

MEMORANDUM OF AGREEMENT FOR INSTALLATION OF PUBLIC ARTWORK ON TRANSIT STOP SHELTERS IN THE CITY OF MERIDIAN

This MEMORANDUM OF AGREEMENT FOR INSTALLATION OF PUBLIC ARTWORK ON TRANSIT STOP SHELTERS IN THE CITY OF MERIDIAN (“Agreement”) is made and entered into this ____ day of _____, 2023 (“Effective Date”), by and between Valley Regional Transit, a regional public transportation authority established pursuant to the laws of the state of Idaho (“VRT”), and the Meridian Arts Commission, by and through the City of Meridian, a municipal corporation established pursuant to the laws of the state of Idaho (“City”) (together, “Parties”).

WHEREAS, pursuant to Title 40, Chapter 21, Idaho Code, VRT provides public transportation services and support functions to City;

WHEREAS, pursuant to Idaho Code section 40-2109(4), VRT owns and operates bus stop shelters within the City of Meridian, for the support of a safe and efficient public transportation system;

WHEREAS, the City desires that public art will be a component of the Meridian community, and by this Agreement, the Meridian Arts Commission (“MAC”) and VRT will partner to display Public Artworks on transit stop shelters (“Shelters”) in Meridian, in the form of original artwork, selected by MAC and printed on vinyl wraps, to be installed on such Shelters (“Transit Stop Public Artworks”), as a benefit to the public;

WHEREAS, the respective governing boards of VRT and City find the partnership set forth in this Agreement to be in the best interest of the public;

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

I. VRT’S RESPONSIBILITIES

- A. **Partner with City.** VRT shall participate in the process of installing Transit Stop Public Artwork on Shelters in Meridian as set forth in *Exhibit A*, to include identifying Shelters suitable for display of a Public Artwork and notifying City’s Arts & Culture Coordinator of the location, measurements, and any other pertinent information regarding such Shelters; and, upon City’s request, providing feedback on the requests for qualifications or proposals or calls to artists drafted by City seeking responses from artists qualified to and interested in preparing designs for Transit Stop Public Artwork.
- B. **License conveyed.** Subject to the terms and conditions of this Agreement, VRT hereby extends to City a license to adhere Transit Stop Public Artwork to Shelters in Meridian, and to maintain such Transit Stop Public Artwork as set forth herein. The license conveyed by VRT to City shall be limited to these purposes and no others. City acknowledges and agrees that the license granted herein is temporary, non-transferable and merely a permissive use of the Shelters pursuant to this Agreement. City specifically assumes the risk that the license

conveyed by this Agreement may be terminated before City has realized the economic benefit of the cost of installing Transit Stop Public Artwork on Shelters, and City hereby waives and estops itself from asserting any claim that the license is in any way irrevocable because City has expended funds on the Transit Stop Public Artwork and the Agreement has not been in effect for a period sufficient for City to realize the economic benefit from such expenditures.

- C. **Shelter improvements.** This Agreement is not intended to, and shall not, preclude or impede the ability of VRT to repair, relocate, maintain, or improve the Shelters as VRT determines, in its sole discretion, is appropriate. Where feasible, VRT shall provide notice to City of repair, relocation, maintenance, or improvement of any Shelter featuring Transit Stop Public Artwork.
- D. **VRT Contact.** VRT shall designate an individual to serve as VRT Contact, which individual shall consult with City as requested throughout the design and installation of the Transit Stop Public Artwork, and shall be authorized to make decisions on behalf of VRT related to design and installation of the Public Artwork.
- E. **Process.** VRT has reviewed, acknowledges, understands, and agrees to participate in the partnership process as generally set forth in *Exhibit A* hereto.

II. CITY'S RESPONSIBILITIES.

- A. **Partner with VRT.** City shall participate in the process of installing a Transit Stop Public Artwork on Shelters in Meridian as set forth in *Exhibit A*.
- B. **City Contact.** Unless otherwise designated by City, the Arts & Culture Coordinator shall serve as City Contact, and shall consult and liaise with VRT and Artist throughout the design and installation of the Transit Stop Public Artwork, and shall be authorized to make decisions on behalf of City related to its design and installation.
- C. **Process.** City has reviewed, acknowledges, understands, and agrees to participate in the partnership process as generally set forth in *Exhibit A* hereto.
- D. **Payment for Artwork.** City shall contract with the vinyl vendor to create and install the Transit Stop Public Artwork, and shall pay all associated costs.
- E. **Maintenance.** City shall have the sole right and responsibility to to execute, and to pay for, all necessary maintenance and repair of the Transit Stop Public Artwork. Such maintenance shall not interfere with the normal operations of the Shelter or inhibit the public access to or use of the Shelter. City may determine, in its sole discretion, that the Public Artwork is damaged beyond feasible repair, and may remove the Public Artwork, with thirty (30) days' notice to VRT. VRT shall notify City if VRT perceives a need to maintain or repair the Transit Stop Public Artwork.

