



Interoffice Memorandum

Oct. 4, 2019

TO: Mayor Jerry L. Demings
-AND-
Board of County Commissioners

THRU: Randy Singh, Deputy County Administrator *R.S.*

CONTACT: Terry Olson, Administrator
Arts and Cultural Affairs Office

SUBJECT: Oct. 22, 2019 – Consent Agenda Item
Revised Sculpture on the Lawn Loan and Exhibition Agreements

Once a year, Orange County extends an international artist call for the loan of sculptures for the yearlong *Sculpture on the Lawn* exhibition; subsequently, the Public Art Review Board chooses the four sculptures to be installed outside of the County Administration Center. The mission of the Public Art Review Board is to include public art in Orange County for the benefit and education of its citizens while enhancing the visual environment through a diversity of styles, content, and artists.

On September 10, 2019, the Board approved and artist agreements with Matthew Duffy and Hanna Jubran. Mr. Duffy and Ms. Jubran have requested that the agreements be revised to reflect their business names, Apiary Collective, LLC and J&H Studio Inc., respectively.

These agreements were approved by the County Attorney's office.

ACTION REQUESTED: **Approval and execution of revised Sculpture on the Lawn Loan and Exhibition Agreements by and between Orange County, Florida and Apiary Collective, LLC and J&H Studio Inc. for the period of October 1, 2019 through October 12, 2020.**

TO/Is

c. Byron W. Brooks, AICP, County Administrator
Randy Singh, Deputy County Administrator

Sculpture on the Lawn Loan and Exhibition Agreement

This Sculpture on the Lawn Loan and Exhibition Agreement (“Agreement”) is made and entered into by and between **Orange County, Florida**, a charter county and political subdivision of the State of Florida (“County”) and **Apiary Collective, LLC**, (“Artist”).

WITNESSETH

WHEREAS, the Orange County Arts and Cultural Affairs Office borrows sculptures from various Artists for display on the lawn in front of the Orange County Administration Center; and

WHEREAS, Artist is the owner of the sculpture (“Sculpture”) listed in **Exhibit “ A”** to this Agreement and desires to loan the Sculpture to the County for placement on the lawn at the Orange County Administration Center, located at 201 South Rosalind Avenue, Orlando, Florida (“Administration Center”); and

WHEREAS, the County and Artist desire to enter into this Agreement in order to set forth the mutual understanding of the parties.

NOW THEREFORE in consideration of the foregoing and covenants hereinafter set forth, it is agreed as follows:

1. Purpose of Agreement. Artist, as the sole owner of the Sculpture, hereby agrees to loan the Sculpture to the County for the period of time specified in Section 2 of this Agreement.

2. Term. The term of the Agreement shall commence on a date no earlier than October 1, 2019 and no later than October 12, 2019; and shall terminate no earlier than October 1, 2020 and no later than October 12, 2020.

3. Loan Fee. County agrees to pay Artist a loan fee in the amount of three thousand five hundred and no/100 Dollars (\$3500.00). The County will pay three thousand and no/100 Dollars (\$3000.00) to the Artist upon delivery and acceptable installation of the Sculpture. The remaining five hundred and no/100 dollars (\$500.00) will be paid upon removal of the Sculpture. This loan fee is the only consideration that the County will provide to the Artist.

4. Artist’s Warranties and Representations. Artist represents and warrants that he/she: a) is the owner of the Sculpture and all of the rights under copyright in the Sculpture; and b) has full authority to loan the Sculpture and grant the rights provided in the Agreement. Artist further represents and warrants that nothing in the Sculpture

defames any person or entity, infringes any copyright or otherwise violates the rights of any third party.

5. Durability of Sculpture. Artist represents and covenants that the Sculpture is made of durable material and will withstand the weather and climate in the area. The Artist assumes all responsibility and risk for any deterioration or weathering caused to the Sculpture as a result of its loan to the County.

6. Placement of the Sculpture. The County will determine a location for the exhibition of the Sculpture on the Administration Center lawn. Based upon information about the location supplied by the County, Artist will provide a sketch of any required physical support base and the method of attachment to existing concrete pad construction. Once approved by the County, the Artist will modify the Sculpture, if necessary, with any required elements to attach the Sculpture to the existing concrete pad construction.

