

## **AGREEMENT FOR SUPPORT SERVICES FOR ART IN PUBLIC PLACES PROJECT**

This **Agreement** is entered into as of the **Effective Date** by and between the **Parties**.

### **Section 1. DEFINITIONS**

- 1.1. **"Agreement"** means this Agreement for Support Services for Art in Public Places Project between the **City** and the **Contractor**, including any and all attachments and exhibits.
- 1.2. **"Artist"** means the artist or artists that have entered into the **Principal Agreement**.
- 1.3. **"City"** means the City of Austin, a Texas home-rule municipal corporation acting by and through its duly authorized City Manager or her designee.
- 1.4. **"Contract Administrator"** means the Art in Public Places Administrator, the Director of the City's Economic Development Department, or their respective designee.
- 1.5. **"Contract Price"** means the total compensation to be paid to the **Contractor** pursuant to this **Agreement**, to be paid on such terms as are set out in Section 5, exclusive of any travel expenses approved by the **City** as set out in Section 5.2.
- 1.6. **"Contractor"** means Holly Veselka, located at 4 Bob White Court, San Marcos, TX, 78666.
- 1.7. **"Default"** means the willful or negligent failure of one **Party** to timely and properly fulfill its obligations under this **Agreement**, and further means the violation by one **Party** of any material covenants, agreements, or stipulations set out in this **Agreement**.
- 1.8. **"Effective Date"** means the date on which this **Agreement** becomes fully effective as between the **Parties**, and is the date on which the last **Party** executes this **Agreement** unless specified elsewhere in this **Agreement**.
- 1.9. **"Facility"** means the Austin-Bergstrom International Airport owned, operated, or controlled by the **Sponsoring Department** and located at 3600 Presidential Blvd, Austin, TX 78719.
- 1.10. **"Party"** means either the **City** or the **Contractor**, and **"Parties"** means the **City** and the **Contractor** collectively.
- 1.11. **"Principal Agreement"** means the agreement or agreements entered into between the **City** and the **Artist** for design and commission of the **Project**.
- 1.12. **"Project"** means the **City** construction project at which the **Work** will be installed under the **Principal Agreement**, known as the Parking Garage/Administration Building.
- 1.13. **"Services"** means the services to be provided by the **Contractor** under this **Agreement**, as set out in Exhibit B.
- 1.14. **"Site"** means the portion of the **Facility** at which the **Work** will be installed, more particularly set out in Exhibit A.
- 1.15. **"Sponsoring Department"** means the Aviation Department of the **City**.
- 1.16. **"Work"** means an original piece of public art conceived and designed by the **Artist** as set out in the **Principal Agreement**, and more particularly described as an exterior public artwork of large scale.

- 1.17. Terms not defined in this **Agreement** will have their ordinary and customary meanings, as generally used in the field of public art.

## **Section 2. EXHIBITS**

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

**Exhibit A. Facility/Site Plan**

**Exhibit B. Scope of Work**

**Exhibit C. 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 Chapter 7-2 of the Austin City Code 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 the Art in Public Places Panel, adopted a LaunchPAD Program Policy, and selected the **Contractor** in accordance with that policy to provide support services to the **Artist**.

## **Section 4. SCOPE OF SERVICES**

- 4.1. The **Contractor** agrees to provide to the **City** the **Services** in a good and workmanlike manner.
- 4.2. The **Contractor** will perform the **Services** as an independent contractor, and **Contractor** acknowledges that it is not entering into any employee-employer relationship with either the **City** or the **Artist**.
- 4.3. The **Contractor** will participate in a kick-off meeting with the **City** and the **Artist** in order to develop an initial work plan.
- 4.4. The **Contractor** will support the **City's** commitment to sustainability throughout the entirety of this **Agreement**. 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 **Contractor** will take all steps appropriate to the **Services** 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 **Contractor** to provide information on sustainability opportunities.
- 4.5. The **Contract Administrator** will evaluate the **Contractor** throughout the life of the contract according to the criteria listed in a Contractor Performance Review form developed and maintained by the **City**. Upon completion, the review form will be maintained by the **City**.

