

****Request for Proposal: Downtown Mural Art Project****

****City of New Baltimore****

****Introduction:****

The City of New Baltimore is inviting qualified and experienced mural artists to submit proposals for the creation and installation of a mural on a wood structure attached to a building in the downtown area. The selected artists will have the opportunity to contribute to the enhancement of our community by transforming this location through vibrant and engaging mural art.

****Project Scope:****

The project will involve the creation and installation of a mural on a wood structure attached to a building in the downtown area. The building wall is 19 feet high by 68 feet long (1900 square feet). A photo of the wall is included for your reference. The mural is expected to be 12 feet high by 24 feet long (288 square feet). The mural will be located in the City's Historic District, and as such cannot be painted directly on the building. Therefore, the mural is to be constructed of 4' x 8' sheets of weather resistant material such as Medium Density Overlay (MDO) Plywood, exterior grade primed signboard, marine board, crezon board, or something suited for extended outdoor exposure. The mural will be mounted to the building by the City of New Baltimore Department of Public Service (DPS). Due to the modular nature of this mural, artist will have the option of painting the individual panels off site and installing them on the wall once completed. Artists are encouraged to consider the architectural context and cultural significance of the selected locations when developing their proposals. Artists are not to use trademarked, copyrighted, or branded material/logos in their artwork. All materials are to be provided by the artist, including wood, paint, mounting materials, and any other necessary items to complete this project. The expectation is that the finished mural will be in place for a minimum of 10 years, so please keep that in mind when choosing your materials.

****Submission Requirements:****

Interested artists are requested to submit the following documents:

1. ****Letter of Interest:**** A brief letter introducing the artist and expressing interest in the project.
2. ****Portfolio:**** A portfolio of previous mural work, highlighting relevant experience and artistic style.

3. **Proposal:** A detailed proposal outlining the concept, design, artistic approach, and materials to be used (including wood type, and brand and type of paint and primer). Artists should also include a rendering of the proposed mural.

4. **Budget:** A detailed budget estimate, including all costs associated with the creation, installation, and any necessary permits.

5. **Timeline:** A proposed timeline for the completion of the project is as follows:

March 19, 2024 – Bids are due

March 20, 2024 – Bid opening at the Arts and Culture Commission meeting.

April 9, 2024 – Winning bidder will be notified.

The winning artist may begin their work immediately after notification, and the project must be completed by June 1st, 2024.

6. **References:** Contact information for at least three professional references who can speak to the artist's experience and reliability.

Artists must also agree to the City of New Baltimore's mural artist agreement, which is included with this RFP.

Selection Criteria:

Proposals will be evaluated based on the following criteria:

1. Artistic Merit
2. Experience and Qualifications
3. Compatibility with the Downtown Area
4. Budget and Cost-effectiveness
5. Feasibility of Timeline

Submission Deadline:

All proposals must be submitted by 5:00pm on Tuesday, March 19th. Late submissions will not be considered.

Submission Address:

City of New Baltimore
Arts and Culture Commission
36535 Green Street
New Baltimore, MI 48047

Submissions can also be made via email at nbacc@cityofnewbaltimore.org.

****Proposal Opening:****

Proposals will be opened on Wednesday, March 20th at 7:00pm during the City of New Baltimore Arts and Culture Commission meeting. Artists or their representatives are welcome to attend.

****Additional Information:****

For additional information or inquiries, please contact [Insert Contact Person] at [Insert Contact Information].

The City of New Baltimore reserves the right to reject any or all proposals and to negotiate with any qualified artist. Submission of a proposal does not constitute an agreement between the artist and the City.

We look forward to receiving your creative proposals!

Sincerely,

Arts and Culture Commission
City of New Baltimore

AGREEMENT FOR MURUAL INSTALLATION AND MAINTENANCE

This Agreement for Mural Installation and Maintenance (hereinafter “Agreement”) is made on this day, March, _____, 2023, by and between the City of New Baltimore, a Michigan Municipal Corporation (hereinafter “City”), whose address is 36535 Green Street, New Baltimore, Michigan 48047, _____ (hereinafter “Artist”), whose address is _____, and Guisepe Riera, (hereinafter “Owner”), whose commercial address is 51083 Washington St, New Baltimore, Michigan 48047.

