

TRAFFIC CONTROL CABINET ARTWORK AGREEMENT

THIS AGREEMENT, entered into this _____ day of _____, 2023, by and between the **City of Orlando**, a municipality duly enacted under the laws of the State of Florida, whose address is 400 South Orange Avenue, Orlando, Florida, 32801, (“City”), and **City District, Inc.**”), a Florida not-for-profit organization, the address of which is 201 S. Orange Ave, Ste 102, Orlando, Florida 32801, (“Organization”) (hereinafter collectively referred to as “the Parties” and singularly as a “Party”).

RECITALS

WHEREAS, Organization is the manager of certain property located in the City of Orlando, the boundaries of which are described in **Exhibit “B”** attached hereto, (hereinafter referred to as “the district” or “the Property”); and

WHEREAS, City owns and maintains traffic control cabinets at certain locations within the district; and

WHEREAS, Organization has requested the City’s approval for painting or wrapping artwork (hereinafter referred to as “Artwork”) on the traffic control cabinets to showcase local artists and to continue the progression of revitalization; and

WHEREAS, it is the Parties’ understanding and assumption that the Organization will select, approve, install, and maintain Artwork on the traffic control cabinets; and

WHEREAS, City and Organization intend, by this Agreement, to confirm Organization’s responsibilities for the installation and maintenance of Artwork on the traffic control cabinets; and

WHEREAS, City and Organization acknowledge that installing and maintaining Artwork on the traffic control cabinets serves a public purpose and benefits the citizens of the City of Orlando by turning blighted elements of the urban streetscape into works of art and thereby reducing graffiti.

WHEREAS, City and Organization acknowledge the equipment contained inside these cabinets are critical to the safe movement of vehicles and pedestrians on City streets, and this equipment must continue to operate without impediment at all times.

WHEREAS, the Parties desire to memorialize their agreement.

WITNESSETH

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Recitals. The above recitals are true and correct and hereby incorporated into the substantive body of this Agreement.

2. Artwork. Organization shall, at its sole cost and expense, install and maintain the Artwork on the traffic control cabinets located at the intersections set forth in **Exhibit “A”**, which is attached hereto and incorporated herein. Such installation and maintenance shall be consistent with all applicable laws, codes, rules, regulations, and this Agreement. The Artwork shall not operate as a sign, as defined under Chapters 64 and 66 of the Orlando City Code, and it shall not contain any nude images, religious symbols, political messages, images of a living person, or resemble graffiti. The Organization or Artwork shall not interfere with the traffic control equipment located inside the cabinet and all vents, access panels, electrical connections, and key holes shall remain clear with no blockage and no overspray from paint. The Organization will not have access to the inside of the cabinet or be able to work on the cabinet while the cabinet doors are open. If there is a City identification sticker on the traffic control cabinet, the Organization shall not remove and Artwork shall not cover the sticker. If the cabinet does not contain a City identification sticker, the City maintains the right to place a sticker on the cabinets even if Artwork has already been installed on the cabinet. City will attempt to not interrupt the artwork design when deciding on placement of the sticker. **Any and all Artwork must be submitted and approved by the City prior to the execution of this Agreement. No Artwork shall be installed prior to the Effective Date of this Agreement.**

3. City Inspection. The Organization will notify the Traffic Signal Maintenance shop (407-246-2617) at least 48 hours before beginning installation or maintenance of Artwork at each location and at the completion of such work at each location. City shall have the right to inspect the traffic control cabinets at any time. If the City determines, in its reasonable discretion, that the cabinets or Artwork are not being properly maintained, City shall notify Organization in writing of said determination and of the appropriate repair or maintenance activities Organization must undertake consistent with all applicable laws, codes, regulations, and this Agreement. Organization shall have thirty (30) days to make said repairs or accomplish said maintenance activities, after which the City may do so and invoice the Organization for the costs. If Organization fails to pay the invoices within thirty (30) days of receipt thereof, the City may enforce the payment as provided by law. If the cabinet is damaged, the City shall have the right to replace the cabinet even if Artwork has already been installed on the cabinet. City, the Florida Department of Transportation, or either one of their respective contractors may also conduct emergency or routine repairs or maintenance of components inside the traffic control cabinets without prior notice to Organization. City shall not be responsible for replacing Artwork or for

any damages to Artwork as a result of such emergency or routine repairs or maintenance of the traffic control cabinets.