4.6. Nothing in this **Agreement** prevents the **Contractor** from entering into a separate agreement with the **Artist**, provided that:

4.6.1. Any such agreement is interpreted according to the laws of the State of Texas.

4.6.2. Any such agreement must provide for the supremacy of the **Artist's** and **Contractor's** respective obligations to the **City** above any conflicting rights or obligations set out in such an agreement between the **Artist** and the **Contractor**.

## **Section 5. PAYMENT**

5.1. The **Contract Price** for this **Agreement** is \$15,000.

5.1.1. In exchange and consideration for the **Contractor's** agreement to undertake the obligations in this **Agreement**, the **City** agrees to pay the **Contractor** 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 **Agreement**.

5.1.3. The **Contract Price** is the full compensation owed to the **Contractor** under this **Agreement**, except for any travel expenses approved by the **City** as set out in Section 5.2.

5.1.3.1. Except as expressly provided for elsewhere in this **Agreement**, the **Contractor** 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 **Contractor** in providing the **Services**.

5.1.3.2. The **Contractor** 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 **Services** or the materials and supplies used in completion of the **Services**. The **Contractor** acknowledges receipt of a Texas Sales and Use Tax Exemption Certificate Form for use by the **Contractor** in the completion of the **Services**.

5.2. Any travel expenses incurred by the **Contractor** will require prior approval by the **City**, and will be in keeping with current General Services Administration per diem rates, and may not exceed \$3,000.00 for the duration of this **Agreement**. Nothing in this **Agreement** precludes the **Contractor** from requesting travel expense reimbursement on an ongoing basis. The **City** will reimburse the **Contractor** for travel expenses that have been previously approved by the **City** only after:

5.2.1. The **Contractor** has submitted receipts or other documentation that fully accounts for the reimbursement sought; and

5.2.2. The **City** has reviewed all documentation submitted and has determined, in its sole discretion, that the documentation submitted by **Contractor** is sufficient.

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

5.3.1. Milestone 1 – \$1,000 within 30 days of acceptance of the **Artist's** required insurance documents.

5.3.2. Milestone 2 – \$2,000 within 30 days after acceptance of submitted work plan.

- 5.3.3. Milestone 3 – \$1,000 within 30 days after **Final Design** is accepted.
- 5.3.4. Milestone 4 – \$2,000 within 30 days after First Report is submitted.
- 5.3.5. Milestone 5 – \$2,000 within 30 days after Engineering Documents are complete.
- 5.3.6. Milestone 6 – \$2,000 within 30 days after acceptance of revised work plan.
- 5.3.7. Milestone 7 – \$3,000 within 30 days after Delivery and Installation of the **Work** is complete.
- 5.3.8. Milestone 8 – \$2,000 within 30 days after Final Report is received by the **City**.
- 5.4. All payments due under this Agreement will be subject to the Texas Prompt Payment Act, and will be issued after the **City** has approved of the **Contractor's** invoice.
- 5.5. Pursuant to Section 2-8-3 of the Austin City Code, notice of which is acknowledged by the **Contractor**, the **City** may withhold payment otherwise due under this **Agreement** in order to offset any debt owed by the **Contractor** to the **City**, including but not limited to any tax debt owed by the **Contractor** to the **City** pursuant to Article VIII, Section 1 of the Austin City Charter, notice of which is also acknowledged by the **Contractor**.

## **Section 6. REPRESENTATIONS AND WARRANTIES**

### **6.1. WARRANTIES OF TITLE**

- 6.1.1. The **Contractor** warrants that any materials or work product prepared by the **Contractor** as a part of the **Services** will be original works of the **Contractor**.
- 6.1.2. The **Contractor** 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 materials or work product prepared by the **Contractor** as part of the **Services** by reason of an alleged or actual copyright violation or other lack of ownership, authorship, or originality.

## **Section 7. INTELLECTUAL PROPERTY RIGHTS**

- 7.1. The **Contractor** 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 any materials or work product prepared by the **Contractor** as a part of the **Services**, except as limited in this **Agreement**.
- 7.2. The **Contractor** grants to the **City** and its assigns an irrevocable, royalty-free license to make reproductions of any materials or work product prepared by the **Contractor** as a part of the **Services** for any municipal or public purpose, including but not limited to any publicity the **City** deems appropriate or beneficial.

