

**LOCAL GOVERNMENT CODE CHAPTER 381 - MURAL AGREEMENT BETWEEN
HARRIS COUNTY AND HOUSTON ARTS ALLIANCE**

THE STATE OF TEXAS §

COUNTY OF HARRIS §

THIS AGREEMENT (the “Mural Agreement”) is made and entered into by and between **Harris County**, hereinafter referred to as the “County”, a body corporate and politic under the laws of the State of Texas, and **Houston Arts Alliance**, hereinafter referred to as the “Recipient”.

RECITALS:

Pursuant to Texas Local Government Code Ann. § 381.004, as amended, the Commissioners Court of the County desires to award a certain sum to Recipient in exchange for the painting of not more than eight (8) murals (the “Murals”) by the Recipient to be implemented through and documented by the Harris County Precinct No. 4 (the “Department”) for one or more of the following purposes: (i) for local economic development; (ii) for small or disadvantaged business development; (iii) to stimulate, encourage, and develop business location and commercial activity in the County; (iv) to improve the extent to which women and minority businesses are awarded County contracts; (v) to support comprehensive literacy programs for the benefit of County residents; and (vi) for the encouragement, promotion, improvement, and application of the arts.

The Department’s vision is for all of Harris County’s diverse communities (businesses and individuals) to experience the encouragement, promotion, improvement, and application of the arts.

NOW, THEREFORE, the County and the Recipient, in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

Section 1. Terms

- A. The County agrees to provide funding to the Recipient for the painting of up to eight (8) different Murals as approved in writing by the Department.
- B. This funding by the County is contingent on Recipient performing the following agreed tasks:
 - (a) Supply a certificate of insurance with a commercial General Liability identifying a Personal Injury Limit of \$1,000,000 and General Aggregate of \$2,000,000, and listing the County as an additional insured.
 - (b) Present a sketch of each Mural to the Department and receive the Department’s written approval of the sketch prior to painting the Mural at a Property.

- (c) Obtain authorization to paint the Mural from the property owners at each of the Locations, attached as Exhibit B and incorporated herein by reference.
 - (d) Determine whether installation of a Mural requires encroachment permits for any work performed in the public right of way or utility easement in the City, and, if required, acquire said permits prior to commencing installation of the Mural.
 - (e) After completion of the Mural, sign a waiver form for the Mural and have each individual artist also sign the waiver form attached as Exhibit A and incorporated herein by reference.
- C. Furthermore, Recipient also hereby confirms that Recipient will use its best efforts to keep the Mural on the wall for a minimum period of twelve (12) months. A Mural may be removed completely prior to the end of the twelve (12) month period for the following reasons: sale of the property, mandatory repairs of the property, and demolition of the property.
- D. If a Mural is vandalized, the Department shall notify Recipient. Recipient will review the Mural and work with the County to repair the Mural. If Recipient and the County cannot come to an agreeable repair of the Mural within fourteen (14) business days from receipt of the notice that the Mural was vandalized, the Mural may be removed.

Section 2. Limitation Of Appropriation

- A. For each Mural completed by the Recipient, the County agrees to reimburse the Recipient for the cost of the individual Mural, per the Locations attached as Exhibit B and incorporated herein by reference. Upon receipt of authorization to paint the Mural from the property owner, the Recipient will invoice the Department in the amount of half of each Mural authorized by the Department (the "Initial Payment"). Upon completion of the Mural the Recipient will invoice the Department for the remaining half of the Mural (the "Final Payment"). County shall remit payment to the Recipient within thirty (30) days of receipt of the invoice. The Parties agree that any costs incurred during the painting of a Mural or other work to be performed under this Agreement in excess of the Initial and Final Payments will be funded by the Recipient unless otherwise authorized in writing by the Department as set forth elsewhere in this Agreement.
- B. In addition to the Initial and Final Payments for each Mural, Recipient may request in writing additional payment for Recipient's services and contingency fees ("Ancillary Costs"), for which the County shall be liable only upon written approval by the Department. Ancillary Cost as defined, is the HAA Services and Contingency Cost as detailed in Exhibit B. Ancillary Costs under this Agreement shall not exceed Fifty-Five Thousand and 00/100 Dollars (\$55,000.00) for all the Murals in aggregate. If the Department approves Ancillary Costs equal to Fifty-Five Thousand and 00/100 Dollars (\$55,000.00), all costs above that amount shall be the responsibility of Recipient. After approval by the County of the Ancillary Costs, the County shall remit payment to the Recipient within thirty (30) days of the receipt of the invoice for the Ancillary Costs.
- C. Recipient understands and agrees, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Recipient may become entitled to for the Services performed under this Agreement, and the total maximum sum that the County shall become liable to pay to Recipient under this Agreement, shall not under any conditions, circumstances, or interpretations thereof exceed the sum of Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00). Notwithstanding anything to the contrary, or that may be construed to the contrary, the County's liability under the terms and provisions of this Agreement is limited to this sum.