RECITALS

WHEREAS, the City understands the importance of art in public places and the role that murals play in attracting tourists and residents to the City of view art work and to attend events in the City; and

WHEREAS, the City desires to retain creative painting services for the painting of a mural in the City, at a selected building site within the City; and

WHEREAS, the mural project is designed to promote the arts and tourism in the City; and

WHEREAS, the City and artist (hereinafter collectively referred to as “Parties”) desire to execute an Agreement establishing the Parties’ rights and responsibilities with respect to the installation, maintenance, and ownership of a mural upon a building located in the City.

NOW THEREFORE, in consideration of the premises; the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

ARTICLE 1 - DEFINITIONS

- a. “Building” means the building located at 51091 Washington St, New Baltimore, Michigan 48047
- b. “Commercial” means words or images used elsewhere in the marketplace for the purpose of promoting a particular business, product, service, cause, place or brand.
- c. “Commercial Element” means art that by virtue of its location or proximity to a business may serve a minimal commercial purpose. If that art was in a different location, it would be considered pure art and not commercial in nature.
- d. “Good Condition” means that the mural is free of dirt, debris, and any other object or substance interfering with the public’s view of the mural.

- e. "Installation and Maintenance Plan" means a plan that describes phases of work for installation of the mural and description of tasks for maintenance of the mural at specified intervals during the lifetime of the Mutual.
- f. "Mural" means the painting executed by the Artist directly onto the exterior wall or onto a secondary surface and mounted onto the exterior wall selected by the City, in accordance with the City's approved Installation and Maintenance Plan.
- g. "Property" means the parcel of property with an address of 51091 Washington St, New Baltimore, Michigan 48047.
- h. "Rendering" means the Artist's sketch or graphic design or other means of illustration, produced onto paper, of a scale rendition of the proposed mural, including the color, shading and texture of the proposed mural.

ARTICLE 2 - SCOPE OF WORK

The scope of work for this Agreement requires the Artist to create the rendering; prepare an Installation Plan and participate in the Maintenance Plan; adhere to the budget for the installation of the mural represented by the Artist Prepared Rendering; and to install the mural for the building site as more fully described in Exhibit A. Further, the Artist shall execute the Release of Liability and Hold Harmless document, attached hereto as Exhibit B, that forms a part of and is incorporated into this Agreement.

ARTICLE 3 - PRICE AND PAYMENT SCHEDULE

The Artist shall complete the scope of work subject to the conditions herein, for a total budget of \$_____, payable as follows:

- a. Payment of 1/3, \$_____ shall secure the proposed dates of execution and the Artist's commitment to perform. Payment request shall be submitted to the City of New Baltimore Treasurer in the form an invoice reflecting the same to be furnished by the Artist, accompanied by this signed and notarized agreement, and submission of proof of insurance as outlined in Article 15.
- b. Payment request for the remaining balance of 2/3, \$_____ shall be submitted to the City of New Baltimore Treasurer in the form an invoice reflecting the same, to be furnished by the Artist, upon satisfactory completion of the contracted Mural, per the terms of this agreement.

ARTICLE 4 - PAYMENT PROCEDURES

The mural shall be deemed accepted and received by City upon the Artist's receipt of the County's written approval from the City. The Artist shall submit invoices within thirty (30) calendar days after completion of each of the two phases of printing of the mural. Invoices shall be submitted separately for each mural accepted by City. Invoices shall be submitted to the City

in sufficient detail to ensure compliance with this Agreement and shall include identification of the mural.

ARTICLE 5 – OWNER’S COVENANTS

- a. Authorization. Owner covenants that Owner owns the Property, is authorized to permit the mural’s installation upon the wall of the Property adjacent to Alfred Street off Washington Street. The owner will permit Artist to do so following this Agreement’s execution.
- b. Maintenance and Repair. Owner covenants to allow the City access to maintain and repair the mural during the term of this Agreement so that the mural is at all times in a state of good condition.

