



DEPARTMENT OF AIRPORTS

**REQUEST FOR QUALIFICATIONS
AND EXPERIENCE**

**Artist Services for the Design,
Fabrication, and Installation of
Public Artworks at Sacramento
International Airport
(New Terminal B Parking Garage
and Pedestrian Walkway Projects)**

Statements of Qualifications due by:

**Thursday, May 7, 2024
4:00 p.m. Pacific Daylight Time**

April 5, 2024

TO: Prospective Artists

FROM: Chris Martin, Airport Manager, Facilities
Sacramento County Department of Airports

SUBJECT: **Artist Services for the Design, Fabrication, and Installation of Public Artworks at Sacramento International Airport (for the following SMForward Projects:
New Terminal B Parking Garage and Pedestrian Walkway)**

I. SUMMARY AND BACKGROUND

The County of Sacramento (County) Department of Airports (Department) is soliciting Statements of Qualifications And Experience (SOQ&Es) from qualified artists to design, fabricate, and install permanent artworks at two sites located at the Sacramento International Airport (Airport) as part of the Department's large-scale capital improvement program known as "SMForward." The Department invites all qualified artists residing in the United States interested in providing these services to submit a SOQ&E in compliance with the requirements of this Request for Qualifications and Experience (RFQ&E).

The County owns and operates the Airport through the Department. The County's elected Board of Supervisors (Board) oversees the operations of the Department. The Department is led by the Director of Airports, who is authorized to administer affairs of the Department and reports to the Deputy County Executive for Community Services.

Project Overview

The Department announced on February 1, 2023, a \$1.3 billion expansion program collectively known as "SMForward" that will reshape the Airport to accommodate projected passenger growth over the next seven years.

SMForward, which includes six major construction projects, represents a historic opportunity to integrate art into the traveler's experience while reinforcing and contributing to the Sacramento region's identity. When completed, SMForward will include permanent artworks inside and outside the new buildings, on the facade of the new parking garage facility, within the new pedestrian walkway, at the new Terminal B gates, and at sites in and around the new Ground Transportation Center. These new works will add to the more than two dozen artworks already gracing the Airport's public spaces. ***This RFQ&E is a call for the first four artwork opportunities under***

SMForward's New Terminal B Parking Garage and New Pedestrian Walkway projects.

Project Goals

At the heart of the SMForward Art Program is the desire to cultivate an unforgettable experience for every traveler. Whether a traveler is walking to their gate, waiting in line at security, stepping off the plane towards the baggage claim area, or catching a car to the city, a successful public artwork can elevate their travel experience. Art can contribute to, reflect, and encapsulate the exhilaration at the start of an adventure, the warmth, welcome, and comfort of a return home, and help create a contemplative calm during a long layover.

Consistent with the Department's goals for Terminals A and B, the artworks commissioned for SMForward will:

- Be of the highest artistic quality in terms of originality of concept and artistic vision, craftsmanship or mastery of skills and techniques, and the degree to which the work engages the viewer.
- Work with and consider the architectural design elements and be appropriate in scale, media, and context.
- Contribute to the Airport's mission and vision: "To put people at the center of every trip, every experience, every day, and be the most loved airport."
- Consider the art's ability to function as a wayfinding anchor placed strategically to aid travelers in navigating the airport intuitively.
- Engage and delight each traveler, enriching their experience at the Airport through humor, surprise, beauty, and curiosity.
- Build upon what makes the region different from the rest of the world.
- Consider the idea of "bringing the outside in", using echoes of the natural world to reverberate through interior sites. Literally or conceptually, take an original approach to the expansive feeling of outdoor environments and transform them for the ebb and flow of a busy air travel facility.
- Be memorable and create a lasting impression of Sacramento as a destination.
- Be made with durable materials that can be maintained over time.
- Be sited in the highest traffic publicly accessible areas.

II. ARTWORK SITES AND BUDGETS

This RFQ&E includes the following four project sites. Artists may apply for one or more of these projects. All budgets set forth below are inclusive of all costs associated with delivering the services described in this RFQ&E, including

artists' fees, and costs associated with design, fabrication, and installation of artwork, including transportation.