4. Insurance. Organization shall possess and maintain, at all times during the installation and maintenance of the Artwork general liability insurance in the amount of at least \$1,000,000, in order to protect the City from any liability, claims, damages, losses or expenses arising from or out of in any way connected with installation or maintenance of the Artwork on the traffic control cabinets. City shall be listed as an additional insured on the general liability policy. Organization shall provide proof of such insurance prior to the initiation of any installation activity and such insurance shall be maintained for the duration of this Agreement.

5. Indemnification. The Organization agrees that it shall release, indemnify, defend and hold harmless the City, their representatives, employees and elected and appointed officials from and against all claims, damages, loss and expenses of any sort including reasonable attorneys' fees and costs including appeals, arising out of or resulting from any tort, intentional action, negligent act or omission of the Organization, its tenants, agents, contractors, subcontractors, or anyone for whose act or acts any of them may be liable, for acts or omissions resulting from the installation, maintenance, or repair of the Artwork.

6. No Waiver of Regulatory Authority/No Vesting. This Agreement does not constitute a waiver of the City's regulatory authority and the Property remains subject to all applicable laws, rules, codes and regulations. This Agreement does not operate to vest any interest or right whatsoever.

7. Release. Organization hereby releases the City, their representatives, employees and elected officials from any and all damages, claims, or liability, with respect to the Artwork that may arise due to the City's operation and maintenance of the traffic control cabinets.

8. Priority of Traffic Control Cabinets. The Artwork shall not be installed and maintained in such a manner so as to interfere, in any way, with the City's operation or maintenance of the traffic control cabinets, or any public or general utility improvements located thereon.

9. VARA Waiver. The Organization shall have the artist responsible for the creation, design, and installation of the Artwork execute the waiver attached hereto as **Exhibit "C"** in accordance with the Visual Artists Rights Act of 1990, 17 U.S. Code §106A(e)(1), prior to or simultaneously with the Organization's execution of this Agreement. A separate executed waiver is required for each traffic control cabinet listed in **Exhibit "A"**. In the case of Artwork prepared by two or more artists, a waiver made by one artist waives such rights for all such artists.

10. Removal, Relocation, or Modification of Artwork. It is understood between the Parties that the Artwork may need to be removed, relocated or modified at any time in the future as determined to be necessary by the City. If the City determines that the Artwork needs to be removed, the Organization shall be given sixty (60) calendar days notice to remove the Artwork after which time the City may remove the same and invoice the Organization for the costs. If the City has to replace the traffic control cabinet because of damage or malfunction, the Organization may re-install the same Artwork on the replacement cabinet within the term of this Agreement.

However, if the Organization wants to install new Artwork on the replacement cabinet, then this Agreement shall be amended pursuant to Paragraph 12 herein and a new waiver shall be executed and attached thereto in accordance with Paragraph 9. If the City or the Organization determines that the Artwork needs to be modified in any way or relocated to another traffic control cabinet, then this Agreement shall be amended pursuant to Paragraph 12 herein and a new waiver shall be executed and attached thereto in accordance with Paragraph 9. **The Organization shall make no changes to Artwork that is already installed unless the City is first notified and the terms of this provision are met.**

11. Notices. Any notices which may be permitted or required hereunder shall be in writing and shall be deemed to have been duly given as of the date and time the same are personally delivered, transmitted electronically or within three (3) days after depositing with the United States Postal Service, postage prepaid by registered or certified mail, return receipt requested, or within one (1) day after depositing with Federal Express or other overnight delivery service from which a receipt may be obtained, and addressed as follows:

City: City of Orlando, Florida
400 South Orange Avenue
Orlando, Florida 32801
Attn: Transportation Engineer
Telephone: (407) 246-3222
Telecopy: (407) 246-2266

Organization: City District, Inc.
Attn: Executive Director
100 E. Pine Street, Ste 110
Orlando, Florida 32801
Email: executivedirector@citydistrictorlando.com

or to such other address as either party hereto shall from time to time designate to the other party by notice in writing as herein provided.