7. Delivery of the Sculpture. The Artist will agree to a precise delivery date with the County. Delivery shall take place during regular business hours unless specifically agreed to by the County. The Sculpture will be delivered to the exhibition location and installed on the existing concrete pad or temporary sculpture base at the precise location directed by County staff. The Artist is responsible for all shipping costs as well as the cost of the delivery vehicle used to deliver the Sculpture to the exhibition location. The Artist is responsible for bearing all costs associated with installation of the Sculpture. The County will provide the hardware specifications to attach the Sculpture to the concrete and temporary base pads.

8. Removal of the Sculpture. Artist will agree to a precise removal date with the County. Removal shall occur during regular business hours unless specifically agreed to by the County. The Sculpture will be removed from the exhibition location under the supervision of County staff. Artist will remove the Sculpture from the existing concrete pad construction on the pick-up date. Artist is responsible for all shipping costs associate with removal of the Sculpture.

9. County Discretion. County retains sole and complete discretion regarding County's exercise of rights granted under this Agreement. County reserves the right to move the Sculpture at any time, to any location, on the Administration Center lawn, or other County property, or to remove the Sculpture at any time from the exhibition. Except during an emergency related to public safety or the safety of the Sculpture, the County will contact the Artist prior to moving the Sculpture,

10. Insurance. County will insure the Sculpture up to its stated value or fifty thousand and 00/100 dollars (\$50,000.00), whichever is less, for theft or major

vandalism. Artist will be responsible for any repairs needed due to fabrication defects or reasonable wear and tear of the object in a public location.

11. Sale of Sculpture during Exhibition. Artist will be able to sell the Sculpture on display during the year. If the Sculpture is removed before the year-long display has ended Artist agrees to replace the Sculpture with another similar sculpture. Artist must submit the new sculpture for approval by the Arts Commission prior to removing the Sculpture. If the Artist sells the Sculpture during the term of the Agreement and has it removed prior to the end of the term of this Agreement, the Artist agrees to contribute thirty percent (30%) of the Sculpture's sale to the County's Public Art program.

12. Indemnification. To the fullest extent permitted by law, Artist will defend, indemnify and hold harmless County from and against all claims (including claims of copyright infringement), damages, losses and expenses, including reasonable attorneys' fees and costs, arising out of or resulting from the display of the art works as listed in this Agreement.

13. Notices. All notices and communications pertaining to this Agreement shall be directed as follows:

County: Orange County Board of County Commissioners
Attn: Arts and Cultural Affairs
450 E. South St., Suite 345
Orlando, FL 32801

With copy to: County Administrator
P.O. Box 1393
Orlando, Florida 32802

Artist: Apiary Collective, LLC
5112 Connecticut Ave. NW
Studio 310
Washington, D.C. 20008

14. Change of Address. It is the sole responsibility of Artist to notify County of any change of address.

15. Photographs of Sculpture. Artist grants County the right to photograph and distribute photographs of the Sculpture for non-commercial public information purposes. Photographs may appear in media releases, County newsletters, on the Orange County website, and exhibition printed matter and/or website. Artist will provide County with digital images and printed matter.

16. Governing Law. This Agreement shall be governed by and construed in accordance with the law of the State of Florida. The parties to this Agreement agree to comply with all applicable federal, state, and local laws, ordinances, rules and regulations pertaining to the actions contemplated by this Agreement.

17. Waiver. A party's failure, neglect or delay to enforce the provisions, rights or remedies of this Agreement will not be construed or deemed to be a waiver of such party's rights to do so and will not affect the validity of all or any party of this Agreement or prejudice such party's right to take subsequent action.

18. Entire Agreement. This Agreement, including its attachments hereto, contains the entire agreement between the Parties with respect to the subject matter, and supersedes all previous communications, representations, understandings, and agreements either oral or written, between the Parties with respect to the subject matter. This Agreement may not be modified or amended except in writing and signed by a duly authorized representative of each Party.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have executed this Agreement of the date and year of the last signature below.



