JCTDA.

2.3 Conditions to Payment. Payment is conditioned on the JCTDA's determination that the completed Project substantially conforms to the Approved Design, the Policy, and this Agreement. The JCTDA may inspect the Project and may withhold or reduce reimbursement for unapproved work, undocumented costs, or material noncompliance. Intentional material noncompliance, or material noncompliance that is not timely cured, may result in forfeiture of the Award.

3. OWNERSHIP, COPYRIGHT, AND LICENSE

3.1 Physical Ownership. Upon installation, ownership of the completed physical artwork shall vest in [OWNER]. Ownership of the physical artwork does not transfer copyright.

3.2 Copyright. Unless otherwise agreed in writing, the Artist retains copyright in the artwork. The Artist represents that the Approved Design and completed artwork are original or properly licensed and do not knowingly infringe another person's copyright, trademark, right of publicity, or other proprietary right. Any third-party material must be disclosed and separately licensed before installation.

3.3 Government License. The Artist grants the JCTDA and Jackson County a perpetual, irrevocable, nonexclusive, royalty-free license to photograph, record, reproduce, publish, display, distribute, archive, and use images of the artwork for governmental, tourism-promotion, educational, and noncommercial promotional purposes. The JCTDA and Jackson County may authorize their employees, agents, contractors, successors, and assigns to exercise these rights and may resize, crop, format, color-correct, caption, combine, and display images of the artwork with governmental branding.

3.4 Attribution and Artist Use. When reasonably practicable and where credits are customarily included, the JCTDA will provide customary attribution to the Artist. Omission because of space, format, compilation use, inadvertence, or administrative error is not a material breach. Upon written notice of an omission in a continuing digital use, the JCTDA will make a commercially reasonable effort to add attribution prospectively. The Artist may photograph the completed artwork for portfolio and self-promotional purposes but may not state or imply that the JCTDA or Jackson County endorses the Artist or any unrelated product, cause, or message.

4. DISPLAY, MAINTENANCE, AND ARTIST RIGHTS

4.1 Display and Maintenance. The Property Owner authorizes installation and continuous display of the Project at the approved location for [DISPLAY PERIOD] (the "Display Period"). During the Display Period, the Project shall remain reasonably visible to the public, subject to temporary restrictions reasonably necessary for safety, maintenance, emergencies, or construction. Unless the JCTDA approves a different allocation of responsibility in writing, the Property Owner shall maintain the Project in a safe, clean, and presentable condition. The Property Owner shall promptly notify the JCTDA of any deterioration, damage, sale, transfer, construction, loss of site rights, or other event that may affect the Project or its continued display.

4.2 Governmental Control. For documented safety, operational, fiscal, property-management, tourism, branding, or other governmental purposes, the JCTDA or owner of the physical artwork may inspect, maintain, repair, restore, relocate, cover, deaccession, or remove the Project. Except in an emergency or when notice is impracticable, the JCTDA will make a reasonable effort to notify the Artist in advance and provide a reasonable opportunity for the Artist to offer nonbinding recommendations. Notice and consultation do not create any approval or veto right, delay authorized action, or entitle the Artist to additional compensation. When reasonably practicable, maintenance, conservation, repair, or restoration materially affecting the artistic integrity of the original artwork shall follow professionally reasonable conservation practices.

4.3 VARA and Building Waiver. The Artist specifically identifies the Project and the Approved Design attached as Exhibit A and waives, to the fullest extent permitted by 17 U.S.C. § 106A(e), claims arising from the maintenance, conservation, repair, alteration, relocation, covering, deaccession, or removal authorized by this Agreement. If the Project is incorporated into or made part of a building, the Artist and Property Owner acknowledge that removal may cause the destruction, distortion, mutilation, or other modification of the Project and consent to its installation and authorized removal under 17 U.S.C. § 113(d). This waiver applies only to the Project and the actions authorized by this Agreement and does not waive claims arising from unauthorized third-party conduct. The Artist acknowledges having read this provision, having had an opportunity to consult counsel, and signing voluntarily.

4.4 Emergency Action. The JCTDA, the owner of the physical artwork, or the Property Owner may immediately cover, stabilize, restrict access to, or remove the Project when reasonably necessary to address an imminent threat to persons or property.

4.5 Early Termination of Display; Recapture. If the Project is removed from public display or is no longer reasonably visible to the public before expiration of the Display Period without the JCTDA's prior written approval, the JCTDA may require the Applicant, Property Owner, or both, as appropriate under the circumstances, to repay all or a reasonable portion of the Award. In determining the amount of repayment, the JCTDA may consider the length of time the Project remained on public display, the reason display ended, and whether the Project can be relocated to another approved location. Any repayment required under this Section is subject to Section 6.2.

4.6 Access for Inspection and Removal. The Property Owner grants the JCTDA and its authorized representatives a nonexclusive license to enter the approved location at reasonable times and upon reasonable advance notice to inspect the Project. If the Property Owner fails to correct a material maintenance or display default within thirty (30) days after written notice, the JCTDA and its authorized representatives may enter the approved location to cover, stabilize,

relocate, or remove the Project. Advance notice and an opportunity to cure are not required in an emergency involving an imminent threat to persons or property. The Property Owner shall reimburse the JCTDA for reasonable costs incurred because of the Property Owner's default, with payment due in accordance with Section 6.2.