12. Modification. This Agreement may not be amended, modified, altered, or changed in any respect whatsoever, except by a further Agreement in writing duly executed by the Parties.

13. Successors and Assigns. The terms and conditions of this Agreement shall constitute covenants running with the land, and all rights and privileges granted herein shall be appurtenant to the lands herein described, and, except as hereinafter set forth, shall run with said lands forever and be binding upon and inure to the benefit of and be enforceable by the heirs, legal representatives, successors and assigns of the Parties hereto and shall continue in perpetuity, unless otherwise modified in writing by the Parties hereto. All obligations of the Parties hereunder shall be binding upon their respective successors-in-title and assigns. Organization shall not assign its interest in this Agreement without the prior written consent of the City.

14. Entire Agreement. This Agreement constitutes the entire agreement between the Parties hereto with respect to the transactions contemplated herein, and it supersedes all prior understandings or agreements between the Parties.

15. Attorneys' Fees. In the event of any dispute regarding this Agreement, each party shall be responsible for its attorneys' fees, expert's fees and costs.

16. Relationship Between the Parties. Nothing contained in this Agreement, nor the relationship between the Parties which may arise as a result of the provisions of this Agreement, are intended to, or shall be construed as, creating a partnership, joint venture, or other such relationship as between the Parties.

17. Section Headings. The section headings as used herein are for convenience of reference only and shall not be deemed to vary the content of this Agreement or the covenants, agreements, representations and warranties herein set forth, or limit the provisions or scope of any section herein.

18. Severability. This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If any provision of this Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

19. Counterpart Execution. This Agreement may be executed in counterparts, each of which shall constitute an original, but all taken together shall constitute one and the same instrument.

20. Termination. Unless this Agreement is terminated pursuant to Paragraph 21 herein, or this Agreement expires on its own terms, the Organization or City may terminate this Agreement at any time and for any reason, including failure to maintain proof of insurance as required in Paragraph 4 herein, upon thirty (30) days written notice to the non-terminating party. In the event of termination by either Party, or the Agreement expires on its own terms, the Organization shall remove any and all Artwork installed by the Organization within thirty (30) days of the date of mailing of the written notice, whether or not the notice is received, or within thirty (30) days of the date this Agreement expires, unless the City agrees in writing to the abandonment and acceptance of the Artwork so installed. If the Organization fails to remove said Artwork within the above-described timeframe, the City may remove the Artwork and invoice the Organization for the costs.

21. Default. The Organization's failure to comply with any of the terms and conditions of this Agreement shall constitute an Event of Default. Upon the occurrence of such an event, or any other breach of this Agreement, the City shall have the authority to immediately terminate this Agreement and/or exercise all rights and remedies available to it under the terms of this Agreement under statutory law or common law.

22. No Waiver. The continued performance by either Party hereto, pursuant to the terms of this Agreement, after an Event of Default shall not be deemed a waiver of any rights by

the City. Furthermore, the waiver of any default by the City shall in no event be construed as a waiver of rights with respect to any other default, past or present.

23. Dissolution of Organization. If the Organization should dissolve, the City shall deem the cabinets indicated on **Exhibit “A”** and any Artwork installed thereon abandoned as of the date of Organization’s dissolution, and City may either accept the Artwork or remove the Artwork at its own cost.

24. Governing Law. This Agreement shall be governed by and construed under the laws of the State of Florida.

25. License. This Agreement constitutes a License and does not rise to the level of a real property interest in the area in which the traffic control cabinets are located.

26. Term. Unless earlier terminated, this Agreement shall remain in effect for the period of three (3) years commencing on the Effective Date of this Agreement and may be renewed for two (2) additional years at the discretion of the City’s Transportation Engineer for the same artwork on the same cabinet(s).

