

# AITKEN BOULEVARD UNDERPASS – MALCOM CREEK PEDESTRIAN PATH

## MURAL ARTWORK COMMISSION

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### Expression of Interest



### Summary:

Hume Council is seeking *expressions of interest* from individual artists or artists working in collaboration for the design and installation of a new Mural artwork at Aitken Boulevard Underpass on Malcolm Creek, Craigieburn - [Aitken Blvd - Google Maps](#).

The commission design area is a long wall adjacent to a pedestrian walkway running along a creek near the Malcolm Creek Wetlands. The location is in close proximity to the Hume Stolen Generations Marker [Hume Stolen Generations Marker project - Hume City Council](#)

The selected artist will be invited to create a small Mentoring Opportunity for a local Hume artist as part of the commission and designs in development for this site will be presented to the Hume Reconciliation Action Plan Working Group and, potentially, the Wurundjeri Council.

*Aboriginal and Torres Strait artists are especially encouraged to apply.*

**Enquiries to: Anna Clabburn, Community Development Officer, Arts and Culture  
0477 443 833 [annac@hume.vic.gov.au](mailto:annac@hume.vic.gov.au)**

**Submissions are due 5.00pm Thursday 7 December 2023**

## INTRODUCTION

Council is currently seeking to promote vibrancy, character, and engagement with public places by supporting an ongoing Mural Program within the scope of the *Hume Art in Public Places Policy*.

The *Art in Public Places Policy* encourages the development of artworks in the public realm that are supported by, and representative of, local communities and stakeholders.

New public art projects are required to:

- Be site-specific.
- Tell stories that are distinct to their local communities.
- Develop and celebrate a 'sense of place'.

Hume's *Art in Public Places Policy* is available via this link:

[Hume Art in Public Places Policy](#)

## INTRODUCTION

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## SCOPE OF THE SERVICES

Council is seeking to engage an artist for a pedestrian underpass beneath Aitken Boulevard in Craigieburn, north of Melbourne.

Artists may work solo or in collaboration to develop a contemporary mural that addresses both the interests of the community and the context of the site. The selected Artist will be required to create a small Mentoring Opportunity for local Hume artist as part of the project development phase; to share professional skills and insights.

Preference will be given to proposals that demonstrate culturally respectful artwork that complements the local neighbourhood and parkland environment.

Council's logo and the wording *@discoverhume* will be installed next to the completed artwork.

The wall will be prepped with a suitable undercoat to ensure longevity of the mural, as well as an anti-graffiti topcoat seal to protect the artwork.

Council will arrange for all preparation work and any working on public land permits required for the site. It is expected that the new artwork will remain in place for a minimum of 2-5 years.

## SERVICES REQUIRED

Please include the following information in your submission:

- *Response to the brief* - design idea, local artist mentor offering and community engagement vision.
- *Creative business profile (if applicable)*, including all key personnel involved in the project, detailing their relevant experience and expertise, images and details of previous commissions and related artistic work.
- *Project timeline & budget*, including demonstrated understanding of project tasks and outcomes required, anticipated hours and expenses.
- Evidence of *insurance* details including not less than \$2 million in Personal Accident (Worker's Compensation) Insurance and \$20 million in Public Liability insurance.\* *see below*
- Relevant work permits eg *Elevated Platform License* (or plan for qualified assistance)
- *Contact details* of two relevant referees.

*\* NB: If applicants do not have Public Liability Insurance Council can arrange for coverage to be extended to commissioned artists under specific circumstances. Please contact Council to discuss this before submitting your application.*

## SITE

Information regarding the site is outlined in **Attachment 1**.

## PROJECT MANAGEMENT

Hume City Council will manage the project.

## PROJECT BUDGET

An artist's fee of up to \$15,000 is allocated for this site. Artists are required to include a contingency budget line of at least 5%. (NB : *Council will provide a Local Artist Mentee fee of \$2000 – paid directly to the Mentee*).

