

COUNTY OF LOS ANGELES



AGREEMENT FOR ARTIST SERVICES  
FOR (NAME OF PROJECT) AT (LOCATION)

**BETWEEN**

THE COUNTY OF LOS ANGELES

AND

NAME OF ARTIST  
ADDRESS  
EMAIL  
VENDOR NUMBER

**AGREEMENT FOR ARTIST SERVICES**

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## AGREEMENT FOR ARTIST SERVICES

This AGREEMENT is entered into and effective as of \_\_\_\_\_, by and between the County of Los Angeles (hereafter "COUNTY"), a body corporate and politic and a political subdivision of the State of California, by and through its Los Angeles County Department of Arts and Culture ("Arts and Culture"), and (Name of Artist), (hereinafter referred to as "ARTIST"), to provide COUNTY with specialized and administrative ARTIST services.

WHEREAS, ARTIST desires to provide, and COUNTY desires to retain ARTIST to provide, specialized consulting and administrative services in connection with (Project);

WHEREAS, ARTIST is a recognized professional with extensive experience and training in ARTIST's specialized field. In rendering these services ARTIST shall at a minimum exercise the ordinary care and skill expected from the average practitioner in ARTIST's profession acting under similar circumstances;

WHEREAS, such services will be temporary and of an extraordinary professional and technical nature;

WHEREAS, the Board of Supervisors has authorized Kristin Sakoda, Director of Arts and Culture to enter into contracts for specialized and administrative ARTIST services.

NOW, THEREFORE, COUNTY and ARTIST agree as follows:

### 1.0 **TERM OF AGREEMENT**

- 1.1 The term of this Agreement shall commence one day following execution of this Agreement by COUNTY and shall expire on (date), subject to COUNTY's right to terminate earlier as provided herein.
- 1.2 This Agreement may be extended at the sole discretion of COUNTY by amending the Agreement in writing to reflect such extension, as indicated in the solicitation documents.

### 2.0 **MAXIMUM AMOUNT AND ARTIST PAYMENT**

- 2.1 **The Maximum Amount** of this Agreement shall be \$ \_\_\_\_\_ (including all materials, labor and out of pocket expenses) for the term of this Agreement as set forth in Section 2.0, above unless otherwise extended by written notice and agreed to by both parties.
- 2.2 **Artist Contingency:** The Maximum Contract Amount designates \$ \_\_\_\_\_ as the Artist Contingency to be released only after Arts and Culture has provided prior written approval. In the event that ARTIST anticipates the need to use a portion of the Artist Contingency, ARTIST shall submit a written request demonstrating that there is insufficient funds remaining to complete the project without use of the Artist Contingency. This request shall include invoices, estimates, and a revised budget. Arts and Culture shall review the request to use the Artist Contingency funds for accuracy and completion, and may require additional documentation or information. A request to use the Artist Contingency shall not be unreasonably denied or conditioned.
- 2.3 **Remaining Funds.** In the event that there are unused funds in the Artist Contingency after completion of the project, Arts and Culture, at its sole discretion, may choose to negotiate a contract amendment with ARTIST to deliver additional artwork, services, or programming.
- 2.4 Payment to ARTIST shall be made in arrears at the rates specified in Attachment A to this Agreement, "Scope of Work, Schedule, Payment Milestones," provided that ARTIST

is not in default under any provision of this Agreement and has submitted a complete and accurate statement of payment due with documentation and deliverables attached supporting the statement of payment due. ARTIST's fees shall include all applicable taxes, and any additional taxes that are not included remain the responsibility of ARTIST.

- 2.5 ARTIST shall submit to the Project Manager all invoices, with documentation supporting the invoiced amounts, and the required deliverables (see Section 3.0, below, Statement of Work/Deliverables).
- 2.6 Upon approval of the required deliverables, the Project Manager shall review the invoice and make adjustments for any liquidated damages or other offset authorized by this Agreement, and authorize payment of an accurate invoice as soon as possible after receipt of ARTIST's billing. COUNTY will make a reasonable effort to effect payment within thirty (30) days following receipt of an invoice which is accurate as to form and content.

### 3.0 **STATEMENT OF WORK/DELIVERABLES**

#### **DESCRIPTION OF THE ARTWORK**

ARTIST shall conduct public engagement, develop [OR FINALIZE] an artwork design, issue construction documents, fabricate and oversee installation of a ARTWORK DESCRIPTION for the location.

[SELECT ONE, DELETE OTHER]

Artwork will be fabricated from [MATERIAL INFO] and [INSTALLATION DETAILS], according to the drawings and specifications as part of Attachment B, "ARTIST's Concept Design."

Artwork to be designed according to the specifications provided by the Project Manager. Upon approval by Arts and Culture, through a Notice to Proceed, the Artwork design will be incorporated herein into Attachment B, 'ARTIST'S Design.'

The goal of the parties is the installation of Artwork which represents the creative talents of the ARTIST and satisfies the specifications of the Project Coordination Committee. The parties recognize that they must consult closely in order to accomplish this goal, and that changes in the design may become desirable as the Artwork is fabricated and/or installed. Material and conceptual changes may be made to design of the Artwork as proposed herein by the ARTIST prior to the COUNTY's Acceptance of the Artwork (such as changes in the Artwork's material, color, size, relative scale and placement as compared to the preliminary design therefore that was most recently accepted or approved by the COUNTY) but only after the ARTIST has given written notice of such desired changes to the Project Manager and has received written approval of each such change. Upon reasonable prior notice to the ARTIST, the Project Coordination Committee, COUNTY, its Project Manager and/or the COUNTY's agents shall have a right to make reasonable inspections and reviews of the ARTIST's progress with respect to the Artwork.

### 4.0 **APPLICABLE DOCUMENTS**

- 4.1 Attachments A (Scope of Work, Schedule and Payment Milestones) and Attachment B (Artist's Conceptual Design) as set forth below are attached to and form a part of this Agreement.
- 4.2 This Agreement and the Attachments attached hereto constitute the complete and exclusive statement of understanding between the parties which supersedes all previous agreements, written or oral, and all other communications between the parties relating to the subject matter of this Agreement.

4.3 In the event of any conflict or inconsistency between this Agreement and the attachments, or between the attachments, it shall be resolved by giving precedence first to this Agreement and then to the attachments in the following order: Attachment B, Attachment A.

## 5.0 **INTERPRETATION**

This Agreement shall be interpreted in accordance with the laws of the State of California. The headings herein contained are for convenience and reference only and are not intended to define the scope of any provision thereof.

## 6.0 **DEFINITIONS**

The following words as used herein shall be construed to have the following meaning, unless otherwise apparent from the context in which they are used:

**Artist**: means the artist, sole proprietor, partnership, or corporation which has entered into a contract with COUNTY to perform or execute the work covered by these specifications, including ARTIST's employees, agents, assigns, contractors, subcontractors, and anyone else involved in any manner in the exercise of the rights therein given to the ARTIST.

**Artist Contingency**: means a portion of the Revised Budget, as determined by the Arts and Culture, reserved for construction, installation or other related costs that, due to factors beyond the control of the ARTIST, exceed the initial budget estimates. Prior written approval is required before these costs may be incurred.

**Arts and Culture Project Manager ("Project Manager")**: means the COUNTY person who will monitor and evaluate ARTIST's performance in the daily management of the Agreement and provide direction to ARTIST in the areas relating to policy, procedures and other matters within the purview of this Agreement. The Project Manager for this Agreement shall be Director of Civic Art, or a designee. All work performed under this Agreement shall be subject to the approval of the Project Manager or designee.

**Artwork**: means the work as ultimately conceived, designed, fabricated and installed by the ARTIST after consultation with and approval by the Project Coordination Committee and applicable jurisdictional agencies.

**Artwork Study**: means a drawing, sketch, painting, mockup or other related items created in the process of developing the finished artwork, as visual notes, presentation or practice.

**Board of Supervisors**: means the Board of Supervisors of the County of Los Angeles.

**Deaccession**: means the permanent removal of an accessioned Artwork from COUNTY ownership by sale, donation or destruction.

**Derivative Work**: means a work based on or derived from one or more already existing works. Examples of derivative works include a sculpture created from a drawing or a drawing created from a photograph. A derivative work for the purpose of this Agreement does not mean an entirely new work created in the recognizable style of the ARTIST.

**Fiscal Year**: means COUNTY's Fiscal Year which commences on July 1 and ends the following June 30.

**Premises**: means (name and location of project)

**Public Engagement:** means activities of artistic inquiry and/or audience participation that deepen an artist's connection with community and site while stimulating reflection and idea generation as it relates to the project or artwork's objectives.

Artistic inquiry means research, data gathering, and other activities that inform the Project. Examples include, but are not limited to, observations of Site and local community, and personal interaction with community members, such as formal and informal interviews or conversations, to glean impressions of the community's culture and habits, and important issues facing the community.

Audience participation means engaging members of the public, County employees, and others who will utilize or come in contact with site through activities in which such people are likely to offer their perceptions, experiences, and knowledge in a way that will meaningfully inform the project and/or enhance community's connection to the artwork. Examples include, but are not limited to, activities demonstrating art and/or art process, such as expressions, live art actions, and happenings.

**Project Coordination Committee:** means a committee established at the beginning of each new Civic Art Project that participates in the project from artist selection through dedication and works to ensure close coordination among departments.

**Reproduction:** means a two-dimensional or three-dimensional representation of the Artwork such as a photograph or scale model, recognizable as representing the Artwork.

## 7.0 **FURTHER TERMS AND CONDITIONS**

### 7.1 **APPROVAL OF DELIVERABLES**

All tasks, "work products" (deliverables), services or other work performed by ARTIST are subject to the written approval of the Project Manager or designee. Approval of deliverable(s) will not be unreasonably withheld by COUNTY. Rejection of deliverable(s) shall be on clearly stated grounds with reference to objective criteria based upon deviations from original designs as approved.

### 7.2 **ACCEPTANCE OF THE ARTWORK AFTER INSTALLATION**

As a condition precedent to acceptance of the Artwork, the Project Manager, ARTIST, general contractor and other stakeholders shall conduct an inspection of the installed Artwork within thirty days of Artwork installation. If the Project Manager determines that the installed Artwork meets this Agreement's requirements, the Project Manager shall issue a written Notice of Artwork Acceptance (Acceptance Notice), at which time the ARTIST-provided one-year warranty period provided in Section 7.4.2 will commence. If the Project Manager determines that the installed Artwork does not meet this Agreement's requirements, COUNTY shall notify ARTIST of the defects through the issuance of a Defect Notice. Such Defect Notice shall include clearly stated grounds with reference to objective criteria identifying material defects or deviations from original designs as approved. Once the defects or deviations are corrected, the Project Manager will issue an Acceptance Notice.

### 7.3 **OWNERSHIP OF ARTWORK AND ARTWORK STUDIES**

7.3.1. Upon ARTIST completion of all project milestone and deliverables, COUNTY shall issue a Notice of Project Completion (Project Completion Notice), at which time the Artwork will be accessioned into the LA County Civic Art Collection and all right, title and ownership of the Artwork shall vest in the COUNTY.

