

## PUBLIC ART LOAN AGREEMENT

THIS PUBLIC ART LOAN AGREEMENT made and entered into this 6<sup>th</sup> day of November, 2024, at Sandpoint, Idaho, by and between the City of Sandpoint, a public body corporate and politic, hereinafter referred to as "City", and David Gonzales, hereinafter referred to as "Artist".

WHEREAS, the City has established a public art loan program, the purpose of which is to increase the visual and artistic quality of the City by facilitating the loan of works of art by artists to the City for placement in public places;

WHEREAS, the City believes this art loan enhances the aesthetic character of the community and advances the public understanding of art;

WHEREAS, the Artist benefits from having their art work publicly displayed;

WHEREAS, the City has designated locations as more particularly described and depicted in Attachment A, "Premises", attached hereto and incorporated herein by this reference; and

WHEREAS, both the City and Artist desire to enter into this Public Art Loan Agreement according to the terms and conditions as more particularly set forth below.

NOW THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows.

### 1. Artist Responsibilities and Obligations:

- a. Artist shall complete the creation, fabrication and installation of the artwork described in Attachment B, "Art", attached hereto and incorporated herein by this reference, on or before, November 22, 2024 (the "Installation Date") on the "Silver Box" located at Oak Street and Fifth Avenue in Sandpoint. Artist shall perform all services and furnish all supplies, material, and equipment necessary for the creation, fabrication, and installation of the Art. The installation shall comply with this Agreement and all applicable local, state, and federal laws and regulations.
- b. Artist shall provide notice to City of the precise manner by which installation or removal of the Art shall occur.
- c. No heavy equipment, vehicles, or the like shall be permitted in or around the Premises without the express prior written approval by the City, which may include Artist obtaining an Encroachment Permit by the City.
- d. Artist acknowledges the Art was created by the Artist and the Art is original and available for purchase.

- e. The Artist agrees the Art shall be on display from the Installation Date November 22, 2024 through the "Removal Date" May 23, 2025. ("Exhibit Period").
- f. Artist affirms the Art is soundly constructed of durable and sturdy materials, has no easily breakable or easily damaged or removable parts or pieces, is suitable for outdoor public display, is constructed in a way to not create or cause safety or liability concerns, and will not require significant maintenance during the Exhibit Period.
- g. Artist is responsible for securely attaching Art to a durable base or mounting plate so that the Art may be attached to a metal pedestal by the City. Artist is responsible for maintaining the attachment of the Art to the base or mounting plate throughout the Exhibit Period.
- h. Artist agrees to deliver Art ready for installation to the Premises on the Installation Date.
- i. City agrees to remove the Art from the designated location at the expiration of the Exhibit Period. City will provide written notice of any changes to the Removal Date of the Art to Artist no later than 30 days prior to the end of the Exhibit Period. Removal of Art prior to the Removal Date shall be at the discretion of City and only upon written request by Artist.

**2. City's Responsibilities and Obligations:**

- a. City agrees to pay the Artist Five Hundred (\$500) honorarium for costs in preparation of the Art, installation, transportation, removal, and other incidentals of the Art to the designated location, and loan of the Art for the Exhibit Period. Such payment shall be provided to Artist upon delivery and installation of the accepted work along with this fully executed Agreement.
- b. City shall be responsible for attaching and removing the durable base from the metal pedestal. City shall not remove or attach the Art from the base.
- c. City shall have ultimate decision making authority related to location, installation, and placement of the Art. City may refuse to place the Art at the designated location upon delivery of the Art on the Installation Date if City, in its sole discretion determines the Art is not suitable for public display for any reason, cannot be properly affixed at the designated location, presents a safety concern or hazard, is not in the condition advertised in Artist's submitted application, or for any other reason not stated herein the City deems necessary.
- d. City will not undertake any alteration, restoration, or repair of the Art without express written authorization of Artist. However, City, in the lawful exercise of its police powers, has the right to make emergency repairs or remove the Art if deemed necessary to ensure public safety.

