

**CONTRACT FOR THE
DESIGN OF PUBLIC ART WORK BETWEEN
THE CITY OF AUSTIN AND STUDIO MODO**

This Contract for the Design of Public Art Work is entered into by and between the City of Austin, a home-rule municipality incorporated in the State of Texas, and Studio Modo, located at 3911 Petes Path, Austin Texas, 78731.

Section 1. DEFINITIONS

The following terms, as used in this Contract, have the meanings identified below. Terms not defined below will have their ordinary and customary meanings, as generally used in the field of public art.

- 1.1. **"Artist"** means Studio Modo.
- 1.2. **"City"** means the City of Austin, acting by and through its duly authorized City Manager or designee.
- 1.3. **"Community Engagement Plan"** means a written plan documenting the manner in which the Artist will engage in a two-way process by which identified community representatives and stakeholders are given the opportunity to provide input that enhances the Artist's processes for creating the Work so that the Work may positively impact the community's well-being and interests.
- 1.4. **"Commission Agreement"** means a separate Contract, in which the City further contracts with the Artist for the fabrication, delivery, and construction services necessary to complete installation of the Work at the Site.
- 1.5. **"Contract"** means this contract for Design of Public Art Work between the City and the Artist, including any and all attachments, amendments, and exhibits.
- 1.6. **"Contract Administrator"** means the Art in Public Places Administrator, the Director of the City's Economic Development Department, or respective designee.
- 1.7. **"Contract Price"** means the total compensation to be paid to the Artist pursuant to this Contract, to be paid on such terms as are set out in Section 5.
- 1.8. **"Default"** means the failure, after notice and opportunity to cure as provided herein, of one Party to timely and properly fulfill its obligations under this Contract and/or the violation by one Party of any material covenants, agreements, or stipulations set out in this Contract.
- 1.9. **"Effective Date"** means the date on which this Contract becomes fully effective as between the Parties, and is the date on which the last Party executes this Contract.
- 1.10. **"Facility"** means the Austin-Bergstrom International Airport owned, operated, or controlled by the Sponsoring Department and located at 3600 Presidential Blvd, Austin, TX 78719.
- 1.11. **"Final Design"** means the final design of the Work as approved by the City under Section 4.2.7.

- 1.12. **"Mid Design"** means the partially developed design of the **Work** submitted by the **Artist** to the **City** pursuant to Section 4.2.6.
- 1.13. **"Party"** means either the **City** or the **Artist**, and **"Parties"** means the **City** and the **Artist** collectively.
- 1.14. **"Project"** means the **City** construction project at which the **Work** will be installed, known as the **Parking Garage/Administration Building project**.
- 1.15. **"Schedule"** means the full and complete schedule developed and prepared by the **Artist**, with input and approval from the **City**, for the design, fabrication, delivery, transportation, and installation of the **Work**, which schedule complies with the **Project** completion schedule that the **City** provides to the **Artist**, and which schedule may be modified from time to time by the **Parties** as set out in this **Contract**.
- 1.16. **"Site"** means the portion of the **Facility** at which the **Work** will be installed, more particularly set out in Exhibit A.
- 1.17. **"Sponsoring Department"** means the Aviation Department of the **City**.
- 1.18. **"Work"** means an original piece of public art conceived and designed, by the **Artist** as set out in this **Contract**, and more particularly described as an exterior public artwork.

Section 2. EXHIBITS

- 2.1. The following documents are attached to this **Contract**, and are incorporated into this **Contract** by reference:

Exhibit A. Facility/Site Plan

Exhibit B. Request for Qualifications

Exhibit C. Artist Qualifications

Exhibit D. Permit Fee Waiver Memo

Exhibit E. Insurance Requirements

Section 3. BACKGROUND, RECITALS, AND STATEMENT OF PUBLIC PURPOSE

- 3.1. The **City** is implementing the Art in Public Places Program pursuant to City Code Chapter 7-2, by appropriating certain funds for the establishment of artworks in public places and authorizing payments for the design, execution, fabrication, transportation, acquisition, installation, and maintenance of works of art and the support of an artist selection process.
- 3.2. The Public Art Fund for the **Sponsoring Department** and its **Facility** has been allocated for the selection, purchase, and placement of a work of art at, in, or near the **Facility**.
- 3.3. The **City**, by and through the Austin Arts Commission and in accordance with the current Art in Public Places Program Guidelines, selected the **Artist** to conceive of and design the **Work**.
- 3.4. The **Parties** acknowledge that the **Artist's** qualifications, set out in Exhibit C, were reviewed, approved, and relied on by the Art in Public Places Panel and the Austin Arts Commission prior to execution of this **Contract**.

- 3.5. The **Parties** acknowledge that this **Contract** contemplates that, upon acceptance by the **City** of the **Final Design**, the **Parties** may enter into a separate **Commission Agreement** under which the **Parties** will contract for all fabrication, delivery, and construction services necessary to complete installation of the **Work** at the **Site**. The **Artist** acknowledges, however, that entry into the **Commission Agreement** is expressly contingent upon the **City's** approval of the **Final Design** and nothing in this **Contract** obligates the **City** to enter into any such agreement, and that the **City** will retain sole discretion as to whether to enter into any further agreements with the **Artist** for the **Work** or for any other services.

Section 4. SCOPE OF SERVICES

- 4.1. The **Artist** agrees to provide the following services to the **City** under this **Contract**:

- 4.1.1. The **Artist** will perform research about the airport history and/or neighborhood;
- 4.1.2. The **Artist** will engage with community representatives and stakeholders to develop the proposed artwork concept and approach. Community representatives may include airport visitors, neighborhood residents or people who use the **Site**. Stakeholders may include: advisory boards, neighborhood associations, and any other community constituency identified by the **Artist** in the **Community Engagement Plan**;
- 4.1.3. The **Artist** will determine the artistic expression, scope, design, color, size, material, and texture of the **Work**, subject to approval by the **City**.
- 4.1.4. The exact location of the **Site** will be mutually agreed upon by the **Parties**.
- 4.1.5. The **Artist** may request at any time all information, materials, scaled drawings of the **Site**, if available, and any reasonable assistance required by the **Artist** to allow the **Artist** to perform the services required by this **Contract**. To the extent such materials are available to the **City** or to third parties under the **City's** control, the **City**, either through the **Contract Administrator** or through the applicable **Facility** design professional or project manager, will promptly provide such materials to the **Artist**.
- 4.1.6. The **Artist** will support the **City's** commitment to sustainability throughout the entirety of this **Contract**. The **City** is dedicated to sustainability, which is defined as finding a balance among three sets of goals: 1) prosperity and jobs, 2) conservation and the environment, and 3) community health, equity, and cultural vitality. The **Artist** will take all steps appropriate to the **Work** to enhance and promote green purchasing, energy conservation, solid waste recycling, green building, resource and water conservation, greenhouse gas reduction, and environmental reporting metrics. On request, the **City** will coordinate with the **Artist** to provide information on sustainability opportunities.
- 4.1.7.

