

CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: Museum and Cultural Affairs Dept.

AGENDA DATE: 11/14/2006

CONTACT PERSON/PHONE: Yolanda R. Alameda 541-4896

DISTRICT(S) AFFECTED: All

SUBJECT:

That the City Manager be authorized to sign a Bill of Sale between the City of El Paso and Impact: Programs of Excellence, for the purchase of eleven sols from the ART and SOL collection, as well as the name of the ART and SOL, in the amount of NINETY ONE THOUSAND SIX HUNDRED SIXTY THREE DOLLARS AND NO/100 (\$91,663.00). (All Districts)

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

IMPACT: Programs of Excellence a non-profit organization that developed Art and Sol, a public art program that solicited local artists to create on large spheres called sols that would profile local artists.

The City of El Paso will acquire 11 Sols to include in the City's public art inventory, obtain ownership of the "Art and Sol" name and the rights to use the sol's images for merchandising, marketing and educational purposes. Each Artist will retain copyrights for their artwork for non-commercial use.

The Sols will be exhibited around the city in order to create awareness and education about public art, assist in building a sense of community and civic pride and showcase and profile our local Artists.

MCAD will work with the Public Art Committee to develop an exhibit schedule. It is anticipated that the Sols will be exhibited at a variety of municipal locations city-wide.

Funds generated from the merchadising and marketing of the Sols will be used for maintance and tranportation of the Sols.

PRIOR COUNCIL ACTION

Has the Council previously considered this item or a closely related one?

None

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

Public Art Fund

Account # 502102

2003 Certificates of Obligations

BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A

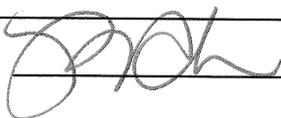
Recommendation from Cultural Affairs Advisory Board on November 7, 2006

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) _____

FINANCE: (if required) _____

DEPARTMENT HEAD: _____

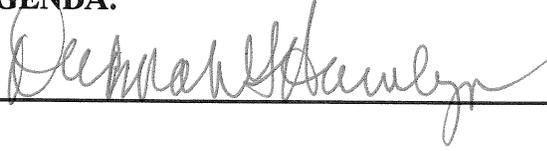


CITY CLERK DEPT.
NOV - 6 PM 4:34

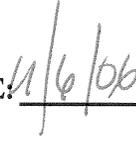
(Example: if RCA is initiated by Purchasing, client department should sign also)
Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER:



DATE:



CITY CLERK DEPT.
06 NOV - 6 PM 4: 34

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign a Bill of Sale between the City of El Paso and Impact: Programs of Excellence, for the purchase of eleven sols from the ART AND SOL collection, as well as the name of the ART AND SOL project, in the amount of NINETY ONE THOUSAND SIX HUNDRED SIXTY THREE DOLLARS AND NO/100 (\$91,663.00). (All Districts.)

ADOPTED this _____ day of November, 2006.

THE CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Josette Flores
Assistant City Attorney

APPROVED AS TO CONTENT:



Yolanda Alameda, Director
Museums & Cultural Affairs Department

BILL OF SALE

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

By this instrument, executed to be effective as of _____, 2006, by IMPACT: PROGRAMS OF EXCELLENCE, a Texas non-profit corporation with its principal place of business located in El Paso County, Texas, (the "TRANSFEROR") and the CITY OF EL PASO, TEXAS, a municipal corporation located in El Paso County, Texas (the "TRANSFeree"), hereby agree that for \$91,663.00 (NINETY ONE THOUSAND SIX HUNDRED SIXTY-THREE DOLLARS AND NO/100) and other good and valuable consideration, the receipt of which is hereby acknowledged, the **TRANSFEROR sells, assigns, transfers, and conveys to the TRANSFeree all of its rights, title, and interest including the ability of TRANSFeree to sell depictions of the assets for any commercial and non-commercial purposes whatsoever, in and to** the assets identified in the Condition Report and ratification letter agreement (further described in the Terms and Condition, attached hereto as ATTACHMENT "B"), for each asset, attached hereto as EXHIBITS A - K (the "ASSETS"). The requirements of the Condition Report are attached hereto as Attachment "A". The Terms and Conditions to this transfer are attached hereto as Attachment "B".

THE AUTHORIZED REPRESENTATIVE FOR TRANSFEROR HEREBY WARRANTS AND REPRESENTS WITH RESPECT TO THE ASSETS AS FOLLOWS: (A) THAT IT IS THE LAWFUL AND TRUE OWNER OF THE ASSETS, (B) THAT IT REQUIRES NO AUTHORIZATION FROM ANY PARTY OR GOVERNMENTAL ENTITY TO TRANSFER THE ASSETS, INCLUDING THE EXCLUSIVE MERCHANDISING RIGHTS TO SAID ASSETS, (C) THAT THE ASSETS ARE TRANSFERRED FREE AND CLEAR OF ANY ENCUMBRANCE, LIEN, OR MORTGAGE WHATSOEVER, AND (D) THAT THE CONDITION REPORT PROVIDED FOR EACH ASSET IS ACCURATE. THE AUTHORIZED REPRESENTATIVE FOR TRANSFEROR, SOLELY IN SAID REPRESENTATIVE'S CAPACITY AS SUCH, HEREBY COVENANTS TO **INDEMNIFY AND HOLD TRANSFeree HARMLESS** FROM ANY DAMAGES, INCLUDING REASONABLE ATTORNEYS' FEES AND COSTS, FROM ANY CLAIM OR ACTION OR DEFENSE THEREOF RESULTING FROM THE BREACH OF ANY WARRANTY OR REPRESENTATIONS MADE HEREIN.

TRANSFeree TAKES THE ASSETS "AS IS", WITH ALL FAULTS, WHICH IT SHALL VERIFY UPON INSPECTION AND REFERENCE TO THE CONDITION REPORT PROVIDED FOR EACH ASSET, AND WITHOUT WARRANTIES OR REPRESENTATIONS OTHER THAN THOSE EXPRESSLY IDENTIFIED HEREIN. WITHOUT LIMITING THE FOREGOING, TRANSFeree EXPRESSLY ACCEPTS THE ASSETS WITHOUT WARRANTY OR REPRESENTATION AS TO ITS (A) VALUE, (B) NATURE, QUALITY OR CONDITION, (C) SUITABILITY FOR A PARTICULAR USE OR FUNCTION, (D) COMPLIANCE OF OR BY THE ASSETS WITH ANY LAWS, REGULATIONS,

RULES, ORDINANCES OF ANY GOVERNMENTAL AUTHORITY, THE MERCHANTABILITY, MARKETABILITY, PROFITABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE, AND (E) ANY OTHER MATTER.

TRANSFEROR

IMPACT: PROGRAMS OF EXCELLENCE

BY: Sally R. Gilbert
SALLY R. GILBERT,
PRESIDENT

TRANSFeree

CITY OF EL PASO

BY: _____
JOYCE A. WILSON,
CITY MANAGER

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Jose Flores
Jose Flores
Assistant City Attorney
Department

Yolanda Alameda
Yolanda Alameda, Director
Museums and Cultural Affairs

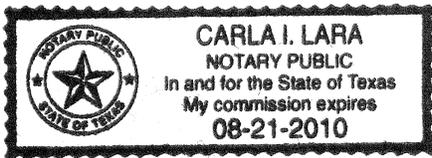
ACKNOWLEDGMENT

STATE OF TEXAS

COUNTY OF EL PASO

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§
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§

This document was acknowledged before me on this the 7th day of November, 2006, by the TRANSFEROR, SALLY R. GILBERT, PRESIDENT, IMPACT: PROGRAMS OF EXCELLENCE, a Texas non-profit corporation, for the purposes expressed herein.



Carla I. Lara
NOTARY IN AND FOR
THE STATE OF TEXAS

ACKNOWLEDGMENT

STATE OF TEXAS

COUNTY OF EL PASO

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§
§
§
§

This document was acknowledged before me on this the _____ day of _____, 2006, by JOYCE A. WILSON, CITY MANAGER, CITY OF EL PASO, a municipal corporation, the TRANSFEREE for the purposes expressed herein.

NOTARY IN AND FOR
THE STATE OF TEXAS

STAMPED/STAMPED
STAMPED/STAMPED

ATTACHMENT "A"

REQUIREMENTS OF CONDITION REPORT FOR EACH OF THE ASSETS

1. Photograph
2. Name of artist, contact information (permanent address, mailing address, phone number, e-mail)
3. Title of Work
4. Dimensions
5. Material/media used
6. Current condition of piece identifying any damage
7. Maintenance instructions, plan and average cost
8. Contact information for business or individual currently providing maintenance
9. Contact information for business or individual currently providing transportation, installation and moving

ATTACHMENT "B"

TERMS AND CONDITIONS

These terms and conditions constitute a legally binding contract by and between the City of El Paso, a home rule municipal corporation, (the "City") and IMPACT: Programs of Excellence ("IMPACT"). The terms referenced herein shall reflect the definitions set forth in the Bill of Sale between the City and IMPACT, of even date herewith, unless specifically defined herein. These Terms and Condition, the Bill of Sale, and all of the attachments and exhibits to the Bill of Sale, constitute the "Contract".

1. IMPACT shall ensure that the Assets shall be touched up and in a condition acceptable to the City by November 6, 2006.
2. IMPACT may place a plaque on the base of each Asset, at a date subsequent to the effective date of this agreement and in a condition acceptable to the City, to include all or some of the following: the artist's name, sponsor, IMPACT and the ART AND SOL project name.
3. IMPACT shall attach to the Bill of Sale a ratification letter agreement to the 2002 original and 2006 amendment letter whereby each artist releases the City from liability and agrees to the City possessing full and exclusive right to reproduce, publish or merchandise the Asset for any commercial purpose whatsoever and a non-exclusive right to the City to reproduce, publish or merchandise the Asset for any non-commercial purpose whatsoever.
4. The City acknowledges that the artist of each of the Assets is retaining the copyright of their respective creation and that the City is not acquiring said copyright from IMPACT, as IMPACT never owned the copyright. The City shall not be responsible for the payment of any royalties to the artists who created the Assets through any merchandising activities of the City, IMPACT or any third party.
5. IMPACT agrees that it is selling, transferring and releasing to the City full and exclusive right to the project name: ART AND SOL, except as provided for herein. IMPACT further agrees to cease and desist from using the project name ART AND SOL for future commercial use. The City agrees that IMPACT may use the name ART AND SOL for historical reference and non-commercial purposes.
6. The non-commercial use of the ART AND SOL project, including the name and reproduction of the images of the Assets, whether by IMPACT or the artist, shall not require the prior written consent of the City. Non-commercial uses of the Assets include, but are not limited to, publication of the Assets in order to show an artist's body of work, or publication or reproduction of the name of the project or the Assets in a pamphlet or brochure or other historical documentation for IMPACT'S archival purposes. All other parties shall request the City's consent to use the ART AND SOL project name and/or reproduce the images of the Assets.

7. **IMPACT** shall bear full responsibility to pay each of the artists involved in the creation of the Assets for the honorarium/materials fee and shall not look to the City for any amount for said honorarium/materials fee or any other cost beyond the consideration described in the Bill of Sale. The City shall bear no responsibility to pay the honorarium/materials fee to any of the artists involved in the creation of the Assets.
8. **IMPACT** is an independent contractor, and nothing herein shall be construed as creating the relationship of employer and employee, or agent between **IMPACT** and the City.
9. The City shall be responsible for transportation and insurance of the Assets once the City acquires title to the Assets, which shall occur upon City Council approval of the Contract.
10. **AMENDMENTS AND WAIVER.** The parties may amend this Contract at any time by mutual consent. Unless otherwise provided herein, this Contract may be amended only by written instrument duly executed on behalf of the City and **IMPACT**. No claim or right arising out of a breach of either party can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party.
11. **COMPLETE AGREEMENT.** This Contract constitutes the entire agreement between the parties relating to the acquisition of the Assets by the City. The parties expressly acknowledge and warrant that there exists no other written or oral understanding, agreements or assurances with respect to such matters except as are set forth herein. Unless expressly stated, this Contract confers no rights on any person(s) or business entity(s) that is not a party hereto. This Contract shall not be construed against or unfavorably to any party because of such party's involvement in the preparation or drafting of this document.
12. **GOVERNING LAW.** This Contract shall be construed and interpreted in accordance with the laws of the State of Texas, along with any applicable provisions of the federal law, the City Charter(s) and/or any ordinance of the City.
13. **SEVERABILITY.** Every provision of this Contract is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Contract.
14. **NOTICES.** All notices and communications under this Contract shall be either hand-delivered or mailed, certified, postage prepaid in the United States Postal Services, return receipt requested, to the respective parties at the respective addresses shown below, unless and until either party is otherwise notified in writing:

CITY: City Manager
 City of El Paso
 2 Civic Center Plaza
 El Paso, Texas 79901-1196

COPY TO: Director

Museums and Cultural Affairs Department
City of El Paso
2 Civic Center Plaza
El Paso, Texas 79901-1196

IMPACT: IMPACT: Programs of Excellence
President
444 East Robinson
El Paso, Texas 79902

15. **ASSIGNABILITY.** This Contract, its rights, duties and responsibilities may not be assigned by any of the parties without the prior written consent of the non-assigning parties.
16. **WARRANTY OF CAPACITY TO EXECUTE CONTRACT.** The people signing this Contract on behalf of the parties warrants that he/she has the authority to do so and to bind the party for which he/she has authority to sign this Contract and all the terms and conditions contained herein.
17. Each person signing below represents that he or she has read this Contract in its entirety; understands its terms; and agrees on behalf of such party that such party will be bound by those terms.

IN WITNESS WHEREOF the parties hereto have executed these Terms and Conditions at El Paso, Texas effective as of November ____, 2006.

(Signatures appear on following page)

Signature Page

CITY OF EL PASO

Joyce A. Wilson
City Manager

IMPACT: PROGRAMS OF EXCELLENCE

By: _____

Name Printed: _____

Title: _____

APPROVED AS TO FORM:



Josette Flores
Assistant City Attorney

APPROVED AS TO CONTENT:

Yolanda Alameda, Director
Museums and Cultural Affairs Department

EXHIBIT "A"

ART AND SOL CONDITION REPORT

TITLE SEASONS OF THE SUN

ARTIST CARLOS CALLEJO

MEDIUM POLYURETHANE AND STEEL

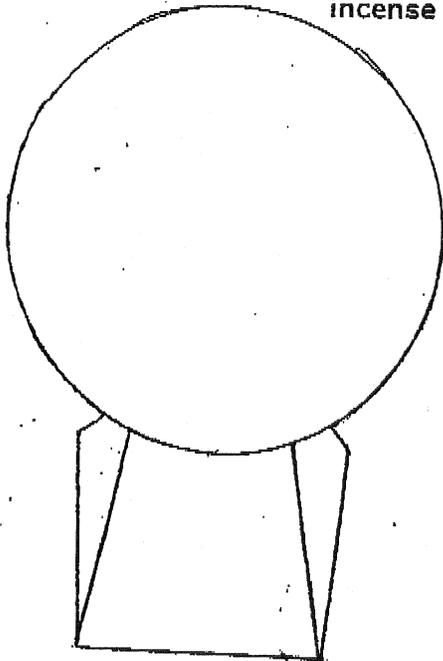
DATE 2005

HEIGHT 5'8" **WIDTH** 8' **DEPTH** 6'

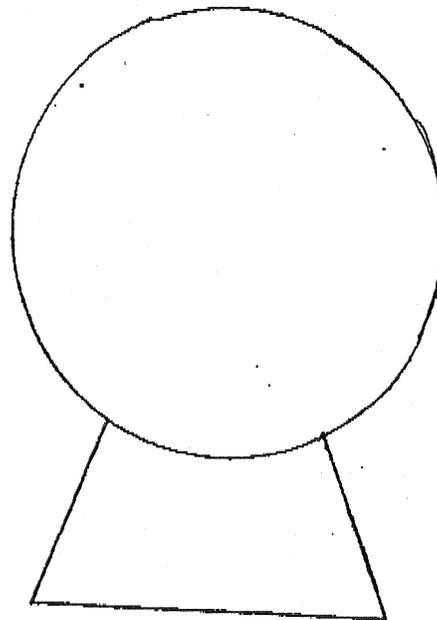
OUTGOING GOOD **INSPECTED BY** _____ **DATE** _____

INCOMING _____ **INSPECTED BY** _____ **DATE** _____

incense burner



FRONT



BACK

Base slightly scuffed from prior transportation



impact ■ programs of excellence

**IMPACT
ART & SOL PROJECT
ARTIST'S CONTRACT**

Re: Art & Sol Project

Dear Mr. Carlos Callejo:

We are pleased to inform you that your design has been selected by the jury for inclusion in the Art & Sol Project sponsored by IMPACT: Programs of Excellence ("IMPACT"). We are also pleased to confirm that a sponsor has been selected for your Work. The terms of your engagement are more particularly set out below:

1. **Scope and Purpose of Agreement.** Art & Sol is a public art project initiated by IMPACT: Programs of Excellence in celebration of our nearest star, the Sun. The project involves a year-long celebration and an exhibit of the finished suns created by artists throughout our region.
2. **Design, Original Work of Art.** You warrant that you are the sole author of your design and that it is an original work of art and does not infringe on the copyright or other intellectual property rights of others. You agree to indemnify and hold IMPACT harmless from any claims or liability in this regard.
3. **Execution and Completion of Work.** You will acknowledge upon receipt one large sphere and base which you will complete in accordance with your original design as selected by the jury. As finished artwork may be displayed outdoors, materials utilized should be impervious to weather and other climatic influences. It is your responsibility to consider the preparation of the surface prior to painting, the use of appropriate paint and materials and the application of a durable top coat. Materials used are subject to approval by IMPACT. Before final approval for exhibition is granted, an inspection of each sun will be made.
4. **Payment to Artist.** Each sponsored artist selected by the jury shall receive the sum of \$1,500, as an honorarium to cover any artist fee and materials used in the

{00002920.DOC.}

January 3
Page 2

project. One-half of this fee shall be paid upon execution of this letter agreement by you and the remaining one-half shall be paid upon final acceptance and approval of your work (the "Work") to insure compliance with this agreement. Additionally, you shall be entitled to receive twenty percent of the gross sales price of your Work if it is ultimately sold either through presales, at the gala auction or thereafter. You may be asked to touch up your Work once the exhibition is underway and again at the end of the project.

5. Final Acceptance and Delivery. You agree to deliver the finished Work no later than July 25, 2005. Upon inspection of the Work by IMPACT and final acceptance, we will arrange for pickup of the Work and payment of the remaining one-half of your honorarium. Title shall pass to IMPACT on delivery and final acceptance.

6. Risk of Loss. You are responsible for the Work while it is in your possession and you shall be liable for all risk of loss prior to its delivery and final acceptance by us. You should take such measures as are necessary to protect the Work from loss or damage until delivery and acceptance including but not limited to the purchase of property loss insurance.

7. Copyright.

(a) Registration and Notice. You shall place a copyright notice on the Work in the form and manner required to protect copyrights in the Work under United States copyright law. A copyright notice should contain:

- The word "Copyright".
- A "C" in a circle (©).
- Your name.

If the copyright is or becomes registered with the U.S. Copyright Office, you shall provide IMPACT with a copy of the application for registration, the registration number and the effective date of registration. Except as provided in this agreement, you retain all copyrights in the Work. IMPACT shall have ownership and possession of the Work.

January 3
Page 3

(b) **Display.** You hereby grant IMPACT, its agents and representatives exclusive right to display the Work, to lend the Work to other persons or institutions with authority to display it publicly as well as the right to dispose of it by sale or gift or in any manner deemed appropriate by IMPACT.

(c) **Reproductions.** You authorize IMPACT to make, and to authorize the making of, photographs and other reproductions of the Work for educational, public relations, promotional and other noncommercial purposes benefiting IMPACT. For the purposes of this agreement, the following are among those deemed to be reproductions for noncommercial purposes: (i) brochures and pamphlets pertaining to the Art & Sol project or any other project of IMPACT; (ii) reproduction in exhibition catalogs, books, slides, photographs, postcards, posters and calendars; (iii) reproduction in art magazines, art books and art and news sections of newspapers, reproduction in general books and magazines not primarily devoted to art but of an educational, historical or critical nature; (iv) slides and filmstrips not intended for a mass audience; (v) television from stations operated for educational purposes or on programs for educational purposes from all stations. On each reproduction, IMPACT shall place a copyright notice in the form and manner required to protect the copyright in the Work under United States copyright law. You also grant IMPACT the exclusive right to make reproductions of the Work for any commercial purpose. In the event that IMPACT derives any revenue from such commercial publication, you shall be entitled to twenty percent (20%) of the net proceeds.

8. **The Gala Auction.** IMPACT anticipates that the Works produced by artists in the project will be offered for sale at an auction (the "Gala Auction") to occur in May, 2003. IMPACT, its sponsors and you will each be involved in the promotion of the Gala Auction.
9. **Sale of Work.** IMPACT, the sponsor, the charitable organization selected by IMPACT upon the recommendation of the sponsor and you jointly undertake to promote the successful conclusion of this project and the sale of your Work. You shall be entitled to receive as additional compensation for your Work, an amount

January 3
Page 4

equal to twenty percent (20%) of the sale proceeds of your Work. It is possible that your Work will not sell, either before or at the Gala Auction or thereafter; IMPACT does not warrant or represent that all Works will sell but will use its best efforts to promote sales. If your Work does not sell, IMPACT may donate it to a qualified charitable organization or otherwise utilize it at IMPACT's discretion. In this event, no additional payment to you will be made. IMPACT reserves the exclusive discretion to donate the Work if it remains unsold after the Gala Auction. IMPACT shall have the exclusive right to determine the price and timing of any sale of any Work, whether prior to, at the gala auction or thereafter.

