STATE OF NEW HAMPSHIRE
DEPARTMENT of NATURAL and CULTURAL RESOURCES
OFFICE OF THE COMMISSIONER
172 Pembroke Road, Concord, New Hampshire 03301
Phone: 271-2411 Fax: 271-2629
TDD ACCESS: Relay NH 1-800-735-2964

109C

December 8, 2023

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

1. Authorize the Department of Natural and Cultural Resources, Office of the Commissioner, to enter into a contract with Benjamin Victor Studios, Inc., (VC# 480885), Boise, ID in the amount of $250,000 for the creation and production of the Christa McAuliffe State House Memorial Commission Piece effective upon Governor and Council approval through September 1, 2024. 100% General Funds.

2. Further authorize an advanced payment in the amount of $62,500 to Benjamin Victor Studios, Inc. in accordance with the terms of the contract effective upon Governor and Council approval. 100% General Funds.

Funding is available in account , Christa McAuliffe Memorial , as follows:

	FY2024
03-035-035-350010-63730000-103-502664 - Contracts for Ops Services	$250,000

EXPLANATION

Executive Order 2023-02 established the Christa McAuliffe State House Memorial Commission to study, design and oversee construction of a permanent memorial on state house grounds. Members of this Commission have met regularly to select an artist to design, and upon the Commission's approval, craft the permanent memorial to honor Christa McAuliffe's legacy as a teacher and astronaut.

The Commission sought proposals from qualified sculptors from around the country. We then conducted a series of interviews, and ultimately selected Mr. Benjamin Victor. Mr. Victor has extensive experience working with bronze. He is the youngest artist to have a sculpture placed in the United States Capitol National Statuary Hall and is currently the only living artist with three sculptures located in the Statuary Hall, featuring Sarah Winnemucca, Dr. Norman Borlaug, and Chief Standing Bear.

Additionally, Mr. Victor is the 2018 recipient of the National Sculpture Society's "Alex J. Ettl Grant," awarded in recognition for outstanding work; placed first in 2018 for "The Angel" at the Museum of Modern European Art in Barcelona Spain as part of the Art Renewal Center International Salon; and was named Artist of the Decade by the California Kern County Arts Council in 2010.

The Attorney General's Office has reviewed and approved this contract as to form, substance and execution.

Respectfully submitted,

CSM

Sarah Stewart

Sarah L. Stewart
Commissioner

STATE OF NEW HAMPSHIRE
OFFICE OF THE GOVERNOR

CHRISTOPHER T. SUNUNU
Governor

STATE OF NEW HAMPSHIRE
BY HIS EXCELLENCY
CHRISTOPHER SUNUNU, GOVERNOR

Executive Order 2023-02

An Order Establishing the Christa McAuliffe State House Memorial Commission

WHEREAS, Sharon Christa McAuliffe was born on September 2, 1948 and began her teaching career in 1970; and

WHEREAS, Christa McAuliffe taught history and English in Concord and Bow before taking a social studies teaching job at Concord High School in 1983 where her responsibilities included teaching American history, law, economics and a self-designed course titled "The American Woman"; and

WHEREAS, In 1984, President Ronald Reagan announced the Teacher in Space Project, and Christa was selected out of over 11,000 applicants to become the first educator astronaut in space; and she was one of seven crew members of Space Shuttle Challenger mission STS-51-L; and

WHEREAS, on January 28, 1986, just 73 seconds after launch, tragically, the Challenger exploded and all seven crew members were lost; and

WHEREAS, Christa was never afforded the opportunity to teach the lessons she planned during that mission, her motivation to open minds, her emphasis on experiential leaning and her belief that "I touch the future, I teach," continues to guide the McAuliffe-Shephard Discovery Center's design of educational programs and exhibits; and

WHEREAS, Christa's legacy as a selfless and courageous New Hampshire educator and astronaut continues to inspire granite stater's to reach new heights and never stop exploring.