- 7.3.2. Any and all Artwork Studies created or prepared by ARTIST pursuant or related to this Agreement will become the sole and exclusive property of the COUNTY, as determined by the Project Manager, except that copyright in and to any of the Artwork Studies will vest and be held in the name of the ARTIST. ARTIST hereby grants to the COUNTY the right to reproduce and retain copies of all Artwork Studies, design plans and drawings produced and used by the ARTIST in the design and installation of the Artwork for the purposes of (1) fulfilling its responsibilities as owner of the Artwork and (2) public exhibition related to the display of the Artwork.

**7.4 ARTIST'S REPRESENTATIONS AND WARRANTIES**

- 7.4.1 The ARTIST represents and warrants to the COUNTY that the fabrication and installation of the Artwork will be performed in a workmanlike manner and that the Artwork will be free of defects in workmanship and materials, including inherent vice and portions deemed dangerous to the public, and that the ARTIST will, at the ARTIST'S own expense, remedy any defects due to faulty workmanship or materials, or to inherent vice, which appear within a period of one year from the date the of the COUNTYs Acceptance Notice. "Inherent vice" refers to a quality within the material or materials which comprise the Artwork which, either alone or in combination, results in the tendency of the Artwork to destroy itself. If the Artwork should deteriorate because of faulty workmanship or material or an inherent vice within one (1) year from the date of the COUNTY's Acceptance Notice, the ARTIST will promptly repair or replace the Artwork without any charge to the COUNTY. However, the COUNTY may, in its sole discretion and only to the extent it deems advisable, assist the ARTIST for out-of-pocket expenses related to the repair or replacement of the Artwork, including materials, contracted labor, travel costs and subcontractor charges; but in no event shall it pay any charge for ARTIST'S labor. Any and all repair or replacement completed by the ARTIST shall be consistent with professional conservation standards as determined solely by the COUNTY.
- 7.4.2 Warranties provided to the ARTIST by any subcontractor shall be for not less than one (1) year [or more if applicable] from the date of the COUNTY's Acceptance Notice, and ARTIST shall require that all of its subcontractors shall allow the assignment of these warranties to the COUNTY.
- 7.4.3 The ARTIST represents and warrants to the COUNTY that the Artwork will not require maintenance substantially in excess of that described in the maintenance recommendations to be provided by the ARTIST pursuant to this Agreement.
- 7.4.4 The ARTIST represents to the COUNTY that the Artwork is solely the result of the artistic efforts of the ARTIST, and that it will be installed free and clear of any liens, claims or other encumbrances of any type from any source whatsoever.
- 7.4.5 The personal skill, judgment and creativity of the ARTIST is an essential element of this Agreement. Therefore, although the parties recognize that the ARTIST may employ qualified personnel to work under the ARTIST'S supervision, the ARTIST shall not assign, transfer or subcontract the creative and artistic portions of the Artwork to another party without prior written consent of the COUNTY.



- 7.4.6 The ARTIST represents and warrants to the COUNTY that the Artwork is unique and an edition of one and does not infringe upon any copyright of any person or entity, and that the ARTIST will not execute or authorize another to execute another work of art of the same theme and/or design, dimensions, and/or materials as the Artwork commissioned pursuant to this Agreement. This warranty shall continue in effect for a period of the life of the ARTIST.
- 7.4.7 The ARTIST agrees to cooperate in making or permitting adjustments to the Artwork if necessary to eliminate any potential safety hazards, as determined by the COUNTY in its sole discretion, which become apparent within one (1) year of the date of the COUNTY's Acceptance Notice.
- 7.4.8 The ARTIST and the COUNTY hereby agree that the anticipated lifespan of the Artwork shall be 25 years from the date of the COUNTY's Acceptance Notice.
- 7.4.9 The terms of this Section 7.4 shall survive the expiration or termination of this Agreement.

**7.5 AUTHORIZATION WARRANTY**

ARTIST represents and warrants that the signatory to this Agreement is fully authorized to obligate ARTIST hereunder and that all acts necessary to effectuate the valid execution of this Agreement by any fictitious legal entity which constitutes ARTIST have been accomplished.

**7.6 CHANGES AND AMENDMENTS OF TERMS**

COUNTY reserves the right to change, through negotiation, any portion of the work required under this Agreement, or amend such other terms and conditions which may become necessary. Any such revisions shall be accomplished in the following manner:

- 7.6.1 For any change which does not materially affect the scope of work or any other term or condition included under this Agreement, a *Change Notice* shall be prepared and signed by the Project Manager and ARTIST.
- 7.6.2 For any revision which materially affects the scope of work, price, or any term and condition included in the Agreement, a negotiated amendment to the Agreement shall be executed by ARTIST and COUNTY.
- 7.6.3 For any change affecting ARTIST's project personnel, ARTIST shall submit written notification and request to effect the change to the Project Manager. The Project Manager or designee may accept or reject ARTIST's written notification and request.

**7.7 ARTIST PERSONNEL**

ARTIST shall provide qualified personnel to perform work and provide "work products" (deliverables) as indicated in the Agreement. ARTIST will ensure that its staff possesses the required professional licenses and certificates, if any, required by the State of California.

**7.8 COUNTY'S QUALITY ASSURANCE PLAN**

COUNTY or its agent will evaluate ARTIST's performance under this Agreement on not less than an annual basis. Such evaluation will include assessing ARTIST's compliance

with all Agreement terms and performance standards. ARTIST deficiencies which COUNTY determines are severe or continuing and that may place performance of the Agreement in jeopardy, if not corrected, will be reported to the Board of Supervisors. The report will include improvements/corrective action measures taken by COUNTY and ARTIST. If improvement does not occur consistent with the corrective action measures, COUNTY may terminate this Agreement or impose other penalties as specified in this Agreement.

**7.9 COUNTY'S RIGHT TO RENEGOTIATE AGREEMENT**

COUNTY retains the right to renegotiate the terms, conditions and fees during the period of the Agreement if such renegotiation is necessitated by budget shortfalls and reductions. ARTIST is not obligated to accept such renegotiation terms and, in the event ARTIST and COUNTY cannot agree to new terms, this Agreement may be terminated for the convenience of the COUNTY pursuant to Section 7.25 herein.

**7.10 DELEGATION AND ASSIGNMENT**

ARTIST shall not delegate its duties nor assign its rights hereunder, either in whole or in part, without the prior written consent of COUNTY.

7.10.1 Any delegation of duties shall be in the form of a subcontract. ARTIST'S request to COUNTY for approval to enter into a subcontract shall include:

7.10.1.1 A description of the services to be provided by a proposed subcontractor.

7.10.1.2 Identification of the proposed subcontractor and an explanation of why and how the proposed subcontractor was selected.

7.10.1.3 The proposed subcontract amount, together with ARTIST's cost or price analysis thereof.

7.10.1.4 A copy of the proposed subcontract. Any later modification or amendment of such subcontract shall be approved in writing by COUNTY before such modification or amendment is effective.

7.10.1.5 Subcontracts shall be made in the name of ARTIST and shall not bind nor purport to bind COUNTY. The making of subcontracts hereunder shall not relieve ARTIST of any requirement under this Agreement, including, but not limited to, the duty to properly supervise and coordinate the work of the subcontractor. Approval of the provisions of any subcontract by COUNTY shall not be construed to constitute a determination of the allowableness of any cost under this Agreement. In no event shall approval of any subcontract by COUNTY be construed as affecting any increase in the Maximum Amount of this Agreement set forth herein.

**7.11 DISCLOSURE OF INFORMATION**

ARTIST shall not disclose any details in connection with this Agreement to any party, except as may be otherwise provided herein or required by law. However, in recognizing ARTIST's need to identify its services and related clients to sustain itself, COUNTY shall not prohibit ARTIST from publicizing its role under this Agreement within the following conditions:

- 7.11.1 ARTIST shall develop all publicity material in a professional manner.
- 7.11.2 During the course of performance of this Agreement, ARTIST, its employees, agents, and subcontractors shall not publish or disseminate commercial advertisements, press releases, opinions or feature articles, using the name of COUNTY without COUNTY's prior consent.
- 7.11.3 ARTIST shall not possess any interest, title, or right to any COUNTY case data or records. ARTIST is prohibited from disclosing any identified or unidentified raw COUNTY data to any other party, or from combining any identified or unidentified raw COUNTY data with that of any other ARTIST client or other party into any database or report format for any purpose whatsoever without the expressed, written authorization of COUNTY.

**7.12 INDEMNIFICATION**

- 7.12.1 The ARTIST shall indemnify, defend and hold harmless the COUNTY, its Special Districts, elected and appointed officers, employees, agents and volunteers ("County Indemnitees") from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from and/or relating to this Contract, except for such loss or damage arising from the sole negligence or willful misconduct of the County Indemnitees.

**7.13 INDEPENDENT CONTRACTOR STATUS**

- 7.13.1 The ARTIST shall perform all services hereunder as an independent contractor and is not and shall not be considered as an employee of the COUNTY. The Agreement is by and between the ARTIST and the COUNTY and is not intended, and shall not be construed, to create the relationship of employee, agent, partnership, joint venture, or association, between the COUNTY and the ARTIST.
- 7.13.2 The ARTIST understands and agrees that all persons furnishing services to the ARTIST pursuant to this Agreement are, for purposes of workers' compensation liability, employees solely of the ARTIST and not the COUNTY. The ARTIST shall bear the sole responsibility and liability for furnishing workers' compensation benefits to any person for injuries arising from or connected with services performed by or on behalf of the ARTIST pursuant to this Agreement.
- 7.13.3 ARTIST represents and warrants to COUNTY, and COUNTY relies on such representation and warranty, that ARTIST has the necessary skills, competency and expertise to fully and completely perform the specialized services called for under this Agreement. COUNTY and ARTIST understand and agree that ARTIST is responsible for the means and methods of performing these special services and accomplishing the results, deliverables, objectives and/or purposes specified and/or requested by COUNTY pursuant to this Agreement.

**7.14 INSURANCE COVERAGE REQUIREMENTS**

Without limiting the ARTIST's indemnification of the COUNTY, the ARTIST shall procure and maintain throughout the Term of the Agreement the following programs of insurance as specified, except as otherwise noted. Such insurance shall be provided by insurers

acceptable to COUNTY, and shall be primary to and not contributing with any other insurance or self-insurance programs maintained by the COUNTY, and such coverage shall be provided and maintained at the ARTIST'S expense.

ARTIST shall provide a certificate of insurance or other evidence of coverage acceptable to COUNTY, which shall evidence that the specified types and limits of insurance are in effect. Failure by ARTIST to provide evidence of, or to maintain the required insurance, shall constitute a material breach of the contract upon which COUNTY may immediately terminate or suspend this Agreement.

7.14.1 **General Liability Insurance**

Such coverage shall be obtained prior to the commencement of the fabrication of the Artwork, and maintained until such time as ARTIST obtains COUNTY'S written Project Completion Notice. Such insurance also shall name COUNTY as an additional insured, and provide limits of not less than the following:

General Aggregate (select one/delete one)	\$ 1 million or \$2 million
Products/Completed Operations Aggregate	\$1 million
Personal and Advertising Injury	\$1 million
Each Occurrence	\$1 million

Such coverage shall be written on an ISO Commercial General Liability form (CG 00 01) or its equivalent. Alternatively and at its sole option, the COUNTY also may accept liability coverage written on a Business Owners, a "Home Based" or similar "Micro" Business Policy form, or a Homeowners Insurance Policy form, providing such policy covers liability arising out of or in connection with the ARTIST'S business operations, including the ARTIST'S operations at locations other than the ARTIST'S residence premises.