4.2. DESIGN AND SCHEDULING

- 4.2.1. After the **Effective Date** and prior to beginning design of the **Work**, the **Artist** will develop and provide to the **City** a tentative **Schedule**.
 - 4.2.1.1. The **Artist** will coordinate with the **City** in order to ensure that all relevant dates and times are included and accounted for in the **Schedule**.
 - 4.2.1.2. The **City** will approve without modifications, approve with modifications, or reject the draft **Schedule** submitted by the **Artist**. If the **City** rejects the draft **Schedule**

submitted by the **Artist**, the **Artist** will revise and resubmit the draft **Schedule** within the time period required by the **City** in its notice of rejection.

- 4.2.1.3. Once approved by the **City**, the **Schedule** will control all design, review, fabrication, implementation, transportation, installation, and completion of the **Work**.
- 4.2.1.4. The **Artist** may only make modifications to the approved **Schedule** upon written request to, and written approval of, the **City**. The **City** may request from the **Artist** any information or documentation it deems necessary in order to evaluate any request to amend the approved **Schedule**. The **City** shall not unreasonably withhold approval of requests for modification to the **Schedule** or modifications to the **Schedule** necessary through no fault of the **Artist**.
- 4.2.1.5. The **City** may, on its own initiative and at any time, direct any reasonable changes to the approved **Schedule** it deems necessary or appropriate.
- 4.2.1.6. If the **Artist** is prevented at any time from complying with the **Schedule** through no fault of the **Artist**, the **City** may adjust the **Schedule** to accommodate the **Artist**. If the **City** determines that any delay is a result of the actions of the **City** or any third party in the **City's** control, or is a result of **Site** conditions or **Project** scheduling for which third parties are responsible, the **City** may, in its sole discretion, adjust the **Contract Price**. The **City**, and not the **Artist**, will initiate any changes to the **Contract Price** under this Section by requesting documentation from the **Artist** of any increased costs sustained by the **Artist** that are solely and directly attributable to the delay. The **City's** determination of the need for, and amount of, any adjustment to the **Contract Price** is final.
- 4.2.1.7. Each **Party** agrees to excuse the failure of the other **Party** to perform its obligations under this **Contract** to the extent, and for a period of time during which, the failure is caused by an event of Force Majeure. An event of Force Majeure is any event or circumstance which prevents or delays performance of any obligation arising under this **Contract**, but only if and to the extent the event or circumstance is not within the control of the **Party** seeking to have its performance obligation excused and which the **Party** was unable, by the exercise of due diligence, to avoid or prevent. Events of Force Majeure include acts of God, riots, sabotage, civil disturbances, epidemics, acts of domestic or foreign terrorism, lightning, earthquakes, fires, storms, floods, and landslides. Events of Force Majeure do not include economic or market conditions which affect a **Party's** cost but not its ability to perform. A **Party** invoking this section must give notice to the other **Party** within 10 days of the onset of such performance delay, specifically stating the reasons for the delay. Any performance excused under this section will only be excused for a reasonable duration of the conditions preventing performance. The **Parties** will revise the **Schedule** to reflect any such delays.
- 4.2.2. The **Artist** will perform all services, including but not limited to meeting with **City** staff and **City**-designated project advisors and stakeholders as directed by the **Contract Administrator**, in order to prepare the **Final Design**.
- 4.2.3. The **Artist** will perform one or more investigations of existing **Site** conditions prior to beginning design of the **Work**, and will ensure that the **Final Design** appropriately

provides for all existing **Site** conditions. If the **Artist** believes any differences, discrepancies, errors, omissions, or inconsistencies exist between the **Artist's** inspection and the materials provided by the **City** or the **Project** design professionals, the **Artist** must notify the **City** prior to continuing with any design of the **Work**.

- 4.2.4. Within 30 days after the **Effective Date**, the **Artist** will prepare and submit a **Community Engagement Plan** to the **City** for review, feedback, and commentary by the **City** on the **Artist's** plan to incorporate community feedback.
- 4.2.5. After conducting all necessary **Site** inspections and investigations, after initiating the **Community Engagement Plan**, and after any required consultation with the **City** and its **Project** design professionals, the **Artist** will design the **Work** in accordance with the guidelines set out in Exhibit B.
- 4.2.6. Within 120 days after the **Effective Date**, the **Artist** will prepare and submit the **Mid Design** to the **City** for review, feedback, and commentary by the Art in Public Places Panel on the progress of the **Artist's** designs for the **Work**. The **Artist** is required to attend at the **Mid-Design** review unless otherwise excused by the **Contract Administrator**. In conjunction with the **Mid-Design** Review, the **Artist** must submit, at a minimum, the following:
 - 4.2.6.1. A description of the results of the **Community Engagement Plan** to date, and how this is incorporated into the **Mid-Design**.
 - 4.2.6.2. All design sketches, including but not limited to the schematics, drawings, sketches, and other two-dimensional representations of the **Work**.
 - 4.2.6.3. The proposed siting of the **Work**, with dimensions depicted.
 - 4.2.6.4. A written narrative describing the **Artist's** concept and imagery, types and quantities of all materials to be incorporated into the **Work**, and an explanation of how the **Work** meets the project goals set out in Exhibit B.
 - 4.2.6.5. A preliminary budget for design, fabrication, and installation of the **Work**.
 - 4.2.6.6. A current **Schedule**.
 - 4.2.6.7. Anything else requested by the **City** prior to the **Mid-Design** Review, including but not limited to any requested information concerning the longevity and durability of the **Work**.
 - 4.2.6.8. The time for the **Mid-Design** Review may be extended in the **City's** sole discretion.
- 4.2.7. Within 90 days after the **Mid-Design** Review set out in Section 4.2.6, the **Artist** will prepare and submit the **Final Design** to the **City** for a **Final Design** review and approval by the Art in Public Places Panel. The **Artist** is required to attend at the **Final Design** review unless otherwise excused by the **Contract Administrator**. In conjunction with the **Final Design** review, the **Artist** must submit the following:
 - 4.2.7.1. A description of the results of the **Community Engagement Plan**, and how this is incorporated into the **Final Design**.
 - 4.2.7.2. Renderings for all elements of the **Work** that show their form, color, texture, size and placement in relation to the **Site**.