27. Effective Date. This Agreement shall be effective on the date it is last executed by a Party.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date set forth above.

THE CITY OF ORLANDO, FLORIDA

City Transportation Engineer

Date

ATTEST:

Orlando City Clerk

The foregoing Traffic Control Box Artwork Agreement is approved as to form and legality for the use and reliance of the City:

Assistant City Attorney

CITY DISTRICT INC., a Florida non-profit corporation,

By: _____

Title: _____

WITNESS:

Print Name: _____

STATE OF FLORIDA
COUNTY OF ORANGE

PERSONALLY APPEARED, before me by means of [] physical presence or [] online notarization the undersigned authority, _____, who is the _____ of City District, Inc. and acknowledged before me that they executed the foregoing instrument on behalf of said corporation as its true act and deed, and that they were duly authorized so to do. He/she is personally known to me or has produced _____ as identification and did/did not take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this _____ day of _____, 2022.

NOTARY PUBLIC
Print Name: _____
My Commission Expires:

EXHIBIT “A”

**Location Sites of Traffic Signal Cabinets for Art Box Program
CITY DISTRICT INC.**

<u>Signal Number</u>	<u>Intersection</u>
29	E. Washington St. & N. Magnolia Av.
34	W. Washington St. & N. Orange Av.
10	E. Church St. & S. Magnolia Ave.
19 (Box #1)	E. Jefferson St. & N. Magnolia Av.
19 (Box #2)	E. Jefferson St. & N. Magnolia Av.
4	E. Anderson St. & S. Magnolia Av.
5 (Box #1)	E. Anderson St. & S. Orange Av.
5 (Box #2)	E. Anderson St. & S. Orange Av.

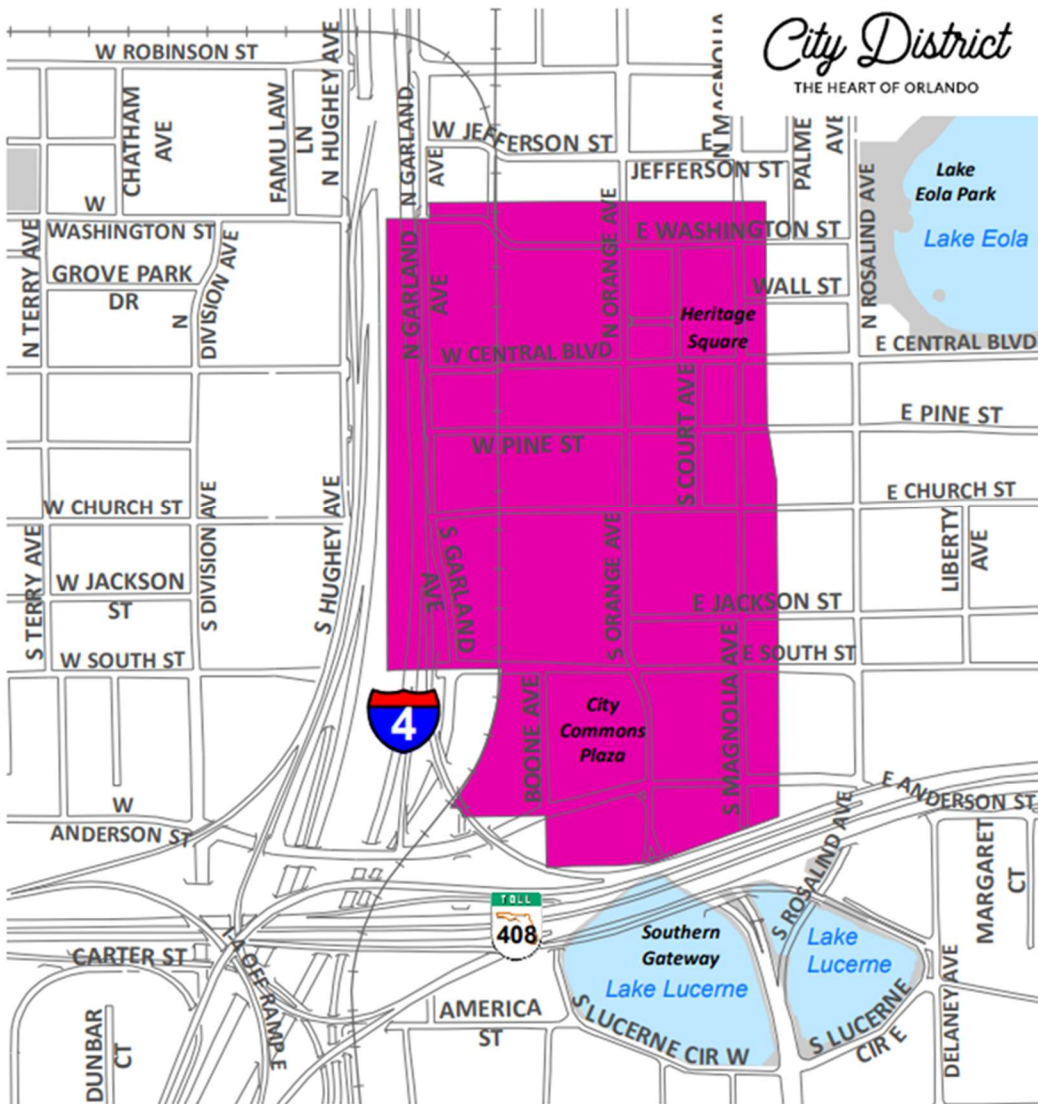
EXHIBIT “B”