Insurance Coverage Provided by Contractor: ARTIST may satisfy all or any portion of the above general liability insurance requirements by providing evidence acceptable to COUNTY that the ARTIST is insured under a policy(ies) maintained by another party, such as a prime or general contractor.

7.14.2 **Automobile Liability Insurance**

(select one – delete others)

The minimum amounts required by CA Insurance Code Section 16056.

or

Bodily injury liability each person	\$100,000
Bodily injury liability each accident	\$300,000
Property damage liability	\$100,000

or

Bodily injury liability each person	\$1 million
Bodily injury liability each accident	\$1 million
Property damage liability	\$1 million

Such insurance shall include coverage for any vehicle the ARTIST will use to perform the services listed herein; such auto liability insurance must cover liability arising out of the ARTIST's business use of the vehicle.

7.14.3 **Workers Compensation and Employers' Liability Insurance**

ARTIST shall be responsible for providing workers compensation benefits, as required by the Labor Code of the State of California or by any other state,

and for which ARTIST is responsible. If ARTIST's employees will be engaged in maritime employment, coverage shall provide workers compensation benefits as required by the U.S. Longshore and Harbor Workers' Compensation Act, Jones Act or any other Federal law for which ARTIST is responsible. In all cases, the above insurance also shall include Employers' Liability coverage with limits of not less than the following:

Each accident	\$1 million
Disease - policy limit	\$1 million
Disease - each employee	\$1 million

(select one – delete other)

7.14.4

**Property Insurance**

The ARTIST shall obtain property insurance for loss of materials paid for by the COUNTY for any loss which occurs prior to Acceptance by the COUNTY. The risk of loss or damage shall be borne by the ARTIST as provided in Section 7.15 herein below.

or

Section not used.

7.14.5

**Waiver of Subrogation**

The ARTIST agrees to release the COUNTY and waive its rights of recovery against the COUNTY under the insurance policies specified in this Agreement.

7.14.6

**Notification of Incidents, Claims or Suits**

ARTIST shall report to COUNTY:

- 7.14.6.1 Any accident or incident relating to services performed under this Agreement which involves injury or property damage which may result in the filing of a claim or lawsuit against ARTIST and/or COUNTY. Such report shall be made in writing within 24 hours of occurrence.
- 7.14.6.2 Any third party claim or lawsuit filed against ARTIST arising from or related to services performed by ARTIST under this Agreement.
- 7.14.6.3 Any injury to an ARTIST employee which occurs on COUNTY property. This report shall be submitted on a COUNTY "Non-employee Injury Report" to the Project Manager.
- 7.14.6.4 Any loss, disappearance, destruction, misuse, or theft of any kind whatsoever of COUNTY property, monies or securities entrusted to ARTIST under the terms of this Agreement.

7.14.7

**Insurance Coverage Requirements for Subcontractors** ARTIST shall ensure any and all subcontractors performing services under this Agreement meet the insurance requirements of this Agreement by either:

- 7.14.7.1 ARTIST providing evidence of ARTIST's insurance covering the activities of subcontractors, or

7.14.7.2 ARTIST providing evidence submitted by subcontractors evidencing that subcontractors maintain the required insurance coverage. COUNTY retains the right to obtain copies of evidence of subcontractor insurance coverage at any time.

**7.15 RISK OF LOSS**

Except as otherwise provided herein, all risk of destruction or damage to the Artwork or any part thereof from any cause whatsoever shall be borne by the ARTIST until written Acceptance Notice is issued by the COUNTY. The ARTIST shall, at ARTIST's sole expense, rebuild, repair, and/or restore any portion of the Artwork which has been damaged. ARTIST shall not be responsible for repairing any damage caused by jobsite contractors or subcontractors not under the ARTIST's contractual control or supervision.

**7.16 LICENSES, PERMITS, REGISTRATIONS AND CERTIFICATES**

ARTIST shall obtain and maintain in effect during the term of this Agreement, all licenses, permits, registrations and certificates, if any, required by law, which are applicable to the performance of this Agreement, and shall further ensure that all of its officers, employees and agents who perform services hereunder obtain and maintain in effect during the term of this Agreement, all licenses, permits, registrations and certificates required by law which are applicable to their performance of services hereunder.

**7.17 LIQUIDATED DAMAGES**

If ARTIST fails to perform agreed services of this Agreement, or does not complete such services within the agreed specified time, the Project Manager may, in the exercise of the Project Manager's sole discretion, determine that the proper remedy is to reduce ARTIST's compensation by up to ten percent (10%) of the total contract amount. The parties agree that this amount is reasonable at the time of the making of this Agreement as a sum for liquidated damages. The parties have agreed on this amount for liquidated damages because, due to the nature of the services, it would be impracticable or extremely difficult to fix the actual damages. Liquidated damages are not an exclusive remedy under this Agreement, and the COUNTY retains its other remedies in law and equity.

**7.18 MEETINGS**

All meetings between COUNTY and ARTIST will be held at mutually agreed upon locations in Los Angeles County.

**7.19 NOTICE OF DELAYS**

Except as otherwise expressly provided herein, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Agreement, that party shall, within five (5) working days, give written notice thereof, including all relevant information with respect thereto to the other party.

**7.20 NOTICES**

7.20.1 Notices required or permitted to be given under the terms of this Agreement or by any law now or hereafter in effect may, at the option of the party giving notice, be given by personal delivery or by enclosing the same in a sealed envelope addressed to the party for whom intended and by depositing such envelope with postage prepaid in the United States Post Office or substation thereof, or any public mail box.

The notices and envelopes containing same to COUNTY shall be addressed to:

County of Los Angeles  
Department of Arts and Culture  
ATTN: Civic Art Division  
1055 Wilshire Blvd, Suite 800  
Los Angeles, CA 90017

The notices and envelopes containing same to ARTIST shall be addressed to:

Name and Address of Artist

ARTIST is responsible to notify COUNTY of changes of address. Adequate notification shall consist of delivery by mail to the last address provided by ARTIST to COUNTY as required herein.

- 7.20.2 In the event of suspension or termination of this Agreement, notices may also be given upon personal delivery to any person whose actual knowledge of such suspension or termination would be sufficient notice to ARTIST.
- 7.20.3 COUNTY shall provide notices required under Sections 7.21, 7.22, and 7.23 by registered mail, and/or by email notice, and/or by personal service.

## 7.21 INTELLECTUAL PROPERTY RIGHTS

- 7.21.1 Except as otherwise expressly provided by this Agreement, the ARTIST shall retain all rights to the Artwork and Artwork Studies pursuant to the Copyright Act of 1976 (17 U.S.C. 101 et seq. as amended, and any successor act), except that as to COUNTY, its agents and contractors, the ARTIST hereby waives any rights under the Visual Artists Rights Act ("VARA") as codified in 17 U.S.C. sections 106, 106A(a), 113, and the California Art Preservation Act ("CAPA"), as codified in Cal. Civ. Code § 987, *in favor of the express contractual provisions elucidated herein under Section 7.22 entitled "Moral Rights"*. ARTIST also waives any other rights under the Copyright Act of 1976 which are expressly waived and/or granted to the COUNTY in this Agreement. Except as otherwise expressly provided by this Agreement, all other rights in and to the Artwork concerning any continuing interest the ARTIST may have in the maintenance or modification of the Artwork, are expressly waived by the ARTIST and, insofar as such rights are transferable, are assigned to the COUNTY.
- 7.21.2 The ARTIST shall, at ARTIST's sole expense, cause to be registered with the United States Register of Copyrights a copyright of the Artwork in the ARTIST's name, and shall provide the COUNTY with a copy of the application for registration, the registration number and the effective date of the registration, and agrees to enforce and defend any attempt(s) to infringe upon ARTIST's copyright. ARTIST expressly assigns to the COUNTY ARTIST's right to enforce and defend the copyright in the event ARTIST does not act within a reasonable time after written notice from the COUNTY to do so. In the event either ARTIST or COUNTY does not elect to participate in any action related to the WORK the non-participating party may be entitled to its equitable share of any recovery, based upon its level of participation or cooperation.
- 7.21.3 ARTIST and COUNTY acknowledge that ownership and possession of the

physical Artwork shall be transferred to COUNTY. ARTIST retains ownership of the copyright in the Artwork.

7.21.4 ARTIST hereby grants to the COUNTY an irrevocable and exclusive worldwide license to reproduce, distribute, and/or display two-dimensional reproductions of the Artwork for any non-commercial purpose including, without limitation, advertising, brochures, postcards, media publicity, and catalogues or similar publications. All such reproductions shall bear a copyright notice in ARTIST's name. ARTIST hereby grants to the COUNTY the right to reproduce and retain copies of the design plans and drawings produced and used by the ARTIST in the design and installation of the Artwork for the purposes of (1) fulfilling its responsibilities as owner of the Artwork and (2) public exhibition related to the display of the Artwork.

If the COUNTY wishes to make reproductions of the Artwork for commercial purposes, including, but not limited to tee shirts, posters or other reproductions for sale, the Parties shall execute a separate agreement to address the terms of the license granted by the ARTIST and the royalty the ARTIST shall receive.

7.21.5 Because the Artwork will be unique, ARTIST waives the right to make or to authorize others to make two or three-dimensional reproductions of the Artwork, or to make derivative works based on the copyrighted Artwork, except with prior written permission by the COUNTY. COUNTY shall not unreasonably withhold permission for such commercial reproductions.

(select one paragraph – delete the other)

7.21.6 Should the COUNTY grant the right to reproduce or to make derivative works of the Artwork to the ARTIST, COUNTY shall be entitled to \_\_\_ percent (\_\_\_%) of the net proceeds that ARTIST or others may receive for such reproduction.

or

7.21.6 Section not used.

7.21.7 ARTIST agrees that in any public showing under ARTIST's control of reproductions and/or derivative works of the Artwork, ARTIST shall provide public written acknowledgement that the COUNTY is the owner of the Artwork.

7.21.8 The COUNTY agrees that unless the ARTIST requests otherwise in writing, the COUNTY shall give ARTIST public, written authorship credit for the Artwork or any authorized reproduction thereof.

7.21.9 The terms of this Section 7.21 shall survive the expiration or termination of this Agreement.

## 7.22 MORAL RIGHTS

7.22.1 The COUNTY and ARTIST recognize the importance of ARTIST's moral rights of attribution and integrity, as identified in the Visual Artists Rights Act ("VARA") as codified in 17 U.S.C. sections 106, 106A(a), 113, and the California Art Preservation Act ("CAPA"), as codified in Cal. Civ. Code § 987. ARTIST and COUNTY hereby agree to advance those statutory goals by



private contract as provided for herein.

7.22.2 ARTIST shall have the following moral rights:

7.22.2.1 ARTIST shall have the right to claim authorship of the Artwork.

7.22.2.2 ARTIST shall have the right to prevent the use of his or her name as the author of the work of visual art in the event of any physical defacement, mutilation, alteration, or destruction of the Artwork.