ARTICLE 6 - ARTIST’S COVENANTS

- a. Installation. Artist covenants to complete installation of the mural in accordance with the attached Scope of Work on the wall of the Property within one hundred twenty (120) days after this Agreement’s execution.
- b. Necessary Artistic Repairs. Artist covenants to assist City in making any necessary repairs to the mural’s artistic content, including, but not limited to, restoring a damaged portion of the mural’s content.
- c. Mural Preparation. Artist covenants to construct, prepare and mount to the building, the secondary structure on which the mural shall be painted, to provide a surface that is prepared for painting by the Artist. The preparation shall include two coats of primer paint, tinted to the preference of the Artist.
- d. Necessary Scaffolding. Artist covenants to provide sufficient scaffolding for the height of the wall or other structure and walking planks.
- e. Artist to choose and provide paint, appropriate to execute the mural as agreed as part of the total agreed upon cost.

ARTICLE 7 - CITY’S COVENANTS

The City shall provide or perform the following:

- a. Payments for the services of the artist in accordance with Articles 3 and 4 of this Agreement; and
- b. Approval of the rendering and the mural.

ARTICLE 8 - TERM OF AGREEMENT

This Agreement shall have a term of ten (10) years from the date of execution, unless terminated pursuant to Article 11.

ARTICLE 9 - DATE OF COMPLETION

The Artist agrees to complete the mural in accordance with the Project Schedule proposed by the Artist and approved by the City, attached hereto as Exhibit C, and as amended and approved in writing by the City and the Artist, from time to time, subject to the following conditions:

- a. Completion of the painting of each mural shall be extended for such period of time as the Artist may be disabled by illness preventing progress of his/her work, subject to Article 11.c. of this Agreement; and
- b. The completion date shall also be extended in the event of delays caused by events beyond the control of the Artist, including but not limited to fire, hurricanes, tornadoes, shortage of materials, and any act of God, subject to Article 9.c. of this Agreement.

ARTICLE 10 – MAINTENANCE AND REPAIR

- a. Maintenance and Repairs. Owner shall be responsible for allowing the City access for maintaining the mural in good condition at all times while this Agreement is in force. If, for any reason, the mural is not so maintained, the City shall notify the Owner of the need to perform maintenance and/or repairs and identify the actions necessary for compliance with this provision. If, after thirty (30) days from the date of the City's notification to Owner of the need to access for maintenance and/or repairs, Owner has not allowed access to execute the actions identified by City as being necessary for compliance with this provision, City may enter Owner's Property and perform any necessary maintenance and/or repairs at City expense.
- b. Access. Owner hereby grants City and Artist a right of access to the Property to paint the mural and to perform maintenance and repairs required pursuant to this Agreement, and otherwise to ensure the mural remains in good condition while this Agreement is in force. The license shall continue for a period of ten (10) years from the date of this Agreement.

ARTICLE 11 - TERMINATION

This Agreement may be terminated on the following conditions:

- a. The City shall have the right to terminate this Agreement for the City's convenience. In the event the City exercises its right to terminate for convenience, Artist shall be paid for all work completed and approved by City in writing;
- b. The City shall have the right to terminate this Agreement if the Artist fails without cause to complete the renderings as required by the terms of this Agreement or fails to complete

the mural within thirty (30) days after the completion date established in the scope of work. In the event of termination pursuant to this subparagraph, the Artist shall return to the City any advanced funds or payments made pursuant to the terms of this Agreement, but shall not be liable for any additional expenses, damages, or claims of any kind based on the failure to complete the mural;

- c. The City shall have the right to terminate this Agreement, if pursuant to Article 9.a., the illness of the Artist causes a delay of more than sixty (60) days in the completion date or if events beyond the Artist's control cause a delay of more than ninety (90) days in the completion date; provided, however, that the Artist shall return any advanced funds or payments to the City;
- d. In the event of such termination, City may elect to cover or remove those parts of the mural that have been installed.