## **Section 8. INSURANCE AND RISK OF LOSS**

- 8.1. The **Contractor** agrees to carry insurance in the types and amounts indicated in Exhibit C.
- 8.2. Workers' Compensation and Employers' Liability insurance coverage must be in place before the **Contractor** begins any work on the **Site**.



- 8.3. Commercial General Liability insurance coverage and Automobile Liability insurance coverage must be in place no later than 30 days after the **Effective Date**.
- 8.4. Approval by the **City** of any insurance obtained by the **Contractor** will not diminish or decrease the liability of the **Contractor** under this **Agreement**.

## **Section 9. TERMINATION**

### **9.1. AUTOMATIC TERMINATION**

- 9.1.1. This **Agreement** will automatically terminate upon termination of the **Principal Agreement**, whether by the **City** or the **Artist** and whether for cause or without cause.
- 9.1.2. If this **Agreement** is terminated pursuant to Section 9.1.1 prior to closeout of this **Agreement**, the **City** will owe **Contractor** for work completed but not yet paid. The **City** will have no further liability to **Contractor** under this **Agreement** or under any other law or equitable principle.

### **9.2. TERMINATION FOR CAUSE**

- 9.2.1. A **Party** may terminate this **Agreement** for cause due to the **Default** of the other **Party**.
- 9.2.1.1. Prior to terminating this **Agreement** 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.
- 9.2.1.2. 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.
- 9.2.1.3. 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**.
- 9.2.1.4. 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 **Agreement**.
- 9.2.1.5. In addition to Section 9.2.1, the **City** may terminate this **Agreement** for cause if the **Contractor**, including any agent or representative of the **Contractor**, 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 **Agreement**. Termination for cause under Section 9.2.1.5 will be in the manner set out in Sections 9.2.1.1 through 9.2.1.4, except that the **Contractor** will not be entitled to any right to cure provided by Section 9.2.1.2. If the **City** terminates this **Agreement** under Section 9.2.1.5, the **City** will, in addition to all other rights and remedies, be entitled to recover from the **Contractor** an amount equal to the cost incurred by the **Contractor** or the agent or representative of the **Contractor** in providing such gratuities.

### **9.3. TERMINATION FOR CONVENIENCE**

- 9.3.1. Either **Party** may terminate this **Agreement** for convenience.
- 9.3.2. If the **City** approves reimbursements under this **Agreement** for expenses incurred by the **Contractor** prior to the **City's** termination for cause, the **City** will reimburse the

**Contractor** for such approved amounts within 45 days of the **Contractor's** submission of receipts.

#### 9.4. FUNDING

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

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

9.4.3. If this **Agreement** is voided according to Section 9.4.1, the **Contractor** will be entitled to retain any payments made prior to termination for which funds were properly appropriated.

#### Section 10. NOTICES

10.1. Unless explicitly stated elsewhere in this **Agreement**, all notices must be given in writing in the manner set out in Section 10 in order to be effective.

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

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

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

10.2.3. 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.

10.3. Notice to each **Party** must be given as follows:

##### The City:

Economic Development Department  
ATTN: Synovia Holt-Rabb, Assistant  
Director City of Austin  
P. O. Box 1088  
Austin, TX 78767  
Phone: 512-974-7739  
Facsimile: 512-974-7825

Economic Development Department  
ATTN: Susan Lambe, Art in Public  
Places Administrator  
City of Austin  
P. O. Box 1088  
Austin, TX 78767  
Phone: 512-974-7852  
Facsimile: 512-974-6379

With copies to:

City of Austin Law Department

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

The **Contractor**:  
Holly Veselka  
4 Bob White Court  
San Marcos, TX 78666

- 10.4. 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.
- 10.5. The **Contractor** will give notice to the **City** of any changes to the **Contractor's** address. If the **City** gives notice to the **Contractor** in the manner set out in Section 10 and such notice is returned to the **City** as undeliverable, the **City** will make every reasonable effort to locate the **Contractor** in order to give notice to the **Contractor** of issues affecting or relating to the **Contractor's** rights. Any actions taken by the **City** after making reasonable efforts to locate the **Contractor** are prospectively ratified by this **Agreement** and may not form the basis for any claims for damages or injunctive relief by the **Contractor** against the **City**.

