

**COMMISSION AND PURCHASE AGREEMENT FOR
PUBLIC ARTWORK**



Minneapolis-St. Paul International Airport

2019

**ARTWORK COMMISSION AND PURCHASE AGREEMENT
FOR PUBLIC ARTWORK**

This Artwork Commission and Purchase Agreement for Public Artwork (“Agreement”), is entered into as of _____, 2019, by and between the Metropolitan Airports Commission (“MAC”), with offices at 6040 S 28th Ave, Minneapolis, MN 55450, and _____ (“Artist”).

WHEREAS, MAC owns and operates Minneapolis-St. Paul International Airport (“MSP” or “Airport”); and

WHEREAS, MAC has implemented a construction project at the Airport and desires to incorporate artwork into the design and construction of the project (the “Project”); and

WHEREAS, MAC has developed an MSP Arts and Culture Program (referred to as Arts@MSP) in partnership with the Airport Foundation MSP, as set forth in the MSP Arts and Culture Master Plan (“Master Plan”), one component of which involves selecting and acquiring commissioned artwork for the Airport; and

WHEREAS, Artist was selected by the MSP Arts and Culture Steering Committee (“Steering Committee”) through the process outlined in the Master Plan for selection of artists and artwork; and

WHEREAS, Artist wishes to design, fabricate and install public artwork for the Project, as more fully described below (the “Artwork”) and to sell the Artwork to MAC for display at a location at the Airport selected by MAC (the “Site”); and

WHEREAS, Artist and MAC each wish to undertake the obligations expressed herein.

NOW, THEREFORE, in consideration of the above stated premises and subject to the conditions hereinafter set forth, the parties agree as follows:

Article 1 - Scope of Services

1.1 Artist’s Obligations

- a. Artist shall perform all services necessary for the design, fabrication and installation of the Artwork under this Agreement.
- b. Artist shall perform all services in a professional manner and in strict compliance with all terms and conditions in this Agreement.
- c. Artist shall perform all services in accordance with the specified schedule, as described in Section 1.5 of this Agreement.
- d. Artist shall prepare and submit a Preliminary Design (the “Design”) and the corresponding budget as described in Sections 1.3 and 1.4 of this Agreement.
- e. Artist shall coordinate all work with MAC’s designated design team consisting of MAC staff, Arts@MSP, MAC consultants, and the general contractor (“Design Team”), and will ensure minimal impact to Airport operations. Artist shall attend design and construction

meetings with the Design Team, as appropriate, to communicate about the Artwork, to ensure appropriate integration and installation of the Artwork, to coordinate design and project implementation, installation and dedication ceremonies, and the like. **Artist's primary contact for this project is Ben Owen, Director, Arts@MSP (612.725.8321).**

- f. Artist shall provide plans and specifications for the Artwork, as described in Section 1.3 of this Agreement, and shall comply with MAC standards for design and construction practices applicable to elements of the Artwork.
- g. Artist shall provide photographic and other digital documentation of the Artwork in a format and frequency acceptable to Artist and MAC.
- h. Artist shall be responsible for obtaining all necessary licenses, permits, and other approvals for installation of the Artwork.
- i. Artist shall provide a list of any subcontractors engaged by Artist, along with a copy of the agreement between Artist and each subcontractor.

1.2 MAC Obligations

- a. MAC shall perform all obligations in strict compliance with all terms and conditions in this Agreement.
- b. MAC shall be responsible for providing to Artist, at no expense to Artist, copies of existing designs, drawings, reports, list of required permits, and other existing relevant data, if any, needed by Artist in order to perform Artist's obligations under this Agreement.
- c. MAC shall be responsible for compliance with all applicable laws and regulations relating to the Site, and shall explain any limitations imposed by such laws and/or regulations to Artist.
- d. MAC shall prepare the Site in accordance with the approved plans and specifications in Section 1.3 of this Agreement. The location of the Site shall be determined by MAC.
- e. MAC shall be responsible for providing Artist with reasonable access to the Site, as well as with all utilities necessary for the installation and operation of Artwork.
- f. MAC shall provide and install a plaque on or near the Artwork containing a credit to Artist and a copyright notice in substantially the following form: Copyright © Artist [date of publication]. MAC will provide Artist with a rendering of the plaque and will consider any feedback provided by Artist to MAC prior to its installation.

1.3 Design

- a. Artwork Parameters
 - i. The Artwork will be designed to be complementary to the assigned space at the

Airport. The Design Team will provide the specific Site measurements. The Artwork should provide an attractive, inspiring design that engages travelers to think about movement and environment, using natural elements, and should improve the physical and psychological qualities of the space.

- ii. Artist shall determine the artistic expression, design, and materials of the Artwork, subject to the approvals required by this Agreement, and any limitations or requirements imposed by the structural limitations of the Site as identified by MAC and supplied to Artist. Artist will do so in a manner, acceptable to MAC, that ensures that the Artwork as installed shall not interfere with the intended use of the Site, pedestrian or other traffic flow, safety devices and procedures, and other needs and functions of the Site, as identified by MAC, the Transportation Security Administration (“TSA”), the airlines, and terminal concessionaires during the design process.
 - iii. Material standards: Acceptable materials will be durable, easy to clean, and code compliant.
 - iv. Artist will give due consideration in designing the Artwork to (1) the goal to complement and promote the identity of the Airport through a project that connects the Airport to the region; (2) fulfilling the mission and goals of the MSP Arts and Culture Master Plan to create a welcoming atmosphere, and to enhance MSP Airport’s image, enrich the public’s experience, and promote a sense of place through arts and culture; and (3) promoting the family-friendly environment and to the Airport audience.
- b. Preliminary Design
- i. Artist shall develop a preliminary Design (“Preliminary Design”), which shall include the following:
 - a. A brief written description of the Preliminary Design, 350-word maximum, that includes the intended impact of the Preliminary Design, and how the concept meets the goals of the Project.
 - b. Renderings from multiple vantage points in order to convey the Preliminary Design and how it is situated within the Site.
 - c. A description of materials and products utilized in the Artwork, a description of the method by which the Artwork is to be fabricated, and detailed plans and specifications for installation provided in a format acceptable to MAC.
 - d. A description of the maintenance and conservation requirements for the Artwork.
 - e. A preliminary itemized budget that does not exceed \$_____ (the “Purchase Price”). The budget amount must include all costs

necessary for completion of Artist's obligations under this Agreement, including all costs for design ("Design Fee"), fabrication and materials, fees, travel, overhead, shipping, permitting, labor, and installation (the "Budget").