- 4.2.7.3. Working drawings detailing all elements of the **Work** and the means of installing the **Work** at the **Site**, together with the **Design Sketches** and any other graphic material requested by the **City** in order to allow the **City** to carry out structural design review of the **Work** and to certify compliance of the **Work** with applicable statutes and ordinances. The drawings submitted by the **Artist** must bear an engineer's or architect's seal, unless the **City** grants the **Artist** permission to submit sealed drawings after the **Final Design** Review is complete. The engineer or architect of record must provide to the **City** proof of the required Professional Liability Insurance required for this **Work** as set out in Exhibit E.
- 4.2.7.4. A comprehensive written narrative description of the **Final Design**, including information about concept and imagery, types and quantities of all materials to be incorporated into the **Work**, and how the **Final Design** meets the goals outlined in Exhibit B.
- 4.2.7.5. A completed Conservation Review Form, in a format provided by the **City**, for review by the **City's** contracted arts conservator. The **Artist** will consult with the **City's** contracted arts conservator to assess the materials and maintenance requirements of the proposed **Work**, resulting in a conservation report provided by the arts conservator to the **Artist** that will be used by the **Artist** to address potential conservation issues or concerns. The **Artist** will submit any revisions to the **Final Design** resulting from the art conservator's report.
- 4.2.7.6. Samples of all materials proposed by the **Artist** to be used in the **Work**. On request by the **City**, the **Artist** will provide all proposed quantities, manufacturer specifications, warranties, materials safety data sheets, and other information requested by the **City** regarding the proposed materials.
- 4.2.7.7. A written maintenance plan that includes, but is not limited to, all technical information about the materials, the strength, durability, and maintenance requirements of the proposed **Work**, and any associated replacement and foreseeable maintenance costs for the life of the **Work**.
- 4.2.7.8. If applicable or requested by the **City**, a written report from a Registered Accessibility Standard Specialist indicating that all components of the **Work** are compliant with accessibility standards and requirements imposed upon the **City** by federal, state, or other applicable law, including but not limited to the Americans with Disabilities Act of 1990, as amended.
- 4.2.7.9. A list of permits that will be required for the completion of the **Work**.
- 4.2.7.10. An itemized final budget setting out all anticipated costs for fabrication, delivery, and installation of the **Work**, including written vendor quotes for all materials, fabrication, engineering, installation, permitting, insurance, and any other associated costs.
- 4.2.7.11. An updated **Schedule**.
- 4.2.8. Within 30 days of its receipt of the **Final Design**, the **City** will notify the **Artist** of its approval or rejection, as well as any revisions to the **Final Design** required by the **City**, which revisions will automatically become incorporated into the **Final Design**. The **City**

may require the **Artist** to revise the **Final Design** as necessary for the following non-exclusive reasons:

- 4.2.8.1. To comply with any applicable statutes, ordinances, or regulations.
 - 4.2.8.2. To account for any life, health, safety, or security concerns.
 - 4.2.8.3. Any other non-aesthetic reason that the **City**, in its sole judgment and discretion, deems necessary or appropriate.
- 4.2.9. If the **City** rejects the **Final Design**, the **Artist** must resubmit a revised **Final Design** within 15 days. Within 15 days of its receipt of the revised **Final Design**, the **City** will notify the **Artist** of its approval or rejection. If the **City** approves of the revised **Final Design**, the **Parties** may execute a written **Commission Agreement** outlining costs associated with fabrication, delivery, and installation of the **Work**, including written vendor quotes for all materials, fabrication, engineering, installation, permitting, insurance, and any other associated costs. The **Commission Agreement** shall take into account and document any change in scope and, if agreed to by the **City**, any change in price incurred because of the **City's** changes. If the **City** rejects the revised **Final Design**, the **City** may terminate this **Contract** for cause in the manner set out in Sections 10.6.1.1 through 10.6.1.4, except that the opportunity to cure provided in Section 10.6.1.2 will not apply.

4.3. CHANGES TO THE WORK

- 4.3.1. At any time prior to approval of the **Final Design** as set out in Section 4.2, the **Artist** may make changes to the **Final Design**, whether for aesthetic, safety, construction, or other reasons, and the **City** may likewise direct the **Artist** to make reasonable changes to the **Final Design** for any non-aesthetic reason. Such changes to the **Final Design** or to the **Work** itself will be made in accordance with the procedures set out in this section.
- 4.3.2. Minor changes to the **Final Design** or to the **Work** initiated by the **Artist** do not require prior approval by the **City**, but do require notice to the **City**. Minor changes are changes that do not impact the overall scope, layout, color, shape, size, material, texture, or structural elements of the **Work**. The **City** retains the right to reject any minor changes for non-aesthetic reasons.
- 4.3.3. Major changes to the **Final Design** or to the **Work** initiated by the **Artist** require prior approval by the **City**. Major changes include, but are not limited to, changes to the overall scope, layout, color, shape, size, material, texture, or structural elements of the **Work**. The **Contract Administrator** may reject any proposed major changes for any non-aesthetic reason. If the **City** rejects a major change, the **Artist** will either continue with the **Final Design** as approved by the **City**, or will revise and resubmit the proposed major change within 10 days of the **City's** original rejection. If the **City** rejects any re-submitted change, this the **City** may terminate this **Contract** for convenience pursuant to Section 10.7.1., if the **Artist** will not revert to the **Final Design** without the proposed changes.
- 4.3.4. All changes initiated and approved under Section 4.3 will be documented via formal written change order signed by both **Parties**, which will be incorporated into and become a part of the **Final Design**. The **City** may, in its sole discretion, determine that any change, whether initiated by the **City** or by the **Artist**, warrants an adjustment of the

Contract Price or the **Schedule**, or both. Any adjustment to the **Contract Price** or the **Schedule** must be documented on the same change order on which the work causing the adjustment in the **Contract Price** is documented. If the **City** does not change **Contract Price**, the **Artist** will bear the sole risk and cost of any changes to the **Final Design** or to the **Work**.