*Please note, all costs and expenses incurred in any way associated with the preparation and submission of this quotation, including attendance at meetings and the provision of additional information required by the Council, will be borne entirely by the applicant.*

## TIMEFRAMES

An approximate project timeline is outlined below: *tbc = date to be confirmed*

Activity	End Date
Submissions open	Monday 20 November 2023
<b>Submissions close</b>	<b>Thursday 7 December 2023</b>
Assessment	Monday 11 December 2023
<b>Contracting of artist/ company</b>	<b>Tuesday 12 December 2023</b>
Permit/ traffic plan arranged (Council to provide)	
Project initiation meeting	Monday 18 December 2023 - <i>tbc</i>
Community engagement – finished design confirmation	By end January 2024
<b>Artwork painted</b>	<b>February 2024 - <i>tbc</i></b>
Community launch on site	March 2024 – <i>tbc</i>

## SAFETY

If selected, the Artist will be required to complete a *Job Safety Analysis (JSEA)* before commencing installation. Council's Public Art Officer will be available to assist with this. Safe work practices must be used throughout the installation period, and appropriate methods used to protect the built and natural environments at and around the site.

## CONTRACT - COPYRIGHT

Upon appointment the artist will be given a formal *Artist Contract (See Attachment 3)* confirming the project scope, copyright conditions and payment schedules. The artist will retain copyright in the artwork and in any designs created. Council will acknowledge the Artist as the creator of the Work in all Council publications in which the Works are included.

## EVALUATION CRITERIA

Submissions will be assessed in accordance with evaluation criteria listing below.

Criteria	Weight
Understanding of brief and design concept	35%
Demonstrated experience in the development and planning of public art projects	20%
Budget and value for money	20%
Capacity to complete the project within the agreed timelines	20%
Lives or works in Hume municipality	5%

**Submit via email to: [annac@hume.vic.gov.au](mailto:annac@hume.vic.gov.au)**

Enquiries can be directed to Anna Clabburn, Community Development Arts & Culture, Hume City Council – [annac@hume.vic.gov.au](mailto:annac@hume.vic.gov.au)

## ATTACHMENTS

### Attachment 1: Mural brief

#### Background

The Hume Mural Program is a capital works initiative aimed at enhancing public art and amenity across the City through the development of community-based artworks within the context of goals in the *Hume Creative Community Strategy 2020-2025 (Attachment 2)*

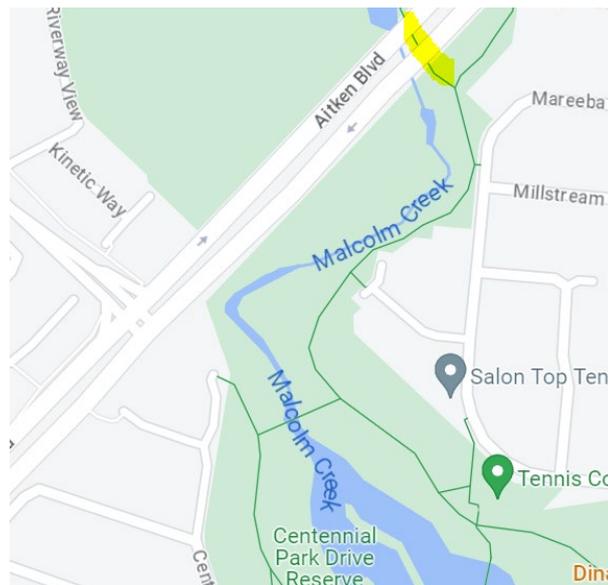
Council funded a program in 2021/22 and 2022/23 based on the success of several pilot mural projects in Westmeadows, Dallas, and Sunbury. A third round of new sites will be commissioned across three Council wards in the 2023/24 financial year.

The new mural at Aitken Boulevard Underpass will enhance community pride through the creation of a fresh artwork in a popular recreation area within the expanding suburb of Craigieburn.

#### Site Context & Culture



Wall – existing graffiti



Mural location marker in **yellow** (nb. under road)

Craigieburn is a large urban growth suburb north of Melbourne adjacent to the Hume Highway. Population forecasting for the area predicts that the neighbourhood will rise from present day 65,178 to close to 78,000 by 2040. *Hume Population Summary, 2023* - [Home | Hume City | Population forecast \(id.com.au\)](#)

60% of people in Craigieburn speak a language other than English. There is a large Indian community in the neighbourhood, as well as other diverse nationalities, including many families with Assyrian/Chaldean cultural heritage.

This site is located adjacent to a pedestrian pathway running alongside Malcom Creek. The site wall runs under Aitken Boulevard and is located near Malcolm Creek Wetlands and the recently completed Hume Stolen Generations Marker - [Hume Stolen Generations Marker project - Hume City Council](#).

