

**AGREEMENT FOR DESIGN OF PUBLIC ART WORK
BETWEEN THE CITY OF AUSTIN AND ION ART INC**

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 Design of Public Art Work between the **City** and the **Artist**, including any and all attachments and exhibits.
- 1.2. **"Artist"** means ION ART INC a resident of the State of Texas located at 407 RADAM LN STE A100, AUSTIN, TX 78745-1113.
- 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. **"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.
- 1.5. **"Contract Administrator"** means the Art in Public Places Administrator, the Director of the City's Economic Development Department, or their respective designee.
- 1.6. **"Contract Price"** means the total compensation to be paid to the **Artist** pursuant to this **Agreement**, to be paid on such terms as are set out in Section 5.
- 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 8th Street Streetscape between Congress and West Avenues owned, operated, or controlled by the **Sponsoring Department** and located along 8th Street between Congress Ave. and West Ave.
- 1.10. **"Final Design"** means the final design of the **Work** as approved by the **City** under Section 4.2.7.
- 1.11. **"Mid Design"** means the partially developed design of the **Work** submitted by the **Artist** to the **City** pursuant to Section 4.2.6.
- 1.12. **"Party"** means either the **City** or the **Artist**, and **"Parties"** means the **City** and the **Artist** collectively.
- 1.13. **"Project"** means the **City** construction project at which the **Work** will be installed, known as the 8th Street Streetscape project.
- 1.14. **"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 **Agreement**.

- 1.15. "**Site**" means the portion of the **Facility** at which the **Work** will be installed, more particularly set out in Exhibit A.
- 1.16. "**Sponsoring Department**" means the Public Works Department of the **City**.
- 1.17. "**Work**" means an original piece of public art conceived and designed by the **Artist** as set out in this **Agreement**, and more particularly described as an interior and/or exterior public artwork.
- 1.18. 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. 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 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 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 **Agreement**.
- 3.5. The **Parties** acknowledge that this **Agreement** 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 nothing in this **Agreement** obligates the **City** to enter into any such commission 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 Agreement:

- 4.1.1. The Artist will perform research about the neighborhood and area history;**
- 4.1.2. The Artist will engage with community representatives and stakeholders to develop the proposed artwork concept and approach. Community representatives may include residents, local youth, neighbors and 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 Agreement. 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 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 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.**

4.2. DESIGN AND SCHEDULING

- 4.2.1. After the Effective Date and prior to beginning design of the Work, the Artist will develop and provide 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 either approve, 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 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.**

- 4.2.1.5. The **City** may, on its own initiative and at any time, direct any 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. The **Parties** agree to grant each other a reasonable extension of time if any force majeure, Acts of God, flood, riot, civil insurrection, labor strikes, or orders of local or federal government render timely performance of the **Parties'** respective obligations. A **Party** invoking Section 4.2.1.7 must give notice to the other **Party** within ten 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 60 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** will execute a written amendment to 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 **Agreement** 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 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 **Agreement** for convenience pursuant to Section 10.7.1.
- 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 **Agreement** is \$17,400.00.
 - 5.1.1. In exchange and consideration for the **Artist's** agreement to undertake the obligations in this **Agreement**, 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 **Agreement**.

5.1.3. The **Contract Price** is the full compensation owed to the **Artist** under this **Agreement**.

5.1.3.1. Except as expressly provided for elsewhere in this **Agreement**, 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 **Agreement**.

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 **Agreement**, recognizing the **Artist** has already invested time and expense in preliminary design coordination with the **City** and its consultants.

5.2.2. Milestone 2 – 25% within 30 days after completion of the **Mid-Design** review required and presented the Mid-Design to the AIPP Panel for review and feedback by Section 4.2.6.

5.2.3. Milestone 3 – 45% within 30 days after submission of **Final Design** documents and presentation to the Art in Public Places Panel, as required.

5.2.4. Milestone 4 – 15% 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 **Agreement** 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 **Agreement**. The **Artist** may subcontract portions of the services to be provided under this **Agreement**, 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. No subcontractor may further subcontract or subdivide any portion of its subcontract.

- 6.1.5. Any subcontract must be in writing, must attach this **Agreement** as an exhibit, and must acknowledge the supremacy of this **Agreement** in the case of any conflict between the two. All subcontractors will remain subject to the terms of this **Agreement** at all times.
- 6.1.6. 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**.
- 6.1.7. 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 **Agreement**.
- 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.
- 7.2.2. The **City** will give notice to the **Artist** of any observed breach of this representation and warranty. Once notified by the **City**, the **Artist** will, at no cost to the **City**, promptly cure the breach or breaches.

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 **Agreement**, 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**, the title of the **Work**, and the year of completion.
- 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 **Agreement**.
 - 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'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 **Agreement**.
- 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 **Agreement**. 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 **Agreement**.
- 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 **Agreement** for cause due to the **Default** of the other **Party**.

10.6.1.1. 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.

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 **Agreement**.
- 10.6.2. In addition to Section 10.6.1, the **City** may terminate this **Agreement** 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 **Agreement**. 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 **Agreement** 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 **Agreement**. 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 **Agreement** 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 **Agreement** 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 **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 **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 **Agreement**, or of the reduction of any appropriation to an amount insufficient to permit the **City** to pay its obligations under this **Agreement**.

10.8.3. If this **Agreement** 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 **Agreement**, 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 **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:

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:

Sylvia 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

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

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

The Artist:

ION ART INC
407 Radam Ln Ste A100
Austin, TX 78745
vendor id # ION7111570

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 **Agreement**, 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 **Agreement** 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 **Agreement**, 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 **Agreement** for cause, or may suspend this **Agreement** 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 **Agreement**.
 - 13.1.2. The recitals set out in Section 3 are each a material inducement to the **City** to enter into this **Agreement**.

- 13.1.3. The **City** would not have entered into this **Agreement** 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 **Agreement**.
- 13.3. 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.
- 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 **Agreement**, 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 **Agreement** 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 **Agreement** constitutes the entire agreement between the **Parties**, and supersedes any prior oral or written agreements and understandings regarding the **Work**. This **Agreement** 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 **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.
- 13.7. 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.
- 13.8. The **Artist** 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**.
- 13.9. The **Artist** 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.
- 13.10. 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**.

- 13.11. This **Agreement** 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 **Agreement** will be in the District Court for Travis County, Texas.
- 13.13. The provisions of this **Agreement** 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 **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.
- 13.15. Any principal of contract construction that requires interpretation of any ambiguities in this **Agreement** against one **Party** or the other is inapplicable to this **Agreement**.
- 13.16. 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**.
- 13.17. Section titles set out in this **Agreement** are for convenience only, and impose no limitations on the provisions of this **Agreement**.
- 13.18. 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.
- 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 **Agreement**.
- 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 **Contractor** verifies that he:
- (a) does not “boycott Israel”; and
 - (b) will not “boycott Israel” during the term of this **Agreement**.
- 13.19.3 The **Artist** warrants to the **City** that he/she is a “company”, and therefore is subject to the verification requirements of Texas Government Code chapter 2270.
- 13.19.4 The **Artist** 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 **Agreement**.