4.4. LECTURE

- 4.4.1. The **Artist** will, if requested by the **City**, attend and present one lecture or other similar presentation to an audience designated by the **City**, in the format requested by the **City** and on a mutually agreeable date and time during the Design and Scheduling Phase set out in Section 4.2.
- 4.4.2. If the **City** requires the **Artist** to prepare and give a lecture or presentation under Section 4.4.1, the **City** may, in its sole discretion, allow for any resulting increased costs to the **Artist** in computation of the **Contract Price**.

Section 5. PAYMENT

5.1. The **Contract Price** for this **Contract** is \$42,400.00.

- 5.1.1. In exchange and consideration for the **Artist's** agreement to undertake the obligations in this **Contract**, the **City** agrees to pay the **Artist** the **Contract Price**.
- 5.1.2. The **Contract Price** may be modified by the **City** in its sole discretion, as set out elsewhere in this **Contract**.
- 5.1.3. The **Contract Price** is the full compensation owed to the **Artist** under this **Contract** except as provided by amendment.
 - 5.1.3.1. Except as expressly provided for elsewhere in this **Contract**, the **Artist** agrees to be solely responsible for all costs related to design, mailing, shipping, delivery, labor, insurance, permitting and licensing, and any other costs incurred by the **Artist** in fulfilling his or her obligations under this **Contract**.
 - 5.1.3.2. The **Artist** acknowledges that the **City** is a tax exempt organization, and that no state or local sales taxes, and no federal excise tax, will be due on the **Work** or the materials and supplies used in the design and fabrication of the **Work**. The **Artist** acknowledges receipt of a Texas Sales and Use Tax Exemption Certificate Form for use by the **Artist** in the design and completion of the **Work**.
 - 5.1.3.3. For any permits required by **City** ordinance or administrative rule, the **Artist** will seek fee waivers as set out in Exhibit D.

5.2. Payment of the **Contract Price** will be in the following percentages and at the following payment milestones:

- 5.2.1. Milestone 1 – 15% upon execution of the **Contract**, recognizing the **Artist** has already invested time and expense in preliminary design coordination with the **City** and its consultants.
- 5.2.2. Milestone 2 – 20% within 30 days after artist attends project kickoff meeting.
- 5.2.3. Milestone 3 – 15% within 30 days after completion of the **Mid-Design** review required by Section 4.2.6.

- 5.2.4. Milestone 4 – 30% within 30 days after 50% completion of the **Final Design**.
- 5.2.5. Milestone 5 – 20% within 30 days after the **City** notifies the **Artist** of its approval of the **Final Design** pursuant to Section 4.2.8.
- 5.3. Pursuant to Section 2-8-3 of the Austin City Code, notice of which is acknowledged by the **Artist**, the **City** may withhold payment otherwise due under this **Contract** in order to offset any debt owed by the **Artist** to the **City**, including but not limited to any tax debt owed by the **Artist** to the **City** pursuant to Article VIII, Section 1 of the Austin City Charter, notice of which is also acknowledged by the **Artist**.

Section 6. SUBCONTRACTING

- 6.1. The **Artist** may not subcontract all or substantially all of the services to be provided under this **Contract**. The **Artist** may subcontract portions of the services to be provided under this **Contract**, at the **Artist's** sole expense, subject to the following limitations:
 - 6.1.1. The **Artist's** use of subcontractors may not affect the design, appearance, or visual quality of the **Work**.
 - 6.1.2. The **Artist** will at all times personally supervise the work performed by subcontractors.
 - 6.1.3. The **Artist** will remain fully responsible to the **City** and third parties for the actions of any subcontractors engaged by the **Artist**.
 - 6.1.4. Any subcontract must be in writing, must attach this **Contract** as an exhibit, and must acknowledge the supremacy of this **Contract** in the case of any conflict between the two. All subcontractors will remain subject to the terms of this **Contract** at all times.
 - 6.1.5. Prior to the **Artist** entering into any subcontracts, the **Artist** will notify the **City** of the **Artist's** intent to do so, identifying the proposed subcontractor or subcontractors, the proposed scope or scopes of work, and the dollar amount of each subcontract. The **City** may reject any one or more subcontractor proposed by the **Artist**.
 - 6.1.6. The **Artist** will require of each subcontractor, as a condition to entering into each subcontract, that the subcontractor will comply with the **City's** insurance requirements as set out in Exhibit E. The **Artist** will further obtain, on demand from the **City**, a certificate or certificates of insurance sufficient to satisfy the **City** that each subcontractor is in compliance with the insurance requirements of this **Contract**.
- 6.2. In an effort to further stimulate and positively impact the local economy, the **Artist** will make reasonable efforts, which the **Artist** will document on request by the **City**, to:
 - 6.2.1. Provide minority-owned, women-owned, and local small businesses an equal opportunity to participate as suppliers for materials and labor services acquired or used by the **Artist** for the design and/or commission of the **Work**.
 - 6.2.2. Recruit residents of the Austin metropolitan area for available subcontracting opportunities.

Section 7. REPRESENTATIONS AND WARRANTIES

7.1. WARRANTIES OF TITLE

- 7.1.1. The **Artist** warrants that the **Final Design** and the **Work** are and will be original creations of the **Artist**.

- 7.1.2. The **Artist** warrants and represents that the **Artist** has obtained, or will obtain prior to any incorporation or use, the written approval and consent of any required third party for the use of any portion of the **Final Design** or the **Work** that is not the original work of the **Artist**. The **Artist** agrees to defend, indemnify, and hold harmless the **City**, including the **City's** officers, employees, agents, and contractors, from and against all claims, losses, damages, actions, or expenses of every type and description, including attorneys' fees, to which they may be subjected arising out of the **City's** use or possession of the **Final Design** during the approval process or by reason of an alleged or actual copyright violation or other lack of ownership, authorship, or originality.

7.2. WARRANTIES OF QUALITIES

- 7.2.1. Except as otherwise disclosed to the **City** in writing, the **Artist** represents and warrants that the **Final Design** is and will be free of any defects of design that will or could cause the fabrication or installation to fail.
- 7.2.2. The **City** will give notice to the **Artist** of any observed material breach of this representation and warranty. Once notified by the **City**, the **Artist** will, at no cost to the **City**, cure the breach or breaches within a commercially reasonable time.