- e. Evidence of damage to the Art, while on City property, will be reported in writing and by telephone to Artist immediately or as soon as damage is discovered. Any damage to the Art caused by anyone other than the City is the responsibility of the Artist. Repairs to damaged Art shall be the responsibility of the Artist regardless of fault and repairs shall be made in a timely manner. City reserves the right to remove any damaged Art not tended to within 30 days of notification to Artist.
- f. Upon installation of Art on Premises, Artist and City shall complete a "Condition Report." City shall issue a final "Condition Report and Return of Art Receipt" to be signed by the Artist upon removal of the Art. This Condition Report and Return of Art Receipt shall document the return by City of the Art to Artist in good and acceptable condition. If Artist refuses to sign report, then the parties shall attempt to resolve any differences by negotiation. In the event Artist refuses to collect Art and acknowledge Art's condition and availability for collection within fifteen (15) days of notice that the "Condition Report and Return of Art Receipt" is ready for signature, City will consider that the condition of the Art, as noted on the form and as returned, is acceptable to Artist and any subsequent claims by Artist shall not be honored.
- g. Signage for the Art shall be limited to a plaque. Wording to be determined by the City in coordination with Artist.

### **3. Reproduction and Credit:**

- a. Artist agrees to allow City or its agent, without compensation, to photograph and reproduce photographic images of the Art for its purposes, including for use in City publications and media, including social media. City shall acknowledge Artist in any publications that include a photographic image of the Art.
- b. Artist acknowledges the Art may be photographed by the general public without any compensation to Artist. City is not responsible for any third-party copyright infringement or for protecting the intellectual property rights of Artist.

### **4. Sale of Artwork:**

- a. Artist shall determine the purchase price for the Art which shall be marketed by City at such price with intent to solicit a buyer for the Art.
- b. If the sale of the Art is arranged during the Exhibit Period, Artist agrees to allow the display of the Art to continue to the Removal Date and not to finalize the sale of the Art prior to the Removal Date.
- c. Artist agrees to pay City 10% of the purchase price of the Art as a fee for marketing expenses if the Art is sold as a result of its display as part of the City Public Art Loan Program. Such payment shall

be made to City, in full, within 30 days of the date of sale. Artist agrees to allow City to examine any documents regarding to the sale of the Art, including copies of any invoices, receipts, negotiable instruments, or proof of payment by the purchaser for the purpose of verifying the amount of the commission.

- d. Shipping and/or delivery of the Art, if sold, is the responsibility of Artist.

#### **5. Insurance / Indemnification:**

- a. City shall retain liability and property damage insurance coverage on the Art during the Exhibit Period against City's negligent acts.
- b. Artist, in application to the program, shall declare the insurable value of the Art.
- c. Artist may provide and maintain additional property insurance for the Art during the term of the Agreement.
- d. The Artist shall, indemnify and hold the CITY, its officials, officers, employees, agents and assigns, harmless from and/or against any and all claims, damages, and liabilities (including reasonable attorney's fees) that may be suffered or incurred or that arise as a result of the Art or the Artist's wrongful acts or omissions in the performance of its duties under this Agreement. This indemnification does not apply when such claims, damages, and liabilities are the result of negligent acts, errors, omissions or fault on the part of the CITY, its officials, officers, employees, agents or assigns. Nothing contained in this indemnification provision shall waive, in any manner, the limits of liability provided to the CITY specified in Idaho Code §6-901 through 6-929, known as the Idaho Tort Claims Act.

#### **6. Compliance with Law/Venue:**

The Artist shall comply with all federal, state, and local laws governing performance of its obligations under this Agreement. The jurisdiction/venue for any action arising out of performance of this Agreement, or interpretation of its terms and conditions, shall be in the District Court in the First Judicial District of the State of Idaho, Bonner County.

#### **7. Binding Effect/Non-Assignability:**

City and Artist each binds itself, its successors and assigns to the other party to this Agreement with respect to all rights and obligations under this Agreement. Neither City nor Artist shall assign or transfer its interest in, or obligations under, this Agreement without the written consent of the other.



**ATTACHMENT A**  
**ART**