III. GENERAL PROVISIONS.

- A. City and VRT Contacts.** The Parties hereby designate the following individuals to serve as the City Contact and VRT Contact, respectively:

City Contact:

Cassandra Schiffler, Arts & Culture Coordinator
cschiffler@meridiancity.org
208-884-5533

VRT Contact:

Jason Rose, Communications Director
jrose@ridevrt.org
208-258-2739

Either Party may designate a new Contact by notifying the other Contact by the manner set forth in this provision.

- B. Notice.** Communication between City Contact and VRT Contact may occur via e-mail or telephone. All other notices required to be given by either of the Parties hereto shall be in writing and be deemed communicated when personally served, or mailed in the United States mail, addressed as follows:

If to City:

City Clerk, City of Meridian
33 E. Broadway Avenue
Meridian, Idaho 83642

If to VRT:

Communications Department
Valley Regional Transit
700 NE 2nd St., Suite 100
Meridian, ID 83642

- C. Term.** This Agreement begins immediately upon the Effective Date and shall automatically renew annually, unless terminated as set forth herein.
- D. Non-appropriation.** Notwithstanding any other provision of this Agreement, City shall not be obligated by any provision of this Agreement unless and until the Meridian City Council appropriates adequate funds for the activities contemplated in this Agreement in the City's budget for the applicable fiscal year. In the event that funds necessary to meet City's obligations under this Agreement are not appropriated, this Agreement shall be terminated. City shall notify VRT of any such non-appropriation of funds at the earliest practicable date.
- E. Assignment.** Neither party shall assign or sublet all or any portion of its respective interest in this Agreement or any privilege or right hereunder, either voluntarily or involuntarily, without the prior written consent of the other party. This Agreement and each and all of the terms and conditions hereof shall apply to and are binding upon the respective organizations, legal representative, successors, and assigns of the Parties.
- F. No agency.** For purposes of or in furtherance of this Agreement, neither party nor its respective employees, agents, contractors, officials, officers, servants, guests, and/or invitees shall be considered agents of the other in any manner or for any purpose whatsoever.
- G. Hold harmless.** For purposes of or in furtherance of this Agreement, each party and each of its employees, agents, contractors, officials, officers, servants, guests, and/or invitees, shall save and hold harmless the other party 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 either party or any employee, agent, contractor, official, officer, servant, guest,

and/or invitee thereof associated with this Agreement, the license granted herein, and/or any Transit Stop Public Artwork designed or installed pursuant hereto.

H. Compliance with laws. In performing the scope of services required hereunder, City and VRT shall comply with all applicable laws, ordinances, and codes of Federal, State, and local governments.

I. Force majeure. Neither Party will be liable for failure to perform any duty under this Agreement where such failure is due to unforeseeable causes beyond such Party's control. Such causes may include, but shall not be restricted to, acts of God or nature, fire, flood, epidemic, strike, crime, natural disaster, or any order of any court or state or federal agency.

J. Attorney Fees. Should any litigation be commenced between the Parties hereto concerning this Agreement, the prevailing party shall be entitled, in addition to any other relief as may be granted, to court costs and reasonable attorneys' fees as determined by a court of competent jurisdiction. This provision shall be deemed to be a separate contract between the Parties and shall survive any default, termination or forfeiture of this Agreement.

