

MEMORANDUM

TO: MAYOR AND CITY COMMISSION
FROM: CITY ATTORNEY'S OFFICE
DATE: August 7, 2023
RE: **Agreement with H2 Design for Exhibit Design, Fabrication & Installation Services for the Lakeland History and Culture Center**

Attached hereto for your consideration is a proposed Agreement with H2 Design for exhibit design, fabrication and installation services for the Lakeland History and Culture Center (LHCC) in the Lakeland Public Library located at 100 Lake Morton Drive. This exhibit will serve as the second since the space was created and opened to the public in September of 2022.

Accordingly, the City's Purchasing Department issued Request for Qualifications 2023-RFQ-027 (RFQ) on April 7, 2023 seeking qualified firms to provide exhibit design, fabrication and installation services for the LHCC. Three (3) firms responded to the RFQ. Selection committee members, comprised of City staff and one former City Commissioner, ranked the firms.

- | | |
|----------------------------------|----------------------|
| 1. H2 Design | Middleboro, MA |
| 2. Creative Arts Unlimited, Inc. | Pinellas Park, FL |
| 3. FractaVisual Designs | Rancho Cucamonga, CA |

Upon evaluation by the Selection Committee, H2 Design was selected as the most responsive responsible firm capable of providing the services in accordance with the RFQ and that best meets the needs of the City.

The initial term of the Agreement, effective upon City Commission approval, shall continue through August 20, 2024, which is the scheduled completion of services. Upon mutual written agreement of the parties the Agreement may be extended for one (1) additional six-month (6) month period. Pursuant to the Agreement, H2 Design's services will total \$100,000.00, which will be funded by the LHCC Exhibits and Displays' line item in the Library's Capital Improvement Project budget for FY23. Any additional funding that may be needed can be requested from the LHCC Givewell account.

It is recommended that the City Commission approve the Agreement with H2 Design for the LHCC's exhibit design, fabrication and installation services and authorize the appropriate City Officials to execute all corresponding documents associated with the Agreement.

Attachment

AGREEMENT FOR SERVICES

City of Lakeland
228 South Massachusetts Avenue
Lakeland, Florida 33801-5086

AND

H2 Design Studio (FED ID # 870944860)
164 Plympton Street
Middleboro, MA 02346

AGREEMENT

THIS AGREEMENT, made and entered into on the 7th day of August, 2023 (“Effective Date”), by and between the City of Lakeland, Florida, a municipality organized and existing in accordance with the laws of the State of Florida, hereinafter referred to as the "City", located at 228 South Massachusetts Avenue, Lakeland, Florida 33801-5086, and H2 Design, a museum exhibit design-build business, located at 164 Plympton Street, Middleborough, MA hereinafter referred to as the “Contractor.”

WITNESSETH

WHEREAS, City has previously determined that it has a need for exhibit design, fabrication and installation services at the Lakeland History and Culture Center; and

WHEREAS, City issued a Request for Qualification (RFQ) for such services pursuant to City of Lakeland RFQ No. 2023-RFQ-027 exhibit design (hereinafter RFQ); and

WHEREAS, City awarded the City of Lakeland RFQ No. 2023-RFQ-027 to Contractor; and

WHEREAS, Contractor has represented that it is able to satisfactorily provide the services according to the terms and conditions of the RFQ, which are incorporated herein by reference, and the terms and conditions contained herein; and

NOW THEREFORE, in consideration of the above and mutual covenants contained herein, the parties agree as follows:

1. Services to be Performed. The Contractor hereby agrees to provide the City with exhibit planning, design, fabrication and installation services, as requested and more specifically outlined in the RFQ and this Agreement and all subsequent official documents that form the contract

Documents for this Agreement. The City must identify a single point of contact to serve as the Project Lead, and to whom all communications and final decisions/approvals will be directed by the Contractor. The Contractor identifies Larissa Hansen Hallgren as the Project Lead, as well as Ariel Hallgren, as Project Designer. The studio is co-owned by Larissa Hansen Hallgren and Ariel Hallgren. The Contractor will make no staffing change without the written consent of the City.

2. Time of Service. Services shall be performed in a timely manner, as specified in the RFQ and must be completed within fifteen (15) months of the Effective Date of Agreement. The City must return responses to the Contractors requests for approvals and feedback to creative material submitted in the form of sketches, narratives, copy and drawings within three (3) business days order to meet this time table for project delivery. Regular meetings, via zoom and/or in person, will occur throughout the life of the project to ensure smooth communication. Both the Contractor and the City will attend these meetings.

Conceptual Design (August 20, 2023 - November 20, 2023)

- Develop content outline and description of exhibit elements.
- Provide conceptual drawings of larger exhibit elements.
- Share color palette, fonts and hierarchy.
- Develop estimated budget for production and installation. Submit items for review by library team.

Final Design Package (November 21, 2023 - February 20, 2024)

- Create final floor plans and scale drawings of all exhibit elements.
- Create final graphic approach typical for all major panels/walls.
- Develop exhibit outline with component descriptions, text descriptions, images, artifacts, descriptions of interactives and media.
- Develop production and installation schedule.
- Identify and/all elements that will be reused from the previous exhibition.

