

## LEWISVILLE GRAND THEATER ARTWORK LOAN AND TEMPORARY DISPLAY AGREEMENT

**THIS AGREEMENT** for the loan and temporary display of certain artwork (“Agreement”) is made by and between the City of Lewisville, Texas (“City”), a Texas home-rule municipal corporation, and **Frog Tree Studios, LLC** (“Artist”), hereafter collectively referred to as the “Parties,” or, individually, as a “Party.”

**WHEREAS**, Artist is the sole owner and creator of that certain artwork known to the Parties as “**Flor de la Alegria**”, described or depicted more fully in Exhibit A, attached hereto and made a part hereof (the “Artwork”); and

**WHEREAS**, the City wishes to display the Artwork at a location to be determined by the City at the Lewisville Grand Theater, 100 North Charles Street, Lewisville, Texas (“Site”); and

**WHEREAS**, Artist wishes to temporarily loan the Artwork to the City for display at the Site; and

**WHEREAS**, the City and Artist wish to enter into this Agreement to establish the rights of the Parties relating to the Artwork.

**Now, therefore**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Recitals.** The recitals set forth above are incorporated into the body of this Agreement as if fully set forth herein.
2. **Term of Agreement.** This Agreement shall begin upon the date executed by both Parties (the “Effective Date”) and shall terminate upon the transportation of the Artwork from the Site by Artist (“Term”).
3. **Loan and Temporary Display of the Artwork.** Artist hereby agrees to loan the Artwork to the City for temporary display at the Site for a period of at least 11 months from the date of the completed installation (“Display Period”), pursuant to the following schedule, unless altered and/or extended by the written agreement of both of the Parties:
  - a. The Artwork shall be delivered by Artist to the Site on or before **April 23, 2026**, with installation of the Artwork occurring at the time of delivery of the Artwork. The date of delivery and installation will be coordinated with Artist and the City’s Arts Center Manager or her designee.
  - b. The Artwork shall be removed by the City between **April 5-9, 2027** and shall be picked up and transported from the Site by Artist on the same day, except as otherwise scheduled by written agreement executed by an authorized representative of each Party.

4. **Compensation.** Compensation for the Artist's loan and the display of the Artwork under this Agreement shall be **\$1,500.00** (One Thousand Five Hundred Dollars and No/100), which shall be disbursed to the Artist in two payments:
- a. **50% deposit upon completion, submission, and acceptance of City's New Vendor Packet (if applicable) and execution of this Agreement. (Payments can take up to 14 business days to process.)**
  - b. **50% upon completion of installation. (Payment can take up to 14 business days to process.)**

5. **Artist's Responsibilities.**

- a. Artist, using Artist's own or hired personnel and equipment, is fully responsible for the costs and handling involved in the delivery of the Artwork to, and the pick-up of the Artwork from, the Site. Unless the City provides written notice otherwise to the Artist, the delivery and pick-up shall be to and from the courtyard of the Site.
- b. Artist hereby agrees to the installation and removal dates set forth above. Artist shall be available for presentations, interviews, and ceremonies at the City's request on and around the date of installation and/or removal agreed to between the City and the Artist.
- c. Artist shall provide the following to the City prior to installation:
  - (1) A condition report of the Artwork that includes the condition of the Artwork and other details as may be reasonably warranted.
  - (2) Structural drawings detailing the Artwork and how it may be attached to the display bases at the Site, including recommended instructions for installation and removal, though the City's failure to follow such instructions shall not place any additional liability on the City.
  - (3) A description of all parts and materials utilized in the Artwork and the recommended care and cleaning instructions. City approval of such recommendations is a condition precedent to the City's responsibility set forth in Section 6(f), below.
  - (4) The dimensions and weight of the Artwork.
  - (5) A statement certifying the market value of the Artwork for insurance purposes.
- d. Artist shall be available for consultation with the City on the maintenance and repair of the Artwork.
- e. Artist shall comply with all city, county, state and federal regulations, laws, and ordinances that in any way bear on its performance under this Agreement.