ARTICLE 12 - OWNERSHIP AND INTELLECTUAL PROPERTY

- a. The Artist warrants and represents that the renderings and the mural transferred by this Agreement have never heretofore been published or copied and that the Artist is the sole owner of all rights therein, including but not limited to the right to prevent the making and dissemination of copies, including post cards, T-shirts, posters, and related materials, and the right to obtain statutory copyright extending to him/her the exclusive right to manufacture and sell the above items and copies for a full statutory term and renewal thereof.
- b. The Parties understand and agree that this sale of the rendering and the mural to City includes an assignment of any and all rights of the artist, under local, state, and federal law, including common and statutory law, and the City and Owner shall receive every legal protection that could be accorded to the Artist. The Artist further covenants to cooperate, in any action brought by the City and Owner to protect the rights herein conveyed.
- c. Ownership. City, its successors and assigns, shall own all rights in the mural except as specified below.
- d. Copyright. Subject to the restrictions and usage rights and licenses granted to City hereunder, and unless otherwise agreed to by the parties in writing, Artist shall retain all 17 U.S.C. Sec 106 copyrights in all original words of authorship produced under this Agreement. If Artist is comprised of two or more individual persons, the individual persons shall be deemed joint authors of the mural.
- e. Artist's Intellectual Property License.
 - (1) Artist hereby granted to City, and to City's agents, authorized contractors, successors in interest, and assigns, an unlimited and irrevocable license to do the following with respect to the mural:

- (a) City and Owner may make, display, distribute and sell, and authorize the making, display, distribution and sale of photographs, and other reproductions of the mural.
- (b) City may use such reproductions for any City-related purpose, including advertising, educational and promotional materials, brochures, books, flyers, postcards, print, broadcast, film, electronic, and multimedia publicity.

City and Owner shall ensure that such reproductions are made in a professional and tasteful manner, in their sole and reasonable judgment. City and Owner shall make reasonable efforts to ensure that such reproductions include the following credit line and copyright notice where practicable: “[Title of Artwork]” © [Year of completion] by [Artist’s name].

Failure to include such credit line and notice in any reproductions shall not constitute a breach of this Agreement. City may license or sublicense its rights for any private or commercial purpose.

- (2) Artist hereby grants to City, City’s agents, Owner’s agents, successors in interest, and assigns, a license to use and display the mural on the Property only.
- f. Third Party Infringement. Artist represents and warrants that the mural is the sole work of the Artist and does not infringe the intellectual property rights of any third parties. City is responsible for any third-party infringement of Artist’s copy right or for protecting Artist’s intellectual property rights, further, Artist agrees to indemnify City against any claims brought against city alleging that the mural infringes the intellectual property rights of any third parties.
- g. Publicity. City and Owner and its authorized contractors, successors and assigns shall have the right to use Artist’s name, likeness, and biographical information, in connection with the display or reproduction and distribution of the mural. Artist shall be reasonably available to attend any ceremonies related to the mural.
- h. Trademark. In the event that City’s or Owner’s use of the mural creates trademark, service mark or trade dress rights in connection with the mural, City and Owner shall have an exclusive and irrevocable right in such trademark, service mark, or trade dress.
- i. Waiver of Artist’s Rights. With respect to the mural produced under this Agreement, and in consideration of the procedures and remedies specified in this Agreement, Artist hereby waives any and all claims, arising at any time and under any circumstances, against City, Owner, their officers, agents, employees, successors and assigns, arising under the federal Visual Artists Rights Act (17 U.S.C. Secs. 106A and 113(d), and any other local, state, federal or international laws that convey rights of the same nature as those conveyed under 17 U.S.C. Sec. 106A or any other type of moral right protecting the integrity of works of art. Specifically, Artist hereby waives any and all such claims

against City or any future owners of the Property, and its agents, officers and employees. Artist hereby represents and warrants that the Artist is authorized to sign this waiver.

ARTICLE 13 - INDEPENDENT CONTRACTOR

Artist is, and shall be, in the performance of all work, services, and activities under this Agreement, an Independent Contractor and not an employee, agent or servant of City. All persons engaged in any of the work or services performed by or for Artist pursuant to this Agreement shall at all times, and in all places, be subject to Artist's direction, supervision, and control as an employee of Artist. Artist shall exercise control over the means and manner in which its employees perform the work, and in all respects Artist's relationship and the relationship of its employees to City shall be that of an independent contractor and not as employees or agents of City. Services performed by Artist pursuant to this Agreement are solely for the benefit of City. Nothing contained in this Agreement creates any duties on the part of Artist toward any third party.