10. **Termination.** If you fail for any reason to complete the Work on a timely basis in accordance with our agreement, IMPACT will be entitled to terminate this agreement on ten (10) days written notice to you and you will be required to refund any portion of the honorarium which you have previously received. If you die or become incapacitated prior to the completion of the Work, IMPACT shall have the right to recover the Work to whatever point it has progressed as well as all drawings, photographs, models or other property related to the production of the Work. Neither party shall have the right to payment or refund of consideration from the other and this agreement shall then terminate.
11. **Arbitration.** Any controversy or claim arising out of or relating to our agreement or its breach shall be settled by arbitration in El Paso, El Paso County, Texas in accordance with the commercial arbitration rules of the American Arbitration Association. One arbitrator shall be selected. We agree to abide by and perform any award rendered by the arbitrator and that a judgment upon the award may be entered in any court having jurisdiction.
12. **Miscellaneous.** You are an independent contractor to IMPACT and are not acting as our agent or employee. This letter contains our entire agreement regarding this project and no other oral or written representation or understanding shall be considered part of our agreement. The only way that our agreement may be modified or amended shall be by execution of another letter agreement by both of us. If either of us waive any particular obligation of the other hereunder, that waiver shall not be construed or operate as a waiver of any subsequent right or obligation of either of us. This agreement shall be performed in accordance with

January 3
Page 5

the laws of the state of Texas and the parties agree that venue lies in the courts of El Paso County, Texas. Each of us waives any right to assert venue in any other location. This agreement shall be binding upon and inure to the benefit of our respective successors and assigns, except that you may not assign, transfer or encumber your rights or obligations hereunder without our prior written consent.

13. Notices. If any notice is required to either of us by the other under this agreement, it shall be in writing and may be delivered either by fax, hand delivery or certified mail, postage prepaid, addressed to the party at the address shown on this letter.

14. IMPACT's Responsibilities. IMPACT has the financial and administrative responsibility to present this public art project as well as all peripheral events. It will publish and distribute all the promotional materials, provide signage for each Work, promote through the electronic and written media and plan and pay for the opening night event and the Gala Auction. IMPACT will also provide the sphere and base for each Work and when title passes to IMPACT, insurance as well as transportation expenses and installation expenses.

15. Timeline. The Art & Sol Project is anticipated to operate upon the following timeline, which shall be subject to revision as reasonably required, by IMPACT in its sole discretion:

- December 2004 – February 2005: Spheres delivered to sponsored artist
- July 2005: Artist completes work
- July 2005: spheres to be placed in venues – presale promotion; opening event
- Spring 2006 – Auction/sale

We have enjoyed working with you on this exciting project and look forward to seeing your completed Work. The participation of artists of your caliber is essential to the success of our project. Please return one signed copy of this letter to our office and keep the other copy for your records.

January 3
Page 6

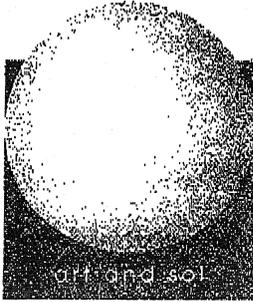
Very truly yours,

IMPACT: Programs of Excellence

By: Norma Geller
Norma Geller, Executive Director
444 E. Robinson Suite B
El Paso, Texas 79902

ACCEPTED AND AGREED TO on this 6 day of July 2005

Adrian Callizo
ARTIST
Address: 7100 Gillette
CANUJILLO TX. 79835

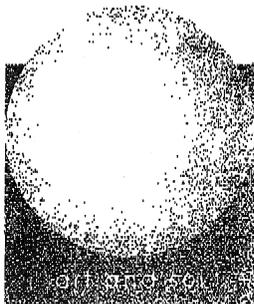


Signed on this 3rd day of OCTOBER, 2006.

Artist:

Carla Culley
 IMPACT: Programs of Excellence

By: *Norma Geller*
 Name: NORMA GELLER
 Its: Executive Director



Re: Art and Sol Project

Dear CARLOS CALLEJO

As you know, Impact | Programs of Excellence ("Impact") has been working with the City of El Paso ("City") in connection with the City's acquisition of certain sols which were created as part of the Art and Sol Project. The purpose of this letter is to memorialize our agreements regarding the following matters following final negotiations with the City.

1. Rights to be Acquired by City. Pursuant to the agreement with the City, the City will receive the following:
 - 11 sols, including the sol created by you; and
 - the exclusive right to reproduce, publish and merchandise the depiction and image of those sols for any commercial purpose whatsoever and the non-exclusive right to reproduce, publish or merchandise the sols for any non-commercial purpose whatsoever.

2. Copyright and License. Each artist will retain the copyright for the sol created by that artist. Each artist may reproduce the image of the sol created by that artist for non-commercial purposes including, but not limited to, publication of the image of your sol in a body of work. By your signature hereon, you hereby grant to the City an exclusive license to reproduce, publish and merchandise the image of the sol which you created for all commercial purposes that the City may select and a non-exclusive license to reproduce, publish and merchandise the image of the sol which you created for all non-commercial purposes that the City may select. You also release the City from liability for exercising the rights and licenses given to the City. You understand and agree that the sum which you will receive from Impact is the exclusive consideration which you will receive for the use of the image of your sol by the City and that the City will not pay additional royalties or consideration to you.

3. Ratification of October Agreement. Pursuant to the final terms of the agreement between Impact and the City, Impact will receive less than \$100,000.00 from the City. The sums which Impact will pay to the affected artists will not be reduced. Notwithstanding the provisions of the letter agreement you signed in October to the effect that the letter agreement would be void if Impact did not receive the sum of \$100,000.00 from the City, the October letter agreement is hereby ratified and remains in full force and effect.

4. Gala. It is possible that there will be insufficient funds available to hold a gala as anticipated in the initial agreement between you and Impact. By your signature hereon, you agree to release Impact from any responsibility or commitment to hold a gala. Regardless of whether or not a gala is held, a closing ceremony will take place.

Signed on this 5th day of November, 2006.

Artist: Carlos Callejo

Impact | Programs of Excellence
By: Norma Geller
Name: NORMA GELLER
Its: EXECUTIVE DIRECTOR

EXHIBIT "B"

ART AND SOL CONDITION REPORT

TITLE AGUILA O SOL * FLIP OF THE COIN

ARTIST FRANCISCO ENRIQUE DELGADO

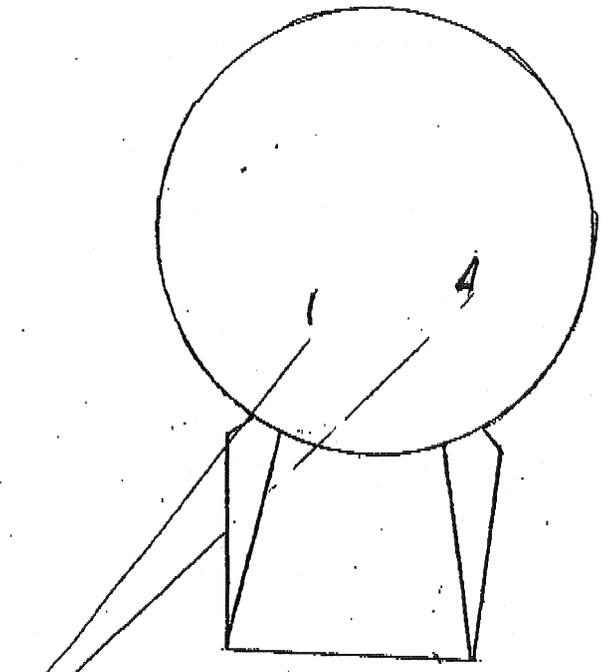
MEDIUM POLYEURATHANE AND STEEL

DATE 2005

HEIGHT 5' **WIDTH** 4' **DEPTH** 6'

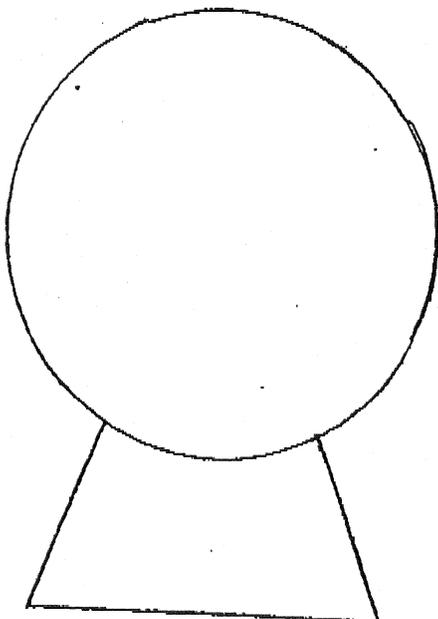
OUTGOING GOOD **INSPECTED BY** _____ **DATE** _____

INCOMING _____ **INSPECTED BY** _____ **DATE** _____



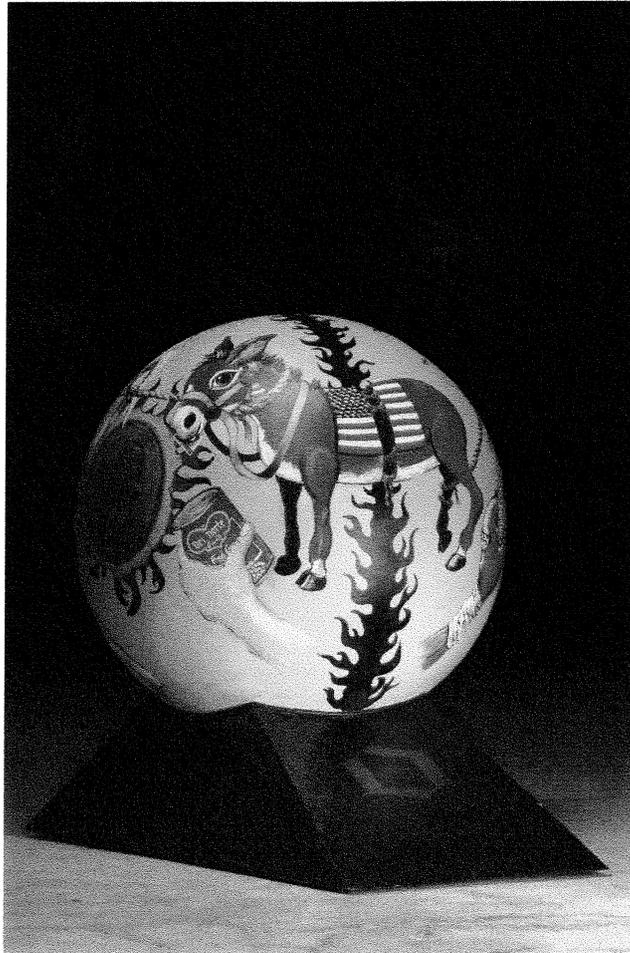
FRONT

Small cut repaired with epoxy and repainted



BACK

Base scuffed/scratched from prior transportation



impact ■ programs of excellence

**IMPACT
ART & SOL PROJECT
ARTIST'S CONTRACT**

Re: Art & Sol Project

Dear Francisco Delgado:

We are pleased to inform you that your design has been selected by the jury for inclusion in the Art & Sol Project sponsored by IMPACT: Programs of Excellence ("IMPACT"). We are also pleased to confirm that a sponsor has been selected for your Work. The terms of your engagement are more particularly set out below:

1. Scope and Purpose of Agreement. Art & Sol is a public art project initiated by IMPACT: Programs of Excellence in celebration of our nearest star, the Sun. The project involves a year-long celebration and an exhibit of the finished suns created by artists throughout our region.
2. Design, Original Work of Art. You warrant that you are the sole author of your design and that it is an original work of art and does not infringe on the copyright or other intellectual property rights of others. You agree to indemnify and hold IMPACT harmless from any claims or liability in this regard.
3. Execution and Completion of Work. You will acknowledge upon receipt one large sphere and base which you will complete in accordance with your original design as selected by the jury. As finished artwork may be displayed outdoors, materials utilized should be impervious to weather and other climatic influences. It is your responsibility to consider the preparation of the surface prior to painting, the use of appropriate paint and materials and the application of a durable top coat. Materials used are subject to approval by IMPACT. Before final approval for exhibition is granted, an inspection of each sun will be made.
4. Payment to Artist. Each sponsored artist selected by the jury shall receive the sum of \$1,500, as an honorarium to cover any artist fee and materials used in the

(00002920.DOC.)

January 3

Page 2

project. One-half of this fee shall be paid upon execution of this letter agreement by you and the remaining one-half shall be paid upon final acceptance and approval of your work (the "Work") to insure compliance with this agreement. Additionally, you shall be entitled to receive twenty percent of the gross sales price of your Work if it is ultimately sold either through presales, at the gala auction or thereafter. You may be asked to touch up your Work once the exhibition is underway and again at the end of the project.

5. Final Acceptance and Delivery. You agree to deliver the finished Work no later than March 10, 2005. Upon inspection of the Work by IMPACT and final acceptance, we will arrange for pickup of the Work and payment of the remaining one-half of your honorarium. Title shall pass to IMPACT on delivery and final acceptance.
6. Risk of Loss. You are responsible for the Work while it is in your possession and you shall be liable for all risk of loss prior to its delivery and final acceptance by us. You should take such measures as are necessary to protect the Work from loss or damage until delivery and acceptance including but not limited to the purchase of property loss insurance.
7. Copyright.
 - (a) Registration and Notice. You shall place a copyright notice on the Work in the form and manner required to protect copyrights in the Work under United States copyright law. A copyright notice should contain:
 - The word "Copyright".
 - A "C" in a circle (©).
 - Your name.If the copyright is or becomes registered with the U.S. Copyright Office, you shall provide IMPACT with a copy of the application for registration, the registration number and the effective date of registration. Except as provided in this agreement, you retain all copyrights in the Work. IMPACT shall have ownership and possession of the Work.

January 3
Page 3

(b) **Display.** You hereby grant IMPACT, its agents and representatives exclusive right to display the Work, to lend the Work to other persons or institutions with authority to display it publicly as well as the right to dispose of it by sale or gift or in any manner deemed appropriate by IMPACT.

(c) **Reproductions.** You authorize IMPACT to make, and to authorize the making of, photographs and other reproductions of the Work for educational, public relations, promotional and other noncommercial purposes benefiting IMPACT. For the purposes of this agreement, the following are among those deemed to be reproductions for noncommercial purposes: (i) brochures and pamphlets pertaining to the Art & Sol project or any other project of IMPACT; (ii) reproduction in exhibition catalogs, books, slides, photographs, postcards, posters and calendars; (iii) reproduction in art magazines, art books and art and news sections of newspapers, reproduction in general books and magazines not primarily devoted to art but of an educational, historical or critical nature; (iv) slides and filmstrips not intended for a mass audience; (v) television from stations operated for educational purposes or on programs for educational purposes from all stations. On each reproduction, IMPACT shall place a copyright notice in the form and manner required to protect the copyright in the Work under United States copyright law. You also grant IMPACT the exclusive right to make reproductions of the Work for any commercial purpose. In the event that IMPACT derives any revenue from such commercial publication, you shall be entitled to twenty percent (20%) of the net proceeds.

8. **The Gala Auction.** IMPACT anticipates that the Works produced by artists in the project will be offered for sale at an auction (the "Gala Auction") to occur in May, 2003. IMPACT, its sponsors and you will each be involved in the promotion of the Gala Auction.
9. **Sale of Work.** IMPACT, the sponsor, the charitable organization selected by IMPACT upon the recommendation of the sponsor and you jointly undertake to promote the successful conclusion of this project and the sale of your Work. You shall be entitled to receive as additional compensation for your Work, an amount

January 3
Page 4

equal to twenty percent (20%) of the sale proceeds of your Work. It is possible that your Work will not sell, either before or at the Gala Auction or thereafter; IMPACT does not warrant or represent that all Works will sell but will use its best efforts to promote sales. If your Work does not sell, IMPACT may donate it to a qualified charitable organization or otherwise utilize it at IMPACT's discretion. In this event, no additional payment to you will be made. IMPACT reserves the exclusive discretion to donate the Work if it remains unsold after the Gala Auction. IMPACT shall have the exclusive right to determine the price and timing of any sale of any Work, whether prior to, at the gala auction or thereafter.

10. Termination. If you fail for any reason to complete the Work on a timely basis in accordance with our agreement, IMPACT will be entitled to terminate this agreement on ten (10) days written notice to you and you will be required to refund any portion of the honorarium which you have previously received. If you die or become incapacitated prior to the completion of the Work, IMPACT shall have the right to recover the Work to whatever point it has progressed as well as all drawings, photographs, models or other property related to the production of the Work. Neither party shall have the right to payment or refund of consideration from the other and this agreement shall then terminate.
11. Arbitration. Any controversy or claim arising out of or relating to our agreement or its breach shall be settled by arbitration in El Paso, El Paso County, Texas in accordance with the commercial arbitration rules of the American Arbitration Association. One arbitrator shall be selected. We agree to abide by and perform any award rendered by the arbitrator and that a judgment upon the award may be entered in any court having jurisdiction.
12. Miscellaneous. You are an independent contractor to IMPACT and are not acting as our agent or employee. This letter contains our entire agreement regarding this project and no other oral or written representation or understanding shall be considered part of our agreement. The only way that our agreement may be modified or amended shall be by execution of another letter agreement by both of us. If either of us waive any particular obligation of the other hereunder, that waiver shall not be construed or operate as a waiver of any subsequent right or obligation of either of us. This agreement shall be performed in accordance with

January 3

Page 5

the laws of the state of Texas and the parties agree that venue lies in the courts of El Paso County, Texas. Each of us waives any right to assert venue in any other location. This agreement shall be binding upon and inure to the benefit of our respective successors and assigns, except that you may not assign, transfer or encumber your rights or obligations hereunder without our prior written consent.

13. Notices. If any notice is required to either of us by the other under this agreement, it shall be in writing and may be delivered either by fax, hand delivery or certified mail, postage prepaid, addressed to the party at the address shown on this letter.

14. IMPACT's Responsibilities. IMPACT has the financial and administrative responsibility to present this public art project as well as all peripheral events. It will publish and distribute all the promotional materials, provide signage for each Work, promote through the electronic and written media and plan and pay for the opening night event and the Gala Auction. IMPACT will also provide the sphere and base for each Work and when title passes to IMPACT, insurance as well as transportation expenses and installation expenses.

15. Timeline. The Art & Sol Project is anticipated to operate upon the following timeline, which shall be subject to revision as reasonably required, by IMPACT in its sole discretion:

- December 2004 – February 2005: Spheres delivered to sponsored artist
- March 10, 2005: Artist completes work
- March/April 2003: suns to be placed in venues – presale promotion; opening event
- Spring 2006 – Auction/sale

We have enjoyed working with you on this exciting project and look forward to seeing your completed Work. The participation of artists of your caliber is essential to the success of our project. Please return one signed copy of this letter to our office and keep the other copy for your records.

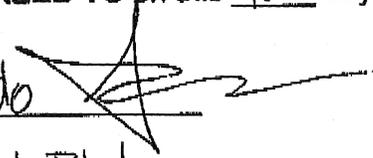
January 3
Page 6

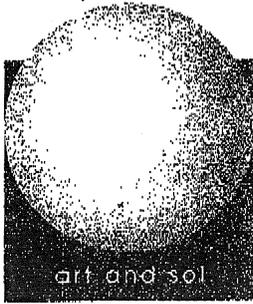
Very truly yours,

IMPACT: Programs of Excellence

By: Norma Geller
Norma Geller, Executive Director
444 E. Robinson Suite B
El Paso, Texas 79902

ACCEPTED AND AGREED TO on this 10 day of March 2004.

Francisco Delgado 
ARTIST
Address: 3610 Fort Blvd.
El Paso, TX 79930



Re: Art & Sol Project

Dear FRANCISCO DELGADO

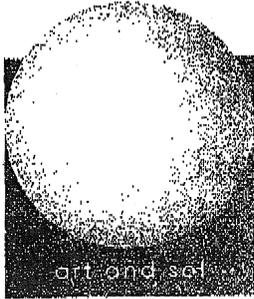
As we discussed, the purpose of this letter is to amend the agreement between you and IMPACT: Programs of Excellence with regard to the Art & Sol Project. Rather than attempting to auction the sols which were created as a result of this project, Impact anticipates that 12 sols will be sold to the City of El Paso for the sum of \$100,000 as described in the documents which are attached to this letter. The rights which will be acquired by the City of El Paso include all merchandising opportunities related to the reproduction and commercial publication of the image of the sols. These opportunities are referred to as merchandising opportunities in this letter.

The original agreement between you and Impact provided that you would receive 20% of any gross proceeds from the sale of the sol you created, as well as 20% of the net proceeds of any revenue received by Impact from the commercial publication of the image of the sol you created. By your execution of this letter agreement, you: (i) acknowledge that you have previously received the sum of \$1,500 as an honorarium for the sol which you created; and (ii) that you will accept the additional sum of \$1,818 as your percentage of the sale of the sol which you created and all merchandising opportunities related to that sol. You also agree that, following the sale of the sols to the City of El Paso, that you will have no control over the reproduction or commercial use of the image of the sol which you created.