**A. Terminal B Parking Garage
Art Budget: \$1,750,000**

There are multiple sites called out as potential locations where artwork may be placed in the new parking garage.

Larger than the Terminal A parking garage when completed, the new Terminal B parking garage will include approximately 5,500 parking spaces, be six stories high, and be visible to travelers from nearly one-quarter mile away as they approach the Terminal B entrance by car. The south facade of the garage presents an opportunity to create a work of art that can be seen from a distance for a sustained period by car and foot. It is a primary location for art. The east side of the garage is experienced by travelers being picked up, dropped off, or parking in the facility. Artwork that marks entry points into the garage on the south and west sides of the garage are also key sites and can reinforce wayfinding, especially for travelers returning home and trying to find the closest entrance to where their car is parked. North and west sites are secondary sites that could be addressed by an artist if the budget allows.

Pedestrian Walkway

Approximately 1200 feet long, 50 feet wide, and 121,000 square feet in size, the pedestrian walkway will be the major thoroughfare for travelers arriving or departing from Terminal B to/from Concourse B by foot. This area provides three primary opportunities for art to transform this transitional experience at the north and south entryways and at the center of the walkway.



There are three sites called out in the pedestrian walkway.:

**B. Pedestrian Walkway South Entrance
Art Budget: \$500,000**

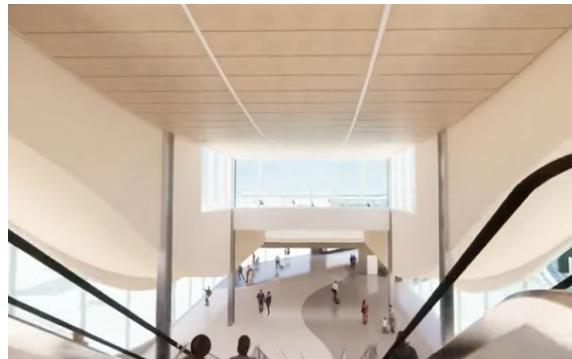
**C. Pedestrian Walkway North Entrance
Art Budget: \$500,000**

As travelers make their way between Terminal B and Concourse B, the thresholds of the Pedestrian Walkway on either side hold key positions for works of art. As portals to the next stage in a traveler's journey, these sites can use captivating visuals to draw them forward. Artists working in either 2-D or 3-D should imagine ways to craft grand gateways toward wherever each traveler needs to go, with work that embodies the thrill of adventure leading them on.



**D. Pedestrian Walkway Hub
Project Art Budget: \$1,000,000**

Travelers using the north or south entrances will approach a moving walkway that runs the length of the building. About halfway through the walkway, they will encounter a distinctive vertical transition. Called "the hub," this transition area will have vaulted ceilings and an escalator, presenting a dramatic site for art possibilities. Artists working in either 2-D or 3-D should imagine ways that consider the expansive height and ambiance of natural light inherent in the architectural design that can mark this space as a true focal point to the traveler's experience between buildings. Striking work can create a magnetizing atmosphere that can hold the brief attention of those quickly passing by, captivate those with more time on their hands, and be seen like a beacon down both ends of the thoroughfare.



III. HOW TO APPLY AND OBTAIN A COPY OF THIS RFQ&E:

A complete copy of this RFQ&E is available free of charge by visiting the Sacramento County Department of Airports website at:

https://sacramento.aero/scas/opportunities/bids_and_requests

The Department reserves the right to modify this RFQ&E at any time prior to the SOQ&E due date. The Department will modify this RFQ&E only by formal written addenda. The addenda to this RFQ&E, if issued, will be posted on the above website. It shall be each artist's responsibility to check the website to obtain all addenda that may be issued.

Applications are only accepted through the SlideRoom online application portal:
<https://smforwardartprogram.slideroom.com/#/permalink/program/77766>

IV. DEADLINE

Applications for the artist services described in this RFQ&E are only accepted through SlideRoom.

(<https://smforwardartprogram.slideroom.com/#/permalink/program/77766>)

. Applications must be received by the deadline stated below. All late responses will be rejected.