NOW, THEREFORE, I, CHRISTOPHER T. SUNUNU, GOVERNOR of the State of New Hampshire, by the authority vested in me by Part II, Article 41 of the New Hampshire Constitution, do hereby order, effective immediately, that:

1. There is hereby established the Christa McAuliffe State House Memorial Commission to study, design, and oversee construction of a permanent memorial on state house grounds.
2. The Christa McAuliffe State House Memorial Commission shall:

107 North Main Street, State House - Rm 208, Concord, New Hampshire 03301
Telephone (603) 271-2121 • FAX (603) 271-7640
Website: http://www.governor.nh.gov/ • Email: governorsununu@nh.gov
TDD Access: Relay NH 1-800-735-2964

a. Study the best location on the front facing portion of state house grounds to affix the permanent memorial.

b. Select an artist to design and upon the Commission's approval, craft the permanent memorial.

c. See that the memorial is permanently placed on the front facing portion of the New Hampshire State House on State House grounds.

d. Organize a formal unveiling on the permanent memorial on or before September 2, 2024.

e. Work with the Department of Natural and Cultural Resources to complete and dedicate the memorial.

f. Remain in existence upon the completion of the Christa McAuliffe memorial for the purpose of overseeing maintenance and approving any changes to the memorial.

3. The Christa McAuliffe State House Memorial Commission shall consist of the following:

   a. The then incumbent Governor or his or her designee;

   b. Two members of the house of representatives, appointed by the speaker of the house of representatives;

   c. One member of the senate, appointed by the president of the senate;

   d. The executive director of the McAuliffe Shepard Discovery Center, or his or her designee;

   e. The commissioner of the department of natural and cultural resources, or his or her designee;

   f. The commissioner of the department of administrative services, or his or her designee; and

   g. Three public members appointed by the incumbent Governor.

4. Each of the appointed members shall serve at the pleasure of the Governor for a term of three years, and until a successor has been appointed.

5. A majority of the members shall constitute a quorum.

6. The incumbent Governor or his or her designee shall serve as Chairperson. The Chairperson shall preside at all meetings of the Commission and shall exercise overall supervision of the Commission.

7. Commission members shall perform their duties without compensation and shall not be entitled to reimbursement for expenses incurred in attending meeting of the Commission.

8. The first meeting shall occur on or before thirty days after the issuance of this Order and as frequently as the Chair determines thereafter.

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9. All meetings of the Commission shall be open to the public, allow for public comment, and be subject to the requirements of RSA Chapter 91-A.

10. The Commission shall continue pursuant to the terms of this Executive Order, and shall be subject to such modifications as may be required by subsequent duly issued Executive Order or as otherwise required by law.

Given under my hand and seal at the Executive Chambers in Concord, this 14th day of February, in the year of Our Lord, two thousand and twenty-three, and the independence of the United States of America, two hundred and forty-six.

GOVERNOR OF NEW HAMPSHIRE

107 North Main Street, State House - Rm 208, Concord, New Hampshire 03301
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Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name Department of Natural and Cultural Resources		1.2 State Agency Address 172 Pembroke Road Concord, NH 03301	
1.3 Contractor Name Benjamin Victor Studios, Inc.		1.4 Contractor Address 10619 W. Victory Rd. Boise, ID 83709	
1.5 Contractor Phone Number (605)380-4528	1.6 Account Unit and Class 63730000-103	1.7 Completion Date September 1, 2024	1.8 Price Limitation $250,000
1.9 Contracting Officer for State Agency James Scully, Christa McAuliffe Memorial State House Commission, Chair		1.10 State Agency Telephone Number (603)271-2121	
1.11 Contractor Signature Date: 12/8/23		1.12 Name and Title of Contractor Signatory Benjamin Victor, President	
1.13 State Agency Signature Sarah Stewart Date: 12/13/2023		1.14 Name and Title of State Agency Signatory Sarah Stewart, Commissioner	
1.15 Approval by the N.H. Department of Administration, Division of Personnel *(if applicable)* By:		Director, On:	
1.16 Approval by the Attorney General (Form, Substance and Execution) *(if applicable)* By: Sheri Phillips, AAG		On: 12/13/2023	
1.17 Approval by the Governor and Executive Council *(if applicable)* G&C Item number:		G&C Meeting Date:	

Contractor Initials BV
Date 12/8/23

2. SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT B which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.13 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed.

3.3 Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds. In no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services provided in EXHIBIT B, in whole or in part, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT C which is incorporated herein by reference.