- f. Artist shall modify the Artwork, if necessary, to effect installation and/or removal by the City.
- g. Artist shall ensure that the Artwork is structurally sound and able to withstand an outdoor environment in a largely unsupervised area that is not protected from weather or curious viewers.

## **6. City's Responsibilities.**

- a. The City will provide the Artist with adequate information regarding the specific place of installation of the Artwork at the Site to allow the Artist to create the structural drawings required by Section 5(c)(2), above.
- b. The City will prepare the Site for installation in accordance with the structural drawings provided by Artist pursuant to Section 5(c)(2), above.
- c. The City or the City's agents will install and remove the Artwork.
- d. The City will be responsible for compliance with all applicable laws and regulations related to its performance under this Agreement and will be responsible for providing or acquiring any permits necessary for the installation and removal of the Artwork.
- e. The City will provide and install an identification plaque next to the Artwork, prepared and designed by the City, containing a credit to the Artist.
- f. The City will clean the Artwork to the extent possible in accordance with the recommended cleaning and care instructions provided by the artist pursuant to Section 5(c)(3), above. In the event the Artwork is in need of repair, restoration, or other maintenance the City shall notify Artist in writing and Artist shall have the opportunity to make or arrange for such repairs, restorations, or maintenance to be made by a preferred vendor of their choosing. Should the Artist choose not to make the repairs, restoration or maintenance, the City may terminate this Agreement.
  - (1) Artist or selected vendor will maintain insurance which meets or exceeds the requirements set forth in **Exhibit B** for the duration of the time they may be at the Site to perform maintenance or other care to the artwork. All Certificates of Insurance shall be kept current and shall be forwarded to the Purchasing Division of the City by cover letter from the Artist. Certificates of Insurance must be received and approved prior to arrival to the Site.
- g. The City will not intentionally alter, modify or change the Artwork.

## **7. Display of the Artwork , Barrier, and Signage.**

- a. **Display of the Artwork.** During the Display Period, the City shall make the

Artwork available for viewing at the Site by the public during all times that the Site is open to the public (not including any times the Site may be reserved by a third party for a private event).

- b. **Barrier and Signage.** The City may install a physical barrier as the City, in its sole discretion, deems appropriate in an attempt to prevent unauthorized persons from touching or damaging the Artwork; provided, however, that the City does not represent, warrant, or guarantee that unauthorized touching or damage of the Artwork will not occur. Additionally, the City may post signage as the City, in its sole discretion, determines to be appropriate, including signage indicating that touching or damaging the Artwork is prohibited.

8. **Risk of Loss.** Artist shall hold harmless the City and its officers, agents, employees, and volunteers in both public and private capacity against all liability claims, suits, demands, losses, damages, attorney fees, including all expense of litigation or settlement, or causes of action of any kind which may arise by reason of injury to or death of any person or for a loss of, damage to, or loss of the use of any property, including any intentional or negligent acts or omissions of the City's officials, officers, agents, employees and volunteers relating to or arising out of the performance of this Agreement. "Loss of, damage to, or loss of the use of any property" in this section shall include, but not be limited to, loss or damage to the Artwork, including but not limited to theft, vandalism, or any other act by a third party, and damage caused by acts of god, war, or natural conditions/disasters, including but not limited to floods, hurricanes, tornadoes, lightning, and any loss occurring during the storage, display, transportation, delivery, installation, and removal of the Artwork, regardless of where such loss occurs, and including any deterioration or weathering caused to the Artwork arising out of or in any way connected to this Agreement. Artist shall hold harmless the City and its officers, agents, employees, and volunteers in both public and private capacity against all liability claims, suits, demands, losses, damages, attorney fees, including all expense of litigation or settlement, or causes of action of any kind arising from a claim of copyright infringement related to the Artwork..