Section 8. OWNERSHIP, PUBLICITY, AND INTELLECTUAL PROPERTY RIGHTS

- 8.1. The **Artist** will remain the owner of the **Work** until title transfers to the **City** as follows:

- 8.1.1. Within 10 days of the **City's** acceptance of the **Work**, the **City** will issue to the **Artist** a Transfer of Title for Public Artwork in a form provided by the **City**.
- 8.1.2. On issuance of the Transfer of Title for Public Artwork, the **City** will also take title in and to any and all drawings, sketches, models, and any other documents and materials created by the **Artist** in furtherance of the **Final Design** or the **Work**. The **Artist** will promptly deliver to the **City** all such materials that are still in the **Artist's** possession.

- 8.2. The **Parties** will proactively collaborate to identify and pursue any appropriate and beneficial publicity for the **Work**.

- 8.2.1. For purposes of this **Contract**, publicity means the manner, method, timing, and content of all efforts to generate public knowledge of, understanding of, and interest in the **Work**, including but not limited to any interviews, flyers, brochures, posters, mailings, advertisements, emails, social media postings, blog postings, electronic communications or presentations of any type, live or prerecorded television or other video presentations or commercials, live presentations, radio interviews or advertisements, and any other publications of any other kind and in any medium.
- 8.2.2. The **Parties** will each use their best efforts to arrange for publicity for the **Work**.
- 8.2.3. The **Parties** will identify various media for prospective publication of the **Work** throughout the course of the design, so that publicity for the **Work** may begin prior to or immediately upon completion.
- 8.2.4. All publicity initiated or otherwise undertaken by the **Artist** must be approved by the **City** prior to its publication. If the **Artist** intends to use any third party for any such publication, or intends to submit to any interview with a third party, the **Artist** must confer with the **City** and obtain the **City's** approval prior to any such action.

- 8.2.5. The **Artist** agrees to be available at such times and places as reasonably required by the **City** in order to attend any ceremonies relating to the transfer of the **Work** to the **City**, and to participate in a minimum of one educational event related to the **Work**, as set out in Section 4.4.
- 8.2.6 The **City**, at its expense and in consultation with the **Artist**, will arrange for the preparation and installation at the **Site** of a plaque identifying the **Artist + Artist Collaborator**
- 8.3. The **Artist** will retain all reproduction rights afforded by the Copyright Act of 1976, as currently codified and amended, and any other reproduction rights in and to the **Work** except as limited in this **Contract**.
 - 8.3.1. The **Artist** may not make any additional exact duplicate or three-dimensional scale reproductions of the **Work**, and may not grant permission to do so to any third parties except with the prior written permission of the **City**.
 - 8.3.2. The **Artist** grants to the **City** and its assigns an irrevocable license to make two-dimensional reproductions of the **Work** for any municipal or public purpose, including but not limited to any publicity the **City** deems appropriate or beneficial.
 - 8.3.3. Any reproductions of the **Work** made by the **City** will credit the **Artist** and will contain a copyright notice substantially in the form "© **Artist + Artist Collaborator's** name, 20__." Any reproductions of the **Work** made by the **Artist** will credit the **City** and will contain a notice in the form "An original work owned and commissioned by the **City** of Austin."

Section 9. INSURANCE AND RISK OF LOSS

- 9.1. The **Artist** will bear all risk of loss and damage to the **Work** until title transfers to the **City** as set out in Section 8.1.1
- 9.2. The **Artist** agrees to carry insurance in the types and amounts indicated in Exhibit E.
 - 9.2.1. Workers' Compensation and Employers' Liability insurance coverage must be in place before the **Artist** begins any work on the **Site**.
 - 9.2.2. Commercial General Liability insurance coverage and Automobile Liability insurance coverage must be in place no later than 30 days after the **Effective Date**.
 - 9.2.3. Professional Liability insurance coverage for any design professional must be in place at the time the design professional places his or her seal on design drawings as required in Section 4.2.7.3.
 - 9.2.4. Approval by the **City** of any insurance obtained by the **Artist** will not diminish or decrease the liability of the **Artist** under this **Contract**.
- 9.3. The **Artist** is not required to obtain any performance bond or other performance security.

Section 10. MAINTENANCE, REPAIRS, AND ALTERATIONS

- 10.1. The **City** recognizes that maintenance of the **Work** on a regular basis is essential to the integrity of the **Work**.
 - 10.1.1. The **City** will reasonably assure that the **Work** is properly maintained and protected, taking into account the maintenance plan prepared by the **Artist** under Section 4.2.7.7.

- 10.1.2. The **City** agrees, within reason and always subject to the availability of revenue in any given fiscal year, to protect and maintain the **Work** against the ravages of time, vandalism, and the elements.
- 10.2. The **City** will have the sole right to determine whether, when, and to what extent any repairs or restorations of the **Work** will occur.
- 10.2.1. During the **Artist's** lifetime, and to the extent practicable, the **City** will give the **Artist** the right to both approve of and make or supervise all major repairs and restorations. If the **Artist** withholds, conditions, or delays approval for any repair or restoration of the **Work**, or does not agree to make or supervise the repairs or restorations, the **City** may make such repairs or restorations as it deems necessary for the preservation of the **Work**, and may solicit bids and award contracts for the services to other qualified professionals in order to do so.
- 10.2.2. All repairs and restorations, whether by the **City** or by the **Artist**, will be made in accordance with then-current, generally accepted principles of conservation.
- 10.2.3. The **City** may undertake emergency repairs to the **Work** without prior notice to the **Artist** whenever necessary to protect the integrity of, or to prevent the loss of or further damage to, the **Work**. Such emergency repairs will not be deemed to constitute artistic alteration of the **Work** or a breach of this **Contract**. The **City** will provide notice to the **Artist** of such emergency repairs as soon as practical.
- 10.3. The **Artist** acknowledges that the **Work**, when installed, will be incorporated within and made a part of the **Facility** in such a way that removal of the **Work** from the **Facility**, or destruction, alteration, or modification of the **Facility**, may cause destruction, distortion, mutilation, obscuration, or other alterations to the **Work**.
- 10.3.1. The **City** will attempt in good faith to notify the **Artist** prior to undertaking any alterations to the **Work**.
- 10.3.2. To the extent Section 10.3 is inconsistent with any rights, including moral rights, that would otherwise be provided to the **Artist** by applicable law, including the 1990 Visual Artists' Rights Act as codified and amended, the **Artist** acknowledges receiving notice of this provision and waives any right to preservation of the **Work** provided by those laws. The **Artist** will retain the right to disclaim authorship of the **Work** to the extent allowed by the 1990 Visual Artists' Rights Act as codified and amended.
- 10.3.3. If the **Work** is freestanding, or is incorporated into the **Facility** in a way that it could be removed without damaging or destroying either the **Work** or the **Facility**, the **City** will give notice to the **Artist** of its intent to remove the **Work**. The **Artist** will be entitled to remove the **Work** from the **Facility** at the **Artist's** sole expense, and will have 90 days from the date the **City** gives notice to remove the **Work**. If the **Artist** fails to remove the **Work** within 90 days of the **City's** notice to the **Artist**, the **City** will be entitled to remove and dispose of the **Work** by any means, including destruction of the **Work**.
- 10.3.4. The **City** agrees not to willfully destroy, damage, or modify the **Work**, except as set out in this **Contract**.
- 10.3.5. If the **Work** becomes substantially damaged or altered, the **City** will no longer represent the **Work** as that of the **Artist**, but only if the **Artist** gives notice to the **City** that it is the

Artist's position to deny authorship on the grounds that the Work has become substantially damaged or altered.

