



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		4/12/10		
Department:		Parks and Recreation		
Department Head		Amy Fortenberry		
Agenda Coordinator (include phone #): Susan Berger (7255)				
CAPTION				
A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of an Amended Contract between Helmick Sculpture LLC and the City of Plano for artwork in the Visitor Center of Oak Point Park and Nature Preserve; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(s):				
COMMENTS: This item has no financial impact.				
STRATEGIC PLAN GOAL: This public art element relates to the City's Goal of "Premier City for Families."				
SUMMARY OF ITEM				
A Resolution to contract Helmick & Schechter Sculpture was adopted by City Council on 11/13/06 to design, fabricate, deliver, and install artwork in the Visitor/Education Center lobby of Oak Point Park and Nature Preserve. Due to budget constraints, this project has been delayed. This item amends the contract to retain the artist and extends the contract terms. The amendment also reflects the company's name change to Helmick Sculpture. The artwork is "Natural Selections," a suspended sculpture of shaped steel rods, depicting images of plant and animal species native to the region.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
Resolution				
Contract				

A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of an Amended Contract between Helmick Sculpture LLC and the City of Plano for artwork in the Visitor Center of Oak Point Park and Nature Preserve; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.

WHEREAS, the City previously entered into an agreement with Helmick & Schechter for the design, fabrication and installation of a piece of artwork in the Visitor Center of Oak Point Park and Nature Preserve; and

WHEREAS, the City Council has been presented a proposed Amended Contract for said artwork between Helmick Sculpture LLC and the City of Plano, a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Amended Contract"); and,

WHEREAS, Ralph Helmick and Stuart Schechter entered into a Dissolution Agreement on May 1, 2008, to dissolve the corporation of Helmick & Schechter, a copy of which is attached hereto as Exhibit "B" and incorporated herein by reference (hereinafter called "Dissolution Agreement"); and

WHEREAS, the Dissolution Agreement assigned all of the Outstanding Contracts including all the rights and obligations of Helmick & Schechter to Ralph Helmick; and

WHEREAS, upon full review and consideration of the Amended Contract, and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions thereof should be approved, and that the City Manager or his authorized designee shall be authorized to execute it on behalf of the City of Plano.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. The terms and conditions of the Amended Contract, having been reviewed by the City Council of the City of Plano and found to be acceptable and in the best interests of the City of Plano and its citizens, are hereby in all things approved.

Section II. The City Manager or his authorized designee is hereby authorized to execute the Amended Contract and all other documents in connection therewith on behalf of the City of Plano, substantially according to the terms and conditions set forth in the Amended Contract.

Section III. This Resolution shall become effective immediately upon its passage.

DULY PASSED AND APPROVED this the 12th day of April, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

**EXHIBIT A
CONTRACT
(AMENDED)**

THIS CONTRACT is made and entered into by and between the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation, (hereinafter referred to as "City") and **HELMICK SCULPTURE LLC**, a Massachusetts limited liability company having its principal place of business at 447 Lowell Avenue, Newton, Massachusetts 02460 (hereinafter referred to as "Company").

1. **PURPOSE**

The purpose of this Contract is to state the terms and conditions under which Company shall design, fabricate and install a piece of artwork in the Visitor Center of Oak Point Park and Nature Preserve entitled *Natural Selections* as set forth in attached Exhibit "A", (hereinafter referred to as "Artwork").

2. **DESCRIPTION OF SERVICES**

Company's services hereunder shall include, but shall not be limited to, the following:

A. Company shall perform all the services related to the artwork as set forth in the Scope of Work attached hereto as Exhibit "B" and made a part of this Contract for all purposes; provided, however, should there be any conflict between Exhibit "B" and the terms of this Contract, the terms of this Contract shall be final and binding.

B. Company shall work closely and cooperate with the staff of the Creative Arts Division and the Director of the Parks and Recreation Department, or their designees (hereinafter jointly referred to as "Director," unless otherwise noted), and appropriate City officials and perform any and all related tasks required by the Director in order to fulfill the purposes of this Contract. Company shall consult with the architect and engineering consultants in development of final designs for the Artwork. All disputes and other matters in question between Company and City relating to this Contract or any interpretation of this Contract shall be resolved by the Director of the Parks and Recreation Department.

C. Direct supervision of both the design and composition/installation phases of the Artwork shall be the responsibility of Company.

