

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT TO ENTER INTO A PURCHASE AGREEMENT WITH ARTIST, MEG SALIGMAN, TO DESIGN, FABRICATE, AND INSTALL AN EXTERIOR MURAL IN THE M.L. KING DISTRICT AND TO CONDUCT PUBLIC MEETINGS AND MANAGE A LOCAL ARTIST APPRENTICESHIP PROGRAM, FOR AN AMOUNT NOT TO EXCEED TWO HUNDRED THOUSAND DOLLARS (\$200,000.00).

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That it is hereby authorizing the Administrator of the Department of Economic and Community Development to enter into a Purchase Agreement with artist, Meg Saligman, to design, fabricate, and install an exterior mural in the M.L. King District and to conduct public meetings and manage a local Artist Apprenticeship Program.

ADOPTED: _____, 2015

/mem

City of Chattanooga



Resolution/Ordinance Request Form

Date Prepared: March 24, 2015

Preparer: Dana Womble for Donna C. Williams

Brief Description of Purpose for Resolution/Ordinance: Res./Ord. # _____ Council District # 8

A resolution authorizing the Administrator of the Department of Economic and Community Development to enter into a purchase agreement with artist Meg Saligman to design, fabricate and install an exterior mural in the M. L. King District; conduct public meetings and manage a local artist apprentice program, for an amount not to exceed \$200,000.

Name of Vendor/Contractor/Grant, etc. _____
Total project cost \$ 200,000
Total City of Chattanooga Portion \$ 0
City Amount Funded \$ 0
New City Funding Required \$ 0
City's Match Percentage % 0%

New Contract/Project? (Yes or No) Yes
Funds Budgeted? (YES or NO) _____
Provide Fund _____
Provide Cost Center _____
Proposed Funding Source if not budgeted _____
Grant Period (if applicable) _____

List all other funding sources and amount for each contributor.

Amount(s)	Grantor(s)
\$50,000.00	Benwood Foundation
\$150,000.00	Lyndhurst Foundation
\$	

Agency Grant Number _____

CFDA Number if known _____

Other comments: (Include contingency amount, contractor, and other information useful in preparing resolution)

Approved by: _____

Reviewed by: FINANCE OFFICE

DESIGNATED OFFICIAL/ADMINISTRATOR

Please submit completed form to @budget, City Attorney and City Finance Officer

Revised: 1/26/09

PURCHASE AGREEMENT FOR WORK OF ART

THIS ART SALES AGREEMENT (hereinafter the "Agreement") is made this _____ day of _____, 2015, between THE CITY OF CHATTANOOGA, hereinafter referred to as the "CITY," and "MEG SALIGMAN STUDIOS", hereinafter referred to as the "ARTIST".

WHEREAS, the CITY selects ARTWORKs and monitors contracts to create and install works of art on CITY property; and

WHEREAS, the ARTIST is in the business of creating and selling art work; and

WHEREAS, the CITY agrees to engage the ARTIST to design, fabricate and install an exterior mural (hereafter "ARTWORK") that will be located on the AT&T Building at 300 East Martin Luther King Boulevard and to participate in certain meetings associated with the a project (the design, creation of the and all such associated activities to develop and install the ARTWORK).

It is hereby agreed and acknowledged that:

1. Artist Obligations.

- a. **Concept Approval.** After conducting preliminary research and meeting with community members and Project stakeholders, the Artist will present the proposed concept to the CITY and will cooperate with the CITY in all aspects of the concept review and concept process, which will last eleven (11) days. When the concept is proposed, a maximum of ten (10) immediately days will be allotted for revisions. On no more than the eleven (11) days after the initial concept proposal, the CITY will approve the ARTWORK.
- b. **Design Approval.** The Artist will present the proposed design for the CITY and will cooperate with the CITY in all aspects of the design review and approval process. When the design is proposed, a maximum of thirty (30) immediately subsequent days will be allotted for revisions. On no more than the thirty-first (31) day after the initial concept proposal, the CITY will approve the concept for the ARTWORK, and the Artist can proceed to execute the approved design for the ARTWORK.
- c. **Execution of Approved Design.** The Artist will take all reasonable steps to ensure that the ARTWORK faithfully replicates the approved design, and includes all approved credit lines. Before executing any major changes in the approved design, the Artist will present the proposed changes in writing (including with any drawings or sketches) to the CITY for further review and approval. The Artist will work diligently to fulfill the requirements of all such review processes.