10.3.6. The **City** will have the right at any time to either move the **Work** or remove it from public display. The **City** will also have the right, in its discretion and at any time, to sell, trade, or otherwise transfer ownership of the **Work**.

10.4. The obligations of the **City**, and the rights of the **Artist**, set out in Section 10 will not survive the death or legal incapacity of the **Artist**.

10.5. Nothing in Section 10 limits other rights or remedies that may be available to the **Artist** now or in the future.

TERMINATION

10.6. TERMINATION FOR CAUSE

10.6.1. A **Party** may terminate this **Contract** for cause due to the **Default** of the other **Party**.

10.6.1.1. Prior to terminating this **Contract** for cause, the terminating **Party** must give notice to the other **Party** of its intent to terminate for cause, specifically citing each item of **Default** that forms the basis for termination.

10.6.1.2. A **Party** receiving notice of **Default** from the other **Party** will have 15 days from the date notice is received to cure all items of **Default** set out in the notice.

10.6.1.3. Any termination for cause will automatically become effective on the 16th day after receipt of notice of **Default** if the notified **Party** fails to cure all items of **Default** identified, without the need for any further action by the terminating **Party**.

10.6.1.4. Termination for cause will not relieve the terminated **Party** of any liability for damages resulting from a breach or a violation of the terms of this **Contract**.

10.6.2. In addition to Section 10.6.1, the **City** may terminate this **Contract** for cause if:

10.6.2.1. The **Artist**, including any agent or representative of the **Artist**, provides or offers to provide any gratuities in the form of entertainment, gifts, or otherwise to any **City** official or employee with a view toward securing favorable treatment with respect to the awarding, amending, or making of any determinations with respect to the performance of this **Contract**. Termination for cause under Section 10.6.2.1 will be in the manner set out in Sections 10.6.1.1 through 10.6.1.4, except that the **Artist** will not be entitled to any right to cure provided by Section 10.6.1.2. If the **City** terminates this **Contract** under Section 10.6.2.1, the **City** will, in addition to all other rights and remedies, be entitled to recover from the **Artist** an amount equal to the cost incurred by the **Artist** or the agent or representative of the **Artist** in providing such gratuities.

10.6.2.2. The **Artist** dies or becomes physically or legally incapacitated during the term of this **Contract**. Termination for cause under Section 10.6.2.2 will only require notice to the **Artist** or the **Artist's** legal successor or guardian, as applicable. The **City** will not seek reimbursement from the **Artist's** estate for any payment made to the **Artist** but not expended prior to the **Artist's** incapacity or death. All finished and unfinished drawings, sketches, photographs, models, and work will become property of the **City**. If, prior to the **Artist's** death or incapacity, the **Final Design**

is approved by the City or the Work has progressed to the point of fabrication, the City may complete the Work, giving due regard to the Artist's intended results and giving proper credit and acknowledgement to the Artist.

10.7. TERMINATION FOR CONVENIENCE

10.7.1. Either Party may terminate this Contract for convenience.

10.7.2. If the City approves reimbursements for purchases of materials used for the development of the design in excess of the payments Artist received prior to the City's termination for cause pursuant to Section 4.2.9, the City will reimburse the Artist for amounts expended under this Contract within 30 days of the Artist's submission of receipts documenting such material purchase.

10.8. FUNDING

10.8.1. The Artist acknowledges that the City has provided notice that the City's payment obligations to the Artist are payable only from funds appropriated or available for the purpose of this Contract, which are set out in Section 3. If the City does not appropriate funds for this Contract, or if there are no other lawfully available funds for this Contract, this Contract is void, and will terminate immediately on notice to the Artist.

10.8.2. The City will provide the Artist notice of the failure of the City to make an adequate appropriation for any fiscal year to pay the amounts due under this Contract, or of the reduction of any appropriation to an amount insufficient to permit the City to pay its obligations under this Contract.

10.8.3. If this Contract is voided according to Section 10.8.1, the Artist will be entitled to retain any payments made prior to termination for which funds were properly appropriated.

Section 11. NOTICES

11.1. Unless explicitly stated elsewhere in this Contract, all notices must be given in writing in the manner set out in Section 11 in order to be effective.

11.2. Any notice required or allowed to be given or to be served in connection with this Contract must be in writing, and will be deemed delivered and received on the earlier of the date actually received or a date that is:

11.2.1. Three days after being deposited in the United States mail, if sent via certified mail, properly addressed and with postage prepaid;

11.2.2. The date delivery is originally scheduled to occur, if sent via a reputable overnight courier service; or

11.2.3. The date sent via facsimile transmission, provided the receiving Party has designated a fax number below and the sending party has a fax-generated verification of the date and time of transmission and the fax number to which the notice was sent.

