

ARTIST DESIGN AGREEMENT

THIS ARTIST DESIGN AGREEMENT (“Agreement”) is between SALT LAKE CITY CORPORATION, a Utah municipal corporation (“City”), and [ARTIST, ENTITY] with an address of [ADDRESS] (“ARTIST”) and is dated as of the date the City Recorder attests the City signature (“Effective Date”).

RECITALS

A. The City enacted Chapter 2.30 of the Salt Lake City Code to create the Salt Lake City Art Design Board (“Board”), for the purpose of recommending works of public art to be placed in and around City construction projects, recommending the allocation of certain funds for the establishment of artwork in public places, and consulting with other departments or City agencies regarding, among other things, selection of artists and placement of public art within Salt Lake City.

B. The Artist is engaged in the creation of works of art.

C. The City has selected the Artist to design a unique and original work of art (“Artwork”) for the 9th South Roundabout Public Art Project (“Project”) located at the at approximately 900 South and 1100 East, Salt Lake City (“Location”) as determined by the City.

D. City and Artist desire to enter into an agreement for the Artist to provide the services specified for the term as specified below.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and the following mutual promises and considerations, the parties agree to the following:

SECTION 1 - ARTIST SERVICES; REPRESENTATIVE; TEAM

A. Basic Services. The Artist will perform the “Basic Services,” as more fully specified in Exhibit A, attached hereto and hereby incorporated by reference, generally described as the 900 South Roundabout Public Art Project, or Artwork.

B. Artist Representative. The Artist has designated [ARTIST] as Project Manager as the Artist’s representative who (if not the Artist) shall have authority to act on behalf of the Artist. Artist shall not change the Artist’s representative without at least seven (7) days prior

written notice to City. Any replacement for the Artist's representative shall be at least as qualified for the work as the person being replaced.

C. Artist Team. If the Artist is comprised of a team, the Artist shall not change any member of the Artist team without prior written approval from the City. The Artist may request changing an Artist team member, which City may approve or disapprove, in its sole discretion. If Artist changes any Artist team member without City's prior written consent, City may terminate this Agreement upon delivery of written notice to Artist. Any replacement for the Artist's team member shall be at least as qualified for the work as the person being replaced.

SECTION 2 - TERM

The term of this Agreement shall commence upon the Effective Date and continue through **February 25, 2021**, unless terminated or extended as specified herein. City may at its sole option extend the term of this Agreement thereafter for up to six (6) additional periods of one (1) month each as City may determine. City shall exercise each extension by delivering written notice of such extension to Artist at least five (5) days prior to any expiration of this Agreement.

SECTION 3 - NON-EXCLUSIVITY

The Artist acknowledges that City has hired or may hire other artists to perform work similar to that which is within the Artist's scope of work under this Agreement. The Artist further acknowledges that this Agreement is not a guarantee of the assignment of any work and that City may assign work to various artists solely within City's discretion.

SECTION 4 – COMPENSATION

For the Basic Services specified in Exhibit A of this Agreement, City shall pay the Artist **Two Thousand and 00/100 Dollars (\$2,000.00)**, which is inclusive of all expenses or any costs the Artist may incur to perform the Basic Services.

SECTION 5 - SERVICE STANDARDS AND QUALITY ASSURANCE

A. Conformance to Laws. The Artist and the Artwork shall conform to all applicable federal, State, City and other laws, regulations and ordinances.

B. Quality Assurance. The Artist shall be solely responsible to City for the quality of all services performed by the Artist or its sub-providers under this Agreement. All services furnished by the Artist or its sub-providers shall be performed in accordance with the best professional judgment and skill, in a timely manner and shall be fit and suitable for the purposes intended by City.

C. Standard of Care. In addition to its duties and obligations under this Agreement, the Artist and its sub-providers shall exercise the degree of skill, competence, quality, and professional care rendered by artists performing the same or similar type services in the United States and shall cooperate with City and other parties in furthering the interests of the City in connection with the 9th South Roundabout Public Art Project.