Date: Thursday, May 7, 2024

Time: 4:00 PM Pacific Daylight Time

V. CONTENTS OF SOQ&Es

Artists must successfully demonstrate the ability to meet the Project Goals and budgetary requirements set forth above. Subsections A, B, C, and D below describe the minimum required information that must be submitted with each SOQ&E. Incomplete SOQ&Es will be rejected. SOQ&Es should contain sufficient information to demonstrate qualifications and experience, cite previous examples of success, and contain responses to subsections A, B, C, and D.

A. Letter of Interest:

The Letter of Interest should be included with the RFQ&E and be signed by the individual who will be entering into an agreement with the County if selected for one of the projects. It should be no more than one page in length and contain the following information:

1. Name and address of applicant
2. A summary of your artistic practice
3. A description of your previous work and career highlights that demonstrates experience in creating permanent works of public art. If you have not previously created permanent public artworks, describe how your work may translate into permanent materials;
4. A statement about why you are interested in creating and installing a work at the Airport.

B. Resume: Provide a detailed resume, four (4) pages maximum, including work history, special qualifications, and demonstrated experience.

If you are applying as a team, please include your team/studio resume, four (4) pages maximum. If that is not available, please combine the individual resumes of each team member into one document.

C. Ten (10) examples of your past work

D. Image list: A numbered list of corresponding submitted images that includes the artwork title, date, medium, dimensions, and narrative description, two (2) pages maximum.

E. References: Provide three references with direct experience working with you who can be contacted. Provide name, title, address, email, and

telephone number. The Department reserves the right to contact past or current clients, even if not listed as references.

VI. RFQ&E TIMELINE

The table below describes the estimated timeline for the RFQ&E process through award of Agreement:

RFQ&E Issuance	April 5, 2024
SOQ&E Submission Deadline	May 7, 2024, 4:00 pm
First Panel Review Meeting – Selection of Finalists	May 2024
Finalist Orientation Meetings	June 2024
Second Panel Review Meeting – Interview Finalists	August 2024
Artist Selected and Awarded Contract	August 2024
Contract Agreement Executed	September 2024
Artwork Fabrication: Pedestrian Walkway	September 2024 – November 2025
Artwork Installation: Pedestrian Walkway	Prior to November 8, 2025
Artwork Fabrication: Parking Garage	September 2024 – Winter 2026
Artwork Installation: Parking Garage	Winter 2026

The Department reserves the right to modify, at its sole and absolute discretion, this schedule and any specific deadlines, including the successful Proposer’s service start date.

VII. ARTIST SELECTION PROCESS

Phase One: Review of SOQ&Es

SOQ&Es submitted in response to this RFQ&E must be complete. **As a measure of completeness, all instructions in this RFQ&E must be followed.** SOQ&Es that do not include the SOQ&E content requirements identified in Section VII above will be considered incomplete and will not be considered.

SOQ&Es will be evaluated based on the following criteria:

- Quality and artistic excellence of past work and proposed designs.
- Artist’s technical abilities, as demonstrated in previous artwork.
- Artist’s ability to address site-responsive public art projects (if applicable) and the specific challenges and goals of the site.
- Willingness of the artist to consult and work with County representatives, the relevant SMForward project architect and general contractor, as

applicable, and Airport staff to ensure efficient integration of artwork into the site.

- Artist’s ability to carry out the commission, keep the project within budget, and to complete and install the work on schedule.
- Artist’s knowledge of and ability to work with durable materials that are appropriate for long-term exposure in a public environment and that require minimal care and maintenance.
- The artist’s ability to reflect the diversity of the County and the region.

Phase Two: Selection of Finalists

An artist review panel comprised of representatives from the Airport, the project design team, and arts professionals will be convened to select up to five finalists for each of the sites listed above based on the SOQ&Es submitted and the criteria described under Phase One above. These finalists will be invited to develop a conceptual proposal specific to the site. Finalists will be paid a one-time \$5,000 fee to help defray the costs of preparing the conceptual proposal and reimbursed for travel expenses for the orientation and panel review.

Phase Three: Finalist Interviews

The artist review panel will be reconvened to interview the finalists review finalist proposals, and recommend one artist (or artist team) for each site listed in Section VII above.