**City District
Main Street Program**



City District
THE HEART OF ORLANDO



 City District



EXHIBIT “C”

**WAIVER OF RIGHTS OF ATTRIBUTION
AND INTEGRITY BY ARTIST**

The Artwork provided to the City by the undersigned artist pursuant to this Agreement is an illustration depicting a man dressed in typical tourist clothes wearing a hat and sunglasses holding up a smart phone in the foreground. This Artwork will be implemented by the undersigned artist on the traffic control cabinet located at the intersection of 111 E Washington St, Aspire Bldg. The work is and will be used for public art, civic beauty and promotion, economic development, and public education. The above-described Artwork may be considered a “work of visual art” under the Visual Artists Rights Act of 1990 (17 U.S. Code § 106A). As the author of the Artwork, the undersigned artist, pursuant to 17 U.S. Code § 106A(e)(1), hereby voluntarily, expressly, permanently, and irrevocably waives the rights of attribution and integrity conferred by 17 U.S. Code § 106A(a). Additionally, the undersigned artist hereby voluntarily, expressly, permanently, and irrevocably waives all other rights of attribution and integrity that may arise under other federal, state, local, or foreign law. This waiver survives termination of this Agreement.

Signature of Artist

Print Name

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing waiver was acknowledged before me by means of physical presence or online notarization this ____ day of _____, 2023, by _____. He/she is personally known to me or has produced _____ as identification.

NOTARY PUBLIC
My commission expires:

**WAIVER OF RIGHTS OF ATTRIBUTION
AND INTEGRITY BY ARTIST**

The Artwork provided to the City by the undersigned artist pursuant to this Agreement is an illustration inspired by the art of Chinese paper cutting. This Artwork will be implemented by the undersigned artist on the traffic control cabinet located at the intersection of N.W Corner E. Jackson & Magnolia Ave. The work is and will be used for public art, civic beauty and promotion, economic development, and public education. The above-described Artwork may be considered a “work of visual art” under the Visual Artists Rights Act of 1990 (17 U.S. Code § 106A). As the author of the Artwork, the undersigned artist, pursuant to 17 U.S. Code § 106A(e)(1), hereby voluntarily, expressly, permanently, and irrevocably waives the rights of attribution and integrity conferred by 17 U.S. Code § 106A(a). Additionally, the undersigned artist hereby voluntarily, expressly, permanently, and irrevocably waives all other rights of attribution and integrity that may arise under other federal, state, local, or foreign law. This waiver survives termination of this Agreement.