A range of older public artworks and signage appear along the length of the pedestrian walkway and the riparian (creek) area which is noted for its ancient Red Gum trees and quiet ambience.



## **Deliverables**

Artists are encouraged to create a new contemporary work that considers the profile and interests of the community as well as the use and context of the site.

The mural site is a long narrow wall running under Aitken Boulevard and is easily accessible without a scissor lift. The wall area is approximately H 2.5m x W 45m. *Please note, the artist is expected to visit the site to confirm measurements for the areas to be painted and ensure the design fits the location.*

It is important that the artwork design is accessible to a broad local and visiting community. Suitable themes could be sports & social activity, local waterways and flora/fauna. Abstract designs elements are also welcome given the scale of painted area required.

Pedestrian traffic controls (bollards, signs & tape) will be necessary and can be arranged with Hume Arts & Culture staff. Hume Arts & Culture staff can also assist in liaison with local stakeholders as required.

Given the proximity of the mural site to the creek and Hume Stolen Generations Marker, it is expected that the Hume Reconciliation Action Working Group will view the proposed design and Wurundjeri offered an opportunity to comment on the Finished Design prior to the artwork being painted.

On completion of the project, the artist may be invited to attend a community celebration at the site and is welcome to initiate further engagement with the local community if appropriate.

## Attachment 2: Link to Hume Creative Community Strategy

Artists are encouraged to consider current goals in the *Hume Creative Communities Strategy* in preparing their submissions –

[Creative Community Strategy 2020-2025 - Hume City Council](#)



### **Goal 1 Creative Community:**

A welcoming and diverse creative community that supports wellbeing, connection and belonging.

### **Goal 2 Creative Places and Spaces:**

An accessible creative environment where places and spaces respond to community need and build community resilience.

### **Goal 3 Creative Industries and Practitioners:**

A natural home for creative industries and innovative practitioners.

### **Goal 4 Creative Engagement:**

An engaged community where creative participation and partnerships thrive.

## Attachment 3: Artist Contract

*Murals: Aitken Boulevard Underpass, Malcolm Creek Pedestrian Path, Craigieburn VIC 3064*

### PUBLIC ART DESIGN & COMMISSION AGREEMENT

THIS IS AN AGREEMENT BETWEEN:

**HUME CITY COUNCIL** (ABN: 14 854 354 856)  
Address: 1079 Pascoe Vale Road Broadmeadows Victoria  
Phone: 03 9205 2200  
Facsimile: 03 9309 0109

**(“Council”)**

AND

*(to be appointed)*

**(“Artist”)**

#### BACKGROUND

- A. The Council has selected the Artist’s **Concept Design** (*attached to this Agreement as Appendix 2*) - based on the Council's **EOI brief** (*attached to this Agreement as Appendix 1*).
- B. The Council wishes to commission the Artist to complete a produce a site-specific **Artwork** (as described in the EOI Brief and Concept Design) under the terms of this Agreement below.
- C. The Artist agrees to produce a **Finished Design** and the **Artwork** on the terms of this Agreement.

#### THE PARTIES AGREE AS FOLLOWS:

##### STAGE 1: DESIGN & DEVELOPMENT

#### 1. The Design

- (a) The Artist must:
- (i) base the Design on the Brief and the Concept Design;
  - (ii) Provide the Design in the form of a drawing and/or digital file and
  - (iii) provide the Council with the Finished Design prior to application of the artwork.
- (b) The Council may either:
- (i) accept the Design in accordance with clause 2;
  - (ii) request changes to the Design in accordance with clause 3; or
  - (iii) reject the Design in accordance with clause 4.
- (c) The Artist warrants that the Design is his/her original work and does not to the best of his/her knowledge infringe the copyright or moral rights of any third party.

#### 2. Acceptance of the Design

- (a) If the Council accepts the Design:
- (i) the Council must notify the Artist in writing no later than 14 days from the date that the Artist submitted the Design; and

- (ii) The Design becomes the **Finished Design**.
- (b) In accepting the Design, the Council represents and warrants that it has taken into consideration:
  - (i) the intended life of the Work;
  - (ii) the environment where the Work will be located;
  - (iii) the suitability of materials to be used and their durability; and
  - (iv) urgent maintenance issues such as vandalism and the removal of graffiti.
- (c) If the Council does not notify the Artist in accordance with clause 2(a), the Design is considered rejected and clause 4(b) applies.