- d. **Diligent Process.** The Artist will work diligently to complete the ARTWORK on or before the Completion Date specified in the Project Addendum. If at any time it becomes apparent the ARTWORK will not be completed by the Completion Date, the Artist shall promptly notify the CITY, and the parties will negotiate in good faith an extension of time for completion. The Artist also agrees to be available for a reasonable number of meetings to coordinate design and project implementation.
- e. **Completion of the ARTWORK.** Project completion does not occur until the CITY, in its reasonable discretion, determines that the ARTWORK and the Artist's related obligations under this agreement and the applicable Project Addendum are completed in accordance with their terms.
- f. **Promotional Activities.** The Artist will participate in promotional activities associated with the ARTWORK as requested by the CITY, such as dedications, endorsements, press releases, and/or other appearances or statements as needed. The CITY will make good-faith efforts to coordinate with the Artist on the scheduling of such activities.
- g. **Workshops.** The Artist will participate in any workshops or similar activities, such as community meetings, associated with the ARTWORK, as determined and arranged by MAA, which will make a good-faith effort to coordinate with the Artist on the scheduling of such activities.

2. **Equipment and Safety.**

- a. **Site Safety.** Any Artist present at the Project site will at all times comply with all safety requirements outlined by Occupational Safety and Health Administration standards. Failure to follow all applicable safety requirements jeopardizes the health and safety of the Artist and all others present on the Project site and will be considered a material breach of this AGREEMENT. In any instance in which the Artist is unfamiliar with or needs additional guidance concerning safety requirements, the Artist will promptly consult with the CITY.
- b. **Project Equipment and Supplies.** The Artist will procure all equipment and supplies necessary for the execution of the ARTWORK with funds to be supplied in advance by the CITY. The CITY acknowledges that time is of the essence in supplying such funds. The Artist agrees to provide a written inventory

of supplies upon request by the CITY.

c. Scaffolding and Lifts. If the Project requires scaffolding or lifts, the Artist will work with the CITY to determine the date and time of when the scaffolding or lift will be in use on site.

d. Care and Safety of Worksite. The Artist will keep the worksite reasonably clear of debris at all times and will leave the worksite reasonably clean at the end of each working day or session. The Artist will secure the worksite in accordance with applicable safety regulations. Additional site-specific concerns or requirements for the Project may be included and itemized in the Project Addendum.

3. Subcontractors.

If the Artist requires assistance with the Project from a third party, such as to provide fabrication or engineering expertise, the Artist shall notify the CITY. In joint discretion, the Parties may determine the additional individual(s) to contract with, if any, with such contract to be between the CITY and such individual.

4. Worksite Signage and Credit Panel.

The Artist will be responsible for the creation and installation of all final project credits for the ARTWORK, as approved by the CITY (the "Credit Panel"). The Credit Panel will include, at a minimum, credits identifying the ARTWORK as a project of the CITY of Chattanooga... , Meg Seligman Studios, the lead artist(s), assistant artists, any sponsors identified by the CITY, along with copyright information as described in Article II section 2 below.

5. Diligence.

The Artist agrees to work diligently to complete the project within 9 months of the Project Start Date. If at any time it becomes apparent that the Artist will not be able to complete the ARTWORK by the Completion Date, the Artist shall promptly notify the CITY, and the Parties will attempt to negotiate in good faith an extension of time for completion of the ARTWORK.

6. Purchase Price. City agrees to purchase the ARTWORK from the Artist for a fixed fee of Two Hundred Thousand (\$200,000.00) Dollars, which includes full compensation for services, materials, travel, delivery, insurance and installation of the ARTWORK. In no event shall the CITY's obligation under this agreement exceed Two Hundred Thousand (\$200,000.00) Dollars without written approval by appropriate CITY officials. Payments shall be made in installments as set forth in the attached "Project Addendum" after receipt of an invoice from the Artist by the

CITY. Payments shall be made in a timely manner after receipt of an invoice from the ARTIST and no event more than thirty (30) days.

