

# Agreement for Purchase and Sale of Artwork

## 'Portrait of Attorney General Michelle Henry'

This Agreement for the Purchase and Sale of Artwork ("AGREEMENT") is made and entered into between the Office of Attorney General ("OAG") and David Larned Inc. ("ARTIST") (collectively, the "PARTIES"):

**WHEREAS**, the OAG has authority under the Commonwealth Procurement Code ("CODE") to directly procure supplies and services which constitute "[w]orks of art, historic objects and documents for acquisition and public exhibition" provided that it do so using the CODE's procedures. 62 Pa.C.S.A. § 301(b) & (c)(2);

**WHEREAS**, the CODE's procedures permit a contract to be awarded "without competition if the contracting officer first determines in writing that...(1) [o]nly a single contractor is capable of providing" the item to be purchased. *See* 62 Pa.C.S.A. § 515(a)(1);

**WHEREAS**, both Pennsylvania and Federal Courts alike have recognized that the commissioning of artwork involves "intellectual and creative aspects" which are "personal" in nature and unique to the artist providing the deliverable. *See City of Pgh. v. Tucker*, 459 A.2d 1333 (Pa.Cmwlt. 1983); *303 Creative LLC v. Elenis*, 143 S.Ct. 2298 (2023);

**WHEREAS**, ARTIST has submitted an offer to sell to the OAG an "Oil on Canvas Portrait of AG Henry" in accordance with the document attached hereto as **Exhibit A** and incorporated herein;

**WHEREAS**, in consideration of the CODE's procedures and requirements, the OAG has determined that it possesses the authority to procure, without competition, the items described on **Exhibit A**;

**NOW, THEREFORE**, intending to be legally bound, and in consideration of the mutual covenants contained herein and for other good and valuable considerations, receipt of which is hereby acknowledged, the PARTIES agree as follows:

1. **Recitals.** The recitals above are incorporated herein by reference as a material part of this AGREEMENT.
2. **Effective Date.** This AGREEMENT shall become effective when fully executed by the PARTIES, and all approvals required by the Procurement Code have been obtained, as indicated by the date of the last signature by the OAG.
3. **Deliverables.** ARTIST agrees to perform the services and provide the items more fully described on the attached **Exhibit A**. ARTIST further agrees, upon prior separate written request from the OAG, to provide framing for the deliverables herein described at an amount not to exceed \$750.00. For the avoidance of doubt, the PARTIES each acknowledge and agree that in the event such framing is requested, the provision thereof any payment therefor will be by separate written agreement.
4. **Delivery** All items to be provided under this contract shall be delivered F.O.B. destination. The ARTIST agrees to bear the risk of loss, injury, or destruction of the item(s) ordered prior to receipt of those

items by the OAG. Such loss, injury, or destruction shall not release the ARTIST from any contractual obligations. Delivery shall be to the OAG at the following address:

**Pennsylvania Office of Attorney General**

Attn: Lakisha Randolph  
Strawberry Sq., 14<sup>th</sup> Floor  
Harrisburg, PA 17120

5. **Consultation.** The deliverables under this AGREEMENT shall be provided under the direction of OAG Deputy Chief of Staff Kirsten Heine and/or her designee. ARTIST shall consult with and keep the OAG fully informed as to the progress of this AGREEMENT.
6. **Subcontracting.** Subcontracting, assignment, or transfer of all or part of the interest of ARTIST in the work performed under this AGREEMENT shall be prohibited without the prior written consent of the OAG. In the event the OAG gives such consent, the terms and conditions of this AGREEMENT shall apply to and bind the party or parties to whom such work is subcontracted, assigned, or transferred, as fully and completely as ARTIST is hereby bound and obligated.
7. **Compensation.** The basis and schedule of payment to ARTIST for all deliverables under this AGREEMENT shall be as follows:
  - a. Payment 1: \$5,000.00, to be paid following an invoice issued after the Effective Date of this Agreement;
  - b. Payment 2: \$7,500.00, due upon invoicing following the commencement of painting;
  - c. Payment 3: \$7,500.00, due upon invoicing following delivery of the completed deliverable.
8. **Invoices.** In order to receive payment under this AGREEMENT, ARTIST shall submit invoices to the OAG by sending a copy thereof to the following:

**Pennsylvania Office of Attorney General**

Attn: Lakisha Randolph  
Strawberry Sq., 14<sup>th</sup> Floor  
Harrisburg, PA 17120  
[lrandolph@attorneygeneral.gov](mailto:lrandolph@attorneygeneral.gov)

Each invoice submitted by ARTIST shall reference this Agreement and the payment being sought. Such invoice will be listed on the Commonwealth's ACH remittance advice for purposes of enabling ARTIST to tie the OAG's payment to an invoice submitted for payment.