5.2 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8. The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 The State's liability under this Agreement shall be limited to monetary damages not to exceed the total fees paid. The Contractor agrees that it has an adequate remedy at law for any breach of this Agreement by the State and hereby waives any right to specific performance or other equitable remedies against the State.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Contractor shall comply with all applicable statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal employment opportunity laws and the Governor's order on Respect and Civility in the Workplace, Executive order 2020-01. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of age, sex, sexual orientation, race, color, marital status, physical or mental disability, religious creed, national origin, gender identity, or gender expression, and will take affirmative action to prevent such discrimination, unless exempt by state or federal law. The Contractor shall ensure any subcontractors comply with these nondiscrimination requirements.

6.3 No payments or transfers of value by Contractor or its representatives in connection with this Agreement have or shall be made which have the purpose or effect of public or commercial bribery, or acceptance of or acquiescence in extortion, kickbacks, or other unlawful or improper means of obtaining business.

6.4 The Contractor agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with this Agreement and all rules, regulations and orders pertaining to the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 The Contracting Officer specified in block 1.9, or any successor, shall be the State's point of contact pertaining to this Agreement.

Contractor Initials BV
Date 12/8/23

8 EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default")

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or

8.1.3 failure to perform any other covenant, term or condition of this Agreement

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) calendar days from the date of the notice, and if the Event of Default is not timely cured, terminate this Agreement, effective two (2) calendar days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 give the Contractor a written notice specifying the Event of Default and set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

9. TERMINATION.

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) calendar days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, deliver to the Contracting Officer, not later than fifteen (15) calendar days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. In addition, at the State's discretion, the Contractor shall, within fifteen (15) calendar days of notice of early termination, develop and submit to the State a transition plan for Services under the Agreement.

10. PROPERTY OWNERSHIP/DISCLOSURE.

10.1 As used in this Agreement, the word "Property" shall mean all data, information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

10.2 All data and any Property which has been received from the State, or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

10.3 Disclosure of data, information and other records shall be governed by N.H. RSA chapter 91-A and/or other applicable law. Disclosure requires prior written approval of the State.

11. CONTRACTOR'S RELATION TO THE STATE. In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

12.1 Contractor shall provide the State written notice at least fifteen (15) calendar days before any proposed assignment, delegation, or other transfer of any interest in this Agreement. No such assignment, delegation, or other transfer shall be effective without the written consent of the State.

12.2 For purposes of paragraph 12, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.3 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State.

12.4 The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

13. INDEMNIFICATION. The Contractor shall indemnify, defend, and hold harmless the State, its officers, and employees from and against all actions, claims, damages, demands, judgments, fines, liabilities, losses, and other expenses, including, without limitation, reasonable attorneys' fees, arising out of or relating to this Agreement directly or indirectly arising from death, personal injury, property damage, intellectual property infringement, or other claims asserted against the State, its officers, or employees caused by the acts or omissions of negligence, reckless or willful misconduct, or fraud by the Contractor, its employees, agents, or subcontractors. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the State's sovereign immunity, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

Contractor Initials BV
Date 12/6/23

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and continuously maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 commercial general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than $1,000,000 per occurrence and $2,000,000 aggregate or excess; and

14.1.2 special cause of loss coverage form covering all Property subject to subparagraph 10.2 herein, in an amount not less than 80% of the whole replacement value of the Property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or any successor, a certificate(s) of insurance for all insurance required under this Agreement. At the request of the Contracting Officer, or any successor, the Contractor shall provide certificate(s) of insurance for all renewal(s) of insurance required under this Agreement. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A *("Workers' Compensation")*.

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. The Contractor shall furnish the Contracting Officer identified in block 1.9, or any successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. WAIVER OF BREACH. A State's failure to enforce its rights with respect to any single or continuing breach of this Agreement shall not act as a waiver of the right of the State to later enforce any such rights or to enforce any other or any subsequent breach.

17. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

18. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule or policy.

19. CHOICE OF LAW AND FORUM.

19.1 This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire except where the Federal supremacy clause requires otherwise. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

19.2 Any actions arising out of this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration, but must, instead, be brought and maintained in the Merrimack County Superior Court of New Hampshire which shall have exclusive jurisdiction thereof.

20. CONFLICTING TERMS. In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and any other portion of this Agreement including any attachments thereto, the terms of the P-37 (as modified in EXHIBIT A) shall control.

21. THIRD PARTIES. This Agreement is being entered into for the sole benefit of the parties hereto, and nothing herein, express or implied, is intended to or will confer any legal or equitable right, benefit, or remedy of any nature upon any other person.