CITY OF AUSTIN

Date: 6.19.18

By: Sylnovia Holt-Rabb

Sylnovia Holt-Rabb
Assistant Director
Economic Development Department

Approved as to form:

Leela Fireside

[ASSISTANT CITY ATTORNEY]

Assistant City Attorney

Leela Fireside

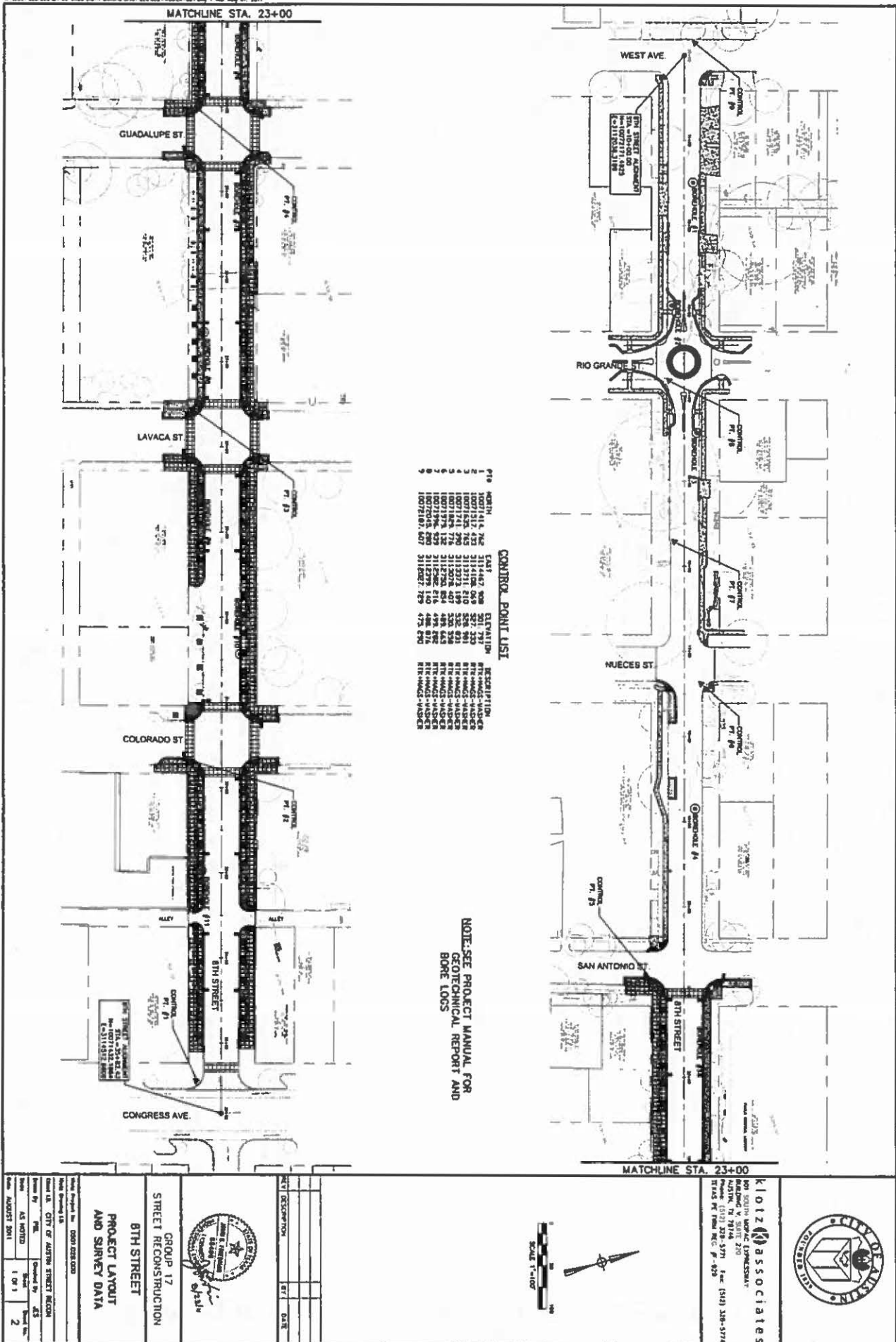
ARTIST

Date: 6-15-2018

By: Sharon Keshishian

Sharon Keshishian, Principal

ION ART INC



NOTES:

1. CONTRACTOR SHALL VERIFY THE PUBLIC WORKS DEPARTMENT 24 HOURS PRIOR TO STARTING CONSTRUCTION OR CLEARING OPERATIONS.
2. CONTRACTOR SHALL CALL "ONE CALL" AT 1-800-344-8377 FOR UTILITY LOCATIONS AT LEAST 48 HOURS PRIOR TO ANY WORK IN CITY EASEMENTS OR STREET RIGHT OF WAY.
3. THIS PROJECT IS LOCATED WITHIN THE SHOAL CREEK AND TOWN LAKE WARDSHIPS (CLASSIFIED AS URBAN) AND SHALL BE DEVELOPED, CONSTRUCTED AND MAINTAINED IN ACCORDANCE WITH CHAPTER 25 OF THE CODE. THE CITY OF AUSTIN.
4. NO PORTION OF THIS SITE IS LOCATED WITHIN FLOODPLAIN OR LAND USED FOR PARK PURPOSES. (IF SUCH DEDICATION OR DESIGNATION IS REQUIRED, THE CITY OF AUSTIN SHALL BE NOTIFIED. APPROVAL IS REQUIRED AT THE TIME OF SUBMITTAL FOR GENERAL PERMIT PROGRAM APPLICATION.)
5. NO PORTION OF THIS SITE IS LOCATED WITHIN THE 100-YEAR FLOODPLAIN, PER CITY OF AUSTIN AND FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAPS (FEMA MAP NO. 4404001Z0100).
6. THIS PROJECT IS NOT WITHIN THE EDWARDS AQUIFER RECHARGE ZONE AS DEFINED BY THE CITY OF AUSTIN AND TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ) REGULATIONS.
7. THERE ARE NO KNOWN CHRONIC ENVIRONMENTAL FEATURES WITHIN 150' OF ANY PORTION OF THIS PROJECT. A FIELD INVESTIGATION HAS NOT BEEN PERFORMED AS PART OF THIS PROJECT AND IS NOT REQUIRED.
8. THE STANDING STRUCTURES INCLUDED IN THIS PLAN SET WERE PROVIDED BY THE GENERAL PERMIT PROGRAM OFFICE FOR USE ON GENERAL PERMIT PROJECTS ONLY. IF ANY MODIFICATIONS TO THESE WERE MADE, THEY ARE CLEARLY IDENTIFIED ON THE SHEET ITSELF AND IN THE COVER SHEET PILE.
9. ADDITIONAL STRENGTH/E/C CONTROL: TRIANGULAR SEDIMENT FILTER CUP WILL BE INSTALLED ACROSS FULL WIDTH OF TRAFFIC CLOUSE, AND DOWNSTREAM OF CONSTRUCTION AREA, PERPENDICULAR TO DRAINAGE. FILTER CUP SHALL FOLLOW ACTS OF CONSTRUCTION, REMOVALS AND RE-SETTING FILTER CUP IS CONSIDERED SUBSEQUENT TO SHOROCAGES AND TRAFFIC HANDLING.
10. PROJECT SCHEDULE MUST BE APPROVED BY THE GENERAL PERMIT PROGRAM (GPP) DOWNSTREAM. INSTALLATION AND REMOVAL OF TEMPORARY AND PERMANENT EROSION/SEDIMENTATION CONTROLS SHALL BE COMPLETED WITHIN 48 HOURS OF THE START OF CONSTRUCTION. THE CONTRACTOR SHALL BE NOTIFIED A MINIMUM OF 48 HOURS IN ADVANCE OF TRANSITION BETWEEN PHASES.
11. APPROPRIATE EASEMENTS/APPROVALS MUST BE REQUIRED AND DOCUMENTED FOR PROJECT AREAS LOCATED OUTSIDE OF RIGHT OF WAYS. NO WORK SHALL BE PERFORMED WITH THESE AREAS UNTIL THE RIGHT OF WAY HAS BEEN OBTAINED. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROJECTS TO BE CONSIDERED COMPLETE UNTIL ALL REQUIRED EASEMENT DOCUMENT NUMBERS HAVE BEEN OBTAINED AND SHOWN ON PLANS.
12. CONTRACTOR SHALL STAKE ALL PROPOSED SERVICE CONNECTIONS LOCATED WITHIN THE CRITICAL ZONE OF THE PROJECT OR ON CORNER AND LARGER AT LEAST 21 CALENDAR DAYS PRIOR TO THE CONSTRUCTION OF SUCH SERVICES. STAKING SHALL CONSIST OF A BATH WITH PAINT AND PAPER MARKERS. IN CASES WHERE A STAKE CANNOT BE PLACED WITHOUT DAMAGING PROPERTY, CONTRACTOR MAY USE ANY OTHER METHOD OF STAKING. CONTRACTOR SHALL BE RESPONSIBLE FOR THE RESPONSIBILITY TO OBTAIN THE CITY OF AUSTIN'S CONSTRUCTION INSPECTOR WITHIN TWENTY-FOUR HOURS. THE CITY OF AUSTIN'S CONSTRUCTION INSPECTOR WILL THEN COORDINATE A FIELD REVIEW OF THE SERVICE CONNECTIONS WITHIN THE CRITICAL PERMIT PROGRAM COORDINATOR AND PROPERTY OWNERS. SERVICE LINE LOCATIONS MAY BE ADJUSTED BASED ON THE REVIEW AND WILL BE SUBMITTED BY THE CONTRACTOR AT AN ADDITIONAL COST TO THE CONTRACT. ALL SERVICE LINE STAKING SHALL BE COMPLETED UNTIL THE SERVICE LINE IS INSTALLED.

Exhibit A SITE (2 pages)

LOCATION MAP

AUSTIN TEX.

A B B B

RELEASE OF THIS APPLICATION DOES NOT CONSTITUTE A VERIFICATION OF ALL DATA, INFORMATION AND CALCULATIONS SUPPLIED BY THE APPLICANT. THE OWNERS OF RECORDS IS SOLELY RESPONSIBLE FOR THE COMPLETENESS, ACCURACY AND ADEQUACY OF HIS/HER SUBMITTAL, WHETHER OR NOT THE APPLICATION IS REVIEWED FOR CODE COMPLIANCE BY CITY ENGINEER.

7/19/12
SUBMITTING DATE

APPROVED FOR UTILITY ADJUSTMENTS

Exhibit B - Request for Qualifications

Art in Public Places
City of Austin Cultural Arts Division
201 East 2nd St.
Austin, Texas 78701
512.974.7700 / aipp@austintexas.gov
www.austincreates.com



REQUEST FOR QUALIFICATIONS

8th St. Streetscape Project (from Congress Ave. to West Ave.)

Budget: \$77,000

Artist Information meeting: 6 pm (CST), June 19, 2013

Deadline to Apply: 5:00 pm (CST), EXTENDED TO JULY 26, 2013

Project Summary

The City of Austin Art in Public Places (AIPP) program of the Cultural Arts Division, Economic Growth & Redevelopment Services Office (EGRSO) seeks to commission a professional visual artist, or artist team to design, fabricate and install artwork for the streetscape along 8th Street between Congress and West Avenues.

The City of Austin requests qualifications from professional visual artists, or artist teams, **who live and work in the Austin metropolitan area which includes Travis, Williamson, Bastrop, Caldwell, and Hays Counties.** The total artwork budget is \$77,000. Submission deadline is 5:00 pm on **July 26, 2013.**

Project Background

The 8th Street Reconstruction project from West Avenue to Congress Avenue was funded by the 2006 and 2010 bond elections and incorporates the guiding principles outlined in the **Downtown Great Streets Master Plan**. The intent of Great Streets is to transform Austin's public right-of-ways into great public spaces. The typical Great Streets layout includes: sidewalks 18 or 32 feet in width; street furnishings that include benches, bike racks and trash receptacles; and street trees that are spaced so that there is a contiguous canopy at maturity to provide shade. More information on Austin's Great Street program can be found at www.austintexas.gov/page/great-streets.

The improvements being constructed on 8th Street between West Avenue and Congress Avenue include

