

**SERVICES CONTRACT WITH JOHN KING FOR THE
CREATION, DELIVERY AND INSTALLATION OF
ARTWORK FOR ADAMS COUNTY ROTELLA PARK**

THIS CONTRACT ("Contract") is made to be effective the 31 day of May, 2016 by and between the Adams County Board of County Commissioners, located at 4430 South Adams County Parkway, Brighton, Colorado 80601 (hereinafter "County") and John King, 618 Apple Valley Road, Lyons, Colorado 80540 (hereinafter "Artist"). The County and the Artist may be collectively referred to herein as the "Parties".

The County and the Artist, for the consideration herein set forth, agree as follows:

SECTION I - SCOPE OF SERVICES BY ARTIST

A. Design, Fabrication, Delivery and Installation

1. Artist will design, supply foundation engineering, fabricate, test, paint, powder coat, deliver and install three pieces of metal sculpture artwork at various sites within Rotella Park, located at Coronado Parkway and Nueva Vista Drive, Thornton, Colorado (hereinafter "Site"), consistent with the work described more fully in the "The Sky Line Trail – Views to the Sky" proposal submitted on January 13, 2016, accepted by the County on February 9, 2016, and attached hereto and incorporated herein by reference as Exhibit A (hereinafter "Work").

2. Artist will be solely responsible for the creation, transportation, delivery and installation of the Work at Artist's expense. The Work will be installed at the specific Sites in Rotella Park. Artist will be responsible for all costs and expenses such as surface preparation, foundation construction permits, liability insurance, Worker's Compensation insurance, project documentation, travel expenses, consultant's fees, artist's fees, unexpected expenses, and any other costs of any kind.

3. Artist warrants that the Work will be structurally sound in its environment. Artist will consult with the Adams County Parks Department and a structural design engineer, if necessary, to determine appropriate means of securing the metal sculpture artwork on the grounds of the Park.

4. Artist guarantees that the Work is original and one-of-a-kind. An identical work has not and will not ever be placed within 100 miles of Site.

B. Post-Installation

1. Artist will provide to County written instructions for appropriate maintenance and preservation of the Work.

2. Artist will provide and install an identification plaque for the Work, which will include information, such as appropriate names, approved by the County. The

plaque will be of such medium and design as to be descriptive of and appropriate to the Work itself and the permanent location of the Work.

3. Artist will advise County in writing or e-mail when all services required for the design, engineering, fabrication, testing, painting, powder coating, delivery, installation and post-installation as contained in this paragraph and paragraphs numbered 1 through 5 of Subsection A, above, have been completed.

4. Title of ownership of the Work shall pass to County upon final acceptance of the Work by County.

SECTION II - RESPONSIBILITIES OF THE COUNTY

A. County shall provide access to the Site and information as necessary or requested by Artist to enable Artist's performance under this Contract.

B. County shall pay Artist according to the Compensation and Payment Schedule set forth in Section III below.

C. County shall notify Artist in writing of its final acceptance of the Work. Acceptance shall be determined solely by County and shall constitute County's acknowledgement that the Work has been completed according to the terms of this Contract.

SECTION III - COMPENSATION AND PAYMENT SCHEDULE

A. County shall pay Artist a fee for designing, fabricating, delivering and installing Work and for post-installation services described in this Contract. Artist budget attached hereto as Exhibit B. Artist shall accept said fee as full payment for materials and those services. The fee shall be in the amount of One Hundred Twenty Thousand Dollars (USD \$120,000).

B. The fee described in paragraph A, above, shall be paid in the following installments, expressed as percentages of such fee:

1. One-quarter (USD \$30,000) upon execution of this contract by County and Artist;
2. One-quarter (USD \$30,000) upon presentation of working drawings before ordering materials;
3. One-quarter (USD \$30,000) upon completion of fabrication and the selection of finishes;
4. Remainder One-quarter (USD \$30,000) after final installation and acceptance by the County.

C. The first payment will be made after all parties have signed this Contract. Artist shall submit a billing or invoice to County after completion of each stage outlined in

paragraph B. Final payment will be made upon determination by County that there has been full compliance with the terms of this Contract.

SECTION IV - TIME OF PERFORMANCE

A. Artist fully understands that time is of the essence for the design, engineering, fabrication, painting, powder coating, delivery, and satisfactory installation of the Work. Artist will deliver and install the Work at the Site no later than October 15, 2016, or a date 6 ½ months after the signing of the contract and delivery of the first payment, whichever is later.

In the event the Work is not delivered and installed by November 15, 2016, or any time extension approved under this Section, the Artist shall pay to the County as and for liquidated damages, not as a penalty, the sum of Fifty dollars (USD \$50) per day for each and every calendar day the Work is not delivered and fully installed.

B. County shall grant a reasonable extension of time to Artist in the event there is a delay on the part of County in performing its obligations under this Contract or if conditions beyond Artist's control or act of God render timely performance of Artist's services impossible. Failure to fulfill contractual obligations due to conditions beyond the reasonable control of either party will not be considered a breach of contract, provided that such obligations shall be suspended only for the duration of such conditions.

SECTION V - WARRANTIES

A. Warranties of Title

1. Artist represents and warrants that:

- a. Work is solely the result of the artistic and creative effort of Artist;
- b. Except as otherwise disclosed in writing to County, Work is unique and original and does not infringe upon any copyright; and
- c. Work has not been accepted for sale elsewhere; and
- d. Work is free and clear of any liens from any source whatsoever.

B. Warranties of Quality and Condition

1. Artist represents and warrants that:

- a. Work, as completed, will be free of defects in materials and workmanship.

- b. Reasonable maintenance of Work will not require procedures substantially in excess of those described in the maintenance recommendations submitted by Artist to County according to paragraph B(1) of Section I of this Contract.

C. Warranty Breach/Expiration

The warranties described in Section V of this Contract shall survive for a period of five (5) years after the final acceptance of the Work by the County. The County shall give notice to the Artist of any observed breach with reasonable promptness. The Artist shall, at the request of the County, and at no cost to the County, remedy reasonably and promptly the breach of any such warranty consistent with professional conservation standards (including, for example, repair or re-fabrication of the Work).

SECTION VI - REPRODUCTION RIGHTS

A. Artist may place a copyright notice on the Work in the form and manner required to protect copyrights in the Work under United States copyright law. If the copyright is registered with the United States Copyright Office, Artist shall provide County with the copy of the application for registration, the registration number, and the effective date of registration. Artist retains all rights under the Copyright Act of 1976, 17 U.S.C. Section 101 et seq., and all other rights in and to Work except ownership and possession.

