



ARLINGTON COUNTY, VIRGINIA
OFFICE OF THE PURCHASING AGENT
2100 CLARENDON BOULEVARD, SUITE 500
ARLINGTON, VIRGINIA 22201

CONTRACT AWARD COVERPAGE

TO: KIPP KOBAYASHI	DATE ISSUED: 10/13/2022
669 WEST 8 TH STREET	CONTRACT NO: 23-AED-EP-334
CLAREMONT, CA 91711	CONTRACT TITLE: BOZMAN CENTER ARTWORK – KIPP KOBAYASHI

THIS IS A NOTICE OF AWARD OF CONTRACT AND NOT AN ORDER. NO WORK IS AUTHORIZED UNTIL THE VENDOR RECEIVES A VALID COUNTY PURCHASE ORDER ENCUMBERING CONTRACT FUNDS.

The contract documents consist of the terms and conditions of AGREEMENT No. 23-AED-EP-334 including any attachments or amendments thereto.

10/13/2022
EFFECTIVE DATE:
EXPIRES: DECEMBER 31, 2023
RENEWALS: N
COMMODITY CODE(S): 96515
LIVING WAGE: N

ATTACHMENTS:
AGREEMENT No. 23-AED-EP-334

EMPLOYEES NOT TO BENEFIT:
NO COUNTY EMPLOYEE SHALL RECEIVE ANY SHARE OR BENEFIT OF THIS CONTRACT NOT AVAILABLE TO THE GENERAL PUBLIC.

VENDOR CONTACT: KIPP KOBAYASHI	VENDOR TEL. NO.: (909) 240-4326
EMAIL ADDRESS: KHK@KOBAYASHI-STUDIOS.COM	
COUNTY CONTACT: DEIRDRE EHLEN (AED)	COUNTY TEL. NO.: (703) 228-3331
COUNTY CONTACT EMAIL: DEHLEN@ARLINGTONVA.US	

PURCHASING DIVISION AUTHORIZATION

DocuSigned by: <i>Arlene Palmer</i>	Title Buyer	Date 10/13/2022
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ARLINGTON COUNTY, VIRGINIA

STANDARD FORM AGREEMENT No. 23-AED-EP-334

THIS AGREEMENT ("Agreement") is made on the date of execution by the County between the COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA ("County") and Mythograph, Inc., with a principal place of business located at 669 West 8th Street, Claremont, California 91711 ("Contractor").

1. The Contractor agrees to provide the following goods or services:

Public Art for the Bozman Government Center

2. The County will have no obligation to the Contractor if no goods or services are required.
3. The Contractor's provision of these goods or services is subject to review and approval by the County's Project Officer.
4. The Contractor shall provide the goods or services covered by the Contract beginning on 10/13/2022. Unless terminated as provided below, the Agreement shall continue until December 31, 2023.
5. If the goods in the Contract include purchase of a flag of the United States or a flag of the Commonwealth for public use, the Contractor shall ensure such flag shall be made in the United States from articles, materials, or supplies that are grown, produced, and manufactured in the United States, if available.
6. The County will pay the Contractor, for services or goods that the Project Officer accepts, per Exhibit B, PRICING SCHEDULE, up to the maximum amount of \$200,000. The County will pay the Contractor net 45 days from receipt of an invoice that the Project Officer approves for payment. All payments will be made from the County to the Contractor via ACH.

7. The Contractor is an independent contractor, and the County will not withhold from the Contractor's compensation any federal or Virginia unemployment taxes, federal or Virginia income taxes, Social Security tax or any other amounts for benefits to the Contractor or its agents or employees.
8. The Contractor is obligated to take one of the two following actions within seven (7) days after receipt of amounts paid to the Contractor by the County for work performed by any subcontractor under this Agreement:
 - a. Pay the subcontractor for the proportionate share of the total payment received from the County attributable to the work performed by the subcontractor under this Agreement; or
 - b. Notify the County and the subcontractor, in writing, of the Contractor's intention to withhold all or a part of the subcontractor's payment, with the reason for nonpayment.