- Submit for review and approval by library staff and LHCC Advisory Board.

Fabrication and Installation Package (February 21, 2024 - August 20, 2024)

As part of a turnkey exhibit solution, the Contractor will provide detailed documents in the Design package to enable fabrication and production of the exhibition and will oversee the craftsmanship and/or production for the LHCC exhibit.

- Provide library team a timeline for completion.
- Coordinate and oversee the installation of exhibit content within the LHCC.
- Bring any concerns and proposed solutions to the library team.
- Correct any errors, defects prior to exhibit opening.

Production Services/ Fabrication and Installation

- Produce final graphic files for printing.
- Produce final audio and/or software files for playing.
- Acquire necessary a/v hardware.
- Fabricate/ produce all exhibit components and print all graphics.
- Deliver and install all exhibit components to a clear exhibit space prepared to receive a new exhibit. (Clearing and preparation of the space by the City of Lakeland).

3. Term of Agreement/Option of Renewal. This Agreement shall be in effect for an initial term of fifteen (15) months from the Effective Date unless otherwise cancelled or terminated as provided herein. This Agreement may be renewed subject to execution of a written agreement between the City and Contractor, beyond the initial term. This option shall be exercised only if all terms and conditions remain the same and written approval is granted by the City or its authorized representative.

4. Amendment of the Contract. This Agreement may be amended only by mutual written agreement of the parties.

5. Assignment/Subcontracting. The Contractor shall perform this Agreement. In the event of a corporate acquisition and/or merger, the Contractor shall provide written notice to the City within thirty (30) business days of Contractor's notice of such action or upon the occurrence of

said action, whichever occurs first. The right to terminate this Agreement, which shall not be unreasonably withheld by City, shall include, but not be limited to, instances in which a corporate acquisition and/or merger represent a conflict of interest or are contrary to any local, state or federal laws.

6. Cancellation. City reserves the right to cancel this Agreement, without cause, by providing thirty (30) days prior written notice to the Contractor of its intention to cancel, or with cause if at any time the Contractor fails to fulfill or abide by any of the terms or conditions specified.

Failure of the Contractor to comply with any of the provisions of this Agreement shall be considered a material breach of contract and shall be cause for immediate termination of the Agreement at the discretion of the City.

In addition to all other legal remedies available to City, City reserves the right to cancel and obtain from another source any items which have not been provided within the period of time stated in the RFQ, or if no such time is stated, within a reasonable period of time from the date of order or request, as determined by City.

In addition, in the event that sufficient budgeted funds are not available for a new fiscal period, the City shall notify the Contractor of such occurrence and the City shall terminate this Agreement on the last day of the then current fiscal period without penalty or expense to the City.

Contractor reserves the right to cancel this Agreement if the City pauses the project for more than sixty (60) days and/or creates delays to the process of providing review/feedback that causes the project to be delayed by sixty (60) days unless the parties mutually agree, in writing, to extend such time periods.

7. Prohibition of Contingent Fees. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company,

corporation, individual or firm other than a bona fide employee working solely for the Contractor any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award of making of this Agreement. In the event of breach of this provision, the City shall have the right to terminate this Agreement without further liability and, in its sole discretion, deduct from the contract price, or otherwise recover, the full amount of any such fee, commission, percentage, gift or consideration paid as a result of said breach.

8. Compensation.

The City shall pay the Contractor a total fee of One Hundred Thousand dollars and 00/100 (\$100,000.00) for the scope of work described in the RFQ and as set forth in this Agreement. Payments shall be made according to the payment schedule. An invoice will be generated to reflect the payment date.

<i>Payment Milestone:</i>	<i>Payment Date</i>	<i>Amount</i>
Deposit payable upon signing contract.	August 20, 2023	\$10,000
Month One of Concept, 33% complete.	September 20, 2023	\$5,000
Month Two of Concept. 66% complete.	October 20, 2023	\$5,000
Month Three of Concept.100% complete.	November 20, 2023	\$5,000
Month One of Final Design. 33%.	December 20, 2023	\$5,000
Month Two of Final Design. 66%.	January 20, 2024	\$5,000
Month Three of Final Design. 100%.	February 20,2024	\$5,000
Fabrication and Production, 20%.	March 20,2024	\$12,500
Fabrication and Production, 40%.	April 20,2024	\$12,500
Fabrication and Production, 60%.	June 20,2024	\$12,500
Fabrication and Production, 80%.	July 20, 2024	\$12,500
Installation Complete, 100%.	August 20,2024	\$10,000

9. Ownership of Documents. All data, specifications, calculations, estimates, plans, drawings, construction documents, photographs, summaries, reports, memoranda and other documents, instruments, information and material prepared or accumulated by the Contractor or its subcontractors in rendering services pursuant to this Agreement shall be the sole property of the City which may have access to the reproducible copies at no additional cost other than printing. In no event shall Contractor be liable or responsible to anyone for the City's use of any such information or material in another project or following termination of this Agreement.