- ii. The Preliminary Design must present a substantially complete representation of the Artwork and be sufficient for evaluation and analysis by MAC's engineers, architects, contractors, and by the Steering Committee.
 - iii. Artist shall submit the Preliminary Design to the Steering Committee.
- c. Approval of Preliminary Design

The Preliminary Design is subject to approval by the Steering Committee and MAC. MAC shall notify Artist of approval or disapproval of the Preliminary Design. MAC and the Steering Committee may approve the Preliminary Design outright, or with conditions, or may reject the Preliminary Design for any reason. MAC may require revisions to the Preliminary Design in order to comply with any applicable laws, ordinances or regulations, or for other reasons including budgetary and ensuring the physical integrity of the Artwork or its installation at the Site. If agreed upon by both parties, Artist will modify the Preliminary Design to incorporate MAC's or the Steering Committee's required revisions and make any required adjustments to the budget or schedule.

- d. Approved Design

After approval of the Preliminary Design, Artist shall prepare a final design ("Final Design"). Upon approval by MAC, the Final Design as approved (the "Approved Design") shall be attached as **Exhibit 1** to this Agreement.

- e. If Artist declines to revise the Preliminary Design as provided in this Section, or, in MAC's judgment, fails to adequately revise the Preliminary or Final Design, or provide adequate information, MAC may terminate this Agreement upon written notice to Artist and the parties shall be under no further obligation to each other as of the date of such termination, which may be the date of refusal by MAC of the Final Design. Upon termination, Artist shall retain any compensation paid prior to the termination date. Artist shall retain ownership of and all rights in the Preliminary and Final Designs and all drawings and other renderings of the Preliminary and Final Designs prepared by Artist pursuant to this Agreement.

1.4 Budget and Compensation

- a. Based upon the Approved Design, Artist shall make any changes to the Budget prepared pursuant to Section 1.3.b., and submit the revised Budget to MAC for approval. Upon approval by MAC, the Budget as revised shall be attached to this Agreement as **Exhibit 2**.
- b. MAC shall pay Artist as set forth in the Budget, and according to a payment schedule submitted by Artist and approved by MAC. MAC shall make payment to Artist within 30 days of receiving both an itemized invoice, acceptable to MAC, from Artist for each

payment, and any other supporting documentation requested by MAC. However, the last invoice for the remainder of the total Purchase Price shall be paid by MAC within 30 days of final acceptance as defined in Section 1.8 of this Agreement. The last invoice must be accompanied, at the request of MAC, by a statement from each of Artist's subcontractors that the financial obligation between Artist and subcontractor has either been met in full or settled to the subcontractor's satisfaction.

- c. Artist shall keep the Artwork, Airport and every Airport improvement free and clear from all liens for labor performed and materials furnished; and defend, at Artist's cost, each and every lien asserted or filed against the land, or any part thereof, or against this Agreement or any Improvement and pay each and every judgment resulting from such lien.
- d. The total of all payments to Artist under this Agreement shall not exceed the total Purchase Price.
- e. Artist shall keep a log of Artist's project hours, and shall retain all original receipts pertaining directly to the project.
- f. If Artist incurs costs in excess of the amount allocated in the Budget, Artist shall pay such excess from Artist's own funds unless Artist previously obtained approval for such costs from MAC, or if such costs were the result of actions or inaction by MAC. Artist may reallocate costs within the Budget, if approved by MAC.
- g. In the event MAC determines at any time, prior to final acceptance as defined in Section 1.8 of this Agreement, that the Artwork or any portion of thereof does not substantially conform with the Approved Design or is not installed in substantial conformity with the Approved Design, MAC may upon written notice to Artist withhold any payments due Artist under this Section. MAC shall submit the reasons for its withholding in writing. Artist shall then have 30 days from the date of MAC's notice to make the necessary adjustments to the Artwork in accordance with such notice before any further payments are made.

1.5 Schedule

- a. Artist shall perform all services in accordance with the schedule attached as **Exhibit 3** (the "Schedule"). The Schedule may be amended by written agreement of MAC and Artist.

1.6 Fabrication Stage

- a. Artist shall fabricate the Artwork in substantial conformity with the Approved Design. The Artist may not deviate from the Approved Design without written approval of MAC.
- b. Artist shall take reasonable measures to protect or preserve the integrity of the Artwork such as the application of protective or anti-graffiti coatings, if applicable, unless MAC disapproves. If the Artwork is being constructed at the Site or the Airport, Artist shall avoid creating nuisance conditions arising out of Artist's operations, as determined by MAC. Prior to requesting authorization to transport and install the Artwork, Artist shall provide MAC with a list of all workers or subcontractors and equipment to be used along with the

hours of work and the scope of work to be performed at the Site. All additional workers or subcontractors must provide proof of insurance prior to entering the Site.