D. City shall be responsible for providing Company, without cost, copies of existing designs, drawings, reports and other relevant data in City's possession needed by Company in order to design and install the artwork.

E. Company shall regularly communicate with the Director to review progress of design and composition/installation and to ensure the continuing feasibility of the Artwork.

F. Company and City agree that Company shall retain artistic control of the services performed under this Contract, subject only to the limitations and conditions imposed by this Contract.

G. As an expressed condition of this Contract, Company shall design the Artwork so that it can be composed and installed without exceeding the public art budget for this project or increasing construction costs for the Visitor Center of the Oak Point Park and Nature Preserve and so that reasonable maintenance of the Artwork will not require procedures or materials substantially in excess of those described in the maintenance recommendations submitted by Company. Company shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in the Company's performance. This includes redesign to meet the established budget.

H. Company shall complete the design and installation of the Artwork in conformity with the attached Exhibit "B", Scope of Work. Company agrees to comply with all applicable City, State and Federal laws, regulations, and ordinances relating to performance of the work under this Contract.

I. Company shall be responsible for any damage to the Artwork that may occur due to fire, explosion, theft, vandalism, flood, power failure, transit or any other cause until Artwork has been installed and accepted by City.

3. PERFORMANCE OF SERVICES

Company and Company's employees, associates or assistants shall perform all the services under this Contract in a timely, cost effective manner. Company represents that any employees, associates or assistants who perform services under this Contract on behalf of Company shall be fully qualified and competent to perform those services described in Section 2.

4. TERM

The term of this Contract shall begin November 13, 2006, and end fifteen (15) months from date of Notice to Proceed under this Amended Contract or upon installation and acceptance of Artwork by City, whichever occurs first. Company understands and agrees that, should there be construction delay, Company will be available to install Artwork at an appropriate time that will not further delay opening of the facility. Company understands and agrees that time is of the essence. All services are to be completed and delivered to City by the termination date unless an extension of time, based upon good reasons presented by Company, is approved in writing by City.

5. PAYMENT FOR SERVICES

In consideration of the professional services to be performed by Company under the terms of this Contract, City shall pay Company for services actually performed a fee not to exceed **ONE HUNDRED EIGHTY-FIVE THOUSAND AND NO/100 DOLLARS (\$185,000.00)**, payable with a deposit of \$65,000.00 upon completion and approval by City of the final design for Artwork and the ordering of materials; \$40,000.00 upon site preparation/integration, and 50% of fabrication; \$25,000 upon 100% completion of metal fabrication and pre-finish assembly/testing of the Artwork; \$25,000.00 upon paint/finishing; and the balance of \$30,000.00 upon delivery, installation and documentation of Artwork, to be paid pending acceptance of the Artwork by CITY, as full compensation for the services performed under this Contract. All travel, lodging, food and other expenses related to such travel in the performance of this Contract are the responsibility of the Company and not to be paid by City. If

other conditions necessitate additional services, the additional services must be authorized in advance by resolution of the City Council or, where applicable, by duly authorized administrative action signed by the City Manager and approved as to form by the City Attorney. Payments to Company shall be in the amount shown by the invoices and other documentation submitted and shall be subject to the Director's approval. Invoices shall be supported by written documentation and progress photographs. All services shall be performed to the reasonable satisfaction of the Director, and City shall not be liable for any payment under this Contract for services which are unsatisfactory and which have not been approved by the Director. City may, at its option, offset any amounts due and payable under this Contract against any debt (including taxes) lawfully due to City from Company, regardless of whether the amount due arises pursuant to the terms of this Contract or otherwise. Should it be necessary for City to exercise right of termination in accordance with the terms of this Contract, Company shall reimburse City any monies advanced by deposit not substantiated by reasonable invoices or documentation.

6. **CHANGE IN SERVICES**

City, through its Director, may request, from time to time, changes in the Scope of Work conducted or to be conducted by Company pursuant to this Contract. Any change which varies significantly from the Scope of Services set out in Section 2 and would entail a significant increase in cost or expense to Company shall be mutually agreed on by Company and the Director. Agreed to changes in the Scope of Work, which in the opinion of Company and the Director would require additional funding by City, must first be authorized in advance by resolution of the City Council or, where applicable, by duly authorized administrative action signed by the City Manager and approved as to form by the City Attorney.