10. Access to Records/Audit. The Contractor shall retain all records relating to this contract for a period of at least three (3) years after final payment is made. Contractor shall maintain accounting records in accordance with generally accepted accounting principles and practices to substantiate all invoice amounts to the City. City reserves the right to audit such records upon notice to the Contractor.

11. Public Records. Contractor shall comply with Florida Statute Chapter 119, the Florida Public Records Act as it relates to records kept and maintained by Contractor in performance of services pursuant to this Agreement.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS: KEVIN COOK - DIRECTOR OF COMMUNICATIONS AT: PHONE: 863-834-6264, E-MAIL: KEVIN.COOK@LAKELANDGOV.NET, ADDRESS: ATTN: COMMUNICATIONS DEPARTMENT, 228 S. MASSACHUSETTS AVE., LAKELAND, FLORIDA 33801.

In accordance with Florida Statute §119.0701, the Contractor shall keep and maintain public records required by the City in performance of services pursuant to the contract. Upon request from the City's custodian of public records, Contractor shall provide the City with a copy of the requested

records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided pursuant to Florida Statute Chapter 119 or as otherwise provided by law. Contractor shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the City. Contractor shall, upon completion of the contract, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform services pursuant to the contract. If the Contractor transfers all public records to the City upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

12. Minimum Insurance Requirements. The Contractor must maintain insurance, at its own expense, in at least the amounts set forth in the RFQ and incorporated herein by reference throughout the term of this Agreement. The Contractor must provide a Certificate of Insurance in accordance with said Insurance Requirements evidencing such coverage prior to issuance of a purchase order or commencement of any work under this Agreement.

13. Indemnification. Contractor shall indemnify, pay the cost of defense, including attorneys' fees, and hold harmless the City from all suits, actions or claims of any character brought on account of any injuries or damages received or sustained by Contractor in accordance with the indemnification provision set forth in the RFQ and incorporated herein by reference.

14. Jurisdiction/Venue/Governing Law. The Parties consent to jurisdiction and venue of the Courts of Polk County, Florida or the United States District Court in and for the Middle District of

Florida, Tampa Division in connection with any action or proceeding arising out of or relating to this Agreement, document or instrument delivered pursuant to, in connection with, or simultaneously with this Agreement, or breach of this Agreement or any such document or instrument. The laws of the State of Florida shall govern this Agreement.

15. Independent Contractor Status. The Contractor is and shall remain an independent contractor and is neither an agent, employee, partner, nor joint venturer of the City.

16. Compliance with Laws. Contractor shall comply with all applicable local, state and federal ordinances, codes, laws, statutes, regulations and standards in force during the term of this Agreement.

17. Severability. The terms and conditions of this Agreement shall be deemed to be severable. Consequently, if any clause, term, or condition hereof shall be held to be illegal or void, such determination shall not affect the validity or legality of the remaining terms and conditions, and notwithstanding any such determination, this Agreement shall continue in full force and effect unless the particular clause, term, or condition held to be illegal or void renders the balance of the agreement to be impossible of performance.

18. Documents Comprising Contract. The Contract shall include this Agreement for Exhibit Design, Production and Fabrication services and appendices, as well as the following documents which are incorporated herein by reference.

- a. City of Lakeland RFQ No. 2023-RFQ-027 and all of its addenda and attachments.
- b. Contractor's Certificate of Insurance as required and as set forth in RFQ No. 2023-RFQ-027.
- c. Contractor's Indemnification and Hold Harmless as required and as set forth in RFQ No. 2023-RFQ-027.
- e. Contractor's Proposal

If there is a conflict between the terms of this Agreement and the above referenced documents, then the conflict shall be resolved as follows: the terms of this Agreement shall prevail over the other

documents, and the terms of the remaining documents shall be given preference in their above listed order.

19. Warranty

All final exhibit elements built or produced by Contractor pursuant to this Agreement shall be warrantied for a period of one (1) year from the time installation is complete. Malicious or negligent treatment of exhibits, by visitors (example: a purposeful kick that breaks an exhibit case) is not covered by the warranty. Poor handling or cleaning, damage to the exhibits by building failure (a leak, flood, temperature or humidity failures) are also not covered by the warranty.

20. Notices. All Notices pursuant to this Agreement shall be deemed sufficiently given when in writing when (i) personally served on a party to be notified, (ii) delivery by overnight express courier, or (iii) three (3) business days following deposit in the United States mail, postage prepaid certified delivery, directed to the party to be notified at the addresses indicated in this Agreement.

IN WITNESS WHEREOF, the parties herein have executed this Agreement for exhibit design, fabrication and installation services at the Lakeland History and Culture Center pursuant to RFQ No. 2023-RFQ-027 as of the day and year first written above.

CITY OF LAKELAND, FLORIDA

CONTRACTOR

H. William Mutz, Mayor

President (Signature)

ATTEST:

President (Printed Name)
ATTEST:

By: _____
Kelly S. Koos, City Clerk

By: _____
(Attesting Witness' name/title)

APPROVED AS TO FORM AND CORRECTNESS:

By: _____
Palmer C. Davis, City Attorney