11.3. Notice to each Party must be given as follows:

The City:

Sylnovia Holt-Rabb, Assistant Director
Economic Development Department
City of Austin

P. O. Box 1088
Austin, TX 78767
Phone: 512-974-7739
Facsimile: 512-974-7825

With copies to:

Art in Public Places Administrator
Economic Development Department
City of Austin
P. O. Box 1088
Austin, TX 78767
Phone: 512-974-9314
Facsimile: 512-974-6379

City of Austin Law Department
ATTN: City Attorney
P. O. Box 1088
Austin, TX 78767

The Artist:

Studio Modo
Clay Odom
3911 Petes Path
Austin, TX 78731

- 11.4. The **Parties** will each have the right to change their respective addresses for notice purposes, and will have the right to specify as its address any other address within the United States of America by giving the other **Party** at least five days' notice.
- 11.5. The **Artist** will give notice to the **City** of any changes to the **Artist's** address. If the **City** gives notice to the **Artist** in the manner set out in Section 11 and such notice is returned to the **City** as undeliverable, the **City** will make every reasonable effort to locate the **Artist** in order to give notice to the **Artist** of issues affecting or relating to the **Artist's** rights. If the **Artist** fails to update the **Artist's** address on file with the **City** and the **City** is unable to locate the **Artist** for purposes of giving the notices required in this **Contract**, the **Artist** will be deemed to have waived any rights afforded to the **Artist** under Section 10. If the **Artist** subsequently reestablishes contact with the **City** after a waiver of the rights set out in Section 10, the **Artist** will regain those rights to the extent they are still susceptible of being exercised, in light of the remediation, repair, or removal already undertaken by the **City**. Any actions taken by the **City** prior to the **Artist's** reestablishment of contact with the **City** are prospectively ratified by this **Contract** and may not form the basis for any claims for damages or injunctive relief by the **Artist** against the **City**.

Section 12. EQUAL OPPORTUNITY

- 12.1. For the duration of this **Contract**, including any maintenance or repair provided by the **Artist** under Section 10, the **Artist** will:
- 12.1.1. Take no action to discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability, including but not limited to actions taken to employ, promote, demote, transfer, recruit, or pay or otherwise compensate, or select for training.
 - 12.1.2. Take affirmative action to ensure that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.
 - 12.1.3. Post in conspicuous places, available to all employees and applicants for employment, notices to be provided by the **City** setting out the provisions of Section 12.

- 12.1.4. State, in all solicitations or advertisements for employment placed by or on behalf of the **Artist**, that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.
- 12.1.5. Furnish any information and reports requested by the **City**, and allow the **City** access to its books, records, and accounts for purposes of investigation to ascertain compliance with Section 12 and any applicable rules and regulations.
- 12.2. If the **Artist** fails to comply with Sections 12.1, the **City** may terminate this **Contract** for cause, or may suspend this **Contract** in whole or in part, and the **Artist** may be debarred from further agreements with the **City**.

Section 13. MISCELLANEOUS PROVISIONS

13.1. The Artist acknowledges that:

- 13.1.1. The recitals set out in Section 3 form the basis upon which the **City** has agreed to enter into this **Contract**.
- 13.1.2. The recitals set out in Section 3 are each a material inducement to the **City** to enter into this **Contract**.
- 13.1.3. The **City** would not have entered into this **Contract** but for the truth of each recital set out in Section 3.
- 13.2. The **Artist** will comply with all Federal, State, and **City** statutes, ordinances, and regulations applicable to the **Artist's** services under this **Contract**.
- 13.3. The **City** will maintain on permanent file a record of this **Contract** and of the location and disposition of the **Work** while it is in the **City's** possession or control, in accordance with applicable record retention laws.
- 13.4. The **Artist** agrees and acknowledges that the **Artist** is an independent contractor of the **City** for all purposes during the existence of this **Contract**, and is neither an agent, nor a partner, nor an employee of the **City**.
 - 13.4.1. The **City** will not be responsible for withholding, reporting, or paying employment taxes or other similar levies for the **Artist** that may be required by the United States Internal Revenue Service or other State or Federal agencies.
 - 13.4.2. No **City** employee or official will supervise the **Artist**, nor will the **Artist** supervise any **City** employee or official.
 - 13.4.3. The **Artist** acknowledges that this **Contract** creates no obligation of the **City** to enter into any joint venture, joint enterprise, partnership, or other legal business relationship regarding the **Work**.
- 13.5. This **Contract** constitutes the entire agreement between the **Parties**, and supersedes any prior oral or written agreements and understandings regarding the **Work**. This **Contract** may only be modified or amended by written amendment signed by both **Parties** and approved by appropriate action of the **City**.
- 13.6. The election of one remedy under this **Contract** or applicable law does not prevent either **Party** from pursuing any other right or remedy set out in this **Contract** or under applicable

law. No waiver of performance by either **Party** will act as a continuing waiver of any subsequent **Default**. The payment of any part of the **Contract Price** after a **Default** will not act as a waiver of any right, or as acceptance of defective performance.

- 13.7. If a dispute arises between the **Parties** regarding performance under this **Contract** that the **Parties** are unable to resolve through negotiation, the **Parties** agree that the dispute will be submitted for mediation with the Travis County Dispute Resolution Center before any suit is filed. If the mediation does not successfully resolve the dispute, each **Party** is free to pursue other remedies available to them.
- 13.8. The **Artist** may not assign this **Contract**, or any rights under this **Contract**, without express written permission from the **City**, which permission will be in the sole discretion of the **City**.
- 13.9. The **Artist** acknowledges that neither the execution of this **Contract** by the **City** nor any conduct of any representative of the **City** will be deemed to waive any applicable immunity or defense that would otherwise be available to the **City** against claims arising in the exercise of its governmental function.
- 13.10. This **Contract** may be executed in one or more copies and in one or more counterparts, each of which will be considered an original but all of which are a singular **Contract**.
- 13.11. This **Contract** will be interpreted in accordance with the laws of the State of Texas, without regard for any conflict of laws provisions.
- 13.12. The **Parties** agree that exclusive jurisdiction and venue for any suit arising out of this **Contract** will be in the District Court for Travis County, Texas.
- 13.13. The provisions of this **Contract** are drafted with the intention of giving full effect to each provision and to the intent of the **Parties**.
- 13.14. Any section, subsection, provision, or portion of this **Contract** that is subsequently deemed contrary to applicable law is struck from this **Contract**, and the remainder of this **Contract** will continue in full force and effect.
- 13.15. Any principal of contract construction that requires interpretation of any ambiguities in this **Contract** against one **Party** or the other is inapplicable to this **Contract**.
- 13.16. Each **Party** warrants that it has the right and authority to make and enter into this **Contract**, and to grant the rights set out in this **Contract**.
- 13.17. Section titles set out in this **Contract** are for convenience only, and impose no limitations on the provisions of this **Contract**.
- 13.18. Unless otherwise set out in a specific section of this **Contract**, all time frames set out in days in this **Contract** are in calendar days.
- 13.19. Pursuant to Texas Government Code section 2270.002, the **City** is prohibited from contracting with any "company" for goods or services unless the following verification is included in this **Contract**.
 - 13.19.1. For the purposes of this Section only, the terms "company" and "boycott Israel" have the meaning assigned by Texas Government Code section 2270.001.