7. **WARRANTIES**

Company warrants that: (a) the design and Artwork being commissioned is the original product of Company's own creative efforts and is not the subject of an existing patent or copyright owned by any other person or entity; and (b) unless otherwise stipulated, the Artwork is original, that it is an edition of one (1), and Company shall not sell or reproduce the Artwork or design or allow others to do so without the prior written consent of City. The warranties stated in this paragraph shall survive the termination of this Contract.

ARTIST warrants the structural integrity of the artwork for a period of one year from date of installation.

8. **MAINTENANCE/CONSERVATION**

Upon completion and installation of the Artwork, Company, shall prepare and submit to City a written recommendation for maintenance of the Artwork, describing materials, procedures, frequency, and estimated annual cost. Company shall be responsible for the first year's maintenance, and thereafter City shall be responsible to maintain the Artwork. Repairs, restoration and/or conservation shall be the responsibility of City. City reserves the right to perform maintenance or make repairs without consulting Company.

9. **CONFIDENTIAL WORK**

No reports, information, project designs, data or any other documentation developed by, given to, prepared by, or assembled by Company under this Contract shall be disclosed or made available to any individual or organization by Company without the express prior written approval of the Director.

10. **COPYRIGHT IN THE FINISHED ARTWORK**

Company's final design and all other work product (including the final Artwork itself) under this Contract shall become the property of the City, without restriction on future use, except as provided below. Company may retain copyright and other intellectual property rights in and to the final design and the final artwork itself. By execution of this Contract, Company grants to the City a perpetual, irrevocable license to graphically depict or display the final Artwork for any non-commercial purpose whatsoever; for purposes of this limitation, any graphic depiction or display of the final Artwork intended to promote or benefit the City, its public services or its public purposes, regardless of whether or not a fee is charged to the public, or whether revenue is otherwise received by the City, shall be deemed a non-commercial purpose. Notwithstanding the above limitation, Company agrees and understands that nothing in this paragraph shall affect or limit the City's absolute, unrestricted rights incidental to the City's full ownership of the final Artwork to alter, change, modify, destroy, remove, move, replace, operate, maintain, transport, sell or transfer, in whole or in part, the final Artwork when the City deems it necessary within its discretion, in order to otherwise exercise the City's powers and responsibility in regard to public works and improvements, in furtherance of the City's operations or for any other reason.

Company hereby acknowledges the rights of integrity and attribution conferred by Section 106A (a), paragraphs (2) and (3) of Title 17 of the U.S. Code, and any other rights of the same nature granted by federal, state or international laws, and of Company's own free will hereby waives such rights with respect to the City of Plano usage or use of the Artwork, including but not limited to the right to maintain, remove or destroy the Artwork.

11. **COMPANY'S LIABILITY**

Approval of City shall not constitute nor be deemed a release of the responsibility and liability of Company or Company's employees, associates or assistants for the accuracy and competency of Company's services, nor shall approval be deemed to be the assumption of such responsibility by City for any defect, error or omission in the services performed by Company or Company's employees, associates or assistants.

12. **INSURANCE REQUIREMENTS**

Company shall procure, pay for, and maintain during the term of this Contract, with a company authorized to do business in the State of Texas and acceptable to City, the minimum insurance coverage contained in Exhibit "C", attached to and made part of this Contract.

13. **INDEMNITY**

COMPANY AGREES TO DEFEND, INDEMNIFY AND HOLD CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL

CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES FOR: (A) ANY INFRINGEMENT OF PATENT OR COPYRIGHT ARISING OUT OF THE SERVICES PERFORMED BY COMPANY UNDER THIS CONTRACT REGARDLESS OF WHETHER OR NOT COMPANY OR CITY HAD KNOWLEDGE OF ANY EXISTING PATENTS OR COPYRIGHTS DURING THE COURSE OF PERFORMANCE OF THIS CONTACT; AND (B) PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY COMPANY'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS CONTRACT, OR BY ANY NEGLIGENT ACT OR OMISSION OF COMPANY, ITS OFFICERS, AGENTS, ASSOCIATES, EMPLOYEES OR SUBCONSULTANTS, IN THE PERFORMANCE OF THIS CONTRACT. THE INDEMNITY FOR PERSONAL INJURY, PROPERTY DAMAGE OR OTHER HARM CAUSED BY COMPANY'S CONTRACTUAL BREACH OR NEGLIGENCE PROVIDED IN (B) SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OF CITY, ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS, AND IN THE EVENT OF JOINT AND CONCURRENT NEGLIGENCE OF BOTH THE COMPANY AND CITY, RESPONSIBILITIES AND INDEMNITY, IF ANY, SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS PARAGRAPH 13 ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

14. RIGHT OF REVIEW AND AUDIT

City may review any and all of the services performed by Company under this Contract. City is hereby granted the right to audit, at City's election, all of Company's records and billings relating to the performance of this Contract. Company agrees to retain such records for a minimum of three (3) years following completion of this Contract.

