

ARTIST'S COMMISSION

THIS AGREEMENT is entered into this _____ day of _____, 2016, between the City of Columbia, Missouri, a constitutional charter city ("City") and Madeleine LeMieux ("Artist").

NOW, THEREFORE, City and Artist, in consideration of the mutual covenants and agreements, herein agree as follows:

1. COMMISSION

Artist is commissioned to render in paint or other City approved medium of the Artist, on a traffic signal cabinet at 10th and Walnut substantially as described in approved design concept.

2. SITE COMPATIBILITY

- a. Artist will meet with the city designated project manager as necessary on all matters connected with carrying out Artist's services.
- b. Artist acknowledges, and accepts, that the traffic signal cabinet is functional equipment with a limited lifetime and may be repaired or removed from service at any time for any reason. City may use the traffic cabinet for any purpose, no purpose or dispose of the traffic cabinet as necessary. Artist waives any and all Moral rights to the art work.
- c. The Artist will use, according to instructions, primer and sealer as provided by the City.
- d. Any disagreements between the city designated project manager and Artist will be referred to the City Manager for a decision. The City Manager's decision shall be final.

3. TIME

Artist will begin work as soon as practical after the execution of this agreement and shall have completed and installed the work by October 31, 2016.

4. WARRANTIES

- a. Artist represents and warrants that the work is solely the result of the artistic effort of Artist and is original and unique to the Artist, does not infringe upon any copyright, has not been sold elsewhere in its traffic box layout design and is free from any liens.
- b. Artist represents and warrants that the work will be durable, executed and fabricated in a workmanlike manner and will be free from defects in material and workmanship including defects known as "inherent vice" or qualities which cause or accelerate deterioration of the work.
- c. If within one year of the date of final acceptance, the work exhibits any structural or cosmetic defect or flaw, Artist will repair the work or replace any defective component of the work at no cost to City. All repairs or cures to defects shall be consistent with professional conservation standards.

5. FINAL ACCEPTANCE AND TITLE

- a. Upon the work being installed and completed to Artist's satisfaction, City shall inspect the work and present the Artist with a detailed listing of any observed flaws. When City is satisfied with the work, City shall notify Artist of its final acceptance of the work.
- b. Upon final acceptance, title to the work shall pass to City. Thereafter, City shall retain all written documentation regarding the work and shall have the right to a copy of all

drawings, sketches and designs of the work for maintenance and historical documentation purposes only.

6. **PAYMENT**

- a. City agrees to pay Artist a commission in the sum of \$1500.00 for the execution of the work and all rights granted herein. The Artist may request an allowance for materials of up to \$500.00. The total budget for each traffic signal cabinet shall not exceed \$2000.00. The commission shall be full compensation for the work, all rights granted, services rendered, travel and all supplies, materials and equipment used by Artist to design, execute, fabricate and install the work. The commission and any claimed allowance for materials shall be paid to Artist within thirty (30) days following the final acceptance of the work on site.

7. **COPYRIGHT**

- a. Artist agrees that City owns the original work of art substantially as described in the design concept. Artist agrees that this work shall be a unique example of Artist's work and Artist shall not anywhere else produce such work in a traffic box layout format, without the express written consent of City. Artist can make copies, including those for sale, of the specific traffic box artwork provided City is credited with commissioning the original work.
- b. Artist grants City an irrevocable license to make two-dimensional reproductions of the work for non-commercial purposes, including but not limited to reproductions used in advertising, brochures, media, publicity and catalogues.

8. **INSURANCE AND INDEMNIFICATION**

- a. Artist shall take out and maintain during the life of this contract such comprehensive general liability insurance as shall protect Artist and City, its employees and any officers, agents, and subcontractors performing work covered by this contract, from claims for damages for personal injury including accidental death, as well as from claims for property damages, which may arise from operations or work under this Agreement, whether such operations or work be by Artist, City, its employees, officers or agents, or by any subcontractor or by anyone directly or indirectly employed by them. The amounts of insurance shall be not less than \$500,000 combined single limit for any one occurrence covering both body injury and property damage, including accidental death.
- b. The Artist shall furnish City with certificates of insurance which name City as additional insured in an amount as required above and requiring a thirty (30) day mandatory cancellation notice. In addition, such insurance shall be on an occurrence basis and shall remain in effect until such time as City has made final acceptance of the work.
- c. Artist shall at all times hereafter defend, indemnify and hold harmless City, its officers, agents, employees, against any and all claims, costs, losses and liabilities of any kind, caused by acts or omissions of Artist, its employees or agents, or accruing, resulting from, or related to the subject matter of this Agreement including, without limitation, any and all claims, demands, or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property. Any sums due Artist under this Agreement may be retained by City until any claim made against City subject to this section has been settled or otherwise resolved; and any amount withheld shall not be subject to payment of

interest by City.

- d. The parties agree that obligations under sections 8, 5 and 4 shall survive the completion or termination of this Agreement.

9. ENTIRE AGREEMENT

This writing embodies the entire agreement and understanding between the parties and there are no other agreements or understandings, oral or written, with reference to the subject matter herein between the parties.

10. GOVERNING LAW

This agreement shall be governed by and construed in accordance with the laws of the State of Missouri.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF COLUMBIA, MISSOURI

By: _____
Michael Matthes, City Manager

ATTEST:

Sheela Amin, City Clerk

APPROVED AS TO FORM:

Nancy Thompson, City Counselor

By: _____
Madeleine LeMieux, Artist

CERTIFICATION: I hereby certify that the above expenditure is within the purpose of the appropriation to which it is charged, Account No.110-4630-544-49-90, and that there is an unencumbered balance to the credit of such appropriation sufficient to pay therefore.

Michele Nix, Director of Finance