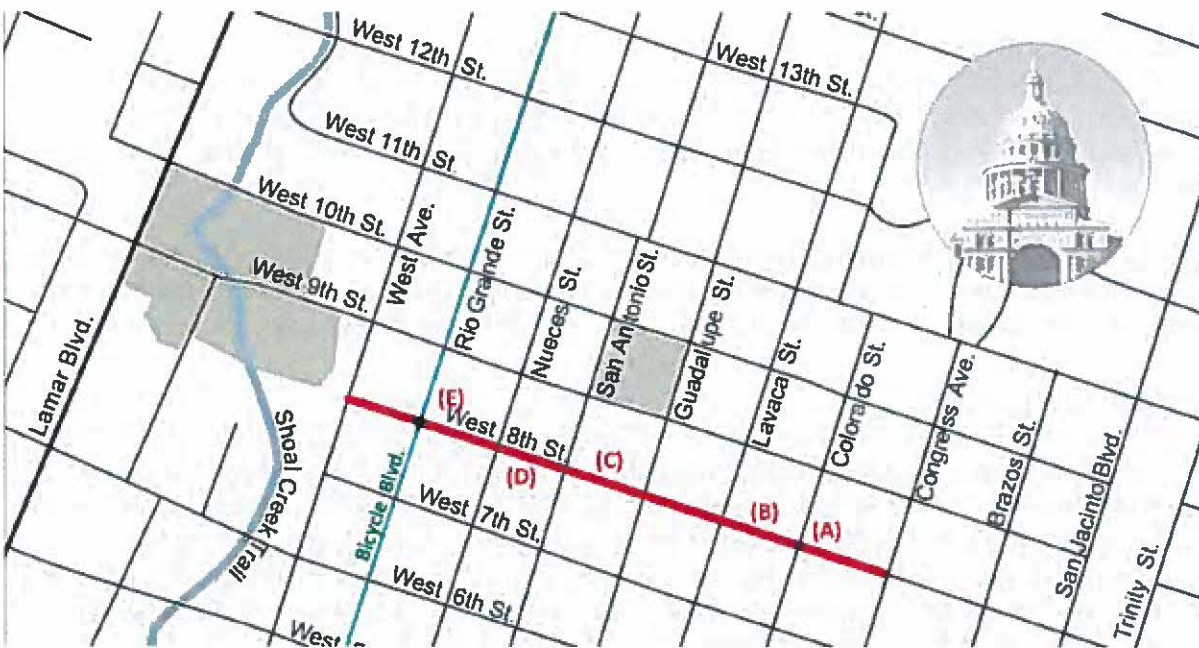
- Full depth reconstruction of the roadway
- Upgrades to water, wastewater, & storm drain system
- A traffic circle with adjacent rain gardens at Rio Grande St.
- New curbs, gutters, and driveways as necessary
- Improvements to pedestrian mobility including wider sidewalks with a reduction of vehicular lanes between Congress Ave. and San Antonio St.
- New trees, planters, street lights, benches, trash bins, bike racks
- Traffic signal improvements

This road reconstruction project began in August 2012 and is being completed in phases in order to minimize disruption to businesses and residents. Scheduled completion is March of 2014. The commissioned artwork will be installed after construction ends and the artist will be responsible for obtaining all required permits and installing independent of the larger construction project.

Exhibit B - Request for Qualifications

8th Street from Congress Ave. to West Ave.

This 7-block streetscape spans the very urban setting at Congress Avenue, west to the more residential blocks near West Avenue that are part of OANA, the Original Austin Neighborhood Association (www.originalaustin.org). As noted on the map below, the civic landmarks from west to east include: the (A) City Municipal Building at Colorado; (B) the historic U.S. Court House between Colorado and Lavaca (currently used for offices); (C) the John Henry Faulk Central Library between Guadalupe and San Antonio (which will be the new location for the Austin History Center) ; (D) the Austin Women's Club between San Antonio and Nueces; and (E) the Khabele School at Rio Grande (which is attended by more than 200 6th-12th graders). There also several office buildings, a parking garage, and between San Antonio and Rio Grande the terrain is markedly hilly. The traffic-calming circle being built at the Rio Grande intersection is part of the north-south Bicycle Boulevard that will connect 4th Street to 24th Street, as a way to encourage safe bicycle transit.



Map of area noting civic landmarks.



8th St. looking west towards West Ave.



8th St. looking west from Congress Ave.

Exhibit B - Request for Qualifications

Public Art Goals and Priorities

The Art in Public Places program seeks to commission works of art of redeeming quality that advance public understanding of visual art and enhance the aesthetic quality of public places through the selection of a qualified artist or artist team who can innovatively and thoughtfully design within the context of this project. The goal of the 8th Streetscape Project is to select an artist/artist team who will design artwork that:

- » is visually engaging but in no way impedes the safety of drivers, bikers, pedestrians and residents of this 7-block streetscape
- » strengthens the identity of this 7-block corridor
- » is durable enough to hold up to the rigors of streetscape conditions
- » contributes to a local, regional and national contemporary art dialogue
- » enriches or adds to the depth/breadth of the City of Austin's public art collection.

Budget

The funds for this project are derived from the 2% for public art portion of the eligible construction budget for the 8th Street Capital Improvement Project. The total award for an artist contract is \$77,000, inclusive of design, fabrication and installation, engineering and permitting fees, travel and shipping expenses, insurance and other project-related costs.

Artwork Opportunity

This public art opportunity is open to a wide range of ideas to be proposed by the selected artist, or artist team as long as they meet the safety and durability parameters of the project. **Artwork must be designed so that it does not reflect light in any way that could confuse drivers; does not contain signage or components that would obscure or interrupt traffic patterns; does not interfere with utilities in the vicinity; and complies with all accessibility requirements.** A variety of durable media will be considered.

Preferred locations for the artwork have been identified to be:

Site 1 THE TRAFFIC CIRCLE AT RIO GRANDE ST.

This is located in the residential area near the Khabele School where 8th St. intersects with the new Rio Grande Bicycle Boulevard. It is surrounded by small rain gardens which are shallow, vegetated depressions planted with native plants and grasses designed to absorb and filter runoff from impervious surfaces. These help to conserve water and protect our water quality.

Artwork would be located within a 28-foot diameter circle inside the ring of pavers. It is important to consider that any artwork NOT attract any pedestrian traffic – in particular children from the adjacent Khabele School. Part of the design challenge would be to create a work that is to be experienced from a distance and be out of reach – or have plantings around it that would discourage curious pedestrians from coming onto the circle. In addition, there is a 3' diameter manhole located in the center of the traffic circle that needs to remain accessible for utility maintenance. There is the possibility of providing night lighting for the artwork that is not disruptive to adjacent residents; however this would come out the artist's budget.

Exhibit B - Request for Qualifications



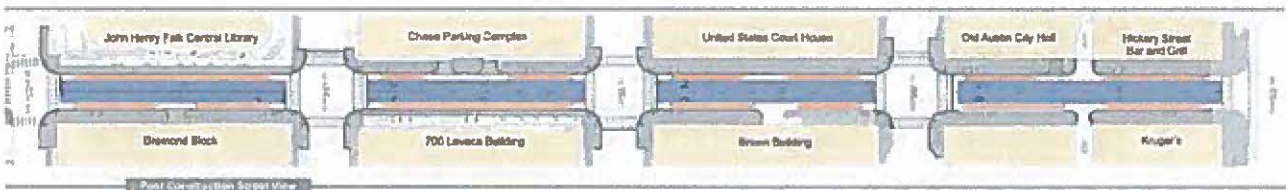
Rio Grande traffic circle under construction in April 2013.

(See attached additional drawings of the traffic circle on page 7.)

Site 2 ALONG THE WIDENED SIDEWALK AREAS BETWEEN CONGRESS AVE. & SAN ANTONIO ST.

Of particular interest is the area adjacent to what is now the John Henry Faulk Central Library. In the next few years the Central Library will vacate to its new location on Cesar Chavez, and the Faulk building will be remodeled to be the home of the Austin History Center, the central archives of Austin's history.