ARTICLE 14 - INDEMNIFICATION

Artist shall, in addition to any other obligation to indemnify the City and to the fullest extent permitted by law, protect, defend, indemnify and hold harmless the City, its elected officials, employees, agents, and volunteers from and against all claims, actions, liabilities, losses, costs, including attorneys' fees and all costs of litigation, and judgments of every name and description to the extent arising out of the performance of this Agreement or work performed under or related to this Agreement, except to the extent caused by the: (a) negligent or willful act on the part of the City, its officers, employees, volunteers or agents; (b) inaccuracy of any of the City's representations and warranties set forth herein; or (c) negligent or willful acts of any party other than Artist, its officers, employees or agents. This indemnification shall also cover all claims, brought against the City, its elected officials, employees, agents, or volunteers by any employee or agent of the Artist. The Artist's obligation under this Indemnification shall not be limited in any way to the agreed upon contract price as shown in this Agreement, or the Artist's limit on or lack of sufficient insurance protection. Upon completion of all services, obligations and duties provided for in this Agreement, or in the event of termination of this Agreement for any reason, the terms and conditions of this Indemnification shall survive indefinitely.

ARTICLE 15 - INSURANCE

- a. **Required Insurance.** Artist shall have and maintain in full force and effect the following insurance during the Term of this Agreement and shall furnish to City Certificates of Insurance documenting that insurance coverage has been obtained which meets the following requirements:
 - (1) **Workers' Compensation.** Artist shall have and maintain workers' compensation insurance for all employees for statutory limits in compliance with Michigan law and Federal law.

- (2) Commercial General Liability. Occurrence Form Required: Artist shall have and maintain commercial general liability (CGL insurance with limits of not less than \$1,000,000 each occurrence. Products and completed operations aggregate shall be \$1,000,000 CGL insurance shall be written on an occurrence form and shall include bodily injury and property damage liability for premises, operations, independent contractors, products and completed operations, contractual liability, broad form property damage and property damage resulting from explosion, collapse or underground (x, c, u) exposures, personal injury and advertising injury.

b. Additional Requirements.

- (1) Certificates of Insurance shall be signed by a person authorized by that insurer to find coverage on its behalf. All Certificates of Insurance must be on file with and approved by City before commencement of any work activities. The formal insurance certificates shall include City of New Baltimore and its elected officials, agents, employees and volunteers as “Additional Insureds, primary and non-contributory” for claims caused by the negligent acts or omissions of Artist, its employees, agents or contractors on all policies except Workers’ Compensation and Professional Liability.
- (2) Artist shall deliver written notice to the City by overnight delivery return receipt requested, hand delivery, facsimile or confirmed e-mail thirty (30) days prior to giving or within here three (3) days after receiving notice of cancellation, material modification, non-renewal, or any other la[se in coverage of any required insurance policies.
- (3) In the event the insurance coverage will expire prior to termination of this Agreement a renewal certificate shall be issued thirty (30) days prior to the expiration date.
- (4) All insurance policies shall be written on forms acceptable to City and placed with insurance carriers authorized by the Insurance Department in the State of Michigan that meet a financial A.M. Best Company rating of no less than (FSR) A-Excellent: (FSC) (VII).
- (5) All insurance policies must include waiver of subrogation to the extent permitted by law. All liability insurance, except Professional Liability, shall be Primary and Non-Contributory. Certificate of Insurance shall confirm in writing that these provisions apply.
- (6) In the event that expired or terminated Certificates of Insurance are not replaced or renewed to cover the Term of this Agreement, including any extended Term, City may suspend the Agreement until the new or renewed certificates are received by City in the manner prescribed herein. If such suspension exceeds ten (10) calendar days, City may, in its sole discretion terminate the Agreement for

cause and Artist shall be responsible for all direct and indirect costs associated with such termination.

- c. These insurance requirements constitute the minimum requirements and shall in no way lessen or limit the liability of the Artist.

ARTICLE 16 - REMOVAL OF MURAL

- a. Removal by City. City may remove the mural in City's discretion at City's expense.
- b. Removal by Owner. Owner may remove the mural at Owner's expense if Owner reasonably determines that the mural is harming the Property or limiting Owner's ability to use the Property for the purpose for which it is intended; provided that Owner shall provide Artist and City with sixty (60) days' notice that Owner intends to remove the mural at the end of the notice period. If possible, Owner shall work with Artist and City to find another suitable site for the mural.