22. HEADINGS. The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

23. SPECIAL PROVISIONS. Additional or modifying provisions set forth in the attached EXHIBIT A are incorporated herein by reference.

24. FURTHER ASSURANCES. The Contractor, along with its agents and affiliates, shall, at its own cost and expense, execute any additional documents and take such further actions as may be reasonably required to carry out the provisions of this Agreement and give effect to the transactions contemplated hereby.

25. SEVERABILITY. In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

26. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings with respect to the subject matter hereof.

Contractor Initials BV
Date 12/8/23

EXHIBIT A

Special Provisions

There are no additional or special provisions at this time.

Contractor Initials BV
Date 12/8/23

EXHIBIT B

Scope of Services

DEFINITIONS:

Artist: Benjamin Victor of Benjamin Victor Studios, Inc.

Customer: The Christa McAuliffe State House Memorial Commission

Commissioned Piece (the Sculpture): The bronze art statue for which Artist is to be paid the Commission, defined herein, shall be a total of 1 (one) Sculptured piece consisting of the following:

Bronze, over life size, approximately 125% life size portrait statue depicting Christa McAuliffe

Sales Price: Price paid to Artist for the creation and production of the Commission Piece; also called a Sculpture or Statue.

Location Front facing portion of State House grounds.
____ location in that Commissioned Sculpture is to be installed after completion.

Term: The term of this Agreement shall commence on the date the contract is approved by the Governor & Council and end on completion and delivery of the Commissioned Pieces, which shall be no later than September 1, 2024.

Foundry: Bronze casting facility used by Artist to produce final bronze of Commissioned Pieces.

Edition: Number of available additional castings of exact Commissioned Pieces that may be reproduced, as determined by Artist. Artist maintains full and complete legal copyright to all Sculptures created under this Agreement by Artist and additional castings may only be obtained through Artist.

1. ENGAGEMENT, DUTIES:

Artist shall perform the services described as follows (Services"):

a. Artist, during the Term shall provide commissioned art services on behalf of Customer, by the production of Commissioned Pieces.

b. Artist shall attempt to deliver to Customer the above Commissioned Pieces, at a mutually agreed upon place, or at such other time as is convenient for installation as agreed upon by all parties involved in the installation process and as agreed to by Customer and Artist.

c. Artist shall retain full legal copyright and other ownership of the molds and Edition of the Commissioned Pieces.

d. Artist shall maintain insurance on Commissioned Pieces from the beginning of the job until Commissioned Pieces are delivered to Customer.

Contractor Initials BV
Date 12/8/23

2. **PRODUCT WARRANTY:**

Artist makes no warranties, guarantees, or representations of any kind, either express or implied, or by usage of trade, statutory or otherwise, with regard to the product, or the use of the product, including, but not limited to merchantability, fitness for a particular purpose, use or eligibility of the product for any particular usage all of which are hereby expressly disclaimed.

3. **PHOTOGRAPHY & ADVERTISING** The Artist grants to the Customer, the irrevocable, royalty-free, worldwide right to photograph, film, video, or otherwise reproduce images of, in any media now known or hereafter invented, the Commissioned Piece(s) for awards, publications, public programs, publicity, promotion, research, postcards, prints, posters, and other products or uses, in all formats, including but not limited to electronic distribution on Customer websites and on television or other media that Customer contracts with in connection with the business of Customer and any resulting exhibitions, all in perpetuity. The Customer grants to the Artist, the irrevocable, royalty-free, worldwide and universal right to photograph the Commissioned Piece(s) for awards, publications, public programs, publicity, promotion, research, postcards, prints, posters, and other products or uses, in all formats, including but not limited to electronic distribution on Artist websites and on television or other media that Artist contracts with in connection with the business of Artist and any resulting exhibitions, all in perpetuity.

Contractor Initials BV
Date 12/8/23

EXHIBIT C

Method of Payment

PRICE, PAYMENT TERMS:

a. Customer shall pay to Artist a total of $250,000.00 USD for the turnkey production of the Commissioned Pieces. This Sales Price shall include all labor, casting, and material costs. If sales tax is applicable and the customer is a non-profit, then at Customer's request, the Sales Price shall be billed through the Location which is a non-profit entity. A non-profit tax certificate must be supplied by Customer to Artist for Location.