9. **Artist's Rights.**

In all matters pertaining to the Artwork and its maintenance, including but not limited to the provisions of this Agreement, the provisions of the Visual Artists' Rights Act (VARA) shall apply, except that the Artist hereby waives all rights under VARA regarding movement or removal of the Artwork, and grants the City the right to move or remove the Artwork at the City's sole discretion.

10. **Reproduction Rights.**

- a. **General.** The Artist retains all rights under the Copyright Act of 1976, 17 U.S.C. 101 et seq., and all other rights in and to the Artwork, except possession and except as such rights are otherwise limited by this Agreement. The Artist grants to the City and its successors a perpetual, irrevocable license to reproduce, depict, or display images of the Artwork taken or created during the Display

Period for promotional purposes, including but not limited to reproductions used in advertising, memorabilia-type merchandise, brochures, media publicity, educational materials, and catalogues or other similar publications. For this purposes of this license, only the use of images of the Artwork in free memorabilia-type merchandise or memorabilia-type merchandise which includes an image of the Artwork in only an incidental manner (rather than an image featuring the Artwork as a focal point) shall be included in the license. If the City wishes to make a reproduction of the Artwork for commercial purposes, the Parties shall execute a separate agreement to address the terms of the license granted by the Artist and the royalty Artist shall receive.

- b. Artist Credit. All reproductions by the City shall include the title of the Artwork and include a copyright notice substantially in the following form: “© (Artist’s name), publication date”.
- c. The City is not responsible for any third-party infringement of Artist’s copyright or ownership and is not responsible for protecting the intellectual property rights of Artist.

#### **11. Artwork Sales and Commission.**

- a. The Artwork may be for sale during the Term of this Agreement.
- b. Notwithstanding any sale of the Artwork, the Artwork shall remain installed at the Site during the Term of this Agreement, except that the City Manager or her designee (the “City Manager”) may authorize removal of the Artwork upon sale, at her sole and absolute discretion, by providing written notice of such authorization to the Artist. In case of removal of the Artwork during the Term of the Agreement due to sale, the Artist may offer a replacement artwork, which the City Manager may accept or reject in her sole and absolute discretion. If accepted, the term “Artwork” in this Agreement shall then refer to the replacement artwork. If rejected or if the Artist does not offer a replacement artwork, the Artist shall refund the City a percentage of the compensation set forth in Section 4 of this Agreement, prorated by month of the Term.
- c. If the Artwork is sold during the Term of this Agreement, a 20% commission on such sale shall be paid to the City. The sale shall be reported using the Artist Sales and Commission Report, attached hereto as **Exhibit C**. This form shall be returned to the City's Arts Center Manager with the commission payment within ten (10) business days of the removal of the Artwork from the Site. Commission shall be paid in the manner required by the Arts Center Manager at the time sale. The Artist shall be responsible for pick-up of any sold Artwork during the Term and any and all sales tax reporting or other required reporting arising from the sale.

#### **12. Insurance.**

From the time the Artwork is fully installed at the Site until the sooner that (a) Artist

removes the Artwork; (b) the Artwork is sold; or (c) the Artwork becomes the possession of the City, the City will provide property damage insurance for the Artwork in the amount of the market value (provided by Artist in accordance with Section 5(c)(5), above), covering damage, destruction, theft, or other casualty. The City will not be responsible to Artist for any damage, destruction, theft, or other casualty beyond the extent of the insurance coverage. In addition to the Artist's insurance requirements set forth below, any additional insurance coverage shall be the Artist's responsibility to obtain at Artist's expense.

During transport of the Artwork to the Site, installation of the Artwork at the Site, and removal of the Artwork from the Site, the Artist agrees to maintain insurance which meets or exceeds the requirements set forth in **Exhibit B**. All Certificates of Insurance shall be kept current and shall be forwarded to the Purchasing Division of the City by cover letter from the Artist. Certificates of Insurance must be received and approved prior to transport of the Artwork to the Site.