Artworks in the pedestrian right of way can be designed to be of more interest to pedestrians and could be imbedded into the plane of the walking surface, as long as all ADA requirements are met.



Planned streetscape between San Antonio St. and Congress Ave.

(See attached additional drawings on page 8 & 9.)

Note: Additional locations along this 7-block streetscape could be considered if they are feasible, important to the concept of the artist, and within the parameters of the project.

Exhibit B - Request for Qualifications

Artist Information Meeting

An Artist Information meeting will be held on **June 19, 2013 at 6:00 pm (CST)** in the **Cultural Arts Division Training Room at 201 E. Second Street, Austin, TX 78701**. (There is construction underway on Second Street, however parking is available in the Convention Center Parking garage which can be accessed from Brazos St. and San Jacinto St.) AIPP staff and other advisors will present information on the project and answer questions from interested artists. The presentation from the meeting, as well as answers to questions asked, will be available on the AIPP website at www.austintexas.gov/departments/aipp-opportunities until the application deadline.

Artist Eligibility

Professional visual artists, or artist teams, at least 18 years of age who live and work in the Austin metropolitan area are eligible to apply. This includes Travis, Williamson, Bastrop, Caldwell, and Hays counties. Full-time, permanent City of Austin employees and project consultants and their employees and sub-consultants are ineligible to apply.

Evaluation Criteria

In addition to the standard AIPP project selection criteria found on the City of Austin's Art in Public Places website (www.austintexas.gov/aipp/selectioncriteria.htm), the Selection Panel will review and consider the following evaluation criteria:

- » artistic merit and technical expertise;
- » demonstrated successful, innovative and effective approach to public art projects of a similar scope;
- » ability to successfully execute a public art project in the right of way; and
- » expressed interest in creating artwork for this streetscape.

Selection Process

Applications must be received online via www.PublicArtist.org no later than 5:00 pm (CST) on July 12, 2013. For technical assistance with your application, please contact info@publicartist.org or 210-701-0775 (9am – 5pm CST). Applicants will be required to submit a letter of interest stating preliminary conceptual direction, resume, images of recent and relevant work, and references. After the application deadline, Art in Public Places will convene a selection panel to evaluate artist qualifications.



Selection Panel includes:

- » Gary Webernick, artist, Chair of the Austin Community College Art Department
- » Leah Davis, AIA, Andersson Wise Architects
- » Melissa Berry, Arts & Parks Director, Downtown Austin Alliance

Project Advisors may include:

- » Humberto Rey, Great Street Program, Planning and Development Review, City of Austin
- » Richard Duane, Project Manager, Public Works, City of Austin
- » Lee Austin, Engineer, Transportation Department, City of Austin
- » Chad Cramer, Neighborhood Connectivity/Bike Program City of Austin
- » TBD, Austin History Center, Library Department, City of Austin

Exhibit B - Request for Qualifications

- » Blair Fox, representative of the Original Austin Neighborhood Association (OANA)
- » TBD, representative of the Downtown Austin Neighborhood Association (DANA)
- » TBD, AIPP Panel Representative

The selection panel and project advisors will work together to review the applications, including letter of interest stating preliminary conceptual direction, images of recent and relevant work, resume(s), and other information submitted by applicants.

The selection panel will recommend up to three finalists to interview. From those finalists, one artist or artist team and one alternate will be recommended to the Art in Public Places Panel and Austin Arts Commission for approval. The contract also requires authorization from City Council prior to negotiation and execution.

The selected artist(s) will be put under a design/commission contract. The final design is subject to approval by the Art in Public Places Panel and the Austin Arts Commission and may be subject to review by other relevant City Boards and Commissions and stakeholder groups.

Schedule

May 29, 2013

Request for Qualifications (RFQ) released

June 19, 2013

Artist Information Meeting

~~*July 12, 2013*~~ *JULY 26, 2013*

Deadline for RFQ submission

~~*Week of July 22, 2013*~~ *Week of August 5, 2013*

Selection Committee review of qualifications and selection of finalists for interview

~~*Week of July 29, 2013*~~ *August 12, 2013*

Finalist interviews

August 2013

*Approval of Artist and Alternate by AIPP Panel, Austin Arts Commission
City Council approval of artist contract*