ARTICLE 17 - LAWS AND REGULATIONS

Artist shall comply with all laws and regulations applicable to providing the services, materials, and equipment specified in this Agreement. Artist shall comply with all federal, state, and local laws that may affect the services, material, and equipment specified by this Agreement.

ARTICLE 18 - LICENSES, CERTIFICATIONS, PERMITS AND FEES

Artist shall hold all licenses and certifications and comply with all laws, ordinances, and regulations, applicable to the work required herein. Any of the Artist's personnel who perform services shall be lawfully licensed and certified, to the extent required by law. Damages, penalties, and fines imposed on City or Artist resulting from Artist's failure to obtain and maintain required licenses and certifications shall be borne by Artist. All fees, permits, certifications and licenses are the responsibility of the Artist named are included in the Agreement price.

ARTICLE 19 - LIMITED THIRD-PARTY BENEFICIARIES

City and Owner shall not be obligated or liable to any person, organization or entity other than Artist. No provision in this Agreement is intended to, or shall be construed to, create any third-party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employee or agent of City, or employee or Agent of Artist.

ARTICLE 20 - RISK OF LOSS

Upon commencement of painting, Artist shall have all risk of loss of damage to the painting until the painting is received and accepted by City. Therefore, the Artist shall devise and erect sufficient means for the protection and security of the mural during the painting process.

ARTICLE 21 - CITY'S DEFAULT

In the absence of default by Artist, City shall be deemed to be in default upon failure to comply with the terms of this Agreement. City will have thirty (30) days from receipt of written notice of default from Artist in which to cure City's default. In the event that City fails to cure a default, Artist is entitled to cure the default by seeking reimbursement from City for all costs expended.

ARTICLE 22 - ARTIST'S DEFAULT

In the absence of default by City that impaired or prohibited Artist from complying with the terms of this Agreement, Artist shall be deemed to be in default upon the occurrence of any failure to comply with the terms of this Agreement, including the failure to maintain the mural in good condition for the term of this Agreement., Artist shall have thirty (30) days from receipt of written notice of default from City in which to cure the default. In the event that Artist fails to cure a default, City is entitled to cure the default and seek reimbursement from Artist for all costs, fees, and other expenses, including attorney's fees and court costs from Artist. Further, City is entitled to proceed directly to assert a legal claim against Artist and to recover all attorney's fees and court costs associated with such claim and litigations.

ARTICLE 23 - AMENDMENT OR WAIVER

This Agreement may be changed, discharged, or terminated only by writing signed by all parties hereto. No waiver of any provision of or performance, right or ligations under this Agreement shall be valid except when delivered to the other party to this Agreement pursuant to the notice provisions of Article 31 of this Agreement. No delay or omission by any party in exercising any right with respect hereto shall operate as a waiver. A waiver on any one occasion shall not be construed as a bar to, or waiver of, any right or remedy on any further occasion.

ARTICLE 24 - FAILURE TO PERFORM

Failure to satisfactorily perform the terms of this Agreement may result in written notice to the non-performing party terminating its right to proceed as to the whole or any part of the Agreement. The non-performing party will be responsible for any additional costs incurred by the other party if the non-performing party fails to satisfactorily perform as required herein, providing the other party notifies the non-performing party in writing of the performance failure and provides the non-performing party thirty-one (31) days to correct the performance failure.

ARTICLE 25 - SEVERABILITY

To the extent any provision of this Agreement is prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition, or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

ARTICLE 26 - GOVERNING LAW

This Agreement shall be construed and interpreted in accordance with the internal laws of the State of Michigan without giving effect to the conflict of laws principles thereof.

ARTICLE 27 - MEDIATION

The parties agree that they will voluntarily and in good faith participate in mediation of any controversies between them prior to and as a prerequisite of a party filing a legal proceeding unless such legal proceeding must be filed in order to avoid a contractual or statutory deadline; but in such event, the legal proceeding shall be abated until the required mediation is concluded. In the event of a controversy, the parties agree to schedule mediation to occur within forty-five (45) days of a party forwarding written notice to the other party of a controversy. The parties shall mutually agree to the selection of a mediator from the list of mediators who are authorized to mediate civil cases through the Judicial Circuit in and for Macomb County, Michigan.