K. Termination.

1. **Grounds.** Grounds for termination of this Agreement shall include, but shall not be limited to: non-appropriation of funds necessary to meet City's obligations under this Agreement; an act or omission by either party which materially breaches any term of this Agreement; an act of nature or other unforeseeable event which precludes or makes impossible the performance of the terms of this Agreement by either party; or a change in or occurrence of circumstances that renders the performance by either party a detriment to the public health, safety, or welfare.
2. **Process.** Either party may terminate this Agreement by providing thirty (30) days' notice of intention to terminate. Such notice shall include a description of the breach or circumstances providing grounds for termination. A fourteen (14) day cure period shall commence upon provision of the notice of intention to terminate. If, upon the expiration of such cure period, cure of the breach or circumstances providing grounds for termination has not occurred, this Agreement may be terminated upon mailing of notice of termination.
3. **Removal.** Upon termination of this Agreement, City shall promptly remove all existing Transit Stop Public Artworks from the Shelters. Should City fail or neglect to promptly remove the Transit Stop Public Artworks, VRT may do so and assess City for the costs thereof. Provided, however, VRT and City may agree in writing that some or all of such Transit Stop Public Artworks are to remain following termination, and by entering into such an agreement City shall thereby disclaim all right, title and interest in and to the same, and shall grant such Transit Stop Public Artworks to VRT at no cost.

- L. Time is of the essence.** The Parties acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, and provision hereof, and that the failure to timely perform any of the obligations hereunder shall constitute a breach and default hereunder by the Party so failing to perform.
- M. Construction and severability.** If any part of this Agreement is held to be invalid or unenforceable, such holding will not affect the validity or enforceability of any other part of this Agreement so long as the remainder of the Agreement is reasonably capable of completion.
- N. Non-waiver.** Failure of either party to promptly enforce the strict performance of any term of this Agreement shall not constitute a waiver or relinquishment of any party's right to thereafter enforce such term, and any right or remedy hereunder may be asserted at any time after the governing body of either party becomes entitled to the benefit thereof, notwithstanding delay in enforcement.
- O. Approval required.** This Agreement shall not become effective or binding until approved by the respective governing bodies of both City and VRT. The Parties' signatories hereto represent and warrant that each is duly authorized to bind, respectively, City and VRT to this Agreement in all respects.
- P. Exhibits.** All exhibits attached hereto are fully incorporated as if set forth in full herein.
- Q. Entire Agreement.** This Agreement contains the entire agreement of the Parties and supersedes any and all other agreements or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith.

IN WITNESS WHEREOF, the Parties shall cause this Agreement to be executed by their duly authorized officers to be effective as of the day and year first above written.

VALLEY REGIONAL TRANSIT:

Elaine Clegg
Elaine Clegg (Sep 7, 2023 16:16 MDT)
Elaine Clegg, Chief Executive Officer

CITY OF MERIDIAN:

Attest:

Robert E. Simison, Mayor

Chris Johnson, City Clerk

EXHIBIT A
TRANSIT STOP PUBLIC ARTWORK PARTNERSHIP PROCESS

STEP	RESPONSIBLE PARTY	TASK
1	City (City Attorney's Office)	Prepare and negotiate proposed memorandum of agreement with VRT establishing terms and conditions of City license to install Transit Stop Public Artwork
2	VRT	Identify transit stop shelters suitable to display Public Artwork; notify Arts & Culture Coordinator of locations, dimensions, and specifications
3	City (Arts & Culture Coordinator)	Issue request for qualifications or proposals or call to artists to engage artist to prepare design for Transit Stop Public Artwork
5	City (Arts & Culture Coordinator)	Convene panel to select artist and/or design; notify selected artist and unsuccessful applicants
6	City (City Attorney's Office and Arts & Culture Coordinator)	Prepare agreement for public artwork design; negotiate agreement with selected artist; coordinate execution of agreement by City and artist
7	City (Arts & Culture Coordinator, Meridian Arts Commission), VRT, and Artist	Collaborative exchange between VRT, Artist, and City; Artist delivers final Transit Stop Public Artwork design to City
8	City (Meridian Arts Commission)	Review and recommend approval of final Transit Stop Public Artwork design
9	City (City Attorney's Office)	Prepare resolution for City Council approval and Mayor's signature, accepting the Transit Stop Public Artwork design
10	City (City Council)	Approve final Transit Stop Public Artwork design via resolution
11	City (Arts & Culture Coordinator)	Prepare, negotiate, and execute task order with vinyl vendor to create and install approved Transit Stop Public Artwork; pay vinyl vendor for associated costs
12	City (Arts & Culture Coordinator)	Coordinate installation of Transit Stop Public Artwork
13	City (Arts & Culture Coordinator), VRT, and Artist	Schedule/coordinate Transit Stop Public Artwork unveiling event (as weather or other circumstances permit)

MOA with VRT for Artwork on Transit Stop Shelters with all VRT edits

Final Audit Report

2023-09-07

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