September 2013

Negotiate/execute Design/Commission contract

December 2013

Mid-Design presentation to AIPP Panel

January 2014

Final Design review by AIPP Panel and Austin Arts Commission

March 2014

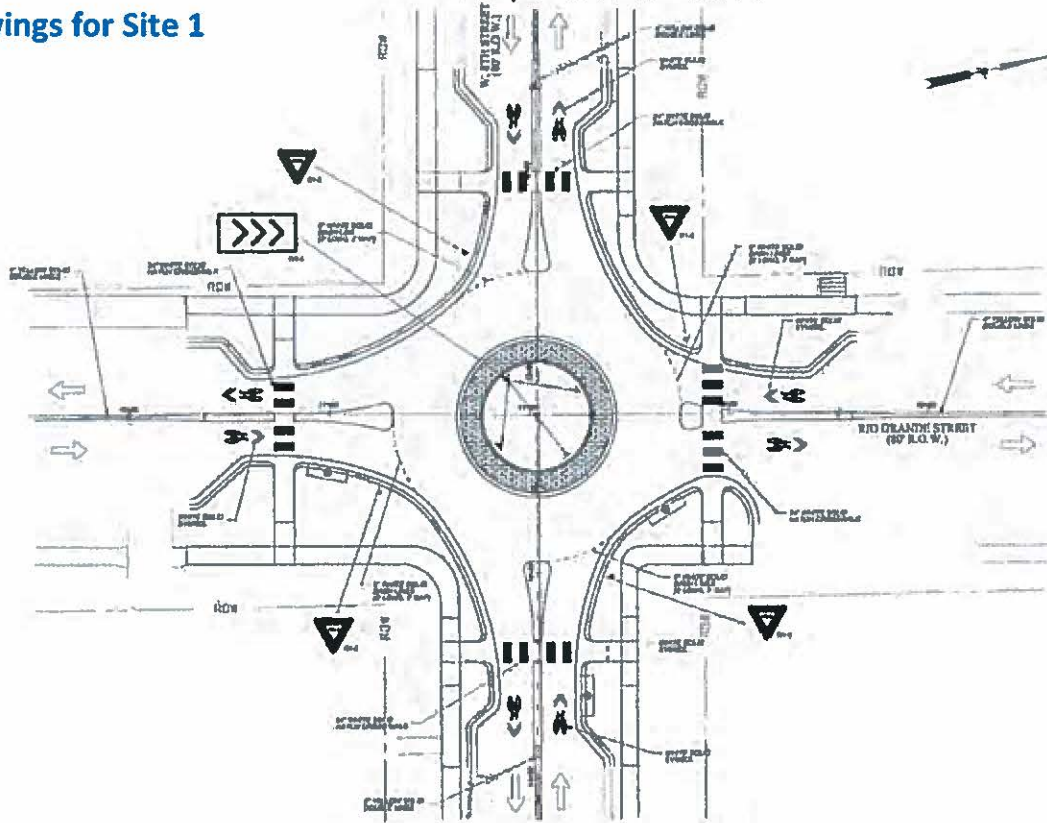
STREET RECONSTRUCTION COMPLETE

TBD 2014

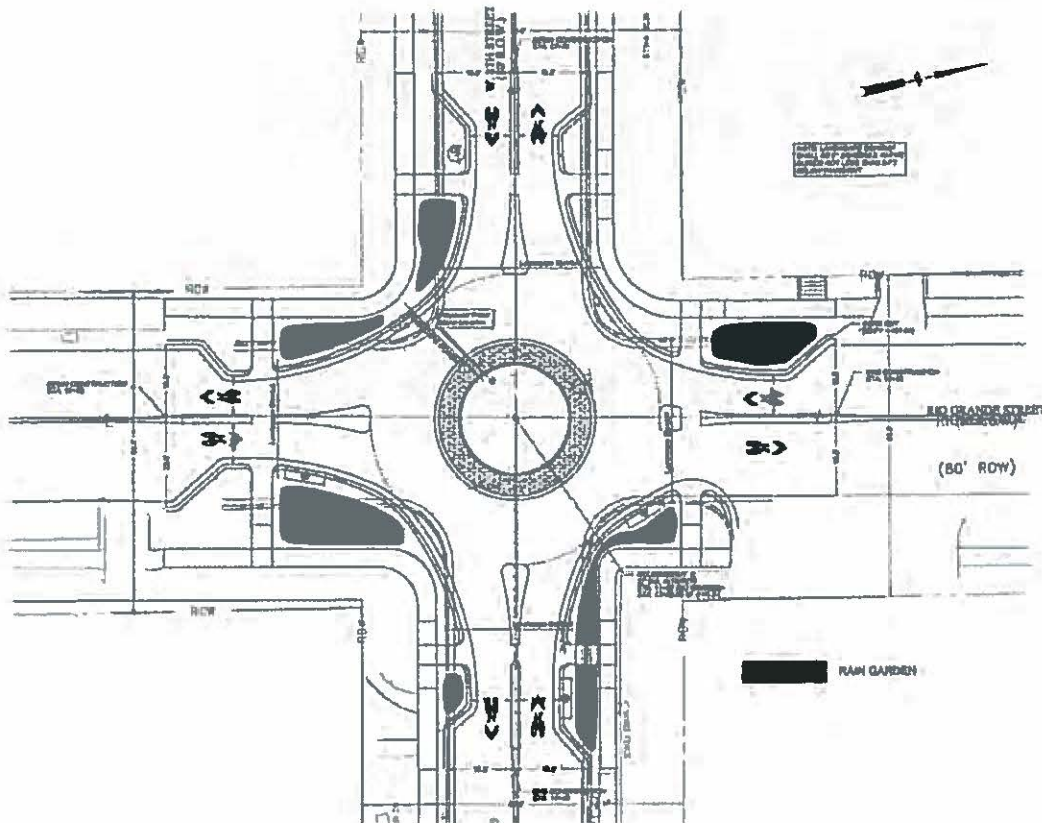
Artwork installed

Exhibit B - Request for Qualifications

Drawings for Site 1



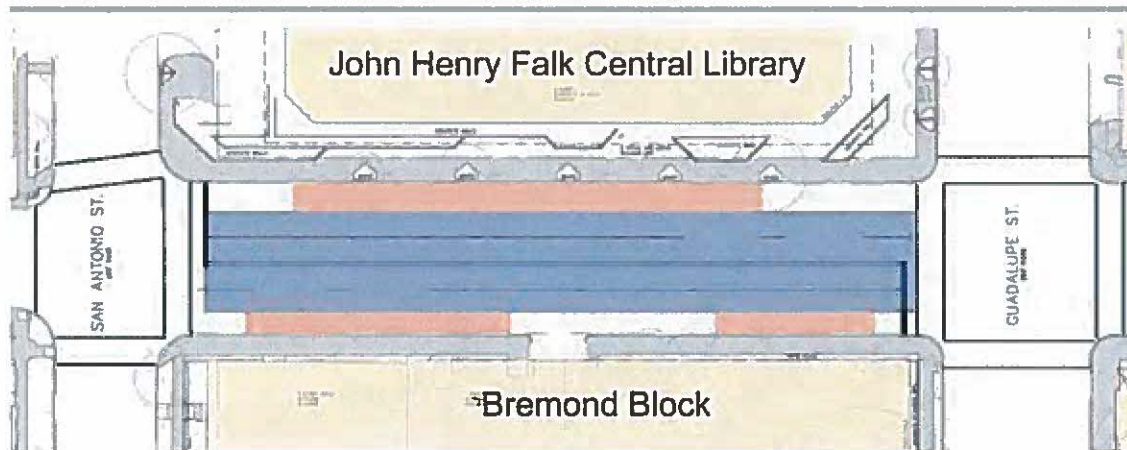
Traffic circle at Rio Grande; plan view with bicycle striping and signage.



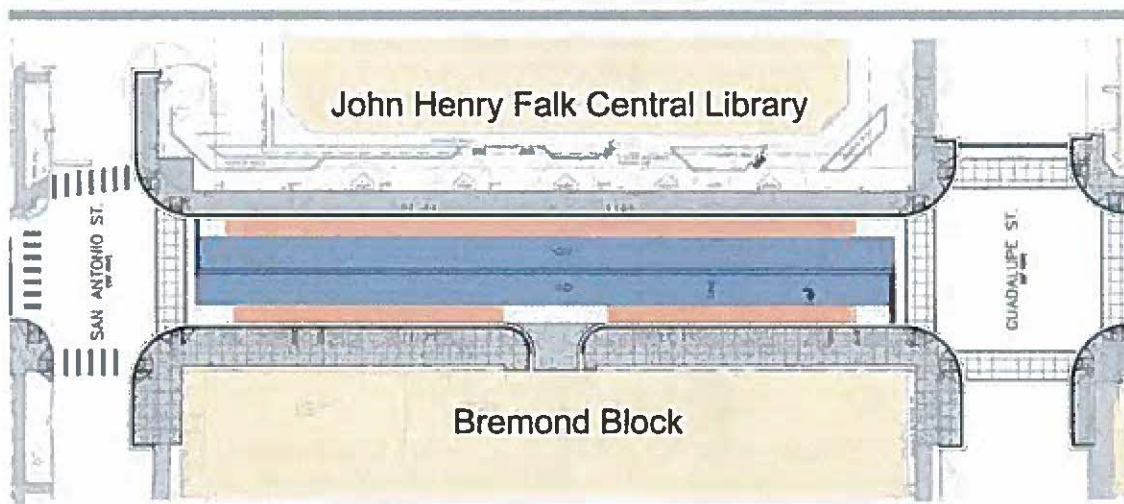
The traffic circle at Rio Grande; plan view with rain garden locations