15. AFFIDAVIT OF NO PROHIBITED INTEREST

Company acknowledges and represents Company is aware of all applicable laws, City Charter, and City Code of Conduct regarding prohibited interests and that the existence of a prohibited interest at any time will render the contract voidable. Company has executed the Affidavit of No Prohibited Interest, attached and incorporated herein as Exhibit "D".

16. NONDISCRIMINATION

As a condition of this Contract, Company covenants that Company will take all necessary actions to insure that, in connection with any work under this Contract, Company, its associates, employees, agents, and subcontractors, will not discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, religion, national origin, age, sex or handicap unrelated to job performance either directly, indirectly or through contractual or other arrangements. In this regard, Company shall keep, retain and safeguard all

records relating to this Contract or work performed hereunder for a minimum period of three (3) years from final Contract completion, with full access allowed to authorized representatives of the City, upon request, for purposes of evaluating compliance with this and other provisions of the Contract.

17. **CONTRACT PERSONAL**

This Contract provides for personal/professional services, involving the skill and creativity of Company. Therefore, the Company shall not assign this Contract, in whole or in part, without the prior written consent of City.

18. **TERMINATION**

City's Director may terminate this Contract, in whole or in part, for cause or the convenience of City, upon ten (10) days written notice to Company with the understanding that all services being performed under this Contract shall cease upon the date specified in such notice. Company shall invoice City for all services completed and shall be compensated or reimburse City accordingly for all services performed by Company prior to the date specified in such notice. Upon notice of termination, Company shall promptly discontinue all services affected (unless otherwise directed by the notice) and promptly deliver to City all data, drawings, specifications, calculations, reports, estimates, materials and completed or partially completed work produced by Company under this Contract.

19. **NOTICES**

All notices, communications, and reports required or permitted under this Contract shall be personally delivered or mailed to the respective parties by depositing same in the United States mail, postage prepaid, at the addresses shown below, unless and until either party is otherwise notified in writing by the other party, at the following addresses. Mailed notices shall be deemed communicated as of five (5) days after mailing.

If intended for City, to:

City of Plano, Texas
Attn: Christine Eubanks
1409 K Avenue
Plano, TX 75074 or
P.O. Box 860358
Plano, TX 75086

If intended for Company, to:

Helmick Sculpture LLC.
Attn: Ralph Helmick
President
447 Lowell Avenue
Newton, MA 02460

20. **INDEPENDENT CONTRACTOR**

In performing services under this Contract, the relationship between City and Company is that of independent contractor, and City and Company by the execution of this Contract do not change the independent status of Company. Company shall exercise independent judgment in performing Company's duties under this Contract and is solely responsible for setting working hours, scheduling or prioritizing the work flow and determining how the work is to be performed. No term or provision of this Contract or act of Company in the performance of this Contract shall be construed as making Company the agent, servant or employee of City, or making Company or any of Company's employees eligible for the fringe benefits, such as retirement, insurance, and workers' compensation, which City provides its employees.

21. **APPLICABLE LAWS**

This Contract is made subject to the provisions of the Charter and ordinances of City, as amended, and all applicable State and federal laws.

22. **GOVERNING LAW**

This Contract shall be governed by and construed in accordance with the laws and court decisions of the State of Texas.

23. **VENUE**

The obligations of the parties to this Contract are performable in Collin County, Texas, and if legal action is necessary to enforce same, exclusive venue shall lie in Collin County, Texas.

24. **LEGAL CONSTRUCTION**

In case any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Contract shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this Contract.

25. **COUNTERPARTS**

This Contract may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

26. **CAPTIONS**

The captions to the various clauses of this Contract are for informational purposes only and shall not alter the substance of the terms and conditions of this Contract.

27. **SUCCESSORS AND ASSIGNS**

This Contract shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and, except as otherwise provided in this Contract, their assigns.