- c. MAC shall have the right to review the Artwork at reasonable times during its fabrication upon reasonable notice, whether on-Site or off-Site.
- d. Artist will promptly cure any deficiencies identified by MAC and will notify MAC in writing of completion of the cure. MAC shall promptly review the Artwork, and upon approval shall release the next payment installment. If Artist disputes MAC's determination that the Artwork does not conform to the Approved Design, Artist shall promptly submit reasons in writing to MAC within 10 days of receipt of MAC's notification of deficiencies. MAC shall make reasonable efforts to resolve the dispute with Artist in good faith. However, final determination as to whether the Artwork complies with the Approved Design shall remain with MAC.
- e. Artist shall notify MAC in writing when fabrication of the Artwork has been completed, and the Artwork is ready for delivery and installation at the Site.
- f. MAC shall inspect the Artwork within 30 days after receiving notification from Artist that the Artwork is ready for delivery and installation, to determine that the Artwork conforms with the Approved Design, and to give final approval of the Artwork. MAC may request photographs for the inspection process in lieu of an in-person inspection. MAC shall not unreasonably withhold final approval of the Artwork. In the event MAC does withhold final approval, it shall submit the reasons for its disapproval in writing within three (3) days of examining the Artwork. Artist shall then have 30 days from the date of MAC's notice of disapproval to make the necessary adjustments to the fabricated Artwork in accordance with such notice. Artist shall not be penalized for any delay in delivery and installation of the Artwork to the Site unless Artist has willfully and substantially deviated from modifications required after MAC's review of the Artwork without MAC's prior approval, in which case, Artist shall be responsible for any expenses incurred in correcting such deviation.
- g. MAC shall promptly notify Artist of any delays affecting installation of the Artwork.
- h. Artist shall provide the substance for creation of the Artwork didactics (i.e., Artist's name, year, description and title of Artwork) 90 days before installation begins and subject to MAC guidelines.

1.7 Delivery and Installation

- a. Upon MAC's final approval of the completed Artwork as being in conformity with the Approved Design, Artist shall deliver the completed Artwork, or the components thereof, to the Site in accordance with the Schedule. Transportation fees and any off-load costs onto the Site shall be included in the Budget.
- b. Artist will coordinate closely with MAC to ascertain that the Site is prepared to receive the Artwork. Artist will confer and coordinate with MAC and those involved in installation on

all aspects of delivery and installation. Artist may not deliver the Artwork, and/or the components thereof, until authorized to do so by MAC.

- c. MAC agrees to reasonably cooperate in the scheduling of the installation of the Artwork at the Site so that the work may be completed promptly. Artist shall not be held responsible for delays in installation if such delays are directly attributable to MAC or its contractors, architects or consultants other than Artist. MAC agrees to pay any additional storage, transportation, and installation costs for the Artwork should delays directly attributable to MAC necessitate the postponement of installation past the scheduled completion date.
- d. Artist shall obtain and pay for all necessary licenses, permits, and other approvals required for installation of the Artwork.
- e. Artist shall install the Artwork in substantial conformity with the Approved Design. Artist shall install the Artwork in a timely manner, and in accordance with the Schedule.
- f. Artist shall be present during installation of the Artwork at the Site, as coordinated with MAC.
- g. Artist shall maintain, to the extent possible and within Artist's control, a neat appearance at the Site during installation.
- h. Artist shall be responsible for any clean-up of the Site made necessary by Artist's installation of the Artwork, including without limitation, removal of Artist's equipment, materials and the repair of any portion of the Site or surrounding area damaged by Artist's installation of the Artwork.
- i. Artist shall continue to fulfill the insurance obligations in Article 6 of this Agreement for three years following final acceptance (as defined in Section 1.8 of this Agreement) and commissioning. This obligation shall survive the termination or expiration of this Agreement.

1.8 Approval and Acceptance

- a. Upon completion of the installation of the Artwork, Artist shall notify MAC within 2 business days. MAC shall then have 30 days to inspect the Artwork to determine whether the Artwork has been completed and installed in substantial conformity with the Approved Design and whether the Artwork is in excellent condition.
- b. MAC shall notify Artist of final acceptance of the Artwork ("Final Acceptance Letter"). The effective date of Final Acceptance Letter shall be the date MAC delivers the Final Acceptance Letter to Artist in person or dispatches the letter by overnight courier. The final acceptance shall be understood to mean that MAC acknowledges completion and installation of the Artwork in substantial conformity with the Approved Design and delivery of the Artwork in excellent condition with any required modifications, and that MAC confirms that all services required of both parties by this Agreement have been completed. Title to the Artwork passes upon final acceptance and final payment. Such

Final Acceptance Letter does not affect any warranty, hold harmless, or indemnification provided in this Agreement, which shall continue to be in full force and effect as provided herein.

Article 2 - Taxes

- 2.1 Any state or federal sales, use or excise taxes, or similar charges relating to payments to Artist for services and materials under this Agreement shall be paid by Artist in a timely fashion.

Article 3 - Term of Agreement

3.1 Duration

This Agreement shall be effective on the date the Agreement has been signed by both parties (the "Effective Date"), and, unless terminated earlier as provided herein, shall remain in force until final acceptance by MAC under Section 1.8, or until final payment to Artist, whichever is later.

3.2 Survival

Any provision of this Agreement that is, by its nature, continuing shall survive termination or expiration of this Agreement. Specifically, and without limitation, the following sections shall survive termination or expiration of this Agreement: Article 5 [Artist's Representations and Warranties]; Article 7 [Indemnification]; Article 8 [Ownership and Intellectual Property Rights]; Article 9 [Moral Rights]; Article 11 [Assignment of Artwork]; and Article 17 [General Provisions].

3.3 Force Majeure

Each party shall grant the other a reasonable extension of time in the event that conditions beyond the other party's control render timely performance of the obligations under this Agreement impossible or unduly burdensome. The affected party's performance obligations shall be suspended and extended for the duration of the condition. Both parties shall take all reasonable steps during the existence of the condition to assure performance of their contractual obligations when the condition no longer exists. Failure to fulfill contractual obligations due to conditions beyond either party's reasonable control will not be considered a breach of contract, provided that such obligations shall be suspended and extended only for the duration of such conditions.

