

AGREEMENT FOR INSTALLATION OF ARTWORK FOR TRAFFIC BOX COMMUNITY ART PROJECT

This AGREEMENT FOR INSTALLATION OF ARTWORK FOR TRAFFIC BOX ART PROJECT (“Agreement”) is made this ____ day of _____, 20____ (“Effective Date”), by and between the City of Meridian, a municipal corporation organized under the laws of the State of Idaho (“City”), and Joshua Binder, (“Contractor”), an individual person and father of Terry Binder (“Artist”).

WHEREAS, as part of the Traffic Box Community Art Project (“Project”), City transforms original artwork into vinyl wraps and, with permission from Ada County Highway District (“ACHD”), covers traffic control boxes throughout Meridian with such wraps, as a benefit to the public;

WHEREAS, Artist’s untimely death at age 16 has profoundly impacted his family, his friends at Meridian High School, and the entire city of Meridian, and in tribute to Terry’s kindness to others, artistic talent, and significance to his Meridian and greater communities, the Meridian Arts Commission (“MAC”) unanimously recommends that a piece of art created by Artist as depicted in *Exhibit A* hereto (“Artwork”), become an installation as part of the Project;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed, the Parties agree as follows:

I. SCOPE.

- A. Delivery of Artwork; purpose.** Contractor shall allow City to temporarily take possession of the original Artwork for the purpose of creating a digital image of the Artwork, printing such image on a vinyl wrap, and installing the vinyl wrap on a traffic control box in Meridian, Idaho. City shall not provide insurance to cover loss, theft, or damage of original Artwork and/or of Contractor’s person, property, or interests. Insurance of Artwork shall be in Contractor’s sole discretion and responsibility. Contractor shall bear any and all risks of and actual loss, theft, and/or damage to the original Artwork.
- B. License; alterations.** Contractor grants to City an irrevocable license to digitally and/or photographically reproduce the image of the Artwork and to authorize third parties to do the same. Contractor acknowledges and agrees that the process of photographing, digitizing, printing, and/or reproducing the image of Artwork on a vinyl wrap or wraps may require that the image, or portions thereof, be cropped, resized, or otherwise altered in order to transfer the image of the original Artwork onto a traffic control box, or for other purpose, in City’s sole discretion.
- C. Payment.** Within thirty (30) days of issuance of invoice by Signs Etc. (910 E. Franklin Road, Suite 102, Meridian, Idaho) for creation and installation of the vinyl wrap, Contractor shall pay Signs Etc., directly and in full, in the amount of five hundred and ninety-one dollars (\$591.00), plus sales tax.
- D. Limited edition.** Contractor warrants and represents that the Artwork has never before been published, produced, reproduced, or copied; that Artist was the sole creator of the Artwork; and that Contractor is the lawful owner of all rights in the Artwork.
- E. Copyright.** Contractor shall not make any claim to the copyright of the Artwork. Contractor

expressly waives any and all right, title, or interest in the images or products created using Artwork. Contractor understands that this waiver includes waivers of the exclusive rights of reproduction, adaptation, publication, and display. Contractor agrees to relinquish and waive any and all rights, title, and interest to the Artwork, images thereof, or images of any portion thereof, including, but not limited to, the rights afforded artists under the Copyright Act of 1976 and the Visual Arts Rights Act of 1990, Title 17 U.S.C. §§ 101 *et seq.* Contractor understands and agrees that the right of attribution and integrity, as specifically set forth in 17 U.S.C. § 106A, are hereby expressly waived except as otherwise provided herein. To the extent that the provisions of this Agreement differ with the Copyright Act of 1976 and Visual Arts Rights Act of 1990, the provisions of this Agreement will govern and any such differences in the rights and duties created thereunder are expressly waived.

- F. Ownership.** City shall own the digital image created from Artwork and any portion or product thereof, including the vinyl wrap or wraps created therefrom. City shall also own the copyright to Artwork and any product or component thereof, including the vinyl wrap or wraps created therefrom. The installation location(s) of the vinyl wrap(s) created from Artwork will be near Ten Mile Road and Pine Avenue. Once installed, City or other duly authorized party may modify or remove, or allow modification or removal of same, in City's or other applicable agency's sole discretion. Contractor specifically waives the right to claim any remedy concerning the alteration of any image of Artwork or portion thereof, including the vinyl wrap or wraps created therefrom.
- G. Duration of vinyl wrap.** It is understood by the Parties that while the expected duration of the installed vinyl wrap is at least five (5) years, the vinyl wrap may be removed from the traffic box at any time with no notice, due to damage or at the discretion of City or ACHD. Once removed, City shall not be obligated to replace or reinstall the vinyl wrap.
- H. Photographs.** Contractor consents to City's publication and/or use of photographs or recordings of Artist, Artwork, derivative works created using Artwork, and/or the vinyl wrap for promotional purposes.

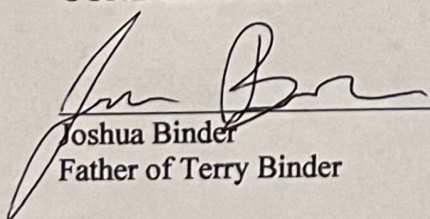
II. TERMS AND CONDITIONS

- A. Acknowledgment.** Contractor acknowledges that activity undertaken in conjunction with this Agreement presents risks, some of which are unknown, and agrees to assume all such risks.
- B. Indemnification; waiver.** Contractor shall indemnify, save and hold harmless, release and forever discharge City and its agents and employees from and for any and all losses, claims, actions, judgments for damages, or injury to persons or property and losses and expenses caused or incurred by Contractor in the course of any activity associated with this Agreement not caused by or arising out of the tortious conduct of City, regardless of the manner by which such claim may be brought.
- C. Relationship of Parties.** Contractor is an independent contractor and is not an employee, agent, joint venturer, or partner of City. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between Contractor and City or any official, agent, or employee of City.

- D. **Nonpayment.** In the event that Signs, Etc. does not receive full and timely payment for creation and installation of the vinyl wrap, this Agreement shall expire and the Parties shall have no further dealing hereunder.
- E. **Entire Agreement.** This Agreement constitutes the entire understanding between the Parties. This Agreement supersedes any and all statements, promises, or inducements made by either party, or agents of either party, whether oral or written. The terms of this Agreement may not be enlarged, modified or altered except upon written agreement signed by both parties hereto.
- F. **Agreement governed by Idaho law.** The laws of the State of Idaho shall govern the validity, interpretation, performance and enforcement of this Agreement. Venue shall be in the courts of Ada County, Idaho.
- G. **Severability.** If any provision of this Agreement is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this Agreement shall not be affected.
- H. **Successors and assigns.** All of the terms, provisions, covenants and conditions of this Agreement shall inure to the benefit of, and shall be binding upon, each party and their successors, assigns, legal representatives, heirs, executors, and administrators.
- I. **Advice of attorney.** Each party warrants and represents that in executing this Agreement, it has received independent legal advice from its attorneys or the opportunity to seek such advice.
- J. **Compliance with law.** Contractor shall comply with any and all applicable federal, state, and local laws.
- K. **City Council approval required.** The validity of this Agreement shall be expressly conditioned upon City Council action approving the Agreement. Execution of this Agreement by the persons referenced below prior to such ratification or approval shall not be construed as proof of validity in the absence of Meridian City Council approval.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the Effective Date first written above.

CONTRACTOR:


Joshua Binder
Father of Terry Binder

CITY OF MERIDIAN:

BY: _____
Robert Simison, Mayor

Attest: _____
Chris Johnson, City Clerk

EXHIBIT A