5. INSURANCE, LIABILITY, AND INDEMNITY

5.1 Insurance. Before work begins, the Applicant, Artist, Property Owner, and any installation contractor shall maintain liability insurance, as the JCTDA reasonably requires based on their respective work and risks, and provide a copy of the Certificate of Insurance (COI) to the JCTDA for approval prior to commencement of the work. The JCTDA may require the JCTDA and Jackson County to be named as additional insureds where commercially available and appropriate to the risk. The JCTDA may waive or modify insurance requirements based on the nature and scope of the Project.

5.2 No Governmental Warranty. Neither the JCTDA's nor Jackson County's approval, inspection, funding, or reimbursement constitutes a warranty of the Project's design, code compliance, site suitability, structural integrity, safety, or durability or makes either entity responsible for the acts or obligations of another party.

5.3 Preservation of Immunities. Nothing in this Agreement shall be construed as a waiver of governmental immunity, sovereign immunity, public-official immunity, or any other immunity, defense, or limitation of liability available to the JCTDA, Jackson County, or their respective officers, officials, employees, or agents under North Carolina law, except to the extent expressly waived by applicable law.

5.4 Indemnity. To the fullest extent permitted by law, each party shall defend, indemnify, and hold harmless the JCTDA, Jackson County, and their officials, employees, and agents from third-party claims, losses, liens, damages, judgments, and reasonable defense costs to the extent caused by that party's negligent or intentional acts or omissions, breach of this Agreement, or violation of law. The Artist's responsibility includes infringement, unauthorized third-party materials, deviation from the Approved Design, and injury or damage caused by the Artist's work. To the fullest extent permitted by law, the Applicant and Property Owner are responsible, according to their respective control, for site conditions, permits, installation, maintenance, premises liability, and unauthorized post-installation changes.

6. DEFAULT AND REMEDIES

6.1 Default. Material default includes failure to complete the Project by the applicable deadline; a material deviation from the Approved Design or approved location; unauthorized content or text; false or materially incomplete information; infringement; failure to maintain insurance required by the JCTDA under Section 5.1; failure to maintain the Project or continuously display the Project during the Display Period; denial of access required under Section 4.6; or another material breach of this Agreement or the Policy.

6.2 Remedies. Upon default, the JCTDA may require corrective action, withhold or reduce reimbursement, terminate the Award, recoup disbursed funds, direct temporary covering, or require relocation or removal. Any amount subject to recoupment shall be repaid within thirty (30) days after written demand by the JCTDA unless the JCTDA approves a different repayment schedule in writing.

7. GENERAL PROVISIONS

7.1 Records and Public Records. The Applicant shall provide the JCTDA with documentation reasonably necessary to verify compliance with this Agreement and the proper use of the Award. Records made or received by the JCTDA or Jackson County in connection with the Project, the Award, or this Agreement may be public records subject to N.C. Gen. Stat. Chapter 132 and other applicable law.

7.2 Independent Parties; Assignment. The Applicant, Artist, Property Owner, and their contractors act independently from the JCTDA and Jackson County. No party may assign this Agreement or transfer an obligation affecting the Project or approved location without the JCTDA's prior written consent.

7.3 Notices and Amendment. Notices shall be in writing and delivered to the addresses or email contacts below. Any amendment, design change, site change, extension, or waiver must be in writing and approved by the JCTDA and any other party whose rights or obligations are affected.

7.4 Governing Law and Venue. North Carolina law governs this Agreement. Venue for any dispute lies in Jackson County, North Carolina.

7.5 Entire Agreement; Severability; Waiver. This Agreement, including the Approved Design attached as Exhibit A, and the Policy, which is incorporated by reference, constitute the entire agreement concerning the Award and the Project. This Agreement controls in the event of a conflict. If a provision is held invalid or unenforceable, the remaining provisions remain effective. Failure to enforce any provision is not a waiver.

7.6 Survival. The provisions concerning ownership, copyright, license, attribution, artist rights and waiver, maintenance, relocation, covering, removal, indemnity, repayment, and remedies survive reimbursement, expiration, termination, relocation, or removal as necessary to give them effect.

7.7 Counterparts and Electronic Signatures. This Agreement may be executed in counterparts and by electronic signature, each of which is deemed an original and together constitute one instrument.

[Signatures on the following page]

IN WITNESS WHEREOF, the parties have executed this Agreement.

JACKSON COUNTY TOURISM DEVELOPMENT AUTHORITY

_____ Date: _____
By: _____
Title: _____
Address: _____
Email: _____

APPLICANT:

_____ Date: _____
By: _____
Title: _____
Address: _____
Email: _____

ARTIST:

_____ Date: _____
By: _____
Title: _____
Address: _____
Email: _____

PROPERTY OWNER:

_____ Date: _____
By: _____
Title: _____
Address: _____
Email: _____

EXHIBIT A
APPROVED DESIGN