The Contractor is obligated to pay interest to any subcontractor on all amounts owed by the Contractor to the subcontractor that remain unpaid after seven (7) days following receipt by the Contractor of payment from the County for work performed by the subcontractor under this Agreement, except for amounts withheld as allowed in section b., above. Unless otherwise provided under the terms of this Agreement, interest shall accrue at the rate of one percent (1%) per month.

The Contractor shall include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements as those contained in this Agreement with respect to each lower-tier subcontractor.

The Contractor's obligation to pay an interest charge to a subcontractor pursuant to the above provisions may not be construed to be an obligation of the County. A Contract modification may not be made for the purpose of providing reimbursement for such interest charge. A cost reimbursement claim may not include any amount for reimbursement for such interest charge.

10. COVID-19 VACCINATION POLICY FOR CONTRACTORS

Due to the ongoing COVID-19 pandemic, the County has taken various steps to protect the welfare, health, safety, and comfort of the workforce and public at large. As part of these steps, the County has implemented various requirements with respect to health and safety including policies with respect to social distancing, the use of face-coverings and vaccine mandates. To protect the County's workforce and the public at large, all employees and subcontractors of the Contractor who are assigned to this Contract, should be fully vaccinated against COVID-19. Any contractor employee or subcontractor who is not fully vaccinated should be following a weekly testing protocol as established by the Contractor, unless exempt pursuant to a valid reasonable accommodation under state or federal law.

11. The County may terminate this Agreement by 30 days' written notice whenever the Purchasing Agent determines that termination is in the County's best interest. The Contractor will be entitled to receive compensation for all goods or services that the County accepted before the termination notice.
12. The County may terminate this Agreement by 48 hours' written notice if the Contractor fails to provide satisfactory goods or services, in the determination of the Project Officer. The notice will be effective upon receipt by the Contractor or three days after the County mails the notice, whichever is sooner. The Contractor will be entitled to receive compensation only for goods or services that the County accepted before the County mailed the notice. The Contractor will be liable to the County for all costs that the County incurs after the termination takes effect to complete the Work covered by the Contract, including delay costs and costs to repair or replace any unsatisfactory work. The County may deduct these costs from any amount that it owes the Contractor or require that the Contractor pay the costs on demand.
13. Time is of the essence and the Contractor agrees that failure to provide timely service will render this Agreement null and void.
14. The Contractor must provide a certificate of proof of the insurance coverages before the start of work:
 - Workers Compensation-Virginia statutory workers compensation (W/C) coverage, including Virginia benefits and employer's liability with limits of \$500,000/500,000/500,000. The County will not accept W/C coverage issued by the Injured Worker's Insurance Fund, Towson, MD.
 - Commercial General Liability (CGL) - \$1,000,000 combined single limit with \$1,000,000 aggregate coverage to include Personal Injury, Completed Operations, Contractual Liability and, where applicable to the services, Products and Independent Contractors. "The County Board of Arlington County, Virginia, and its officers, employees and agents" must be listed as additional insureds on the CGL policy.
 - Automobile Bodily Injury and Property Damage Liability - \$1,000,000 Combined Single Limit (Owned, non-owned, or hired, as applicable)
 - Additional Insured – The County and its officers, elected and appointed officials, employees and agents must be listed as additional insureds on all policies except workers compensation and automotive and professional liability; and the additional insured endorsement must be typed on the certificate.

- Cancellation - If there is a material change or reduction in or cancellation of any of the above coverages during the Contract Term, the Contractor must notify the Purchasing Agent immediately and must, with no lapse in coverage, obtain replacement coverage that is consistent with the terms of this Contract. Not having the required insurance throughout the Contract Term is grounds for termination of the Contract.
- Claims-Made Coverage - Any "claims made" policy must remain in force, or the Contractor must obtain an extended reporting endorsement, until the applicable statute of limitations for any claims has expired.
- Contract Identification - All insurance certificates must state this Contract's number and title.

The Contractor must disclose to the County the amount of any deductible or self-insurance component of any of the required policies. With the County's approval, the Contractor may satisfy its obligations under this section by self-insurance for all or any part of the insurance required, provided that the Contractor can demonstrate sufficient financial capacity. In order to do so, the Contractor must provide the County with its most recent actuarial report and a copy of its self-insurance resolution.