### **13. Indemnification and Notice.**

- a. Artist hereby agrees to assume liability for and indemnify, hold harmless, and defend the City, its officials, employees, agents, and attorneys from and against all liability and expense, including reasonable attorneys' fees, in connection with any and all claims, demands, damages, actions, causes of action, and suits in equity of whatever kind or nature, including claims for personal injury, property damage, infringement of any kind, equitable relief, or loss of use, arising out of the execution, performance, nonperformance, or enforcement of this Agreement, whether or not due to or caused by the negligence of the City, its officials, employees, agents, and attorneys, excluding only the sole negligence of the City, its officials, employees, agents, and attorneys. Artist's liability hereunder shall include all attorney's fees and costs incurred by the City in the enforcement of this indemnification provision. The City shall have the right, at its option, to participate in the defense of any third-party claim, without relieving Artist of any of its obligations hereunder. The obligations contained in this section shall survive termination of this Agreement and shall not be limited by the amount of any insurance required to be obtained or maintained under this Agreement.
- b. Each Party shall promptly notify the other of any written claim regarding any matter resulting from or relating to the Party's obligations under this Agreement. Each Party shall cooperate with the other in the defense or investigation of any such claim arising out of or relating to the performance of this Agreement.
- c. Nothing contained herein shall be construed as a waiver of any immunity from or limitation of liability to which the City may be entitled pursuant to the doctrine of governmental immunity.

#### **14. Warranties of Title, Quality, and Condition.**

- a. Artist represents and warrants that:
- (1) The Artwork is solely the result of the artistic effort of the Artist;
  - (2) The Artwork is unique and original and does not infringe upon any protected patent, trademark, or copyright;
  - (3) The Artwork is solely owned by Artist and is free and clear of any liens from any source whatsoever;
  - (4) Artist has full authority to agree to all terms of and to enter into this Agreement and the Artwork is free and clear of any liens;
  - (5) Artist and the materials used are not currently known to be harmful to public health and safety;
  - (6) The Artwork will not require care or maintenance in excess of those described in the maintenance recommendations submitted to the City by Artist;
  - (7) All work has been and will be performed in accordance with professional “workmanlike” standards and free from defective or inferior materials and workmanship (including any defects consisting of “inherent vice” or qualities that cause or accelerate deterioration of the Artwork) for the duration of the Display Period;
  - (8) The Artwork is made of durable materials and will withstand the usual weather and climate of the Site;
  - (9) Cleaning performed in accordance with the cleaning and care instructions provided to the City will not damage the Artwork, and that foreseeable exposure to the elements and general wear and tear will cause the Artwork to experience only minor repairable damage, and will not cause the Artwork to fall below an acceptable standard for public display, and the Artwork will not experience irreparable conditions, including mold, rust, fracturing, staining, chipping, tearing, abrading, and peeling; and
  - (10) The representations and warranties contained in this Section shall survive the termination of this Agreement, however terminated.

#### **15. Title and Copyright.**

- a. **Title and Copyright.** The City recognizes and agrees that the title to the Artwork shall remain with Artist, its successors or assigns. At no time shall

title pass to the City as a result of this Agreement. The Artwork shall remain the sole property of Artist, its successors or assigns, including, but not limited to, copyrights under the Copyright Act of 1976, 17 U.S.C.

§§101, et seq., as amended, or any rights provided by the Visual Artists Rights Act of 1990 (“VARA”) (17 U.S.C. §106A, as amended) unless otherwise granted by Artist to any other party. All future decisions regarding the use and continued ownership of the Artwork will be within the sole and unconditional discretion of Artist, its successors or assigns.