- D. Recipient understands and agrees, said understanding and agreement also being of the absolute essence of this Agreement, that the County is currently appropriating funds for the Project. County may appropriate funds to complete the Project, but such funds shall not under any conditions, circumstances, or interpretations thereof exceed the sum certified available by the Harris County Auditor.
- E. Recipient understands and agrees that the laws governing the letting of contracts for the County require the approval of the Harris County Auditor and his certification that funds are, or will be, available for the payment of the obligations created under the Agreement before such contracts become effective.

Section 3. County's Request for Records, Right to Review and Audit

County and its authorized representatives have the right to review and audit all books, records, vouchers and documents of whatever nature related to Recipient's performance under this Agreement during the period of performance of the Agreement and for six (6) years thereafter.

Section 4. Miscellaneous

- A. Non-Assignability. The County and the Recipient bind themselves and their successors, executors, administrators, and assigns to the other Party of this Agreement and to the successors, executors, administrators, and assigns of such other Party, in respect to all covenants of this Agreement. Neither the County nor the Recipient shall assign, sublet, or transfer its interest in this Agreement without the prior written consent of the other Party.
- B. Notice. Any notice required to be given under this Agreement ("Notice") shall be in writing and shall be duly served when it shall have been (a) personally delivered to the address below, (b) deposited, enclosed in a wrapper with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, in a United States Post Office, addressed to County or the Recipient at the following addresses:

Recipient: Houston Arts Alliance
5280 Caroline Street, Suite 100
Houston, Texas 77004
Attention: Taylor Jackson

County: Harris County Precinct Four
1001 Preston Street, Suite 950
Houston, Texas 77002
Attention: Alice Lee

Any Notice given by mail hereunder is deemed given upon deposit in the United States Mail and any Notice delivered in person shall be effective upon receipt.

Each Party shall have the right to change its respective address by giving at least fifteen (15) days' written notice of such change to the other Party.

Other communications, except for Notices required under this Agreement, may be sent by electronic means or in the same manner as Notices described herein.

- C. Independent Parties. It is expressly understood and agreed by the Parties that nothing contained in this Agreement shall be construed to constitute or create a joint venture, partnership, association, or other affiliation or like relationship between the Parties, it being specifically agreed that their relationship is and shall remain that of independent parties to a contractual relationship as set forth in this Agreement. The County is an independent

contractor and neither it nor its employees or agents shall be considered to be an employee, agent, partner, or representative of the Recipient for any purpose. Neither the Recipient, nor its employees, officers, or agents shall be considered to be employees, agents, partners, or representatives of the County for any purpose. Neither Party has the authority to bind the other Party.

- D. No Third Party Beneficiaries. This Agreement shall be for the sole and exclusive benefit of the Parties and their legal successors and assigns. The County is not obligated or liable to any party other than the Recipient for the performance of this Agreement. Nothing in the Agreement is intended or shall be deemed or construed to create any additional rights or remedies upon any third party. Further, nothing contained in the Agreement shall be construed to or operate in any manner whatsoever to confer or create rights or remedies upon any third party, increase the rights or remedies of any third party, or create or increase duties or responsibilities of County with respect to any third party.
- E. Texas Public Information Act. The Parties expressly acknowledge that this Agreement is subject to the Texas Public Information Act, Tex. Gov't Code Ann. §§ 552.001 et seq., as amended (the "Act"). Recipient expressly understands and agrees that (i) the County will release any and all information necessary to comply with Texas law without the prior written consent of Recipient; (ii) the County, its officers and employees may request advice, decisions and opinions of the Attorney General of Texas ("Attorney General") in regard to the application of the Act to any software, or any part thereof, or other information or data furnished to the County, whether or not the same are available to the public; and (iii) the County, its officers and employees shall have the right to rely on the advice, decisions, and opinions of the Attorney General, and that the County, its officers, and employees shall have no liability or obligations to Recipient for the disclosure to the public, or to any person or persons, of any software, or a part thereof, or other information or data furnished to the County in reliance on any advice, decision or opinion of the Attorney General.