The original agreement also provided that each artist would touch up their sol at the end of the project. By your signature hereon, you agree that you will touch up the sol that you created upon request by Impact or by the City of El Paso. If you have not previously done so, you also agree that you will place a copyright notice on and prepare an artist's statement for the sol which you created. You further agree to comply with other reasonable requests which may be made in connection with the sale of the sols to the City of El Paso.

Except as modified herein, the original agreement remains in full force and effect. The effectiveness of the modifications which are described above are contingent upon Impact's receipt of the sum of \$100,000 from the City of El Paso. In the event that Impact does not receive such sum, this amendment will be void and the original agreement will remain in place. The original agreement as amended herein contains our entire agreement regarding the Art & Sol project and no other oral or written representation or understanding shall be considered to be part of our agreement.

{00039154.DOC.}



Signed on this 3 day of October, 2006.

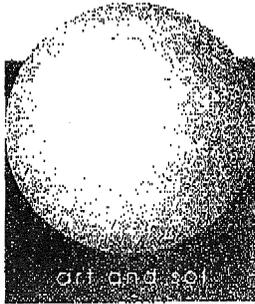
Artist:

A stylized, handwritten signature in black ink, appearing to read "Francisco Delgado".

Francisco Delgado

IMPACT: Programs of Excellence

By: Norma Geller
 Name: NORMA GELLER
 Its: EXECUTIVE DIRECTOR



Re: Art and Sol Project

Dear Francisco Delgado

As you know, Impact | Programs of Excellence ("Impact") has been working with the City of El Paso ("City") in connection with the City's acquisition of certain sols which were created as part of the Art and Sol Project. The purpose of this letter is to memorialize our agreements regarding the following matters following final negotiations with the City.

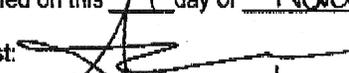
1. Rights to be Acquired by City. Pursuant to the agreement with the City, the City will receive the following:
 - 11 sols, including the sol created by you; and
 - the exclusive right to reproduce, publish and merchandise the depiction and image of those sols for any commercial purpose whatsoever and the non-exclusive right to reproduce, publish or merchandise the sols for any non-commercial purpose whatsoever.

2. Copyright and License. Each artist will retain the copyright for the sol created by that artist. Each artist may reproduce the image of the sol created by that artist for non-commercial purposes including, but not limited to, publication of the image of your sol in a body of work. By your signature hereon, you hereby grant to the City an exclusive license to reproduce, publish and merchandise the image of the sol which you created for all commercial purposes that the City may select and a non-exclusive license to reproduce, publish and merchandise the image of the sol which you created for all non-commercial purposes that the City may select. You also release the City from liability for exercising the rights and licenses given to the City. You understand and agree that the sum which you will receive from Impact is the exclusive consideration which you will receive for the use of the image of your sol by the City and that the City will not pay additional royalties or consideration to you.

3. Ratification of October Agreement. Pursuant to the final terms of the agreement between Impact and the City, Impact will receive less than \$100,000.00 from the City. The sums which Impact will pay to the affected artists will not be reduced. Notwithstanding the provisions of the letter agreement you signed in October to the effect that the letter agreement would be void if Impact did not receive the sum of \$100,000.00 from the City, the October letter agreement is hereby ratified and remains in full force and effect.

4. Gala. It is possible that there will be insufficient funds available to hold a gala as anticipated in the initial agreement between you and Impact. By your signature hereon, you agree to release Impact from any responsibility or commitment to hold a gala. Regardless of whether or not a gala is held, a closing ceremony will take place.

Signed on this 4 day of November, 2006.

Artist: 
Francisco Delgado

Impact | Programs of Excellence

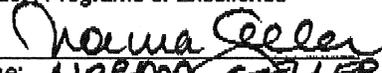
By: 
Name: NORMA GELLER
Its: EXECUTIVE DIRECTOR

EXHIBIT "C"

ART AND SOL CONDITION REPORT

TITLE FROM THE SOL

ARTIST GERONIMO GARCIA

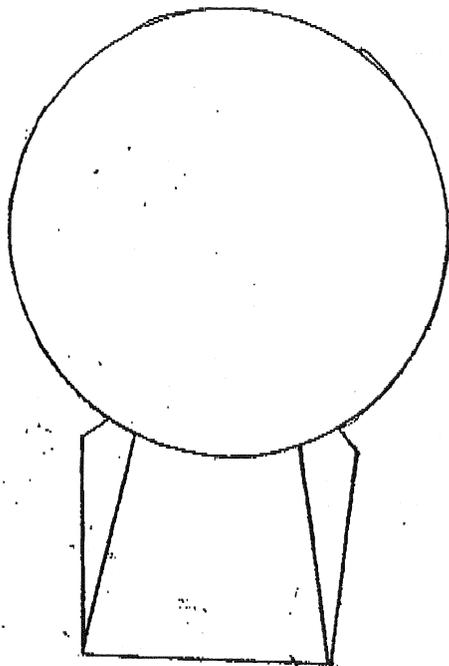
MEDIUM POLYEURATHANE AND STEEL

DATE 2006

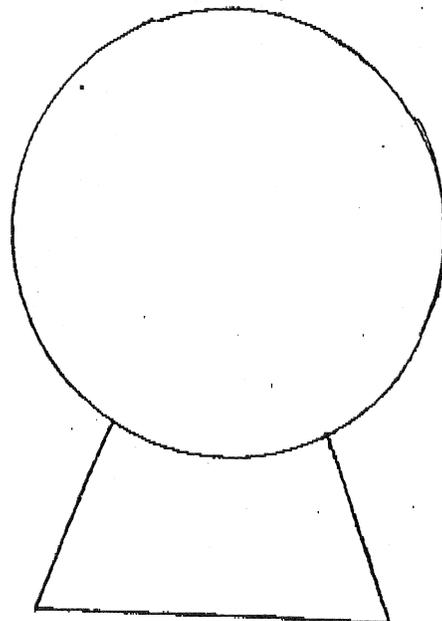
HEIGHT 5' WIDTH 4' DEPTH 6'

OUTGOING GOOD INSPECTED BY _____ DATE _____

INCOMING _____ INSPECTED BY _____ DATE _____

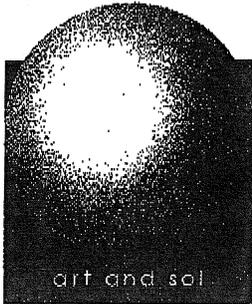


FRONT



BACK





**IMPACT
ART & SOL PROJECT
ARTIST'S CONTRACT**

Re: Art & Sol Project

Dear Geronimo Garcia

We are pleased to inform you that your design has been selected by the jury for inclusion in the Art & Sol Project sponsored by IMPACT: Programs of Excellence ("IMPACT"). We are also pleased to confirm that a sponsor has been selected for your Work. The terms of your engagement are more particularly set out below:

1. Scope and Purpose of Agreement. Art & Sol is a public art project initiated by IMPACT: Programs of Excellence in celebration of our nearest star, the Sun. The project involves a year-long celebration and an exhibit of the finished suns created by artists throughout our region. An art exhibition, Let There Be Light – Adair Margo Gallery, poetry readings, concerts, lectures, science projects and a gala auction of the suns are all part of this year's sun celebration. The project has been initiated with a proclamation from the City of El Paso, proclaiming this year the year of the sun.
2. Design, Original Work of Art. You warrant that you are the sole author of your design and that it is an original work of art and does not infringe on the copyright or other intellectual property rights of others. You agree to indemnify and hold IMPACT harmless from any claims or liability in this regard.
3. Execution and Completion of Work. You will acknowledge upon receipt one large sphere and base which you will complete in accordance with your original design as selected by the jury. As finished artwork may be displayed outdoors, materials utilized should be impervious to weather and other climatic influences. It is your responsibility to consider the preparation of the surface prior to painting, the use of appropriate paint and materials and the application of a durable top coat.

{00002920.DOC.}

2005

Materials used are subject to approval by IMPACT. Before final approval for exhibition is granted, an inspection of each sun will be made.

4. Payment to Artist. Each sponsored artist selected by the jury shall receive the sum of \$1,500, as an honorarium to cover any artist fee and materials used in the project. One-half of this fee shall be paid upon execution of this letter agreement by you and the remaining one-half shall be paid upon final acceptance and approval of your work (the "Work") to insure compliance with this agreement. Additionally, you shall be entitled to receive twenty percent of the gross sales price of your Work if it is ultimately sold either through presales, at the gala auction or thereafter. You may be asked to touch up your Work once the exhibition is underway and again at the end of the project.
5. Final Acceptance and Delivery. You agree to deliver the finished Work no later than December 31, 2005. Upon inspection of the Work by IMPACT and final acceptance, we will arrange for pickup of the Work and payment of the remaining one-half of your honorarium. Title shall pass to IMPACT on delivery and final acceptance.
6. Risk of Loss. You are responsible for the Work while it is in your possession and you shall be liable for all risk of loss prior to its delivery and final acceptance by us. You should take such measures as are necessary to protect the Work from loss or damage until delivery and acceptance including but not limited to the purchase of property loss insurance.
7. Copyright.
 - (a) Registration and Notice. You shall place a copyright notice on the Work in the form and manner required to protect copyrights in the Work under United States copyright law. A copyright notice should contain:
 - The word "Copyright".
 - A "C" in a circle (©).
 - Your name.

, 2002

If the copyright is or becomes registered with the U.S. Copyright Office, you shall provide IMPACT with a copy of the application for registration, the registration number and the effective date of registration. Except as provided in this agreement, you retain all copyrights in the Work. IMPACT shall have ownership and possession of the Work.

(b) Display. You hereby grant IMPACT, its agents and representatives exclusive right to display the Work, to lend the Work to other persons or institutions with authority to display it publicly as well as the right to dispose of it by sale or gift or in any manner deemed appropriate by IMPACT.

(c) Reproductions. You authorize IMPACT to make, and to authorize the making of, photographs and other reproductions of the Work for educational, public relations, promotional and other noncommercial purposes benefiting IMPACT. For the purposes of this agreement, the following are among those deemed to be reproductions for noncommercial purposes: (i) brochures and pamphlets pertaining to the Art & Sol project or any other project of IMPACT; (ii) reproduction in exhibition catalogs, books, slides, photographs, postcards, posters and calendars; (iii) reproduction in art magazines, art books and art and news sections of newspapers, reproduction in general books and magazines not primarily devoted to art but of an educational, historical or critical nature; (iv) slides and filmstrips not intended for a mass audience; (v) television from stations operated for educational purposes or on programs for educational purposes from all stations. On each reproduction, IMPACT shall place a copyright notice in the form and manner required to protect the copyright in the Work under United States copyright law. You also grant IMPACT the exclusive right to make reproductions of the Work for any commercial purpose. In the event that IMPACT derives any revenue from such commercial publication, you shall be entitled to twenty percent (20%) of the net proceeds.

8. The Gala Auction. IMPACT anticipates that the Works produced by artists in the project will be offered for sale at an auction (the "Gala Auction") to occur in Spring, 2006. IMPACT, its sponsors and you will each be involved in the promotion of the Gala Auction.
9. Sale of Work. IMPACT, the sponsor, the charitable organization selected by IMPACT upon the recommendation of the sponsor and you jointly undertake to promote the successful conclusion of this project and the sale of your Work. You shall be entitled to receive as additional compensation for your Work, an amount equal to twenty percent (20%) of the sale proceeds of your Work. It is possible that your Work will not sell, either before or at the Gala Auction or thereafter; IMPACT does not warrant or represent that all Works will sell but will use its best efforts to promote sales. If your Work does not sell, IMPACT may donate it to a qualified charitable organization or otherwise utilize it at IMPACT's discretion. In this event, no additional payment to you will be made. IMPACT reserves the exclusive discretion to donate the Work if it remains unsold after the Gala Auction. IMPACT shall have the exclusive right to determine the price and timing of any sale of any Work, whether prior to, at the gala auction or thereafter.
10. Termination. If you fail for any reason to complete the Work on a timely basis in accordance with our agreement, IMPACT will be entitled to terminate this agreement on ten (10) days written notice to you and you will be required to refund any portion of the honorarium which you have previously received. If you die or become incapacitated prior to the completion of the Work, IMPACT shall have the right to recover the Work to whatever point it has progressed as well as all drawings, photographs, models or other property related to the production of the Work. Neither party shall have the right to payment or refund of consideration from the other and this agreement shall then terminate.
11. Arbitration. Any controversy or claim arising out of or relating to our agreement or its breach shall be settled by arbitration in El Paso, El Paso County, Texas in accordance with the commercial arbitration rules of the American Arbitration Association. One arbitrator shall be selected. We agree to abide by and perform

_____ 2005
Page 6

15. Timeline. The Art & Sol Project is anticipated to operate upon the following timeline, which shall be subject to revision as reasonably required, by IMPACT in its sole discretion:

- Summer – Fall 2005 – suns to be placed in venues – presale promotion; opening event
- Spring 2006 – Auction/sale

We have enjoyed working with you on this exciting project and look forward to seeing your completed Work. The participation of artists of your caliber is essential to the success of our project. Please return one signed copy of this letter to our office and keep the other copy for your records.

2006
Page 7

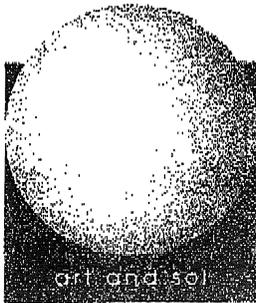
Very truly yours,

IMPACT: Programs of Excellence

By: Norma Geller
Norma Geller, Executive Director
444 E. Robinson Suite B
El Paso, Texas 79902

ACCEPTED AND AGREED TO on this 16 day of January ²⁰⁰⁶ 2005.

[Signature]
ARTIST
Address: 3009 BRANDWOOD
EL PASO, TX 79925



Re: Art & Sol Project

Dear GERONIMO GARCIA:

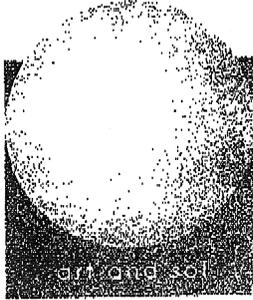
As we discussed, the purpose of this letter is to amend the agreement between you and IMPACT: Programs of Excellence with regard to the Art & Sol Project. Rather than attempting to auction the sols which were created as a result of this project, Impact anticipates that 12 sols will be sold to the City of El Paso for the sum of \$100,000 as described in the documents which are attached to this letter. The rights which will be acquired by the City of El Paso include all merchandising opportunities related to the reproduction and commercial publication of the image of the sols. These opportunities are referred to as merchandising opportunities in this letter.

The original agreement between you and Impact provided that you would receive 20% of any gross proceeds from the sale of the sol you created, as well as 20% of the net proceeds of any revenue received by Impact from the commercial publication of the image of the sol you created. By your execution of this letter agreement, you: (i) acknowledge that you have previously received the sum of \$1,500 as an honorarium for the sol which you created; and (ii) that you will accept the additional sum of \$1,818 as your percentage of the sale of the sol which you created and all merchandising opportunities related to that sol. You also agree that, following the sale of the sols to the City of El Paso, that you will have no control over the reproduction or commercial use of the image of the sol which you created.

The original agreement also provided that each artist would touch up their sol at the end of the project. By your signature hereon, you agree that you will touch up the sol that you created upon request by Impact or by the City of El Paso. If you have not previously done so, you also agree that you will place a copyright notice on and prepare an artist's statement for the sol which you created. You further agree to comply with other reasonable requests which may be made in connection with the sale of the sols to the City of El Paso.

Except as modified herein, the original agreement remains in full force and effect. The effectiveness of the modifications which are described above are contingent upon Impact's receipt of the sum of \$100,000 from the City of El Paso. In the event that Impact does not receive such sum, this amendment will be void and the original agreement will remain in place. The original agreement as amended herein contains our entire agreement regarding the Art & Sol project and no other oral or written representation or understanding shall be considered to be part of our agreement.

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Re: Art and Sol Project

Dear GERONIMO GARCIA

As you know, Impact | Programs of Excellence ("Impact") has been working with the City of El Paso ("City") in connection with the City's acquisition of certain sols which were created as part of the Art and Sol Project. The purpose of this letter is to memorialize our agreements regarding the following matters following final negotiations with the City.

1. Rights to be Acquired by City. Pursuant to the agreement with the City, the City will receive the following:
 - 11 sols, including the sol created by you; and
 - the exclusive right to reproduce, publish and merchandise the depiction and image of those sols for any commercial purpose whatsoever and the non-exclusive right to reproduce, publish or merchandise the sols for any non-commercial purpose whatsoever.

2. Copyright and License. Each artist will retain the copyright for the sol created by that artist. Each artist may reproduce the image of the sol created by that artist for non-commercial purposes including, but not limited to, publication of the image of your sol in a body of work. By your signature hereon, you hereby grant to the City an exclusive license to reproduce, publish and merchandise the image of the sol which you created for all commercial purposes that the City may select and a non-exclusive license to reproduce, publish and merchandise the image of the sol which you created for all non-commercial purposes that the City may select. You also release the City from liability for exercising the rights and licenses given to the City. You understand and agree that the sum which you will receive from Impact is the exclusive consideration which you will receive for the use of the image of your sol by the City and that the City will not pay additional royalties or consideration to you.

3. Ratification of October Agreement. Pursuant to the final terms of the agreement between Impact and the City, Impact will receive less than \$100,000.00 from the City. The sums which Impact will pay to the affected artists will not be reduced. Notwithstanding the provisions of the letter agreement you signed in October to the effect that the letter agreement would be void if Impact did not receive the sum of \$100,000.00 from the City, the October letter agreement is hereby ratified and remains in full force and effect.

4. Gala. It is possible that there will be insufficient funds available to hold a gala as anticipated in the initial agreement between you and Impact. By your signature hereon, you agree to release Impact from any responsibility or commitment to hold a gala. Regardless of whether or not a gala is held, a closing ceremony will take place.

Signed on this 4 day of November, 2006.

Artist:

Impact | Programs of Excellence
By: Norma Geller
Name: NORMA GELLER
Its: EXECUTIVE DIRECTOR

EXHIBIT "D"

ART AND SOL CONDITION REPORT

TITLE CORONA DEL SOL * CROWN OF SUN

ARTIST CESAR IVAN

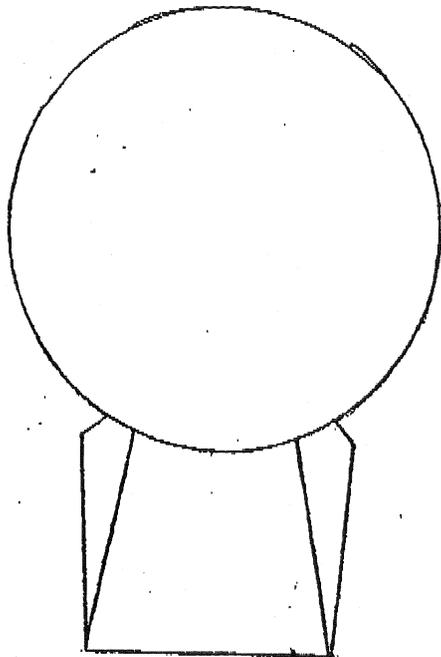
MEDIUM POLYEURATHANE AND STEEL

DATE 2005

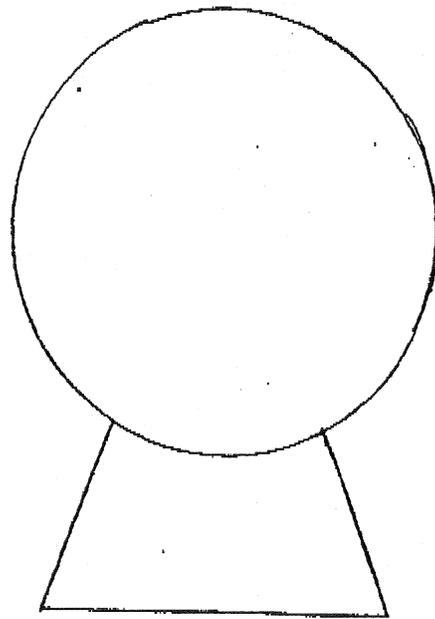
HEIGHT 5'8" WIDTH 8' DEPTH 6'7"

OUTGOING GOOD INSPECTED BY _____ DATE _____

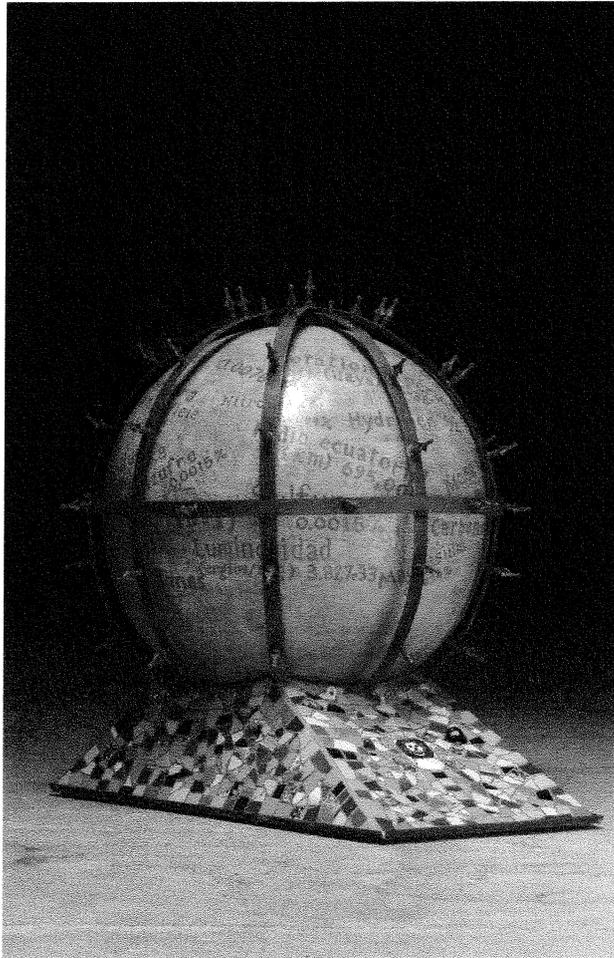
INCOMING _____ INSPECTED BY _____ DATE _____



FRONT



BACK



impact® programs of excellence

**IMPACT
ART & SOL PROJECT
ARTIST'S CONTRACT**

Re: Art & Sol Project

Dear Cesar Ivan:

We are pleased to inform you that your design has been selected by the jury for inclusion in the Art & Sol Project sponsored by IMPACT: Programs of Excellence ("IMPACT"). We are also pleased to confirm that a sponsor has been selected for your Work. The terms of your engagement are more particularly set out below:

1. Scope and Purpose of Agreement. Art & Sol is a public art project initiated by IMPACT: Programs of Excellence in celebration of our nearest star, the Sun. The project involves a year-long celebration and an exhibit of the finished suns created by artists throughout our region.
2. Design, Original Work of Art. You warrant that you are the sole author of your design and that it is an original work of art and does not infringe on the copyright or other intellectual property rights of others. You agree to indemnify and hold IMPACT harmless from any claims or liability in this regard.
3. Execution and Completion of Work. You will acknowledge upon receipt one large sphere and base which you will complete in accordance with your original design as selected by the jury. As finished artwork may be displayed outdoors, materials utilized should be impervious to weather and other climatic influences. It is your responsibility to consider the preparation of the surface prior to painting, the use of appropriate paint and materials and the application of a durable top coat. Materials used are subject to approval by IMPACT. Before final approval for exhibition is granted, an inspection of each sun will be made.
4. Payment to Artist. Each sponsored artist selected by the jury shall receive the sum of \$1,500, as an honorarium to cover any artist fee and materials used in the

{00002920.DOC.}

January 3
Page 2

project. One-half of this fee shall be paid upon execution of this letter agreement by you and the remaining one-half shall be paid upon final acceptance and approval of your work (the "Work") to insure compliance with this agreement. Additionally, you shall be entitled to receive twenty percent of the gross sales price of your Work if it is ultimately sold either through presales, at the gala auction or thereafter. You may be asked to touch up your Work once the exhibition is underway and again at the end of the project.