B. If a copyright is perfected and registered, all publications by County concerning the Work shall contain a credit to Artist and a copyright notice substantially in the following form: "Copyright, John King, (date of publication)."

SECTION VII - ARTIST'S RIGHTS

A. Maintenance

County recognizes that maintenance of the Work on a regular basis is essential to the integrity of the Work. County will assume responsibility for regular maintenance according to the instructions provided by Artist to County, pursuant to paragraph B (1) of Section I of this Contract. County shall reasonably protect and maintain Work against the ravages of time, vandalism and the elements.

B. Repairs and Restoration

1. The costs associated with repairs and restoration outside of the warranties provided in Section V in this Contract shall be borne by County. County shall consult with Artist as to recommendations with regard to all repairs and restoration made during Artist's lifetime. Following the death or incapacity of Artist, County shall consult with the director of conservation appointed by Artist if Artist or his estate has advised County of such appointment, or if County has not been notified of such appointment, secure a bona-fide expert in conservation relative to the scale and media of the artwork in question. To the extent practicable and in accordance with recognized principles of

professional conservation, Artist, or his representative, shall be given the opportunity to accomplish such repairs and restoration and shall be paid a reasonable fee for such services.

2. At any point after delivery and installation of Work, Artist may inspect Work and shall notify County in writing of the necessity of any repairs. After consulting with Artist, County shall make the final determination of whether repairs are needed.

C. Alteration of Work or Site

1. County shall not intentionally alter, modify, change, destroy or damage the Work without consulting Artist.

2. In the event of any alterations or damage to the Work, whether intentional, accidental, within or without the control of County, or otherwise, Artist shall have, in addition to any other remedies he may have in law or equity under this Contract, the right to disclaim authorship of Work, and upon written request of Artist to County, County shall remove any identification plaques at its own expense. Artist may take such other actions he may choose in order to disavow the Work.

3. County shall notify Artist of any proposed significant alteration of Site that would affect the intended character and appearance of the Work. County shall consult with Artist in the planning and execution of any such alteration.

D. Permanent Record

1. County shall maintain on permanent file a record of this agreement and of the location and disposition of the Work.

E. Artist's Address

1. Artist shall notify County of changes in his address. If failure to do so prevents County from locating Artist, such failure shall be deemed a waiver by Artist of the right subsequently to enforce provisions of Section VII of this Contract that require the express approval of Artist. Notwithstanding this provision, County shall make every reasonable effort to locate Artist when matters arise relating to Artist's rights.

F. Resale Royalty

1. County agrees that if in the future, Work is sold during the lifetime of Artist; County shall within sixty (60) days of that sale pay Artist a sum equal to fifteen percent (15%) of the appreciated value of Work. For the purposes of this Contract, appreciated value shall mean the actual sale price received by County for Work less the original purchase price as stated in this Contract. Nothing in this Contract shall be construed to impose any obligation on County as to the method of sale or disposal of Work.

G. Surviving Covenants

1. The covenants and obligations set forth in Section VII of this Contract shall be binding upon the parties, their heirs, executors, assigns, and all their successors in interest, and County's covenants shall attach to and run with Work and shall be binding to and until twenty (20) years after the death of Artist. County shall give any subsequent owner of the Work notice in writing of the covenants herein and shall cause each owner to be bound thereby.

SECTION VIII - ARTIST AS INDEPENDENT CONTRACTOR

Artist performs all work under this Contract as an independent contractor and not as an employee of County. Artist shall be solely and entirely responsible for his acts and the acts of his employees, agents, servants, consultants and subcontractors during the performance of this Contract. No employee, agent, servant, consultant or subcontractor of Artist shall be deemed to be an employee, agent, servant, consultant or sub-contractor of County because of the performance of any work under this Contract. Artist, at his expense, shall procure and maintain workers' compensation insurance as required by law pursuant to the Workers' Compensation Act, Section 8-40-202(2)(b)(IV), C.R.S., as amended. Artist understands that he and any and all of his employees, servants, agents, consultants and sub-contractors are not entitled to workers' compensation benefits from County. Artist further understands that he is solely obligated for the payment of income tax in the country of his residence on any moneys earned pursuant to this Contract.

SECTION VIII - NONDISCRIMINATION

Artist shall not discriminate against any employee or qualified applicant for employment because of age, race, color, religion, marital status, disability, gender or national origin. Artist agrees to post in conspicuous places, available to employees and applicants for employment, notices provided by the local public agency setting forth the provisions of this nondiscrimination clause.

SECTION X - INDEMNIFICATION

Artist agrees to indemnify and hold harmless County, its officers, agents, and employees for, from, and against any all claims, suits, expenses, damages, or other liabilities, including reasonable attorney fees and court costs, arising out of damage or injury to persons, entities, or property caused or sustained by any person(s) as a result of Artist's performance or failure to perform pursuant to the terms of this Contract.

SECTION XI - ASSIGNMENT OF WORK

The work and services required of Artist are personal and shall not be assigned, sublet or transferred. This shall not prohibit Artist from employing qualified personnel who shall work under his supervision.

SECTION XII - MODIFICATION

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

SECTION XIII - MUTUAL UNDERSTANDINGS

A. Jurisdiction and Venue

The laws of the State of Colorado shall govern as to the interpretation, validity, and effect of this Contract. The parties agree that the jurisdiction and venue for any disputes arising under this Contract shall be with the Seventeenth Judicial District for the State of Colorado.

B. Compliance with Laws

During the performance of this Agreement, Artist agrees to strictly adhere to all applicable federal, state, and local laws, rules and regulations, including all licensing and permit requirements. The parties hereto aver that they are familiar with Section 18-8-301, *et seq.*, C.R.S. (Bribery and Corrupt Influences), as amended Section 18-8-401, *et seq.*, C.R.S. (Abuse of Public Office), as amended, and that no violations of such provisions are present.

C. Record Retention

Artist shall maintain records and documentation of the services and work provided under this Contract, including fiscal records, and shall retain the records for a period of twenty (20) years from the date of this Contract. Said records and documents shall be subject at all reasonable times to inspection, review, or audit by authorized federal, state or County personnel.