Signature of Artist

Print Name

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing waiver was acknowledged before me by means of [] physical presence or [] online notarization this _____ day of _____, 2023, by _____.
He/she is personally known to me or has produced _____ as identification.

NOTARY PUBLIC
My commission expires:

**WAIVER OF RIGHTS OF ATTRIBUTION
AND INTEGRITY BY ARTIST**

The Artwork provided to the City by the undersigned artist pursuant to this Agreement is an illustration depicting a Mediterranean-style house. This Artwork will be implemented by the undersigned artist on the traffic control cabinet located at the intersection of N.W. corner of Washington & Orange [D'Olive Bld.]. The work is and will be used for public art, civic beauty and promotion, economic development, and public education. The above-described Artwork may be considered a “work of visual art” under the Visual Artists Rights Act of 1990 (17 U.S. Code § 106A). As the author of the Artwork, the undersigned artist, pursuant to 17 U.S. Code § 106A(e)(1), hereby voluntarily, expressly, permanently, and irrevocably waives the rights of attribution and integrity conferred by 17 U.S. Code § 106A(a). Additionally, the undersigned artist hereby voluntarily, expressly, permanently, and irrevocably waives all other rights of attribution and integrity that may arise under other federal, state, local, or foreign law. This waiver survives termination of this Agreement.

Signature of Artist

Print Name

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing waiver was acknowledged before me by means of [] physical presence or [] online notarization this _____ day of _____, 2023, by _____.
He/she is personally known to me or has produced _____ as identification.

NOTARY PUBLIC
My commission expires:

**WAIVER OF RIGHTS OF ATTRIBUTION
AND INTEGRITY BY ARTIST**

The Artwork provided to the City by the undersigned artist pursuant to this Agreement is an illustration depicting astronauts and space. This Artwork will be implemented by the undersigned artist on the traffic control cabinet located at the intersection of Anderson St. and Magnolia Ave. The work is and will be used for public art, civic beauty and promotion, economic development, and public education. The above-described Artwork may be considered a “work of visual art” under the Visual Artists Rights Act of 1990 (17 U.S. Code § 106A). As the author of the Artwork, the undersigned artist, pursuant to 17 U.S. Code § 106A(e)(1), hereby voluntarily, expressly, permanently, and irrevocably waives the rights of attribution and integrity conferred by 17 U.S. Code § 106A(a). Additionally, the undersigned artist hereby voluntarily, expressly, permanently, and irrevocably waives all other rights of attribution and integrity that may arise under other federal, state, local, or foreign law. This waiver survives termination of this Agreement.

Signature of Artist

Print Name

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing waiver was acknowledged before me by means of [] physical presence or [] online notarization this ____ day of _____, 2023, by _____. He/she is personally known to me or has produced _____ as identification.

NOTARY PUBLIC
My commission expires:

**WAIVER OF RIGHTS OF ATTRIBUTION
AND INTEGRITY BY ARTIST**

The Artwork provided to the City by the undersigned artist pursuant to this Agreement is an illustration depicting a landscape of dark greens and aqua hues. This Artwork will be implemented by the undersigned artist on the traffic control cabinet located at the intersection of Anderson Street and Orange Ave. The work is and will be used for public art, civic beauty and promotion, economic development, and public education. The above-described Artwork may be considered a “work of visual art” under the Visual Artists Rights Act of 1990 (17 U.S. Code § 106A). As the author of the Artwork, the undersigned artist, pursuant to 17 U.S. Code § 106A(e)(1), hereby voluntarily, expressly, permanently, and irrevocably waives the rights of attribution and integrity conferred by 17 U.S. Code § 106A(a). Additionally, the undersigned artist hereby voluntarily, expressly, permanently, and irrevocably waives all other rights of attribution and integrity that may arise under other federal, state, local, or foreign law. This waiver survives termination of this Agreement.