If the County receives a written request for information pursuant to the Act that affects Recipient's rights, title to, or interest in any information or data or a part thereof, furnished to the County by Recipient under this Agreement, then the County will promptly notify Recipient of such request. Recipient may, at its own option and expense, prepare comments and submit information directly to the Attorney General stating why the requested information is exempt from disclosure pursuant to the requirements of the Act. Recipient is (i) solely responsible for submitting the memorandum brief and information to the Attorney General within the time period prescribed by the Act; and (ii) solely responsible for seeking any declaratory or injunctive relief regarding the disclosure of information that it deems confidential or privileged.

Recipient affirmatively consents to the disclosure of its e-mail addresses that are provided to the County, including any agency or department of the County. This consent is intended to comply with the requirements of the Act and shall survive termination of this Agreement. This consent shall apply to e-mail addresses provided by Recipient and agents acting on behalf of Recipient and shall apply to any e-mail address provided in any form for any reason whether related to this Agreement or otherwise.

- F. Waiver of Breach. No waiver or waivers of any breach or default (or any breaches or defaults) by either Party hereto of any term, covenant, condition, or liability hereunder, or the performance by either Party of any obligation hereunder, shall be deemed or construed to be a waiver of subsequent breaches or defaults of any kind, under and circumstances.
- G. No Personal Liability; No Waiver of Immunity.

- (1) Nothing in the Agreement is construed as creating any personal liability on the part of any officer, director, employee, or agent of any public body that may be a Party to the Agreement, and the Parties expressly agree that the execution of the Agreement does not create any personal liability on the part of any officer, director, employee, or agent of the County.
 - (2) The Parties agree that no provision of this Agreement extends the County's liability beyond the liability provided in the Texas Constitution and the laws of the State of Texas.
 - (3) Neither the execution of this Agreement nor any other conduct of either Party relating to this Agreement shall be considered a waiver by the County of any right, defense, or immunity on behalf of itself, its employees, or agents under the Texas Constitution or the laws of the State of Texas.
- H. Applicable Law and Venue. This Agreement shall be governed by the laws of the State of Texas. The forum for any action under or related to the Agreement shall be exclusively in a state or federal court of competent jurisdiction in Texas. The exclusive venue for any action under or related to the Agreement shall be in a state or federal court of competent jurisdiction in Houston, Harris County, Texas.
- I. No Binding Arbitration; Right to Jury Trial. The County does not agree to binding arbitration, nor does the County waive its right to a jury trial.
- J. Contract Construction.
- (1) This Agreement shall not be construed against or in favor of any Party hereto based upon the fact that the Party did or did not author this Agreement.
 - (2) The headings in this Agreement are for convenience or reference only and shall not control or affect the meaning or construction of this Agreement.
 - (3) When terms are used in the singular or plural, the meaning shall apply to both.
 - (4) When either the male or female gender is used, the meaning shall apply to both.
- K. Recitals. The recitals set forth in this Agreement are, by this reference, incorporated into and deemed a part of this Agreement.
- L. Entire Agreement; Modifications. This Agreement contains the entire agreement between the Parties relating to the rights herein granted and the obligations herein assumed. This Agreement supersedes and replaces any prior agreement between the Parties pertaining to the rights granted and the obligations assumed herein. This Agreement shall be subject to change or modification only by a subsequent written modification approved and signed by the governing bodies of each Party.
- M. Severability. The provisions of this Agreement are severable, and if any provision or part of this Agreement or the application thereof to any person, entity, or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such provision or part of this Agreement to other persons, entities, or circumstances shall not be affected thereby.
- N. Survival of Terms. Any provision of this Agreement that, by its plain meaning, is intended to survive the expiration or earlier termination of this Agreement shall survive such expiration or earlier termination. If an ambiguity exists as to survival, the provision shall

be deemed to survive.

- O. Multiple Counterparts/Execution. This Agreement may be executed in several counterparts. Each counterpart is deemed an original and all counterparts together constitute one and the same instrument. In addition, each Party warrants that the undersigned is a duly authorized representative with the power to execute the Agreement.
- P. Warranty. By execution of this Agreement, the Recipient warrants that the duties accorded to the Recipient in this Agreement are within the powers and authority of the Recipient.
- Q. Anti-Boycott. In accordance with Tex. Gov't Code Ann. § 2270.002, Recipient warrants and represents that it does not boycott Israel and agrees that it will not boycott Israel during the term of this Agreement.
- R. Foreign Terrorist Organizations. In accordance with Tex. Gov't Code Ann. Chapter 2252 Subchapter F, Recipient warrants and represents that, at the time of execution of this Agreement and for the duration of the term of this Agreement, Recipient does not appear on the Texas State Comptroller's list of companies known to have contracts with or provide supplies or services to a foreign terrorist organization.