D. Waiver

Waiver of strict performance or the breach of any provision of this Contract shall not be deemed a waiver, nor shall it prejudice the waiving party's right to require strict performance of the same provision, or any other provision in the future, unless such waiver has rendered future performance commercially impossible.

E. Force Majeure

Neither party shall be liable for any delay or failure to perform its obligations hereunder to the extent that such delay or failure is caused by a force or event beyond the control of such party including, without limitation, war, embargoes, strikes, governmental restrictions, riots, fires, floods, earthquakes, tornadoes, or other acts of God.

F. Integration of Understanding

This Contract contains the entire understanding of the parties hereto and neither it, nor the rights and obligations hereunder, may be changed, modified, or waived except by an instrument in writing that is signed by the parties hereto.

G. Severability

If any provision of this Contract is determined to be unenforceable or invalid for any reason, the remainder of this Contract shall remain in effect, unless otherwise terminated in accordance with the terms contained herein.

H. Legal Authority

Each party represents and warrants that it has the power and ability to enter into this Contract, to grant the rights granted herein, and to perform the duties and obligations herein described.

I. Notice

Any notices given under this Contract are deemed to have been received and to be effective three days after the same shall have been mailed by certified mail, return receipt requested; or immediately upon hand delivery; or immediately upon receipt of confirmation that a facsimile was received. For purposes of this Contract, any and all notices shall be addressed to the contacts listed below:

For the County: Adams County Office of Cultural Affairs
Attn: Gabe Rodriguez
4430 South Adams County Parkway
Brighton, Colorado 80601
Phone: (720) 523-6846
Fax: (720) 523-6120

For the Artist: John King
618 Apple Valley Road
Lyons, CO 80540
303-823-6828
~~John.King@msn.com~~
John.King2@msn.com

J. COMPLIANCE WITH C.R.S. § 8-17.5-101, ET. SEQ. AS AMENDED 5/13/08

Pursuant to Colorado Revised Statute (C.R.S.), § 8-17.5-101, *et. seq.*, as amended 5/13/08, the Contractor shall meet the following requirements prior to signing this Agreement (public contract for service) and for the duration thereof:

- A. The Contractor shall certify participation in the E-Verify Program (the electronic employment verification program that is authorized in 8 U.S.C. § 1324a and jointly administered by the United States Department of Homeland Security and the Social Security Administration, or its successor program) or the Department Program (the employment verification program established by the Colorado Department of Labor and Employment pursuant to C.R.S. § 8-17.5-102(5)) on the attached certification.
- B. The Contractor shall not knowingly employ or contract with an illegal alien to perform work under this public contract for services.
- C. The Contractor shall not enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this public contract for services.
- D. At the time of signing this public contract for services, the Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this public contract for services through participation in either the E-Verify Program or the Department Program.
- E. The Contractor shall not use either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this public contract for services is being performed.
- F. If Contractor obtains actual knowledge that a subcontractor performing work under this public contract for services knowingly employs or contracts with an illegal alien, the Contractor shall: notify the subcontractor and the County within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to the previous paragraph, the subcontractor does not stop employing or contracting with the illegal alien; except that the contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.
- G. Contractor shall comply with any reasonable requests by the Department of Labor and Employment (the Department) made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. § 8-17.5-102(5).
- H. If Contractor violates this Section of this Agreement, the County may terminate this Agreement for breach of contract. If the Agreement is so terminated, the Contractor shall be liable for actual and consequential damages to the County.

IN WITNESS WHEREOF, the parties have caused their names to be affixed hereto.

BOARD OF COUNTY COMMISSIONERS
ADAMS COUNTY, COLORADO

Steven J. Bourisio
Chair

5/31/16
Date

ATTEST: STAN MARTIN
CLERK AND RECORDER

Shanna
Deputy Clerk

APPROVED AS TO FORM:

D. Coetz
Adams County Attorney's Office

ARTIST:

John King
John King

May 2, 2016
Date

NOTARIZATION OF CONTRACTOR'S SIGNATURE:

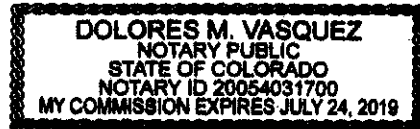
COUNTY OF Boulder

STATE OF Colorado)SS.

Signed and sworn to before me this 2nd day of May, 2016,

by John King

Dolores M. Vasquez
Notary Public



My commission expires on: July 24, 2019

LAWFUL PRESENCE AFFIDAVIT

I, _____, swear or affirm under penalty of perjury under the laws of the State of Colorado that (check one):

_____ I am a United States Citizen, or

_____ I am a legal Permanent Resident of the United States, or

_____ I am otherwise lawfully present in the United States pursuant to Federal law

(note: additional verification will be required through the "SAVE" program*).

I understand that this sworn statement is required by law because I have applied for a public benefit. I understand that state law requires me to provide proof that I am lawfully present in the United States prior to receipt of this public benefit. I further acknowledge that making a false, fictitious, or fraudulent statement or representation in this sworn affidavit is punishable under the criminal laws of Colorado as perjury in the second degree under Colorado Revised Statute 18-8-503 and it shall constitute a separate criminal offense each time a public benefit is fraudulently received.

Signature

Date

COUNTY USE ONLY

Identification Produced (check one):

_____ Colorado Drivers License

_____ Colorado Identification Card

_____ United States Military Card

_____ United States Military Dependent's Card

_____ United States Coast Guard Merchant Mariner Card

_____ Native American Tribal Document

_____ *Verification to be completed through the "SAVE" program.

Identification produced to: _____, of Adams County. _____
Name of County employee Initials

The Adams Co Parks Program
With
Rotella Park and the Welby neighborhood
Presents

"The Sky Line Trail"

"Walking Art Adventure"



Look Up!