Article 4 - Risk of Loss

- 4.1 Artist shall bear the risk of loss or damage to the Artwork until the Artwork is open to the public. Artist shall take such measures as are reasonably necessary to protect the Artwork from loss or damage prior to MAC's final written acceptance of the Artwork.

Article 5 - Artist's Representations and Warranties

5.1 Warranties of Title

Artist represents and warrants that:

- a. The Artwork is solely the result of the artistic effort of Artist;
- b. The Artwork, whether created by Artist alone or in collaboration with others, shall be wholly original to Artist and shall not infringe upon or violate the copyrights or any other rights of any third party;
- c. Artist owns all contributions to the Artwork made by Artist's assistants or anyone else who has made any copyrightable contribution to the Artwork, either by way of assignment or as work made for hire;
- d. The Artwork (or any copy or reproduction thereof) has not been offered or accepted for sale elsewhere;
- e. Artist has not sold, assigned, transferred, licensed, granted, encumbered or utilized the Artwork or any element thereof or any copyright related thereto in any way that may affect or impair the rights granted to MAC pursuant to this Agreement;
- f. The Artwork is free and clear of any liens from any source whatsoever;
- g. Artist has the full power to enter into and perform this Agreement and to grant the rights granted in this Agreement;
- h. These representations and warranties shall survive the termination or other extinction of this Agreement.

5.2 Warranties of Quality and Condition

- a. Artist represents and warrants that all work, including installation, will be performed in accordance with professional "workmanlike" standards and free from defective or inferior materials and workmanship (including any defects consisting of "inherent vice," or qualities that cause or accelerate deterioration of the Artwork) for one (1) year after the effective date of the Final Acceptance Letter.
- b. Artist represents and warrants that the Artwork and the materials used in the Artwork are not currently known to be harmful to public health and safety.
- c. Artist represents and warrants that all services performed hereunder shall be performed in accordance with all applicable laws, regulations, ordinances, MAC standards for design and construction practices, etc. and with all necessary care, skill, and diligence.
- d. If within one (1) year after the effective date of the Final Letter of Acceptance MAC observes any breach of warranty described in this Section that is curable by Artist, Artist shall, at MAC's request, cure the breach promptly, satisfactorily and consistent with professional conservation standards, at no expense to MAC. MAC shall give notice to Artist of such breach with reasonable promptness.
- e. If within one (1) year after the effective date of the Final Acceptance Letter MAC observes a breach of warranty described in this Section that is not curable by Artist, and such breach

is not due to the negligence or intentional act of MAC, Artist is responsible for reimbursing MAC for damages, expenses and loss incurred by MAC as a result of the breach. However, if Artist disclosed the risk of this breach in the proposal, Preliminary, Final or Approved Design, drawings or in any other disclosure to MAC, and MAC accepted that it may occur, it shall not be deemed a breach for purposes of this Section.

- f. If after one (1) year after the effective date of the Final Letter of Acceptance, MAC observes any breach of warranty described in this Section that is curable by Artist, MAC shall contact Artist to make or supervise repairs or restorations at no cost to MAC for so long as MAC continues to display the Artwork publicly. Artist shall have the right of first refusal to make or supervise repairs or restorations. Should Artist be unable or unwilling to make or supervise repairs or restorations, MAC may thereafter, at any time, engage a qualified restorative conservator and maintenance expert or other professional to make or supervise repairs or restorations at MAC's expense, and Artist shall have no right of first refusal for future repairs or restoration.
- g. Excellent Standard of Display. Artist represents and warrants that:
 - i. General routine cleaning and repair of the Artwork will maintain the Artwork within an excellent standard of public display.
 - ii. Foreseeable exposure to the elements and general wear and tear will cause the Artwork to experience only minor repairable damages and will not cause the Artwork to fall below an excellent standard of public display.
 - iii. With general routine cleaning and repair, and within the context of foreseeable exposure to the elements and general wear and tear, the Artwork will not experience irreparable conditions that do not fall within an excellent standard of public display, including mold, rust, fracturing, staining, chipping, tearing, abrading and peeling.
 - iv. Manufacturer's Warranties. To the extent the Artwork incorporates products covered by a manufacturer's warranty, Artist shall provide copies of such warranties to MAC. The foregoing warranties are conditional, and shall be voided by the failure of MAC to maintain the Artwork in accordance with Artist's specifications and the applicable conservation standards.
- h. These representations and warranties shall survive the termination or other extinction of this Agreement.

Article 6 - Insurance

- 6.1 Artist shall secure and maintain, at its own expense, and keep in effect during the full term of this Agreement, a policy or policies of insurance, which must include the following coverages and minimum limits of liability:
 - a. Workers' Compensation Insurance per Minnesota Statutes and Employer's Liability insurance with limits of at least \$1,000,000 bodily injury per disease per employee,

\$1,000,000 bodily injury per disease aggregate and \$1,000,000 bodily injury per accident. Artist agrees to be responsible for the employment, conduct and control of its employees and for any injury sustained by such employees in the course of their employment. The policy or policies shall contain a waiver of subrogation in favor of MAC by endorsement or terms and conditions. If Artist subcontracts any work under this agreement, Artist shall ensure all subcontractors maintain the same insurance coverage.

- b. Commercial Automobile Liability Insurance for all owned, non-owned and hired automobiles and other vehicles used by Artist in the performance of the obligations of this Agreement with the following minimum limits of liability with no restrictive endorsements:

\$1,000,000.00 Combined Single Limit, per occurrence, Bodily Injury & Property Damage.