The County may request additional information to determine if the Contractor has the financial capacity to meet its obligations under a deductible and may require a lower deductible; that funds equal to the deductible be placed in escrow; a certificate of self-insurance; collateral; or another mechanism to guarantee the amount of the deductible and ensure protection for the County.

The County's acceptance or approval of any insurance will not relieve the Contractor from any liability or obligation imposed by the Contract Documents.

The Contractor is responsible for the Work and for all materials, tools, equipment, appliances and property used in connection with the Work. The Contractor assumes all risks for direct and indirect damage or injury to the property used or persons employed in connection with the Work and for of all damage or injury to any person or property, wherever located, resulting from any action, omission, commission or operation under the Contract or in connection in any way whatsoever with the Work. The Contractor's insurance shall be the primary non-contributory insurance for any work performed under this Contract.

The Contractor is as fully responsible to the County for the acts and omissions of its subcontractors and of persons employed by them as it is for acts and omissions of persons whom the Contractor employs directly.

15. The Contractor agrees as follows:

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability or on any other basis prohibited by Virginia or federal law and must post in this nondiscrimination clause in conspicuous places, available to employees and applicants for employment.
- b. The Contractor must state that it is an Equal Opportunity Employer in all solicitations or advertisements for employees that it places or causes to be placed.
- c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall meet the requirements of this section.
- d. The Contractor must include the provisions of the foregoing paragraphs a), b), and c) in every subcontract or Purchase Order in excess of \$10,000.00, so that the provisions will be binding upon each subcontractor and/or supplier.

16. The Contractor must comply with the provisions of the Americans with Disabilities Act of 1990, which prohibits discrimination against individuals with disabilities in employment and mandates their full participation in publicly- and privately-provided services and activities.

17. The Contractor must (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of marijuana or any other controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order in excess of \$10,000.00, so that the provisions will be binding upon each subcontractor or supplier. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with this Agreement.

18. If the Contractor employs more than five employees, the Contractor shall (i) provide annual training on the Contractor's sexual harassment policy to all supervisors and employees providing services in the Commonwealth, except such supervisors or employees that are required to complete sexual harassment training provided by the Department of Human Resource Management, and (ii) post the Contractor's sexual harassment policy in (a) a conspicuous public place in each building located in the Commonwealth that the Contractor owns or leases for business purposes and (b) the

Contractor's employee handbook.

19. The Contractor acknowledges that it does not, and will not during the performance of this Agreement, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.
20. This Agreement is governed by the Arlington County Purchasing Resolution, which is incorporated by reference. The time limit for decision by the County Manager in Contractual Disputes, as that term is used in the Purchasing Resolution, is thirty (30) days.
21. This Agreement is not effective until the County issues a valid County Purchase Order covering the amount of the Agreement.
22. All payments by the County to the Contractor pursuant to this Contract are subject to the availability of an annual appropriation for this purpose by the County Board of Arlington County, Virginia ("Board"). In the event that the Board does not appropriate funds for the goods or services provided under this Contract, the County will terminate the Contract, without termination charge or other liability to the County, on the last day of the fiscal year or when the previous appropriation has been spent, whichever event occurs first.
23. This Contract incorporates by reference Article 9 of the Arlington County Purchasing Resolution, as well as all state and federal laws related to ethics, conflicts of interest or bribery, including the State and Local Government Conflict of Interests Act (Code of Virginia § 2.2-3100 et seq.), the Virginia Governmental Frauds Act (Code of Virginia § 18.2-498.1 et seq.) and Articles 2 and 3 of Chapter 10 of Title 18.2 of the Code of Virginia, as amended (§ 18.2-438 et seq.). The Contractor certifies that its proposal was made without collusion or fraud; that it has not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor; and that it has not conferred on any public employee having official responsibility for this procurement any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
24. No Arlington County employee may share in any part of this Contract or receive any benefit from the Contract that is not available to the general public
25. The County does not discriminate against faith-based organizations.
26. The Contractor and its employees, agents and subcontractors will hold as confidential all County Information that they obtain under this Agreement. Confidential Information includes, but is not limited to, nonpublic personal information; personally, identifiable health information; security numbers; addresses; dates of birth; information pertaining to products, operations, systems, customers, prospective customers, techniques,

intentions, processes, plans and expertise. The Contractor must take reasonable measures to ensure that all of its employees, agents, and subcontractors are informed of and abide by this requirement.