3 Interactive, Kinetic, Artworks
Designed to Uplift, Restore, and Delight
Visitors to the Park

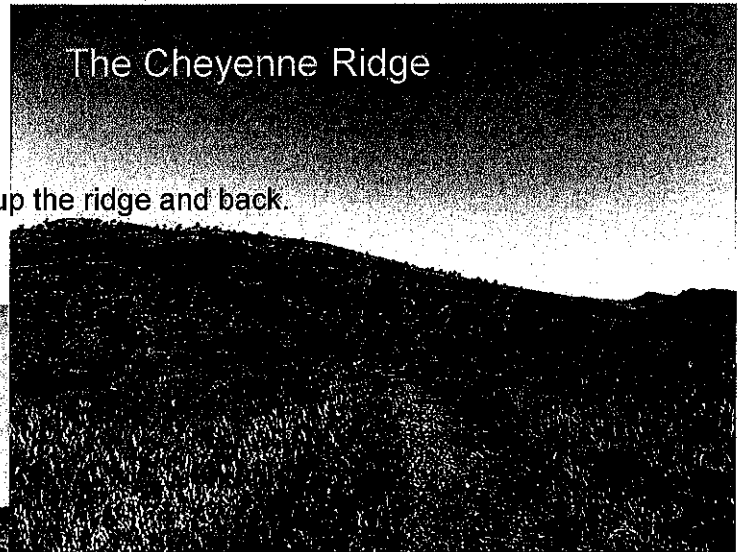
by John King of Lyons, CO

EXHIBIT A

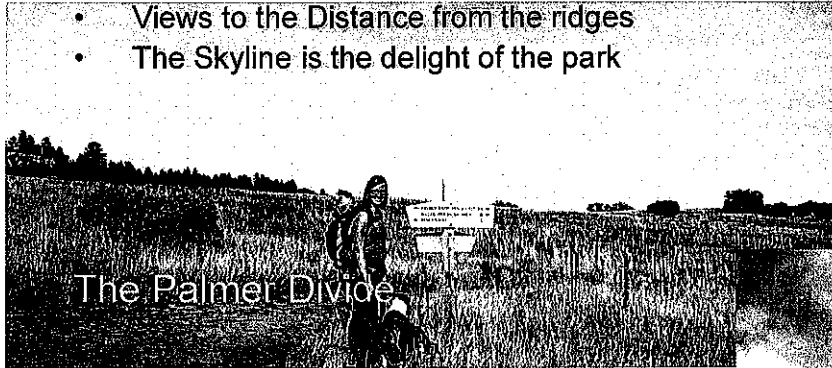
ROTELLA PARK LAND OBSERVATIONS:

- Very rare landscape on the front range
- High skyline ridge at the south edge of the park
- 1 mile of walk ways with a large loop trail that goes up the ridge and back.
- Grasslands meet the sky
- Spaced Pine and Fir
- Views to the Distance from the ridges
- The Skyline is the delight of the park