7.22.2.3 ARTIST shall have the right, subject to the notice provisions of section 7.22.3.4 below, to prevent any intentional defacement, mutilation, alteration or destruction of the Artwork.

7.22.3 **Procedure for Protecting Moral Rights**

7.22.3.1 COUNTY and its agents shall not intentionally commit, or authorize the intentional commission of, any physical defacement, mutilation, alteration, or destruction of the Artwork during the anticipated lifespan of the Artwork except as provided herein.

7.22.3.2 To effectuate the rights in 7.21.3.1, ARTIST's remedy is limited to an action seeking injunctive relief.

7.22.3.3 The rights and duties of this subsection 7.22.3: (i) Shall, with respect to the ARTIST be limited to the life of the ARTIST, or limited to the anticipated life of the Artwork as defined in this Agreement, whichever is less. (ii) Shall exist in addition to any other rights and duties which may now or in the future be applicable; and (iii) Except as provided in this paragraph, may not be waived except by an instrument in writing expressly so providing which is signed by the ARTIST.

7.22.3.4 If COUNTY wishes to commit any of the acts in section 7.22.3.1, above, or remove the Artwork or sell, lease or otherwise surrender possession of the building to anyone who will not agree to the terms of this subsection, the rights and duties created under this section shall apply unless COUNTY has notified ARTIST in writing a minimum of thirty (30) days, or as long as ninety (90) or more days in the sole discretion of the COUNTY in advance of COUNTY's action that may affect the Artwork in violation of this section. If the Artwork is removed at the expense of ARTIST, or his or her heir, beneficiary, devisee, or personal representative, title to the Artwork shall pass to that person.

7.22.3.5 Nothing in this subdivision shall affect any rights of Authorship.

7.22.3.6 No action may be maintained to enforce any liability under this section unless brought within three years of the act complained of or one year after discovery of the act,

whichever is longer.

- 7.22.3.7 If any provision of this section or the application thereof to any person or circumstance is held invalid for any reason, the invalidity shall not affect any other provisions or applications of this section which can be effected without the invalid provision or application, and to this end the provisions of this section are severable.

## 7.23 COUNTY'S RESPONSIBILITY AFTER ACCESSION

- 7.23.1 The COUNTY recognizes that the maintenance of the Artwork is essential to the integrity of the Artwork and agrees that it will take reasonable efforts to see that it is properly maintained, taking into account the written maintenance guidelines of the ARTIST delivered with the close out documentation. The COUNTY reserves the right to make minor or emergency repairs without consultation with the ARTIST provided the work is performed in accordance with recognized principles of conservation. In the event the COUNTY desires to make repairs to or to restore the Artwork during the ARTIST's lifetime and such work does not comply with the ARTIST's written maintenance guidelines, the COUNTY shall make a good faith effort to notify the ARTIST in writing at least thirty (30) days in advance to request that ARTIST advise COUNTY about the proposed repair or restoration, and ARTIST shall have a right to reasonable compensation with respect to such advice and/or services provided.
- 7.23.2 While it is the intent of the COUNTY to permanently retain and publicly display the Artwork, circumstances may arise that would make it prudent for the COUNTY to remove the Artwork from public display. ARTIST hereby acknowledges that the Artwork, when installed, will be incorporated within and made a part of the Premises in such a way that removing the Artwork from the Premises may cause destruction, distortion, mutilation or other modification of the Artwork. ARTIST agrees that the COUNTY shall have the absolute right incidental to its ownership of the Premises and the Artwork to remove, relocate, replace, transport, or store in whole or in part (such actions being referred to herein as "Removal"), or to alter, change, modify, or destroy (such actions being referred to herein as "Alterations"), the Artwork at such times as the COUNTY shall deem necessary in order to exercise its powers and responsibilities with regard to the Premises. The County shall make a good faith effort to notify the ARTIST in writing at least thirty (30) days in advance of such Removal or Alteration to discuss methods of removal, transportation and conservation, and ARTIST shall have a right to reasonable compensation with respect to advice and/or services provided in support of such Removal or Alteration.
- 7.23.3 In the event the COUNTY determines that the Artwork presents an imminent hazard to the public, the COUNTY may remove the Artwork without prior consultation with the ARTIST. The COUNTY shall make a good faith effort to notify the ARTIST within thirty (30) days of such removal to discuss options for the final disposition, reinstallation, maintenance or deaccession of the Artwork.
- 7.23.4 In the event the COUNTY decides to deaccession the Artwork, the ARTIST shall have the first right of refusal to purchase the Artwork, providing it is not integrated into a larger piece or a structure, and/or can be removed without destruction of the artwork. The COUNTY shall follow the procedures for deaccession identified in the Civic Art Procedures.

- 7.23.5 Nothing herein, including the COUNTY's obligation to consult with the ARTIST, is intended to diminish ARTIST's waiver in Section 7.21 and 7.22 herein of ARTIST's statutory rights to preserve the Artwork. However, ARTIST retains any and all rights to disclaim authorship of the Artwork.
- 7.23.6 Nothing within this Section 7.23 shall give the ARTIST any cause of action against the COUNTY for money damages in the event of any breach of this Section by the COUNTY.
- 7.23.7 In fulfilling its obligations under Sections 7.21, 7.22 and 7.23, the COUNTY may rely exclusively upon the address provided by the ARTIST pursuant to Section 7.20, as updated by written notice from the ARTIST.

#### 7.24 RECORDS RETENTION AND INSPECTION

- 7.24.1 Upon receipt of a written request, ARTIST shall, at no cost to COUNTY, make available to COUNTY and all authorized representatives for examination, audit, excerpt, copy or transcription any pertinent transaction, activity, time card or other record relating to this Agreement. Failure on the part of ARTIST to comply with the provisions of this Paragraph shall constitute a material breach of this Agreement upon which COUNTY may terminate or suspend this Agreement. Such material, including books, records, documents, case files and all pertinent costs, accounting, financial records, and proprietary data must be kept and maintained for a period of five (5) years after the term of this Agreement, or until such time as all audits are completed, whichever is later. COUNTY may require specific records be retained longer than five (5) years when there is outstanding litigation, unresolved disputes or any audit.
- 7.24.2 Upon expiration or termination of this Agreement, all documents, reports, records, case files, correspondence, and work product relating to ARTIST's operations under this Agreement shall be returned to COUNTY or to such other location in COUNTY as the Project Manager may direct. It is understood that all of the materials described above are the property of COUNTY and not of ARTIST.
- 7.24.3 In the event that an audit specifically regarding this Agreement is conducted by any Federal or State auditor, or any auditor or accountant employed by ARTIST or otherwise, ARTIST shall file a copy of each such audit report with the Project Manager within thirty (30) days after ARTIST's receipt thereof.

#### 7.25 TERMINATION FOR CONVENIENCE OF THE COUNTY

- 7.25.1 Performance of services under this Agreement may be terminated by COUNTY in whole or in part when such action is deemed by COUNTY to be in its best interest. Termination of work shall be effected by delivery to ARTIST of a ten (10) calendar day prior written Notice of Termination specifying the extent to which the performance of work is terminated and the date upon which such termination becomes effective.
- 7.25.2 If, during the term of this Agreement, COUNTY funds appropriated for the purpose of this Agreement are reduced or eliminated, COUNTY may immediately terminate this Agreement upon written notice to ARTIST.
- 7.25.3 After receipt of the Notice of Termination and except as otherwise directed by

COUNTY, ARTIST shall:

- 7.25.3.1 Immediately stop services under this Agreement on the date and to the extent specified in the Notice of Termination.
  - 7.25.3.2 Complete performance of such part of the work as shall not have been terminated by the Notice of Termination.
- 7.25.4 After receipt of the Notice of Termination, ARTIST shall submit to COUNTY, in the form and with the certifications as may be prescribed by COUNTY, its termination claim and invoice. Such claim and invoice shall be submitted promptly, but not later than three (3) months from the effective date of termination. Upon failure of ARTIST to submit its termination claim and invoice within the time allowed, COUNTY may determine, on the basis of information available to COUNTY, the amount, if any, due to ARTIST in respect to the termination and such determination shall be final. After such determination is made, COUNTY shall pay ARTIST the amount so determined.
- 7.25.5 In the event it is determined by COUNTY that ARTIST has been overcompensated, COUNTY shall notify ARTIST of the overcompensation, and ARTIST must provide a written response within thirty (30) days of the receipt of such notice, including any refund that may be due COUNTY.
- 7.25.6 COUNTY and ARTIST shall negotiate an equitable amount to be paid to ARTIST by reason of the total or partial termination of work pursuant to this paragraph. Said amount shall include a proportional payment for satisfactory work performed and reasonable expenses incurred up to the effective date of termination, and may include a reasonable allowance for profit on work done but shall not include an allowance on work terminated. COUNTY shall pay the agreed amount; subject to other limitations and provided that such amount shall not exceed the total funding obligated under this Agreement as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated.
- 7.25.7 Upon termination of this Agreement, ARTIST shall deliver to COUNTY all work completed or in progress, including all data, reports and deliverables within ten (10) business days after termination of this Agreement. Upon such termination COUNTY use of ARTIST's copyrighted designs shall be subject to further agreement between the parties.
- 7.25.8 Upon termination of this Agreement, ARTIST shall comply with the provisions of Section 7.24, Records Retention and Inspection, herein above.
- 7.26 **TERMINATION FOR DEFAULT OF ARTIST**
  - 7.26.1 COUNTY may, subject to the provisions outlined below, by written notice of default to ARTIST, terminate the whole or any part of this Agreement in any one of the following circumstances:
    - 7.26.1.1 If ARTIST fails to perform the service within the time specified or, with prior COUNTY approval, any extension thereof;
    - 7.26.1.2 If ARTIST fails to perform any of the other provisions of this Agreement, or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in either of these two circumstances does not remedy such failure

within a period of five (5) calendar days (or such longer period as COUNTY may authorize in writing) after receipt of notice from COUNTY specifying such failure.

- 7.26.2 In the event COUNTY terminates this Agreement in whole or in part as provided in this Section 7.26, COUNTY may procure, upon such terms and in such manner as COUNTY may deem appropriate, services to restore the Premises to the condition which existed prior to the commencement of services hereunder. ARTIST shall be liable to COUNTY for the cost of such services.
- 7.26.3 If, after giving Notice of Termination of this Agreement under the provisions of this Section 7.26, it is determined for any reason that ARTIST was not in default under the provisions of this paragraph or that the default was excusable, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant Section 7.25, Termination for Convenience of the COUNTY, herein above.
- 7.26.4 Upon termination of this agreement, ARTIST shall adhere to the termination provisions of Sections 7.25.7 and 7.25.8, Termination for Convenience of the COUNTY, herein above.

**7.27 TERMINATION FOR NON-APPROPRIATION OF FUNDS**

- 7.27.1 COUNTY's obligation is payable only from funds appropriated for the purpose of this Agreement. All funds for payments after the end of the current fiscal year are subject to Federal, State or COUNTY's legislative appropriation for this purpose. In the event this Agreement extends into succeeding fiscal year periods and the Board of Supervisors or the State or Federal Legislature does not allocate sufficient funds for the next succeeding fiscal year payments, services shall automatically be terminated as of the end of the then current fiscal year. Such termination shall be considered a termination for convenience of the COUNTY.
- 7.27.2 COUNTY shall make a good faith effort to notify ARTIST, in writing, of such non-appropriation at the earliest time.