b. All payments or remittances for Sales Price shall be paid by Customer directly to Artist on the following terms: A NON-REFUNDABLE deposit of $62,500.00 (25 percent) is required up front and is due upon signing of this Agreement in order to commission Artist to create the above described Commissioned Piece for a start date as agreed upon by Artist and Customer. The balance of $187,500.00 is to be paid in three equal installments of $62,500.00/each at the following production stages of the sculpture: (1) when the full size clay statue is finished by Artist and approved by Customer prior to being sent to the mold maker for the mold making process; (2) when the molds are made and finished on the full size clay statue and the molds are sent to the foundry for casting in bronze; and finally (3) when the sculpture is completed in bronze at the foundry ready to be shipped to Customer. Sculpture will not be shipped until the final payment due under this contract is received by Artist.

c. If Customer chooses to have the Artist deliver the Commissioned Pieces and /or to help oversee the installation of said Commissioned Pieces, Customer agrees to pay for and/or provide any equipment and/or help from a crew necessary to lift the Sculpture(s) into place to complete the installation process should a crew or equipment be necessary.

d. It is agreed that Artist shall make his best effort to see that the Commissioned Pieces are completed, cast and delivered to Customer by September 1, 2024. This Agreement will not be nullified by failure to meet this timeline. Artist shall send regular progress reports to Customer by email, phone, or regular postal mail as well as digital representation of the stages of the Commissioned Pieces on a regular basis.

e. If Customer requests a design change after Customer has approved the design and Artist has commenced the process of manufacturing the life-size or larger armature and Sculpture per the agreed upon design, any added expenses for the design change including, but not limited to, Artist's time, change in foundry fees and design fees, shall be the sole responsibility of Customer.

f. Customer shall be responsible for all maintenance; conditioning, preservation and upkeep of the Sculptures once installed which were created by Artist for Customer by this Agreement. Artist shall have no further obligation in regard to the Sculptures once placed at the Location.

g. Customer may purchase from Artist, bronze castings of maquettes or smaller scale versions of the sculpture, if applicable, at an additional cost to this contract, as determined by Artist

Contractor Initials BV
Date 12/8/23

State of New Hampshire
Department of State

CERTIFICATE

I, David M. Scanlan, Secretary of State of the State of New Hampshire, do hereby certify that BENJAMIN VICTOR STUDIOS INC. is a South Dakota Profit Corporation registered to transact business in New Hampshire on December 12, 2023. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: **948974**
Certificate Number : **0006357709**

IN TESTIMONY WHEREOF,
I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this **12th** day of **December** A.D. **2023.**

David M. Scanlan
Secretary of State

Certificate of Authority #1 (Corporation, Non-profit Corporation)

Corporate Resolution

Benjamin Victor

I, _(Person Authorizing Signer below), **hereby certify** that I am duly elected Clerk/Secretary/Officer
(Name)

of Benjamin Victor Studios Inc I hereby certify the following is a true of a vote taken at a
(Name of Corporation)

meeting of the Board of Directors/shareholders, duly called and held on Jan. 1st, 2023,

at which a quorum of the directors/shareholders were present and voting.

Benjamin Victor

Voted: That_____(Person Signing Contract)____(may list more than one person) is duly
(Name and Title)

authorized to enter into contracts or agreements on behalf of Benjamin Victor Studios Inc.
(Name of Corporation)

with the State of New Hampshire and any of its agencies and departments and further is authorized to execute any documents which may in his/her judgement to be desirable or necessary to affect the purpose of this vote.

I hereby certify that said vote has not been amended of repealed and remains in full force and effect as the date of the contract to which this certificate is attached. This authority **shall remain valid for thirty (30) days** from the date of this Corporate Resolution. I further certify that it is understood the State of New Hampshire will rely on this certificate as evidence the person(s) listed above currently occupy the positions(s) indicated and that they have full authority to bind the corporation. To the extent that there are limits on the authority of any listed individual to bind the corporation in contracts with the State of New Hampshire, all such limitations are expressly stated herein. There are no other managing employees of the company who can sign this verification. I certify that I am the sole owner of my business.