13.19.2 If the Artist qualifies as a "company", then the Artist verifies that he:

- (a) does not "boycott Israel"; and
- (b) will not "boycott Israel" during the term of this Contract.

13.19.3 The Artist warrants to the City that he is a "company", and therefore is subject to the verification requirements of Texas Government Code chapter 2270.

13.19.4 The Artist's obligations under this Section, if any exist, will automatically cease or be reduced to the extent that the requirements of Texas Government Code chapter 2270 are subsequently repealed, reduced, or declared unenforceable or invalid in whole or in part by any court or tribunal of competent jurisdiction or by the Texas Attorney General, without any further impact on the validity or continuity of this Contract.

CITY OF AUSTIN

ARTIST

Date: 1.17.2019

Date: 1/16/19

By: Sylnovia Holt-Rabb

By: SO

Sylnovia Holt-Rabb
Assistant Director
Economic Development Department

Studio MODO
Clay Odom

Approved as to form:

RHed

Assistant City Attorney

City of Austin, Texas
NON-DISCRIMINATION AND NON-RETALIATION CERTIFICATION

City of Austin, Texas

Equal Employment/Fair Housing Office

To: City of Austin, Texas,

I hereby certify that our firm complies with the Code of the City of Austin, Section 5-4-2 as reiterated below, and agrees:

- (1) Not to engage in any discriminatory employment practice defined in this chapter.
- (2) To take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without discrimination being practiced against them as defined in this chapter, including affirmative action relative to employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training or any other terms, conditions or privileges of employment.
- (3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Equal Employment/Fair Housing Office setting forth the provisions of this chapter.
- (4) To state in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sexual orientation, gender identity, disability, sex or age.
- (5) To obtain a written statement from any labor union or labor organization furnishing labor or service to Contractors in which said union or organization has agreed not to engage in any discriminatory employment practices as defined in this chapter and to take affirmative action to implement policies and provisions of this chapter.
- (6) To cooperate fully with City and the Equal Employment/Fair Housing Office in connection with any investigation or conciliation effort of the Equal Employment/Fair Housing Office to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.
- (7) To require of all subcontractors having 15 or more employees who hold any subcontract providing for the expenditure of \$2,000 or more in connection with any contract with the City subject to the terms of this chapter that they do not engage in any discriminatory employment practice as defined in this chapter

For the purposes of this Offer and any resulting Contract, Contractor adopts the provisions of the City's Minimum Standard Non-Discrimination and Non-Retaliation Policy set forth below.

City of Austin
Minimum Standard Non-Discrimination and Non-Retaliation in Employment Policy

As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations.

The Contractor will not discriminate against any applicant or employee based on race, creed, color, national origin, sex, age, religion, veteran status, gender identity, disability, or sexual orientation. This policy covers all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising, selection for training and apprenticeship, rates of pay or other forms of compensation, and layoff or termination.

The Contractor agrees to prohibit retaliation, discharge or otherwise discrimination against any employee or applicant for employment who has inquired about, discussed or disclosed their compensation.

Further, employees who experience discrimination, sexual harassment, or another form of harassment should immediately report it to their supervisor. If this is not a suitable avenue for addressing their complaint, employees are advised to contact another member of management or their human resources representative. No employee shall be discriminated against, harassed, intimidated, nor suffer any reprisal as a result of reporting a violation of this policy. Furthermore, any employee, supervisor, or manager who becomes aware of any such discrimination or harassment should immediately report it to executive management or the human resources office to ensure that such conduct does not continue.

Contractor agrees that to the extent of any inconsistency, omission, or conflict with its current non-discrimination and non-retaliation employment policy, the Contractor has expressly adopted the provisions of the City's Minimum Non-Discrimination Policy contained in Section 5-4-2 of the City Code and set forth above, as the Contractor's Non-Discrimination Policy or as an amendment to such Policy and such provisions are intended to not only supplement the Contractor's policy, but will also supersede the Contractor's policy to the extent of any conflict.

UPON CONTRACT AWARD, THE CONTRACTOR SHALL PROVIDE THE CITY A COPY OF THE CONTRACTOR'S NON-DISCRIMINATION AND NON-RETALIATION POLICIES ON COMPANY LETTERHEAD, WHICH CONFORMS IN FORM, SCOPE, AND CONTENT TO THE CITY'S MINIMUM NON-DISCRIMINATION AND NON-RETALIATION POLICIES, AS SET FORTH HEREIN, **OR** THIS NON-DISCRIMINATION AND NON-RETALIATION POLICY, WHICH HAS BEEN ADOPTED BY THE CONTRACTOR FOR ALL PURPOSES WILL BE CONSIDERED THE CONTRACTOR'S NON-DISCRIMINATION AND NON-RETALIATION POLICY WITHOUT THE REQUIREMENT OF A SEPARATE SUBMITTAL.

Sanctions:

Our firm understands that non-compliance with Chapter 5-4 and the City's Non-Retaliation Policy may result in sanctions, including termination of the contract and suspension or debarment from participation in future City contracts until deemed compliant with the requirements of Chapter 5-4 and the Non-Retaliation Policy.

Term:

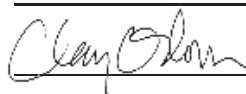
The Contractor agrees that this Section 0800 Non-Discrimination and Non-Retaliation Certificate of the Contractor's separate conforming policy, which the Contractor has executed and filed with the City, will remain in force and effect for one year from the date of filing. The Contractor further agrees that, in consideration of the receipt of continued Contract payment, the Contractor's Non-Discrimination and Non-Retaliation Policy will automatically renew from year-to-year for the term of the underlying Contract.

Dated this 28 day of January, 2019

CONTRACTOR
Authorized
Signature

Title

Studio Modo / Clay Odom



owner / artist

City of Austin, Texas
Section 0805
NON-SUSPENSION OR DEBARMENT CERTIFICATION

The City of Austin is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. Covered transactions include procurement contracts for goods or services equal to or in excess of \$25,000.00 and all non-procurement transactions. This certification is required for all Vendors on all City of Austin Contracts to be awarded and all contract extensions with values equal to or in excess of \$25,000.00 or more and all non-procurement transactions.

The Offeror hereby certifies that its firm and its principals are not currently suspended or debarred from bidding on any Federal, State, or City of Austin Contracts.

Contractor's Name: Studio Modo / Clay Odom

Signature of Officer or
Authorized
Representative:



Date: 2019.01.28

Printed Name: Clay Odom

Title

owner / artist