**7.28 VALIDITY**

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision.

**7.29 WAIVER**

No waiver of a breach of any provision of this Agreement by COUNTY shall constitute a waiver of any other breach of said provision or any other provision of this Agreement. Failure of COUNTY to enforce at any time, or from time to time, any provision of this Agreement, shall not be construed as a waiver thereof.

**7.30 FORUM SELECTION**

All disputes arising out of this Agreement which cannot be resolved by good faith negotiation between the parties in a reasonable time period shall be submitted to mediation in Los Angeles in accordance with the rules of Arts Arbitration and Mediation Services, a program of California Lawyers for the Arts. If mediation is not successful in resolving the entire dispute, any outstanding issues shall be submitted to final and binding arbitration in Los

Angeles County in accordance with the rules of that program. The arbitrator's award shall be final, and judgment may be entered upon it by any court having jurisdiction thereof. The prevailing party in any arbitration shall be entitled to reasonable attorney's fees and costs, including those of the arbitrator, incurred in the enforcement of this Agreement.

#### 7.31 **DEATH OR INCAPACITY OF ARTIST**

If the ARTIST becomes unable to complete the Artwork due to death or incapacity, such death or incapacity will not be treated by the COUNTY as a default on the part of the ARTIST, except that the COUNTY is not obligated to accept the Artwork.

In the event of incapacity of the ARTIST before completion of the Artwork, it is the intent of the parties that the COUNTY and the ARTIST and/or the authorized representatives of the ARTIST will consult to determine if the Artwork can be completed by a third party or parties to the satisfaction of the COUNTY and the ARTIST. In the event of incapacity of the ARTIST, the COUNTY may elect to terminate this Agreement or may elect to have the Artwork completed by a third party or parties. Should the Artwork be completed by a third party or parties, the ARTIST will retain rights under Section 7.21 herein above.

In the event of death of the ARTIST, this Agreement shall terminate effective the date of death. At the COUNTY's request, the ARTIST's executor shall deliver to the COUNTY the Artwork in whatever form or degree of completion it may be in at the time. The title to the Artwork shall then transfer to the COUNTY however the ARTIST's heirs shall retain all rights under Section 7.21 herein above. Should the Artwork be incomplete, the COUNTY and the ARTIST's heirs will consult to determine whether the Artwork can be completed by a third party or parties, and how to properly credit the Artwork.

### 8.0 **STANDARD CONTRACT TERMS**

#### 8.1 **ASSURANCE OF COMPLIANCE WITH CIVIL RIGHTS LAWS**

ARTIST hereby assures that it will comply with Subchapter VI of the Civil Rights Act of 1964, 42 USC Sections 2000e through 2000e (17), to the end that no person shall, on grounds of race, creed, color, sex, national origin, age, condition of mental or physical handicap, marital status, or political affiliation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement or under any project, program, or activity supported by this Agreement.

#### 8.2 **CONFLICT OF INTEREST**

8.2.1 ARTIST represents and warrants that no employee of the COUNTY whose position enables them to influence the award of this Agreement, and no spouse or economic dependent of such employee is or shall be employed in any capacity by ARTIST herein or does or shall have any direct or indirect financial interest in this Agreement.

8.2.2 ARTIST represents and warrants that it is aware of, and its authorized officers have read, the provisions of *Los Angeles County Code, section 2.180.010, "Certain Contracts Prohibited,"* and that execution of the Agreement will not violate those provisions. Chapter 2.180.010 sets forth, among other things, the following:

Notwithstanding any other section of this *Code*, the COUNTY shall not contract with, and shall reject any bid or proposal submitted by the persons or entities specified below, unless the Board of Supervisors finds that special circumstances exist which justify the approval of such contract:

- 8.2.2.1 Employees of the COUNTY or of public agencies for which the Board of Supervisors is the governing body;
- 8.2.2.2 Profit making firms or businesses in which employees described in subsection (a) serve as officers, principals, partners or major shareholders;
- 8.2.2.3 Persons who, within the immediately preceding twelve (12) months, came within the provisions of subsection (a), and who (1) were employed in positions of substantial responsibility in the area of service to be performed by the ARTIST, or (2) participated in any way in developing the Contract or its service specifications; and
- 8.2.2.4 Profit making firms or businesses in which the former employees described in subsection (c) serve as officers, principals, partners or major shareholders.

ARTIST hereby certifies that personnel who developed and/or participated in the preparation of the Contract do not fall within the scope of *Code Section 2.180.010* as outlined above.

**8.3 CONSIDERATION OF HIRING COUNTY EMPLOYEES TARGETED FOR LAYOFF**

Should ARTIST require additional or replacement personnel after the effective date of this Agreement to perform the services set forth herein, ARTIST shall give first consideration for such employment openings to qualified permanent COUNTY employees who are targeted for layoff or qualified former COUNTY employees who are on a re-employment list during the life of this Agreement.

**8.4 CONSIDERATION OF GREATER AVENUES FOR INDEPENDENCE (GAIN) OR GENERAL RELIEF OPPORTUNITIES FOR WORK (GROW) PARTICIPANTS FOR EMPLOYMENT**

Should ARTIST require additional or replacement personnel after the effective date of this Agreement, ARTIST shall give consideration for any such employment openings to participants in the COUNTY's Department of Public Social Services' Greater Avenue for Independence (GAIN) Program or General Relief Opportunities for Work (GROW) Program who meet ARTIST's minimum qualifications for the open position. COUNTY will refer GAIN/GROW participants, by job category, to ARTIST.

**8.5 ARTIST'S ACKNOWLEDGMENT OF COUNTY'S COMMITMENT TO CHILD SUPPORT ENFORCEMENT**

ARTIST acknowledges that COUNTY places a high priority on the enforcement of child support laws and the apprehension of child support evaders. ARTIST understands that it is COUNTY's policy to encourage all ARTISTS to voluntarily post COUNTY's L.A.'s *Most Wanted: Delinquent Parents* poster in a prominent position at ARTIST's place of business. COUNTY's District Attorney will supply ARTIST with the poster to be used.

**8.6 ARTIST'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM**

ARTIST acknowledges that COUNTY has established a goal of ensuring that all individuals who benefit financially from COUNTY through contract are in compliance with their court-ordered child, family and spousal support obligations in order to mitigate the

economic burden otherwise imposed upon COUNTY and its taxpayers.

As required by COUNTY's Child Support Compliance Program (County Code Chapter 2.200) and without limiting ARTIST's duty under this Agreement to comply with all applicable provisions of law, ARTIST warrants that it is now in compliance and shall during the term of this Agreement maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or District Attorney Notices of Wage and Earnings Assignment for Child or Spousal Support, pursuant to Code of Civil Procedure section 706.031 and Family Code section 5246(b).

## 8.7 ARTIST RESPONSIBILITY AND DEBARMENT

- 8.7.1 A responsible ARTIST is an ARTIST who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the contract. It is the COUNTY's policy to conduct business only with responsible ARTISTS.
- 8.7.2 ARTIST is hereby notified that, in accordance with Chapter 2.202 of the County Code, if COUNTY acquires information concerning the performance of ARTIST on this or other Agreements which indicates that ARTIST is not responsible, COUNTY may, in addition to other remedies provided in the Agreement, debar ARTIST from bidding on County contracts for a specified period of time not to exceed three years, and terminate any or all existing contracts ARTIST may have with COUNTY.
- 8.7.3 COUNTY may debar an ARTIST if the Board of Supervisors finds, in its discretion, that ARTIST has done any of the following: (1) violated any term of a contract with COUNTY, (2) committed any act or omission which negatively reflects on ARTIST's quality, fitness or capacity to perform a contract with COUNTY or any other public entity, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against COUNTY or any other public entity.
- 8.7.4 If there is evidence that ARTIST may be subject to debarment, the Department will notify ARTIST in writing of the evidence which is the basis for the proposed debarment and will advise ARTIST of the scheduled date for a debarment hearing before the Contractor Hearing Board.
- 8.7.5 The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. ARTIST and/or ARTIST's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a proposed decision, which shall contain a recommendation regarding whether ARTIST should be debarred, and, if so, the appropriate length of time of the debarment. If ARTIST fails to avail themselves of the opportunity to submit evidence to the Contractor Hearing Board, ARTIST may be deemed to have waived all rights of appeal.
- 8.7.6 A record of the hearing, the proposed decision and any other recommendation of the Contractor Hearing Board shall be presented to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny or adopt the proposed decision and recommendation of the Contractor Hearing Board.
- 8.7.7 These terms shall also apply to subcontractors of ARTIST.



## 8.8 COUNTY LOBBYISTS

Each COUNTY lobbyist as defined in Los Angeles County Code Section 2.160.010, retained by ARTIST, shall fully comply with the County Lobbyist Ordinance, Los Angeles County Code Chapter 2.160. Failure on the part of any COUNTY lobbyist retained by ARTIST to fully comply with the County Lobbyist Ordinance shall constitute a material breach of this Agreement upon which COUNTY may immediately terminate or suspend this Agreement. ARTIST shall comply with all conflict of interest laws, ordinances and regulations now in effect or hereafter to be enacted during the term of this Agreement. ARTIST warrants that it is not now aware of any facts which do or could create a conflict of interest. If ARTIST hereafter becomes aware of any facts which might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to COUNTY. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances.

## 8.9 JURY SERVICE PROGRAM COMPLIANCE

8.9.1 This Agreement is subject to the provisions of the COUNTY'S ordinance entitled Contractor Employee Jury Service ("Jury Service Program") as codified in Sections 2.203.010 through 2.203.090 of the Los Angeles County Code.

8.9.2 Written Employee Jury Service Policy.

8.9.2.1 Unless ARTIST has demonstrated to the COUNTY's satisfaction either that ARTIST is not a "Contractor" as defined under the Jury Service Program (Section 2.203.020 of the County Code) or that ARTIST qualifies for an exception to the Jury Service Program (Section 2.203.070 of the County Code), ARTIST shall have and adhere to a written policy that provides that its Employees shall receive from the ARTIST, on an annual basis, no less than five days of regular pay for actual jury service. The policy may provide that Employees deposit any fees received for such jury service with the ARTIST or that the ARTIST deduct from the Employee's regular pay the fees received for jury service.

8.9.2.2 For purposes of this Section, "Contractor" or ARTIST means a person, partnership, corporation or other entity which has a contract with the COUNTY or a subcontract with a COUNTY contractor or ARTIST and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more COUNTY contracts or subcontracts. "Employee" means any California resident who is a full-time employee of ARTIST. "Full-time" means 40 hours or more worked per week, or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by the COUNTY, or 2) ARTIST has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of 90 days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program. If ARTIST uses any subcontractor to perform services for the COUNTY under the Agreement, the subcontractor shall also be subject to the provisions of this Section. The provisions of this Section shall be inserted into any such subcontract agreement and a copy of the Jury Service Program shall be attached to the Agreement.