DATED: 12/8/23 **ATTEST:** _____(Person Authorizing Signer below_____
(Signature & Title)

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 12/12/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Insurance Plus
405 NW 8th Avenue
PO Box 1540
Aberdeen SD 57401

CONTACT NAME: Mary McGregor Heier
PHONE (A/C, No, Ext): (605) 225-4270 FAX (A/C, No): (605) 225-4217
E-MAIL ADDRESS: mary@ins-plus.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : United Fire Group	13021
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
BENJAMIN VICTOR STUDIOS INC
6721 S LUNAR AVE
BOISE ID 83709-7870

COVERAGES **CERTIFICATE NUMBER:** CL2352511323 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	[X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [ ] POLICY [ ] PRO-JECT [ ] LOC [ ] OTHER:	Y		60478128	06/09/2023	06/09/2024	EACH OCCURRENCE	$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 100,000
							MED EXP (Any one person)	$ 5,000
							PERSONAL & ADV INJURY	$ 1,000,000
							GENERAL AGGREGATE	$ 2,000,000
							PRODUCTS - COMP/OP AGG	$ 2,000,000
							XLEAD	$
A	AUTOMOBILE LIABILITY [ ] ANY AUTO [ ] OWNED AUTOS ONLY [X] HIRED AUTOS ONLY [X] SCHEDULED AUTOS [X] NON-OWNED AUTOS ONLY			60478128	06/09/2023	06/09/2024	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
							Medical payments	$ 5,000
	[ ] UMBRELLA LIAB [ ] OCCUR [ ] EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [ ] RETENTION $						EACH OCCURRENCE	$
							AGGREGATE	$
								$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N [ ] (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A						PER STATUTE [ ] OTH-ER	
							E.L. EACH ACCIDENT	$
							E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

NH Department of Natural and Cultural Resources
172 Penbroke Road
Concord NH 03301

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Mary McGregor Heier

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Archived: Wednesday, December 13, 2023 10:21:00 AM
From: Benjamin Victor
Mail received time: Wed, 13 Dec 2023 12:42:43
Sent: Wed, 13 Dec 2023 07:42:19
To: Lavoie, Leanne
Subject: Work comp
Sensitivity: Normal

EXTERNAL: Do not open attachments or click on links unless you recognize and trust the sender.

Benjamin Victor Studios, Inc. does not have any employees therefore the provision for workers' compensation does not apply.

Sincerely, Benjamin Victor www.benjaminvictor.com 605-380-4528

BENJAMIN VICTOR

"Without a doubt, Ben is an enormously talented artist. His works transcend their reference to nature as they evoke a variety of emotions. His insights into the human condition and his ability to give form to his concepts are reflective of thorough research and mastery of his craft."

DR. RONALD SILVERMAN
FORMER DIRECTOR OF ART EDUCATION
GETTY INSTITUTE OF ART

PROFESSIONAL DISTINCTIONS

- Youngest artist to have a sculpture in the United States Capitol National Statuary Hall; Sarah Winnemucca, State of Nevada (2005).
- Only living artist with three sculptures in the United States Capitol National Statuary Hall collection; Sarah Winnemucca (2005); Dr. Norman Borlaug (2014); Chief Standing Bear (2019).
- Recipient of National Sculpture Society's 2018 "Alex J. Ettl Grant", awarded in recognition for outstanding body of work
- 1st Place for "The Angel", at the Museum of Modern European Art in Barcelona Spain, as part of the Art Renewal Center International Salon, 2018
- 1st Place for "Bathsheba" at the Museum of Modern European Art in Barcelona Spain, as part of the Art Renewal Center International Salon, 2013
- Recipient of National Sculpture Society's "Roger T. Williams Award" for excellence in figure sculpture, 2003
- "Artist of the Year" awarded by the Nevada Arts Council, 2005
- "Artist of the Decade" awarded by the Kern County Arts Council in California, 2010
- "Best in Show" winner for "Michael the Archangel" at Windows to the Divine show in Denver, CO, 2011
- "Historic Preservation Award" awarded by the City of Las Vegas for "Helen J. Stewart", 2011
- Published in numerous major media outlets including: CSPAN, The Washington Post, PBS, NPR, ESPN, American Fine Art Magazine, Fine Art Connoisseur, and Sculpture Review