ARTICLE 28 - ENTIRE AGREEMENT

This Agreement is the entire agreement between the parties relating to the subject matter hereof, and it supersedes all prior oral and written agreements, undertakings, negotiations, statements and representations, and it shall not be amended or modified except in a writing signed by each party.

ARTICLE 29 - BINDING EFFECT

All of the terms of this Agreement, and as amended from time to time, shall be binding upon, inure to the benefit of, and be enforceable by the respective agents, heirs, successors in interest and assigns of the City.

ARTICLE 30 - CONSENT OF JURISDICTION AND VENUE

In the event that any party to this Agreement commences a lawsuit or other proceeding relating to or arising from this Agreement, the parties hereto agree that the Sixteenth Judicial Circuit in and for Macomb County, Michigan, shall have the sole and exclusive jurisdiction over any such proceeding. That court shall be proper venue for any such lawsuit or judicial proceeding, and the parties hereto waive any objection to such venue. The parties hereto consent to and agree to submit to the jurisdiction of the court specified herein, agree to accept the service of process, and agree that service of process shall vest personal jurisdiction over them by that court.

ARTICLE 31 - NOTICES AND DESIGNATED CONTACT PERSON

Any notice required or permitted by this Agreement to be given shall be deemed to have been duly given if in writing and delivered personally or five (5) days after mailing by first class registered or certified mail, return receipt requested, postage prepaid or by Federal Express, UPS

or other nationally recognized delivery service, with confirmation of delivery request, and addressed as follows:

To City: Mayor Thomas Semann
City of New Baltimore
36535 Green Street
New Baltimore, Michigan 48047

To Artist:

To Owner: Guiseppe Riera
51091 Washington St,
New Baltimore, Michigan 48047.

ARTICLE 32 - ASSIGNMENT

This Agreement may not be assigned by Artist to any other person or entity without the prior written consent of the other parties.

ARTICLE 33 - MISCELLANEOUS

Headings are for convenience only and do not affect, limit, or control the meaning, effect or application of any provision of this Agreement. No consent or waiver, express or implied, of any right, obligation, breach or default under or affected in any way by this Agreement by any party will be deemed a consent or waiver of any other breach or default by that party. This Agreement may be executed in one or more counterparts, each of which will constitute the same agreement, whether or not all parties execute each counterpart. This Agreement shall be binding upon Artist and City and upon the respective heirs, legal representative es, successors and assigns.

The parties have hereunto set their hands and seals the day and year above set forth.

CITY:
City of New Baltimore, a Michigan Municipal Corporation

By: Thomas Semaan
Its: Mayor

ARTIST:

By: _____

OWNER:

By: Guiseppe Riera _____

EXHIBIT A

Scope of Work

Section I. Mural Specifications

1. Artistic Freedom. The provisions of this paragraph shall not in any way limit or restrict Artist's right to include content in the mural that is not commercial, indecent, or obscene.
2. Commercial Content. The mural shall not include an advertisement or be commercial in nature. murals shall not contain copy, lettering, symbols or references directly to the promotion of any product, business, brand, organization, service, cause or place. murals may contain limited commercial elements so long as they are not considered commercial speech with the purpose of promoting a commercial transaction.
3. Obscene and Indecent Content. The mural shall comply with City ordinances prohibiting indecency and obscenity in public.
4. Sponsor and Artist Identification. In no event shall the name of a sponsor, a sponsor product likeness, or the Artist's signature individually comprise more than one (1) percent of the mural.
5. Configuration and Dimensions. The mural shall be of the same configuration and dimensions as the scale Rendering preliminarily approved by the City.

Section II. Installation

1. Preliminary submissions by Artist. Submit one full color Rendering, an Installation and Maintenance Plan that includes a timeline identifying the phases of work for completion of the mural and maintenance during the ten (10) year lifetime of the mural; and a proposed budget.
2. Permits and legal compliance. Obtain any necessary permits and comply with all applicable laws.
3. Preparation of wall and site. Within thirty (30) days following issuance of a Notice to Proceed, prior to proceeding to paint the mural, (1) prepare the wall surface for painting of the mural, the preparation shall include two coats of primer paint, tinted to the preference of the Artist for consideration and approval by the City no less than thirty (30) days following the execution of this Agreement, (2) erect or provide his or her own subcontractor to erect any scaffolding deemed necessary, including but not limited to shade cloths and umbrellas.
4. Selection of paints. Investigate different paints and select paints that will provide the most durable mural for a lifetime of ten (10) years.