- c. Commercial General Liability (occurrence form) with the following minimum limits of liability with no restrictive endorsements:

\$1,000,000.00 per occurrence, Bodily Injury & Property Damage, \$2,000,000 aggregate. Coverage shall specifically include the following with minimum limits not less than those required for Bodily Injury Liability and Property Damage Liability:

- i. Premises and Operations.
- ii. Independent Contractors.
- iii. Product and Completed Operations Liability.
- iv. Broad Form Property Damage.
- v. Broad Form Contractual Coverage applicable to the Agreement and specifically insuring the indemnification and hold harmless obligations contained in Article 7.
- vi. Owner's or Contractor's Protective Liability.

- d. The Auto Liability and General Liability policies will include an endorsement adding the MAC as an additional insured. Those policies will also contain language making them primary and non-contributory.

- 6.2 Upon execution of this Agreement, Artist shall submit to MAC copies of Artist's certificate(s) of insurance that clearly identifies Artist, evidences the required coverages, and specifically provides that MAC is an additional named insured or additional insured with respect to the required coverages and the operations of Artist under this Agreement. Insurance companies selected must be acceptable to MAC. All of the policies of insurance required to be purchased and maintained shall contain a provision or endorsement that the coverage afforded shall not be canceled,

materially changed or renewal refused until at least thirty (30) calendar days' written notice has been given to MAC by certified mail.

- 6.3 These insurance requirements shall not relieve or limit the liability of Artist. MAC does not in any way represent that the types and amounts of insurance required hereunder are sufficient or adequate to protect Artist's interests or liabilities but are merely minimum requirements established by MAC. MAC reserves the right to require any other insurance coverages that MAC deems necessary depending upon the risk of loss and exposure to liability.
- 6.4 The required insurance coverage shall be issued by an insurance company authorized and licensed to do business in the State of Minnesota, with the minimum rating of A-VII, in accordance with the latest edition of A.M. Best's Insurance Guide.
- 6.5 Artist shall require each of its sub-contractors of any tier to maintain the insurance required herein (except as respects limits of coverage for employers and public liability insurance which may not be less than One Million (\$1,000,000) Dollars for each category), and Artist shall provide verification thereof to MAC upon MAC's request.
- 6.6 All required insurance policies shall preclude any underwriter's rights of recovery or subrogation against MAC with the express intention of the parties being that the required insurance coverage protects both parties as the primary coverage for any and all losses covered by the above described insurance.
- 6.7 Artist shall ensure that any company issuing insurance to cover the requirements contained in this Agreement agrees that they shall have no recourse against MAC for payment or assessments in any form on any policy of insurance.
- 6.8 The clauses "Other Insurance Provisions" and "Insured Duties in the Event of an Occurrence, Claim or Suit" as it appears in any policy of insurance in which MAC is named as an additional named insured shall not apply to MAC. MAC shall provide written notice of occurrence within fifteen (15) working days of MAC's actual notice of such an event.
- 6.9 Artist shall not commence performance of its obligations under this Agreement until after it has obtained all of the minimum insurance herein described and the same has been approved.
- 6.10 Violation of the terms of this Section and its subparts shall constitute a breach of the Agreement and MAC, at its sole discretion, may cancel the Agreement and all rights, title and interest of Artist shall thereupon cease and terminate.
- 6.11 Artist acknowledges that until the Artwork is open to the public, any injury to property or persons caused by the Artwork or any damage to, theft of, vandalism to, or acts of God affecting the Artwork are the sole responsibility of Artist, including, but not limited to, any loss occurring during the creation, storage, transportation or delivery of the Artwork, regardless of where such loss occurs.

Article 7 - Indemnification

- 7.1 Artist agrees to indemnify, defend, save and hold completely harmless MAC, its Commissioners, officers, employees, agents, and any successors (“Indemnitees”) from and against any and all liabilities, obligations, losses, damages, actions, claims, judgments, settlements, costs (including legal fees and costs of investigation and defense), and demands arising by reason of personal injury, property damage, or infringement of third party rights (collectively “Losses”) arising from, in connection with, caused by, or alleged, directly or indirectly by: (i) the performance of services under this Agreement; (ii) any act or omission of Artist and Artist’s agents, employees, contractors, subcontractors or invitees, or by their operations at and use of the Airport; or by (iii) any infringement of patent, copyright, trademark, trade secret or other proprietary right caused by Artist. Notwithstanding the foregoing, Artist is not obligated to indemnify an Indemnitee against any Losses (i) to the extent a court of competent jurisdiction decides such Losses result solely from the Indemnitee’s negligence or willful misconduct and is not contributed to by any act or omission (including any failure to perform any duty imposed by law) of Artist.
- 7.2 Artist acknowledges and agrees that its obligation to defend in this Section: (i) is an immediate obligation, independent of its other obligations hereunder; (ii) applies to any Loss which actually or potentially falls within the scope of this Section, regardless of whether the applicable allegations are or may be groundless, false or fraudulent; and (iii) arises at and continues after the time the Loss is tendered to Artist.
- 7.3 As a distinct and separate indemnification obligation, Artist shall defend, indemnify and hold completely harmless Indemnitees from any claims or liabilities arising out of Artist’s failure or alleged failure to procure and to keep in force the insurance required by this Agreement.
- 7.4 This indemnification is intended for the indemnified parties and their legal representatives. The provided indemnification is not intended to relieve a primary insurer of its coverage obligations. The furnishing of the insurance required under this Agreement shall not be deemed to limit Artist’s obligations under this Section.
- 7.5 Each party shall immediately notify the other of any written claim regarding any matter resulting from or relating to the other party’s obligations under this Agreement. Each party shall cooperate, assist, and consult with the other in the defense or investigation of any such claim arising out of or relating to the performance of this Agreement.
- 7.6 This indemnification shall survive the termination or expiration of this Agreement.

Article 8 - Ownership and Intellectual Property Rights

8.1 Title

Title to all copies of the Artwork delivered to MAC shall pass to MAC upon its written final acceptance and payment for the Artwork pursuant to Section 1.8. Artist shall provide MAC with a Bill of Sale in substantially the form attached hereto as **Exhibit 4**.