7. **Ownership.** The ARTWORK created under this agreement shall be the property of the CITY.
8. **Artist's Warranty.** ARTIST warrants to the CITY that ARTIST is the owner of the ARTWORK, that the ARTWORK is free and clear of all encumbrances and that ARTIST has good right to sell the ARTWORK. ARTIST further warrants that the ARTWORK is original to ARTIST and does not infringe on any third party's copyrights or other intellectual property rights. ARTIST warrants that the ARTWORK is the exclusive work of the ARTIST.
9. **Copyright and Exclusive License.** All copyright and further reproduction rights to the ARTWORK shall remain with ARTIST. However, ARTIST shall grant a perpetual license to the CITY for the use of the ARTWORK for educational, community and other non-commercial uses. In the event the CITY wishes to use the ARTWORK for commercial purposes, the CITY shall contact ARTIST so that a separate agreement may be negotiated.
10. **Hold Harmless.** The ARTIST agrees to indemnify and hold harmless the CITY and CITY employees from any and all claims or actual injury, damage or loss to a person, or real or personal property that results from or is in any way connected to the use of the ARTWORK.
11. **Liability and Insurance.** The Artist agrees to maintain an insurance policy or policies providing general liability and personal injury coverage for losses of at least one million (\$1,000,000.00) per occurrence and two million (\$2,000,000.00) on aggregate, naming the CITY as co-insured. The Artist agrees to carry Worker's Compensation Insurance if any of the work is to be executed by subcontractors and workers' compensation coverage is required.
12. **Deaccessioning Procedure.** The ARTIST agrees and acknowledges that should deaccessioning of the ARTWORK become necessary at any point the CITY shall proceed with deaccessioning pursuant to the guidelines as outlined in the Chattanooga Public Art Plan.
13. **Resiting.** CITY intends that the ARTWORK shall remain in its designated site; however, CITY reserves the right to relocate the ARTWORK to the extent possible.
14. **Repair or Restoration.** With respect to any repair or restoration of the ARTWORK, ARTIST shall be consulted if possible if the need for repair or restoration arises. The nature of the repair shall not significantly alter the original appearance of the ARTWORK. ARTIST shall provide instructions for repair of the ARTWORK. The ARTIST shall not be responsible for bearing any costs associated with the maintenance, repair or restoration of the ARTWORK for damage or deterioration to

the ARTWORK that occurs at a point after the ARTWORK project installation completed.

15. **Maintenance.** The CITY shall be responsible for the proper cleaning, maintenance and protection of the ARTWORK pursuant to the instructions provided by ARTIST and submitted by ARTIST on the Conservation Record and Maintenance Form attached hereto as Exhibit.
16. **Termination.** The CITY may terminate this contract without cause for any reason. Said termination shall not be deemed a breach of contract by the CITY. The CITY shall give the Grantee at least thirty (30) days written notice before the effective termination date. The ARTIST shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the CITY be liable to the ARTIST for compensation for any service which has not been rendered. The final decision as to the amount, for which the CITY is liable, shall be determined by the CITY. Should the CITY exercise this provision, the ARTIST shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

If the ARTIST fails to fulfill its obligations under this contract in a timely or proper manner, or if the ARTIST violates any terms of this contract, the CITY shall have the right to immediately terminate the contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the ARTIST shall not be relieved of liability to the CITY for damages sustained by virtue of any breach of this contract by the ARTIST.

17. **Audit Provision.** The CITY or its assign may audit all financial and related records (including digital) associated with the terms of the contract or agreement. The CITY may further audit any contractor records to conduct performance audits (to identify waste and abuse or to determine efficiency and effectiveness of the contract or agreement) or to identify conflicts of interest. The ARTIST shall keep and maintain records of the work performed pursuant to this Contract or Agreement for five (5) years related to this agreement. Costs of any audits conducted under the authority of this section and not addressed elsewhere will be borne by the CITY unless the audit identifies significant findings that would benefit the CITY. The ARTIST shall reimburse the CITY for the total costs of an audit that identifies significant findings that would benefit the CITY. This Section shall not be construed to limit, revoke, or abridge any other rights, powers, or obligations relating to audit which the CITY may have by Federal, State, or Municipal law, whether those rights, powers, or obligations are express or implied.
18. **Severability.** If any term of this Agreement is held to be illegal, void or unenforceable for any reason, such holding shall not affect the validity and enforceability of any other term of this Agreement.