27. The Contractor must comply with the provisions of Chapter 11 ("Licenses") of the Arlington County Code, if applicable. For information on the provisions of that Chapter and its applicability to this Contract, the Contractor must contact the Arlington County Business License Division, Office of the Commissioner of the Revenue, 2100 Clarendon Blvd., Suite 200, Arlington, Virginia, 22201, telephone number (703) 228-3060, or e-mail business@arlingtonva.us.
28. The Contractor must, pursuant to Code of Virginia § 2.2-4311.2, be and remain authorized to transact business in the Commonwealth of Virginia during the entire term of this Agreement. Otherwise, the Contract is voidable at the sole option of and with no expense to the County.
29. This Agreement is governed in all respects by the laws of the Commonwealth of Virginia, and the jurisdiction and venue for any litigation is in the Circuit Court for Arlington County, Virginia, and in no other court.
30. The Contractor covenants for itself, its employees and its subcontractors to save, defend, hold harmless and indemnify the County and all of its elected and appointed officials, officers, current and former employees, agents, departments, agencies, boards and commissions (collectively the "County Indemnitees") from and against claims made by third parties for losses, damages, injuries, fines, penalties, costs (including court costs and attorneys' fees), charges, liability, demands or exposure resulting from or arising out of the Contractor's acts or omissions, including the acts or omissions of its employees and/or subcontractors, in performance or nonperformance of the Contract. This duty to defend, hold harmless and indemnify will survive the termination of this Contract. If the Contractor fails or refuses to fulfill its obligations contained in this section, the Contractor must reimburse the County for resulting payments and expenses, including reasonable attorneys' fees. The Contractor must pay such expenses upon demand by the County, and failure to do so may result in the County withholding such amounts from any payments to the Contractor under this Contract.

31. Notices will be effective when made in writing and either (a) delivered in person, (b) delivered to an overnight delivery service or (c) deposited in the United States mail, certified or registered. Notices should be addressed as follows:

TO THE CONTRACTOR:

Kipp Kobayashi
Mythograph, Inc.
669 West 8th Street
Claremont, California 91711
Phone: (909) 240-4326
Email: khk@kobayashi-studios.com

TO THE COUNTY:

Deirdre Ehlen, Public Art Manager
Arlington County, Virginia – Cultural Affairs
3700 South Four Mile Run Drive
Arlington, Virginia 22206
Phone: (703) 228-3331
Email: dehlen@arlingtonva.us

AND

Dr. Sharon T. Lewis, Purchasing Division Chief
Arlington County, Virginia
2100 Clarendon Boulevard, Suite 500A
Arlington, Virginia 22201
Phone: (703) 228-3294
Email: slewis1@arlingtonva.us

TO COUNTY MANAGER'S OFFICE (FOR PROJECT CLAIMS):

Mark Schwartz, County Manager
Arlington County, Virginia
2100 Clarendon Boulevard, Suite 318
Arlington, Virginia 22201

32. The Contractor must retain all books, records and other documents related to this Contract for at least five years, or such period of time required by the County's funding partner(s), if any, whichever is greater, after the final payment and must allow the County or its authorized agents to examine the documents during this period and during the Contract Term. The Contractor must provide any requested documents to the County for examination within 15 days of the request, at the Contractor's expense. Should the County's examination reveal any overcharging by the Contractor, the Contractor must, within 30 days of County's request, reimburse the County for the overcharges and for the reasonable costs of the County's examination, including, but not limited to, the services of external audit firm and attorney's fees; or the County may deduct the overcharges and examination costs from any amount that the County owes to the Contractor. If the Contractor wishes to destroy or dispose of any records related to this Contract (including confidential records to which the County does not have ready access) within five years after the final payment, or such period of time required by the County's funding partner(s), if any, whichever is greater, the Contractor must give the County at least 30 days' notice and must not dispose of the documents if the County objects.