HARRIS COUNTY, TEXAS

By: _____

Lina Hidalgo
County Judge

Date: _____

HOUSTON ARTS ALLIANCE

DocuSigned by:

 By: _____
6AFCA8972D4941D...
 Taylor Jackson
 Chief Executive Officer
 2/19/2025 | 3:01 PM PST

APPROVED AS TO FORM:

CHRISTIAN D. MENEFE
County Attorney

By: Stanley Sun

Stanley Sun
Assistant County Attorney
C.A.O. File No.: 24GEN3233

Exhibit A

ARTIST MURAL ARTWORK WAIVER FORM

I _____ (Printed Artist Name), (the “Artist”), declare that the Mural painting I painted at _____ (Property Address) is my original interpretation that I produced at the request of the County for Houston Arts Alliance (“Recipient”), on _____ (date)

By the following letter, I hereby grant the Recipient, its successors, assigns and future owners of the wall, the absolute right and permission to remove completely my artwork from the wall after a period of (12) months. The artwork may be subject to destruction, distortion, mutilation, or other modification, because of its removal.

This waiver form does not grant, though, any rights to the Recipient, its successors, assigns and future owners of the wall, to:

- (a)- Sell the artwork created on the wall;
- (b)- Modify in part the original artwork; and
- (c)- More generally seek to make any profit based on the exploitation of the artwork created on the Recipient wall; without prior written consent from Recipient and the Artist. Any demand to exploit commercially the original artwork created by the Artist, in any form, will have to be addressed in writing directly to County, that will then consult with me, the Artist, as to the feasibility of such demand.

Date: _____ Title of Artwork: _____

Artist Name: _____

Signature: _____

For Recipient: _____

Title: _____

Signature: _____

For the County: _____

Title: _____

Signature: _____

Exhibit B

LOCATIONS

	<u>Per Mural</u>	<u>Total</u>
Atrium Cellini Complex – Mega Mural Panels (4)		
Paint, Insurance, and Material Cost	\$7,110.00	\$28,440.00
Artist Amount	\$17,890.00	\$71,560.00
Harris Health Art Wall		
Paint, Lift, Insurance, and Material Cost	\$8,440.00	\$8,440.00
Artist Amount	\$22,085.00	\$22,085.00
Etoile Academy Charter School		
Paint, Insurance, and Material Cost	\$2,480.00	\$2,480.00
Artist Amount	\$22,720.00	\$22,720.00
Sharon Park Village (2)		
Paint, Insurance, and Material Cost	\$2,224.00	\$4,448.00
Artist Amount	\$17,776.00	\$35,552.00
Houston Arts Alliance Services		\$40,000.00
Contingency		\$15,000.00
PROJECT TOTAL		\$250,000.00

ORDER OF COMMISSIONERS COURT
Authorizing execution of an Agreement

The Commissioners Court of Harris County, Texas, convened at a meeting of said Court at the Harris County Administration Building in the City of Houston, Texas, on _____, 2025, with all members present except _____.

A quorum was present. Among other business, the following was transacted:

**ORDER AUTHORIZING THE EXECUTION OF THE LOCAL GOVERNMENT
CODE CHAPTER 381 MURAL AGREEMENT BETWEEN HARRIS COUNTY
AND HOUSTON ARTS ALLIANCE**

Commissioner _____ introduced an order and made a motion that the same be adopted. Commissioner _____ seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

Vote of the Court	<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Judge Hidalgo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Ellis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Ramsey, P.E.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Briones	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and lawfully adopted. The order thus adopted follows:

Pursuant to Texas Local Government Code Ann. § 381.004, as amended, and in accordance with the Guidelines and Criteria for entering into a 381 Agreement in Harris County, it is ordered that the County Judge of Harris County or her designee, is hereby authorized to execute for and on behalf of Harris County the Agreement between Harris County and Houston Arts Alliance (“the Recipient”), whereby the Recipient will perform economic development services for the encouragement, promotion, improvement, and application of the arts in Harris County for a maximum fee of Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00). Said 381 Agreement being incorporated herein by reference for all purposes as though fully set out herein word for word.