## **Section 11. MISCELLANEOUS PROVISIONS**

### **11.1. The Contractor acknowledges that:**

- 11.1.1. The recitals set out in Section 3 form the basis upon which the **City** has agreed to enter into this **Agreement**.
- 11.1.2. The recitals set out in Section 3 are each a material inducement to the **City** to enter into this **Agreement**.
- 11.1.3. The **City** would not have entered into this **Agreement** but for the truth of each recital set out in Section 3.
- 11.2. The **Contractor** will comply with all Federal, State, and **City** statutes, ordinances, and regulations applicable to the **Contractor's** services under this **Agreement**.
- 11.3. The **City** will maintain on permanent file a record of this **Agreement** 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.
- 11.3.1. The **City** will not be responsible for withholding, reporting, or paying employment taxes or other similar levies for the **Contractor** that may be required by the United States Internal Revenue Service or other State or Federal agencies.
- 11.3.2. No **City** employee or official will supervise the **Contractor**, nor will the **Contractor** supervise any **City** employee or official.
- 11.3.3. The **Contractor** acknowledges that this **Agreement** creates no obligation of the **City** to enter into any joint venture, joint enterprise, partnership, or other legal business relationship regarding the **Services**.
- 11.4. This **Agreement** constitutes the entire agreement between the **Parties**, and supersedes any prior oral or written agreements and understandings regarding the **Services**. This **Agreement** may only be modified or amended by written amendment signed by both **Parties** and approved by appropriate action of the **City**.

- 11.5. The election of one remedy under this **Agreement** or applicable law does not prevent either **Party** from pursuing any other right or remedy set out in this **Agreement** 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.
- 11.6. If a dispute arises between the **Parties** regarding performance under this **Agreement** 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.
- 11.7. The **Contractor** may not assign this **Agreement**, or any rights under this **Agreement**, without express written permission from the **City**, which permission will be in the sole discretion of the **City**.
- 11.8. The **Contractor** acknowledges that neither the execution of this **Agreement** 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.
- 11.9. This **Agreement** 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 **Agreement**.
- 11.10. This **Agreement** will be interpreted in accordance with the laws of the State of Texas, without regard for any conflict of laws provisions.
- 11.11. The **Parties** agree that exclusive jurisdiction and venue for any suit arising out of this **Agreement** will be in the District Court for Travis County, Texas.
- 11.12. The provisions of this **Agreement** are drafted with the intention of giving full effect to each provision and to the intent of the **Parties**.
- 11.13. Any section, subsection, provision, or portion of this **Agreement** that is subsequently deemed contrary to applicable law is struck from this **Agreement**, and the remainder of this **Agreement** will continue in full force and effect.
- 11.14. Any principle of contract construction that requires interpretation of any ambiguities in this **Agreement** against one **Party** or the other is inapplicable to this **Agreement**.
- 11.15. Each **Party** warrants that it has the right and authority to make and enter into this **Agreement**, and to grant the rights set out in this **Agreement**.
- 11.16. Section titles set out in this **Agreement** are for convenience only, and impose no limitations on the provisions of this **Agreement**.

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11.17. Unless otherwise set out in a specific section of this **Agreement**, all time frames set out in days in this **Agreement** are in calendar days.

11.18. 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. If she qualifies as a "company", then she verifies that it:

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

The **Artist** warrants to the City that it is or is not a "company", and therefore is or is not subject to the verification requirements of Texas Government Code chapter 2270. For the purposes of this Section only, the terms "company" and "boycott Israel" have the meaning assigned by Texas Government Code section 2270.001.

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

Approved as to form:

Date: 5. 9. 19

R. Pigott

By: Sylnovia Holt-Rabb

Ron Pigott  
Assistant City Attorney

Sylnovia Holt-Rabb  
Assistant Director  
Economic Development Department

CONTRACTOR

Date: 5/8/19

By: Holly Veselka

Holly Veselka  
Artist  
4 Bob White Court  
San Marcos, TX 78666



## Exhibit A - Site

While it is understood that the Site for the Artwork will be confirmed through the work of the Design Contract, the site is currently considered to be located in the Landscape Spine area and/or the area shown in red for the new parking garage and administration building.



