



## ART PURCHASE AGREEMENT

This Art Purchase Agreement (“**Agreement**”) is effective as of the date of the Mayor’s signature below and is between the City of Everett, a Washington municipal corporation (*the “City”*), and the person identified as the Artist in the Basic Provisions below (“**Artist**”). This Agreement includes the Basic Provisions and the attached General Provisions.

In consideration of the covenants, terms and conditions set forth below, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Artist agree as follows:

BASIC PROVISIONS	
<b>Artist</b>	Timothy Flood
	4011 Perry Street Denver CO, 80212
	tcf@timothyflood.com
<b>City Project Manager</b>	Tyler Chism
	City of Everett – Economic Development 2930 Wetmore Ave Everett, WA 98201
	tchism@everettwa.gov
<b>Name of Artwork</b>	Affirmation Station. This is the name of the Work created by Artist that the City is purchasing under this Agreement.
<b>Description of Artwork</b>	10' sculpture that resembles crosswalk signal with visual and audible elements that provide affirming messages when button(s) is/are pressed

<b>Purchase Price</b>	<b>Milestone</b>	<b>Payment upon Milestone Completion</b>
	50% upon completion with photos	\$5,000
	Installation	\$5,000
	<b>Purchase Price (Total)</b>	<b>\$10,000</b>

Payment for final milestone is due within 30 days after delivery of the Work to the City in a condition acceptable to the City and receipt of Artist's invoice by City Project Manager.

IN WITNESS WHEREOF, the City and Artist have executed this Agreement.

**CITY OF EVERETT  
WASHINGTON**

**TIMOTHY FLOOD**



\_\_\_\_\_  
Cassie Franklin, Mayor



Signature: \_\_\_\_\_

Name of Signer: Timothy C. Flood

Signer's Email Address: tcf@timothyflood.com

Title of Signer: Artist

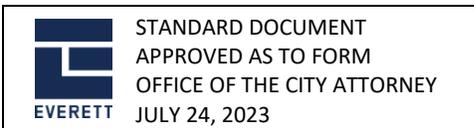
12/05/2023

\_\_\_\_\_  
Date

ATTEST



\_\_\_\_\_  
Office of the City Clerk



**ATTACHMENT**  
**PROFESSIONAL SERVICES AGREEMENT**  
**(GENERAL PROVISIONS --- ART PURCHASE AGREEMENT)**

1. **Purchase of the Work.** The City hereby agrees to purchase from the Artist the artwork described in the Basic Provision. The artwork is hereafter referred to as the “Work”. The City shall pay the Artist the Purchase Price stated in the Basic Provisions.
2. **Ownership.** The Work shall be and remain for all purposes the property of the City. The Artist shall own any and all copyrights in the Work. For non-commercial or nonprofit purposes, including, but not limited, education, public relations, arts promotion, and publicity, the Artist hereby grants the City an irrevocable, non-transferable, non-assignable license in perpetuity to reproduce the Work, electronically, graphically or otherwise. Each such reproduction, whether by the City or by a third party authorized by the City, shall clearly and legibly identify the Artist as the creator of the Work. The Artist also agrees that reproductions of the Work the Artist makes or causes to be made for purposes of publicizing the Artist shall identify the installation of the Work as part of the City of Everett, Washington Public Art Collection. The Artist also grants the City an irrevocable, non-transferable, non-assignable license to reproduce the Work in whole or in part for the purposes of repairing the Work or replacing part of the Work if the Work is damaged.
3. **Artist’s Representations and Warranties.** Artist expressly represents and warrants that the Work is original and does not infringe on another’s copyright, or rights in trade or service marks. Artist expressly represents and warrants that Artist has authority to sell the Work to the City, Artist is the sole owner of the Work, and the Work is not subject to lien or encumbrance of any kind. Artist agrees to defend and indemnify City from any and all claims and damages arising out of this Agreement or the Work purchased hereunder.
4. **Waiver of Certain Rights.**
  - A. **Works Incorporated or Made Part of a Building.** The provisions of this subsection apply if the Work is incorporated or made part of a building. In the event the City determines the Work must be moved, relocated, repaired or modified, the City shall use reasonable efforts to contact the Artist, and the Artist shall have the right to consult with the City regarding such movement, repair, relocation or modification. If the City, in its discretion, determines to move, modify, repair, or relocate the Work, the Artist shall have the right to require the City to remove any attribution of the Work to the Artist. Artist hereby irrevocably waives any and all rights in the Work that Artist may have pursuant to 17 U.S.C. §106A(a)(2) and (3). Artist does not waive, and hereby reserves, any rights Artist may have pursuant to 17 U.S.C. §106A(a)(1) (right to claim authorship of the Work and to prevent the use of Artist’s name as the author of any work of visual art not created by the Artist).
  - B. **Works Not Incorporated or Made Part of a Building.** The provisions of this subsection apply if the Work is not incorporated or made part of a building. In the event the City determines the Work must be repaired or modified, the City shall use reasonable efforts to contact the Artist, and the Artist shall have the right to consult with the City regarding such repair or modification. If the City, in its discretion, determines to modify or repair the Work, the Artist shall have the right to require the City to remove any attribution of the Work to the Artist. Artist hereby irrevocably waives any and all rights in the Work Artist may have pursuant to 17 U.S.C. §106A(a)(2) and (3). Artist does not waive, and hereby reserves, any rights Artist may have pursuant to 17 U.S.C. §106A(a)(1) (right to claim authorship of the Work and to

prevent the use of Artist's name as the author of any work of visual art not created by the Artist).