19. **Governing Law/Venue.** This Agreement shall be exclusively governed by and construed in accordance with the laws of the State of Tennessee. The venue for any action commenced under this Agreement shall be resolved exclusively in Chattanooga, Hamilton County, Tennessee.
20. **Entire Agreement.** This Agreement supersedes and replaces all prior written and oral Agreements and constitutes the entire and complete agreement by and between ARTIST and the CITY. This Agreement may be changed only by an agreement in writing, signed by the party against whom enforcement of any modification, extension or discharge is sought.
21. **Attorney's Fees.** In the event of arbitration and/or litigation arising out of, or in any way related to any term set forth in this Agreement, the prevailing party, in addition to any other relief awarded, shall be entitled to recover its reasonable attorney's fees and court costs at trial and on appeal.
22. **Notices.** All notices required by this contract shall be in writing and mailed to the parties at the addresses set forth in this Agreement or at such other address that a party shall specify. If the ARTIST fails to notify the CITY of his/her current address, notice shall be deemed sufficient if the CITY mails notice to the last known address of the ARTIST even if such notice is returned unopened to the CITY.

Dated this _____ day of _____, 2015.

ARTIST:

BY: _____
Meg Saligman Studios
Address: _____

CITY OF CHATTANOOGA:

BY: _____
Title: _____
Address: _____

PROJECT ADDENDUM
Mural Project Proposal

Meg Saligman Studios:

Lead Artist: Meg Saligman
Co-Lead Artist: Lizzie Kripke
Project Manager: Lizzie Kripke

Public Art Chattanooga:

Director: Peggy Townsend
City of Chattanooga Economic & Community Development

Artwork Site:

ATT Building
300 E MLK Blvd.
Chattanooga, TN 37403

PRELIMINARY TIMELINE

Start Date: March 1, 2015

Completion Date: November 20, 2015

Concept & Research: March 2015
Design: April 2015 – May 2015
Fabrication: May 2015 – July 2015
Installation: June 2015 – November 2015
Documentation: December 2015

PROCESS

Timing: The above timeline indicates rough date estimates for completion of the mural project. The only firm dates in this timeline are (1) that the mural will be fully installed by December 2015 barring any construction delays on the building site that do not allow for mural installation.

Payments: Artist fees will be paid in installments negotiated at the time of contract and included in the contract descriptions. Payments for project expenses will also be detailed in contract agreements and paid in installments. The total fee is ALL encompassing. Payments must be made in a timely manner in advance of necessary purchase of materials and expenses as detailed in the contract budget agreement.

PROJECT COST OVERVIEW

Artist Fee	\$25,000
Itemized Listing of Expenses	\$175,000
Total Project Cost	\$200,000

1st Payment: \$12,500 to be paid upon execution of this contract by all parties and receipt of an invoice from ARTIST.

2nd Payment:

3rd Payment \$\$\$\$\$\$\$

4th payment \$20,000 (twenty-thousand dollars) to be paid upon delivery, completion of installation and final acceptance of the WORK.

Artist Payment Request (1st Payment)

March ____ 2015

Meg Saligman Studios GPA

Public Art Chattanooga
City of Chattanooga Economic & Community Development

I, Meg Saligman, hereby request payment in the amount of \$12,500. This is 50% of the total compensation for work on the mural project in Chattanooga, TN. This payment is in compliance with the terms and conditions set forth in the Governing Principles Agreement and represent the 1st installment of the total Phase 3 compensation outlined in that Agreement.

Payment Authorization

The Artist's work has been reviewed for compliance with the terms and conditions outlined in the work Agreement. This request for payment conforms to the agreed upon requirements and is approved.

Artist Signature _____

Date _____

Total Due \$ _____