SECTION 6 - INDEMNITY PROVISIONS

A. Artist shall, at its sole cost and expense, indemnify and hold City harmless from and against all losses, claims, demands, suits, actions, legal or administrative proceedings, damages, costs, charges and causes of action of every kind or character whatsoever, including, but not limited to, reasonable attorney fees and other legal costs such as those for paralegal, investigative, legal support services and the actual costs incurred for expert witness testimony, (collectively "Claims") directly or indirectly arising from, related to or connected with, in whole or in part, Artist's work under the Agreement, including but not limited to Claims directly or indirectly arising from, related to or connected with, in whole or in part: any act, omission, fraud, wrongful or reckless conduct, fault or negligence by Artist or its officers, directors, agents, employees, subcontractors or suppliers of any tier, or by any of their employees, agents or persons under their direction or control; violation by Artist or Artist's officers, directors, agents, subcontractors or suppliers of any tier, or by any of their employees, agents and persons under their direction or control, of any copyright, trademark or patent or federal, State or local law, rule, code, regulation, policy or ordinance; nonpayment to any of Artist's subcontractors or suppliers of any tier, or if any officers, agents, Artists, employees or representatives of Artist or its subcontractors or suppliers of any tier; and, any other act, omission, fault or negligence, whether active or passive, of Artist or anyone acting under its

direction or control or on its behalf in connection with or incidental to the performance of this Agreement (collectively “Acts and Omissions”).

B. Artist shall, at its sole cost and expense, defend from and against all Claims that are directly or indirectly based, in whole or in part, upon the allegation or assertions, express or implied, that Artist, or its officers, directors, agents, subcontractors or suppliers of any tier, or any of their employees, agents or persons under their direction or control, committed any Acts or Omissions, regardless of whether such allegations or assertions are true and whether or not City, Artist, or its officers, directors, agents, subcontractors or suppliers of any tier, or any of their employees, agents or persons under their direction or control, are ultimately found liable for such Acts or Omissions.

C. Artist’s duty to defend shall arise only upon City’s tender of defense to Artist in writing. Upon receipt of City’s tender of defense, if Artist does not promptly accept the defense and thereafter duly and diligently defend City and its officers, board members, departments, representatives, authorized representative(s), agents and employees, affiliates, successors and assigns as provided herein, then Artist shall pay and be liable for the reasonable costs, expenses and attorney fees incurred after the tender of defense by City and its officers, board members, departments, representatives, authorized representative(s), agents and employees, affiliates, successors and assigns, in defending against the Claims and enforcing this provision.

D. Nothing herein shall be construed to require Artist to indemnify or defend City from City’s fault, which shall be apportioned as required by Utah law.

E. The parties intend that the indemnity and defense provisions in this Section 6 shall be interpreted so as to be enforceable to the fullest extent permitted by law, but nothing herein shall be interpreted in any manner to violate public policy.

F. Artist’s agreements with its subcontractors shall provide in writing (in a form acceptable to City) that each subcontractor shall, jointly and severally with Artist, indemnify and defend City, and City’s officers, board members, departments, representatives, authorized representative(s), agents and employees, affiliates, successors and assigns, from any alleged Acts and Omissions of the subcontractor, and its officers, directors, agents, subcontractors or suppliers of any tier, and their employees, agents or persons under their direction or control, to

at least the same degree as Artist is bound to indemnify, defend and hold City harmless from and against such alleged Acts and Omissions under the provisions of this Agreement. Nothing in this Agreement shall prevent Artist from making a claim against its subcontractors at law or pursuing contribution or indemnification from its subcontractors pursuant to the terms and conditions of the subcontracts between Artist and its subcontractors.

G. The Artist hereby acknowledges receipt of good and valuable consideration for the indemnification obligations of this Agreement.

H. The indemnification obligations of this Agreement shall not be reduced by a limitation on the amount or type of damages, compensation or benefits payable by or for the Artist, a sub-provider or subcontractor under workers' compensation acts, disability benefits acts, or other employee benefit acts.

I. If the above indemnity provisions in this Agreement are deemed void in whole or in part under Utah law, then the following indemnification obligations shall apply except to the extent such provisions are deemed void: Artist shall indemnify and hold harmless the City, its officers and employees, from liabilities, damages, losses and costs, including but not limited to, attorney fees, to the extent caused by the acts or inaction, negligence, recklessness, or intentional wrongful misconduct of the Artist and persons employed or utilized by the Artist in the performance of the Agreement.

SECTION 7 – INSURANCE

A. The following insurance requirements apply to this Agreement:

GENERAL INSURANCE REQUIREMENTS FOR ALL POLICIES.