## 16. Default and Termination.

- a. **Force Majeure.** If by reason of Force Majeure, either Party shall be rendered unable wholly or in part to carry out its obligations under this Agreement then such Party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the Artist, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term Force Majeure as employed herein, shall mean any contingency or cause beyond the reasonable control of the Party unable to carry out its obligations under this Agreement created by acts of God or the public enemy, war, riot, terrorism, civil commotion, insurrection, governmental or de facto governmental action including, but not limited to, government actions pertaining to the determination of flood zones or FEMA actions (unless caused by acts or omissions of the Party), fire, explosion or flood, strikes; provided, however, that (a) the event giving rise to Force Majeure was not caused by the act or omission of the Party and makes the performance of any obligation created under this Agreement illegal or impossible; and (b) the Party gives reasonable notice to the other Party of the event giving rise to Force Majeure and exercises all reasonable diligence to remove the cause of Force Majeure.
- b. **Without Cause.** The City may terminate this Agreement without cause upon thirty (30) days’ written notice to Artist and Artist shall remove the Artwork immediately upon receipt of such notice from the City.
- c. **Threat to Public Safety.** The City may terminate this Agreement immediately upon written notice to Artist if the City determines, in its sole discretion that the Artwork, or any condition or aspect related thereto, poses a threat to the best interest of the health, safety, and welfare of the citizens of the City. In the event this Agreement is terminated pursuant to this section, Artist shall immediately remove and transport the Artwork from the Site.
- d. **For Cause.** If either Party fails to perform its obligations under this Agreement, or otherwise violates any of the covenants, terms, agreements or stipulations of Agreement, the other Party shall thereupon have the right to terminate this Agreement by giving written notice to the defaulting party of

its intent to terminate, specifying the grounds for termination. The defaulting party shall have thirty (30) days from the date of the notice to cure the default. If it is not cured by that time, this Agreement shall terminate. Should the City terminate this Agreement pursuant to this subsection 16(d), the Artist shall refund the City a percentage of the compensation set forth in Section 4 of this Agreement, prorated by month of the Term.

## 17. Miscellaneous.

- a. **Agreement; Amendment; Severability.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements, whether oral or written, covering the subject matter of this Agreement. This Agreement shall not be modified or amended except in writing signed by an authorized representative of each Party hereto. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable for any reason, such unenforceable provision shall be deleted from this Agreement, and the remainder of this Agreement shall remain in full force and effect and shall be interpreted to give effect to the intent of the Parties.
- b. **Survival of Agreement Provisions.** The benefits of the representations, warranties, and covenants contained in this Agreement shall survive completion of the transaction contemplated by this Agreement.
- c. **Equal Drafting; Review of Agreement.** This Agreement shall be deemed drafted equally by all Parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any Party shall not apply. Each signatory represents this Agreement has been read by the Party for which this Agreement is executed and that such Party has had an opportunity to confer with its counsel.
- d. **Waiver.** The failure of the City or Artist to exercise any right given hereunder or to insist upon strict compliance with any term, condition or agreement specified herein, shall not constitute a waiver of either Party's right to exercise such right or to demand strict compliance with any such term, condition or agreement under this Agreement.
- e. **Applicable Law; Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. Venue shall be exclusive in Denton County, Texas.
- f. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, but all of which together will constitute one instrument.
- g. **Headings.** The headings contained in this Agreement are provided for convenience only and shall not be construed to constrict or expand the obligations and/or covenants set forth therein.

- h. **Notices.** Any notice provided or permitted to be given under this Agreement must be in writing and may be served via email, read receipt requested, by depositing same in the United States mail, addressed to the party to be notified, postage pre-paid and registered or certified with return receipt requested, or by delivering the same in person to such party via a hand-delivery service, Federal Express or any courier service that provides a return receipt showing the date of actual delivery of same, to the address thereof. Notice given by mail shall be deemed delivered three (3) days after the date deposited in the United States' mail. Notice delivered in person shall be effective upon receipt at the address of the addressee. Notice delivered by email will be deemed to have been received when sent, even if the sender receives a machine-generated message that delivery has failed. If a party sending an email notice under this Agreement receives a machine-generated message that delivery has failed, for that notice to be valid the sender must no later than ten business days after sending the email message deliver a tangible copy of that notice as otherwise set forth herein. Communication, details, and notices concerning this Agreement shall be directed to the following representatives:

**If to the CITY:**

City of Lewisville, Texas  
Attn: Denise Helbing  
Arts Center Manager, Lewisville Grand Theater  
P.O. Box 299002, Lewisville, TX, 75029-9002  
Email: [DHelbing@CityofLewisville.com](mailto:DHelbing@CityofLewisville.com)

**If to ARTIST:**

Gigi Griffin Miller  
FrogTree Studios, LLC  
9208 Creeks Edge Circle, Austin, TX 78733  
Email: [GigiMiller@gmail.com](mailto:GigiMiller@gmail.com)

Either Party may change its above address by giving the other Party written notice of any changes in the manner provided herein, but notice of change of address is effective only upon actual receipt.

- i. **Successors and Assigns.** The City and the Artist each binds itself and its partners, successors, executors, administrators and assigns in respect to all covenants of this Agreement. Neither the City nor the Artist shall assign, sublet or transfer its interest in this Agreement without the written consent of the other. Assignment without such written consent shall be void. Nothing herein shall be construed as giving any right or benefits hereunder to anyone other than the City and the Artist.

- j. **Authorization.** Both Parties represent and warrant that they are authorized to enter into this Agreement and that the individuals executing this Agreement have full power and authority to bind their respective Parties to the terms hereof.

By signature below, the Parties to this Agreement hereby bind themselves to the terms stated herein, including all attachments referred to herein.

**CITY OF LEWISVILLE, TEXAS**

**FrogTree Studios, LLC**

**Approved by the Lewisville City  
Council on \_\_\_\_\_**

By: \_\_\_\_\_  
Claire Powell, City Manager

By: \_\_\_\_\_  
Gigi Griffin Miller, Managing Member  
Frogtree Studios, LLC

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Attest: \_\_\_\_\_  
Jennifer Malone-Ippolito, City Secretary

Attest: \_\_\_\_\_

**CITY OF LEWISVILLE**  
151 West Church Street  
Lewisville, Texas 75057

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Lizbeth Plaster, City Attorney

**EXHIBIT A  
THE ARTWORK**

The Exhibition dates for this artwork will be marketed as **April 25, 2026- April 4, 2027.**

**Flor de la Alegria**



**EXHIBIT B**  
**INSURANCE REQUIREMENTS**  
**GENERAL CONTRACTS FOR SERVICES**

Service work, supplies requiring installation, Janitorial Services, Welding, Surveyors, Plumbing Contractors, Maintenance Agreements, Concessionaires, Tire Repairs, Tow Service, Painting, Electrical, Movers, Major street repairs and Waterline projects, etc.

Vendor shall procure and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the vendor, his agents, representatives, employees or subcontractors. The cost of such insurance shall be included in the vendor's bid.

**A. MINIMUM SCOPE OF INSURANCE**

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage "occurrence" form CG 00 01 (10 01). **"Claims Made" form is unacceptable.**
2. Workers' Compensation insurance as required by the Labor Code of the State of Texas, including Employers' Liability Insurance.
3. Automobile Liability – as required by the State of Texas, covering all owned, hired, or non-owned vehicles. Automobile Liability is only required if vehicle(s) will be used under this contract. Coverage not required for delivery services.

**B. MINIMUM LIMITS OF INSURANCE**

Vendor shall maintain limits throughout contract not less than:

1. Commercial General Liability: \$500,000 per occurrence/\$1,000,000 aggregate for bodily injury, personal injury and property damage. Policy will include coverage for:
  - a. Premises – Operations
  - b. Broad Form Contractual Liability
  - c. Products and Completed Operations
  - d. Personal Injury
  - e. Broad Form Property Damage
- f. If applicable, Explosion Collapse and Underground (XCU) Coverage, Fire Damage, and Medical Expense.