VIII. QUESTIONS

All inquiries regarding this RFQ&E and any request for clarification of the contents of this RFQ&E must be directed in writing via e-mail to Air-SMForward-Art@saccounty.gov no later than April 22, 2024, at 2:00 PM, Pacific Daylight Time. Please include “Art RFQ” in the subject line.

Interested parties are hereby notified of the following:

- A. Telephone inquiries will not receive a response;
- B. Artists are not to rely on oral instructions or clarifications to this RFQ&E;
- C. If modifications to this RFQ&E are necessary, the Department will respond in writing via addendum, which will be posted to the Department’s website at http://www.sacramento.aero/scas/opportunities/bids_and_requests/; and <https://smforwardartprogram.slideroom.com/#/permalink/program/7776>

- D. Interested parties are encouraged to regularly check the Sacramento County Department of Airports and or SlideRoom websites for possible updates related to this RFQ&E;
- E. Any addendum prepared by the Department that responds to questions received by the deadline for submitting questions will be posted on the Department's and SlideRoom websites and
- F. Contact with any County representative (other than the designated contact person identified above) during this solicitation process is cause for disqualification.

Sacramento International Airport Policy Documents

IX. SCOPE OF SERVICES

See the sample Agreement enclosed as Attachment XX.

X. TERM AND EFFECTIVE DATE OF THE AGREEMENT

The Department intends to award one or more Agreements with an anticipated commencement date of September 2024. The term of each Agreement will be for one (1) year, with the possibility of extending it up to three (3) years should additional time be needed to complete the work.

XI. CONDITIONS

A. FEDERAL AVIATION ADMINISTRATION (FAA) GENERAL CONTRACT PROVISIONS FOR SOLICITATIONS

The artist(s) shall, at all times during the term of the Agreement, comply with provisions of the "FAA General Contract Provisions for Solicitations" (FAA Solicitation Provisions) and any subsequent revisions, updates or amendments hereto. A copy of the current FAA Solicitation Provisions is provided as Attachment 1 to this RFQ&E.

B. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

The County encourages all businesses, including those owned and controlled by one (1) or more socially and economically disadvantaged individuals that can provide the desired services, to submit their proposals. If you are currently certified as a DBE, please include a copy of your DBE certification letter along with your proposal. This information will be used for DBE utilization tracking purposes only. If you are a business owned and controlled by one or more socially and economically disadvantaged individuals and are not currently certified as a DBE firm, but wish to receive information on how to become certified, please contact the State of California, Department of Transportation, Civil Rights Program at either 916-324-1700 or 866-810-6346. You may also visit the following website: <http://www.dot.ca.gov/hq/bep/index.htm>

C. DEPARTMENT'S RIGHT TO NEGOTIATE AGREEMENTS

The Department reserves the right to negotiate Agreements with consulting firms capable of providing the services described in this RFQ&E outside of the RFQ&E process, even if such firms did not participate in the process.

D. AMERICANS WITH DISABILITIES ACT

The Department is required by the Americans with Disabilities Act to make all of its public meetings accessible to persons with disabilities.

E. PUBLIC DISCLOSURE OF SOQ&Es

The Department will treat all information submitted in a proposal as available for public inspection once negotiations with the selected artists have been completed. If copies of the SOQ&Es are included with the Board materials, the Department will make SOQ&Es available for public inspection once staff has made a recommendation for award.

If a respondent believes protected data is included in its SOQ&E, the respondent shall clearly identify the data and provide the legal basis in support of the asserted classification. The respondent must present such information separately as part of its SOQ&E OR type in bold red letters the term "CONFIDENTIAL" on that specific part or page of the SOQ&E which the respondent believes to be confidential. Classification of data as trade secret data will be determined pursuant to applicable law, and, accordingly, merely labeling data as "trade secret" does not necessarily make the data protected as such under any applicable law.

In order for the County to assert the confidentiality of any such information in the event a California Public Records Act (Government Code section 7920.000 et seq.) request is received, the respondent must request, execute, and submit a County-prepared written agreement to defend and indemnify the County for any liability, costs and expenses incurred in asserting such confidentiality as part of the SOQ&E.