5. Final Acceptance and Delivery. You agree to deliver the finished Work no later than April 15, 2005. Upon inspection of the Work by IMPACT and final acceptance, we will arrange for pickup of the Work and payment of the remaining one-half of your honorarium. Title shall pass to IMPACT on delivery and final acceptance.
6. Risk of Loss. You are responsible for the Work while it is in your possession and you shall be liable for all risk of loss prior to its delivery and final acceptance by us. You should take such measures as are necessary to protect the Work from loss or damage until delivery and acceptance including but not limited to the purchase of property loss insurance.
7. Copyright.
 - (a) Registration and Notice. You shall place a copyright notice on the Work in the form and manner required to protect copyrights in the Work under United States copyright law. A copyright notice should contain:

- The word "Copyright".
- A "C" in a circle (©).
- Your name.

If the copyright is or becomes registered with the U.S. Copyright Office, you shall provide IMPACT with a copy of the application for registration, the registration number and the effective date of registration. Except as provided in this agreement, you retain all copyrights in the Work. IMPACT shall have ownership and possession of the Work.

January 3

Page 3

(b) Display. You hereby grant IMPACT, its agents and representatives exclusive right to display the Work, to lend the Work to other persons or institutions with authority to display it publicly as well as the right to dispose of it by sale or gift or in any manner deemed appropriate by IMPACT.

(c) Reproductions. You authorize IMPACT to make, and to authorize the making of, photographs and other reproductions of the Work for educational, public relations, promotional and other noncommercial purposes benefiting IMPACT. For the purposes of this agreement, the following are among those deemed to be reproductions for noncommercial purposes: (i) brochures and pamphlets pertaining to the Art & Sol project or any other project of IMPACT; (ii) reproduction in exhibition catalogs, books, slides, photographs, postcards, posters and calendars; (iii) reproduction in art magazines, art books and art and news sections of newspapers, reproduction in general books and magazines not primarily devoted to art but of an educational, historical or critical nature; (iv) slides and filmstrips not intended for a mass audience; (v) television from stations operated for educational purposes or on programs for educational purposes from all stations. On each reproduction, IMPACT shall place a copyright notice in the form and manner required to protect the copyright in the Work under United States copyright law. You also grant IMPACT the exclusive right to make reproductions of the Work for any commercial purpose. In the event that IMPACT derives any revenue from such commercial publication, you shall be entitled to twenty percent (20%) of the net proceeds.

8. The Gala Auction. IMPACT anticipates that the Works produced by artists in the project will be offered for sale at an auction (the "Gala Auction") to occur in May, 2003. IMPACT, its sponsors and you will each be involved in the promotion of the Gala Auction.
9. Sale of Work. IMPACT, the sponsor, the charitable organization selected by IMPACT upon the recommendation of the sponsor and you jointly undertake to promote the successful conclusion of this project and the sale of your Work. You shall be entitled to receive as additional compensation for your Work, an amount

January 3
Page 4

equal to twenty percent (20%) of the sale proceeds of your Work. It is possible that your Work will not sell, either before or at the Gala Auction or thereafter; IMPACT does not warrant or represent that all Works will sell but will use its best efforts to promote sales. If your Work does not sell, IMPACT may donate it to a qualified charitable organization or otherwise utilize it at IMPACT's discretion. In this event, no additional payment to you will be made. IMPACT reserves the exclusive discretion to donate the Work if it remains unsold after the Gala Auction. IMPACT shall have the exclusive right to determine the price and timing of any sale of any Work, whether prior to, at the gala auction or thereafter.

10. **Termination.** If you fail for any reason to complete the Work on a timely basis in accordance with our agreement, IMPACT will be entitled to terminate this agreement on ten (10) days written notice to you and you will be required to refund any portion of the honorarium which you have previously received. If you die or become incapacitated prior to the completion of the Work, IMPACT shall have the right to recover the Work to whatever point it has progressed as well as all drawings, photographs, models or other property related to the production of the Work. Neither party shall have the right to payment or refund of consideration from the other and this agreement shall then terminate.
11. **Arbitration.** Any controversy or claim arising out of or relating to our agreement or its breach shall be settled by arbitration in El Paso, El Paso County, Texas in accordance with the commercial arbitration rules of the American Arbitration Association. One arbitrator shall be selected. We agree to abide by and perform any award rendered by the arbitrator and that a judgment upon the award may be entered in any court having jurisdiction.
12. **Miscellaneous.** You are an independent contractor to IMPACT and are not acting as our agent or employee. This letter contains our entire agreement regarding this project and no other oral or written representation or understanding shall be considered part of our agreement. The only way that our agreement may be modified or amended shall be by execution of another letter agreement by both of us. If either of us waive any particular obligation of the other hereunder, that waiver shall not be construed or operate as a waiver of any subsequent right or obligation of either of us. This agreement shall be performed in accordance with

January 3
Page 5

the laws of the state of Texas and the parties agree that venue lies in the courts of El Paso County, Texas. Each of us waives any right to assert venue in any other location. This agreement shall be binding upon and inure to the benefit of our respective successors and assigns, except that you may not assign, transfer or encumber your rights or obligations hereunder without our prior written consent.

13. Notices. If any notice is required to either of us by the other under this agreement, it shall be in writing and may be delivered either by fax, hand delivery or certified mail, postage prepaid, addressed to the party at the address shown on this letter.

14. IMPACT's Responsibilities. IMPACT has the financial and administrative responsibility to present this public art project as well as all peripheral events. It will publish and distribute all the promotional materials, provide signage for each Work, promote through the electronic and written media and plan and pay for the opening night event and the Gala Auction. IMPACT will also provide the sphere and base for each Work and when title passes to IMPACT, insurance as well as transportation expenses and installation expenses.

15. Timeline. The Art & Sol Project is anticipated to operate upon the following timeline, which shall be subject to revision as reasonably required, by IMPACT in its sole discretion:

- December 2004 – February 2005: Spheres delivered to sponsored artist
- April 15, 2005: Artist completes work
- April/May 2005: suns to be placed in venues – presale promotion; opening event
- Spring 2006 – Auction/sale

We have enjoyed working with you on this exciting project and look forward to seeing your completed Work. The participation of artists of your caliber is essential to the success of our project. Please return one signed copy of this letter to our office and keep the other copy for your records.

January 3
Page 6

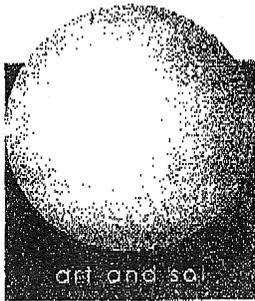
Very truly yours,

IMPACT: Programs of Excellence

By: Norma Geller
Norma Geller, Executive Director
444 E. Robinson Suite B
El Paso, Texas 79902

ACCEPTED AND AGREED TO on this 4th day of April 2004.

Artista
ARTIST
Address: 109 N. Mesa #7A
EL PASO TX 79901



Re: Art & Sol Project

Dear CESAR IVAN:

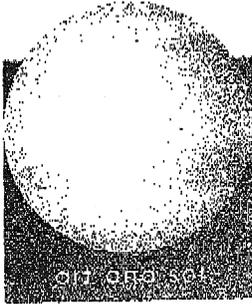
As we discussed, the purpose of this letter is to amend the agreement between you and IMPACT: Programs of Excellence with regard to the Art & Sol Project. Rather than attempting to auction the sols which were created as a result of this project, Impact anticipates that 12 sols will be sold to the City of El Paso for the sum of \$100,000 as described in the documents which are attached to this letter. The rights which will be acquired by the City of El Paso include all merchandising opportunities related to the reproduction and commercial publication of the image of the sols. These opportunities are referred to as merchandising opportunities in this letter.

The original agreement between you and Impact provided that you would receive 20% of any gross proceeds from the sale of the sol you created, as well as 20% of the net proceeds of any revenue received by Impact from the commercial publication of the image of the sol you created. By your execution of this letter agreement, you: (i) acknowledge that you have previously received the sum of \$1,500 as an honorarium for the sol which you created; and (ii) that you will accept the additional sum of \$1,818 as your percentage of the sale of the sol which you created and all merchandising opportunities related to that sol. You also agree that, following the sale of the sols to the City of El Paso, that you will have no control over the reproduction or commercial use of the image of the sol which you created.

The original agreement also provided that each artist would touch up their sol at the end of the project. By your signature hereon, you agree that you will touch up the sol that you created upon request by Impact or by the City of El Paso. If you have not previously done so, you also agree that you will place a copyright notice on and prepare an artist's statement for the sol which you created. You further agree to comply with other reasonable requests which may be made in connection with the sale of the sols to the City of El Paso.

Except as modified herein, the original agreement remains in full force and effect. The effectiveness of the modifications which are described above are contingent upon Impact's receipt of the sum of \$100,000 from the City of El Paso. In the event that Impact does not receive such sum, this amendment will be void and the original agreement will remain in place. The original agreement as amended herein contains our entire agreement regarding the Art & Sol project and no other oral or written representation or understanding shall be considered to be part of our agreement.

{00039154.DOC.}



Re: Art and Sol Project

Dear CEGAR IVAN:

As you know, Impact | Programs of Excellence ("Impact") has been working with the City of El Paso ("City") in connection with the City's acquisition of certain sols which were created as part of the Art and Sol Project. The purpose of this letter is to memorialize our agreements regarding the following matters following final negotiations with the City.

1. Rights to be Acquired by City. Pursuant to the agreement with the City, the City will receive the following:
 - 11 sols, including the sol created by you; and
 - the exclusive right to reproduce, publish and merchandise the depiction and image of those sols for any commercial purpose whatsoever and the non-exclusive right to reproduce, publish or merchandise the sols for any non-commercial purpose whatsoever.

2. Copyright and License. Each artist will retain the copyright for the sol created by that artist. Each artist may reproduce the image of the sol created by that artist for non-commercial purposes including, but not limited to, publication of the image of your sol in a body of work. By your signature hereon, you hereby grant to the City an exclusive license to reproduce, publish and merchandise the image of the sol which you created for all commercial purposes that the City may select and a non-exclusive license to reproduce, publish and merchandise the image of the sol which you created for all non-commercial purposes that the City may select. You also release the City from liability for exercising the rights and licenses given to the City. You understand and agree that the sum which you will receive from Impact is the exclusive consideration which you will receive for the use of the image of your sol by the City and that the City will not pay additional royalties or consideration to you.

3. Ratification of October Agreement. Pursuant to the final terms of the agreement between Impact and the City, Impact will receive less than \$100,000.00 from the City. The sums which Impact will pay to the affected artists will not be reduced. Notwithstanding the provisions of the letter agreement you signed in October to the effect that the letter agreement would be void if Impact did not receive the sum of \$100,000.00 from the City, the October letter agreement is hereby ratified and remains in full force and effect.

4. Gala. It is possible that there will be insufficient funds available to hold a gala as anticipated in the initial agreement between you and Impact. By your signature hereon, you agree to release Impact from any responsibility or commitment to hold a gala. Regardless of whether or not a gala is held, a closing ceremony will take place.

Signed on this 4th day of November, 2006.

Artist: *Cesar Ivan*

Impact | Programs of Excellence

By: *Norma Jeller*
Name: NORMA JELLER
Its: Executive Director

EXHIBIT "E"

ART AND SOL CONDITION REPORT

TITLE THE SHINING DESERT SUNS * GIVER AND TAKER OF LIFE

ARTIST SUSAN KLAHR

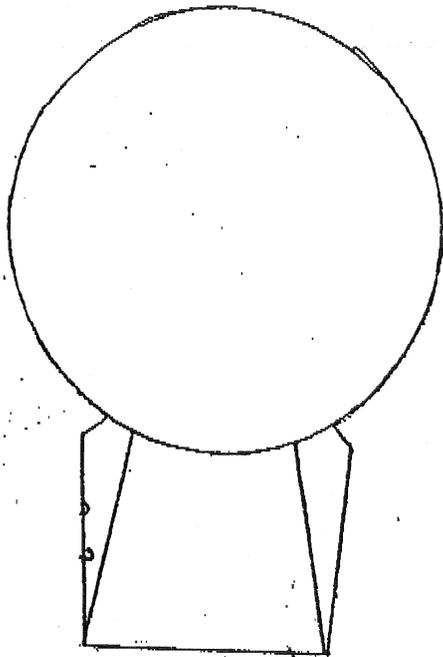
MEDIUM POLYEURATHANE AND STEEL

DATE 2005

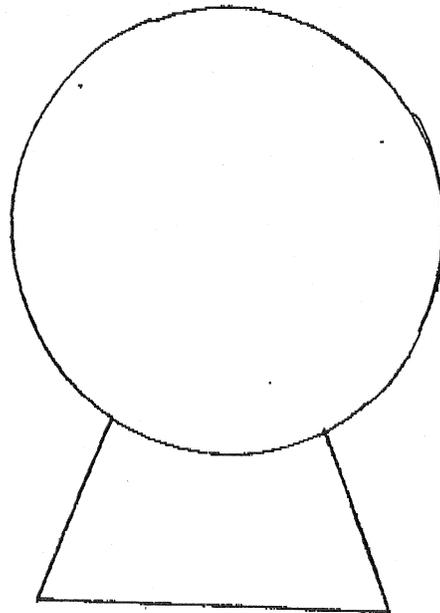
HEIGHT 5' WIDTH 4' DEPTH 6'

OUTGOING GOOD INSPECTED BY _____ DATE _____

INCOMING _____ INSPECTED BY _____ DATE _____

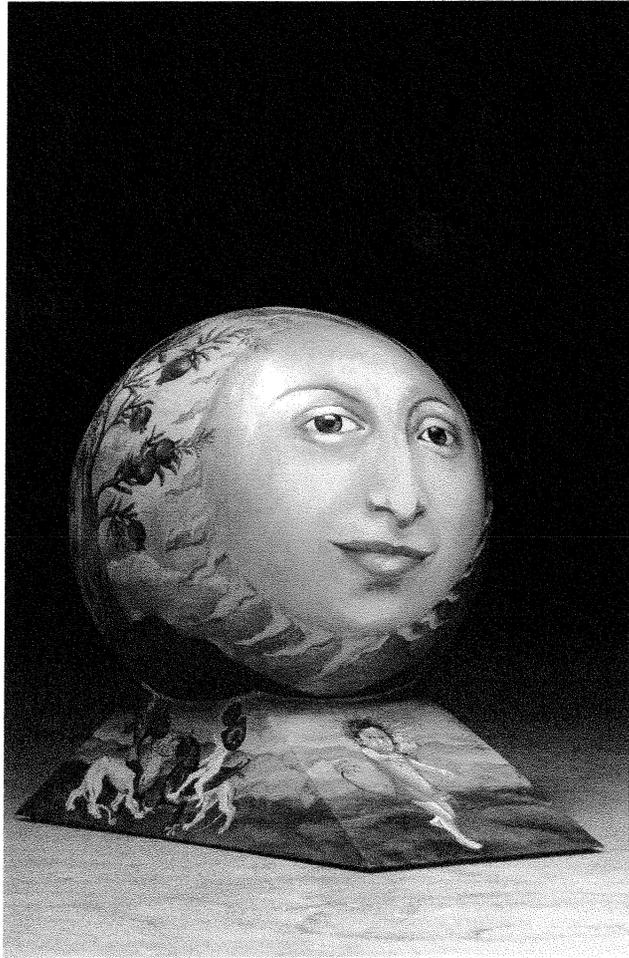


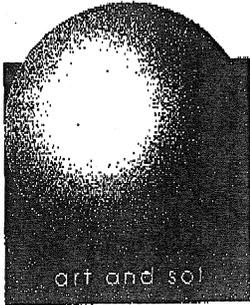
FRONT



BACK

Base slightly scuffed at bottom edge from prior transportation





**IMPACT
ART & SOL PROJECT
ARTIST'S CONTRACT**

Re: Art & Sol Project

Dear Susan Klehr

We are pleased to inform you that your design has been selected by the jury for inclusion in the Art & Sol Project sponsored by IMPACT: Programs of Excellence ("IMPACT"). We are also pleased to confirm that a sponsor has been selected for your Work. The terms of your engagement are more particularly set out below:

1. Scope and Purpose of Agreement. Art & Sol is a public art project initiated by IMPACT: Programs of Excellence in celebration of our nearest star, the Sun. The project involves a year-long celebration and an exhibit of the finished suns created by artists throughout our region.
2. Design, Original Work of Art. You warrant that you are the sole author of your design and that it is an original work of art and does not infringe on the copyright or other intellectual property rights of others. You agree to indemnify and hold IMPACT harmless from any claims or liability in this regard.
3. Execution and Completion of Work. You will acknowledge upon receipt one large sphere and base which you will complete in accordance with your original design as selected by the jury. As finished artwork may be displayed outdoors, materials utilized should be impervious to weather and other climatic influences. It is your responsibility to consider the preparation of the surface prior to painting, the use of appropriate paint and materials and the application of a durable top coat. Materials used are subject to approval by IMPACT. Before final approval for exhibition is granted, an inspection of each sun will be made.
4. Payment to Artist. Each sponsored artist selected by the jury shall receive the sum of \$1,500, as an honorarium to cover any artist fee and materials used in the

{00002920.DOC.}

December 7, 2004

Page 2

project. One-half of this fee shall be paid upon execution of this letter agreement by you and the remaining one-half shall be paid upon final acceptance and approval of your work (the "Work") to insure compliance with this agreement. Additionally, you shall be entitled to receive twenty percent of the gross sales price of your Work if it is ultimately sold either through presales, at the gala auction or thereafter. You may be asked to touch up your Work once the exhibition is underway and again at the end of the project.

5. Final Acceptance and Delivery. You agree to deliver the finished Work no later than March 10, 2005. Upon inspection of the Work by IMPACT and final acceptance, we will arrange for pickup of the Work and payment of the remaining one-half of your honorarium. Title shall pass to IMPACT on delivery and final acceptance.

6. Risk of Loss. You are responsible for the Work while it is in your possession and you shall be liable for all risk of loss prior to its delivery and final acceptance by us. You should take such measures as are necessary to protect the Work from loss or damage until delivery and acceptance including but not limited to the purchase of property loss insurance.

7. Copyright.

(a) Registration and Notice. You shall place a copyright notice on the Work in the form and manner required to protect copyrights in the Work under United States copyright law. A copyright notice should contain:

- The word "Copyright".
- A "C" in a circle (©).
- Your name.

If the copyright is or becomes registered with the U.S. Copyright Office, you shall provide IMPACT with a copy of the application for registration, the registration number and the effective date of registration. Except as provided in this agreement, you retain all copyrights in the Work. IMPACT shall have ownership and possession of the Work.