8.2 Ownership of Documents

MAC shall retain all physical and electronic copies of drawings, photographs, schematics, models, renderings, and the like, including the Approved Design, delivered to MAC by Artist. MAC, at its option, may make electronic copies of any such materials and deliver the originals to Artist. MAC's ownership extends to the particular copies delivered by Artist, and any electronic copies made pursuant to this Section, but does not convey any copyright interest in such materials, all of which remain with Artist.

8.3 Copyright Ownership

Artist retains all copyrights in the Artwork and any other intellectual property rights therein and thereto, subject only to any rights expressly granted to MAC in this Agreement.

8.4 Reproduction Rights

- a. The parties intend that the Artwork be and remain unique. Accordingly, Artist shall not make any additional exact duplicate reproductions of the Artwork, nor shall Artist grant permission to others to do so except with the written permission of MAC. However, nothing shall prevent Artist from creating future works of art in Artist's manner and style of artistic expression. Artist will not reproduce or incorporate the Artwork in items for sale without MAC's prior written consent.
- b. Artist grants to MAC and its assigns a perpetual license to reproduce, fabricate and install copies of the Artwork as embodied in the Approved Design at the Site. MAC may modify the Final Design, in consultation with the Artist, if necessary for fabrication and installation.
- c. Artist grants to MAC and its assigns an irrevocable license to make two dimensional and electronic reproductions of the Artwork for MAC's business and promotional purposes, including, but not limited to, reproductions used in brochures, media publicity, exhibition catalogues, digital maps or guides, or other similar publications provided that these rights are exercised in a tasteful and professional manner, and reproductions of the Artwork are not incorporated in items for sale.
- d. All reproductions by MAC of the Artwork shall contain a copyright notice in substantially the following form: © [Artist] [year].
- e. Artist shall use best efforts in any public showing or resume use of reproductions to acknowledge MAC in substantially the following form: "an original Artwork commissioned by and in the public art collection of the Metropolitan Airports Commission, Minneapolis, MN."
- f. If MAC or Arts@MSP wishes to make reproductions of the Artwork for commercial purposes in items for sale, including but not limited to tee shirts, post cards or posters, the parties shall execute a separate agreement specifying the terms of the license granted by Artist and the royalty to be paid to Artist or any successor to Artist.

- g. MAC is not responsible for any third party infringement of Artist's copyright and is not responsible for protecting the intellectual property rights of Artist. If MAC obtains actual knowledge of infringement, MAC shall notify Artist in a reasonable time of an actual infringement of Artist's copyright in the Artwork.
- h. Artist acknowledges that the Site is a public space that may be depicted by MAC and others in photographs, audiovisual works or the like produced at the Site and that the Artwork may appear in such works. Any reproduction of the Artwork in such works will not violate any copyright or any other right of Artist, and will not require any credit to the Artwork or Artist. By way of clarification, and not as a limitation, such works may include films, photographs, television stories or interviews, and other types of activities that may take place at the Site or at the Airport or in its vicinity that may result in the Artwork appearing in such works because of its location and its significance as a public work of art.
- i. MAC, or its designee, may undertake to film the creation and installation of the Artwork as a way to document the process. Artist consents to the display and reproduction of the Artwork and any related works, including drawings, plans, designs, and the like, in the resulting audiovisual work, and no performance, display, or transmission of this audiovisual work will infringe any copyright or any right of publicity held by Artist.

Article 9 - Moral Rights

- 9.1 MAC will not intentionally alter, modify, change, destroy or damage the Artwork without first providing notice to Artist.
- 9.2 If any distortion, mutilation, or other modification of the Artwork occurs during Artist's lifetime which would be prejudicial to Artist's honor or reputation, Artist shall have the right to disclaim authorship of the Artwork. In such event, upon written notice from Artist, MAC shall remove the identification plaque and all attributive references to Artist at MAC's expense within 90 days of receipt of the notice. No provision of this Agreement shall obligate MAC to alter or remove any such attributive reference printed or published prior to MAC's receipt of such notice. Artist may take such other action as Artist may choose in order to disavow the Artwork.
- 9.3 MAC may remodel, reconstruct, update, or alter the Site as it may determine, and may remove, temporarily or permanently, relocate or otherwise modify the Artwork as MAC deems necessary in the course of such changes to the Site. MAC shall notify Artist if any proposed significant alteration to the Site will affect the character or appearance of the Artwork. MAC shall make a good faith effort to consult with Artist in the planning and execution of any such alteration to the extent it affects the Artwork. MAC shall use its best efforts to maintain the integrity of the Artwork. MAC will make a good faith effort to contact and consult with Artist regarding removal or relocation of the Artwork. Artist acknowledges that the final decision regarding any such alterations, removal or relocation shall be determined solely by MAC. In the event MAC proceeds with such removal or relocation, Artist shall provide MAC with written handling and, if applicable, storage instructions.
- 9.4 MAC shall notify Artist in writing upon adoption of a plan of construction or alteration of the Site which might result in the Artwork being destroyed, distorted, mutilated, or modified. MAC shall

make a good faith effort to consult with Artist regarding such a plan. Artist acknowledges that the final decision regarding any such plan shall be determined solely by MAC. If the Artwork is destroyed, distorted, mutilated, or modified, MAC shall have the right to rebuild or repair the Artwork, and Artist may require that Artist is no longer identified as the author of the Artwork. Any notice required by this Article shall be provided in accordance with Article 16.

- 9.5 This Section is intended to replace and substitute for the rights of the Artist under the Visual Artists' Rights Act, 17 U.S.C. §106A ("VARA"), and to the extent there is any conflict or difference between this Agreement and VARA, the terms of this Agreement apply. Artist permanently waives Artist's rights pursuant to VARA to prevent any distortion, mutilation, modification or destruction of the Artwork for any reason and regardless of the reason for which such distortion, mutilation, modification or destruction of the Artwork is undertaken or occurs. The rights contained in this Article 9 are personal to Artist, and MAC's obligations under this Article 9 are effective only during Artist's lifetime and shall terminate upon Artist's death.