28. **ENTIRE AGREEMENT**

The Contract embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to matters in this Contract, and except and otherwise provided herein cannot be modified without written agreement of the parties to be attached to and made a part of this Contract.

EXECUTED the _____ day of _____, 2010, by City, signing by and through its City Manager, duly authorized to execute same by Resolution No. _____ and adopted by the City Council on _____, 2010 and by Company, signing by and through its authorized officer.

CITY OF PLANO, TEXAS

BY: _____
Thomas H. Muehlenbeck
CITY MANAGER

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

HELMICK SCULPTURE LLC

BY: 

Ralph Helmick
PRESIDENT

EXHIBIT "A"

NATURAL SELECTIONS

PROPOSED ART ELEMENT FOR VISITOR CENTER LOBBY
OAK POINT PARK AND NATURE PRESERVE, PLANO, TEXAS
BY HELMICK SCULPTURE LLC.

Description of the Artwork

Visitors entering the lobby of the new Visitor Center of the Oak Point Park and Nature Preserve will encounter an epic visual meditation on the wonder of Nature and the beauty of discovery.

Suspended from the ceiling and extending the full length of the hall is a vast "drawing in space" made of shaped steel rod. Spanning 78 feet and descending to within 11 feet of the floor, it follows the canted contour of the roof, sloping gently to the south and toward the lake beyond.

At first glance this seemingly chaotic steel filigree seems an abstract design, lending an ornamental element to the stone and wood interior. But visitors soon discern that the varied lines and sinuous curves hold something more: a compendium of references to the rich ecosystem beyond the walls.

Initially a viewer coaxes out a single form from the thicket of marks, perhaps a boxwood leaf. Then she notices that it shares a line with an overlapping bird, connecting as well to an adjacent outline of a turtle, and so on.

Further observation reveals smaller three-dimensional forms, which are both integrated into the large graphic array and subtly sited throughout the space. For example, a few small 3D red-winged blackbirds are perched on the giant steel drawing of the bird. Suspended from the ceiling a few feet away is a sculpture of the same blackbird in flight. Elsewhere, a subtle 3D spider and its web is tucked into an upper corner of the Visitors Center, its graphic counterpart in the 2D array. A hanging opossum is represented in both 2 and 3 dimensions. And so on with various plants and animals.

While scientifically accurate renderings are the components of this giant array, its overall form is undeniably esthetic, incorporating a poetry and freedom bridging art and illustration. Scale is conflated as a diatom looms larger than a snake; the circular shape of a pillbug is echoed by a topographic diagram of the Visitor Center itself. Images emerge and recede and emerge once again as the array surrenders a bounty of recognizable shapes.

In its overlaid imagery and rich layering, the sculpture mirrors the multifaceted, interconnected systems of land, water, geology, history, flora and fauna just outside the doors.

Sculpture and Site 1: Education

A sense of engagement and curiosity are central to the mission of the Center, and the artwork reinforces this quality. Serving as a catalyst for investigation, it extends an artful invitation to engage our human capacities for observation and analysis.

Changing programmatic displays at the center are unhindered by the filigree forms suspended overhead. Wall-mounted and floor exhibits work sympathetically in this arrangement, with good sightlines for both art and educational materials.

If desired, a key to the sculpture can provide detailed information on the species illustrated, further knitting together the mission of the OPPNP and the sculpture.

Sculpture and Site 2: Architectural Integration

The array is suspended beneath the graceful spine of the ceiling support structure, which traces a true north/south axis through the Visitors Center.

Visual accents in the form of the satellite elements are subtly sited throughout the interior space, located so as to optimize an integrated appreciation of art and architecture.

Approximate Specifications

Materials: graphics--shaped and welded 3/8" to 1/2" steel rod
Satellite forms—cast and fabricated metal

Dimensions: 12' – 3' height; 78' long

Linear Feet of Component Images: 800'+

Color: TBD in consultation w/ the clients and architects

Weight: Less than 2000 LB distributed

Timeline

Contract approval November 2006

The following stages follow from a revised date to proceed to be provided by the City:

Reconfirmation of site integration	1 - 2 months after Notice to Proceed
Fabrication	3 – 12 months after Notice to Proceed
Site preparation / integration	8 – 11 months after Notice to Proceed
Pre-finish assembly / testing	11 months after Notice to Proceed
Paint/finishing	11 – 13 months after Notice to Proceed
Shipping	14 months after Notice to Proceed
Installation	14 months after Notice to Proceed
Documentation	15 months after Notice to Proceed
Contract Completion	15 months after Notice to Proceed

Maintenance

The care of this artwork is very straightforward. A soft broom or feather duster attached to the end of a telescoping pole will easily reach both sides of the sculpture. In the event that an especially striking spider web is created between two steel rods, a consortium of naturalists, artists and theologians will convene to determine the best philosophical course of action.