- 8.9.2.3 If ARTIST is not required to comply with the Jury Service Program when the Agreement commences, ARTIST shall have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and ARTIST shall immediately notify COUNTY if ARTIST at any time either comes within the Jury Service Program's definition of "Contractor" or if ARTIST no longer qualifies for an exception to the Program. In either event, ARTIST shall immediately implement a written policy consistent with the Jury Service Program. The COUNTY may also require, at any time during the Agreement and at its sole discretion, that ARTIST demonstrate to the COUNTY's satisfaction that ARTIST either continues to remain outside of the Jury Service Program's definition of "Contractor" and/or that ARTIST continues to qualify for an exception to the Program.
- 8.9.2.4 ARTIST's violation of this Section of the Agreement may constitute a material breach of the Agreement. In the event of such material breach, COUNTY may, in its sole discretion, terminate the Agreement and/or bar ARTIST from the award of future COUNTY contracts for a period of time consistent with the seriousness of the breach.

**8.10 NON-DISCRIMINATION IN EMPLOYMENT**

- 8.10.1 ARTIST certifies and agrees that all persons employed by it, its affiliates, subsidiaries, or holding companies are and will be treated equally by it without regard to or because of race, color, religion, ancestry, national origin, sex, age, condition of physical or mental disability, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations.
- 8.10.2 ARTIST shall take affirmative action to ensure that qualified applicants are employed and that employees are treated during employment without regard to race, color, religion, sex, ancestry, national origin, age or condition of physical or mental disability, marital status, or political affiliation. Such action shall include but is not limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.
- 8.10.3 ARTIST shall deal with its subcontractors, bidders, or vendors without regard to or because of race, color, religion, ancestry, national origin, sex, age, condition of physical or mental disability, marital status, or political affiliation.
- 8.10.4 ARTIST shall allow COUNTY's representative access to its employment records during regular business hours to verify compliance with the provisions of this section when so requested by COUNTY.
- 8.10.5 If COUNTY finds that any of the above provisions have been violated, the same shall constitute a material breach of contract upon which COUNTY may cancel, terminate, or suspend this Agreement. While COUNTY reserves the right to determine independently that the anti-discrimination provisions of this Agreement have been violated, in addition, a determination by the California Fair Employment Practices Commission or the Federal Equal Employment Opportunity Commission that ARTIST has violated State

or Federal anti-discrimination laws or regulations shall constitute a finding by COUNTY that ARTIST has violated the anti-discrimination provisions of this Agreement.

**8.11 NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT**

ARTIST shall notify its employees, and shall require each subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the Federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice 1015.

**8.12 RECYCLED BOND PAPER**

Consistent with the Los Angeles County Board of Supervisors' policy to reduce the amount of solid waste deposited at COUNTY landfills, ARTIST agrees to use recycled-content paper to the maximum extent possible on this Agreement.

**8.13 TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM**

Failure of ARTIST to maintain compliance with the requirements set forth in Section 8.6: "ARTIST'S Warranty of Adherence to COUNTY'S Child Support Compliance Program" shall constitute a default by ARTIST under this contract. Without limiting the rights and remedies available to COUNTY under any other provision of this contract, failure to cure such default within 90 days of notice by the Los Angeles County District Attorney shall be grounds upon which the County Board of Supervisors may terminate this contract pursuant to Section 7.26 "Termination for Default."

**8.14 TERMINATION FOR IMPROPER CONSIDERATION**

8.14.1 COUNTY may, by written notice to ARTIST, immediately terminate the right of ARTIST to proceed under this Agreement if it is found that consideration, in any form, was offered or given by ARTIST, either directly or through an intermediary, to any COUNTY officer, employee, or agent with the intent of securing this Agreement or securing favorable treatment with respect to the award, amendment or extension of this Agreement or the making of any determinations with respect to ARTIST's performance pursuant to this Agreement. In the event of such termination, COUNTY shall be entitled to pursue the same remedies against ARTIST as it could pursue in the event of default by ARTIST.

8.14.2 ARTIST shall immediately report any attempt by a COUNTY officer or employee to solicit such improper consideration. The report shall be made either to the COUNTY manager charged with the supervision of the employee or to the COUNTY Auditor-Controller's employee Fraud Hotline at (213) 974-0914 or (800) 544-6861.

8.14.3 Among other items, such improper consideration may take the form of cash, discounts, services, the provision of travel or entertainment, or tangible gifts.

**8.15 NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW**

The ARTIST shall notify and provide to its employees, and shall require each subcontractor to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and how to safely surrender a baby. The fact sheet is available on the Internet at [www.babysafela.org](http://www.babysafela.org) for

printing purposes.

The ARTIST acknowledges that the COUNTY places a high priority on the implementation of the Safely Surrendered Baby Law. The ARTIST understands that it is the COUNTY's policy to encourage all COUNTY Contractors to voluntarily post the COUNTY's "Safely Surrendered Baby Law" poster in a prominent position at the ARTIST's place of business. The COUNTY's Department of Children and Family Services will supply the ARTIST with the poster to be used.

**8.16 COVENANT AGAINST FEES**

ARTIST warrants and represents that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained or employed by the ARTIST for the purpose of securing business. For breach or violation of this warranty, COUNTY shall have the right to terminate this Agreement and recover the full amount of such commission, percentage, brokerage or contingent fee.

**8.17 COMPLIANCE WITH LAWS**

ARTIST agrees to comply with all applicable Federal, State and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein, are hereby incorporated by this reference.

ARTIST shall indemnify, defend and hold harmless COUNTY from any loss, damage or liability resulting from a violation on the part of ARTIST of such laws, rules, regulations and ordinances.

**8.18 EMPLOYMENT ELIGIBILITY VERIFICATION**

8.18.1 ARTIST warrants that it fully complies with all statutes and regulations regarding the employment eligibility of aliens and others, and that all persons performing services under this Agreement are eligible for employment in the United States. ARTIST represents that it has secured and retained all required documentation verifying employment eligibility of its personnel. ARTIST shall secure and retain verification of employment eligibility from any new personnel in accordance with the applicable provisions of law.

8.18.2. ARTIST shall indemnify, defend and hold COUNTY harmless from any employer sanctions or other liability which may be assessed against COUNTY or ARTIST by reason of ARTIST's failure to comply with the foregoing.

**8.19 NO PAYMENT FOR SERVICES PROVIDED FOLLOWING EXPIRATION/TERMINATION OF AGREEMENT**

ARTIST shall have no claim against COUNTY for payment of any money or reimbursement, of any kind whatsoever, for any service provided by ARTIST after the expiration or other termination of this Agreement. Should ARTIST receive any such payment it shall immediately notify COUNTY and shall immediately repay all such funds to the COUNTY. Payment by COUNTY for services rendered after expiration/termination of this Agreement shall not constitute a waiver of COUNTY's right to recover such payment from ARTIST. This provision shall survive the expiration or other termination of this Agreement.

8.20 **ARTIST'S WARRANTY OF COMPLIANCE WITH THE COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM**

The ARTIST acknowledges that the COUNTY has established a goal of ensuring that all individuals and businesses that benefit financially from the COUNTY through contract are current in paying their property tax obligations (secured and unsecured roll) in order to mitigate the economic burden otherwise imposed upon the County and its taxpayers.

Unless the ARTIST qualifies for an exemption or exclusion, the ARTIST warrants and certifies that to the best of its knowledge it is now in compliance, and during the term of this contract will maintain compliance, with Los Angeles County Code Chapter 2.206.

8.21 **TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH THE COUNTY'S DEFAULTED PROPERTY TAX REDUCTION PROGRAM**

Failure of the ARTIST to maintain compliance with the requirements set forth in Paragraph 709 shall constitute default under this contract. Without limiting the rights and remedies available to the COUNTY under any other provision of this contract, failure of the ARTIST to cure such default within 10 days of notice shall be grounds upon which the COUNTY may terminate this contract and/or pursue debarment of the ARTIST, pursuant to County Code Chapter 2.206.

8.22 **FORCE MAJEURE**

8.22.1 The parties will be excused from the performance of this Agreement in whole or in part, only by reason of the following causes:

- (a) when such is prevented by operation of law;
- (b) when such is prevented by an irresistible superhuman cause, including but not limited to flood, earthquakes and fires; and,
- (c) when such is prevented by an act of the public enemies of the State of California or of the United States of America, or by strike, mob violence, fire, delay in transportation beyond the control of ARTIST, or unavoidable casualty.

8.22.2 In the event the ARTIST's performance is excused in accordance with this 8.22, and the services are not provided, the ARTIST agrees to reimburse the COUNTY any amounts previously paid by the COUNTY; excluding extraordinary costs and expenses incurred by the ARTIST as a direct result of instructions from the COUNTY; provided, however, that such costs and expenses have been approved by the Director of Arts and Culture in their sole discretion.

8.23 **PREVAILING WAGE**

This Section shall apply to ARTIST and its subcontractors that perform Prevailing-Wage Work on a Public Works project under this AGREEMENT. Whether work under this AGREEMENT involves Prevailing Wage-Work is a fact dependent analysis depending on the nature of off-site fabrication conditions, on-site construction, and/or installation work, and type of workers hired.

8.23.1 **DEFINITIONS**

- 8.23.1.1 "DIR" means the California Department of Industrial Relations.

- 8.23.1.2 "Public Works" means construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds. (Labor Code § 1720.)
- 8.23.1.3 "Prevailing-Wage Work" means any hourly or per diem work done by workers employed in a trade (e.g. welder, cement mason, or carpenter) covered by a determination of the Director of the Department of Industrial Relations ("DIR") on a Public Works project. Prevailing-Wage Work does not include work performed by volunteers or the California Conservation Corps. (Labor Code § 1720.4)
- 8.23.1.4 "Prevailing Wage" means the effective rates set by the DIR for the specified trade.  
(<https://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>)
- 8.23.1.5 "Subcontractor" means any person or entity that ARTIST contracts with to perform Prevailing-Wage Work under this AGREEMENT.
- 8.23.2 The construction, alteration, demolition, installation, or repair of public art with County funds constitutes Public Works as defined in section 1720 of the California Labor Code. Therefore, this AGREEMENT may include both prevailing wage and non-prevailing wage work. Therefore, ARTIST and Subcontractors must comply with the requirements of Labor Code section 1720 et seq. and the Prevailing Wage Requirements as specified in this section. These include, but are not limited to:
- 8.23.2.1 **Payment of Prevailing Wage**  
ARTIST and Subcontractors are required to pay, at a minimum, Prevailing Wage to hourly and/or per diem workers who are hired to perform a trade covered by a determination published by the Director of the ("DIR").
- 8.23.2.2 **Payroll Records**  
ARTIST and/or its Subcontractor(s) shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, or worker performing Prevailing-Wage Work.
- ARTIST and Subcontractors shall provide their payroll records, in the format prescribed by the Labor Commissioner, directly to the Labor Commissioner or COUNTY within 10-days of a request for such records. ARTIST and Subcontractors shall maintain and report payroll records in compliance with California Labor Code section 1776.
- 8.23.2.3 **Posting Jobsite Notices**  
The COUNTY shall be responsible for posting jobsite notices onsite at active County Public Works projects where civic art is installed. However, when civic art is installed off-site, or after completion of an active County Public Works site, its shall be ARTIST's, or the responsible Subcontractor's, responsibility to have jobsite notices posted at the site of installation. (Labor Code § 1771.4.)
- 8.23.2.4 **Apprentices**

ARTIST and its Subcontractors shall comply with the provisions of California Labor Code section 1777.5 relating to the utilization of apprentices for Prevailing-Wage Work. (<https://www.dir.ca.gov/Public-Works/Apprentices.html>.)