The Purchasing Agent may require the Contractor to demonstrate that it has the necessary facilities, ability, and financial resources to comply with the Contract and furnish the service, material or goods specified herein in a satisfactory manner at any time during the term of this Contract.

33. The Contractor shall not assign or transfer this Agreement, or any of its rights or interests, without the County's prior written consent.

34. This Agreement may be modified only by written amendment.

35. All remedies available to the County under this Agreement are cumulative, and no remedy is exclusive of any other that is available to the County at law or in equity.

36. The sections, paragraphs, sentences, clauses and phrases of this Agreement are severable; and if any part is held to be invalid, the rest of the Agreement will remain in effect.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE AFFIXED THEIR SIGNATURES.

THE COUNTY BOARD OF ARLINGTON
COUNTY, VIRGINIA

MYTHOGRAPH, INC.

SIGNED: DocuSigned by:
Cynthia Davis
02CC7A8A62DB466...
PRINTED NAME: Cynthia Davis
PRINTED TITLE: Assistant Purchasing Agent
DATE: 10/13/2022

SIGNED: DocuSigned by:
Kipp Kobayashi
C06742CD28684D7...
PRINTED NAME: Kipp Kobayashi
PRINTED TITLE: President
DATE: 10/10/2022

EXHIBIT A
SCOPE OF WORK

A. GENERAL

1. The Contractor shall provide the design, fabrication and installation services, and shall coordinate all aspects of the Work with the County.
2. The Contractor shall perform and furnish all services and furnish all supplies, materials and/or equipment for the design, fabrication and installation of the Artwork at the Site.
3. The Contractor shall review construction documents at each stage of the development to ensure that all elements necessary to install the Artwork are included.
4. The County has entered into this Contract as a purchaser of Artwork and not in its general capacity as a governing body. The County's entry into this Contract does not constitute any form of governmental approval that may be required of the Contractor by law. The Contractor shall apply for and secure from the County the required permit or permits for the installation and maintenance of the Artwork at the Site. The County will pay the permitting fees.

B. SCHEDULE

1. The Contractor shall follow a design, fabrication and installation schedule that it will develop in cooperation with the County. The schedule shall coordinate the construction activities for the Project and the design, fabrication and installation of the Artwork.
2. The Contractor's schedule shall consider the activities as denoted in EXHIBIT B, PAYMENT SCHEDULE, as schedule milestones.
3. The Contractor shall confer every thirty (30) days, or as needed, with the County to ensure that the fabrication and installation schedule of the Artwork corresponds and is compatible with the Bozman Government Center construction schedule. The Contractor must have approval of the County to adjust the fabrication and installation schedule of the Artwork, in the event the construction schedule changes.

C. MEETINGS

Throughout all phases of the design, fabrication and installation of the Artwork, the Contractor shall meet in person, via conference call, or web meeting at the County's reasonable request, to communicate about the execution of the Artwork, and appropriate integration and/or installation of the Artwork at the Site. The project budget allows for four (4) in-person meetings and regular conference calls as required by project.

Meetings may be combined to expedite transfer of information and shall include, at a minimum:

1. Design meetings, project status reviews and construction progress meetings for each phase of the design, fabrication and installation, as required by the County.
2. Meetings with project stakeholders.
3. Community engagement meetings with the general public to provide updates on the progress and direction of the design.
4. Emergency field meetings, which the Contractor may be required to attend in person to resolve urgent problems. If the four (4) budgeted trips have been exhausted, the County will fund the Contractor's attendance as an addition to the agreed upon project budget, pursuant to a contract amendment.