### **3. Changes to the Design**

- (a) Instead of approving the Design under clause 2 the Council may request 2 minor changes to the Design.
- (b) Minor changes include changes to colour, size of elements and other small changes.
- (c) The Artist will provide each changed Design within the time agreed in writing between the parties.
- (d) The Council:
  - (i) must request changes under clause 3(a) no later than 14 days from the date that the Artist submitted the Design;
  - (ii) cannot request a change that is substantially different to the Brief, Preliminary Design or the Design as first submitted; and
  - (iii) must pay the Artist a fee of \$200/per hour for additional changes beyond the 2 mentioned at 3(a) or any change more significant than those stipulated at 3(b).
- (e) If the Council accepts the changed Design:
  - (i) the Council must notify the Artist no later than 14 days from the date that the Artist submitted the changed Design; and
  - (ii) the changed Design becomes the Finished Design.
- (f) If the Council does not notify the Artist in accordance with clause 3(d), the changed Design is considered rejected and clause 4(b) applies.
- (g) If the Council has requested the maximum number of changes to the Design under clause 3(a) and has rejected the final changed Design, the Design is considered rejected and clause 4(b) applies.

### **4. Rejection of the Design**

- (a) The Council rejects the Design where:
  - (i) the Council notifies the Artist in writing that the Design is rejected no later than 21 days from the date that the Artist submitted the Design;
  - (ii) clause 2(c) applies;
  - (iii) clause 3(e) applies; or
  - (iv) clause 3(f) applies.
- (b) Where the Council rejects the Design under clause 4(a), this Agreement is terminated and clause 24(c) applies and the Council must pay the Artist the Design & Development Fee as specified in the **Schedule** to this Agreement.

## **STAGE 2: FABRICATION OF THE WORK**

### **5. The Work**

- (a) The Artist must:

- (i) produce the Work in accordance with the Finished Design;
  - (ii) ensure that the Work is produced in accordance with the timeline detailed in the Schedule **(Timeline)**;
  - (iii) provide the reports listed in the Schedule **(Reports)**; and
  - (iv) notify the Council when the Work is completed and installed.
- (b) After being notified by the Artist under clause 5(a)(iv) the Council may either:
- (i) accept the Work in accordance with clause 6;
  - (ii) request changes to the Work in accordance with clause 7; or
  - (iii) reject the Work in accordance with clause 8.
- (c) The Council acknowledges that the Artist will apply his/her aesthetic skill and judgement in the creation of the Work.

#### **6. Acceptance of the Work**

- (a) If the Council accepts the Work it must notify the Artist in writing no later than 14 days from the date the Artist notified the Council of the Work's completion.
- (b) If the Council does not notify the Artist in accordance with clause 6(a), the Work is considered rejected and this Agreement terminated and clause 24(c) applies.

#### **7. Changes to the Work**

- (a) Instead of accepting the Work under clause 6 the Council may request a maximum number of 2 changes to the Work.
- (b) The Artist will complete each change to the Work within the time agreed in writing between the parties.
- (c) The Council:
- (i) cannot request a change that is substantially different from the Finished Design;
  - (ii) must request changes under clause 7(a) no later than 14 days from the date the Artist notified the Council of the Work's completion.
  - (iii) must pay the Artist a fee of \$200/hour for any labour required to make changes to the work once installed.
  - (iv) If 7(b) (iii) applies, the Artist will provide a revised quote which will detail any costs of materials and third party services (e.g. access hire, printers and manufacturers) which are incurred as a result of a changes. However, if the increases are not detailed for any reason, such increases will nevertheless apply and be charged to the Client.

#### **8. Rejection of the Work**

- (a) The Council may only reject the Work or changed Work where:
- (i) it can show that the Work was not executed substantially in accordance with the Finished Design;
  - (ii) it gives written notification to the Artist of the Council's dissatisfaction and the reasons for dissatisfaction of the Work;
  - (iii) it requests and details the changes to the Work needed to meet the Council's satisfaction;
  - (iv) it gives the Artist a reasonable time to make these changes; and
  - (v) the Artist fails to make the changes within the time specified.
- (b) If the Council is able to reject the Work in accordance with clause 8(a) this Agreement is terminated and clause 24(c) applies.