The final determination of whether the County will assert a respondent's claim of confidentiality shall be at the sole discretion of the County. Any information determined to be non-confidential shall be considered a public record. If the County determines that your information does not meet the criteria for confidentiality, you will be notified of the County's intent to release the public record pursuant to any Public Records Act request.

The respondent agrees, as a condition of submitting its RFQ&E, that the County will not, as between the parties, be liable or accountable for any loss or damage, which may result from a breach of confidentiality related to the SOQ&E. The respondent agrees to indemnify and hold the County, its officials, agents, and employees harmless from all claims arising out of, resulting from, or in any manner attributable to any violation of any provision of the California Public

Records Act, including legal fees and disbursements paid or incurred to enforce this provision.

F. TAXATION

Respondents shall cooperate with the County in all matters relating to taxation and the collection of taxes. It is the policy of the County to self-accrue use tax associated with its contracts. The use tax which is self-accrued will be remitted to the California State Board of Equalization designating the County as the place of business for the purpose of allocating local sales and use taxes.

XII. BACKGROUND CHECKS

The artists and/or their staff that will be working on-site unescorted, or who will require access to County systems, must pass the Department's background check.

XIII. NEGOTIATION OF AGREEMENT

After successful completion of negotiations, the Department will prepare an Agreement with the selected artist(s), which will then be submitted to the Board for approval. There will be no contractual agreement between the selected artist(s) and the County unless and until the Board accepts and approves the Agreement. The Agreement will be executed with electronic signatures via DocuSign.

If selected, artist(s) shall execute the Agreement with the County, using the standard agreement template promulgated by the Office of the County Counsel (see Attachment 2). All exceptions taken from the Agreement, including any requested revisions, deletions, or additions to the contract language in the attached sample Agreement must be detailed and clearly set forth in the SOQ&E. Such exceptions shall be considered by the Department, in consultation with County Counsel, during negotiations. The Agreement must be approved by County Counsel prior to Board approval.

Attachments:

1. *FAA General Contract Provisions for Solicitations*
2. *Agreement for Artwork Services*

Attachment 1
FAA GENERAL CONTRACT PROVISIONS FOR SOLICITATIONS
COVER PAGE

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the Artist's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Timetables

Goals for minority participation for each trade: 16.1%

Goals for female participation in each trade: 6.9%

These goals are applicable to all of the artist's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the artist performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the artist also is subject to the goals for both its federally involved and non-federally involved construction.

The artist's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a) and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the artist shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from artist to artist or from project to project for the sole purpose of meeting the artist's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The artist shall provide written notification to the Director of the Office of Federal Contract Compliance Programs (OFCCP) within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the

subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

4. As used in this notice and in the contract resulting from this solicitation, the "covered area" is Sacramento County.

BUY AMERICAN PREFERENCE

The artist agrees to comply with 49 USC § 50101, which provides that Federal funds may not be obligated unless all steel and manufactured goods used in AIP funded projects are produced in the United States, unless the Federal Aviation Administration has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

The bidder must complete and submit the Buy America certification included herein with their bid or offer. The County will reject as nonresponsive any bid or offer that does not include a completed Certificate of Buy American Compliance.

TITLE VI SOLICITATION NOTICE

The County, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that any contract entered into pursuant to this advertisement, [select disadvantaged business enterprises or airport concession disadvantaged business enterprises] will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

DAVIS-BACON REQUIREMENTS

The Davis-Bacon Act ensures that laborers and mechanics employed under the contract receive pay no less than the locally prevailing wages and fringe benefits as determined by the Department of Labor. 2 CFR § 200, Appendix II (D); 29 CFR Part 5.

CERTIFICATION OF BIDDER REGARDING DEBARMENT

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

DISADVANTAGED BUSINESS ENTERPRISE

The requirements of 49 CFR part 26 apply to this contract. It is the policy of the County to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. The Owner encourages participation by all firms qualifying under this solicitation regardless of business size or ownership.

FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, et seq, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part-time workers.

The artist has full responsibility to monitor compliance to the referenced statute or regulation. The artist must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

TRADE RESTRICTION CERTIFICATION

By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror –

- 1) is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR);
- 2) has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the USTR; and
- 3) Has not entered into any subcontract for any product to be used on the Federal project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent

certification may render the maker subject to prosecution under Title 18 USC Section 1001.