Landscape Spine

New parking garage and  
administration building  
area shown in red

## Exhibit B – Scope of Work

The **Contractor** will manage their time and budget while providing services in support of the **Artist**, for the Austin Bergstrom International Airport Parking Garage and Administration Building AIPP Project throughout the design phase of the project through the installation of public artwork. These services are defined as:

1. Coordination of, and attendance at, public boards and commissions and project-specific meetings.
  - a. This may include public presentation of information about the Austin Bergstrom International Airport Parking Garage and Administration Building AIPP Project, or it may include attending meetings to take notes or gather information on behalf of the artist team.
  - b. The **Contractor** will strive to understand why the **Artist** is making the design and material decisions they are making, and be able to convey that information as needed.
2. Conducting research and writing memos or reports regarding materials, design issues, permitting and local building codes, as needed.
3. Providing assistance, as agreed with the **Artist** and the **City**, in support of the artwork design.
  - a. The **Contractor** will work with the **Artist** to provide services as needed, such rendering artwork, researching vendors and/or materials.
  - b. The **Contractor** will work with the **Artist** and the **City** to determine the exact services needed and how they might best service the **Project**.
4. Participation in a minimum of one studio visit with the commissioned artist during the design phase of the work.
  - a. This visit may be delayed until the fabrication phase of the work, as agreed by the **City** and the **Artist**.
5. The **Contractor** will support the **Artist** in accessing people and resources within the Austin artist and artisan community. Documentation of this work must be provided as part of the deliverables associated with this Agreement.
6. Other duties as agreed during the kick-off meeting with the **Artist** that relates to the design phase of the artwork; and
7. Production of Reports.
  - a. The Contractor is responsible for submitting 1 work plan and 2 reports as follows:
    - i. Milestone Two **Work Plan**:
      1. Outline of 5-10 Goals related to service of the project;
      2. Tasks associated with each goal; and
      3. Review and approval of work plan by **Artist** and the **City**;
    - ii. Milestone Four **First Report**:
      1. Describe how the design process went;
      2. Document the work accomplished; and
      3. Describe the key concepts or lessons learned during the design phase;
    - iii. Milestone Six **Revised Work Plan**
      1. Adjust any goals based on current work flow
      2. Adjust any tasks based on goals
      3. Update timeline for approval
    - iv. Milestone Eight **Final Report**:
      1. Describe how the fabrication process went;
      2. Document the progress of the work accomplished;
      3. Describe the key concepts or lessons learned during the fabrication and installation phase; and
      4. Interview the **Artist** regarding what they felt the **Contractor** contributed to the project.

## Exhibit C - Insurance Requirements

### **Insurance Requirements** **For** **City of Austin Art in Public Places Contracts**

Contractor/Artist shall carry insurance in the types and amounts indicated below for the duration of the Contract. Workers' Compensation and Employers' Liability Insurance must commence before the installation on City Property; Commercial General Liability Insurance and Auto Liability must commence 30 days after the signing of the contract with the City of Austin. Any Architect or Engineer affixing their seal to an Artist's design drawings must provide evidence of A&E Professional Liability Insurance in effect on the date their seal is affixed.

**A. Workers' Compensation and Employers' Liability Insurance** coverage with limits consistent with statutory benefits outlined in the Texas Workers' Compensation Act (Art. 401) and minimum policy limits for employers liability of \$100,000 bodily injury each accident, \$500,000 bodily injury by disease policy limit and \$100,000 bodily injury by disease each employee.

The Contractor's/Artist's policy shall apply to the State of Texas and include these endorsements in favor of the City of Austin:

1. Waiver of Subrogation, form WC 420304.
2. Thirty (30) day Notice of Cancellation, form WC 420601.

**B. Commercial General Liability Insurance** with a minimum bodily injury and property damage per occurrence limit of \$500,000 for coverage's A & B. The policy shall include Products/Completed Operations coverage with a minimum of \$500,000. The policy shall contain the following provisions:

1. Blanket contractual liability coverage for liability assumed under this contract and all contracts relative to this project.
2. Independent Contractors coverage.
3. City of Austin listed as an additional insured, endorsement CG 2010.
4. Thirty (30) day notice of cancellation in favor of the City of Austin, endorsement CG 0205.
5. Waiver of Transfer Right of Recovery Against Others in favor of the City of Austin, endorsement CG 2404.