(1) Artist has the option of obtaining insurance based on either a claims-made model, or an occurrence-based model. If the Artist chooses to obtain insurance coverage written on a "claims made" form rather than on an "occurrence" form, such "claims made" insurance shall provide full prior acts coverage or have a retroactive date effective before the date of this Agreement and be maintained through the term of this Agreement. Evidence of current extended discovery coverage and the purchase options available upon policy termination shall be provided to City.

(2) All policies of insurance shall be issued by insurance companies licensed

to do business in the state of Utah and either:

(a) Currently rated A- or better by A.M. Best Company;

—OR—

(b) Listed in the United States Treasury Department's current Listing of Approved Sureties (Department Circular 570), as amended.

(3) Artist shall furnish certificates of insurance, acceptable to City, verifying the foregoing matters concurrent with the execution of this Agreement and thereafter as required.

(4) In the event any work is subcontracted, Artist shall require its subcontractor, at no cost to City, to secure and maintain all minimum insurance coverages required of Artist hereunder. Each subcontractor shall provide City with a certificate of insurance and name City as an additional insured.

(5) All required certificates and policies shall provide that coverage thereunder shall not be canceled or modified without providing 30 days prior written notice to City in a manner approved by the City Attorney.

B. Required Insurance Policies. Artist, at its own cost, shall secure and maintain during the term of this Agreement, including all renewal terms, the following minimum insurance coverage:

(1) Unless the Artist lacks sufficient employees to require compliance with Utah's Worker's Compensation requirements or is otherwise exempt, the Artist must provide worker's compensation and employer's liability insurance sufficient to cover all of the Artist's employees pursuant to Utah law. In the event any work is subcontracted, the Artist will require its subcontractor(s) to provide worker's compensation insurance for all of the latter's employees unless such subcontractors are exempted from the requirement to obtain worker's compensation insurance. At Artist's expense, Artist must apply for a Worker's Compensation Waiver if Artist lacks sufficient employees or is otherwise exempt.

(2) Commercial automobile liability insurance that provides coverage for owned, hired, and non-owned automobiles, with City as an additional insured, in the minimum amount of a combined single limit of \$500,000 OR \$100,000 per person, \$300,000 liability per

occurrence, and \$50,000 Property Damage. These limits can be reached either with a commercial automobile liability insurance policy alone, or with a combination of a commercial automobile liability insurance policy and an umbrella insurance policy and/or a commercial automobile liability insurance policy and an excess insurance policy.

OR

If the Artist's personal vehicle is used in connection with any service rendered under this Agreement the Artist shall maintain personal automobile liability insurance that provides coverage for business use in the same minimum amounts required in a commercial policy. Artist agrees that neither the Artist nor any of the Artist's subcontractors shall operate any vehicle in connection with any aspect of creating, moving or installing the Work unless such vehicle is properly insured as set forth above.

C. Subcontractors. All subcontractors of the Artist in connection with this Agreement shall provide insurance coverage for that portion of the fabrication and installation of the Work performed by such subcontractors. Certificates of insurance from such subcontractors shall be in accordance with the requirements of this Section 7, shall name City as an additional insured, and shall be filed with the Artist prior to the Effective Date.

D. Delivery of Certificates of Insurance. Artist shall deliver certificates of insurance either by mail to the Notice Address listed in Section 19 or by email to Katherine.nix@slcgov.com.

E. Rights Reserved by City. City reserves the right to increase limits and coverage hereunder consistent with industry standards, statute or judicial decision, or City policy; provided, however, that any such increase shall be consistent with other similarly situated Artists. Artist shall then cause its insurance coverages hereunder increased to any such new limit.

F. City Continuance of Coverage. If any of the policies of insurance required from the Artist are canceled or lapse, City may, at City's sole discretion, obtain substitute coverage at reasonable rates. City may deduct the cost of such coverage, plus ten percent (10%) for administrative charges, from any monies owing to the Artist.

G. Policies of Insurance. At City's request, the Artist shall provide City with the actual policies providing the coverage required above.

H. Quality of Insurance Companies. All policies of insurance provided shall be issued by insurance companies qualified to do business in the state of Utah and listed on the United States Treasury Department's current Department of Treasury Fiscal Services List 570, or having a general policyholders rating of not less than "A-" in the most current available A.M. Best Co., Inc.'s, Best Insurance Report.