Article 10 - Artist as an Independent Contractor

- 10.1 Artist agrees to perform all services under this Agreement as an independent contractor and not as an agent or employee of MAC. Artist shall not hold itself out as an authorized agent of MAC with the power to bind in any manner.
- 10.2 Artist shall provide MAC with Artist's Tax Identification Number and any proof of such number as requested by MAC.

Article 11 - Assignment of Obligations

- 11.1 Artist's rights and obligations under this Agreement are personal and shall not be assigned, licensed, sublet or transferred. Except as specifically provided herein, any attempt by Artist to assign this Agreement or any rights, duties or obligations arising hereunder shall be void and of no effect unless prior written consent is given by MAC.

Article 12 - Federal Provisions

12.1 Civil Rights

Artist agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision binds Artist and subcontractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

12.2 Compliance with Title VI Nondiscrimination Requirements:

During the performance of this contract, Artist, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor" in this Section 12.2), agrees as follows:

- a. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
- b. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
- c. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
- d. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
- e. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - i. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
 - ii. Cancelling, terminating, or suspending a contract, in whole or in part.
- f. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs a. through f. in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the sponsor to enter into any

litigation to protect the interests of the sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

12.3 Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this contract, Artist, for itself, its assignees, and successors in interest (hereinafter referred to as the “Contractor” in this Section 12.3) agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:

- a. Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- b. 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- c. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- d. Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- e. The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- f. Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- g. The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- h. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- i. The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- j. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with

disproportionately high and adverse human health or environmental effects on minority and low-income populations;

- k. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); .
- l. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 etseq).

Article 13 - Termination

- 13.1 Either party may terminate this Agreement without recourse by the other where performance is rendered impossible or impracticable for reasons beyond such party's reasonable control such as, but not limited to, acts of nature; war or warlike operations; terrorism; superior governmental regulation or control, public emergency or strike or other labor disturbance. Notice of termination of this Agreement shall be given to the non-terminating party in writing not less than 90 days prior to the effective date of termination.
- 13.2 MAC may terminate this Agreement without cause upon 60 days prior written notice to Artist. MAC shall pay Artist for services performed and commitments made prior to the date of termination notice. Artist shall have the right to an equitable adjustment in the fee for services performed and expenses incurred beyond those for which Artist has been compensated to date with allowance for lost opportunities, unless the parties come to a settlement otherwise.
- 13.3 If either party to this Agreement willfully or negligently fails to fulfill in a timely and proper manner, or otherwise violates any of the covenants, agreements or stipulations material to this Agreement, the other party shall have the right to terminate this Agreement by giving written notice to the defaulting party of its intent to terminate and specifying the grounds for termination. The defaulting party shall have thirty (30) days after the effective date of the notice to cure the default unless provided additional time in writing. If the breach or violation is not cured by that time, this Agreement shall terminate.
- 13.4 If Artist defaults for cause other than death or incapacitation (see Article 14), Artist shall return to MAC all funds provided by MAC in excess of expenses already incurred. Artist shall provide an accounting of such expenses. MAC shall retain the right to have the Artwork completed, fabricated, executed, delivered and installed by third parties of MAC's choosing, and to use and reproduce the Design, Artist's drawings, renderings, schematics, photographs and the like in doing so. However, Artist shall retain the copyright in the Artwork and all rights under Articles 8 and 9. MAC may retain possession of all finished and unfinished drawings, sketches, photographs and other Artwork-related materials prepared and submitted or prepared for submission by Artist under this Agreement for purposes of completing the Artwork. Artist shall retain ownership of the copyright and any other rights in all such materials except those specifically granted to MAC.

13.5 If MAC defaults, MAC shall compensate Artist for all services performed by Artist prior to termination. MAC shall pay Artist for services performed and commitments made prior to the date of termination. Artist shall have the right to an equitable adjustment in the fee for services performed and expenses incurred beyond those for which Artist has been compensated to date with reasonable allowance for lost opportunities. Artist shall retain possession and title to the studies, drawings, designs, maquettes and models already prepared and submitted or prepared for submission to MAC by Artist under this Agreement prior to the date of termination. MAC shall have no right to complete the Artwork.

13.6 Upon notice of termination, Artist and its subcontractors shall cease all services affected.

Article 14 - Death or Incapacity

14.1 If Artist becomes unable to complete this Agreement due to death or incapacitation, such death or incapacity will not be deemed a breach of this Agreement or a default on the part of Artist for the purpose of Article 13. However, nothing in this Article shall obligate MAC to accept the Artwork.

14.2 In the event of Artist's death or incapacity, MAC may elect to terminate this Agreement and select an artist or fabricator of its choosing to complete the Artwork. Artist shall retain all rights under Article 8; provided, however, that if MAC terminates the Agreement after Artist's submission of the Preliminary Design, Artist will retain ownership of the copyright in the Preliminary Design, but to the extent the finished Artwork qualifies as a derivative work of the Preliminary Design, MAC or the artist or subcontracting fabricator who completes the Artwork will own the copyright in the derivative work and their copyrightable contributions to the finished Artwork. In the event MAC elects to complete the Artwork, the Artwork and any reproductions thereof, if the finished Artwork qualifies as a derivative work of Artist, shall contain a copyright notice in substantially the following form: Based on a design by [Artist], © [MAC or completing artist] [year].

14.3 Any provisions of this Agreement that survive its termination shall apply only to the extent of services performed by Artist prior to termination.

Article 15 - Security

15.1 Artist, its employees, agents, contractors and/or subcontractors must meet the requirements of the Airport Police Department with regard to security badging access. All security badging questions must be referred to the Airport Police Department Badging Office at 612-467-0623.