December 7, 2004

Page 3

(b) Display. You hereby grant IMPACT, its agents and representatives exclusive right to display the Work, to lend the Work to other persons or institutions with authority to display it publicly as well as the right to dispose of it by sale or gift or in any manner deemed appropriate by IMPACT.

(c) Reproductions. You authorize IMPACT to make, and to authorize the making of, photographs and other reproductions of the Work for educational, public relations, promotional and other noncommercial purposes benefiting IMPACT. For the purposes of this agreement, the following are among those deemed to be reproductions for noncommercial purposes: (i) brochures and pamphlets pertaining to the Art & Sol project or any other project of IMPACT; (ii) reproduction in exhibition catalogs, books, slides, photographs, postcards, posters and calendars; (iii) reproduction in art magazines, art books and art and news sections of newspapers, reproduction in general books and magazines not primarily devoted to art but of an educational, historical or critical nature; (iv) slides and filmstrips not intended for a mass audience; (v) television from stations operated for educational purposes or on programs for educational purposes from all stations. On each reproduction, IMPACT shall place a copyright notice in the form and manner required to protect the copyright in the Work under United States copyright law. You also grant IMPACT the exclusive right to make reproductions of the Work for any commercial purpose. In the event that IMPACT derives any revenue from such commercial publication, you shall be entitled to twenty percent (20%) of the net proceeds.

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December 7, 2004

Page 4

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11. Arbitration. Any controversy or claim arising out of or relating to our agreement or its breach shall be settled by arbitration in El Paso, El Paso County, Texas in accordance with the commercial arbitration rules of the American Arbitration Association. One arbitrator shall be selected. We agree to abide by and perform any award rendered by the arbitrator and that a judgment upon the award may be entered in any court having jurisdiction.
12. Miscellaneous. You are an independent contractor to IMPACT and are not acting as our agent or employee. This letter contains our entire agreement regarding this project and no other oral or written representation or understanding shall be considered part of our agreement. The only way that our agreement may be modified or amended shall be by execution of another letter agreement by both of us. If either of us waive any particular obligation of the other hereunder, that waiver shall not be construed or operate as a waiver of any subsequent right or obligation of either of us. This agreement shall be performed in accordance with

December 7, 2004

Page 5

the laws of the state of Texas and the parties agree that venue lies in the courts of El Paso County, Texas. Each of us waives any right to assert venue in any other location. This agreement shall be binding upon and inure to the benefit of our respective successors and assigns, except that you may not assign, transfer or encumber your rights or obligations hereunder without our prior written consent.

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- March/April 2003: suns to be placed in venues – presale promotion; opening event
- Spring 2006 – Auction/sale

We have enjoyed working with you on this exciting project and look forward to seeing your completed Work. The participation of artists of your caliber is essential to the success of our project. Please return one signed copy of this letter to our office and keep the other copy for your records.

~~December~~ 7, 2004

Page 6

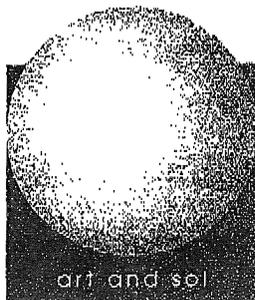
Very truly yours,

IMPACT: Programs of Excellence

By: Norma Geller
Norma Geller, Executive Director
444 E. Robinson Suite B
El Paso, Texas 79902

ACCEPTED AND AGREED TO on this 8 day of December 2004.

Susan Klabin
ARTIST
Address: 1425 Flevel St,
El Paso, Tx. 79902



Re: Art & Sol Project

Dear SUSAN KLAHR:

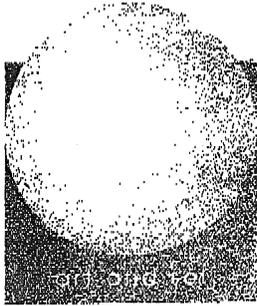
As we discussed, the purpose of this letter is to amend the agreement between you and IMPACT: Programs of Excellence with regard to the Art & Sol Project. Rather than attempting to auction the sols which were created as a result of this project, Impact anticipates that 12 sols will be sold to the City of El Paso for the sum of \$100,000 as described in the documents which are attached to this letter. The rights which will be acquired by the City of El Paso include all merchandising opportunities related to the reproduction and commercial publication of the image of the sols. These opportunities are referred to as merchandising opportunities in this letter.

The original agreement between you and Impact provided that you would receive 20% of any gross proceeds from the sale of the sol you created, as well as 20% of the net proceeds of any revenue received by Impact from the commercial publication of the image of the sol you created. By your execution of this letter agreement, you: (i) acknowledge that you have previously received the sum of \$1,500 as an honorarium for the sol which you created; and (ii) that you will accept the additional sum of \$1,818 as your percentage of the sale of the sol which you created and all merchandising opportunities related to that sol. You also agree that, following the sale of the sols to the City of El Paso, that you will have no control over the reproduction or commercial use of the image of the sol which you created.

The original agreement also provided that each artist would touch up their sol at the end of the project. By your signature hereon, you agree that you will touch up the sol that you created upon request by Impact or by the City of El Paso. If you have not previously done so, you also agree that you will place a copyright notice on and prepare an artist's statement for the sol which you created. You further agree to comply with other reasonable requests which may be made in connection with the sale of the sols to the City of El Paso.

Except as modified herein, the original agreement remains in full force and effect. The effectiveness of the modifications which are described above are contingent upon Impact's receipt of the sum of \$100,000 from the City of El Paso. In the event that Impact does not receive such sum, this amendment will be void and the original agreement will remain in place. The original agreement as amended herein contains our entire agreement regarding the Art & Sol project and no other oral or written representation or understanding shall be considered to be part of our agreement.

{00039154.DOC.}



Re: Art and Sol Project

Dear SUSAN KLAHR :

As you know, Impact | Programs of Excellence ("Impact") has been working with the City of El Paso ("City") in connection with the City's acquisition of certain sols which were created as part of the Art and Sol Project. The purpose of this letter is to memorialize our agreements regarding the following matters following final negotiations with the City.

1. Rights to be Acquired by City. Pursuant to the agreement with the City, the City will receive the following:
 - 11 sols, including the sol created by you; and
 - the exclusive right to reproduce, publish and merchandise the depiction and image of those sols for any commercial purpose whatsoever and the non-exclusive right to reproduce, publish or merchandise the sols for any non-commercial purpose whatsoever.

2. Copyright and License. Each artist will retain the copyright for the sol created by that artist. Each artist may reproduce the image of the sol created by that artist for non-commercial purposes including, but not limited to, publication of the image of your sol in a body of work. By your signature hereon, you hereby grant to the City an exclusive license to reproduce, publish and merchandise the image of the sol which you created for all commercial purposes that the City may select and a non-exclusive license to reproduce, publish and merchandise the image of the sol which you created for all non-commercial purposes that the City may select. You also release the City from liability for exercising the rights and licenses given to the City. You understand and agree that the sum which you will receive from Impact is the exclusive consideration which you will receive for the use of the image of your sol by the City and that the City will not pay additional royalties or consideration to you.

3. Ratification of October Agreement. Pursuant to the final terms of the agreement between Impact and the City, Impact will receive less than \$100,000.00 from the City. The sums which Impact will pay to the affected artists will not be reduced. Notwithstanding the provisions of the letter agreement you signed in October to the effect that the letter agreement would be void if Impact did not receive the sum of \$100,000.00 from the City, the October letter agreement is hereby ratified and remains in full force and effect.

4. Gala. It is possible that there will be insufficient funds available to hold a gala as anticipated in the initial agreement between you and Impact. By your signature hereon, you agree to release Impact from any responsibility or commitment to hold a gala. Regardless of whether or not a gala is held, a closing ceremony will take place.

Signed on this 4 day of November, 2006.

Artist:

Susan Klahr

Impact | Programs of Excellence

By: Norma Keller
Name: NORMA KELLER
Its: EXECUTIVE DIRECTOR

EXHIBIT "F"

ART AND SOL CONDITION REPORT

TITLE PROMETHEUS

ARTIST MAURICIO MORA

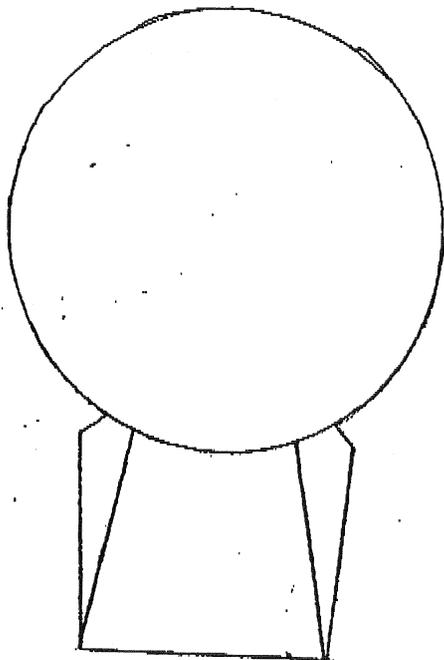
MEDIUM POLYEURATHANE AND STEEL

DATE 2005

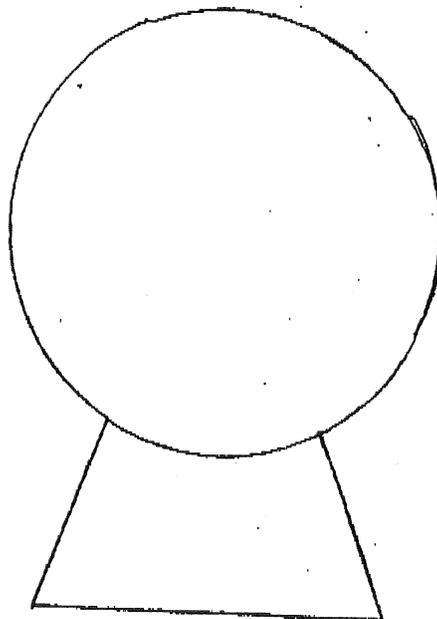
HEIGHT 5' WIDTH 4' DEPTH 6'

OUTGOING GOOD INSPECTED BY _____ DATE _____

INCOMING _____ INSPECTED BY _____ DATE _____

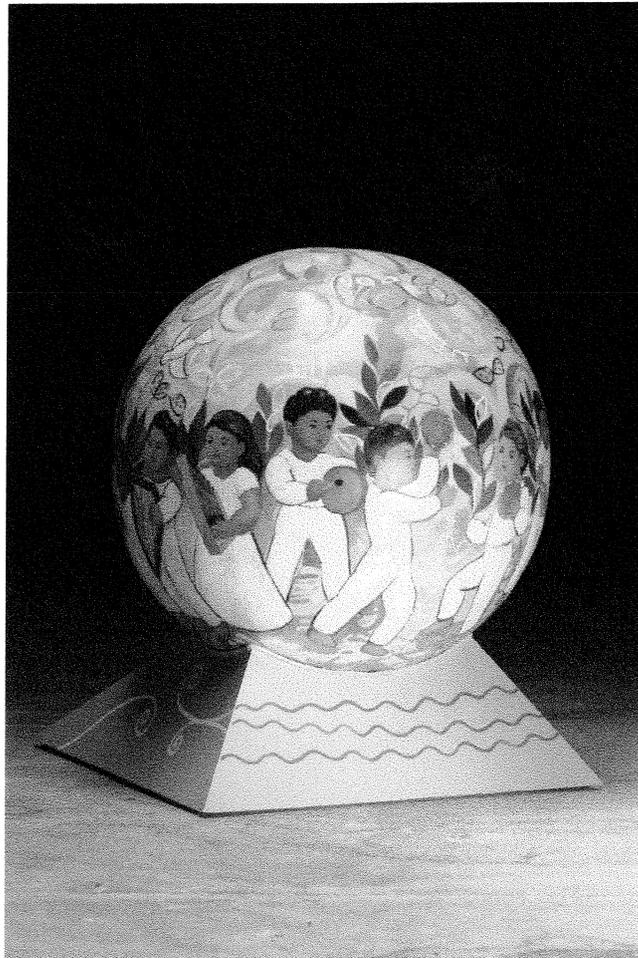


FRONT



BACK

Base scuffed from prior transportation



impact ■ programs of excellence

**IMPACT
ART & SOL PROJECT
ARTIST'S CONTRACT**

Re: Art & Sol Project

Dear Mauricio Mora:

We are pleased to inform you that your design has been selected by the jury for inclusion in the Art & Sol Project sponsored by IMPACT: Programs of Excellence ("IMPACT"). We are also pleased to confirm that a sponsor has been selected for your Work. The terms of your engagement are more particularly set out below:

1. Scope and Purpose of Agreement. Art & Sol is a public art project initiated by IMPACT: Programs of Excellence in celebration of our nearest star, the Sun. The project involves a year-long celebration and an exhibit of the finished suns created by artists throughout our region.
2. Design, Original Work of Art. You warrant that you are the sole author of your design and that it is an original work of art and does not infringe on the copyright or other intellectual property rights of others. You agree to indemnify and hold IMPACT harmless from any claims or liability in this regard.
3. Execution and Completion of Work. You will acknowledge upon receipt one large sphere and base which you will complete in accordance with your original design as selected by the jury. As finished artwork may be displayed outdoors, materials utilized should be impervious to weather and other climatic influences. It is your responsibility to consider the preparation of the surface prior to painting, the use of appropriate paint and materials and the application of a durable top coat. Materials used are subject to approval by IMPACT. Before final approval for exhibition is granted, an inspection of each sun will be made.
4. Payment to Artist. Each sponsored artist selected by the jury shall receive the sum of \$1,500, as an honorarium to cover any artist fee and materials used in the

{00002920.DOC.}

January 3
Page 2

project. One-half of this fee shall be paid upon execution of this letter agreement by you and the remaining one-half shall be paid upon final acceptance and approval of your work (the "Work") to insure compliance with this agreement. Additionally, you shall be entitled to receive twenty percent of the gross sales price of your Work if it is ultimately sold either through presales, at the gala auction or thereafter. You may be asked to touch up your Work once the exhibition is underway and again at the end of the project.

5. Final Acceptance and Delivery. You agree to deliver the finished Work no later than April 15, 2005. Upon inspection of the Work by IMPACT and final acceptance, we will arrange for pickup of the Work and payment of the remaining one-half of your honorarium. Title shall pass to IMPACT on delivery and final acceptance.
6. Risk of Loss. You are responsible for the Work while it is in your possession and you shall be liable for all risk of loss prior to its delivery and final acceptance by us. You should take such measures as are necessary to protect the Work from loss or damage until delivery and acceptance including but not limited to the purchase of property loss insurance.
7. Copyright.
 - (a) Registration and Notice. You shall place a copyright notice on the Work in the form and manner required to protect copyrights in the Work under United States copyright law. A copyright notice should contain:
 - The word "Copyright".
 - A "C" in a circle (©).
 - Your name.If the copyright is or becomes registered with the U.S. Copyright Office, you shall provide IMPACT with a copy of the application for registration, the registration number and the effective date of registration. Except as provided in this agreement, you retain all copyrights in the Work. IMPACT shall have ownership and possession of the Work.

January 3

Page 3

(b) Display. You hereby grant IMPACT, its agents and representatives exclusive right to display the Work, to lend the Work to other persons or institutions with authority to display it publicly as well as the right to dispose of it by sale or gift or in any manner deemed appropriate by IMPACT.

(c) Reproductions. You authorize IMPACT to make, and to authorize the making of, photographs and other reproductions of the Work for educational, public relations, promotional and other noncommercial purposes benefiting IMPACT. For the purposes of this agreement, the following are among those deemed to be reproductions for noncommercial purposes: (i) brochures and pamphlets pertaining to the Art & Sol project or any other project of IMPACT; (ii) reproduction in exhibition catalogs, books, slides, photographs, postcards, posters and calendars; (iii) reproduction in art magazines, art books and art and news sections of newspapers, reproduction in general books and magazines not primarily devoted to art but of an educational, historical or critical nature; (iv) slides and filmstrips not intended for a mass audience; (v) television from stations operated for educational purposes or on programs for educational purposes from all stations. On each reproduction, IMPACT shall place a copyright notice in the form and manner required to protect the copyright in the Work under United States copyright law. You also grant IMPACT the exclusive right to make reproductions of the Work for any commercial purpose. In the event that IMPACT derives any revenue from such commercial publication, you shall be entitled to twenty percent (20%) of the net proceeds.

8. The Gala Auction. IMPACT anticipates that the Works produced by artists in the project will be offered for sale at an auction (the "Gala Auction") to occur in May, 2003. IMPACT, its sponsors and you will each be involved in the promotion of the Gala Auction.
9. Sale of Work. IMPACT, the sponsor, the charitable organization selected by IMPACT upon the recommendation of the sponsor and you jointly undertake to promote the successful conclusion of this project and the sale of your Work. You shall be entitled to receive as additional compensation for your Work, an amount

January 3
Page 4

equal to twenty percent (20%) of the sale proceeds of your Work. It is possible that your Work will not sell, either before or at the Gala Auction or thereafter; IMPACT does not warrant or represent that all Works will sell but will use its best efforts to promote sales. If your Work does not sell, IMPACT may donate it to a qualified charitable organization or otherwise utilize it at IMPACT's discretion. In this event, no additional payment to you will be made. IMPACT reserves the exclusive discretion to donate the Work if it remains unsold after the Gala Auction. IMPACT shall have the exclusive right to determine the price and timing of any sale of any Work, whether prior to, at the gala auction or thereafter.

10. Termination. If you fail for any reason to complete the Work on a timely basis in accordance with our agreement, IMPACT will be entitled to terminate this agreement on ten (10) days written notice to you and you will be required to refund any portion of the honorarium which you have previously received. If you die or become incapacitated prior to the completion of the Work, IMPACT shall have the right to recover the Work to whatever point it has progressed as well as all drawings, photographs, models or other property related to the production of the Work. Neither party shall have the right to payment or refund of consideration from the other and this agreement shall then terminate.
11. Arbitration. Any controversy or claim arising out of or relating to our agreement or its breach shall be settled by arbitration in El Paso, El Paso County, Texas in accordance with the commercial arbitration rules of the American Arbitration Association. One arbitrator shall be selected. We agree to abide by and perform any award rendered by the arbitrator and that a judgment upon the award may be entered in any court having jurisdiction.
12. Miscellaneous. You are an independent contractor to IMPACT and are not acting as our agent or employee. This letter contains our entire agreement regarding this project and no other oral or written representation or understanding shall be considered part of our agreement. The only way that our agreement may be modified or amended shall be by execution of another letter agreement by both of us. If either of us waive any particular obligation of the other hereunder, that waiver shall not be construed or operate as a waiver of any subsequent right or obligation of either of us. This agreement shall be performed in accordance with

January 3
Page 5

the laws of the state of Texas and the parties agree that venue lies in the courts of El Paso County, Texas. Each of us waives any right to assert venue in any other location. This agreement shall be binding upon and inure to the benefit of our respective successors and assigns, except that you may not assign, transfer or encumber your rights or obligations hereunder without our prior written consent.

13. Notices. If any notice is required to either of us by the other under this agreement, it shall be in writing and may be delivered either by fax, hand delivery or certified mail, postage prepaid, addressed to the party at the address shown on this letter.

14. IMPACT's Responsibilities. IMPACT has the financial and administrative responsibility to present this public art project as well as all peripheral events. It will publish and distribute all the promotional materials, provide signage for each Work, promote through the electronic and written media and plan and pay for the opening night event and the Gala Auction. IMPACT will also provide the sphere and base for each Work and when title passes to IMPACT, insurance as well as transportation expenses and installation expenses.

15. Timeline. The Art & Sol Project is anticipated to operate upon the following timeline, which shall be subject to revision as reasonably required, by IMPACT in its sole discretion:

- December 2004 – February 2005: Spheres delivered to sponsored artist
- April 15, 2005: Artist completes work
- April/May 2005: suns to be placed in venues – presale promotion; opening event
- Spring 2006 – Auction/sale

We have enjoyed working with you on this exciting project and look forward to seeing your completed Work. The participation of artists of your caliber is essential to the success of our project. Please return one signed copy of this letter to our office and keep the other copy for your records.

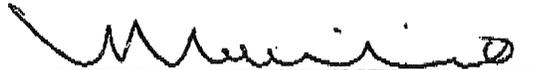
January 3
Page 6

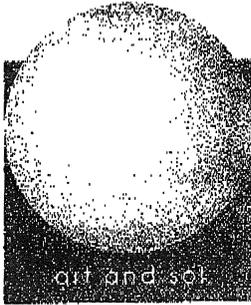
Very truly yours,

IMPACT: Programs of Excellence

By: 
Norma Geller, Executive Director
444 E. Robinson Suite B
El Paso, Texas 79902

ACCEPTED AND AGREED TO on this 21st day of FEBRUARY 2004.5


ARTIST
Address: 606 E. Mills
EL PASO, TX 79901



Re: Art & Sol Project

Dear MAURICIO MORA

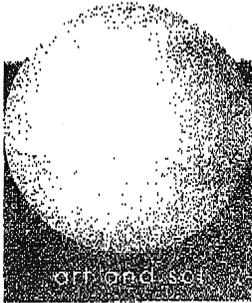
As we discussed, the purpose of this letter is to amend the agreement between you and IMPACT: Programs of Excellence with regard to the Art & Sol Project. Rather than attempting to auction the sols which were created as a result of this project, Impact anticipates that 12 sols will be sold to the City of El Paso for the sum of \$100,000 as described in the documents which are attached to this letter. The rights which will be acquired by the City of El Paso include all merchandising opportunities related to the reproduction and commercial publication of the image of the sols. These opportunities are referred to as merchandising opportunities in this letter.