9. **Payment.** Payments to be made under this AGREEMENT will occur through Automated Clearing House (ACH) using the ARTIST'S ACH information within the Commonwealth's Vendor Registration Master Database of the Office of the Budget. It is the responsibility of ARTIST to ensure that the ACH information therein contained remains accurate and complete. Failure to maintain accurate and complete information may result in delays in payments.
10. **Offset Provision.** The ARTIST agrees that the Commonwealth of Pennsylvania may set off the amount of any state tax liability or other obligation of the ARTIST or its subsidiaries to the Commonwealth

against any payments due the ARTIST under this AGREEMENT or any other contract with the Commonwealth.

11. **Confidentiality.** ARTIST shall keep confidential all information, in whatever form, produced, prepared, observed, or received by ARTIST except to the extent disclosure is authorized by prior written approval of the OAG, by order of a court or other tribunal of competent jurisdiction, or as otherwise required by law. ARTIST's communications regarding the services to be performed under this AGREEMENT, with the OAG attorneys, staff, and consultants shall be confidential and privileged.
12. **Conflict of Interest.** ARTIST covenants that it has no undisclosed public or private interest, direct or indirect, and shall not acquire, directly or indirectly, any such interest which does or may conflict in any manner with the performance of the services or obligations under this AGREEMENT. To the extent such an interest is later acquired, ARTIST agrees to immediately disclose the same to the OAG, who shall determine, in its sole discretion, whether such conflict is cause for termination of this AGREEMENT. ARTIST further covenants that, in the performance of this AGREEMENT, no person having such interest shall be employed by or associated with ARTIST.
13. **Independent Contractor.** ARTIST is an independent contractor and any services rendered pursuant to this AGREEMENT are not rendered as an employee of the OAG and any amounts paid pursuant to this AGREEMENT do not constitute compensation or wages paid to an employee. The OAG assumes no liability for actions of ARTIST under this AGREEMENT.
14. **Applicable Law.** This AGREEMENT and ARTIST's obligations and services hereunder are hereby made and must be performed in compliance with all applicable federal and state laws. This AGREEMENT shall be interpreted in accordance with and governed by the laws of the Commonwealth of Pennsylvania, without giving effect to its conflicts of law provisions.
15. **Entire Agreement.** This AGREEMENT constitutes the entire agreement between the parties. No amendment or modification changing its scope or terms shall have any force or effect unless it is in writing and signed by all PARTIES and appropriate procurement officials.

**IN WITNESS WHEREOF**, the PARTIES, with the intention of being legally bound hereby, have caused this AGREEMENT to be executed by their duly authorized representatives on the dates presented below.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the PARTIES, with the intention of being legally bound hereby, have caused this AGREEMENT to be executed by their duly authorized representatives on the dates presented below.

For ARTIST:


  
\_\_\_\_\_  
David Larned Inc.  
4511 Banning Drive  
Houston, TX 77027  
Tax ID Number: 84-3982881  
Vendor Number: 558531

2.5.24  
Date Signed

For Form and Legality:

\_\_\_\_\_  
Anthony Bowers  
Office of Attorney General  
Operations Division

For the OAG:

  
\_\_\_\_\_  
Kirsten Heine  
PA Office of Attorney General  
Deputy Chief of Staff

2/5/24  
Date Signed

I hereby certify that funds in the amount  
of \$20,000.00 are available under  
expenditure symbol(s):  
**1006300000-2023-1411001000-6343118**

\_\_\_\_\_  
Doreen Rooney  
Office of Attorney General  
Director of Finance

Exhibit A

David Larned Inc

January 14, 2024

Contract for Portrait of the Attorney General of Pennsylvania, Michelle Henry

Proposal: Oil on Canvas Portrait of AG Henry

Size: 30" x 24" unframed dimensions

Price: \$20,000 (frame not included)

Payment Schedule: \$5,000 deposit, \$7,500 when painting commences, \$7,500 upon completion

Delivery: Fall 2024

If these terms are acceptable please keep a copy for your records and return a signed copy for mine.

It would be an honor to paint for my longtime home state.

A handwritten signature in red ink, appearing to be 'DL' or a stylized version of the name David Larned.

David Larned

David Larned Inc  
4511 Banning Drive  
Houston, TX 77027

[info@davidlarned.com](mailto:info@davidlarned.com)  
302 275 9344