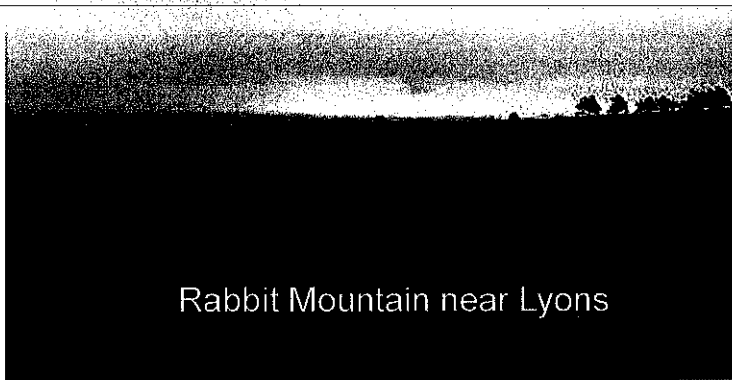
The Cheyenne Ridge



The Palmer Divide



Rabbit Mountain near Lyons



The Rotella Skyline

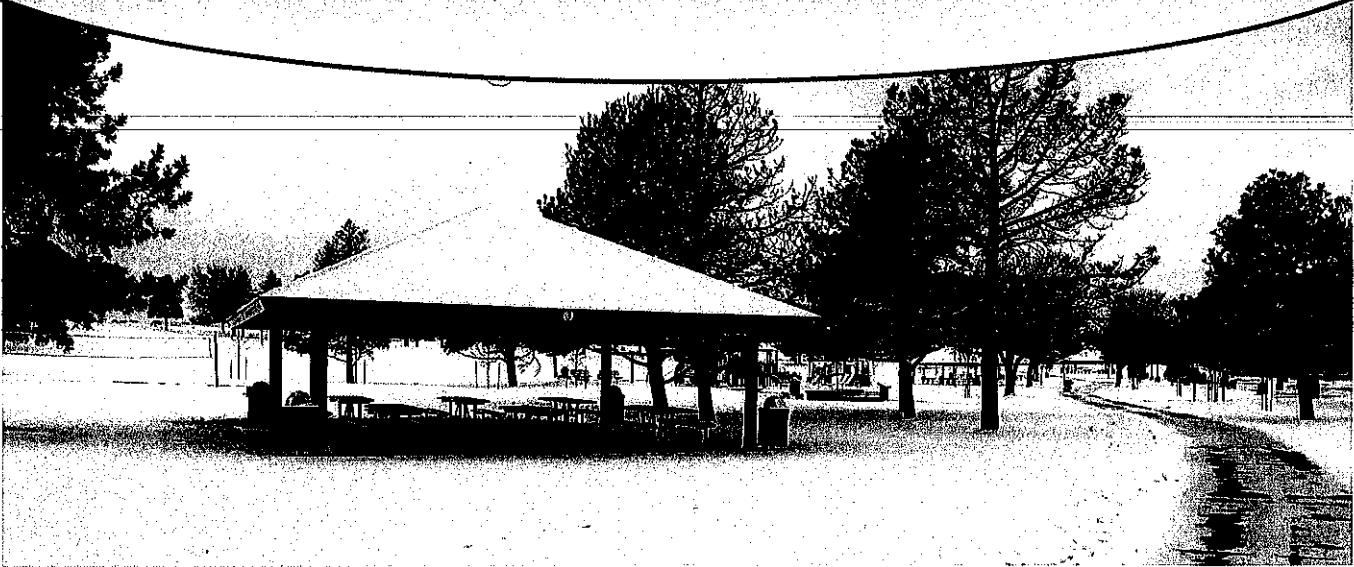


Rotella Sky Line



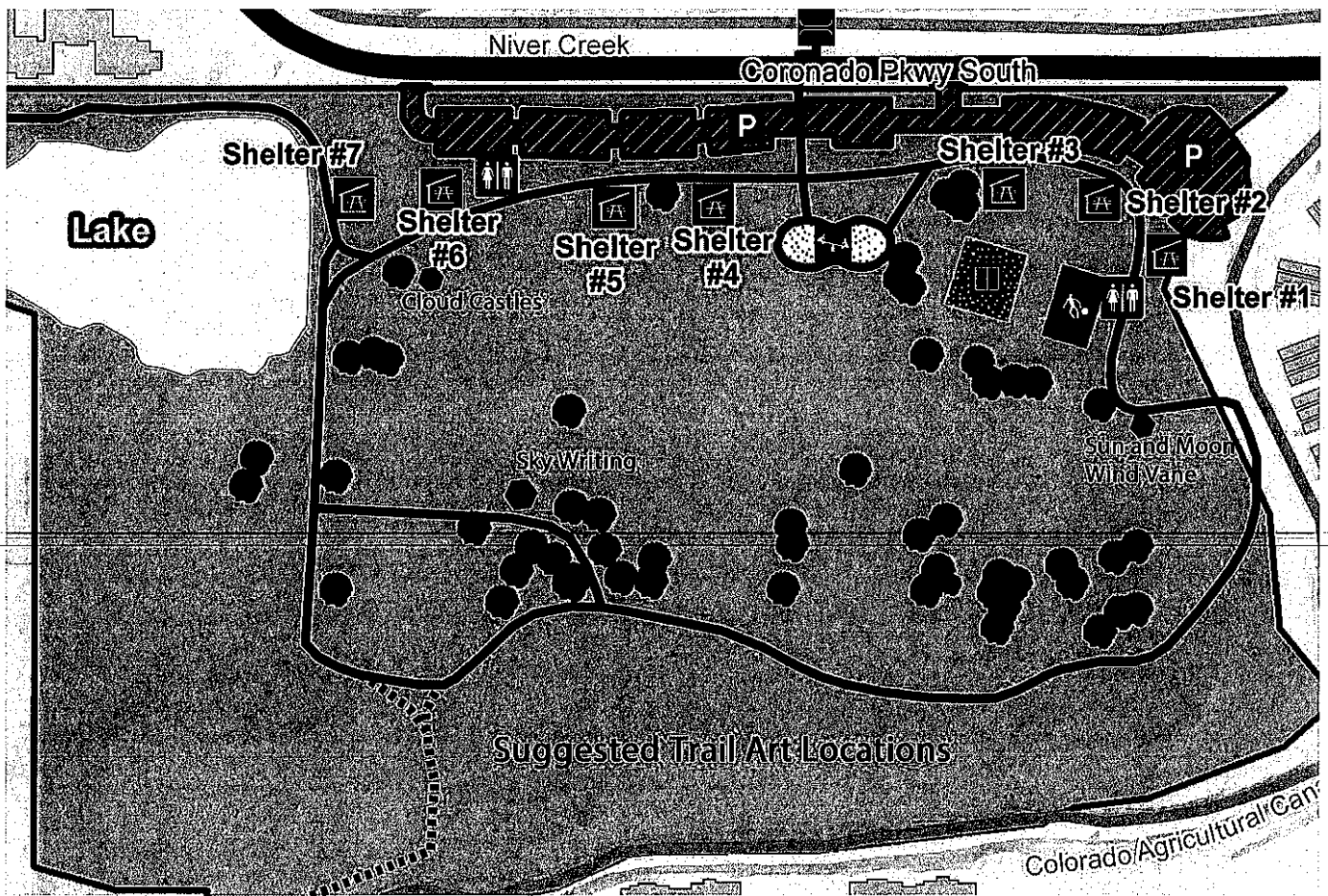
Rotella Park asset analysis

- The Renovation has created wonderful access to family picnic and group activities, spread out along a trail.
- Auto access and parking are along a loop drive that spreads out the congestion and make it possible to enter the park from many points.
- There is no single focused entrance to the park, nor should there be.
- The Park has an excellent loop walking trail that travels the Sky Line.
- Art can encourage the walking use of the trail system and will link the loop trail to the shelters and strengthen the total park asset.
- Art can guide and introduce visitors to the "Sky Line" experience



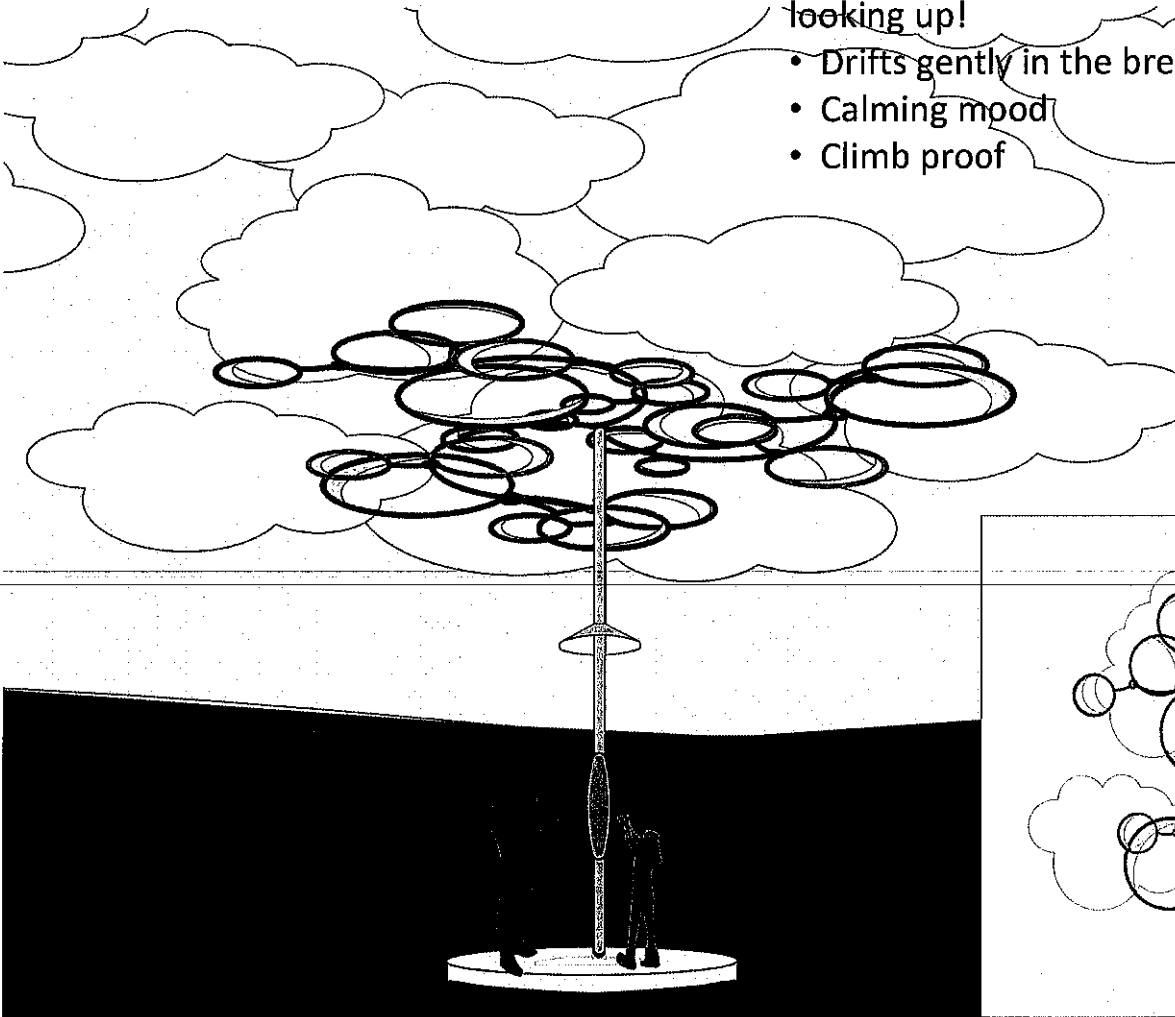
ROTELLA PARK "SKYLINE TRAIL"