The original agreement between you and Impact provided that you would receive 20% of any gross proceeds from the sale of the sol you created, as well as 20% of the net proceeds of any revenue received by Impact from the commercial publication of the image of the sol you created. By your execution of this letter agreement, you: (i) acknowledge that you have previously received the sum of \$1,500 as an honorarium for the sol which you created; and (ii) that you will accept the additional sum of \$1,818 as your percentage of the sale of the sol which you created and all merchandising opportunities related to that sol. You also agree that, following the sale of the sols to the City of El Paso, that you will have no control over the reproduction or commercial use of the image of the sol which you created.

The original agreement also provided that each artist would touch up their sol at the end of the project. By your signature hereon, you agree that you will touch up the sol that you created upon request by Impact or by the City of El Paso. If you have not previously done so, you also agree that you will place a copyright notice on and prepare an artist's statement for the sol which you created. You further agree to comply with other reasonable requests which may be made in connection with the sale of the sols to the City of El Paso.

Except as modified herein, the original agreement remains in full force and effect. The effectiveness of the modifications which are described above are contingent upon Impact's receipt of the sum of \$100,000 from the City of El Paso. In the event that Impact does not receive such sum, this amendment will be void and the original agreement will remain in place. The original agreement as amended herein contains our entire agreement regarding the Art & Sol project and no other oral or written representation or understanding shall be considered to be part of our agreement.

{00039154.DOC.}



Re: Art and Sol Project

Dear MAURICIO MORA

As you know, Impact | Programs of Excellence ("Impact") has been working with the City of El Paso ("City") in connection with the City's acquisition of certain sols which were created as part of the Art and Sol Project. The purpose of this letter is to memorialize our agreements regarding the following matters following final negotiations with the City.

1. Rights to be Acquired by City. Pursuant to the agreement with the City, the City will receive the following:
 - 11 sols, including the sol created by you; and
 - the exclusive right to reproduce, publish and merchandise the depiction and image of those sols for any commercial purpose whatsoever and the non-exclusive right to reproduce, publish or merchandise the sols for any non-commercial purpose whatsoever.

2. Copyright and License. Each artist will retain the copyright for the sol created by that artist. Each artist may reproduce the image of the sol created by that artist for non-commercial purposes including, but not limited to, publication of the image of your sol in a body of work. By your signature hereon, you hereby grant to the City an exclusive license to reproduce, publish and merchandise the image of the sol which you created for all commercial purposes that the City may select and a non-exclusive license to reproduce, publish and merchandise the image of the sol which you created for all non-commercial purposes that the City may select. You also release the City from liability for exercising the rights and licenses given to the City. You understand and agree that the sum which you will receive from Impact is the exclusive consideration which you will receive for the use of the image of your sol by the City and that the City will not pay additional royalties or consideration to you.

3. Ratification of October Agreement. Pursuant to the final terms of the agreement between Impact and the City, Impact will receive less than \$100,000.00 from the City. The sums which Impact will pay to the affected artists will not be reduced. Notwithstanding the provisions of the letter agreement you signed in October to the effect that the letter agreement would be void if Impact did not receive the sum of \$100,000.00 from the City, the October letter agreement is hereby ratified and remains in full force and effect.

4. Gala. It is possible that there will be insufficient funds available to hold a gala as anticipated in the initial agreement between you and Impact. By your signature hereon, you agree to release Impact from any responsibility or commitment to hold a gala. Regardless of whether or not a gala is held, a closing ceremony will take place.

Signed on this 4th day of November, 2006.

Artist: Mauricio Mora

Impact | Programs of Excellence

By: Norma Geller
Name: NORMA GELLER
Its: EXECUTIVE DIRECTOR

EXHIBIT "G"

ART AND SOL CONDITION REPORT

TITLE SUN AND SOL

ARTIST AARON ROYAL MOSLEY

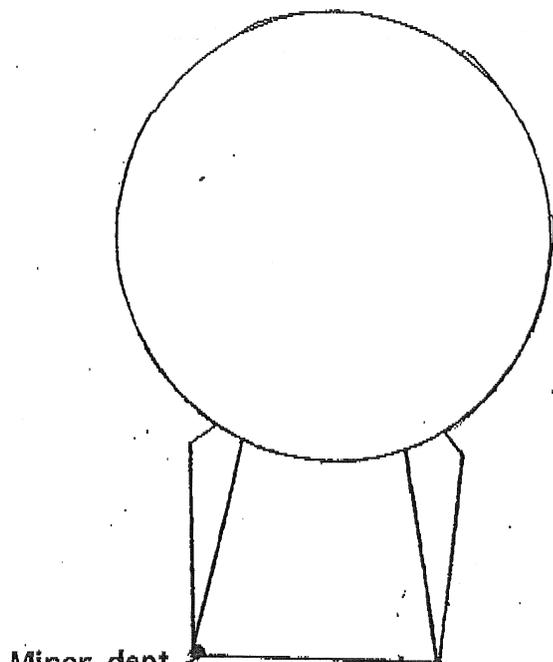
MEDIUM POLYEURATHANE AND STEEL

DATE 2005

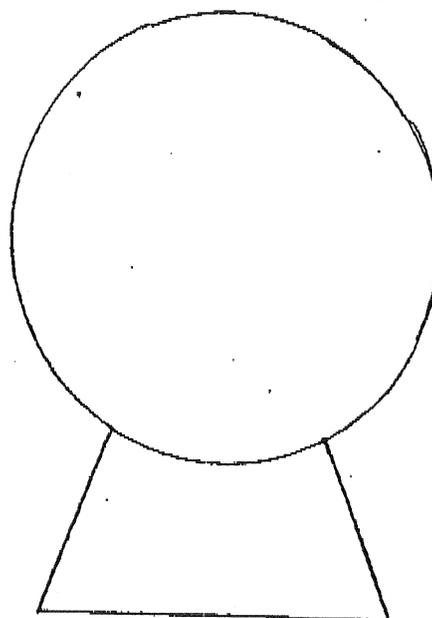
HEIGHT 5'9" WIDTH 8' DEPTH 8'

OUTGOING GOOD INSPECTED BY _____ DATE _____

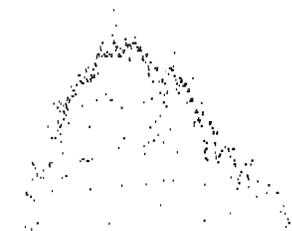
INCOMING _____ INSPECTED BY _____ DATE _____

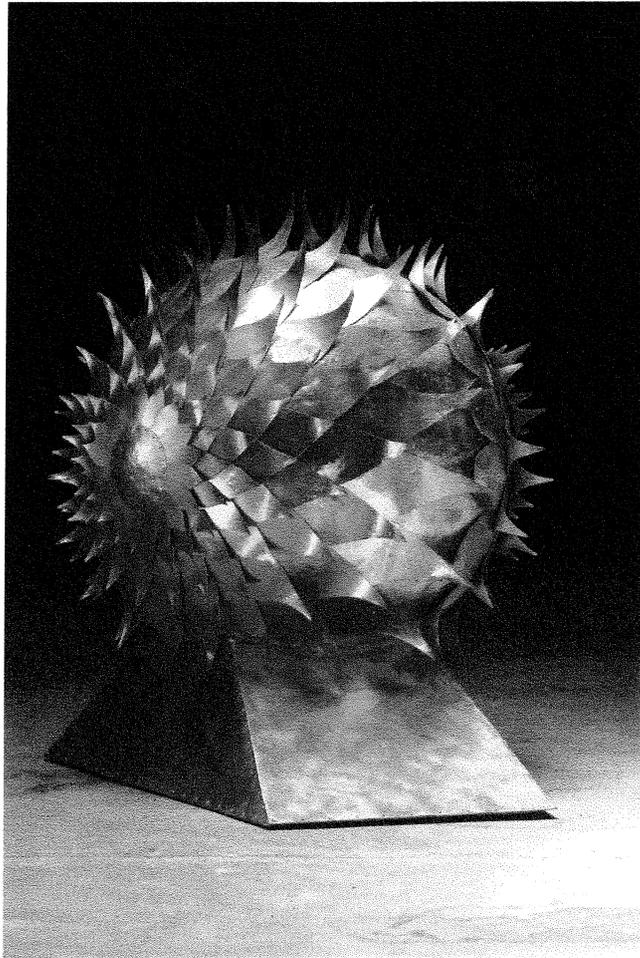


FRONT



BACK





impact ■ programs of excellence

**IMPACT
ART & SOL PROJECT
ARTIST'S CONTRACT**

Re: Art & Sol Project

Dear Aaron Mosley:

We are pleased to inform you that your design has been selected by the jury for inclusion in the Art & Sol Project sponsored by IMPACT: Programs of Excellence ("IMPACT"). We are also pleased to confirm that a sponsor has been selected for your Work. The terms of your engagement are more particularly set out below:

1. Scope and Purpose of Agreement. Art & Sol is a public art project initiated by IMPACT: Programs of Excellence in celebration of our nearest star, the Sun. The project involves a year-long celebration and an exhibit of the finished suns created by artists throughout our region.
2. Design. Original Work of Art. You warrant that you are the sole author of your design and that it is an original work of art and does not infringe on the copyright or other intellectual property rights of others. You agree to indemnify and hold IMPACT harmless from any claims or liability in this regard.
3. Execution and Completion of Work. You will acknowledge upon receipt one large sphere and base which you will complete in accordance with your original design as selected by the jury. As finished artwork may be displayed outdoors, materials utilized should be impervious to weather and other climatic influences. It is your responsibility to consider the preparation of the surface prior to painting, the use of appropriate paint and materials and the application of a durable top coat. Materials used are subject to approval by IMPACT. Before final approval for exhibition is granted, an inspection of each sun will be made.
4. Payment to Artist. Each sponsored artist selected by the jury shall receive the sum of \$1,500, as an honorarium to cover any artist fee and materials used in the

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January 3
Page 2

project. One-half of this fee shall be paid upon execution of this letter agreement by you and the remaining one-half shall be paid upon final acceptance and approval of your work (the "Work") to insure compliance with this agreement. Additionally, you shall be entitled to receive twenty percent of the gross sales price of your Work if it is ultimately sold either through presales, at the gala auction or thereafter. You may be asked to touch up your Work once the exhibition is underway and again at the end of the project.

5. Final Acceptance and Delivery. You agree to deliver the finished Work no later than April 25, 2005. Upon inspection of the Work by IMPACT and final acceptance, we will arrange for pickup of the Work and payment of the remaining one-half of your honorarium. Title shall pass to IMPACT on delivery and final acceptance.
6. Risk of Loss. You are responsible for the Work while it is in your possession and you shall be liable for all risk of loss prior to its delivery and final acceptance by us. You should take such measures as are necessary to protect the Work from loss or damage until delivery and acceptance including but not limited to the purchase of property loss insurance.
7. Copyright.
 - (a) Registration and Notice. You shall place a copyright notice on the Work in the form and manner required to protect copyrights in the Work under United States copyright law. A copyright notice should contain:
 - The word "Copyright".
 - A "C" in a circle (©).
 - Your name.If the copyright is or becomes registered with the U.S. Copyright Office, you shall provide IMPACT with a copy of the application for registration, the registration number and the effective date of registration. Except as provided in this agreement, you retain all copyrights in the Work. IMPACT shall have ownership and possession of the Work.

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- (b) Display. You hereby grant IMPACT, its agents and representatives exclusive right to display the Work, to lend the Work to other persons or institutions with authority to display it publicly as well as the right to dispose of it by sale or gift or in any manner deemed appropriate by IMPACT.
- (c) Reproductions. You authorize IMPACT to make, and to authorize the making of, photographs and other reproductions of the Work for educational, public relations, promotional and other noncommercial purposes benefiting IMPACT. For the purposes of this agreement, the following are among those deemed to be reproductions for noncommercial purposes: (i) brochures and pamphlets pertaining to the Art & Sol project or any other project of IMPACT; (ii) reproduction in exhibition catalogs, books, slides, photographs, postcards, posters and calendars; (iii) reproduction in art magazines, art books and art and news sections of newspapers, reproduction in general books and magazines not primarily devoted to art but of an educational, historical or critical nature; (iv) slides and filmstrips not intended for a mass audience; (v) television from stations operated for educational purposes or on programs for educational purposes from all stations. On each reproduction, IMPACT shall place a copyright notice in the form and manner required to protect the copyright in the Work under United States copyright law. You also grant IMPACT the exclusive right to make reproductions of the Work for any commercial purpose. In the event that IMPACT derives any revenue from such commercial publication, you shall be entitled to twenty percent (20%) of the net proceeds.
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January 3
Page 4

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11. **Arbitration.** Any controversy or claim arising out of or relating to our agreement or its breach shall be settled by arbitration in El Paso, El Paso County, Texas in accordance with the commercial arbitration rules of the American Arbitration Association. One arbitrator shall be selected. We agree to abide by and perform any award rendered by the arbitrator and that a judgment upon the award may be entered in any court having jurisdiction.
12. **Miscellaneous.** You are an independent contractor to IMPACT and are not acting as our agent or employee. This letter contains our entire agreement regarding this project and no other oral or written representation or understanding shall be considered part of our agreement. The only way that our agreement may be modified or amended shall be by execution of another letter agreement by both of us. If either of us waive any particular obligation of the other hereunder, that waiver shall not be construed or operate as a waiver of any subsequent right or obligation of either of us. This agreement shall be performed in accordance with

January 3
Page 5

the laws of the state of Texas and the parties agree that venue lies in the courts of El Paso County, Texas. Each of us waives any right to assert venue in any other location. This agreement shall be binding upon and inure to the benefit of our respective successors and assigns, except that you may not assign, transfer or encumber your rights or obligations hereunder without our prior written consent.

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15. Timeline. The Art & Sol Project is anticipated to operate upon the following timeline, which shall be subject to revision as reasonably required, by IMPACT in its sole discretion:

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- April 25, 2005: Artist completes work
- April/May 2005: spheres to be placed in venues – presale promotion; opening event
- Spring 2006 – Auction/sale

We have enjoyed working with you on this exciting project and look forward to seeing your completed Work. The participation of artists of your caliber is essential to the success of our project. Please return one signed copy of this letter to our office and keep the other copy for your records.

January 3
Page 6

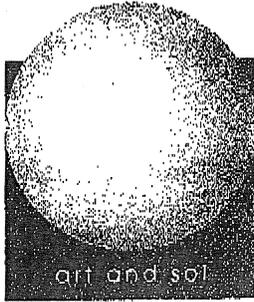
Very truly yours,

IMPACT: Programs of Excellence

By: *Norma Geller*
Norma Geller, Executive Director
444 E. Robinson Suite B
El Paso, Texas 79902

ACCEPTED AND AGREED TO on this 28th day of February 2007. *5 of 10*

Carolina Morley
ARTIST
Address: 4309 Chester Ave
EL PASO TX 79903



Re: Art & Sol Project

Dear AARON ROYAL MOSLEY

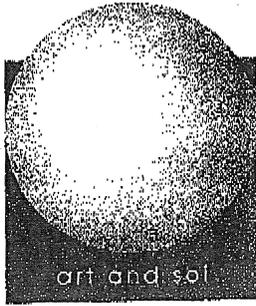
As we discussed, the purpose of this letter is to amend the agreement between you and IMPACT: Programs of Excellence with regard to the Art & Sol Project. Rather than attempting to auction the sols which were created as a result of this project, Impact anticipates that 12 sols will be sold to the City of El Paso for the sum of \$100,000 as described in the documents which are attached to this letter. The rights which will be acquired by the City of El Paso include all merchandising opportunities related to the reproduction and commercial publication of the image of the sols. These opportunities are referred to as merchandising opportunities in this letter.

The original agreement between you and Impact provided that you would receive 20% of any gross proceeds from the sale of the sol you created, as well as 20% of the net proceeds of any revenue received by Impact from the commercial publication of the image of the sol you created. By your execution of this letter agreement, you: (i) acknowledge that you have previously received the sum of \$1,500 as an honorarium for the sol which you created; and (ii) that you will accept the additional sum of \$1818 as your percentage of the sale of the sol which you created and all merchandising opportunities related to that sol. You also agree that, following the sale of the sols to the City of El Paso, that you will have no control over the reproduction or commercial use of the image of the sol which you created.

The original agreement also provided that each artist would touch up their sol at the end of the project. By your signature hereon, you agree that you will touch up the sol that you created upon request by Impact or by the City of El Paso. If you have not previously done so, you also agree that you will place a copyright notice on and prepare an artist's statement for the sol which you created. You further agree to comply with other reasonable requests which may be made in connection with the sale of the sols to the City of El Paso.

Except as modified herein, the original agreement remains in full force and effect. The effectiveness of the modifications which are described above are contingent upon Impact's receipt of the sum of \$100,000 from the City of El Paso. In the event that Impact does not receive such sum, this amendment will be void and the original agreement will remain in place. The original agreement as amended herein contains our entire agreement regarding the Art & Sol project and no other oral or written representation or understanding shall be considered to be part of our agreement.

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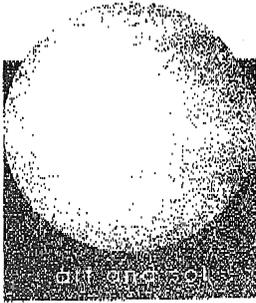


Signed on this 2nd day of OCTOBER, 2006.

Artist:

IMPACT: Programs of Excellence

By: Norma Geller
 Name: NORMA GELLER
 Its: EXECUTIVE DIRECTOR



Re: Art and Sol Project

Dear AARON ROYAL MORLEY

As you know, Impact | Programs of Excellence ("Impact") has been working with the City of El Paso ("City") in connection with the City's acquisition of certain sols which were created as part of the Art and Sol Project. The purpose of this letter is to memorialize our agreements regarding the following matters following final negotiations with the City.

1. Rights to be Acquired by City. Pursuant to the agreement with the City, the City will receive the following:
 - 11 sols, including the sol created by you; and
 - the exclusive right to reproduce, publish and merchandise the depiction and image of those sols for any commercial purpose whatsoever and the non-exclusive right to reproduce, publish or merchandise the sols for any non-commercial purpose whatsoever.

2. Copyright and License. Each artist will retain the copyright for the sol created by that artist. Each artist may reproduce the image of the sol created by that artist for non-commercial purposes including, but not limited to, publication of the image of your sol in a body of work. By your signature hereon, you hereby grant to the City an exclusive license to reproduce, publish and merchandise the image of the sol which you created for all commercial purposes that the City may select and a non-exclusive license to reproduce, publish and merchandise the image of the sol which you created for all non-commercial purposes that the City may select. You also release the City from liability for exercising the rights and licenses given to the City. You understand and agree that the sum which you will receive from Impact is the exclusive consideration which you will receive for the use of the image of your sol by the City and that the City will not pay additional royalties or consideration to you.

3. Ratification of October Agreement. Pursuant to the final terms of the agreement between Impact and the City, Impact will receive less than \$100,000.00 from the City. The sums which Impact will pay to the affected artists will not be reduced. Notwithstanding the provisions of the letter agreement you signed in October to the effect that the letter agreement would be void if Impact did not receive the sum of \$100,000.00 from the City, the October letter agreement is hereby ratified and remains in full force and effect.

4. Gala. It is possible that there will be insufficient funds available to hold a gala as anticipated in the initial agreement between you and Impact. By your signature hereon, you agree to release Impact from any responsibility or commitment to hold a gala. Regardless of whether or not a gala is held, a closing ceremony will take place.

Signed on this 5th day of NOVEMBER, 2006.