8.23.2.5 Subcontractors  
ARTIST shall ensure that all subcontractors employing workers for Prevailing-Wage Work under this AGREEMENT comply with California's Prevailing Wage laws (Labor Code §§ 1720 et seq.) and the requirements of this Exhibit when applicable. Subcontractors performing Prevailing-Wage Work under this AGREEMENT must be registered with the DIR before they commence work. (Labor Code § 1725.5, <https://www.dir.ca.gov/Public-Works/Contractor-Registration.html>).

8.23.3 By executing this AGREEMENT, ARTIST hereby acknowledges that:

8.23.3.1 "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

8.23.3.2 If applicable, subcontract agreements for installation or construction of the artwork shall require subcontractor to comply with California Prevailing Wage law and the requirements of the Prevailing Wage Requirements herein.

8.23.4 Violations  
ARTIST and Subcontractor(s) are hereby noticed that violations of California Prevailing Wage Laws may result in fines or penalties, including but not limited to, the penalties described in California Labor Code section 1775.

/

IN WITNESS THEREOF, COUNTY has caused this Agreement to be executed by Kristin Sakoda, Director, Arts and Culture. ARTIST has caused this Agreement to be executed by its duly authorized representative.

**COUNTY OF LOS ANGELES**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
KRISTIN SAKODA, Director  
Los Angeles County Department of Arts and Culture

**ARTIST**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
(Name of Artist)

**APPROVED AS TO FORM:**  
DAWYN R. HARRISON  
County Counsel

By: \_\_\_\_\_  
Senior Deputy



**ATTACHMENT A**  
**SCOPE OF WORK, SCHEDULE, AND PAYMENT MILESTONES**

**I. SCOPE OF WORK**

COUNTY Overall Responsibilities:

1. Arts and Culture shall set and coordinate meetings between the ARTIST and the General Contractor, other members of the design and construction team, Public Works, tenant departments, and community groups, as needed to complete this scope of work.
2. Arts and Culture shall review the designs, drawings, specifications, and if necessary engineering calculations, submitted by the ARTIST to ensure conformance with applicable codes, regulations and other requirements. Arts and Culture retains the right, but not the obligation, to conduct any such review, which is intended for the sole purpose of protecting the COUNTY's interests, only. ARTIST acknowledges that Arts and Culture's review does not confirm or warrant that conditions are safe or that ARTIST's work complies with regulatory requirements.
3. COUNTY, through its General Contractor, shall ensure that the premises are prepared for the timely delivery and installation of Artwork.
4. Whenever possible, Artwork shall be delivered to the premises and immediately installed. Should Artwork need to be stored on the premises the COUNTY, through its General Contractor, will be responsible to ensure the Artwork is protected from theft or damage.
5. Arts and Culture shall inform the ARTIST of changes to the schedule, especially those changes which impact delivery of Artwork.
6. Arts and Culture shall provide for the ARTIST's review, draft text and images on the Artwork and project for Arts and Culture's website, and print materials, such as post-cards or brochures.
7. Arts and Culture shall coordinate inquiries from the media regarding the Artwork, especially in association with the dedication event.

ARTIST Overall Responsibilities:

1. ARTIST is responsible for creating an original and innovative artwork that will:
  - a. Fulfill the goals of the project as articulated by the Project Manager and other stakeholders.
  - b. Be constructed within the allotted budget and timeline.
  - c. Require minimal routine maintenance and should last for a time as specified in **Section 7.4.8**.
2. ARTIST acknowledges that an essential element of the ARTIST's services is coordination with the Project Manager and other stakeholders as assigned. All communication by the ARTIST with COUNTY departmental representatives, the architect or members of the architect's office, other design team members, community members, and elected officials and their staffs must be coordinated through **PROJECT MANAGER NAME**, Project Manager, (213) 202-XXX or PM name@arts.lacounty.gov.
3. ARTIST will adhere to the schedule provided by the Project Manager. Schedules are subject to change. The Project Manager will notify the ARTIST of schedule changes. Unless

otherwise agreed in a written Agreement by and between the COUNTY and ARTIST payment amount to the ARTIST shall not increase if schedule changes.

4. ARTIST acknowledges that time is of the essence in this Agreement, which is tied to the completion date of a County building. In the event of a substantial delay in the installation of the artwork called for in a future fabrication contract, which delay is under the control of the ARTIST and not due to uncontrollable, unforeseeable events, Arts and Culture will withhold future milestone payments until such deliverables are met.
5. ARTIST shall perform all services and furnish all supplies, materials and equipment as necessary for the fabrication and installation of the Artwork, including but not limited to: [shop and as-built drawings, engineering calculations, permits, technical inspections, taxes, insurance, materials, labor, tools, equipment, subcontractors, transportation and shipping], and all other items incidental to producing a complete and acceptable Artwork.
6. ARTIST shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in ARTIST's work that result from conceptual and developed design reviews, conservator review for material and maintenance concerns, review of the 100% construction documents for structural concerns, and shall fulfill other reasonable requests for changes as to the design, form and content of artwork as requested by the Project Manager and other stakeholders.
7. ARTIST agrees to understand and adhere to safety requirements of the COUNTY in the design of the Artwork. The Arts and Culture and Public Works Project Managers will inform the ARTIST about safety issues and expectations.
8. ARTIST shall notify Arts and Culture of any issues with the larger project that are negatively impacting their ability to provide the services under this Scope of Work prior to making any adjustments to their tasks or deliverables.
9. ARTIST shall present written requests for any significant changes to the scope, design, color, size, material, texture, or any other changes to the artwork not substantially conforming with approved Artwork design to the Project Manager for approval. A significant change is one that affects design, installation, scheduling, site preparation or maintenance of Artwork, or concept of artwork, as represented in approved designs.
10. ARTIST shall review and provide comments on draft text and images of the Artwork and/or the project for Arts and Culture's website and any print materials, such as postcards or brochures.
11. ARTIST shall make every effort to attend dedication events for the Artwork and/or the project.

ARTIST Specific Responsibilities:

**Phase 1: Public Engagement**

- a. ARTIST shall attend a project orientation which will include the Civic Art Project Manager and stakeholders including but not limited to the Project Manager from the Department of Public Works, County Department staff and clients, architect and/or community members.
- b. ARTIST shall work with the Project Manager, Department of Public Works, County Department staff and clients, architect and community members to develop a Public Engagement Plan. The purpose of the Plan is to ensure a foundation for the project that

resonates with the community identity and/or aspirations. The Plan should be developed in conjunction with the overall project schedule and budget such that its implementation doesn't slow down the concept design or any other phases for the development and completion of the artwork.

- c. ARTIST shall submit at least a one-page narrative to the Project Manager for approval that contains, at a minimum:
  - o A high-level description of the proposed public engagement plan;
  - o A description of the objectives and goals of the public engagement.
  - o A list of the time, duration, and location, and a description of, proposed engagement over the course of the project;
  - o A list of persons and schedule of contact;
  - o Any site observation planned;
  - o Any visual, video, or other presentation samples; and
  - o A proposed budget for the public engagement;
- d. ARTIST shall conduct and oversee the delivery of the Public Engagement Plan.

## Phase 2: Artwork Design

1. IF NO DESIGN HAS BEEN CREATED Artwork Design Development:
  - a. ARTIST shall attend design meetings with the project architect and other team members, if applicable, to ensure an expedited and integrated conceptual design process.
  - b. ARTIST shall incorporate information provided by Civic Art Project Manager and other stakeholders to develop [identify # of designs] preliminary design(s) (20% concept) for artwork at Name of Project Site.
  - c. ARTIST shall meet with the Civic Art Project Manager to discuss initial design ideas prior to developing the preliminary design(s) (20% concept) to gauge potential stakeholders and to ensure that the proposed direction is feasible and appropriate to project goals. ARTIST is required to revise the preliminary design(s) based on comments and submit to the Civic Art Project Manager for review prior to submission to a selection panel, if applicable.
  - d. ARTIST shall submit a preliminary design (20% concept) which includes:
    - i. The inspiration for the Artwork Design;
    - ii. Why the Artwork Design is sensitive to the immediate and surrounding environment (department, community, neighborhood, etc.);
    - iii. The preferred location(s) and construction materials, and approximate size of all Artwork elements;
    - iv. A preliminary budget.
    - v. Scaled drawings indicating dimensions, locations and color renderings of all proposed art elements showing the Artwork in context and from multiple views.
  - e. ARTIST may be asked to present the design(s) to a selection panel. ARTIST may submit additional materials, such as a maquette or PowerPoint, for presentation purposes.
  - f. Upon selection of the approved preliminary design, ARTIST is responsible for incorporating feedback by the Project Manager and other stakeholders to detail the preliminary design (20% concept) to final design (100% concept).
  - g. ARTIST shall meet with the Civic Art Project Manager at 50% and 75% design to ensure

that the proposed direction is feasible and appropriate to project goals. ARTIST is required to revise the proposal based on comments at the 50% and 75% meetings and submit to the Civic Art Project Manager for review prior to submission to a selection panel, if applicable.

- h. If ARTIST changes any subcontractors identified during the design phase, ARTIST shall notify the COUNTY and provide a copy of the agreement between the ARTIST and the subcontractor.
  - i. After final design (100% concept) approval, ARTIST shall attend follow-up meeting(s) and/or participate in conference calls with the architect and other stakeholders as directed by the Project Manager, to coordinate design details for Artwork placement and other elements to be located at the identified site and to complete the construction documents and fabrication and installation planning.
1. [IF A PRELIMINARY DESIGN HAS BEEN CREATED] Artwork Design Development:
- a. ARTIST is responsible for incorporating feedback by Project Manager and other stakeholders to detail the Preliminary Design (20% concept) to Final Design (100% concept), as described in Deliverables in this Phase of work.
  - b. ARTIST shall attend follow-up meeting(s) and/or participate in conference calls with the architect and other stakeholders as directed by the Project Manager, to coordinate design details for Artwork placement and other elements to be located at the identified site and to complete the construction documents and fabrication and installation planning.
  - c. ARTIST is responsible for submitting scaled drawings indicating all dimensions, locations, attachments and color renderings of all proposed art elements showing the Artwork in context and from multiple views..
  - d. If ARTIST changes any subcontractors identified during the design phase, ARTIST shall notify the COUNTY and provide a copy of the agreement between the ARTIST and the subcontractor.
2. Conservator Review:
- a. ARTIST is responsible for coordinating and paying for an Art Conservator to assess the Artwork fabrication and installation materials and specifications, and assess any Artwork Studies that will be provided to the COUNTY.
  - b. ARTIST is responsible for working with an Art Conservator to create a Pre-fabrication Conservation and Maintenance Report (in a form provided by Arts and Culture) with recommendations related to the Artwork fabrication and installation materials and specifications to communicate longevity, safety and durability of materials. The reports will need to include:
    - o A fabrication review with a complete list of materials, methods for fabrication and structural engineering drawings and calculations, if necessary.
    - o An installation review indicating how art elements will be installed, such as materials and methods of installation.
    - o Recommendations for routine maintenance and long-term conservation.
3. Construction Drawings and Permitting:
- a. ARTIST is responsible for coordinating and paying for a California certified Structural

Engineer to produce stamped construction documents, specifications and calculations to detail the Artwork to 100% design completion and to correct or revise any errors, if applicable.