5. **Compliance with the Washington State Public Records Act.** Artist acknowledges that the City is subject to the Public Records Act, chapter 42.56 RCW (the "Act"). All records owned, used or retained by the City are public records subject to disclosure unless exempt under the Act, whether or not such records are in the possession or control of the City or Artist. Artist shall cooperate with the City so that the City may comply with all of its obligations under the Act. Within ten (10) days after receipt of notice from the City, Artist shall deliver to the City copies of all records relating to this Agreement or relating to the Work that the City determines qualify as the City's public records under the Act. If the City receives a public records request relating to this Agreement or relating to the Work, the City shall seek to provide notice to Artist at least ten (10) days before the City releases records pursuant to such public records request, but in no event will the City have any liability to Artist for any failure of the City to provide such notice. In addition to its other indemnification and defense obligations under this Agreement, Artist shall indemnify and defend the City from and against any and all losses, penalties, fines, claims, demands, expenses (including, but not limited to, attorney's fees and litigation expenses), suits, judgments, or damage arising from or relating to any failure of Artist to comply with this Section.
6. **Waiver.** Any waiver by the Artist or the City or the breach of any provision of this Agreement by the other party will not operate, or be construed, as a waiver of any subsequent breach by either party or prevent either party from thereafter enforcing any such provisions.
7. **Complete Agreement.** This Agreement contains the complete and integrated understanding and agreement between the parties and supersedes any understanding, agreement or negotiation whether oral or written not set forth herein.
8. **Modification of Agreement.** This Agreement may only be modified by a writing explicitly identified as a modification of this Agreement that is signed by authorized representatives of the City and the Artist.
9. **Notices.** Notices to the City of Everett shall be sent to the City Project Manager address in the Basic Provisions. Notices to the Artist shall be sent to Artist's address in the Basic Provisions.
10. **Venue/Governing Law.** Venue for any lawsuit arising out of this Agreement shall be in the Superior Court of Snohomish County, Washington. The laws of the State of Washington, without giving effect to principles of conflict of laws, govern all matters arising out of or relating to this Agreement.
11. **City Marks.** The Artist will not use any trade name, trademark, service mark, or logo of the City (or any name, mark, or logo confusingly similar thereto) in any advertising, promotions, or otherwise, without the City's express prior written consent.
12. **No Personal Liability.** No officer, agent or employee of the City shall be personally responsible for any liability arising under this Agreement, whether expressed or implied, nor for any statement or representation made or in any connection with this Agreement.
13. **Signature/Counterparts.** This Agreement and any amendment thereto may be signed in counterparts, each of which shall be deemed an original, and all of which, taken together, shall be deemed one and the same document. AdobeSign signatures are fully binding. Any ink, electronic, faxed, scanned, photocopied, or similarly reproduced signature on this Agreement or any amendment hereto will be deemed an original signature and will be fully enforceable as an original signature.

**END OF GENERAL PROVISIONS  
(ART PURCHASE AGREEMENT)**

# Timothy Flood\_113302023\_SD

Final Audit Report

2023-12-05

Created:	2023-12-05
By:	Marista Jorve (mjorve@everettwa.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAA0B6h8h6eTXXiqgUB4smz6Wqo1-WZQjCS

## "Timothy Flood\_113302023\_SD" History

-  Document created by Marista Jorve (mjorve@everettwa.gov)  
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-  Document emailed to Kari Quaas (KQuaas@everettwa.gov) for approval  
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-  Email viewed by Kari Quaas (KQuaas@everettwa.gov)  
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-  Document approved by Kari Quaas (KQuaas@everettwa.gov)  
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-  Document emailed to tcf@timothyflood.com for signature  
2023-12-05 - 0:46:50 AM GMT
-  Email viewed by tcf@timothyflood.com  
2023-12-05 - 1:53:45 AM GMT
-  Signer tcf@timothyflood.com entered name at signing as Timothy C. Flood  
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-  Document e-signed by Timothy C. Flood (tcf@timothyflood.com)  
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-  Document emailed to Tim Benedict (TBenedict@everettwa.gov) for approval  
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 Agreement completed.

2023-12-05 - 4:09:17 PM GMT