Signature of Artist

Print Name

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing waiver was acknowledged before me by means of [] physical presence or [] online notarization this _____ day of _____, 2023, by _____.
He/she is personally known to me or has produced _____ as identification.

NOTARY PUBLIC
My commission expires:

**WAIVER OF RIGHTS OF ATTRIBUTION
AND INTEGRITY BY ARTIST**

The Artwork provided to the City by the undersigned artist pursuant to this Agreement is an illustration depicting an art-pop rendition of landscape elements. This Artwork will be implemented by the undersigned artist on the traffic control cabinet located at the intersection of Anderson Street and Orange Avenue. The work is and will be used for public art, civic beauty and promotion, economic development, and public education. The above-described Artwork may be considered a “work of visual art” under the Visual Artists Rights Act of 1990 (17 U.S. Code § 106A). As the author of the Artwork, the undersigned artist, pursuant to 17 U.S. Code § 106A(e)(1), hereby voluntarily, expressly, permanently, and irrevocably waives the rights of attribution and integrity conferred by 17 U.S. Code § 106A(a). Additionally, the undersigned artist hereby voluntarily, expressly, permanently, and irrevocably waives all other rights of attribution and integrity that may arise under other federal, state, local, or foreign law. This waiver survives termination of this Agreement.

Signature of Artist

Print Name

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing waiver was acknowledged before me by means of [] physical presence or [] online notarization this ____ day of _____, 2023, by _____. He/she is personally known to me or has produced _____ as identification.

NOTARY PUBLIC
My commission expires:

**WAIVER OF RIGHTS OF ATTRIBUTION
AND INTEGRITY BY ARTIST**

The Artwork provided to the City by the undersigned artist pursuant to this Agreement is an illustration depicting a variety of intergalactic and botanical images and elements. This Artwork will be implemented by the undersigned artist on the traffic control cabinet located at the intersection of Church Street and Magnolia Ave. The work is and will be used for public art, civic beauty and promotion, economic development, and public education. The above-described Artwork may be considered a “work of visual art” under the Visual Artists Rights Act of 1990 (17 U.S. Code § 106A). As the author of the Artwork, the undersigned artist, pursuant to 17 U.S. Code § 106A(e)(1), hereby voluntarily, expressly, permanently, and irrevocably waives the rights of attribution and integrity conferred by 17 U.S. Code § 106A(a). Additionally, the undersigned artist hereby voluntarily, expressly, permanently, and irrevocably waives all other rights of attribution and integrity that may arise under other federal, state, local, or foreign law. This waiver survives termination of this Agreement.

Signature of Artist

Print Name

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing waiver was acknowledged before me by means of [] physical presence or [] online notarization this ____ day of _____, 2023, by _____. He/she is personally known to me or has produced _____ as identification.

NOTARY PUBLIC
My commission expires:

**WAIVER OF RIGHTS OF ATTRIBUTION
AND INTEGRITY BY ARTIST**

The Artwork provided to the City by the undersigned artist pursuant to this Agreement is an illustration depicting pixelated images of downtown conversations. This Artwork will be implemented by the undersigned artist on the traffic control cabinet located at the intersection of Magnolia Ave. and Jefferson St. The work is and will be used for public art, civic beauty and promotion, economic development, and public education. The above-described Artwork may be considered a “work of visual art” under the Visual Artists Rights Act of 1990 (17 U.S. Code § 106A). As the author of the Artwork, the undersigned artist, pursuant to 17 U.S. Code § 106A(e)(1), hereby voluntarily, expressly, permanently, and irrevocably waives the rights of attribution and integrity conferred by 17 U.S. Code § 106A(a). Additionally, the undersigned artist hereby voluntarily, expressly, permanently, and irrevocably waives all other rights of attribution and integrity that may arise under other federal, state, local, or foreign law. This waiver survives termination of this Agreement.

Signature of Artist

Print Name

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing waiver was acknowledged before me by means of physical presence or online notarization this ____ day of _____, 2023, by _____. He/she is personally known to me or has produced _____ as identification.

NOTARY PUBLIC
My commission expires: