

**CITY OF SANTA FE
COMMUNITY GALLERY ARTIST AGREEMENT**

THIS AGREEMENT is made and entered into by and between the City of Santa Fe, through its Community Gallery ("Gallery" or the "City"), and GVG Contemporary (the "Vendor"). The date of this Agreement shall be the date when it is executed by the City of Santa Fe and the Artist, whichever occurs last.

1. **SCOPE OF SERVICES**

The Vendor agrees to consign the physical manifestation of the artistic effort of the Vendor (the "Art" with a more particular description attached hereto as **Exhibit A**) between July 1, 2018, and June 30, 2021. The Art shall be located at the City of Santa Fe Community Convention Center located at the corner of Federal Place and Grant Avenue in the location determined by the City (the "Site").

2. **COMMISSION/PAYMENT TERMS.**

A. The retail sales price for each consigned artwork (the "Retail Price") will be established mutually by the Vendor in consultation with the Gallery and is recorded in **Exhibit A**. Factors influencing the Retail Price include history of prior sale by the Vendor, market demand, and the Gallery's knowledge of its inventory.

B. The Gallery is entitled to retain thirty percent (30%) of the Retail Price of each sale as a commission to the Gallery, which shall include gross receipts tax.

C. Prior to any transfer of sale proceeds from the Gallery to the Vendor, the Vendor shall present the Gallery with evidence of a City of Santa Fe business license, as required by §§18-1 et seq. of the Santa Fe City Code. Within sixty (60) days of either the receipt of full payment from the Buyer or the Vendor's presentation of evidence of a business license, whichever is later, the Gallery shall convey seventy percent (70%) of the Retail Price to the Vendor, which includes gross receipts tax. The Vendor is required to timely and properly transmit the applicable gross receipts tax to the N.M. Taxation and Revenue Department in accordance with state law.

D. During the Term of this Agreement, the Art is for sale by the Gallery and the Gallery is entitled to a commission on any sales of the Art, even if conducted outside of the Gallery exhibition.

3. **TRANSPORTATION AND INSTALLATION**

A. The Vendor is responsible for the transportation of the Art to and from the Site. In addition, the Vendor is responsible for any installation required by the Gallery and for the Art's removal from the Site. Any transportation or installation costs are the sole responsibility of the Artist.

B. The Vendor shall install the Art in a manner acceptable to the Gallery and such acceptance shall not unreasonably be withheld.

C. The Gallery shall be responsible for the selection, fabrication and installation of all associated temporary identification labels. All identification labels will credit the Vendor with the creation of the Art. If the Vendor is represented by a private third-party gallery, the Gallery will display on the name of the third-party gallery on its label.

4. **TERM AND EFFECTIVE DATE**

This Agreement shall be effective when signed by the City of Santa Fe and the Vendor, whichever occurs last, and terminate on July 30, 2021 (the "Term"), unless terminated sooner pursuant to § 6.

5. **TERMINATION AND RETURN OF ART**

A. Upon written request by the Vendor, the Art may be withdrawn from the Site in accordance with Gallery procedures and during business hours. Upon such removal of the

Art, this Agreement shall immediately terminate. Furthermore, subject to twenty-four (24) hours written (including email) notice to the Vendor, the Gallery may terminate this Agreement with or without cause.

B. Upon either the expiration of the Term or other termination of this Agreement, the Vendor shall remove the Art and all structures necessary for its display within twenty-four (24) hours. Furthermore, the Gallery has the immediate right to remove the Art from the Gallery and safely store it until the Vendor removes it from storage. If the Vendor does not retrieve the Art within thirty (30) days after the termination of this Agreement, then the Gallery shall have the absolute right to: place the Art in long-term storage; charge removal fees, storage fees, and insurance costs; and, place a lien against the Art for such fees and costs.

C. If the legal ownership of the Art changes during the Term of this Agreement, whether by death, sale, insolvency, gift or otherwise, then the new owner may be required to establish legal right to receive the Art by proof satisfactory to the Gallery. Otherwise, the Art will be returned only to the Vendor.

D. If the Vendor has failed to respond to written notice from the Gallery for three (3) months after the termination of this Agreement, then the Gallery may proceed with abandonment proceedings as outlined in the Abandonment Cultural Properties Act, §§ 18-10-1 through 18-10-5 NMSA 1978.

E. The Gallery shall issue an "Initial Condition Report" (attached hereto as **Exhibit B**) to be signed by the Vendor when the Art is delivered to the Site. In addition, the Vendor when the Art is removed from the Site.

6. COPYRIGHT AND REPRODUCTION RIGHTS

A. The Vendor shall retain ownership of the Art consigned to the Gallery.

B. The Vendor expressly reserves every right to the Art available at common law or under the Federal Copyright Act.

C. However, the Gallery may publish and distribute photographs of the Art for commercial and noncommercial purposes and otherwise display the Art in a manner consistent with this Agreement.

7. INSURANCE:

The Gallery will maintain insurance for fire/theft/vandalism and declares that all consigned artwork will be covered by said insurance only while the Art is in Gallery's possession, not for the Term of this Agreement. Reasonable efforts will be made to protect consigned artwork from accidental damage or breakage. If damage amounting to a total loss occurs to the Art, the Vendor agrees to accept seventy percent (70%) of the Retail Price as compensation. The Vendor agrees not to seek any further or additional money from the Gallery/City, including but not limited to amounts for actual, incidental, special or punitive damages, loss of revenues, and damages from impairment of contract.

8. WAIVER:

Accept as provided in § 8, I, the undersigned Vendor, my heirs and assigns, hereby waive all claims for injuries, damages or losses to my artwork which may be caused directly or indirectly, by any act, omission or negligence arising from or related to the activities of the City of Santa Fe. I hereby release and hold harmless the City of Santa Fe and their officers, agents, and employees from any and all claims, including bodily injury, death or property damage which may occur due to my consignment of my artwork. I, the undersigned, my heirs and assign, hereby covenant and agree to indemnify and hold harmless the City of Santa Fe, their officers, agents and employees from any and all costs, charges, claims, demands, losses damages, causes of action, suits and liabilities of any kind, including the expenses of

litigation , court costs and attorney's fees, for injuries to, or death or illness of any person , or for damage to any property, arising out of or in connection with my consignment of my artwork

9. ASSIGNMENT

The Vendor shall not assign or transfer any rights, privileges, obligations, or other interest under this Agreement, including any claims for money due, without the prior written consent of the Gallery.

10. RELEASE

Upon entering into this Agreement, the Vendor releases the City, its officers and employees, from all liabilities, claims, and obligations whatsoever arising from or under this Agreement. The Vendor agrees not to purport to bind the City to any obligation not assumed herein by the City unless the Vendor has express written authority to do so, and then only within the strict limits of that authority.

11. INDEMNIFICATION

A. The Vendor shall indemnify, hold harmless and defend the Gallery/City from all losses, damages, claims or judgments on account of any suit, judgment, execution, claim, action, or demand whatsoever arising from Vendor's performance under this Agreement as well as the performance of Vendor's employees, agents, representatives and subcontractors, including payments of all attorney's fees and costs.

B. The City does not agree to defend or hold the Vendor harmless for any claims that may be brought against the Vendor for injuries or damages caused by the "Art".

12. APPLICABLE LAW; CHOICE OF LAW; VENUE

Vendor shall abide by all applicable federal and state laws and regulations, and all ordinances, rules and regulations of the City of Santa Fe. In any action, suit or legal dispute arising from this Agreement, the Vendor agrees that the laws of the State of New Mexico shall govern. The parties agree that any action or suit arising from this Agreement shall be commenced in a federal or state court of competent jurisdiction in New Mexico. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court.

13. NEW MEXICO TORT CLAIMS ACT

By entering into this Agreement, neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1, et. Seq. NMSA 1978, as amended. The City and its public employees, as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

14. AMENDMENT

This agreement shall not be altered, changed or modified except by an amendment in writing executed by the both parties.

15. SAVINGS

If any portion or section of this Agreement is determined to be illegal or otherwise unenforceable, then that portion or section shall be severed from this Agreement and the remainder of the Agreement shall remain in full force and effect.

16. NOTICES

Accept as provided in § 6 of this Agreement, any notices required to be given under this Agreement shall be in writing and served by personal delivery or by mail, postage prepaid, to the parties at the following addresses:

GALLERY:
City of Santa Fe Arts Commission
PO Box 909
Santa Fe, NM 87504-0909

VENDOR:
Blair Vaughn-Gruler, Owner
GVG Contemporary
241 Delgado Street
Santa Fe, NM 87501

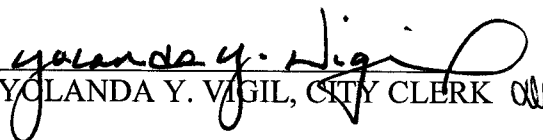
IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth below.

CITY OF SANTA FE:


CITY MANAGER

DATE: 7/5/12

ATTEST:


YOLANDA Y. VIGIL, CITY CLERK

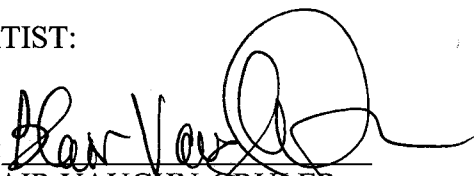
APPROVED AS TO FORM:


CITY ATTORNEY 6/13

APPROVED:

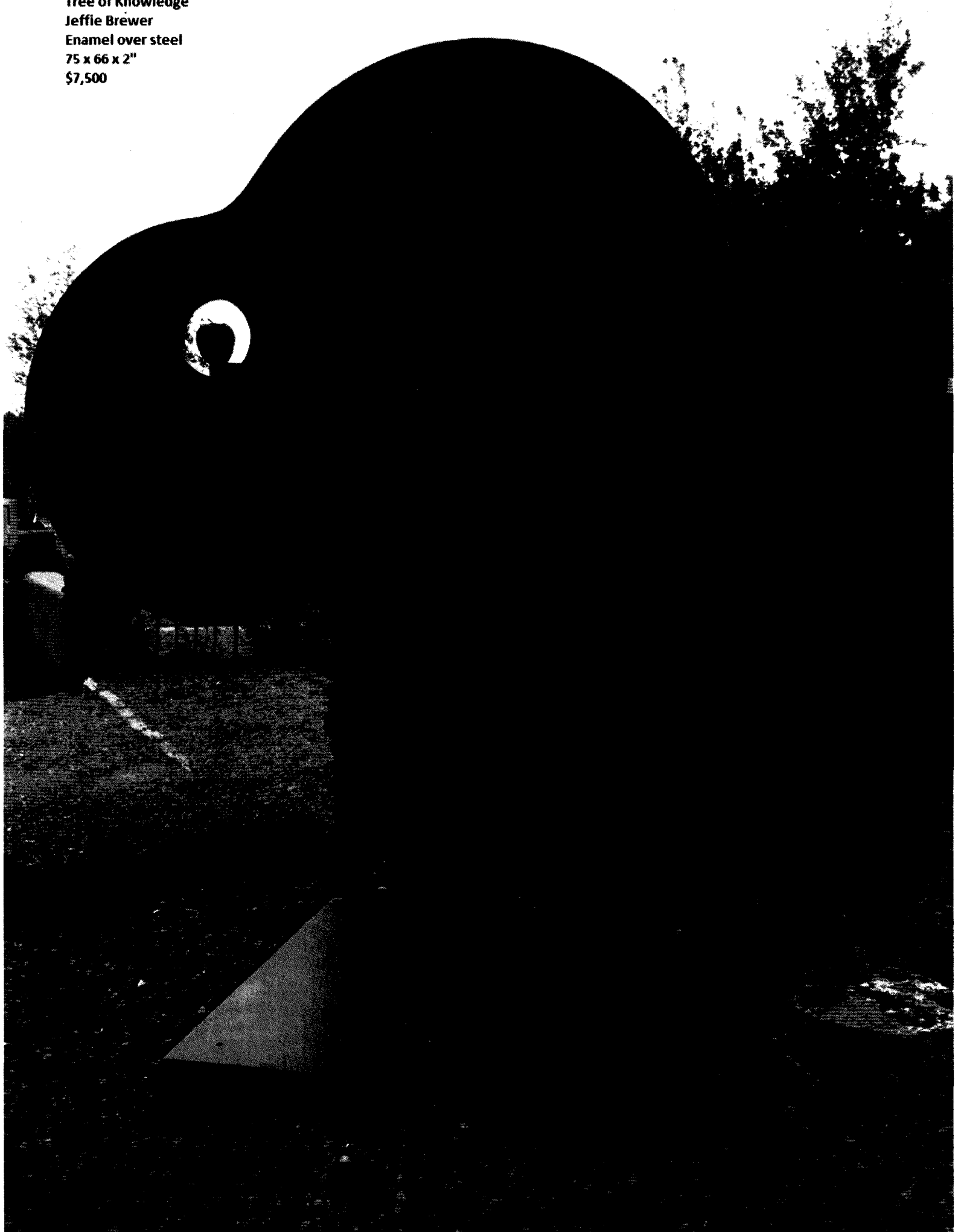

FINANCE DIRECTOR 7-2-18 AM