## Exhibit C - Insurance Requirements

**C. Business Automobile Liability Insurance** for all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident. The policy shall contain the following endorsements in favor of the City of Austin:

1. Waiver of Subrogation endorsement CA 04444.
2. Thirty (30) day Notice of Cancellation endorsement CA 0244.
3. Additional Insured endorsement CA 2048.

**E. A&E Professional Liability Insurance** is required of all design professionals (i.e., architects and engineers) affixing their seal to an artist's design drawings, with a minimum limit of liability of \$1,000,000 per claim / occurrence. Professional Liability Insurance to pay on behalf of the assured all sums which the assured shall become legally obligated to pay as damages by reason of any negligent act, error, or omission committed or alleged to have been committed with respect to plans, maps, drawings, analyses, reports, surveys, change orders, designs or specifications prepared or alleged to have been prepared by the assured. The policy shall provide for 30 day notice of cancellation in favor of the OWNER.

### **General Requirements**

Contractor/Artist must complete and forward a written quote for the required insurance coverages to the City before the Contract is executed. The Contractor/Artist shall not commence fabrication until he/she has obtained the required insurance and has forwarded a certificate of insurance for the required insurance coverages and until such insurance has been reviewed by the City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor/Artist hereunder.

Contractor's/Artist's insurance coverage is to be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by

## Exhibit C - Insurance Requirements

companies with A.M. Best ratings of B+VII or better. The City will accept workers' compensation coverage written by the Texas Workers' Compensation Insurance Fund.

Contractor/Artist must submit certificates of insurance for all Subcontractors to the City prior to them commencing work on the project. Subcontractors' auto liability insurance shall be written by companies licensed to do business in the State of Texas and with A.M. Best ratings of B+VII or better.

All endorsements naming the City of Austin such as additional insured, waivers, and notices of cancellation endorsements as well as the certificate of insurance shall indicate: *City of Austin, AIPP Program, Attn: Susan Lambe, 201 East Second Street, Austin, TX 78701; FAX: (512) 974-6379.*

If coverage is written on a claims made basis, the retroactive date shall be prior to or coincident with the date of the Agreement and the certificate of insurance shall state that the coverage is claims made and indicate the retroactive date. This coverage shall be continuous and will be provided for 24 months following the completion of services under this agreement.

The "other" insurance clause shall not apply to the City where the City of Austin is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both the City and the Contractor/Artist shall be considered primary coverage as applicable.

If insurance policies are not written for amounts specified above, Contractor/Artist shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.

The City shall be entitled, upon request and without expense, to receive certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.

The City reserves the right to review the insurance requirements set forth during the effective period of this Agreement and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Contractor/Artist.

The Contractor/Artist shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.

## Exhibit C - Insurance Requirements

The Contractor/Artist shall be responsible for premiums, deductibles and self-insured retention's, if any, stated in policies. All deductibles or self-insured retention's shall be disclosed on the certificate of insurance attached.

The Contractor/Artist shall provide the City thirty (30) days written notice of erosion of the aggregate limits below occurrence limits for all applicable coverage's indicated within the Contract.

The insurance coverage's required under this contract are required minimums and are not intended to limit the responsibility or liability of the Contractor/Artist.

**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:**

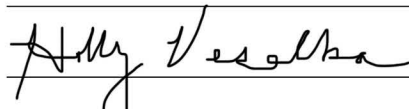
The Contractor agrees that this Section 0800 Non-Discrimination and Non-Retaliation Certificate of the Contractor's separate conforming policy, which the Contractor has executed and filed with the City, will remain in force and effect for one year from the date of filing. The Contractor further agrees 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 30 day of May, 2019

CONTRACTOR  
Authorized  
Signature

Title

Holly Veselka



Launch Pad 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: Holly Veselka

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Signature of Officer or  
Authorized  
Representative:



Date: May 30, 2019

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Printed Name: Holly Veselka

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Title: Launch Pad Artist

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