D. PRINCIPAL RESPONSIBILITIES OF THE CONTRACTOR

1. The Contractor shall design, execute, fabricate, install and document the Artwork at Bozman Government Center located at 2100 Clarendon Blvd., Arlington, VA, 22201.
2. The Contractor shall provide the following during and through the design process: schematic design proposal, design development; and a construction, fabrication and installation schedule. The schedule will be subject to the approval of the Project Officer and must be consistent with the activities set forth in Exhibit A and must incorporate those activities as milestones.
3. The Contractor shall ensure that the Artwork meets all ADA requirements and will work with the County to ensure that the Artwork is designed in a manner that is consistent with Crime Prevention Through Environmental Design (CPTED) principles.

4. After design approval and before fabrication, the Contractor shall produce to the County complete draft construction documents and specifications for the Artwork produced by a Virginia licensed engineer. The drawings must be reviewed and approved by the County prior to fabrication for the finalization of construction documents.
5. The Artwork, as installed, shall not interfere with the intended function of the Site, pedestrian and other traffic flow, parking, and/or safety devices and procedures at the Site.
6. The Contractor shall develop a written community engagement plan that includes attending community engagement meetings with the general public and County staff as needed. These meetings are included in the four budgeted in-person meetings detailed above.
7. The Contractor shall attend design and construction coordination meetings with County staff and other parties, as the County determines is appropriate, to communicate about the execution and fabrication of the Artwork, and appropriate integration and/or installation of the Artwork at the Site.
8. The Contractor shall arrange for the transportation and installation of the Artwork in consultation with the County. If the Contractor does not install the Artwork himself, the Contractor shall supervise and approve the installation.
9. The Contractor shall provide to the County a list of all subcontractors that the Contractor will be utilizing in performing the Artwork, along with a copy of the written agreement between the Contractor and each subcontractor.
10. The Contractor shall provide to the County a maintenance manual with a description of all materials and products used in the Artwork and the recommended care and upkeep for the Artwork.
11. The Contractor shall provide photographic documentation of the Artwork, at the request of the County.
12. The Contractor shall be responsible for protecting all completed Work in place, during the installation of the Artwork, and adhering to the load restrictions identified in the construction specifications. If protective coverings are installed, it is the Contractor's financial responsibility to remove such coverings after the Artwork is installed.
13. The Contractor and his sub-contractors shall keep on the Site a copy of the drawings, specifications, permits, permitted drawings, and all other applicable documents and shall at all times give the County and its authorized representatives access to the documents.

E. DESIGN REQUIREMENTS

1. The Artwork must be durable, taking into consideration that the Site is an unsecured public space that may be exposed to elements such as weather, temperature variation and considerable movement of people and equipment.
2. The Contractor must coordinate the materials selection with the County to ensure that all maintenance requirements are reasonable in terms of time and expense.

F. DESIGN OF THE ARTWORK

1. The Contractor shall submit a Conceptual Design Proposal to the County. The submission will include various conceptual directions indicating scale, form, location, and proposed materials (samples to be provided where appropriate).
2. The Contractor shall submit a Schematic Design Proposal, which must include information on structural considerations, size and location of attachment mechanisms, surface integrity, permanence and maintenance, as well as an outline of the proposed installation method.

The Contractor shall then submit a Design Development Proposal, which must include further development of Design Enhancements, including an indication of scale, form, location, attachment mechanisms, and proposed materials (samples shall be provided when appropriate). The Design Development Proposal shall also be based upon the written comments provided by the Project Officer on both the Conceptual Design and Schematic Design proposals.

3. The Contractor shall develop a set of detailed drawings for cost estimating and provide a detailed breakdown of quantities and estimated costs.

G. FABRICATION OF THE ARTWORK

1. The Contractor shall provide to the County, within 14 days following the commencement date for fabrication stated in the Notice to Proceed, a written fabrication, delivery and installation schedule, which shall be consistent with the construction schedule of the renovation of Bozman Government Center.
2. The County will have the right to review the Artwork throughout its fabrication upon 48 hours' notice. The Contractor shall submit to the County monthly progress reports, including photographs of the progress.

