

STATE OF ALABAMA)
)
COUNTY OF MADISON)

RECITALS

WITNESSETH

1. Huntsville Fire and Rescue Department will supply a detailed timeline denoting particular events (fires, major upgrades in equipment and special commemorative events) to DHS. DHS would need to receive all reference material within thirty (30) days of signing the agreed upon contract.
2. DHS will take all gathered reference material and design and develop a one-quarter scale black and white pencil drawing of the project. This pencil drawing will then be submitted to denoted representatives of Huntsville Fire and Rescue Department for review with approval requested fifteen (15) days after receipt. Upon approval of submitted artwork, the final colorization process will begin.
3. Once the completed artwork for this historical mural has been delivered to the designated printer, DHS will provide whatever assistance is necessary to ensure a smooth and successful installation.

4. DHS Timeline

- a) Gathering of reference material: Must be provided to DHS thirty (30) days after contract signing for completion of this stage.
- b) The design, development and submission of pencil artwork for approval by Huntsville Fire and Rescue Department: The pencil artwork will be submitted sixty (60) days after the signing of the Project Contract. This milestone is contingent upon timely receipt of reference material noted in a) above.
- c) The completion and delivery of digitized final color artwork: The final artwork will be delivered sixty (60) days or less from receipt of approval of the pencil artwork from Huntsville Fire and Rescue Department. Risk of loss shall remain with DHS until final acceptance of the artwork by the City.

5. Total cost of the finished digitized artwork - \$4,800

DHS requests:

- a) A down payment of \$2,000 to be paid upon the signing of the mural contract
- b) The balance of \$2,800 to be paid upon completion and delivery of the digitized artwork to the mural printer. We believe this is a more than fair compensation for our efforts.

2.0 The term of this Agreement shall be Sixty (60) days commencing on March 14th, 2022 and continuing through May 13th, 2022.

3.0 In the performance of this work it is understood between the parties that DHS and its employees, agents, subcontractors and consultants, if any, shall be acting as independent contractors and not as an employee of the City of Huntsville. DHS shall have no authority to obligate the City to any indebtedness or other obligation.

4.0 All notices to be delivered hereunder shall be delivered to the other party by placing the same in the United States Mail, First Class postage prepaid, by prepaid overnight service through Federal Express, DHL or United Parcel Services or by hand delivery, to the addressee, addressed as follows:

DON HOWARD STUDIOS
CONTACT: Dorothy Howard

MAILING ADDRESS:
2400 Garden Park Drive, NW
Huntsville, Alabama 35810

PHYSICAL ADDRESS:
2400 Garden Park Drive, NW
Huntsville Alabama

HUNTSVILLE FIRE AND RESCUE
CONTACT: Chief Howard W. McFarlen

MAILING ADDRESS:
P O Box 308
Huntsville, Alabama 35804

PHYSICAL ADDRESS:
2110 Clinton Avenue W
Huntsville Alabama 35805

5.0 The contract between the City and DHS consists of this written Agreement and any documents or drawings furnished by the City and referenced herein. This written Agreement constitutes the entire agreement between the City and DHS with reference to the Scope of Work delineated within. Except to the extent specifically excluded herein, this Contract supersedes any bid or proposals documents and all prior written or oral communication, representation and negotiations, if any, between the City and DHS.

6.0 This contract shall be effective on the date this Agreement is executed by the last party to execute it.

7.0 Nothing contained in this Contract shall create, or be interpreted to create, privity or any other contractual agreement between the City and person or entity other than DHS.

8.0 This agreement may be terminated by either party without cause prior to the completion of the project upon thirty (30) days written notice of the intent to terminate to the other party. Notice to terminate shall be given to the City by written notification mailed to the contact in Section 5.0 herein. Notice to terminate shall be given to DHS by written notification mailed to the contact in Section 5.0 herein. In the event of such termination without cause, DHS shall be compensated for all services actually performed in a timely manner prior to receipt of the notice of termination provided however, that such compensation shall be conditioned upon DHS providing in a timely manner to the City all documents developed and copies of the work product produced pursuant to the Contract which were performed in furtherance of the Scope or Work up to the receipt of the notice of termination. In such event, DHS shall promptly submit the City its invoice for final payment.

9.0 This agreement may be terminated by either party upon seven (7) days written notice to the other should such other party fail substantially to perform in accordance with its material terms through no fault of the party initiating the termination.

10.0 The failure of the City to insist in one or more instances upon the performance of any term of this Contract is not a waiver of the City's right to future performance of such terms, and DHS's obligations for future performance of such shall continue in effect.