Exhibit B - Request for Qualifications

Drawings for Site 2



Current Street View

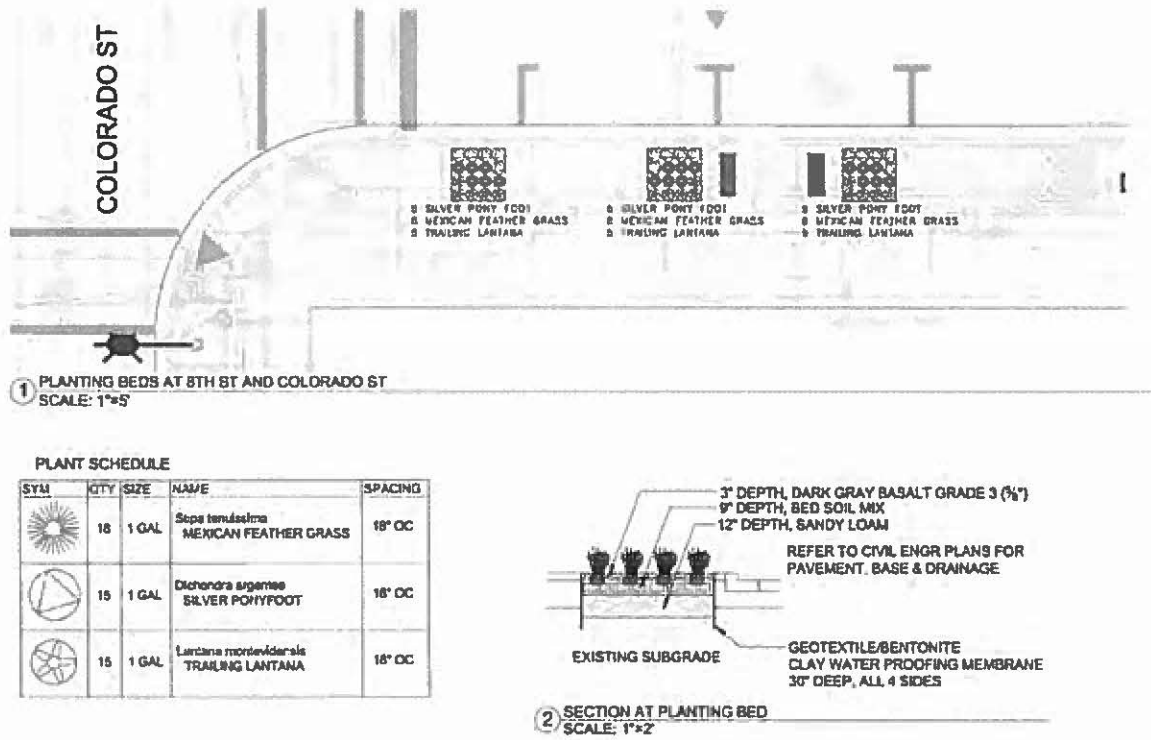


Post Construction Street View

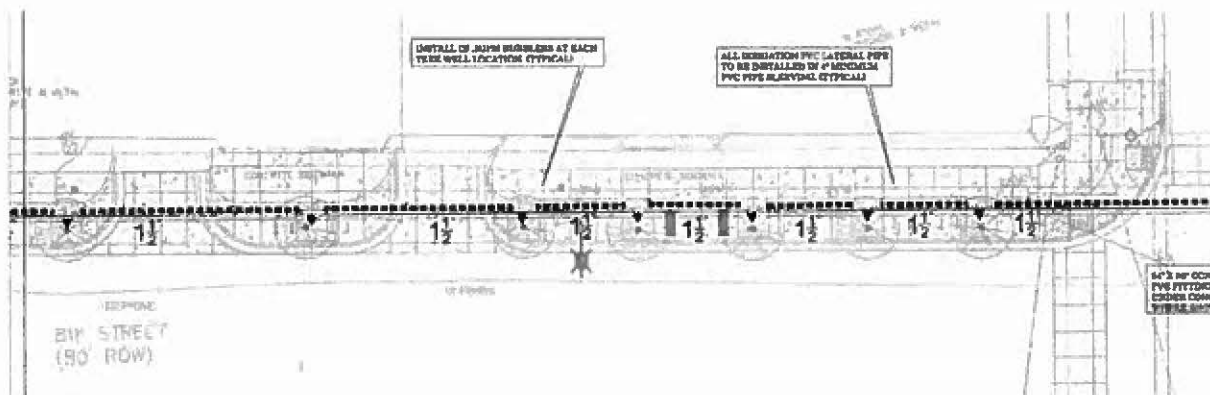


Comparison of current configuration between Guadalupe and San Antonio Streets and the planned streetscape with widened sidewalks and reduced traffic lanes.

Exhibit B - Request for Qualifications



Typical Landscape plan (8th and Colorado).



Typical Landscape plan.

Exhibit B - Request for Qualifications

Contact/Questions

Jean Graham, Art in Public Places Coordinator
(512) 974-9313 or jean.graham@austintexas.gov

Exhibit C - Artist Qualifications

Sharon Keshishian

407 Radam Ln Ste A100
Austin, TX 78745
5123269333

ionart@ionart.com
ionart.com

Thursday, July 25, 2013

The preliminary conceptual direction is to add color and light through sculptural elements to activate the space and create an atmosphere that is enchanting, unique, and authentic. There are many important considerations when working downtown and a dialogue with the city is an important part of the design process in this project. As a company that does installation work downtown on a weekly basis we are well versed to the special considerations for design, fabrication, and installing projects there.

We would like to create a work that is expansive and maintains an Austin feel. Low maintenance and high durability would be a priority, along with respecting the need for public safety. As a collective Ion Art is unique in it's ability to design, build, and install this artwork. Running the entire process all the way through under one roof generates efficiencies giving us the ability to execute ambitious projects within reasonable budgets in tight deadlines. These projects range from, sculptures, murals, mosaics, custom lighting, custom fabrication, architectural decor, and signage.

Ion Art uses materials like steel, aluminum, copper, bronze, wood, concrete, masonry, glass, and plastics. Ion Art also has an in-house neon shop which is one of the last in Austin along with a very high level of proficiency with LED lighting and RGB LED programming. All of which can be incorporated into the project depending on the specific needs of the location.

Ion Art Inc. is a company comprised of artists, designers, fabricators, administrators, and installers. The 8th St. Streetscape Project is a public art opportunity where all of the skills and talent that Ion Art employs everyday around the city of Austin can be showcased. As a design and build company Ion Art is uniquely suited for a project of this scope, scale, and location. Ion Art has had a hand in shaping the unique identity of the city by creating some of its most familiar landmarks and would bring that authenticity to this project.