Budget

Models, drawings:	1,000.00
Materials and Supplies:	
mild steel rod	12,000.00
stainless cable	1,000.00
hardware (clips, anchors)	2,000.00
wax/clay/plaster for 3D forms	500.00
Production / Fabrication: steel outlines	
enlargement	5,000.00
studio fabrication / welding	60,000.00
off-site powder coating	9,000.00
Production / Fabrication: 3D satellite forms	
sculpting 3D nature forms	4,000.00
moldmaking/casting of forms in metal	8,000.00
finishing/patination	500.00
Tools and Equipment:	4,000.00
Studio Overhead, incl. utilities:	10,000.00
Insurance (studio/shipping/installation):	4,000.00
Crating / Shipping to site:	8,000.00
Installation:	10,000.00
Travel / Lodging:	6,000.00
Documentation:	3,000.00
Office/Administrative Expenses	2,000.00
Artist Design fee:	25,000.00
Contingency:	10,000.00
TOTAL:	\$185,000.00

EXHIBIT "B"

SCOPE OF WORK

1. Research and development for final design for Artwork, to include coordination with City staff, design consultants and construction contractors, via conference call, electronic mail and up to, but not to exceed, two on-site meetings. Designs must be in accordance with site specifications provided by City and Company will provide assistance to City staff and consultants in determining any required changes to design of facility to successfully install Artwork.
2. Completion and submittal of design of Artwork by Company for approval of artwork by City, such approval to come from Director. Design phase deliverables shall include, but not be limited to these documents:
 - a. Plan sheets illustrating plans, elevations, sections and details of construction and installation.
 - b. Technical specs, to include such information as load requirements for structures to which Artwork will be attached, specific materials to be used, lighting requirements, etc. Provide specs in Microsoft Word.doc format.
 - c. Provide drawings in .dwg format.
 - d. Provide graphic products in electronic file format (tiff).
 - e. All electronic file transmittals shall be in CD-Rom format.
3. Purchase of materials by Company and fabrication of Artwork.
4. Complete off site fabrication by Company.
5. Delivery and on site installation of Artwork by Company.
6. Provision of detailed maintenance plan for Artwork.

EXHIBIT "C"

INSURANCE REQUIREMENTS

Service work, supplies requiring installation, Janitorial Services, Architects, Engineers, Welding, Surveyors, Plumbing Contractors, Maintenance Agreements, Consultants, Concessionaires, Tire Repairs, Tow Service, Painting, Electrical, Movers, etc.

Vendor shall procure and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the vendor, his agents, representatives, employees or subcontractors. The cost of such insurance shall be included in the Contractor's bid.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. ISO Form Number GL 0002 (Ed 1/72) covering Comprehensive General Liability and ISO Form Number GL 0404 covering Broad Form Comprehensive General Liability; or ISO Commercial General Liability coverage ("occurrence" Form CG 0001). "Claims made" form is unacceptable except for professional liability.
2. Automobile liability shall include all owned, hired and non-owned vehicles.
3. Workers' Compensation insurance as required by the Labor Code of the State of Texas, including Employers' Liability Insurance.
4. Professional Liability (when applicable).

B. Minimum Limits of Insurance

Vendor shall maintain limits not less than:

1. Commercial General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. \$2,000,000 Aggregate Policy will include coverage for a) Premises - Operations; b) Broad Form Contractual Liability; c) Products and Completed Operations; d) Use of Contractors and Subcontractors; e) Personal Injury; f) Broad Form Property Damage; g) Explosion Collapse and Underground (XCU) Coverage (when applicable), Fire Damage, Medical Expense. NOTE: The aggregate loss limit applies to each project.
2. Automobile liability: \$1,000,000 combined single limit per accident, for bodily injury and property damage.
3. Workers' Compensation and Employer's Liability: Workers' Compensation limits as required by the Labor Code of the State of Texas and Statutory Employer's Liability Limits.
4. Professional Liability.

C. Deductibles and Self-Insured Retentions

Any deductible or self-insured retention must be declared to and approved by the City.