The Offeror/artist must provide immediate written notice to the Owner if the Offeror/Artist learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Artist must require subcontractors provide immediate written notice to the Artist if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to an Offeror or subcontractor:

- 1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR or
- 2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list or
- 3) Who incorporates in the public works project any product of a foreign country on such USTR list.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a Artist is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. The Artist may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by USTR, unless the Offeror has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Artist or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration (FAA) may direct through the Owner cancellation of the contract or subcontract for default at no cost to the Owner or the FAA.

CERTIFICATION REGARDING LOBBYING

The Bidder or Offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection

with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

PROCUREMENT OF RECOVERED MATERIALS

Artist and subcontractor agree to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this contract and to the extent practicable, the Artist and subcontractors are to use products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

- 1) The contract requires procurement of \$10,000 or more of a designated item during the fiscal year; or
- 2) The Artist has procured \$10,000 or more of a designated item using Federal funding during the previous fiscal year.

The list of EPA-designated items is available at www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products.

Section 6002(c) establishes exceptions to the preference for recovery of EPA-designated products if the Artist can demonstrate the item is:

- a) Not reasonably available within a timeframe providing for compliance with the contract performance schedule;
- b) Fails to meet reasonable contract performance requirements or
- c) Is only available at an unreasonable price.

Attachment 2

AGREEMENT FOR ART SERVICES

COVER PAGE

**AGREEMENT FOR THE DESIGN, FABRICATION, TRANSPORTATION,
AND INSTALLATION OF ORIGINAL PUBLIC ARTWORK AT
SACRAMENTO INTERNATIONAL AIRPORT**

THIS AGREEMENT (Agreement) is made and entered into as of this ____ day of _____ 2024, by and between the COUNTY OF SACRAMENTO (COUNTY), a political subdivision of the State of California, and [ARTIST NAME] (ARTIST), [Artist Info].

RECITALS

WHEREAS, COUNTY owns and operates Sacramento International Airport (SMF) through its Department of Airports (Department); and

WHEREAS, COUNTY desires to commission original public artwork to be displayed at SMF and obtain services for the design, fabrication, transportation, and installation of such artwork; and

WHEREAS, pursuant to Government Code Section 31000, COUNTY is authorized to contract for specific special services with persons specially trained, experienced, and competent to perform such services; and

WHEREAS, the services described herein are not services provided by COUNTY employees and are therefore not subject to the requirements of COUNTY Charter 71-J; and

WHEREAS, ARTIST was selected through a competitive process as more particularly described in the SMForward Art Plan adopted by the COUNTY Board of Supervisors (County Board) on February 27, 2024; and

WHEREAS, by Resolution No. 2024-_____, the COUNTY Board authorized the Director of Airports (Director) to negotiate and execute this Agreement; and

WHEREAS, COUNTY and ARTIST desire to enter into this Agreement on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, COUNTY and ARTIST agree as follows:

I. SCOPE OF SERVICES

ARTIST shall provide services in the amount, type and manner described in Exhibit A, which is attached hereto and incorporated herein.

II. TERM

This Agreement shall be effective and commence as of the date first written above and shall end on _____ [insert date] or upon the Department’s final acceptance of the artwork(s) described in Exhibit A, whichever is later.

III. NOTICE

Any notice, demand, request, consent, or approval that either party hereto may or is required to give the other pursuant to this Agreement shall be in writing and shall be either personally delivered or sent by mail or e-mail, addressed as follows:

TO COUNTY

TO ARTIST

Director of Airports
Sacramento County
Department of Airports
6900 Airport Boulevard
Sacramento, CA 95837
Attn: _____
E-mail: _____

[Mailing Info]

Either party may change the address or e-mail address to which subsequent notice and/or other communications can be sent by giving written notice designating a change of such address to the other party, which shall be effective upon receipt.

