

**ART CONSIGNMENT PROGRAM
MEMORANDUM OF UNDERSTANDING # COR-NRMOU-2019-0213-MWP**

1. PARTIES

The **Montana Department of Corrections Women's Prison (DEPARTMENT)** and **Yellowstone Art Museum (CONTRACTOR)** enter into this Memorandum of Understanding **COR-NRMOU-2019-0213-MWP** for a pilot consignment program. The parties' names, addresses, and telephone numbers are as follows:

Montana Department of Corrections Women's Prison
5 S. Last Chance Gulch
PO Box 201301
Helena, MT 59620-1301
(406) 444-3930

Yellowstone Art Museum
Consignment Gallery
401 N. 27th Street
Billings, MT 59101
(406) 256-6804

DEPARTMENT AND CONTRACTOR, AS PARTIES TO THIS MEMORANDUM OF UNDERSTANDING AND FOR THE CONSIDERATION SET FORTH BELOW, AGREE AS FOLLOWS:

2. DUTIES AND RESPONSIBILITIES OF DEPARTMENT AND CONTRACTOR

2.1 The DEPARTMENT agrees to

- A. Accept finished pieces of art from the inmate artists. Finished pieces shall be ready for display; such as those placed on a backing, covered in clear acetate, having finished edges (taped edges, painted black, continued onto the sides of a canvas, hanging hardware and bumper, etc.) or matted, and framed works.
- B. Ensure artwork submitted by inmates is warranted by the inmates to be original pieces created by them to which they hold title.
- C. Supply the CONTRACTOR with art pieces that are displayable in a small gallery space, typically, on a wall, such as; pencil/pen/charcoal drawings and acrylics on canvas.
- D. Ensure that at the time of transfer each piece is accompanied by a slip containing the inmate artist's name, a brief bio, the name or title of the piece, the artwork's size, the art medium, the date the piece was completed, the sale price for the piece, the 40% consignment fee, and the total sales price.
- E. Recall art work if an inmate is transferred, discharged, hobby privileges are terminated, or for any other reason the consignment is not completed.
- F. Maintain a monthly accounting of the pieces consigned.
- G. Transport art to or from the museum.
- H. Accept donated inmate art to promote facility beatification or future arts education.

2.2 The CONTRACTOR agrees to

- A. Accept art work for a three-month consignment period, the piece must meet the prescreening criteria to be accepted for consignment.
- B. Extensions of the consignment period are at the discretion of the CONTRACTOR.

- C. Prescreen art before consignment and reject art pieces should they not meet the artistic excellence level of other art displayed in the consignment gallery.
- D. Be the exclusive representative of the art while it's in their possession.
- E. Maintain a monthly inventory list of the pieces consigned.
- F. Display the art work in an art installment or the consignment gallery as the CONTRACTOR sees fit, (frequency, number of exhibits, location of the piece in an exhibit).
- G. Promote, market, and advertise consigned art pieces such as reproductions on posters, catalogs, film, TV, etc.
- H. Keep records of the consignment account; artist, sales, discounts, consignment payments, other expenses related to each piece.
- I. Be responsible for safe keeping of the art and will treat it with the same care and respect as other works they own.
- J. Repair any loss or damage to a piece in their care, restoring it to a similar condition as when originally received.
- K. Accept donated art to promote future art exhibits or arts education in Montana prisons, utilizing local galleries, art walks, Quick Draw auctions, or other sales processes, etc.
- L. CONTRACTOR reserves the right to negotiate up to 10% on the stated sales price to move a piece.

2.3 Both the DEPARTMENT and the CONTRACTOR agree that:

- A. This is a six-month pilot program and if both parties agree to continue the program other art mediums will be considered for display, space allowing.
- B. Art mediums for the pilot period will consist of art mediums which take up little space and are easily displayed on a flat surface such as a wall.

3. COMPENSATION AND BILLING

The only compensation to be paid through this MOU is to the inmate artist for a sold piece of work or damages incurred while the work is in the care and custody of the CONTRACTOR which cannot be repaired. The CONTRACTOR agrees to pay the inmate artist within thirty (30) days following the sale of the art. Checks will be made out to the inmate artist less the 40% consignment fee and other discounts. This compensation will be transferred to the DEPARTMENT for deposit into the inmate's trust banking account along with the consignment statement.

No other compensation will be paid or is due to either the DEPARTMENT or the CONTRACTOR during the term of this agreement.