D. Other Insurance Provisions

The policies are to contain, or be endorsed to contain the following provisions:

1. General Liability and Automobile Liability Coverage
 - a. The City, its officers, officials, employees, Boards and Commissions and volunteers are to be added as "Additional Insured" as respects liability

arising out of activities performed by or on behalf of the vendor, products and completed operations of the vendor, premises owned, occupied or used by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers. It is understood that the business auto policy under "Who is an Insured" automatically provides liability coverage in favor of the City.

- b. The vendor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officials, employees or volunteers shall be excess of the vendor's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the City, its officers, officials, employees, Boards and Commissions or volunteers.
- d. The vendor's insurance shall apply separately to each insured against who claim is made or suit is brought, except with respect to the limits of the insured's liability.

2. Workers' Compensation and Employer's Liability Coverage

The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, employees and volunteers for losses arising from work performed by the vendor for the City.

3. All Coverage

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled or non-renewed by either party, reduced in coverage or in limits except after ten (10) days prior written notice by certified mail, return receipt requested, has been given to the City.

E. Acceptability of Insurers

The City prefers that Insurance be placed with insurers with an A.M. Best's rating of no less than A-:VI, or, A or better by Standard & Poor's. This requirement will be waived for workers' compensation coverage only for those vendors whose workers' compensation coverage is placed with companies who participate in the State of Texas Workers' Compensation Assigned Risk Pool. Professional Liability carriers will need to be approved by the Risk Manager.

F. Verification of Coverage

Contractor shall furnish the City with certificates of insurance effecting coverage required. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates are to be on forms provided by the City and are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

EXHIBIT "D"

AFFIDAVIT OF NO PROHIBITED INTEREST

I, the undersigned declare and affirm that no person or officer of **HELMICK & SCULPTURE LLC**, , a Massachusetts limited liability company (herein "Contractor") is either employed by the City of Plano or is an elected official of the City of Plano and who has a financial interest, direct or indirect, in any contract with the City of Plano or has a financial interest, directly or indirectly, in the sale to the City of Plano of any land, or rights or interest in any land, materials, supplies or service. As per Section 11.02 of the Plano City Charter, interest represented by ownership of stock by a City of Plano employee or official is permitted if the ownership amounts to less than one (1) per cent of the corporation stock.

I further understand and acknowledge that the existence of a prohibited interest at any time during the term of this contract will render the contract voidable.

HELMICK SCULPTURE LLC

BY: *Ralph Helmick*
Ralph Helmick
PRESIDENT

Date: 3/15/10

STATE OF MASSACHUSETTS §
COUNTY OF Middlesex §

SUBSCRIBED AND SWORN TO before me this 15 day of March, 2010 by **RALPH HELMICK**, President of **HELMICK SCULPTURE LLC**, a Massachusetts limited liability company, on behalf of said corporation.

Marina Kogan
Notary Public in and for the State of Massachusetts

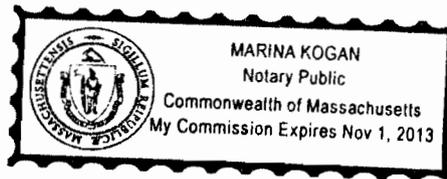


EXHIBIT B
DISSOLUTION AGREEMENT

Agreement made as of the 1st day of May, 2008 (the "Effective Date") by and between Ralph Helmick ("Helmick"), and Stuart Schechter ("Schechter") both of Newton, Massachusetts, and Helmick and Schechter, Inc, a Massachusetts corporation (the "Corporation").

WITNESSETH:

WHEREAS, Helmick and Schechter are the only shareholders of Helmick & Schechter, the Corporation;

WHEREAS, Helmick owns 70% of the outstanding shares of common stock of the Corporation, and Schechter owns 30% of such shares; and

WHEREAS, the parties have agreed to wind down the operations of the Corporation and to dissolve it as described in this Agreement.

NOW, THEREFORE, in consideration of the premises and the covenants contained herein, the parties hereby agree as follows:

1. Assets and Liability. The assets of the Corporation are stated in Schedule A annexed hereto, and the liabilities of Corporation are stated in Schedule B annexed hereto.

2. Payment of Liabilities.
The Corporation shall pay its liabilities except for the reserve for legal, accounting, tax preparation and filing fees, and except as otherwise provided for hereinbelow, on or before the Effective Date.