A WALKING ART ADVENTURE WITH 3 VIEWS OF THE SKY



1) Cloud Castles

- At the west end of the picnic structures the piece can be seen easily and begins the trail.
- Oriented to children, the piece is about looking up!
- Drifts gently in the breeze, turned by viewers.
- Calming mood
- Climb proof



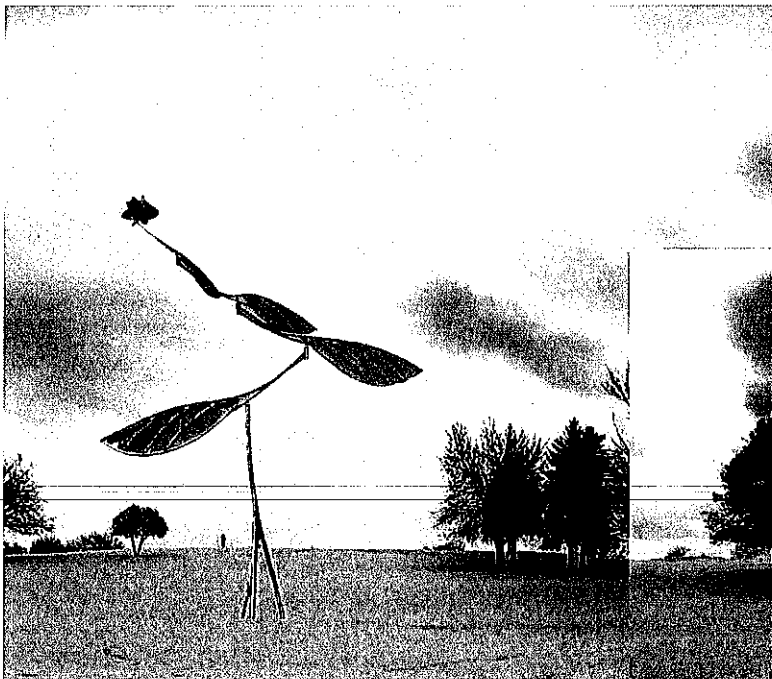
Cloud Castles- Look Up! - Video

**DPS Lobby Center Sculpture
Maquette for Rotella Sky Line Trail
"Cloud Castles"**



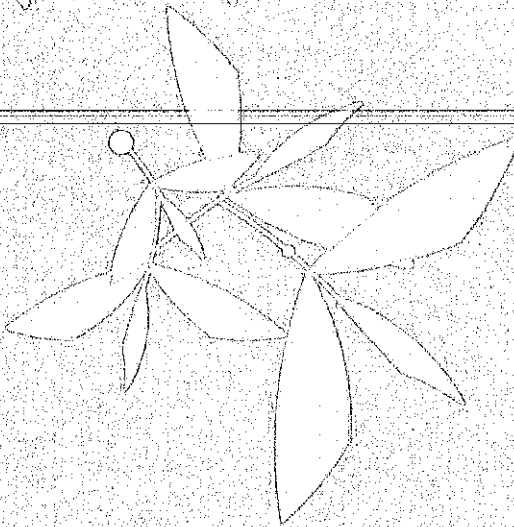
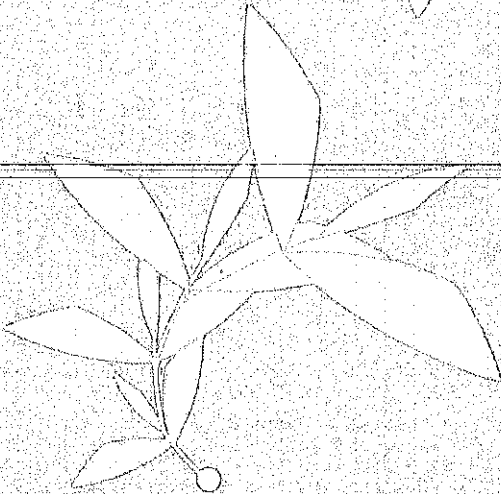
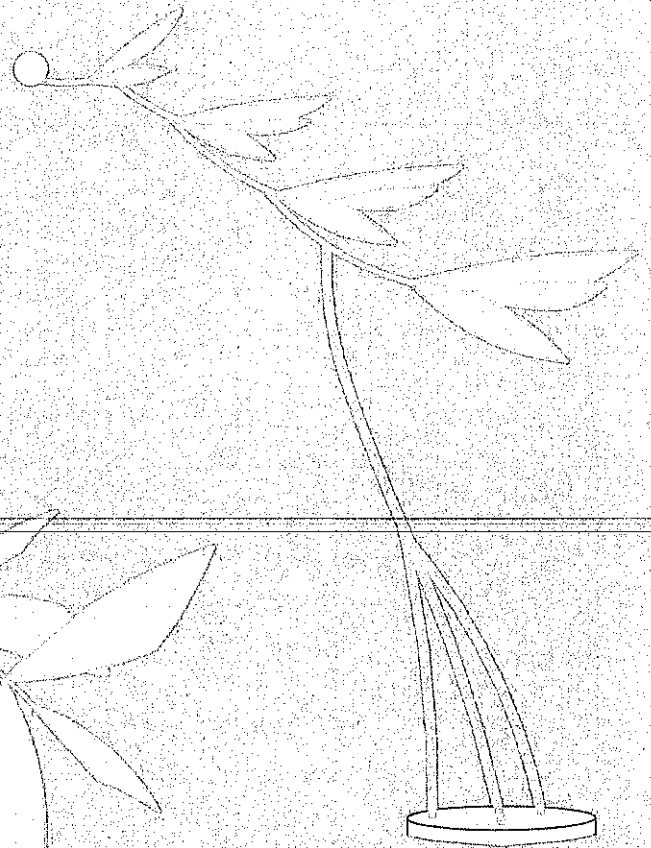
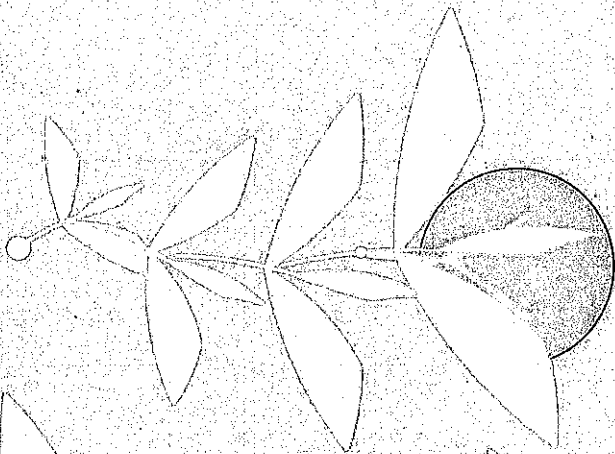
2) Sky Writing