Artist:

[Handwritten signature of Aaron Royal Morley]

Impact | Programs of Excellence

By: NORMA GUYER
Name: NORMA GUYER
Its: EXECUTIVE DIRECTOR

EXHIBIT "H"

ART AND SOL CONDITION REPORT

TITLE GARDEN SUN

ARTIST DAVID NAKABAYASHI

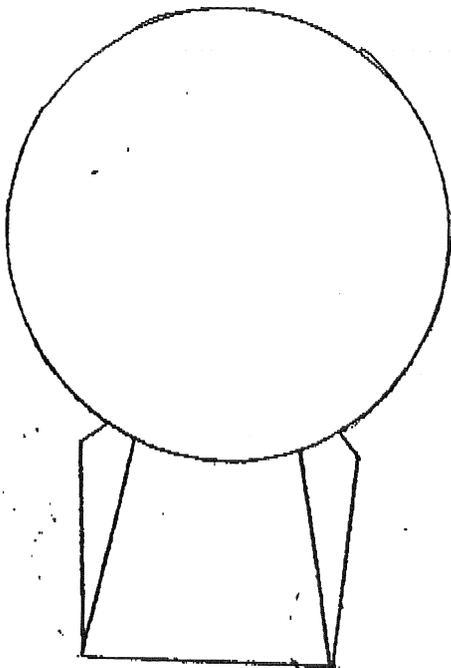
MEDIUM POLYEURATHANE AND STEEL

DATE 2005

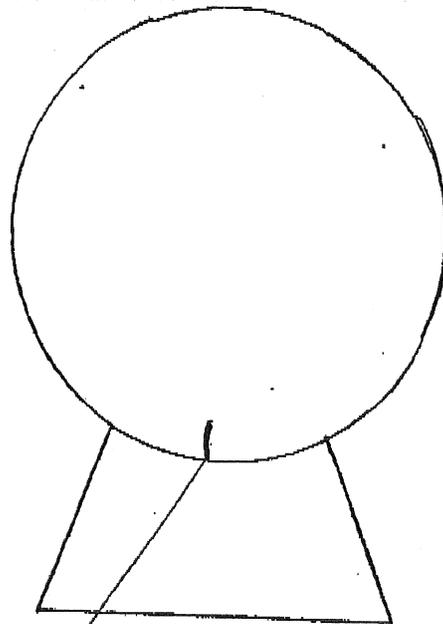
HEIGHT 7' WIDTH 8' DEPTH 8'

OUTGOING GOOD INSPECTED BY _____ DATE _____

INCOMING _____ INSPECTED BY _____ DATE _____

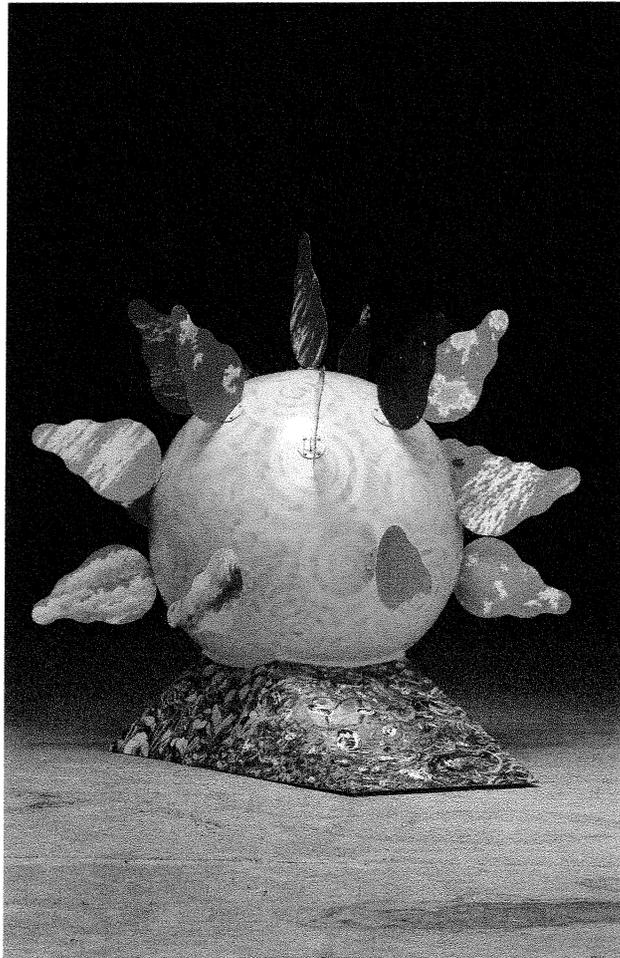


FRONT



BACK

Small crack repaired with epoxy



impact ■ programs of excellence

**IMPACT
ART & SOL PROJECT
ARTIST'S CONTRACT**

Re: Art & Sol Project

Dear David Nakabayashi:

We are pleased to inform you that your design has been selected by the jury for inclusion in the Art & Sol Project sponsored by IMPACT: Programs of Excellence ("IMPACT"). We are also pleased to confirm that a sponsor has been selected for your Work. The terms of your engagement are more particularly set out below:

1. Scope and Purpose of Agreement. Art & Sol is a public art project initiated by IMPACT: Programs of Excellence in celebration of our nearest star, the Sun. The project involves a year-long celebration and an exhibit of the finished suns created by artists throughout our region.
2. Design, Original Work of Art. You warrant that you are the sole author of your design and that it is an original work of art and does not infringe on the copyright or other intellectual property rights of others. You agree to indemnify and hold IMPACT harmless from any claims or liability in this regard.
3. Execution and Completion of Work. You will acknowledge upon receipt one large sphere and base which you will complete in accordance with your original design as selected by the jury. As finished artwork may be displayed outdoors, materials utilized should be impervious to weather and other climatic influences. It is your responsibility to consider the preparation of the surface prior to painting, the use of appropriate paint and materials and the application of a durable top coat. Materials used are subject to approval by IMPACT. Before final approval for exhibition is granted, an inspection of each sun will be made.
4. Payment to Artist. Each sponsored artist selected by the jury shall receive the sum of \$1,500, as an honorarium to cover any artist fee and materials used in the project. One-half of this fee shall be paid upon execution of this letter of agreement by you and Impact: Programs of Excellence and the remaining one-

{00002920.DOC.}

March 6, 2005

Page 2

half shall be paid upon final acceptance and approval of your work (the "Work") to insure compliance with this agreement. Since your Work has been selected and pre-purchased by a Grand Sponsor, you shall additionally be entitled to receive \$3000 (20% of the Grand Sponsor fee less project costs and contingency). At the time of the public auction, the Work transfers to the ownership of the Grand Sponsor. You may be asked to touch up your Work once the exhibition is underway and again at the end of the project.

5. Final Acceptance and Delivery. You agree to deliver the finished Work no later than April 25, 2005. Upon inspection of the Work by IMPACT and final acceptance, we will arrange for pickup of the Work and payment of the remaining one-half of your honorarium. Title shall pass to IMPACT on delivery and final acceptance.
6. Risk of Loss. You are responsible for the Work while it is in your possession and you shall be liable for all risk of loss prior to its delivery and final acceptance by us. You should take such measures as are necessary to protect the Work from loss or damage until delivery and acceptance including but not limited to the purchase of property loss insurance.
7. Copyright.
 - (a) Registration and Notice. You shall place a copyright notice on the Work in the form and manner required to protect copyrights in the Work under United States copyright law. A copyright notice should contain:
 - The word "Copyright".
 - A "C" in a circle (©).
 - Your name.If the copyright is or becomes registered with the U.S. Copyright Office, you shall provide IMPACT with a copy of the application for registration, the registration number and the effective date of registration. Except as provided in this agreement, you retain all copyrights in the Work. IMPACT shall have ownership and possession of the Work.
 - (b) Display. You hereby grant IMPACT, its agents and representatives

March 6, 2005
Page 3

exclusive right to display the Work, to lend the Work to other persons or institutions with authority to display it publicly as well as the right to dispose of it by sale or gift or in any manner deemed appropriate by IMPACT.

(c) Reproductions. You authorize IMPACT to make, and to authorize the making of, photographs and other reproductions of the Work for educational, public relations, promotional and other noncommercial purposes benefiting IMPACT. For the purposes of this agreement, the following are among those deemed to be reproductions for noncommercial purposes: (i) brochures and pamphlets pertaining to the Art & Sol project or any other project of IMPACT; (ii) reproduction in exhibition catalogs, books, slides, photographs, postcards, posters and calendars; (iii) reproduction in art magazines, art books and art and news sections of newspapers, reproduction in general books and magazines not primarily devoted to art but of an educational, historical or critical nature; (iv) slides and filmstrips not intended for a mass audience; (v) television from stations operated for educational purposes or on programs for educational purposes from all stations. On each reproduction, IMPACT shall place a copyright notice in the form and manner required to protect the copyright in the Work under United States copyright law. You also grant IMPACT the exclusive right to make reproductions of the Work for any commercial purpose. In the event that IMPACT derives any revenue from such commercial publication, you shall be entitled to twenty percent (20%) of the net proceeds.

8. Termination. If you fail for any reason to complete the Work on a timely basis in accordance with our agreement, IMPACT will be entitled to terminate this agreement on ten (10) days written notice to you and you will be required to refund any portion of the honorarium which you have previously received. If you die or become incapacitated prior to the completion of the Work, IMPACT shall have the right to recover the Work to whatever point it has progressed as well as all drawings, photographs, models or other property related to the production of the Work. Neither party shall have the right to payment or refund of consideration from the other and this agreement shall then terminate.
9. Arbitration. Any controversy or claim arising out of or relating to our agreement or its breach shall be settled by arbitration in El Paso, El Paso County, Texas in

March 6, 2005

Page 4

accordance with the commercial arbitration rules of the American Arbitration Association. One arbitrator shall be selected. We agree to abide by and perform any award rendered by the arbitrator and that a judgment upon the award may be entered in any court having jurisdiction.

10. Miscellaneous. You are an independent contractor to IMPACT and are not acting as our agent or employee. This letter contains our entire agreement regarding this project and no other oral or written representation or understanding shall be considered part of our agreement. The only way that our agreement may be modified or amended shall be by execution of another letter agreement by both of us. If either of us waive any particular obligation of the other hereunder, that waiver shall not be construed or operate as a waiver of any subsequent right or obligation of either of us. This agreement shall be performed in accordance with the laws of the state of Texas and the parties agree that venue lies in the courts of El Paso County, Texas. Each of us waives any right to assert venue in any other location. This agreement shall be binding upon and inure to the benefit of our respective successors and assigns, except that you may not assign, transfer or encumber your rights or obligations hereunder without our prior written consent.
13. Notices. If any notice is required to either of us by the other under this agreement, it shall be in writing and may be delivered either by fax, hand delivery or certified mail, postage prepaid, addressed to the party at the address shown on this letter.
14. IMPACT's Responsibilities. IMPACT has the financial and administrative responsibility to present this public art project as well as all peripheral events. It will publish and distribute all the promotional materials, provide signage for each Work, promote through the electronic and written media and plan and pay for the opening night event and the Gala Auction. IMPACT will also provide the sphere and base for each Work and when title passes to IMPACT, insurance as well as transportation expenses and installation expenses.
15. Timeline. The Art & Sol Project is anticipated to operate upon the following timeline, which shall be subject to revision as reasonably required, by IMPACT in its sole discretion:
- December 2004 – February 2005: Spheres delivered to sponsored artist

March 6, 2005
Page 5

- April 15, 2005: Artist completes work
- April/May 2005: suns to be placed in venues – presale promotion; opening event
- Spring 2006 – Auction/sale

We have enjoyed working with you on this exciting project and look forward to seeing your completed Work. The participation of artists of your caliber is essential to the success of our project. Please return one signed copy of this letter to our office and keep the other copy for your records.

Very truly yours,

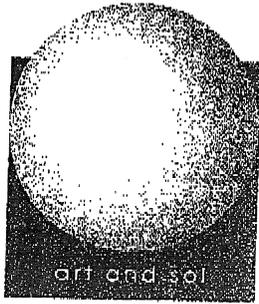
IMPACT: Programs of Excellence

By: *Norma Geller*
 Norma Geller, Executive Director
 444 E. Robinson Suite B
 El Paso, Texas 79902

ACCEPTED AND AGREED TO on this 6 day of May ~~2004~~ 2005

[Signature]
 ARTIST

Address: 3219 Altura
El Paso TX 79930-4429



Re: Art & Sol Project

Dear DAVID NAKABAYASHI:

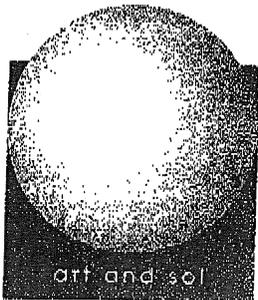
As we discussed, the purpose of this letter is to amend the agreement between you and IMPACT: Programs of Excellence with regard to the Art & Sol Project. Rather than attempting to auction the sols which were created as a result of this project, Impact anticipates that 12 sols will be sold to the City of El Paso for the sum of \$100,000 as described in the documents which are attached to this letter. The rights which will be acquired by the City of El Paso include all merchandising opportunities related to the reproduction and commercial publication of the image of the sols. These opportunities are referred to as merchandising opportunities in this letter.

The original agreement between you and Impact provided that you would receive 20% of any gross proceeds from the sale of the sol you created, as well as 20% of the net proceeds of any revenue received by Impact from the commercial publication of the image of the sol you created. By your execution of this letter agreement, you: (i) acknowledge that you have previously received the sum of \$1,500 (\$3,000 balance as Grand Sponsor artist) as an honorarium for the sol which you created; and (ii) that you will accept the additional sum of \$500 as your percentage of the sale of the sol which you created and all merchandising opportunities related to that sol. You also agree that, following the sale of the sols to the City of El Paso, that you will have no control over the reproduction or commercial use of the image of the sol which you created.

The original agreement also provided that each artist would touch up their sol at the end of the project. By your signature hereon, you agree that you will touch up the sol that you created upon request by Impact or by the City of El Paso. If you have not previously done so, you also agree that you will place a copyright notice on and prepare an artist's statement for the sol which you created. You further agree to comply with other reasonable requests which may be made in connection with the sale of the sols to the City of El Paso.

Except as modified herein, the original agreement remains in full force and effect. The effectiveness of the modifications which are described above are contingent upon Impact's receipt of the sum of \$100,000 from the City of El Paso. In the event that Impact does not receive such sum, this amendment will be void and the original agreement will remain in place. The original agreement as amended herein contains our entire agreement regarding the Art & Sol project and no other oral or written representation or understanding shall be considered to be part of our agreement.

{00039154.DOC.}



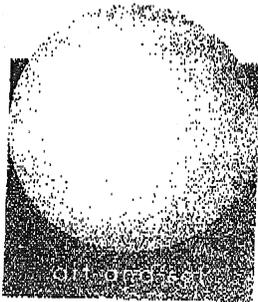
Signed on this 3rd day of OCTOBER, 2006.

Artist:

Paul Weber

IMPACT: Programs of Excellence

By: *Norma Geller*
 Name: NORMA GELLER
 Its: EXECUTIVE DIRECTOR



Re: Art and Sol Project

Dear DAVID NAKABAYASHI

As you know, Impact | Programs of Excellence ("Impact") has been working with the City of El Paso ("City") in connection with the City's acquisition of certain sols which were created as part of the Art and Sol Project. The purpose of this letter is to memorialize our agreements regarding the following matters following final negotiations with the City.

1. Rights to be Acquired by City. Pursuant to the agreement with the City, the City will receive the following:
 - 11 sols, including the sol created by you; and
 - the exclusive right to reproduce, publish and merchandise the depiction and image of those sols for any commercial purpose whatsoever and the non-exclusive right to reproduce, publish or merchandise the sols for any non-commercial purpose whatsoever.
2. Copyright and License. Each artist will retain the copyright for the sol created by that artist. Each artist may reproduce the image of the sol created by that artist for non-commercial purposes including, but not limited to, publication of the image of your sol in a body of work. By your signature hereon, you hereby grant to the City an exclusive license to reproduce, publish and merchandise the image of the sol which you created for all commercial purposes that the City may select and a non-exclusive license to reproduce, publish and merchandise the image of the sol which you created for all non-commercial purposes that the City may select. You also release the City from liability for exercising the rights and licenses given to the City. You understand and agree that the sum which you will receive from Impact is the exclusive consideration which you will receive for the use of the image of your sol by the City and that the City will not pay additional royalties or consideration to you.
3. Ratification of October Agreement. Pursuant to the final terms of the agreement between Impact and the City, Impact will receive less than \$100,000.00 from the City. The sums which Impact will pay to the affected artists will not be reduced. Notwithstanding the provisions of the letter agreement you signed in October to the effect that the letter agreement would be void if Impact did not receive the sum of \$100,000.00 from the City, the October letter agreement is hereby ratified and remains in full force and effect.
4. Gala. It is possible that there will be insufficient funds available to hold a gala as anticipated in the initial agreement between you and Impact. By your signature hereon, you agree to release Impact from any responsibility or commitment to hold a gala. Regardless of whether or not a gala is held, a closing ceremony will take place.

Signed on this 5th day of NOVEMBER 2006.

Artist: 

Impact | Programs of Excellence

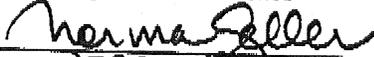
By: 
Name: NORMA KELLER
Its: EXECUTIVE DIRECTOR

EXHIBIT "I"

ART AND SOL CONDITION REPORT

TITLE SUNSPOTS * THE SUN OF ALL PARTS

ARTIST MERALEE SCHLUSSELBERG

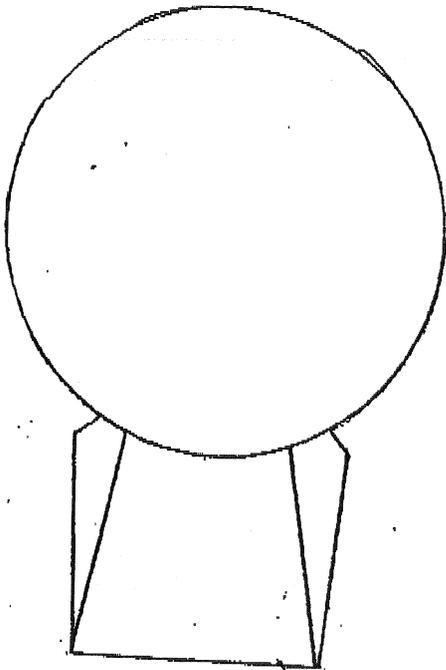
MEDIUM POLYEURATHANE AND STEEL

DATE 2005

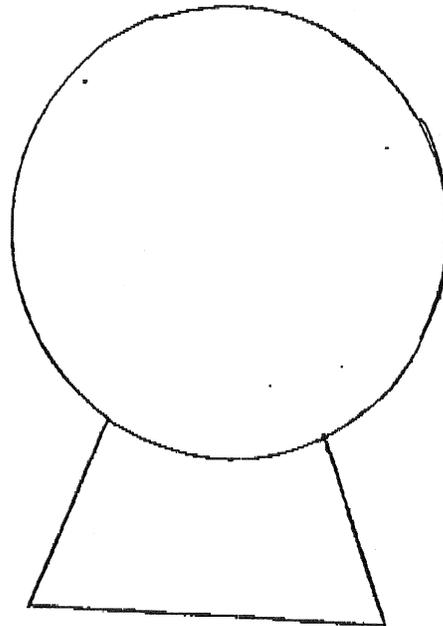
HEIGHT 5' **WIDTH** 4' **DEPTH** 6'

OUTGOING GOOD **INSPECTED BY** _____ **DATE** _____

INCOMING _____ **INSPECTED BY** _____ **DATE** _____

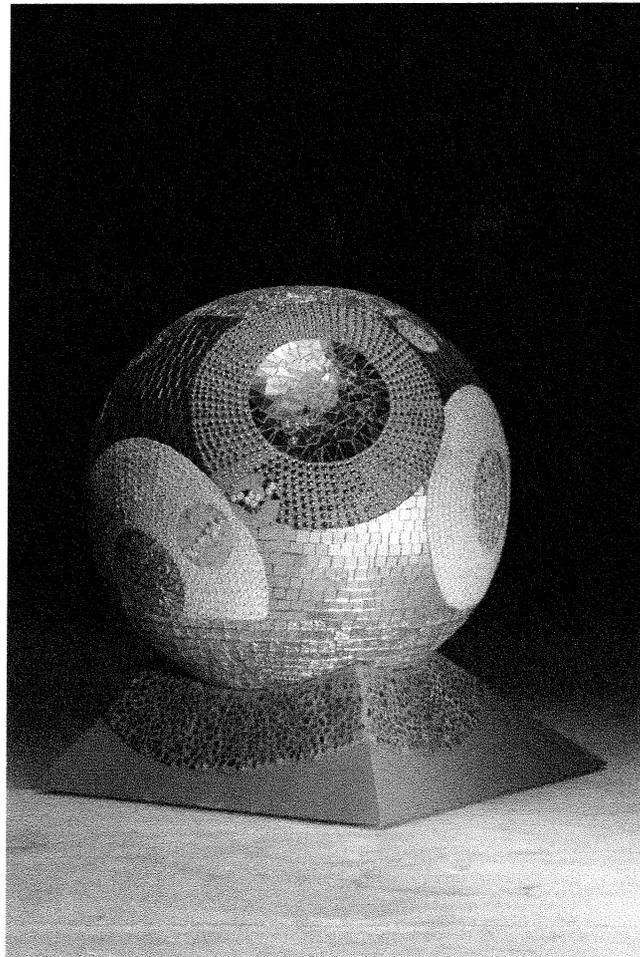


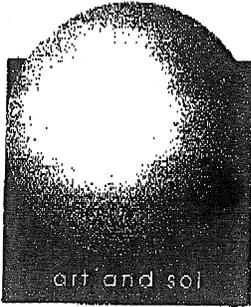
FRONT



BACK

Base scuffed from prior transportation
When moving sol, artist suggests not to push on mirrors
Artist suggests the sol be placed indoors or in a sheltered area





**IMPACT
ART & SOL PROJECT
ARTIST'S CONTRACT**

Re: Art & Sol Project

Dear NERALEE SCHLUSSELMER

We are pleased to inform you that your design has been selected by the jury for inclusion in the Art & Sol Project sponsored by IMPACT: Programs of Excellence ("IMPACT"). We are also pleased to confirm that a sponsor has been selected for your Work. The terms of your engagement are more particularly set out below:

1. Scope and Purpose of Agreement. Art & Sol is a public art project initiated by IMPACT: Programs of Excellence in celebration of our nearest star, the Sun. The project involves a year-long celebration and an exhibit of the finished suns created by artists throughout our region.
2. Design, Original Work of Art. You warrant that you are the sole author of your design and that it is an original work of art and does not infringe on the copyright or other intellectual property rights of others. You agree to indemnify and hold IMPACT harmless from any claims or liability in this regard.
3. Execution and Completion of Work. You will acknowledge upon receipt one large sphere and base which you will complete in accordance with your original design as selected by the jury. As finished artwork may be displayed outdoors, materials utilized should be impervious to weather and other climatic influences. It is your responsibility to consider the preparation of the surface prior to painting, the use of appropriate paint and materials and the application of a durable top coat. Materials used are subject to approval by IMPACT. Before final approval for exhibition is granted, an inspection of each sun will be made.
4. Payment to Artist. Each sponsored artist selected by the jury shall receive the sum of \$1,500, as an honorarium to cover any artist fee and materials used in the

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Page 2

project. One-half of this fee shall be paid upon execution of this letter agreement by you and the remaining one-half shall be paid upon final acceptance and approval of your work (the "Work") to insure compliance with this agreement. Additionally, you shall be entitled to receive twenty percent of the gross sales price of your Work if it is ultimately sold either through presales, at the gala auction or thereafter. You may be asked to touch up your Work once the exhibition is underway and again at the end of the project.