- b. ARTIST is responsible for reviewing the 100% construction documents and specifications provided by the Department of Public Works to ensure that the Artwork is represented accurately and in context with all existing planned elements, if applicable.
- c. ARTIST is responsible for obtaining and maintaining all licenses, permits, registrations and certificates, if any, required by law, which are applicable to the performance of this Agreement and shall be held in effect during the term of this Agreement.

4. Project Budget:

ARTIST is responsible for submitting a Project Budget, including all applicable costs to design, build, transport, insure and install the Artwork, not to exceed the fixed amount of the Artwork commission, including but not limited to:

- o Artist fees for design, meetings, administration and production oversight during fabrication and installation phases;
- o Art Conservator review of materials and Pre-fabrication Conservation and Maintenance Report;
- o Fabrication and labor;
- o Structural engineering;
- o Storage prior to transportation to site;
- o Transportation of Artwork;
- o Site Preparation;
- o Installation, including construction materials, personnel, equipment;
- o Lighting;
- o Permit Fees and Building and Safety compliance requirements;
- o General liability, Auto Insurance and other insurance;
- o Plaque fabrication and installation;
- o Professional photography;
- o Contingency; and
- o Other applicable costs.

5. Fabrication Work Plan:

ARTIST is responsible for developing a Fabrication Work Plan in coordination with the Project Manger that outlines the methods of fabrication, materials and the fabricator specifications, as applicable.

6. Preliminary Installation Work Plan:

ARTIST is responsible for developing a Preliminary Installation Work Plan in coordination with the Project Manger that outlines the installation of the art elements and the ARTIST's installation safety protocol, as applicable.

**Phase 3: Artwork Fabrication, Transportation and Installation**

1. Artwork Fabrication:

- a. Prior to issuance of the Notice to Proceed, ARTIST shall consult with the Project Manager to clarify how each milestone will be defined, for example, what 50% of fabrication would represent.

- b. ARTIST shall oversee the fabrication of the approved Artwork, described in “Statement of Work/Deliverable” Section 3.0 in above Agreement and in Attachment B, according to the payment milestones listed below.
- c. ARTIST shall work with the Project Manager to arrange progress inspections of the artwork fabrication. COUNTY reserves the right to inspect the work in progress at any time, and will give the ARTIST reasonable notice to schedule inspections.

2. Artwork Transport and Storage:

- a. ARTIST shall store the finished Artwork until such time as the COUNTY, through its general contractor, is ready for the Artwork to be installed. Installation shall not be unreasonably delayed by the COUNTY, so that ARTIST will not be required to store the Artwork for an unreasonable period.
- b. ARTIST shall properly prepare the Artwork for shipment and transport it to the Premises.

3. Artwork Installation:

- a. ARTIST is responsible for developing a Final Installation Work Plan in coordination with the Project Manger that outlines the installation of the art elements, the ARTIST’s installation safety protocol, the agreed-upon general contractor responsibilities and sequencing for site preparation and installation. The plan will also need to include sequencing for the installation of the Artwork and how the Artwork will be protected in the event it is completed prior to any other elements on site, as applicable. Upon delivery, Artwork should be finished and installed in a manner that does not require additional storage at any point, unless early delivery is requested by COUNTY for its convenience.
- b. ARITST shall attend follow-up meeting(s) and/or participate in conference calls with the architect, general contractor, sub-contractors and other stakeholders as directed by the Project Manager, to coordinate the installation of the artwork.
- c. ARTIST shall oversee the installation of the approved Artwork, described in “Statement of Work/Deliverable” Section 3.0 in above Agreement and in Attachment B, according to the payment milestones listed below.
- d. ARTIST shall install the Artwork at the Premises as outlined in the approved Final Installation Work Plan.
- e. ARTIST shall work with the Project Manager to arrange progress inspections of the artwork installation. COUNTY reserves the right to inspect the work in progress at any time, and will give the ARTIST reasonable notice to schedule inspections.
- f. ARTIST shall coordinate and conduct with the Project Manager a final walk through of completed artwork.

**Phase 4: Project Close-out**

- 1. Artwork Plaque: ARTIST shall fabricate and install a plaque for the Artwork at the Premise following the template provided by the Project Manager. Arts and Culture must review and approve the plaque design and specifications.
- 2. Conservation and Maintenance Report: ARTIST shall submit a Final Conservation and

Maintenance Report using a template provided by the Project Manager. The report shall include technical information and samples on materials and products used in the fabrication and installation of the Artwork. The information provided in the report is used as reference for any future conservation assessments and repairs that serve as a comprehensive guide for long-term care of artworks in the Civic Art Collection.

3. **Artist Biography and Statement:** ARTIST shall submit an artist biography and a one-page summary statement/narrative of the Artwork to be used in marketing, educational and communications materials.
4. **Copyright Registration:** ARTIST shall provide proof of copyright registration for the purposes of protecting ARTIST's rights. Screenshot of registration is acceptable. To register your Civic Artwork for copyright, go to this website: <http://www.copyright.gov/register/visual.html>. Instructions on how to Copyright an artwork can be found on Arts and Culture website: [LINK](#)
5. **Professional Photography:** ARTIST shall coordinate a photo shoot and provide a limited number of digital images documenting the completed Artwork, showing both the Artwork details as well as Artwork in its overall context and setting, with the minimum photography delivered to the COUNTY. This applies to each artwork/artwork element installed.
  - a. **Activated Photos:** Provide a minimum of three photos of the Artwork with a person or people in it to give a sense of scale and the art functioning as intended in its architectural context. The photographer should use and direct models during the shoot including but not limited to their locations, props, character and interaction with the artwork and/or space.
  - b. **Beauty Photos:** Provide a minimum of three beauty shots defined not as a straight documentary photograph, but an image designed purely to be either artistic or flattering and often for marketing/outreach purposes that showcases the artwork at a glance. One of the beauty photos should place the artwork within its site context.
  - c. **Detail Photos:** Provide a minimum of three detail photos showing the relationship between the artwork(s) and the space which when photographed together, depict a visual story.
6. **Employment Impact Survey:** ARTIST shall submit an Employment Impact Survey in a form provided by the Project Manager and developed by the Research and Evaluation Division at Arts and Culture. The Employment Impact Survey helps track how funds for Civic Art projects impact employment beyond the ARTISTS who are directly hired. The form can be found on the Arts and Culture website: [LINK](#)

## II. **PROJECT SCHEDULE:**

ARTIST will complete the scope of work by the following Milestones:

- |      |      |   |
|------|------|---|
| (a.) | Date | Execution of the Contract                                       |
| (b.) | Date | Completion of Public Engagement                                 |
| (c.) | Date | Completion of Artwork Design                                    |
| (d.) | Date | Completion of 50% of Fabrication                                |
| (e.) | Date | Completion of 100% of Fabrication and Preparation for Transport |
| (f.) | Date | Completion of Installation of Artwork                           |
| (f.) | Date | Completion of Project Close-out                                 |
| (g.) | Date | Final Project Completion  |

COUNTY will make every effort to promptly notify the ARTIST of changes in the schedule.

**III. PAYMENT MILESTONES:**

As defined in the Agreement the ARTIST shall be paid a fee not to exceed the Maximum Amount specified in Section 2.0 therein. All expenses incurred by the ARTIST are included in this fee and request for payment shall be made on a milestone basis, accompanied by a progress report and invoice.

1. \_\_\_\_\_ percent (\$ \_\_\_\_\_) upon Execution of the Contract;
2. \_\_\_\_\_ percent (\$ \_\_\_\_\_) upon Completion of Public Engagement;
3. \_\_\_\_\_ percent (\$ \_\_\_\_\_) upon Acceptance of Final Design and Issuance of Notice to Proceed;
4. \_\_\_\_\_ percent (\$ \_\_\_\_\_) upon Completion of 50% of Fabrication;
5. \_\_\_\_\_ percent (\$ \_\_\_\_\_) upon Completion of 100% of Fabrication;
6. \_\_\_\_\_ percent (\$ \_\_\_\_\_) upon Completion of Installation and Issuance of Acceptance Notice;
7. \_\_\_\_\_ percent (\$ \_\_\_\_\_) upon Completion of Project Close-out;
8. \_\_\_\_\_ percent (\$ \_\_\_\_\_) upon Authorization of Artist Contingency and/or use of Remaining Funds.

Payment shall be made within thirty (30) days of receipt and approval of the payment request.

The ARTIST shall be responsible for all Federal and State income taxes associated with this Agreement, as well as any sales, use or privilege tax which might be assessed.



**[DELETE IF NO DESIGN HAS BEEN CREATED]**

**ATTACHMENT B**

**ARTIST'S CONCEPTUAL DESIGN  
(NAME OF ARTIST, PROJECT, AND LOCATION)**

Description:

See example below.

The Artist will fabricate and deliver to the project site for installation six light sconces: 2 turtles, 2 dragonflies, 2 beetles. Each will measure 18" h. from head to toe. Overall height of each sconce will be greater than 18". Depth will be approximately 7" overall.

Locations:

See example below.

Sconces will be installed throughout the Library at locations identified by the architect. Dragonflies: Entrance Stairwell (exterior) and Adult Reading Area (interior)

Turtles: Outdoor Reading Patio (exterior) and Community Room (interior)

Beetles: Entrance Stairwell (exterior) and Children's Reading Area (interior)

Materials and Processes:

See example below.

Mild steel will be used for all main components, including body and scroll. Each body component and scroll will be thoroughly cleaned and coated with a TNEMEC coating system or approved equal. The body of each sconce will be filled with exterior grade commercial tile pieces. Mosaic pieces will be affixed using one of two options: 1) resin-based adhesive with a grout filler and sealer coat (to resist graffiti and stains); or 2) acrylic latex caulk with a silicone filler (would not need a sealer coat). Scones will be hinged to allow replacement of light bulb and have an Allen-set screw to prevent tampering. Artist will provide manufacturer's specifications on screw type used.

Light Unit (if applicable)

See example below.

Off-the-shelf exterior waterproof, UL Approved, light unit with coated die cast aluminum body and frosted glass cover. Artist will provide Civic Art Division with full manufacturer's specification upon purchase of the units. Each unit measures 8 3/4" h x 4 1/2" w x 3 1/2" w.

Installation:

See example below.

Each sconce, including a core off-the-shelf light unit will be attached to the final location using a lag screw. Gaskets will be used between the screw and the sconce and between the sconce and the wall surface. Artist will identify type of gasket used prior to installation.

Spare Parts :

See example below.

The Artist will make one spare of each sconce design to address conservator's recommendations. Spares can be made without the off-the-shelf light unit. Spares will be bubble-wrapped and delivered to the Civic Art Division for future use.

Attach Concept Design drawings to complete Attachment B.