**9. Inspection and access to the Work**

- (a) Where the Work is not to be produced on the **Site**, the Artist:
  - (i) will notify the Council of the location of the Work; and
  - (ii) will provide the Council, on 24 hours notice, the opportunity to inspect the Work.
- (b) Where the Work is to be produced by the Artist on the Site or on Council premises or on the premises of the Council's employees, agents or contractors, the Council will arrange for the Artist and his/her employees and agents to have adequate access at all reasonable times to the Site or those premises, as the case may be.

**STAGE 3: INSTALLATION OF THE WORK**

**10. The Site**

- (a) The Council will ensure that the Site is adequately prepared within a reasonable time prior to the Artist indicating to the Council that the Work is ready for installation.
- (b) The Site is specified in Appendix 1: EOI document.

**11. Delivery and installation**

- (a) Where the Work is not created on the Site, the Artist will:
  - (i) arrange and pay for the delivery of the Work (including adequate packaging, transport and insurance) to the Site within 21 days of the Council accepting the Work; and
  - (ii) install the Work in accordance with the Timeline unless delayed for a reason described in clause 12 or due to any act or omission by the Council.

**12. Delay**

- (a) All stages of the Design and Work will be completed in accordance with the Timeline unless:
  - (i) the parties agree otherwise in writing; or
  - (ii) there is a delay due to circumstances beyond the control of the Artist, including but not limited to the non-availability of necessary materials, shipping delays, injury or illness to the Artist, labour strikes or natural disasters.
  - (iii) Where a delay is the result of an event described in clause 12(a)(ii) the parties agree to take all reasonable steps to limit the loss of the other and to not hold each other liable for any loss suffered.

**OTHER ISSUES:**

**13. Payment**

- (a) The Council agrees to pay the Artist the Commission Fee in instalments on completion of each stage of the Work as detailed in the Schedule.
- (b) The terms of payment shall be 30 days from the date of a correctly rendered tax invoice and shall be paid in Australian dollars.

**14. Goods and Services Tax (GST)**

The parties acknowledge and agree that all amounts provided in this Agreement are exclusive of Goods and Services Tax (**GST**) and:

- (a) if GST is payable in relation to any payments made for any supply under this Agreement, the payment is increased by the amount of the GST so long as the party receiving the payment:

- (i) is registered for the purposes of GST; and
  - (ii) provides the payer with a GST compliant invoice; and
- (b) if a party is required to pay any GST amount under this Agreement, it must pay the GST amount within 14 days of receiving the relevant tax invoice.

**15. Title and Copyright**

- (a) Ownership of the title in the Finished Design and Artwork will pass to the Council when:
- (i) The Council has accepted the Finished Design and the completed Work;
  - (ii) the Work has been installed; and
  - (iii) all payments due to the Artist under this Agreement have been made.
- (b) All copyright in the Work, the Preliminary Design, and the Finished Design submitted or presented to the Council belongs to the Artist except that the Artist agrees that the Council and its employees, agents or contractors, may use images of the Work in material generally used to promote or market the Work or the Council, including but not limited to the annual reports, multimedia presentations, websites and advertising material without additional payment to the Artist.
- (c) Any commercial merchandising or use of the image of the Work in any other way will only be undertaken with the written permission of the Artist. See additional IP conditions in Appendix 2.

**16. Death or Incapacity of the Artist**

- (a) Subject to clause 16(c), in the event of the death or incapacity of the Artist prior to the acceptance of the Work by the Council:
- (i) The Council will become the owner of the Work in the condition in which the Work then stands at the date of death or incapacity; and
  - (ii) in consultation with the Artist or the Artist's estate (as the case may be), the Council may engage other artists or crafts persons to complete the Work in accordance with the Approved Design; and
  - (iii) copyright in the Work will belong jointly to the Artist or the Artist's estate (as the case may be) and the other artists or crafts persons who complete the Work.
- (b) If the Council engages another artist or crafts person to complete the Work, the Artist or the Artist's estate (as the case may be) may demand the removal of any notice displayed with the Work which identifies the Artist with the Work.
- (c) Clause 16(a) is subject to the payment by the Council to the Artist or the Artist's estate of an amount, if any, which:
- (i) is proportionate to and reflective of the state of completion of the Work at the date of the death or incapacity of the Artist; and
  - (ii) includes any expenses incurred by the Artist in relation to the Work at the date of the death or incapacity of the Artist; and
  - (iii) is calculated in consideration of the cost to the Council of the completion of the Work by other artists or crafts persons.