Ion Art Inc. is located in South Austin with 30 employees and, with a design team of 7, it is more of an art collective than a fabrication shop. Ion Art and it's employee's artwork can be seen all over the city of Austin not to mention the landmark signage that has always been it's hallmark. Ion Art designs, fabricates, and installs public art that is charming, engaging, and authentic, a perfect combination for the 8th St. Streetscape Project.

Exhibit C - Artist Qualifications

Image List for Sharon Keshishian



SharonKeshishian1.jpg

Steel House Lofts Water Tower. Steel and acrylic lit with RGB flood lights.



SharonKeshishian2.jpg

Kendra Scott Store Front Facade. Aluminum and LED strip lighting.



SharonKeshishian3.jpg

Playboy Marfa. Steel and neon Playboy Marfa TX.



SharonKeshishian4.jpg

Discow. Mirrored disco cow for Dell Children's Hospital.



SharonKeshishian5.jpg

Cosmospheres. First Night Austin kinetic aluminum and neon discs on city hall.



SharonKeshishian6.jpg

Loitering. EPS foam man.



SharonKeshishian7.jpg

Crescent Water Feature. Rolled Copper Sculpture.



SharonKeshishian8.jpg

Kendra Scott Color Bar. RGB led backlit acrylic wall.



SharonKeshishian9.jpg

Dino Biker. Steel wind-powered dinosaur biker.

Exhibit C - Artist Qualifications



SharonKeshishian10.jpg

Fox and Crane. Cast bronze Aesop's Fable.

Exhibit C - Artist Qualifications
ION ART
www.ionart.com

objective

The objective is to create public art
that is relevant to the community and resonates with its environment.

background

Ion Art Inc. is located in South Austin with 30 employees and a design team of 7. It is an art collective as much as a fabrication shop. Ion Art and it's employee's artwork can be seen all over the city of Austin not to mention the landmark signage that has always been it's hallmark. Ion Art designs, fabricates, and installs public art that is charming, engaging, and authentic.

public art works

- 2013 - Playboy Marfa, Playboy logo neon and steel sculpture - Marfa, TX
- 2013 - Steel Armadillos, fabricated steel sculptures of six armadillos - Austin, TX
- 2013 - Buffalo Gate, painted mural on gated entrance to Post South Lamar - Austin, TX
- 2012 - Steel House Watertower, steel and acrylic water tower lit with RGB LEDs - San Antonio, TX
- 2012 - Kendra Scott Color Bar, aluminum and acrylic RGB LED wall sculpture - Houston, TX
- 2012 - Discow, mosaic mirrored cow for Dell Children's Hospital - Austin, TX
- 2011 - Dino Biker, kinetic T-Rex Sculpture installed at Yellow Bike - Austin, TX
- 2010 - Cosmospheres, kinetic neon sculpture installed on City Hall - Austin, TX
- 2008 - Tucson International, Center Point Project Finalist - Tucson, AZ
- 2007 - Loitering in a Digital World, CNC carved sculpture - Tucson, AZ
- 2007 - Penn Field, Water Feature - Austin, TX
- 2007 - For the Birds, 48 inch cast bronze sparrow, Tubac, AZ
- 2006 - Artist Initiative Temporary Public Art Exhibition, solar sculpture installation - Phoenix, AZ
- 2005 - Southern Arizona Center Against Sexual Assault donor wall, fountain, interior plaques - Tucson, AZ
- 2004 - Whole Foods, Public Sculpture - New Orleans, LA
- 2002 - Dell Childrens Hospital, Donated neon artwork - Austin, TX
- 1994 - Zilker Trail of Lights, Donated neon artwork - Austin, TX
- 1993 - Hollywood Henderson Mural, Donated mural - Austin, TX

group exhibitions

- 2012 - Art Erotica, Octopus Club, Austin TX
- 2011 - Group Show, Austin Details Gallery, Austin TX
- 2010 - United States Art Authority, ARTMEGEDDON, Austin TX
- 2009 - 512 Fall Brewery Show, Austin TX
- 2008 - Rose Arc, Beverly Hills CA
- 2006 - Affaire In The Gardens, Beverly Hills CA
- 1989 - Group Show, Laguna Gloria, Austin TX

awards & recognition

- 2006 - Honorable Mention, Affaire in the Gardens, - Beverly Hills, CA
- 2004 - Mayors Awards, Arizona Student Sculpture Competition - Carefree, AZ
- 2004 - 3rd Place, Arizona Student Sculpture Competition - Carefree, AZ
- 2003 - 1st Place, ASM International Memento Contest - Phoenix, AZ
- 1986 - 1st Place, Spam o' Rama - Austin, TX

Exhibit C - Artist Qualifications

I O N A R T
www.ionart.com

references

John Rasato

Southwest Strategies Group Inc
1214 w. 6th Street, Suite 220
Austin, TX 78703
512.458.8153 ext 202

Wayne Houtz

Post Properties
1500 South Lamar
Austin, TX 78701
512.826.5171

Warren McKinney

Art Seen Alliance
225.335.1956



MEMORANDUM

TO: City of Austin Permitting Office and Right of Way Management

FROM: Anna Bradley, Coordinator, Art in Public Places, ED

DATE: June 8, 2018

RE: FEE WAIVERS
8th St. Streetscape Art in Public Places Project
8th Street from Congress Ave. to West Ave.

Please waive the following fees for **Ion Art Inc and their subcontractors** for all work performed under their contract listed below with the City of Austin in accordance with City Code Chapter 7-2-11 (Source *Ord. 20111103-010*):

- (1) Temporary Use of Right-of-Way Fee;
- (2) Excavation Fee;
- (3) Special Events Fee;
- (4) License Agreement Fee;
- (5) Site Plan Review Fee;
- (6) Site Exemption Review Fee;
- (7) General Permit Fee;
- (8) Building Permit Fee;
- (9) Electrical Permit Fee;
- (10) Plumbing Permit Fee;
- (11) Historic Review for Building Permit Fee;
- (12) Tree Permit Fee.

Ion Art Inc has been commissioned and contracted by the City of Austin Art in Public Places program to design, fabricate, and install artwork in the R.O.W. along 8th Street from Congress Ave. to West Ave.

If you have questions, please contact me at 512-974-7841 or anna.bradley@austintexas.gov

**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. 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.

B. 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.

Exhibit E

C. Fine Arts Floater or other Property Insurance under an "All Risk" or Special Causes of Loss form for all artwork commissioned by the City. Coverage shall be provided wherever the commissioned artwork is located while in the care, custody and control of the Contractor/Artist. Coverage shall be provided on a replacement cost basis, and the City shall be named as a loss payee on the policy. The Contractor/Artist is responsible for paying the City directly for the value of any deductible applied to the proceeds of the loss after a claim has been adjusted.

D. 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 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

Exhibit E

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.

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.