3. Assignment of Contracts. The Corporation shall assign all of the Outstanding Contracts identified on Schedule A, including all its rights and obligations thereunder, to Helmick, or his nominee, and Helmick agrees that he or his nominee shall fulfill all of the Corporation's obligations under said Outstanding Contracts.

4. McCarran Airport Project. Prior to the Effective Date, the Corporation submitted



5. a. Charlotte-Mecklenburg Courthouse Project (the "CM Project). Through the





6. Tangible Personal Property. The Corporation shall distribute to Schechter on the Effective Date the following property:



The remaining tangible personal property will be distributed to Helmick. Schechter will have periodic access to the 3D laser scanner at mutually convenient times.

7. Copyrights. Helmick and Schechter together own a number of copyrights on works installed by the Corporation.

(a) Each of them shall have the right to license the use of any such copyright on commercially reasonable terms;

(b) Each party shall notify the other when a license has been executed, and shall share royalties and/or profits 50/50 with the other. Any license that does not share 50/50 is void. Each party shall receive an equal share of the profit from the license, regardless of the quantity or quality of each party's contribution to the work.

(c) Each party shall have the right to inspect the records of the other with respect to any such licenses and the income derived therefrom.

8. Assignment of Shares by Schechter to Helmick. Concurrent with the execution of this Agreement, Schechter shall assign and transfer all of his shares in the Corporation to Helmick.

9. Mutual Releases.

(a) Helmick hereby releases and discharges Schechter of and from any and all causes of action, debts, accounts, covenants, contracts, agreements, damages, judgments, claims, liabilities and demands whatsoever, of any kind or nature, in law or in equity, which Helmick has had, now has, or which he, hereafter can, shall, or may have, for or by reason of any matter, cause, or thing whatsoever, arising, directly or indirectly, from or in connection with any relationship he has or ever had with Schechter, except for the continuing matters and obligations described in this Agreement.

(b) Schechter hereby releases and discharges Helmick and the Corporation of and from any and all causes of action, debts, accounts, covenants, contracts, agreements, damages, judgments, claims, liabilities and demands whatsoever, of any kind or nature, in law or in equity, which Schechter has had, now has, or which he, hereafter can, shall, or may have, for or by reason of any matter, cause, or thing whatsoever, arising, directly or indirectly, from or in connection with any relationship he has or ever had with Helmick and/or the Corporation, except for the continuing matters and obligations described in this Agreement.

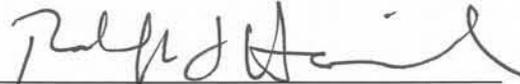
10. Dissolution. Upon satisfaction of the liabilities of the Corporation as described above, the parties agree that the Corporation shall be dissolved by filing Articles of Dissolution with the Secretary of State substantially in the form annexed hereto as Exhibit A. The parties shall further take or cause all actions necessary, including preparation of final tax returns, to wind-up and dissolve the Corporation.

11. Remaining Cash. Any cash remaining after paying the Corporation's liabilities shall be distributed to Helmick to complete the Outstanding Contract obligations.

12. Entire Agreement. This Agreement represents the entire Agreement of the parties with respect to the matters contemplated hereby, and it shall supersede any prior understanding or agreements, including, but not limited to, a Shareholders Agreement.

13. Modification. This Agreement cannot be modified or amended except by a written agreement signed by both parties.

WITNESS our hands and seals on the date first written above.



Ralph Helmick



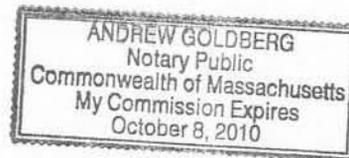
Stuart Schechter

Helmick and Schechter, Inc.

By: 

Andrew Goldberg

State of Massachusetts
County of Middlesex
September 02, 2008



Schedule A

Assets

Bank Account(s)	
(4/15/08)	
Less outstanding checks	
Balance	
Tangible Personal Property	
(Equipment, furniture, fixtures etc.)	
(Book Value)	

Outstanding Contracts

<u>Project</u>	<u>Fee</u>	<u>Amount Paid</u>	<u>Balance</u>	
Anchorage				
Fort Worth				
Lutheran Hosp.				
Plano	185,000	65,605	119,395	
Rutgers				

Pending Contracts

<u>Project</u>	<u>Fee</u>	<u>Amount Paid</u>	<u>Balance</u>	<u>% Completed</u>
McCarran Airport				