- Seen on the ridge from the play area, the piece invites you to walk the trail.
- The art can overhang the trail with a view upward of soaring birds.
- The calligraphy of wings against the sky.
- Excellent calm movement in all winds
- Aids in the exploration of nearby and distant features.



2) Sky Writing

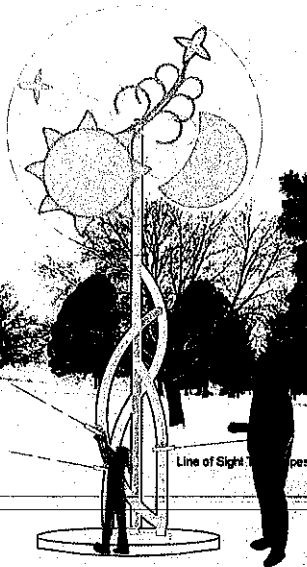
Look Up!
Sky Writing



4) Sun/Moon/Stars wind vane

the sun blows the stars around, the stars blow the moon around.

Reminds us of the historical wind vanes on so many farmhouse roofs. Keeping an eye on the weather remains an important part of living on the land.

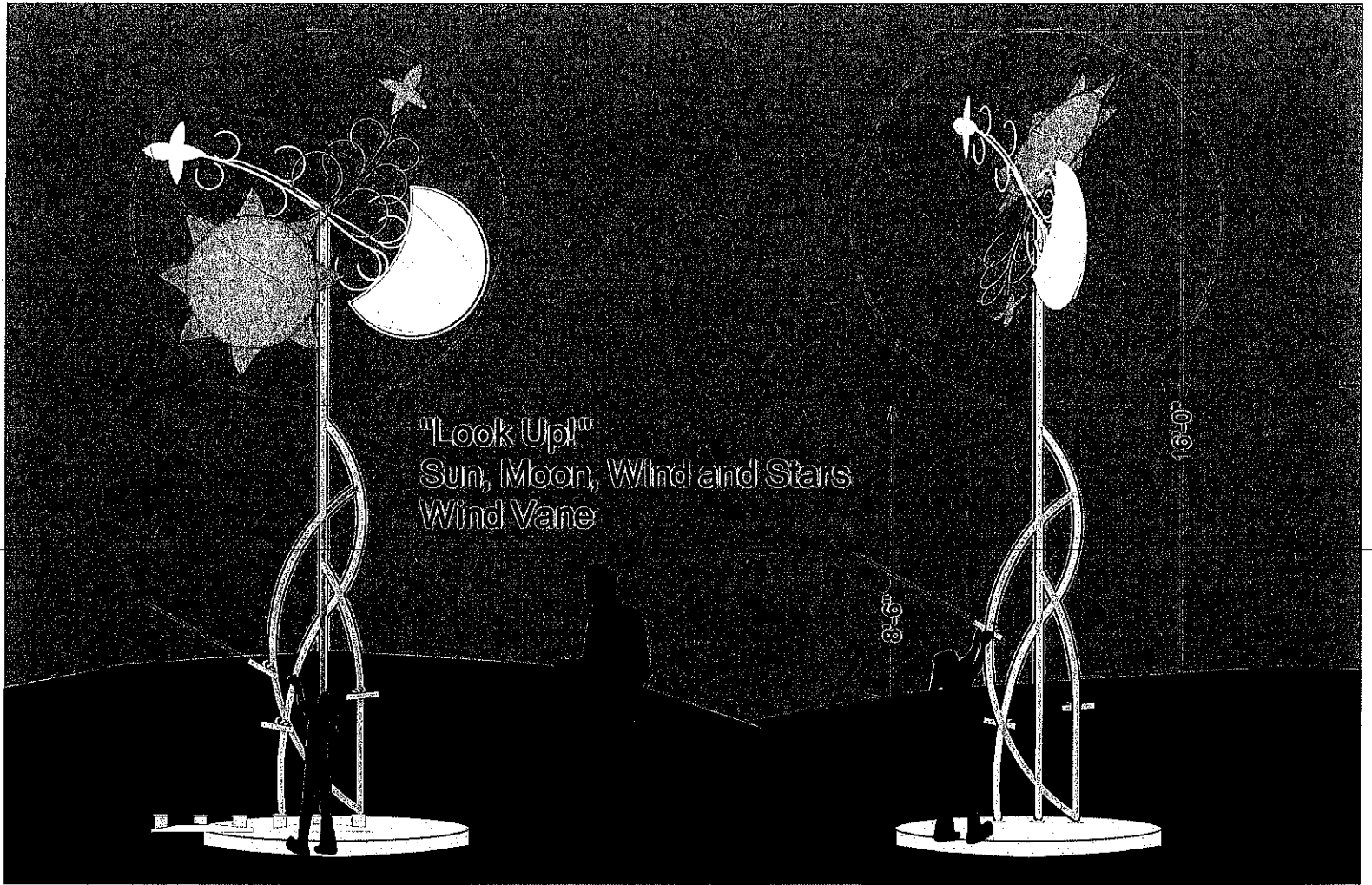


South East Corner of trail

Extremely smooth and controlled motion in all winds, high and low.