3. The fabricated Artwork must conform to the County-approved design, materials, details and dimensions.
4. If the County chooses to review the Artwork and reasonably determines that the Artwork does not conform to the design approved in the construction documents, the County shall notify the Contractor in writing of the deficiencies. The County shall have the right to withhold payments until the deficiencies are corrected or satisfied.
5. If the Contractor disputes the County's determination that the Artwork does not conform, the Contractor shall provide a written explanation to the County within seven (7) calendar days of the County's determination. Otherwise, the Contractor shall promptly correct the deficiencies within fourteen (14) calendar days and notify the County in writing that the Artwork is ready for reinspection. The County will make reasonable efforts to resolve any disagreement with the Contractor in good faith; however, final determination as to whether the Contractor has completed the Artwork in conformance with the approved design shall remain with the County.
6. If an event occurs (excepting events beyond the control of all parties) that impacts the Contractor's fabrication or installation schedule, the Contractor shall notify the County at least three (3) days prior to such event (if such event is known in advance) or immediately if such event is not known in advance. If the delay is a result of the County's action or inaction, then the County may be responsible for any reasonable storage fees or other reasonable costs directly incurred by the delay. If the delay is not a result of the County's action or inaction, the Contractor must reimburse the County for costs directly incurred by the delay, to the extent caused by Contractor's or its subcontractors' acts or omissions.
7. The Contractor shall notify the County in writing when fabrication of the Artwork has been completed and is ready for delivery and installation at the Site and shall provide photographic evidence of the completed Artwork.
8. The County will inspect the completed and installed Artwork and notify the Contractor in writing of the County's approval or disapproval (including reasons for disapproval) within ten (10) days after the receipt of the notification of completion. If the County determines that the Artwork does not conform with the design, the process described under items 5. and 6. above shall follow.

H. CHANGES TO DESIGN

1. The Contractor shall submit to the County in writing for approval any significant changes to the Artwork at any point during the design and fabrication process.
2. A “significant change” is any change in the scope, design, color, size, material, texture, or location on the Site of the Artwork that materially affects installation, scheduling, Site preparation or maintenance of the Artwork, or the concept of the Artwork as represented in the design.
3. Significant change requests must include a detailed description of any additional costs of the proposed change.
4. The County may reject any proposed changes or approve the changes and hold the Contractor responsible for any resulting financial burden.
5. The County will notify the Contractor whether the changes are approved or denied in writing within fourteen (14) calendar days of the request.
6. If the changes are approved, the Contractor shall be responsible for obtaining any required approvals and permits arising out of the changes.
7. If the changes are denied, the Contractor shall continue to fabricate the Artwork in conformity with the previously approved design.
8. The County will make any notifications and presentations of approved changes to the County stakeholders, as needed. The County may require the Contractor’s presence at such presentations. These presentations may occur remotely or in person, at the County’s discretion. If the four (4) budgeted trips have been exhausted, the County will fund the Contractor’s attendance as an addition to the agreed upon project budget pursuant to a contract amendment.

I. DELIVERY AND INSTALLATION

1. Upon the County’s final approval of Artwork fabrication, the Contractor shall deliver and install the completed Artwork on the Site, in accordance with the schedule.
2. The Contractor shall coordinate with the County to ascertain the Site is prepared to receive the Artwork and to coordinate the date and time of delivery and installation. The Contractor shall notify the County of any adverse conditions at the Site that would affect or impede the installation of the Artwork.

3. At least thirty (30) days prior to installation of the Artwork, the Contractor shall provide for the County's review and approval an installation plan, to include, but not be limited to, number of workers onsite, equipment to be used and the scope of Work to be performed on Site. The Contractor shall not proceed with the installation until the County approves the installation plan.
4. The Contractor or his representative shall be present at the Site throughout installation to supervise the installation of the Artwork.
5. The Contractor shall be responsible for all expenses, labor and equipment necessary to install the Artwork at the Site.
6. The Contractor shall avoid creating nuisance conditions arising out of Contractor's operations.
7. The Contractor shall be responsible for protecting all completed Work in place during the installation of the Artwork.
8. The Contractor shall be responsible for any and all damages to the Site that occur as a result of installation of the Artwork.
9. The Artwork as installed shall not interfere with the intended use of the Site, pedestrian and other traffic flow, parking, and/or safety devices and procedures at the Site.
10. The County will provide and install a signage plaque containing a credit to the Contractor and a copyright notice substantially in the following form: © *Kipp Kobayashi, year.*