SECTION 8 - CITY'S OBLIGATIONS

A. City's Program for the Artwork. Artist acknowledges and agrees that City has provided the Artist with full information regarding City's requirements for the Project, including Exhibit A – Basic Services, which set forth City's objectives, constraints and criteria.

B. City's Project Manager. City has designated the Public Art Program Manager, or his or her designee, as Project Manager who shall have authority to act in City's behalf with respect to the Project.

C. City's Performance. City shall furnish required information and shall render approvals and decisions promptly so as to avoid unreasonable delay in the progress of the Artist's services.

SECTION 9 - TERMINATION

A. City Termination. City may terminate this Agreement at any time for any reason or no reason upon fifteen (15) calendar day's written notice.

B. Termination for Cause by City. City may terminate this Agreement for cause if the Artist fails to cure any defect in the Artist's performance of the Basic Services under this Agreement within seven (7) calendar days after receiving written notice to cure.

C. Termination by Artist. If City materially fails to meet its responsibilities and obligations under this Agreement, the Artist shall notify City of such failure. If City fails to cure or diligently pursue the cure of its material breach, the Artist may, after fifteen (15) days written notice, terminate its performance under this Agreement.

D. Payment for Termination. In the event of termination, the Artist shall furnish a complete accounting of all services performed and expenses incurred through the date of termination, less any sums already received by the Artist as of the date of termination. The City

will consider this accounting in determining payment due, less any appropriate damages as City may determine. Artist acknowledges that such compensation as determined by the City shall be full and complete compensation and remedy and no additional compensation or damages shall be due or provided.

E. Ownership of Artwork, Materials and Design after Termination. In the event of termination, the City shall return any written or electronic design proposals to the Artist and any rights in said design that the City may have obtained shall revert to the Artist. The City may retain a copy of any drawings, models or similar materials for its records and will provide a list to the Artist of all such items retained. However, possession of such copies by the City shall not confer upon it any right to utilize any idea, concept or design contained in such copies, and such rights shall remain with Artist.

SECTION 10 – OWNERSHIP OF THE ARTWORK AND THE DESIGN MATERIALS UPON COMPLETION

A. Except as otherwise specified in this Agreement, title and all rights and interests of any kind in the Artwork shall pass to the City upon acceptance of the Artwork by the City and the Artist has received payment of all compensation due under the Agreement.

B. All photographic, filmed or videotaped reproductions created by the City of the Artwork shall identify the Artist and the title to the Artwork, with the date of installation, and shall identify the location of the original Artwork.

C. Artist warrants that it will not produce a substantially similar replica of the Artwork, or allow others to do so on its behalf, without the prior written approval of City. City understands and acknowledges that the Artist may use materials, themes, elements, concepts, dimensions, colors and shapes used in the Artwork in other works of art produced by Artist and, so long as the Artist's use of similar materials, themes, elements, concepts, dimensions, colors and shapes in other works of art is not substantially similar to the Artwork, as determined by the City, then such use does not violate this Section 10.

SECTION 11 – RISK OF LOSS

The Artist shall bear all risk of loss or damage to the Artwork prior to City's acceptance thereof.

The period in which the Artist has the risk of loss or damage shall include any period in which the City has suspended performance. The risk of loss or damage to the Artwork shall pass to the City upon acceptance of the Artwork. If prior to acceptance of the Artwork, the Artwork, or any part thereof, is lost, damaged, or destroyed and such loss, damage or destruction is not caused by the City or City's agent, then the Artist shall be responsible to reconstruct or remake such Artwork without any compensation additional to that specified herein except to the extent that the City is compensated for such loss by insurance.

SECTION 12 – PUBLICITY

The Artist grants to the City the right to use the Artist's name, biography, photograph or likeness in connection with the Artwork in any manner and in any media, provided that the use is for a non-commercial purpose according to the standards set forth in this Agreement. The City shall not use the Artist's name or biography, photograph and/or likeness as endorsing any product or service.

SECTION 13 - ARTIST/SUB-PROVIDER RELATIONSHIP

Except as may be otherwise provided, the Artist shall not contract with sub-providers to perform any portion of the Artwork provided for in this Agreement without the prior written consent of City. It is solely the Artist's responsibility to ensure that any of the Artist's permitted sub-providers perform in compliance with the terms of this Agreement.