5. Final Acceptance and Delivery. You agree to deliver the finished Work no later than March 10, 2005. Upon inspection of the Work by IMPACT and final acceptance, we will arrange for pickup of the Work and payment of the remaining one-half of your honorarium. Title shall pass to IMPACT on delivery and final acceptance.
6. Risk of Loss. You are responsible for the Work while it is in your possession and you shall be liable for all risk of loss prior to its delivery and final acceptance by us. You should take such measures as are necessary to protect the Work from loss or damage until delivery and acceptance including but not limited to the purchase of property loss insurance.
7. Copyright.
 - (a) Registration and Notice. You shall place a copyright notice on the Work in the form and manner required to protect copyrights in the Work under United States copyright law. A copyright notice should contain:
 - The word "Copyright".
 - A "C" in a circle (©).
 - Your name.If the copyright is or becomes registered with the U.S. Copyright Office, you shall provide IMPACT with a copy of the application for registration, the registration number and the effective date of registration. Except as provided in this agreement, you retain all copyrights in the Work. IMPACT shall have ownership and possession of the Work.

Page 3

- (b) Display. You hereby grant IMPACT, its agents and representatives exclusive right to display the Work, to lend the Work to other persons or institutions with authority to display it publicly as well as the right to dispose of it by sale or gift or in any manner deemed appropriate by IMPACT.
- (c) Reproductions. You authorize IMPACT to make, and to authorize the making of, photographs and other reproductions of the Work for educational, public relations, promotional and other noncommercial purposes benefiting IMPACT. For the purposes of this agreement, the following are among those deemed to be reproductions for noncommercial purposes: (i) brochures and pamphlets pertaining to the Art & Sol project or any other project of IMPACT; (ii) reproduction in exhibition catalogs, books, slides, photographs, postcards, posters and calendars; (iii) reproduction in art magazines, art books and art and news sections of newspapers, reproduction in general books and magazines not primarily devoted to art but of an educational, historical or critical nature; (iv) slides and filmstrips not intended for a mass audience; (v) television from stations operated for educational purposes or on programs for educational purposes from all stations. On each reproduction, IMPACT shall place a copyright notice in the form and manner required to protect the copyright in the Work under United States copyright law. You also grant IMPACT the exclusive right to make reproductions of the Work for any commercial purpose. In the event that IMPACT derives any revenue from such commercial publication, you shall be entitled to twenty percent (20%) of the net proceeds.
8. The Gala Auction. IMPACT anticipates that the Works produced by artists in the project will be offered for sale at an auction (the "Gala Auction") to occur in May, 2003. IMPACT, its sponsors and you will each be involved in the promotion of the Gala Auction.
9. Sale of Work. IMPACT, the sponsor, the charitable organization selected by IMPACT upon the recommendation of the sponsor and you jointly undertake to promote the successful conclusion of this project and the sale of your Work. You shall be entitled to receive as additional compensation for your Work, an amount

Page 4

equal to twenty percent (20%) of the sale proceeds of your Work. It is possible that your Work will not sell, either before or at the Gala Auction or thereafter; IMPACT does not warrant or represent that all Works will sell but will use its best efforts to promote sales. If your Work does not sell, IMPACT may donate it to a qualified charitable organization or otherwise utilize it at IMPACT's discretion. In this event, no additional payment to you will be made. IMPACT reserves the exclusive discretion to donate the Work if it remains unsold after the Gala Auction. IMPACT shall have the exclusive right to determine the price and timing of any sale of any Work, whether prior to, at the gala auction or thereafter.

10. Termination. If you fail for any reason to complete the Work on a timely basis in accordance with our agreement, IMPACT will be entitled to terminate this agreement on ten (10) days written notice to you and you will be required to refund any portion of the honorarium which you have previously received. If you die or become incapacitated prior to the completion of the Work, IMPACT shall have the right to recover the Work to whatever point it has progressed as well as all drawings, photographs, models or other property related to the production of the Work. Neither party shall have the right to payment or refund of consideration from the other and this agreement shall then terminate.
11. Arbitration. Any controversy or claim arising out of or relating to our agreement or its breach shall be settled by arbitration in El Paso, El Paso County, Texas in accordance with the commercial arbitration rules of the American Arbitration Association. One arbitrator shall be selected. We agree to abide by and perform any award rendered by the arbitrator and that a judgment upon the award may be entered in any court having jurisdiction.
12. Miscellaneous. You are an independent contractor to IMPACT and are not acting as our agent or employee. This letter contains our entire agreement regarding this project and no other oral or written representation or understanding shall be considered part of our agreement. The only way that our agreement may be modified or amended shall be by execution of another letter agreement by both of us. If either of us waive any particular obligation of the other hereunder, that waiver shall not be construed or operate as a waiver of any subsequent right or obligation of either of us. This agreement shall be performed in accordance with

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Page 5

the laws of the state of Texas and the parties agree that venue lies in the courts of El Paso County, Texas. Each of us waives any right to assert venue in any other location. This agreement shall be binding upon and inure to the benefit of our respective successors and assigns, except that you may not assign, transfer or encumber your rights or obligations hereunder without our prior written consent.

13. Notices. If any notice is required to either of us by the other under this agreement, it shall be in writing and may be delivered either by fax, hand delivery or certified mail, postage prepaid, addressed to the party at the address shown on this letter.

14. IMPACT's Responsibilities. IMPACT has the financial and administrative responsibility to present this public art project as well as all peripheral events. It will publish and distribute all the promotional materials, provide signage for each Work, promote through the electronic and written media and plan and pay for the opening night event and the Gala Auction. IMPACT will also provide the sphere and base for each Work and when title passes to IMPACT, insurance as well as transportation expenses and installation expenses.

15. Timeline. The Art & Sol Project is anticipated to operate upon the following timeline, which shall be subject to revision as reasonably required, by IMPACT in its sole discretion:

- December 2004 – February 2005: Spheres delivered to sponsored artist
- March 10, 2005: Artist completes work
- March/April 2003: suns to be placed in venues – presale promotion; opening event
- Spring 2006 – Auction/sale

We have enjoyed working with you on this exciting project and look forward to seeing your completed Work. The participation of artists of your caliber is essential to the success of our project. Please return one signed copy of this letter to our office and keep the other copy for your records.

Page 6

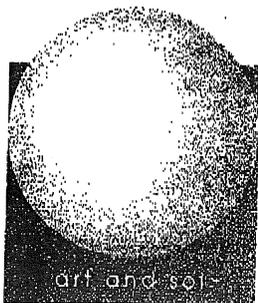
Very truly yours,

IMPACT: Programs of Excellence

By: Norma Geller
Norma Geller, Executive Director
444 E. Robinson Suite B
El Paso, Texas 79902

ACCEPTED AND AGREED TO on this 6th day of July 2004.

Meralce Weissberg
ARTIST
Address: 929 Cherry Hill Lane
El Paso,
Tx. 79912



Re: Art & Sol Project

Dear MERALEE SCHLUSSELBERG

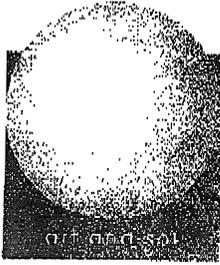
As we discussed, the purpose of this letter is to amend the agreement between you and IMPACT: Programs of Excellence with regard to the Art & Sol Project. Rather than attempting to auction the sols which were created as a result of this project, Impact anticipates that 12 sols will be sold to the City of El Paso for the sum of \$100,000 as described in the documents which are attached to this letter. The rights which will be acquired by the City of El Paso include all merchandising opportunities related to the reproduction and commercial publication of the image of the sols. These opportunities are referred to as merchandising opportunities in this letter.

The original agreement between you and Impact provided that you would receive 20% of any gross proceeds from the sale of the sol you created, as well as 20% of the net proceeds of any revenue received by Impact from the commercial publication of the image of the sol you created. By your execution of this letter agreement, you: (i) acknowledge that you have previously received the sum of \$1,500 as an honorarium for the sol which you created; and (ii) that you will accept the additional sum of \$1,818 as your percentage of the sale of the sol which you created and all merchandising opportunities related to that sol. You also agree that, following the sale of the sols to the City of El Paso, that you will have no control over the reproduction or commercial use of the image of the sol which you created.

The original agreement also provided that each artist would touch up their sol at the end of the project. By your signature hereon, you agree that you will touch up the sol that you created upon request by Impact or by the City of El Paso. If you have not previously done so, you also agree that you will place a copyright notice on and prepare an artist's statement for the sol which you created. You further agree to comply with other reasonable requests which may be made in connection with the sale of the sols to the City of El Paso.

Except as modified herein, the original agreement remains in full force and effect. The effectiveness of the modifications which are described above are contingent upon Impact's receipt of the sum of \$100,000 from the City of El Paso. In the event that Impact does not receive such sum, this amendment will be void and the original agreement will remain in place. The original agreement as amended herein contains our entire agreement regarding the Art & Sol project and no other oral or written representation or understanding shall be considered to be part of our agreement.

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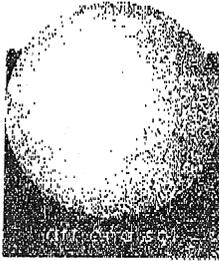


Signed on this 4th day of OCTOBER, 2006.

Artist:

Meralu Kalusilberg
IMPACT: Programs of Excellence

By: *Norma Geller*
Name: NORMA GELLER
Its: EXECUTIVE DIRECTOR



Re: Art and Sol Project

Dear MERALEE SCHLUSSELBERG

As you know, Impact | Programs of Excellence ("Impact") has been working with the City of El Paso ("City") in connection with the City's acquisition of certain sols which were created as part of the Art and Sol Project. The purpose of this letter is to memorialize our agreements regarding the following matters following final negotiations with the City.

1. Rights to be Acquired by City. Pursuant to the agreement with the City, the City will receive the following:
 - 11 sols, including the sol created by you; and
 - the exclusive right to reproduce, publish and merchandise the depiction and image of those sols for any commercial purpose whatsoever and the non-exclusive right to reproduce, publish or merchandise the sols for any non-commercial purpose whatsoever.

2. Copyright and License. Each artist will retain the copyright for the sol created by that artist. Each artist may reproduce the image of the sol created by that artist for non-commercial purposes including, but not limited to, publication of the image of your sol in a body of work. By your signature hereon, you hereby grant to the City an exclusive license to reproduce, publish and merchandise the image of the sol which you created for all commercial purposes that the City may select and a non-exclusive license to reproduce, publish and merchandise the image of the sol which you created for all non-commercial purposes that the City may select. You also release the City from liability for exercising the rights and licenses given to the City. You understand and agree that the sum which you will receive from Impact is the exclusive consideration which you will receive for the use of the image of your sol by the City and that the City will not pay additional royalties or consideration to you.

3. Ratification of October Agreement. Pursuant to the final terms of the agreement between Impact and the City, Impact will receive less than \$100,000.00 from the City. The sums which Impact will pay to the affected artists will not be reduced. Notwithstanding the provisions of the letter agreement you signed in October to the effect that the letter agreement would be void if Impact did not receive the sum of \$100,000.00 from the City, the October letter agreement is hereby ratified and remains in full force and effect.

4. Gala. It is possible that there will be insufficient funds available to hold a gala as anticipated in the initial agreement between you and Impact. By your signature hereon, you agree to release Impact from any responsibility or commitment to hold a gala. Regardless of whether or not a gala is held, a closing ceremony will take place.

Signed on this 6th day of November 2006.

Artist
Meralée Schlüsselberg

Impact | Programs of Excellence
By: Norma Keller
Name: NORMA KELLER
Its: EXECUTIVE DIRECTOR

NOV 06 2006 14:05 FAX 915 351 1101

EXHIBIT "J"

CITY CLERK DEPT.
06 NOV -6 PM 5:04

ART AND SOL CONDITION REPORT

TITLE _____

ARTIST NO ARTIST

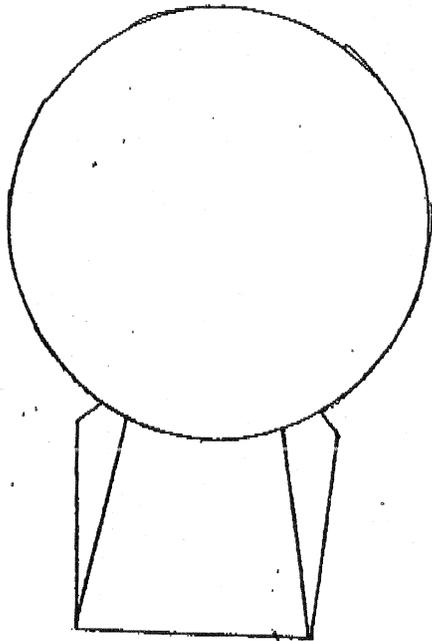
MEDIUM _____

DATE _____

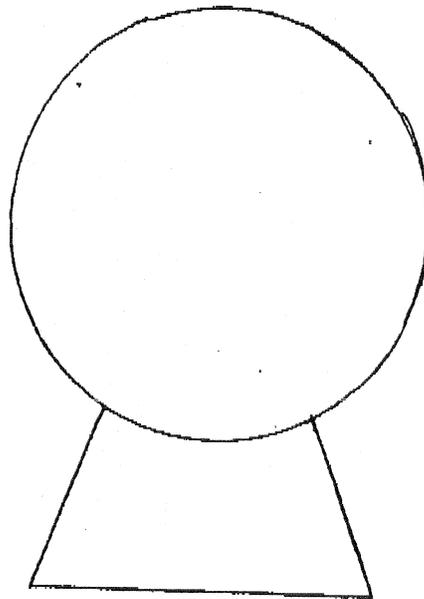
HEIGHT 5' WIDTH 4' DEPTH 6'

OUTGOING _____ INSPECTED BY _____ DATE _____

INCOMING _____ INSPECTED BY _____ DATE _____



FRONT



BACK

NO KNOWN PROBLEMS
NO PHOTOS
NO ARTIST NAME

CITY CLERK DEPT.
06 NOV -6 PM 5:04

ART AND SOL CONDITION REPORT

TITLE _____

ARTIST NO ARTIST

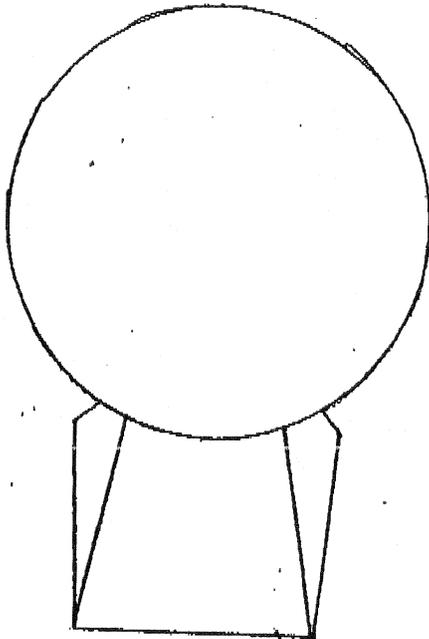
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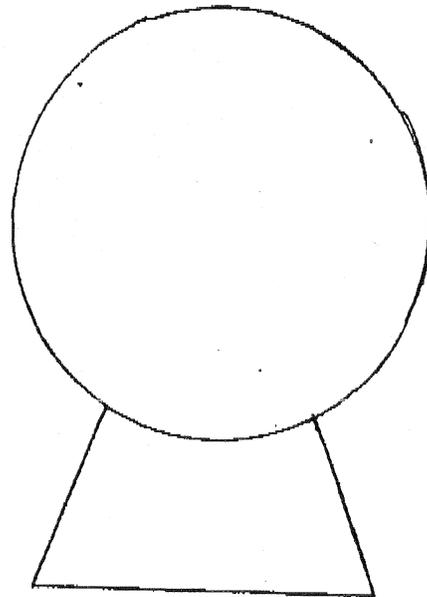
HEIGHT 5' WIDTH 4' DEPTH 6'

OUTGOING _____ INSPECTED BY _____ DATE _____

INCOMING _____ INSPECTED BY _____ DATE _____



FRONT



BACK

NO KNOWN PROBLEMS
NO PHOTOS
NO ARTIST NAME

EXHIBIT "K"

CITY CLERK DEPT.
06 NOV -6 PM 5:04

ART AND SOL CONDITION REPORT

TITLE _____

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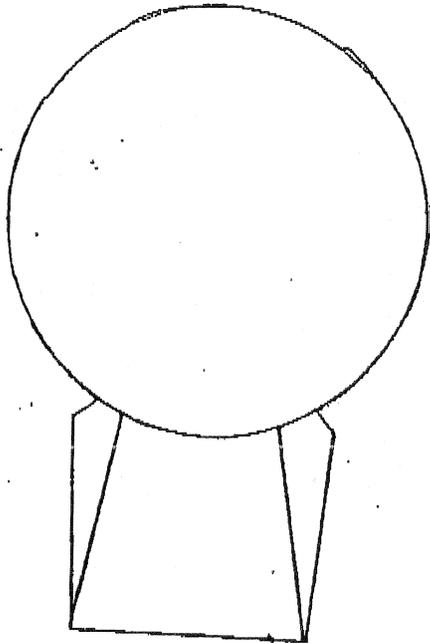
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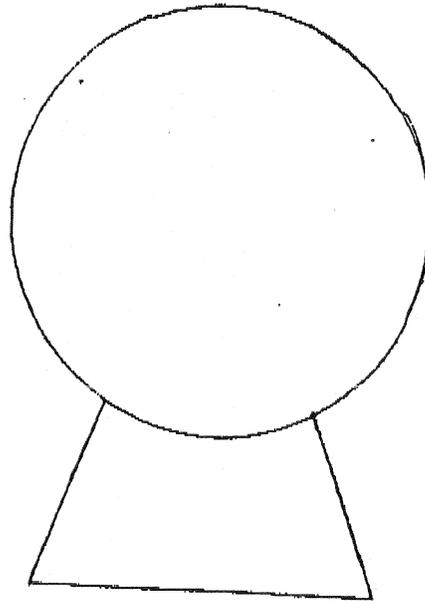
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OUTGOING _____ INSPECTED BY _____ DATE _____

INCOMING _____ INSPECTED BY _____ DATE _____



FRONT



BACK

NO KNOWN PROBLEMS
NO PHOTOS
NO ARTIST NAME

CITY CLERK DEPT.
06 NOV -6 PM 5:04

ART AND SOL CONDITION REPORT

TITLE _____

ARTIST NO ARTIST

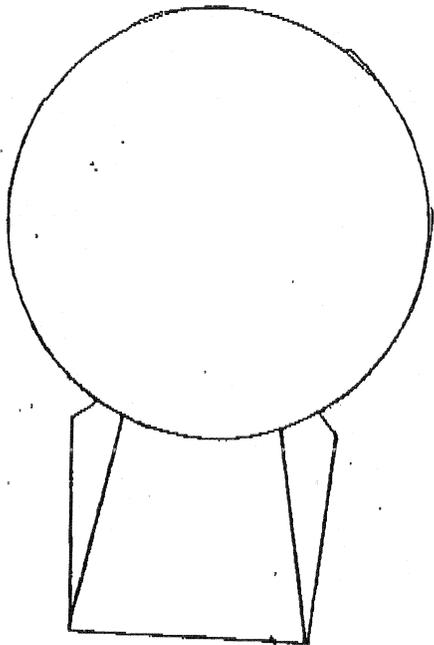
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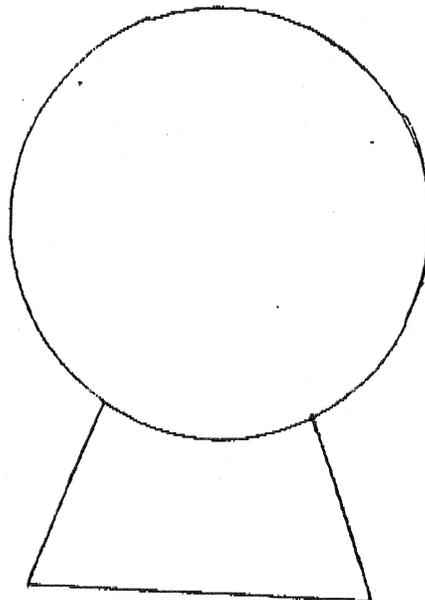
HEIGHT 5' WIDTH 4' DEPTH 6'

OUTGOING _____ INSPECTED BY _____ DATE _____

INCOMING _____ INSPECTED BY _____ DATE _____



FRONT



BACK

NO KNOWN PROBLEMS
NO PHOTOS
NO ARTIST NAME