J. APPROVAL AND ACCEPTANCE

1. Following the Artwork installation, the Contractor shall submit a written notice of final installation to the County.
2. As a condition of final acceptance, the Contractor shall furnish to the County the following:
 - a) A set of a minimum of twelve (12) photographs of the Artwork in different stages of fabrication and installation and as installed, in JPG or TIFF file format (300 dpi minimum). Photographs shall be labeled with the name of the Artwork, the date the photograph was taken, and the viewpoint from which the photograph was taken.
 - b) A full written narrative description of the Artwork.

- c) Written instructions for the appropriate maintenance and preservation of the Artwork along with product data sheets for all materials and finishes used.
 - d) Contractor's recent résumé and artist statement specifically pertaining to the Artwork.
- 3. The final acceptance shall be understood to mean that the County acknowledges completion of the Artwork in conformity with the approved design.
- 4. Upon written acceptance of the Artwork by the County, the Artwork shall be deemed to be in the custody of the County, from that point forward.
- 5. The County will be responsible for the proper care and maintenance of the Artwork.

K. PUBLIC PRESENTATIONS

- 1. After Final Acceptance of the Artwork, the Contractor shall attend in person any public meetings and community outreach functions, as well as any inauguration or presentation ceremonies relating to the dedication of the Artwork, as required by the County. The County will notify the Contractor at least twenty-one (21) calendar days in advance of any event at which the Contractor is required to appear. If the four (4) budgeted trips have been exhausted, the County will fund the Contractor's attendance as an addition to the agreed project budget pursuant to a contract amendment.
- 2. The County will be solely responsible for coordinating public information materials and activities related to public presentations.

EXHIBIT BPAYMENT
SCHEDULE

The Contractor's total fee for the Artwork is \$200,000.00 and is all-inclusive, covering all aspects of this Contract, including meeting/work time, project-related travel expenses, materials, and coordination. The fee includes, but is not limited to, the following costs: labor of employees; subcontractor costs; materials; communication and other indirect costs; and travel expenses of the Contractor for site visits, research, and any visits to the County, to meet with County staff and/or members of the public as required by the County pursuant to this Contract, as well as any and all costs, fees related to shipping, delivery, or installation of the Artwork.

MILESTONE/ACTIVITY	PAYMENT	ESTIMATED COMPLETION
Execution of Contract	\$20,000.00	October 2022
- Presentation and Acceptance of Concept Design/s Contractor presents Concept Design/s to the Art Advisory Panel	\$40,000.00	January 2022
Engineered Drawings - Contractor provides Stamped Engineered Drawings of the Artwork to be reviewed by the County	\$95,000.00	March 2023
Fabrication - Contractor completes fabrication of the Artwork and submits photographic documentation to the County	\$40,000.00	September 2023
Installation - Contractor installs the Artwork on site <u>and</u> -County issues a written Final Acceptance of the installation <u>and</u> -Delivery of executed Transfer of Title, final documentation and maintenance manual	\$5,000.00	December2023
TOTAL PAYMENTS	\$200,000.00	

Lump sum payments will be made upon reaching the following milestones:

EXHIBIT C

TRANSFER OF TITLE
AND BILL OF SALE

STATE OF _____

CITY / COUNTY OF _____

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, Mythograph, Inc., located at the street address stated below, does hereby sell, transfer and convey to the County Board of Arlington County, Virginia, its assigns and successors, all right, title and interest, with general warranty, in the ownership of the Artwork commissioned by Agreement No. 23-AED-EP-334 executed on _____.

Artwork Title: _____

Artwork Location: 2100 Clarendon Blvd, Arlington, VA 22201

IN WITNESS WHEREOF, Mythograph, Inc., has executed this Transfer of Title and Bill of Sale on this the

_____ day of

_____, 20__.

Contractor's Signature

Contractor's Address

Sworn to and subscribed before me this __ day of _____, 20__.

NOTARY PUBLIC

My Commission Expires: _____
(NOTARY SEAL)