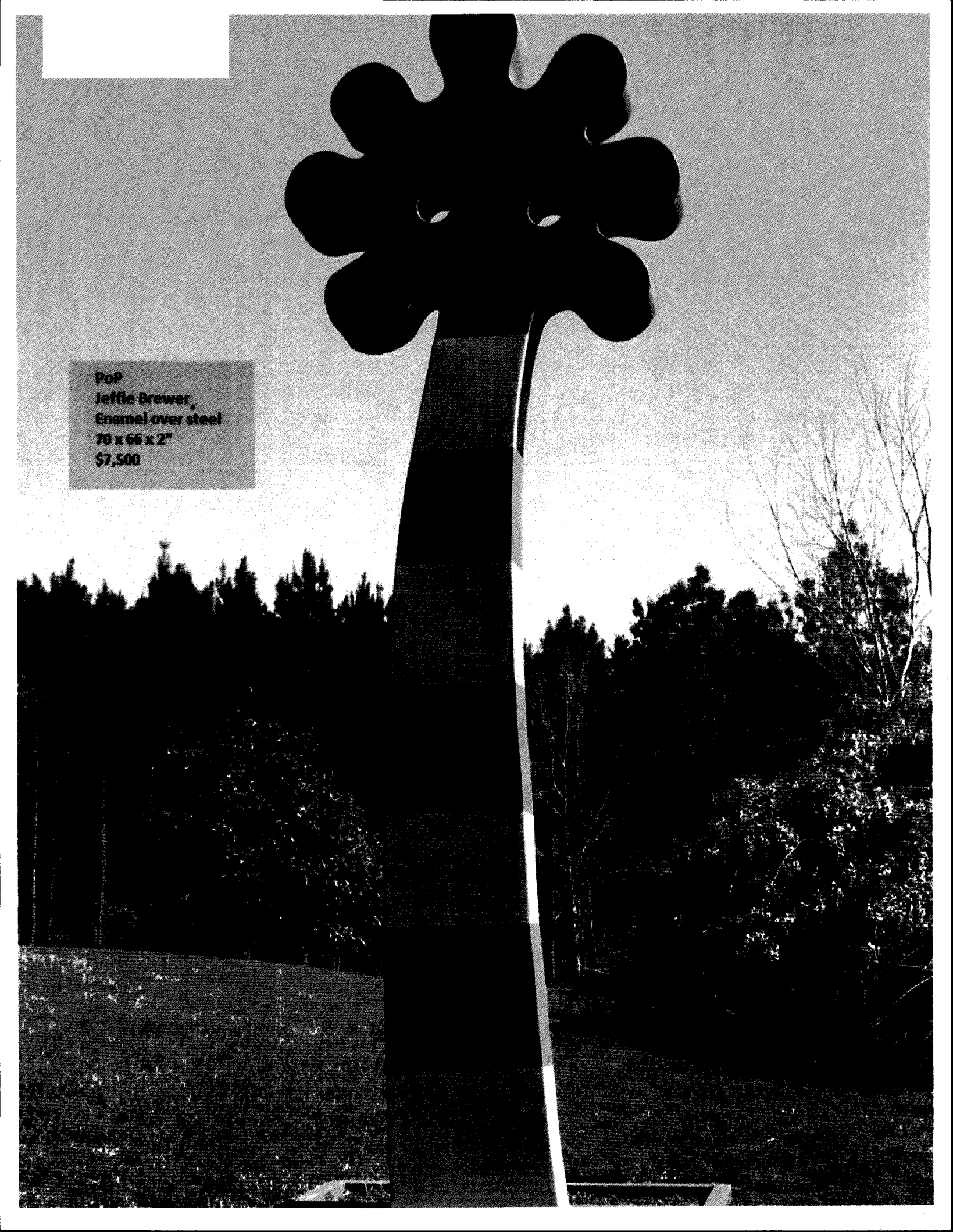
ARTIST:

By: 
BLAIR VAUGHN-GRULER
GVG CONTEMPORARY

BU 51105.470700
52104.510600

Tree of Knowledge
Jeffie Br wer
Enamel over steel
75 x 66 x 2"
\$7,500





Pop
Jeffie Brewer,
Enamel over steel
70 x 66 x 2"
\$7,500