11.0 If DHS persistently fails or refuses to perform the work in accordance with this contract, the City may order DHS to stop the work, or any described portion thereof, until the cause for stoppage has been corrected, no longer exists, or the City orders that work be resumed. In such event, DHS shall immediately obey such order.

12.0 It will not be necessary for DHS to procure and maintain 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 DHS, its agents, representatives, employees or subcontractors. All work related to the fulfillment of this Contract will be produced by DHS in his Studio.

13.0 This agreement shall be governed by the law of the State of Alabama. Proper venue of any action to enforce this agreement shall be in the Circuit Court of Madison County, Alabama or the United States District Court for the Northern District of Alabama, Northeastern Division.

14.0 The intent of this Contract is to require complete, correct and timely execution of the Work. Any Work that may be required, implied or inferred by the Contract Documents, or any one or more of them, as necessary to produce the intended result shall be provided by DHS.

15.0 This Contract is intended to be an integral whole and shall be interpreted as internally consistent. What is required by any one Contract Document shall be considered as required by the Contract.

16.0 When a word, term or phrase is used in this Contract, it shall be interpreted or construed. First, as defined herein; second, if not defined, according to its generally accepted meaning within the Contractual industry; and third, if there is no generally accepted meaning in the Contractual industry, according to its common and customary usage.

17.0 The words “include,” “includes,” or “including,” as used in this Contract, shall be deemed to be followed by the phrase, “without limitation.”

18.0 The specification herein of any act, failure, refusal, omission, event, occurrence or condition as constituting a material breach of this Contract shall not imply that any other, non-specified act, failure, refusal, omission, event, occurrence or condition shall be deemed not to constitute a material breach of this Contract.

19.0 Words or terms used as nouns in this Contract shall be inclusive of their singular and plural forms, unless the context of their usage clearly requires a contrary meaning.

20.0 Time limitations contained herein, or provided for hereby, are of the essence of this Agreement.

21.0 The reports, drawings, specifications and other documents or things prepared by DHS for the Project shall become and be the sole property of the City. DHS shall be permitted to retain copies thereof for its records and for its future professional endeavors.

22.0 DHS shall not assign its rights hereunder, excepting its right to payment, nor shall it delegate any of its duties hereunder without the written consent of the City. Subject to the provisions of the immediately preceding sentence, the City and DHS, respectively, bind themselves, their successors, assigns and legal representatives to the other party to this Agreement and to the successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement.

23.0 Nothing contained herein shall create a contractual relationship with, or any rights in favor of, any third party.

24.0 The City may, at any time by written order, make changes within the general scope of this contract in any one or more of the following:

1. Description of the services to be performed;
2. Time of performance;
3. Place of Performance.

If any change causes an increase or decrease in the fixed sum amount or the time required for performance of any part of the work under this contract, whether or not changed by the order, or otherwise affects any other terms and conditions of this contract, the City shall make an equitable adjustment in the fixed sum amount or delivery schedule or other affected terms and shall modify the contract accordingly. DHS must assert its right to an adjustment under this clause within 14 calendar days from the date of receipt of the written order.

25.0 DHS shall obtain the City's written consent before placing any subcontract for furnishing any of the work called for in this contract. Consent by the City to any subcontract shall not constitute approval of the acceptability of any subcontract terms or conditions, acceptability of any subcontract price or of any amount paid under any subcontract, nor relieve DHS of any responsibility for performing this contract.

26.0 The services performed by DHS pursuant to this agreement will comply with any and all applicable federal, state, and local laws as the same exist and may be amended from time to time.

27.0 In consideration of the signing of this Agreement, the parties hereto for themselves, their agents, officials, employees, and servants agree not to discriminate in any manner on the basis of race, color, creed, age, sex, disability or national origin with reference to the subject matter of this contract, no matter how remote. This nondiscrimination provision shall be binding on the successors and assigns of the parties with reference to the subject matter of this Agreement

28.0 DHS, including its officers, employees, agents, and any other personnel providing services through DHS pursuant to this agreement agree to hold all materials and information both for any proposal and for any contract services with the City in the strictest confidence, and to take all necessary steps to assure and maintain the security of any information, test materials or other materials received, used, or developed pursuant to this contract.

29.0 The parties acknowledge and agree that this Agreement may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature. Without limitation, "electronic signature" shall include faxed versions of an original signature or electronically scanned and transmitted versions (e.g., via pdf) of an original signature.

IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first above written.

DON HOWARD d/b/a DON HOWARD STUDIOS

Attest:

By : _____
Don Howard

CITY OF HUNTSVILLE
A Municipal Corporation in the State of Alabama

Attest:

Kenneth Benion
Its: Clerk-Treasurer

By: _____
Tommy Battle
Its: Mayor