SECTION 14 – LIQUIDATED DAMAGES

Time is of the essence of this Agreement. Unless delay is caused by the City, as determined by the City, if the Artist shall neglect, fail, or refuse to complete the Artwork within the time specified for Substantial Completion in the Agreement, then the Artist does hereby agree, as a part consideration for the awarding of this Agreement, to pay to the City, as liquidated damages and not as a penalty, the sum of **One Hundred and 00/100 Dollars (\$100.00)** per day for each calendar day beyond the dates set forth in the Agreement that the Artist fails to achieve substantial completion for the Glendale Park Public Art Project. City shall provide written notice of said imposition of liquidated damages and Artist shall have seven (7) days to

cure. The said amount is fixed and agreed on by and between the Artist and the City because of the impracticability and extreme difficulty of fixing and ascertaining the true value of the damages which the City will sustain by failure of the Artist to complete the Artwork on time, such as loss of revenue, service charges, interest charges, delays caused to other construction activities of City by failure to perform this Agreement, and other damages, some of which are indefinite and not susceptible of easy proof, said amount is agreed to be a reasonable estimate of the amount of damages which the City will sustain and said amount shall be deducted from any monies due or that may become due to the Artist.

SECTION 15 - DAMAGE TO PROPERTY

The Artist shall be responsible for any and all damage to property belonging to City and/or City's tenants to the extent caused by an act or omission of the Artist, its agents or employees. The Artist shall be responsible for repairing any damaged property and shall pay the costs therefor.

SECTION 16 – LICENSES AND PERMITS

The Artist agrees to possess and keep current all State and local licenses and permits required for the services to be performed herein.

SECTION 17 - INDEPENDENT CONTRACTOR

The Artist is an independent contractor and not an employee of City.

SECTION 18 – ASSIGNMENT

This Agreement may not be assigned by either party without the prior written consent of the other.

SECTION 19 – NOTICES

Notice will be sufficient if delivered to the following Notice Addresses by hand delivery directly to the named individual or title, by express U.S. mail postage prepaid, or by overnight delivery service for which delivery receipt is required.

A. To City:
Public Art Program Manager
Salt Lake City Division of Arts
54 Finch Lane
Salt Lake City, Utah 84102
Katherine.nix@slcgov.com

With a copy to:
Salt Lake City Attorney's Office
451 S. State Street, Rm 505A
Salt Lake City, Utah 84114

B. To Artist Representative:
[ARTIST]
[ENTITY]
[ADDRESS]
[EMAIL]

Any notice delivered by hand shall be deemed received by the addressee upon actual delivery; any notice delivered by overnight delivery service or express mail as set forth in this Agreement shall be deemed received by the addressee on the following business day after deposit. The parties may designate in writing other Notice Addresses for notice from time to time.

SECTION 20 - NO THIRD-PARTY BENEFICIARIES

This Agreement does not and shall not be deemed or construed to confer upon or grant to any third party or parties, except to bona fide successors in interest, any rights to claim damages or to bring any suit, action or other proceeding against either the City or the Artist because of any breach hereof or because of any of the terms, covenants, agreements or conditions herein contained.

SECTION 21 - GOVERNMENT RECORDS ACCESS AND MANAGEMENT ACT

The City is subject to the requirements of the Government Records Access and Management Act, Chapter 2, Title 63G, Utah Code or its successor ("GRAMA"). All materials submitted by the Artist pursuant to this Agreement are subject to disclosure unless such materials are exempt from disclosure pursuant to GRAMA. The burden of claiming an exemption from disclosure

shall rest solely with the Artist. Any materials for which the Artist claims a privilege from disclosure shall be submitted marked as “Confidential” and accompanied by a statement from the Artist explaining the Artist’s claim of exemption from disclosure. City will promptly notify the Artist of any requests made for disclosure of documents submitted under a claim of confidentiality. The Artist may, at the Artist’s sole expense, take any appropriate actions to prevent disclosure of such material. The Artist specifically waives any claims against City related to disclosure of any materials required by GRAMA.

SECTION 22 – FORCE MAJEURE

Any prevention, delay or stoppage of performance of the Artist’s or City’s obligations hereunder due to strikes, lockouts, labor disputes, acts of God, governmental restrictions, governmental controls, governmental regulations, enemy or hostile government action, fire or other casualty, or any other cause beyond the reasonable control of the Artist or City shall not be deemed to be a breach of the Agreement or a violation of or failure to perform any covenants hereof. If such an event does not abate within sixty (60) days, either party shall have the right to terminate this agreement without liability or obligation to the other.