MAJOR COMMISSIONS

- **Daisy Bates:** *United States Capitol Building, National Statuary Hall, Washington D.C. –To be dedicated in 2023*
  - 8' bronze sculpture depicting the civil rights leader striding forward as she holds a newspaper in one hand and her journalist notepad and pen in the other, as she leads the march towards equality.
- **Mrs. Barbara Walker and Rev. Robert Gilbert:** *Tidwell Bible Building, Baylor University, Waco, TX –To be dedicated April, 4th 2023*
  - 7'6" bronze figures depicting the first two Black graduates from Baylor University.
- **George Gervin:** *Eastern Michigan University, Yipsilanti, MI – To be dedicated in 2023*
  - 14' bronze sculpture depicting NBA and Eastern Michigan basketball legend, George Gervin as he leaps in the air with his signature move, the finger roll.
- **Dino Ghilotti Memorial Sculpture:** *Marin Catholic High School, Marin County, CA –2021*
  - 8' bronze sculpture depicting Dino Ghilotti standing in his Marin Catholic Football Uniform as he gazes onto the football field.
- **Idaho Veterans Memorial:** *Idaho Veterans Cemetery, Boise, ID – 2021*
  - The sculpture depicts a male soldier kneeling with hands clasped in prayer holding the dog tags of the fallen, and a female soldier standing ready and placing her hand on the back of her fellow warrior.
- **Chief Standing Bear:** *United States Capitol Building, National Statuary Hall, Washington D.C. –2019*
  - 10' bronze sculpture depicting the Ponca Chief reaching out his hand, just as he did in his landmark court case.
- **Alexander Hamilton:** *United States Coast Guard Academy New London, CT –2018*
  - 8' tall Bronze sculpture of Alexander Hamilton as he holds the document with which he instituted the Coast Guard.
- **Jesus With the Children:** *Christian Cemetery, Columbia, SD. –2018*
  - Over life size bronze sculpture depicting the Bible story of Jesus With The Children from Matt. 19:14.

- **Women's Legacy Memorial:** *Kokomo, IN –Dedication Planned 2018*
  - Bronze sculpture depicting three life-size women: Rosie the Riveter, Lt. Col. Shawna Kimbrell, and a modern-day female soldier with a musket and a prosthetic leg to symbolize the physical and emotional sacrifice of servicewomen.
- **Answering the Call (Tempe Public Safety Memorial):** *Tempe Beach Park, Tempe, AZ – December 2016*
  - This over life-size memorial honoring the Tempe firefighters, police officers, and canines who have lost their lives protecting the community of Tempe.
- **Coach Jim Valvano:** *North Carolina State Reynolds Coliseum, Raleigh, NC – September 2016*
  - Life-size sculpture depicting the coach who famously led his team to a Cinderella championship victory in 1983.
- **Coach Everett Case:** *North Carolina State Reynolds Coliseum, Raleigh, NC – September 2016*
  - Life-size sculpture depicting the Coach credited with "Bringing basketball to the South".
- **Lyle Smith:** *Albertson's Stadium, Boise State University, Boise, ID – September 2016*
  - Life-size sculpture depicting "the father of Boise State football," known for never having a losing season in his 20 years as coach of the Broncos.
- **Gretchen Fraser:** *Olympic Women's Monument, Sun Valley, ID – August 2016*
  - Over life-size sculpture depicting the first American to win an Olympic gold medal in skiing.
- **Senator Richard Bryan:** *University of Nevada, Reno, NV – April 2016*
  - Over life-size sculpture depicting the Senator reading the student newspaper at his alma mater.
- **R.A. "Bob" Hoover:** *Smithsonian Air and Space Museum, Washington, D.C. – April 2016*
  - Life-size sculpture honoring the former WWII fighter pilot, prisoner of war, and United States Air Force test pilot, referred to in many aviation circles as the greatest "stick and rudder" pilot ever to have lived.
- **Paul Petzoldt, National Outdoor Leadership School founder:** *Lander, WY – October 2015*
  - 7'6" bronze sculpture depicting the National Outdoor Leadership School's founder dressed for wilderness adventure with his hand gesturing upward towards the nature he loved and shared with so many.
- **Veterans Families War Memorial:** *Darrough Chapel Park, Kokomo, IN - September 2015*
  - Three life-size bronze sculptures depicting a serviceman, man, woman and child's enduring faith through military service.
- **Kentucky State Police Monument:** *Kentucky State Police Training Facility, Frankfort, Kentucky, 2015*
  - 8' trooper depicted stepping forward into the line of duty, just as those coming out of the Kentucky State Police Training Facility behind him.
- **The Victor:** *Peru State College, Peru, NE – August 2015*
  - 7'6" bronze sculpture of a football player in historic uniform with a leather helmet, dedicated at the renovated Oak Bowl Stadium.
- **Seven Sorrows of Mary:** *Sacred Heart Catholic Church, Aberdeen, SD – June 2015*
  - Over life-size Carrara white marble sculpture of the Virgin Mary standing with clasped, praying hands while a tear streams down her delicate cheek.
- **Steve Appleton:** *Boise State University, Boise, ID – September 2014*
  - 9' bronze sculpture depicting the late CEO of Micron in his suit and tie with his hand extended in welcome to all who pass by.
- **Cecil Harris:** *Northern State University, Aberdeen, SD – June 2014*
  - 8' bronze sculpture depicting WWII Navy Pilot Cecil Harris standing proudly in his 1940's pilots uniform, including goggles, helmet and vest.
- **Dr. Norman Borlaug:** *United States Capitol Building, National Statuary Hall, Washington, DC – March 2014*
  - 7' bronze sculpture of the Nobel Peace Prize winner and agronomist standing, hat on, journal open, with wheat blowing behind him.
- **Dave Winfield:** *Collection of the Winfield Family, California – 2013*
  - Bronze Portrait bust of the athlete, leader and 2001 MLB Hall of Fame inductee.
- **Our Heritage is Our Future:** *California Trail Interpretive Center, Elko, NV – June 2013, Altona, Manitoba, Canada-2013*
  - Life-size bronze sculpture of a Native American woman carrying her infant on her back in a intricately crafted cradle board.
- **Generations:** *Wheat Growers, Aberdeen, SD - June 2013*
  - Four over life-size bronze figures depicting a grandfather and his son, daughter in law, and grandson, which symbolizes the American tradition of family farming
- **Monument to Nurses:** *Medical Center Healing Garden, Fargo, ND – May 2013*
  - Three life-size bronze sculptures in a scene; a nurse with an elderly patient in a wheelchair and his grandson observing.
- **Heart of Humanity:** *Heart Hospital, Sioux Falls, SD – February 2012*
  - 5' bronze sculpture representing the human heart with four life-size figures depicting four humanities.
- **Helen J. Stewart:** *Old Fort Museum,* Las *Vegas, NV - December 2011*
  - Life-size sculpture of the Las Vegas businesswoman and socialite striding forward surrounded by icons from throughout her life.
- **Monument to Oil Workers:** *Taft, CA - October, 2011*
  - Three 8' tall turn-of-the-century oil workers working on a 38' tall, 25,000-pound bronze oil derrick; one of California's largest bronze monuments.
- **Rhode Island State Policeman:** *Rhode Island State Police Headquarters, Scituate, RI - November 2010*
  - 8'9" bronze figure of a Rhode Island State Policeman standing at attention in the traditional and iconic uniform.