4. TIME OF PERFORMANCE

This Memorandum of Understanding shall take effect on upon final signature and shall terminate on October 31, 2019, unless terminated earlier in accordance with the terms of this Memorandum of Understanding. This Memorandum of Understanding may, upon mutual agreement and according to the terms of the existing Memorandum of Understanding, be renewed in one-year intervals, or any interval that is advantageous to the Department, for a period not to exceed a total of five (5) additional years.

5. LIAISONS AND NOTICE

- A. Annamae Siegfried-Derrick, 701 South 27th Street, Billings MT 59101, 406-247-5102, or successor serves as DEPARTMENT liaison.
- B. Sally McIntosh, Yellowstone Art Museum, 401 N. 27th Street, Billings, MT 59101, 406-256-6804 x250, or successor serves as CONTRACTOR's liaison.
- C. All notices and invoices required in this Memorandum of Understanding shall be in writing, properly addressed to the liaison in (A) and (B) above, and mailed first-class, postage prepaid. All notices sent via U.S. Postal Service are deemed effective on the date of postmark. Notices and invoices mailed through another carrier (e.g., UPS or FedEx) are effective upon receipt.

6. AMENDMENTS

All amendments to this Memorandum of Understanding shall be in writing and signed by the parties.

7. TERMINATION AND DEFAULT

- A. The DEPARTMENT may, by written notice to CONTRACTOR, terminate this Memorandum of Understanding in whole or in part at any time CONTRACTOR fails to perform as required in this Memorandum of Understanding.
- B. Either party may terminate this Memorandum of Understanding without cause by providing written notice to the other as described in this paragraph. The party desiring to terminate the Memorandum of Understanding shall provide written notice to the other, which notice will establish a termination date not less than thirty (30) days from the date of such notice.

8. INTEGRATION

This Memorandum of Understanding contains the entire agreement between the parties and no statement, promises, or inducements made by either party or agents thereof, which are not contained in the written Memorandum of Understanding, shall be binding or valid. This Memorandum of Understanding shall not be enlarged, modified, or altered except upon written agreement signed by all parties to the Memorandum of Understanding.

9. SEVERABILITY

A declaration by any court, or any other binding legal source, that any provision of this Memorandum of Understanding is illegal and void shall not affect the legality and enforceability of any other provision of this Memorandum of Understanding, unless the provisions are mutually dependent.

10. COMPLIANCE WITH LAWS

The parties shall, in performance of work under this Contract, fully comply with all applicable federal, state, or local laws, rules, regulations, and executive orders including but not limited to, the Montana Human Rights Act, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. The Parties are the employers for the purpose of providing healthcare benefits and paying any applicable penalties, fees and taxes under the Patient Protection and Affordable Care Act [P.L. 111-148,

124 Stat. 119]. The Parties will comply with the Prison Rape Elimination Act 42 U.S.C.A. § 15601ff, the Prison Rape Elimination Act final rule 28 CFR Part 115, MDOC Policy 1.1.17, Prison Rape Elimination Act, and ACCD 1.1.1700 PREA to include incident reporting. The parties shall establish a zero-tolerance policy to incidents of sexual assault/rape or sexual misconduct. Any subletting or subcontracting by the Parties subjects subcontractors to the same provisions. In accordance with 49-3-207, MCA, and Executive Order No. 04-2016 Parties agree that the hiring of persons to perform this Contract will be made on the basis of merit and qualifications and there will be no discrimination based on race, color, sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status by the persons performing this Contract.

11. COMPLETED MEMORANDUM OF UNDERSTANDING

The DEPARTMENT cannot disburse any payments under this Memorandum of Understanding until a fully executed original Memorandum of Understanding is returned to the Department of Corrections, Contracts Management Bureau, PO Box 201301, Helena, MT, 59620-1301.

SIGNATURES

**DEPARTMENT OF CORRECTIONS
MONTANA WOMEN’S PRISON**

YELLOWSTONE ART MUSEUM

DocuSigned by:
Jennie Hansen
FAB25B743BC6451...
Jennie Hansen
Warden

DocuSigned by:
Sally McIntosh
101B05D730A34EA
Sally McIntosh
Adult Program Coordinator

4/29/2019

Date

4/17/2019

Date

Approved for Legal Content by:

DocuSigned by:
Lorraine Schneider
50C1253B257B4D4...
Legal Counsel
Department of Corrections

4/17/2019

Date