Line of sight telescopes point at nearby and distant features for further exploration. Interactive feature could allow vane to be rotated from below in still air.

Tumbling Wind Vane 2 Views



John King - Rotella Park Proposal

- To design, build and install 3 sculptures to create the Skyline Art Trail. (4 options shown)
- Art locations to be selected in consultation with the park design professionals.
- Engineering and construction of 3 concrete art foundations.
- Selection of the finish texture and color choices with members of the art committee after the construction of the artworks and before finishing.
- Name plates on art.

Things that the Sky Line Trail can add at Rotella Park

- Entertainment
- Link the park to the city
- 3 Additional park experiences
- Strengthen the identity of the Park
- Re-creation for visitors
- Create an art walk
- Inspiration

- A link to the values that the land offers
- Education about how to use the park
- Reference to the history of the area.
- Maximize the assets already present in the park

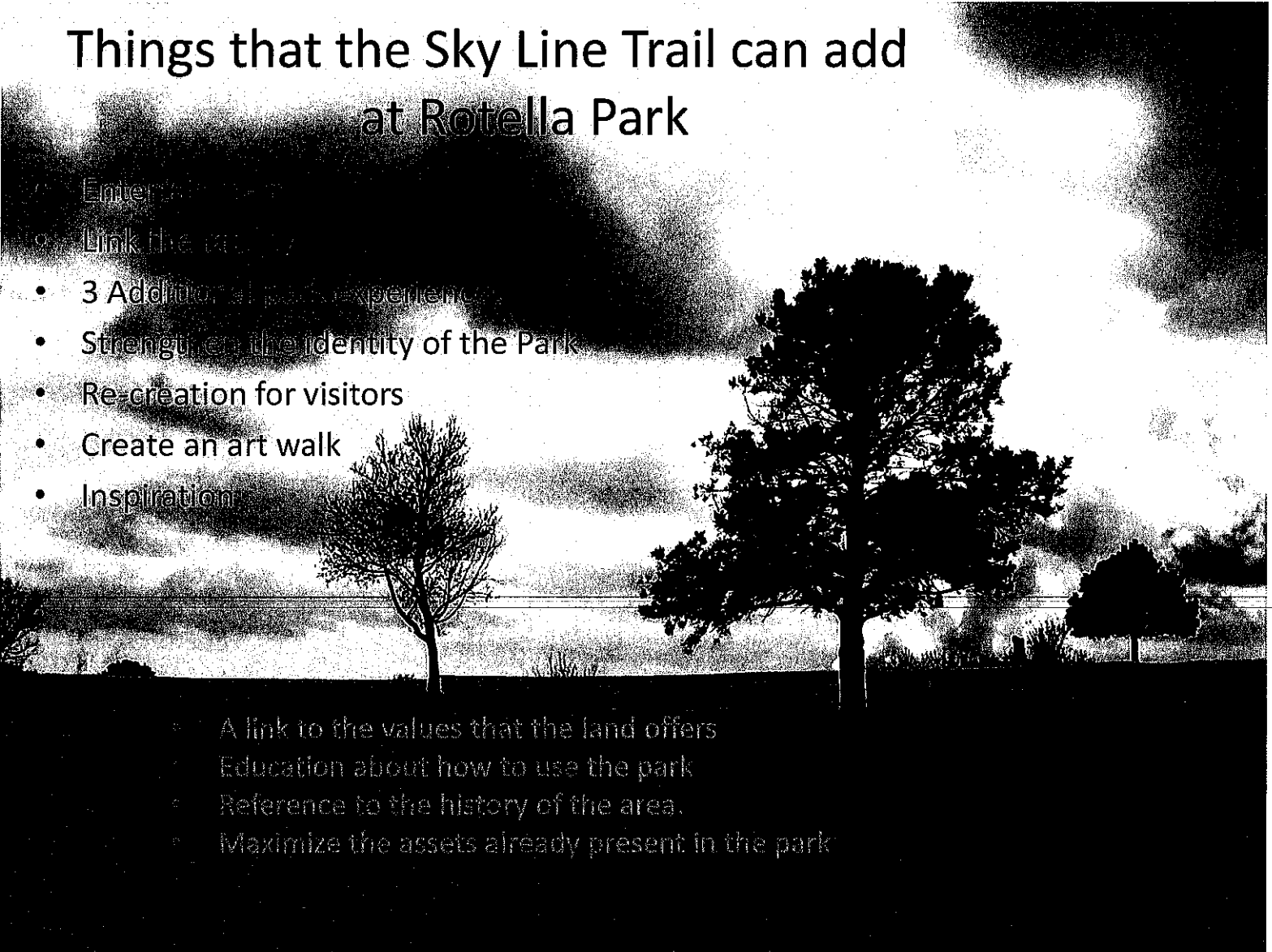


EXHIBIT B

JOHN KING

BUDGET

Kinetic Interactive Sculpture

Rotella Park Art Commission \$120,000.

DESIGN DEVELOPMENT

Artist Design Fee
Working Drawings
Contracts
Meetings
Site Visits
Progress Reports
Presentation Expenses (Additional)

subtotal \$12,400

PROFESSIONAL SERVICES

Foundation Engineering
Additional Engineering

subtotal \$3,200

MATERIALS AND SUPPLIES

\$19,500

FABRICATION

Artist Work
Assistants
Studio Expenses
Outside Fabrication

subtotal \$66,500

FOUNDATIONS IN PARK

Excavation
Forming
Concrete pouring and finish
Level grade

subtotal \$3,750

TRANSPORT COMPONENTS/ DELIVER ARTWORK

\$1,200

INSTALLATION OF ARTWORKS

\$2,400

GENERAL OPERATING

Administrative Expenses
Office and Studio Overhead
Photography and Documentation
Travel

subtotal \$5,700

INSURANCE

Liability

Workers Comp

Auto Liability

subtotal \$2,550

ART PLAQUE (3)

\$300

CONTINGENCY

\$2,500

OTHER EXPENSES

Total Budget \$120,000