**17. Risk of loss or damage**

- (a) Subject to clause 17(b), if the Work is created at the Council's premises the Council will bear the risk of loss or damage to the Work.
- (b) The Artist, at his/her own cost, will be required to rectify any loss or damage to the Work which results from any negligent act or omission of the Artist or his/her employees or agents.
- (c) If the Work is not created at the Council's premises:

- (i) The Artist will bear the risk of loss or damage to the Work until it is delivered and installed at the Site; and
- (ii) The Council will bear the risk of loss or damage after installation of the Work.

**18. Insurance**

- (a) The Artist will be responsible for all the Artist's own Workers Compensation Insurance (personal accident / injury).
- (b) On commencement of the Work, the Artist shall obtain a public liability insurance policy for an amount in respect of any one occurrence of not less than \$20 million (or some lesser amount if approved by Council). The public liability policy shall cover the Artist in respect of liability to the Council and third parties in respect of any claim for loss of or damage to property or death or injury to any person arising from the acts or omissions of the Artist, its employees and sub-contractors in the course of carrying out the Works. The public liability policy shall extend to indemnify the Council as one of the class of persons constituting the Insured but not in respect of liability to the extent that the loss, damage, death or injury is due to or results from an act or omission of the Council.
- (c) The public liability policy shall be maintained by the Artist until installation of the Work has been achieved.
- (d) A Certificate of Currency from the Public Liability Insurer and the Personal Accident & Injury/Workers Compensation Insurer must be forwarded to Council before commencement of the Works.
- (e) After installation of the Work, the Council will be responsible for public liability insurance cover and all other liabilities and agrees to indemnify and keep indemnified the Artist for all claims, actions or legal proceedings that arise out of injury, death, loss or damage suffered by any third parties in connection with the Work.

**19. Defects liability**

- (a) A defects liability period will extend for a period of 12 months from the date of acceptance of the Work by the Council.
- (b) The Artist will rectify, without charge to the Council, latent defects in the Work that become apparent during this period.
- (c) This clause will not apply to fair wear and tear, or defects, which result from the inherent characteristics of the materials used to create the Work or the Site's environment.
- (d) The rights granted under this clause 19 are in addition to any rights that a party may have at law.

**20. Attribution**

- (a) Subject to clauses 16(b), 22(b) and 23(c), the Council will permanently display a notice in a reasonably prominent position near the installed Work which identifies the Artist and the Work.

**21. Maintenance**

- (a) At the time the Work is completed and installed on the Site, the Artist agrees to provide the Council with instructions and advice in the form of a manual containing comprehensive instructions for the proper cleaning, operation and maintenance of the Work (Maintenance Notes).
- (b) The Maintenance Notes will include:
  - (i) a description of the materials used and any installed services or equipment and their mode of operation;
  - (ii) with respect to equipment, operating procedures and supplier's names, addresses and telephone numbers;
  - (iii) an inspection, testing and maintenance program detailing the routine required to maintain the Work throughout its intended lifespan;
  - (iv) "as installed" drawings for the Work and all related equipment and services; and

- (v) a list of major sub-contractors with appropriate contact details (which is also to be listed in the Schedule to this Agreement).
- (c) The Council, so far as reasonable, will ensure that the Work is properly maintained and protected from damage in accordance with the Artist's instructions in the Manual.

## **22. Repairs and Restoration**

- (a) The Council will give the Artist first option to carry out any repairs or restoration to the Work. This option will lapse if the Artist does not, within 14 days of receiving such notice from the Council, signify an intention to carry out such repairs or restoration work at an agreed fee.
- (b) The Artist reserves the right to demand the removal of any notice displayed with the Work, which identifies the Artist with the Work, if the Artist does not perform the restoration of the Work.

## **23. Alteration, Relocation or Sale**

- (a) The Council will not destroy, damage, alter or intentionally modify the Work in any way whatsoever without the express written consent of the Artist.
- (b) The Council agrees to comply with the procedures set out in the Copyright Act 1968 with respect to the removal or relocation of the Work.
- (c) If the Council breaches clause 23(a), or alters the location of, or relocates, or removes the Work without the express written consent of the Artist, the Artist may, at the expense of the Council, demand that the Council remove any notice displayed with the Work which identifies the Artist with the Work.