SECTION 23 - COMPLETE AGREEMENT

This Agreement constitutes the entire agreement between the parties and supersedes all prior negotiations, representations or agreements either written or oral, and cannot be altered, amended or modified except in writing signed by both parties.

SECTION 24 - GOVERNING LAW AND VENUE

This Agreement shall be governed by the laws of the State of Utah, and venue shall be in Salt Lake County, Utah.

SECTION 25 - REPRESENTATION REGARDING ETHICAL STANDARDS FOR CITY OFFICERS AND EMPLOYEES AND FORMER CITY OFFICERS AND EMPLOYEES

The Artist represents that it has not: (1) provided an illegal gift or payoff to a city officer or employee or former city officer or employee, or his or her relative or business entity; (2) retained any person to solicit or secure this contract upon an agreement or understanding for a

commission, percentage, or brokerage or contingent fee, other than bona fide employees or bona fide commercial selling agencies for the purpose of securing business; (3) knowingly breached any of the ethical standards set forth in City's conflict of interest ordinance, Chapter 2.44, Salt Lake City Code; or (4) knowingly influenced, and hereby promises that it will not knowingly influence, a city officer or employee or former city officer or employee to breach any of the ethical standards set forth in City's conflict of interest ordinance, Chapter 2.44, Salt Lake City Code.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have signed this Agreement to be effective as of the Effective Date.

CITY:

SALT LAKE CITY CORPORATION, a Utah municipal corporation

Signature

Print Name

Print Title

ATTEST:
Salt Lake City Recorder's Office

CITY RECORDER

APPROVED AS TO FORM:
Salt Lake City Attorney's Office

Senior City Attorney
Date _____

ARTIST:

[ARTIST, ENTITY]

By: _____

Signature

Print Name

Its: _____

ARTIST:

[ARTIST, ENTITY]

By: _____

Signature

Print Name

Its: _____

ARTIST:

[ARTIST, ENTITY]

By: _____

Signature

Print Name

Its: _____

EXHIBIT A
(Basic Services)

Artist shall provide the following services to the City.

A. Artist - Responsibilities:

1. Artist shall furnish all materials, equipment and labor required for the Project.
2. The Artist will participate in at least one City-facilitated meetings:
 - a. The Public Art Program has partnered with the East Liberty Community Council (ELPCO) and has released a survey to the residents and visitors of the 9th and 9th community. All three selected finalists will have access to the results of the survey and are also invited to make additional site visits to conduct additional community engagement and outreach; successful proposals will incorporate insight from the community. Additional background on the project site is available on saltlakepublicart.org.
 - b. In the only required meeting, the Artist will present their conceptual proposal to the Salt Lake City Art Design Board and project stakeholders during a Salt Lake Art Design Board meeting. The site-specific proposal should convey the Artist's ideas and plans through scale designs, renderings and/or scale models with a statement that describes, in detail, the project's intent, proposed materials, fabrication and installation methods, project schedule and an itemized budget. The Board may accept the Artist's design proposal, accept the Artist's design proposal with revisions as suggested by the Board, or reject the concept the Artist creates during the design development phase. If the Board accepts the Artist's design proposal with revisions or rejects the Artist's design proposal, more than one design review may be required.
3. The Artist's fees for the Basic Services (the "Fees") will be paid to the Artist upon completion of milestones as follows: (a) the Artist will receive **One Thousand and 00/100 (\$1,000.00)** of the Fees upon execution of this Agreement; and (b) **One Thousand and 00/100 (\$1,000.00)** of the Fees after all presentations to the

Board are completed. The Fees are all-inclusive for design, travel expenses, shipping, or any other cost associated with creating performance of the Basic Services or related to design of the Artwork.

4. The Artist shall email a color rendering of the proposal to Program Manager, by **December 30, 2020 at 5:00 PM MDT**. Materials will be distributed to the Board and project stakeholders.
5. The Board, in its sole discretion, will determine whether to accept the Artist's design proposal as proposed or modified. In addition to City's other termination rights under this Agreement, if the Board rejects the Artist's design proposal neither party shall have any obligation or liability to the other.