15.2 Artist, its employees, agents, and contractors shall, at their own expense, abide by all Transportation Security Administration ("TSA") or MAC security requirements, ordinances or security directives, including but not limited to, security badge qualifications, access, display, and use, restrictions on sale of dangerous items and limited security area access abilities.

15.3 The security of the Airport environment, especially in the sterile area, requires constant vigilance and control by MAC. Pursuant to TSA requirements, MAC is only allowed to permit access to the sterile area to individuals who have a business purpose inside the area.

15.4 Artist understands and agrees that in the event the TSA assesses a civil penalty or fine against MAC for any violation of Transportation Security Regulations or other federal statute as a result of any act or failure to act on the part of Artist or Artist's employees, agents, contractors and/or subcontractors, Artist will reimburse MAC in the amount of the civil penalty finally assessed plus any documented costs for defending the civil penalty, including reasonable internal or external attorneys' fees. MAC will provide Artist notice of the allegation, investigation or proposed or actual civil penalty. Failure of Artist to reimburse MAC within one hundred twenty (120) days of receipt of written notice of the assessed civil penalty shall result in default of this Agreement.

Article 16 - Notices and Documents

16.1 Notices required under this Agreement shall be in writing and delivered in person or by courier or mailed by certified mail, return receipt requested by United States Mail, postage prepaid addressed as follows:

For MAC:

Bridget Rief
Vice President Planning and Development
6040 28th Avenue South
Minneapolis, MN 55450

with a copy to:

Evan Wilson, Esq.
Senior Attorney
6040 28th Avenue South
Minneapolis, MN 55450

For Artist:

[Address]

16.2 Notice is deemed given (i) two business days after being deposited in the mail, whether or not the notice is accepted by the named recipient, or (ii) if delivered by any other means, the date such notice is actually received or rejected by the named recipient. Either party may change the party's address for notice by providing written notice to the other party.

Article 17 - General Provisions

17.1 Waiver

The parties agree that a waiver of any breach or violation of any term or condition of this Agreement shall not be deemed to be a waiver of any other term or condition contained herein or a waiver of any subsequent breach or violation of the same or any other term or condition.

17.2 Audit

Artist shall keep at its principal office, in a system acceptable to MAC, accurate books, accounts, records and documents relevant to the work conducted under this Agreement, and shall keep such information for a period of six calendar years. MAC and the Legislative Auditor shall have the right, at all reasonable times during normal business hours, to inspect the books, accounts, records, and

documents, accounting procedures and practices, and to interview current and former employees, all relative to the work conducted under this Agreement. Contracts entered into with subconsultants shall contain the same contract audit clause. Artist shall pay all audit costs when an audit discloses overcharges exceeding one (1) percent of the total approved Budget.

17.3 Severability

Invalidity of any provision of this Agreement shall not affect the enforceability or validity of any other provision.

17.4 Compliance with All Laws

Artist shall comply with all laws, regulations, ordinances, and rules of the Federal, State, and local government including those of MAC, which may be applicable to performance under this Agreement.

17.5 Choice of Law and Venue

Any case, controversy or dispute arising out of this Agreement and any action involving the enforcement or interpretation of any rights herein shall be governed by Minnesota Law. Venue shall be in Hennepin County District Court.

17.6 Public Data

This Agreement, and the information related to it, are subject to the Minnesota Government Data Practices Act ("Act"), which presumes that data collected by MAC is public data unless classified otherwise by law. MAC reserves the right to disclose information as required by the Act. MAC will have no liability for disclosure of information that is required by the Act or other applicable law.

Article 18 - Entire Agreement

18.1 This Agreement, including exhibits, comprises all of the covenants, promises, agreements, and conditions between the parties with respect to the subject matter herein. No verbal agreements or conversations between the parties prior to the execution of this Agreement, or otherwise, shall affect or modify any of the terms or obligations.

18.2 No alteration, change or modification of the terms of this Agreement shall be valid unless made in writing and signed by both parties.

(EXECUTIONS ON THE FOLLOWING PAGES)

METROPOLITAN AIRPORTS COMMISSION

ARTIST

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

State of Minnesota

County of _____

This instrument was acknowledged before me on the _____ day of _____, _____ by _____ as the authorized representative of the Metropolitan Airports Commission.

(Notary Seal)

Signature of Notarial Officer

Title (and Rank)

My commission expires: _____

State of _____

County of _____

This instrument was acknowledged before me on the _____ day of _____, _____ by _____ as the authorized representative of Artist.

(Notary Seal)

Signature of Notarial Officer

Title (and Rank)

My commission expires: _____

Exhibit 1

Approved Design

SAMPLE

Exhibit 2

Budget

SAMPLE

Exhibit 3

Schedule

SAMPLE

Exhibit 4

Bill of Sale

STATE OF _____

COUNTY OF _____

BILL OF SALE

“Pursuant to the Artwork Commission and Purchase Agreement for Public Artwork (the Agreement) between the undersigned Artist and Metropolitan Airports Commission (MAC) dated _____, MAC commissioned the creation by the undersigned Artist of a work of art, to exist in a single copy, titled _____ (the “Artwork”).

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, Artist does hereby sell, transfer and convey to MAC, its assigns and successors, all right, title and interest in and ownership of the Artwork, together with any designs, drawings, plans, maquettes or other materials identified in the Agreement as being owned by MAC. This conveyance does not include the copyright in the Artwork, which is owned by and remains with Artist.”

IN WITNESS WHEREOF, Artist has executed this written Bill of Sale on this the ____ day of _____.

ARTIST (signature)

State of _____

County of _____

This instrument was acknowledged before me on the _____ day of _____, _____ by

_____.

(Notary Seal)

Signature of Notarial Officer

Title (and Rank)

My commission expires: _____