## **Termination**

- (d) By the Artist:
  - (i) The Artist may terminate the Agreement with immediate effect by notice in writing to the Council, if the Council is more than 30 days late in making any payment under clause 13 or if the Council is in breach of its obligations under this Agreement and it has not taken reasonable steps to remedy the breach.
  - (ii) The Artist will be entitled to receive and retain payment for all work done up to the date of sending such notice and for all other reasonable expenses incurred.
- (e) By the Council:
  - (i) In the event that the Artist breaches his/her obligations under this Agreement the Council will give written notice of the breach to the Artist which will also include notification of the number of days within which the Artist must remedy the breach. If the breach is not remedied within the notified timeframe, or if the Artist provides written notification that it is not possible to remedy the breach, the Council may terminate the Agreement by giving the Artist written notice of the termination and may recover all monies already paid to the Artist.
- (f) General:
  - (i) If this agreement is terminated under clause 4(b), 6(b), 8(b), 24(a) or 24(b) the Artist will retain title and copyright to the Work, the Preliminary Design, the Design and the Approved Design. The Artist will have sole right to complete, exhibit and sell the Work, the Preliminary Design, the Design and the Approved Design; and
  - (ii) if the Agreement is terminated under clause 6(b), the Artist will be reimbursed for his/her costs incurred in creating the Work up to the date of termination.

## **24. Disputes**

- (a) If the parties disagree about this Agreement, whoever disagrees must:
  - (i) first tell the other party about the dispute in writing; and

- (ii) not start any litigation or arbitration in relation to the dispute until the process described in clause 25 has been followed.
- (b) Once the other party has been told of the dispute, both parties must arrange for representatives to meet within 7 days and take all reasonable steps to attempt to resolve the dispute.
- (c) If the dispute is not resolved under clause 25(b) the parties agree to:
  - (i) submit the dispute to a mediator or mediation process that both parties agree to; or
  - (ii) if the parties are not able to agree to a mediator or mediation process under clause 25(c)(i), refer the dispute to the Chairperson of the Institute of Arbitrators and Mediators Australia, Victorian Chapter for referral to an appropriate mediator and mediation process.
- (d) If the parties are unable to resolve the dispute within 7 days of commencing mediation under clause 25(c), or a later time agreed to during the mediation, they may refer the matter to arbitration or commence litigation.
- (e) The parties must continue to perform their respective obligations under this Agreement even if they disagree.

**25. General**

- (a) The parties acknowledge that the Artist is an independent contractor and that nothing in this Agreement creates any relationship of partnership or employment between the parties.
- (b) Neither this Agreement nor any of the benefits or obligations may be assigned, subcontracted or otherwise divested by either party without the other party's written consent.
- (c) Subject to clause 26(e), this Agreement is the entire agreement between the parties about its subject matter. Any previous understanding, agreement, representation or warranty relating to this subject matter is replaced by this Agreement and has no further effect.
- (d) Nothing in this Agreement transfers or excludes any applicable cultural rights in favour of Australian Indigenous people that may be implemented under Australian law.
- (e) This Agreement may only be changed in writing signed by all parties.
- (f) This Agreement is governed by the law in force in the State of Victoria.
- (g) In this Agreement any reference to a day means a calendar day.

## SCHEDULE

**Timeline:**

Activity	End Date
Submissions open	
Submissions close	
Assessment	
Contracting of artist/Community Engagement finalised	
Finished Design approved	
Notify adjacent business of works (Council/ Café owner)	
Permit to occupy road reserve	
Project initiation meeting	
Fabrication/ installation of artwork / delivery Maintenance Manual	
Community launch on site	

**Commission Fee:**

Stage	Payment Due (+ GST)	Dates for staged completion
Stage 1: Contract signed & Community Engagement planned		
Stage 2: Development & Completion of the Artwork		
Delivery of Maintenance Manual		
Total:		

**The Reports:**

Please submit work in progress pictures and a short written or recorded reflection on community engagement during fabrication process. Please submit this information by the completion date.

**Signed by the Artist:**

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

Name (PRINT): \_\_\_\_\_

Date: \_\_\_\_\_

Witness signature: \_\_\_\_\_

Witness Name (PRINT): \_\_\_\_\_

Date: \_\_\_\_\_

**Signed by an Authorised Representative of the Council:**

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

Name (PRINT): \_\_\_\_\_

Date: \_\_\_\_\_

Witness signature: \_\_\_\_\_

Witness Name (PRINT): \_\_\_\_\_

Date: \_\_\_\_\_

**Reminder: submissions due by 5.00pm ... 2023**

**End of EOI**