***NOTE: The aggregate loss limit applies to each project.***

2. Workers' Compensation and Employer's Liability: Workers' Compensation Statutory limits as required by the Labor Code of the State of Texas and Employer's Liability minimum limits of \$500,000 per injury, \$500,000 per occurrence, and \$500,000 per occupational disease.

3. Automobile Liability - \$500,000 Combined Single Limit. Limits can only be reduced if approved by the HR Director or designee.

### **C. DEDUCTIBLES AND SELF-INSURED RETENTIONS**

Any deductible or self-insured retentions must be declared to and approved by the City.

### **D. OTHER INSURANCE PROVISIONS**

The policies are to contain, or be endorsed to contain the following provisions:

1. General Liability and Automobile Liability Coverages
  - a. The City, its officers, officials, employees, Boards and Commissions and volunteers are to be added as “Additional Insured” as respects liability arising out of activities performed by or on behalf of the vendor, products and completed operations of the vendor, premises owned, occupied or used by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers. It is understood that the business auto policy under “Who is an Insured” automatically provides liability coverage in favor of the City. The coverage shall include defense of claims against the City as additional insured.
  - b. The vendor’s insurance coverage shall be primary and non-contributory insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be excess of the vendor’s insurance and shall not contribute with it.
  - c. Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the City, its officers, officials, and employees, Boards and Commissions or volunteers.
  - d. The vendor’s insurance shall apply separately to each insured against whose claim is made or suit is brought, except to the limits of the insured’s liability.

#### **2. Waiver of Subrogation – All Coverages**

Each insurance policy required by this exhibit shall waive all rights of subrogation against the City, its officers, officials, employees, and volunteers for losses arising from work performed by the vendor for the City.

#### **3. Notice of Cancellation - All Coverages**

Each insurance policy required by this exhibit shall be endorsed to state that coverage shall not be suspended, voided, canceled or non-renewed by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given the City, or ten (10) days prior written notice for non-payment of premium.

### **E. ACCEPTABILITY OF INSURERS**

The City prefers that insurance be placed with insurers with an A.M. Best’s rating of no less than **A-:VI, or, A or better** by Standard and Poors.

**F. VERIFICATION OF COVERAGE**

Contractor shall furnish the City with certificates of insurance affecting coverage required. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. Certificates of Insurance must be provided on forms approved by the Texas Department of Insurance. City will not accept Memorandums of Insurance or Binders as proof of insurance. The City reserves the right to require complete, certified copies of all required insurance policies at any time.

**G. HOLD HARMLESS AND INDEMNIFICATION**

THE CONSULTANT/CONTRACTOR AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY CONSULTANT’S/CONTRACTOR’S BREACH OF ANY OF THESE TERMS AND CONDITIONS OR BY ANY NEGLIGENT OR STRICTLY LIABLE ACT OR OMISSION OR INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY, CONSULTANT/CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THIS AGREEMENT; EXCEPT THAT THE INDEMNITY PROVIDED FOR IN THE PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OR FAULT OF THE CITY, ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS, AND IN THE EVENT OF JOINT AND CONCURRING NEGLIGENCE OR FAULT OF THE CONSULTANT/CONTRACTOR AND THE CITY, RESPONSIBILITY AND INDEMNITY, IF ANY, SHALL BE APPORTIONED IN ACCORDANCE WITH THE LAW OF THE STATE OF TEXAS, WITHOUT WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW AND THE CITY’S REASONABLE ATTORNEY’S FEES SHALL BE REIMBURSED IN PROPORTION TO THE CONSULTANT’S LIABILITY. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE RANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON ORENTITY.

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# LEWISVILLE GRAND THEATER

## Artist Commission

Artist Name	
Exhibition Name	
Exhibition Date(s)	
Phone or Email	

Title of Piece	Price

<b>Total</b>	
<b>Commission</b>	