COUNTY:

ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

By: *Bryan W. Bunker*

BWB
Jerry L. Demings
Orange County Mayor

Date: *22 Oct 19*

ATTEST: Phil Diamond, CPA, County Comptroller,
as Clerk of the Board of County Commissioners

By: *Jennifer Klimetz*

for Deputy Clerk

Jennifer Klimetz

Printed Name

ARTIST:

Apiary Collective, LLC

By: *Matthew Duffy*
MATTHEW DUFFY

Date: *10/2/19*

EXHIBIT "A"
Sculpture on the Lawn Loan and Exhibition Agreement
between
Orange County, Florida
and
Apiary Collective, LLC

ARTWORK

TITLE: "Low-Poly Open Heart (RIDE)"
ARTIST
: Apiary Collective, LLC (Matthew Duffy)
MATERIALS: Hydro-cut welded aluminum diamondplate and tractor paint
DIMENSIONS: 5 feet x 5 feet x 2.5 feet
RETAIL PRICE: \$18,000
ARTIST EMAIL: Duffy12@gmail.com
ARTIST PHONE: 443-569-1104

Sculpture on the Lawn Loan and Exhibition Agreement

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WITNESSETH

WHEREAS, the Orange County Arts and Cultural Affairs Office borrows sculptures from various Artists for display on the lawn in front of the Orange County Administration Center; and

WHEREAS, Artist is the owner of the sculpture ("Sculpture") listed in **Exhibit "A"** to this Agreement and desires to loan the Sculpture to the County for placement on the lawn at the Orange County Administration Center, located at 201 South Rosalind Avenue, Orlando, Florida ("Administration Center"); and

WHEREAS, the County and Artist desire to enter into this Agreement in order to set forth the mutual understanding of the parties.

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With copy to: County Administrator
P.O. Box 1393
Orlando, Florida 32802

Artist: J&H Studio Inc.
5828 Highway 33 East
Grimesland, NC 27837

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comply with all applicable federal, state, and local laws, ordinances, rules and regulations pertaining to the actions contemplated by this Agreement.

17. Waiver. A party's failure, neglect or delay to enforce the provisions, rights or remedies of this Agreement will not be construed or deemed to be a waiver of such party's rights to do so and will not affect the validity of all or any party of this Agreement or prejudice such party's right to take subsequent action.

18. Entire Agreement. This Agreement, including its attachments hereto, contains the entire agreement between the Parties with respect to the subject matter, and supersedes all previous communications, representations, understandings, and agreements either oral or written, between the Parties with respect to the subject matter. This Agreement may not be modified or amended except in writing and signed by a duly authorized representative of each Party.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have executed this Agreement of the date and year of the last signature below.

COUNTY:

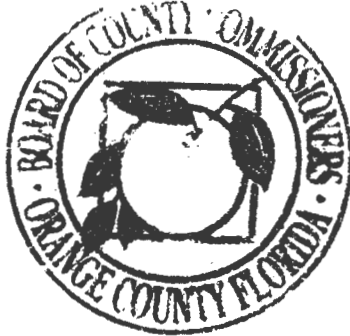
ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

By: *Bryan W. Brooks*

for Jerry L. Demings
Orange County Mayor

Date: *22 Oct 19*



ATTEST: Phil Diamond, CPA, County Comptroller,
as Clerk of the Board of County Commissioners

By: *Jennifer Klimetz*

for Deputy Clerk

Jennifer Klimetz

Printed Name

ARTIST:

J&H Studio Inc.

By: *Hanna Jubran*
HANNA JUBRAN

Date: *Oct 2 / 2019*

EXHIBIT "A"
Sculpture on the Lawn Loan and Exhibition Agreement
between
Orange County
and
J&H Studio Inc.

ARTWORK

TITLE: "Superstar"

ARTIST: J&H Studio Inc.(Hanna Jubran)

MATERIALS: Steel, paint and stainless steel

DIMENSIONS: 9 feet x 8 feet x 8 feet

RETAIL PRICE: \$25,000

ARTIST EMAIL: jubranh@ecu.edu

ARTIST PHONE: 252-328-1303, 252-341-1950