- **Where Cultures Meet:** *California State University, Dominguez Hills, Los Angeles, CA - October 2010*
  - 15' tall globe with ten life-size figures representing and celebrating cultures around the world.
- **Monument to Firefighters**: *Aberdeen, SD - October 2009; Lawrence, KS - January 2007*
  - 7' 6" tall bronze sculpture depicting a firefighter in a heroic stance as he bravely faces danger to save others.
- **Monument to WWII Aviators:** *Boise International Airport, Boise, ID - May 2009*
  - Over life-size bronze sculpture depicting a WWII bomber pilot as he walks out onto the airfield towards the call of duty.
- **Monument to 1st Battalion 1st Marines:** *Castaways Park, Newport Beach, CA - May 2008*
  - Life-size bronze sculpture honoring the 1st Battalion 1st Marines; a U.S. Marine is enveloped in a black granite wall as he gazes over his shoulder at his family as he departs.
- **Belle Babb Mansfield:** *Iowa Wesleyan College, Mt. Pleasant, IA - 2008*
  - 8' bronze sculpture depicting the first female lawyer in the United States, as she looks up from her open book and gazes at the viewer.
- **Aberdeen War Memorial:** *Aberdeen Regional Airport, Aberdeen, SD - 2006*
  - Three over life-size bronze soldiers personifying the reality of combat, the victory of American values, and the reflection and emotions of the aftermath.
- **Sarah Winnemucca:** *United States Capitol Building, National Statuary Hall, Washington, DC - March 2005*; *Carson City, NV - April 2005*
  - Life-size bronze sculpture depicting the Northern Paiute author, activist, and educator in a windswept dress adorned with flowing fringe, holding a book at her waist with her left arm and a shellflower with her right hand.