

## AGREEMENT

Town of Gilbert Arts, Culture and Tourism Commission  
“Open Seating” Bench Project:  
Artistic Enhancement of Community Benches as Public Art

A. The Town of Gilbert Arts, Culture and Tourism Commission (“Commission”) has been authorized to implement the “Open Seating” Bench Project (“Project”) and intends to contract with artists to create art for benches to be used by the public; the benches for the Project will be paid for through private sponsors.

B. The Town of Gilbert, Arizona (“Gilbert”) contracts with \_\_\_\_\_ (“Artist”) as an Independent Contractor to provide artwork for the Project as described in this Agreement.

C. Artist declares that Artist is engaged in an independent business and has complied with all federal, state and local laws regarding business permits and licenses of any kind that may be required to carry out the said business and the tasks to be performed under this agreement.

D. Artist declares that Artist holds services out to the public as a separate business entity from Gilbert and is not in business for the purpose of providing services solely to Gilbert.

Therefore, in consideration of the foregoing representations and the following terms and conditions, the parties agree:

1. **SERVICES.** Gilbert engages Artist to perform the services described on Exhibit A. Artist understands and agrees that Artist is being placed on a list of artists who have been selected by the Commission and that sponsors of the Project will select an artist for the bench sponsored by that sponsor. There is no guarantee that Artist will be selected to create the artwork for any bench or for a particular bench.

2. **PAYMENT.** Gilbert shall pay Artist a stipend of \$500 for the services described on Exhibit A. Such stipend shall be paid for each bench for which Artist creates artwork.

3. **INSTRUMENTALITIES.** Artist shall supply all equipment, tools, materials and supplies to accomplish the designated tasks except as described in Exhibit A.

4. **PAYROLL OR EMPLOYMENT TAXES.** No payroll or employment taxes of any kind shall be withheld or paid with respect to payments to Artist. The payroll or employment taxes that are the subject of this paragraph include but are not limited to FICA, FUTA, federal personal income tax, state personal income tax, state disability insurance tax, and state unemployment insurance tax. Artist shall be responsible for any payroll or employment taxes of Artist’s employees, if any.

5. OTHER TAXES. Artist shall be responsible for payment of all taxes related to the provisions of the services described on Exhibit A.

6. WORKERS' COMPENSATION. No workers' compensation insurance has been or will be obtained by Gilbert on account of Artist or Artist's employees. Artist shall comply with the workers' compensation laws with respect to Artist and Artist's employees.

7. INDEMNIFICATION. Artist agrees to indemnify and hold harmless Gilbert and all of its officers and employees for all acts or failure to act of any kind or nature by Artist or anyone under Artist's control or supervision for any and all claims or causes of action arising from services performed or to be provided or performed under this Agreement to the full extent permitted by law, including but not limited to the application of the Fair Labor Standards Act, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the Internal Revenue Code, the Immigration and Naturalization Act, Arizona revenue and taxation laws, Arizona Workers' Compensation Law, and Arizona Unemployment Insurance Law.

8. IMMIGRATION LAW COMPLIANCE WARRANTY. Artist warrants its compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). Artist further warrants that after hiring an employee, Artist verifies the employment eligibility of the employee through the E-Verify program. A breach of this warranty shall be deemed a material breach of the Agreement that is subject to penalties up to and including termination of the Agreement. Gilbert shall have the right to conduct an audit to ensure that the Artist is complying with the warranty.

9. SUDAN AND IRAN. Artist warrants that he/she does not have scrutinized business operations in Sudan or Iran, as prohibited by A.R.S. §§ 35-391.06 and 35-393.06, and further acknowledge that any subcontractor who is contracted by Artist to perform work pursuant to this Agreement shall warrant that they do not have scrutinized business operations in Sudan or Iran.

Agreed to this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, at Gilbert, Arizona.

TOWN OF GILBERT

ARTIST:

\_\_\_\_\_

By (name): \_\_\_\_\_

Title: \_\_\_\_\_

SS or Fed ID (required) \_\_\_\_\_

APPROVED:

\_\_\_\_\_  
Finance and Management Services Director

EXHIBIT A  
SCOPE OF WORK

1. If selected by a sponsor of a bench for the Project, Artist shall work collaboratively with the sponsor to create artwork for the bench.
  
2. The artwork is expected to inspire, engage, excite and intrigue members of and visitors to the Town of Gilbert. Artwork shall be:
  - Suitable for public viewing and use
  - Free of advocacy messaging
  - Free of unsafe conditions
  - Durable and low maintenance
  - Artist agrees to allow ACT Commission and assigned sponsor to participate in design development process - sponsor to approve final design
  - Artist agrees to work within parameters of ACT Commission project process
  - Artist agrees to work under the direction of bench manufacturer as it relates to application and protection of artwork
  - Considerations taken for natural and built environment surrounding particular site as assigned
  
3. Artist shall assign all rights to the artwork to the Town of Gilbert prior to commencement of construction of any bench. Failure to do so will result in the artwork not being used and the stipend not being paid.