5. Supplies and equipment. Supply his/her own paint brushes, sponges, rags, rulers, dishes and any other tools, materials, supplies and equipment of the trade necessary to complete a mural with a lifetime of ten (10) years.
6. Notice and Time of Installation. Artist shall provide advance notice in writing to City of the date and time Artist intends to install the mural. Artist may thereafter proceed with the installation if City is not present unless City notifies Artist in writing otherwise.
7. Anti-graffiti coating. Install an anti-graffiti coating to the mural, if in the professional judgment of the Artist, the application of and use of an anti-graffiti coating will not damage the mural or the Building.
8. Date of completion. Complete each mural within one hundred eighty (180) days (or as decided by City and Artist in writing) of receipt of written Notice to Proceed.
9. Landscape Protection and Removal. To the extent reasonably practicable under the circumstances, Artist shall take care to protect any landscaping on the Property during installation. If installation requires the removal of any landscaping on the Property, Artist shall be responsible for replacing the landscaping after completing installation. Prior to removing or altering any landscaping on the Property, Artist shall first acquire City's consent to such removal or alteration.
10. Damage to mural. In the event of damage to the mural or wall, the Artist agrees to assist City and Owner in making any necessary repairs to the mural's artistic content, including restoration of any damaged portion, and the City will restore, through the selection of the Artist or another artist of the City's choice, the mural to as close to the original condition as possible.

Section III. Maintenance and Repairs

1. Maintenance and Repairs. Owner shall be responsible allowing the City access for maintaining the mural in good condition at all times while this Agreement is in force.

EXHIBIT B

Release of Liability and Hold Harmless

In consideration of my participation in the City of New Baltimore mural Project (hereinafter, the "Project"), the undersigned agrees as follows:

1. I understand that my performance of services in the Project may include, without limitation, the following risks and hazards: outdoor activities in the public right-of-way, use of tools or equipment, exposure to paint and/or other chemicals and physical exertion, any of which may result in damage to property, bodily injury or death. I am aware of the risks and hazards inherent in providing services for the Project, and recognize those risks and hazards.

2. On behalf of myself, my successors, heirs, executors, administrators, personal representatives and assigns, I hereby release the City of any building which is part of the Project, and their officers, employees, volunteers, and agents (collectively, "Releasees") from any and all liability for any and all claims and causes of action which I may hereafter have on account of any and all injuries and/or damage that I may sustain, or any loss of any other sort, arising out of or relating to my engagement in or attendance at the Project, or incidental thereto, whether caused by the negligence of the Releasees or any other person. In addition, I covenant and agree to forever hold them and each of them harmless, from any liability, claims, demands, actions, or causes of action whatsoever arising from my work in the Project, whether such liability, claims, demands, or actions are the result of the negligence of the Releasees or any other person. This waiver, release, discharge, indemnification and hold harmless shall not be applicable to actions constituting gross negligence, recklessness or willful and wanton behavior on the part of the Releasees. This release of liability and hold harmless agreement shall be binding upon me, my successors, heirs, executors, administrators, personal representatives, and assigns, and shall inure to the benefit of the Releasees and their successors and assigns.

3. I hereby agree to indemnify the Releasees and to assume and be responsible for all harm, injury or damage caused by me or my contractors, agents, assigns or successors in interest to any of the Releases, the Releasees' property or equipment, other persons or other personal property used in conjunction with the Project.

Artist
 Signature _____ Date _____

Printed Name: Zach Curtis _____

Address: 8730 Cooley Beach Dr, White Lake, MI 48386

STATE OF MICHIGAN)SS
 COUNTY OF MACOMB)

The foregoing Release of Liability and Hold Harmless was acknowledged before me this _____ day of _____, by _____, who is either personally known to me [] or has produced _____ as identification [].

(AFFIX NOTARY SEAL)

 Print name: _____
 Notary Public, State of Michigan
 Acting in Macomb County
 Commission Expires: _____

EXHIBIT C
Project Schedule

Dates for Mural execution are September 30, 2023 through October 6, 2023