IV. COMPLIANCE WITH LAWS

- A. ARTIST shall observe and comply with all applicable federal, State, and County laws, regulations and ordinances.
- B. ARTIST shall, at all times during the term of this Agreement, comply with the provisions of the Federal Aviation Administration (FAA) Airport Sponsor Assurances (Assurances) and any subsequent revisions, updates, or amendments thereto. The

provisions of the Assurances may change during the term of this Agreement, and those changes will be incorporated into this Agreement without the necessity of a formal amendment. COUNTY is not responsible for notifying ARTIST of any changes to the Assurances. ARTIST is required to contact the FAA for any updates or revisions. The Assurances document is available on the FAA's website, and is incorporated into this Agreement by this reference. https://www.faa.gov/airports/aip/grant_assurances

- C. Economic Sanctions: Pursuant to California State Executive Order N-6-22 (Order) imposing economic sanctions against Russia and declaring support of Ukraine, COUNTY shall terminate any contract with any individual or entity that is in violation of the Order or that is subject to economic sanctions therein, and shall not enter a contract with any such individual or entity while the Order is in effect.

[If over \$5M:] ARTIST shall provide a written report to COUNTY within sixty (60) days of the effective date of the Agreement or sixty (60) days upon request regarding compliance with economic sanctions and steps taken in response to Russia's actions in Ukraine, including but not limited to, desisting from making new investments in, or engaging in financial transactions with Russia or Russian entities, and directly providing support to Ukraine, while the Order is in effect. COUNTY shall keep the report on file as evidence of compliance with the Order.

V. GOVERNING LAWS AND JURISDICTION

This Agreement shall be deemed to have been executed and to be performed within the State of California and shall be construed and governed by the internal laws of the State of California. Any legal proceedings arising out of or relating to this Agreement shall be brought in Sacramento County, California.

VI. LICENSES, PERMITS AND CONTRACTUAL GOOD STANDING

- A. ARTIST shall possess and maintain all necessary licenses, permits, certificates and credentials required by the laws of the United States, the State of California, County of Sacramento and all other appropriate governmental agencies, including any certification and credentials required by COUNTY. Failure to maintain the licenses, permits, certificates, and credentials shall be deemed a breach of

this Agreement and constitutes grounds for the termination of this Agreement by COUNTY.

- B. ARTIST further certifies to COUNTY that it and its principals are not debarred, suspended, or otherwise excluded from or ineligible for participation in federal, State or county government contracts. ARTIST certifies that it shall not contract with a SUBCONTRACTOR that is so debarred or suspended.

VII. PREVAILING WAGES FOR INSTALLATION

ARTIST shall comply with the provisions of the California Labor Code, specifically, but not limited to, Chapter 1, commencing at Section 1720, of Part 7 of Division 2 (payment of prevailing wages) when installing the artwork described in Exhibit A and ensure any SUBCONTRACTORS performing such installation on its behalf also complies therewith. The prevailing rates for per diem wages shall be those rates determined by the Director of the California Department of Industrial Relations. Compensation pursuant to Section XXI below shall be conditioned upon ARTIST's compliance with this section VII and the submittal of timely and accurate certified payroll records as required hereunder.

VIII. PERFORMANCE STANDARDS

ARTIST shall perform its services under this Agreement in accordance with the industry and/or professional standards applicable to ARTIST'S services.

IX. OWNERSHIP OF WORK PRODUCT

All technical data, evaluations, plans, specifications, reports, documents, or other work products developed by ARTIST hereunder, except as otherwise provided in Exhibit A with respect to ownership of artwork, shall be the exclusive property of COUNTY and shall be delivered to COUNTY upon completion of the services authorized hereunder. ARTIST may retain copies thereof for its files and internal use. Publication of the information directly derived from work performed or data obtained in connection with services rendered under this Agreement must first be approved in writing by COUNTY. COUNTY recognizes that all technical data, evaluations, plans, specifications, reports, and other work products are instruments of ARTIST'S services and are not designed for use other than what is intended by this Agreement.

X. STATUS OF ARTIST

[USE (A) FOR SERVICE PROVIDERS WITH FIVE OR MORE EMPLOYEES OR WHEN A TAX WAIVER HAS BEEN OBTAINED FROM COUNTY COUNSEL]

(A)

- A. It is understood and agreed that ARTIST (including ARTIST'S employees) is an independent artist and that no relationship of employer-employee exists between the parties hereto. ARTIST'S assigned personnel shall not be entitled to any benefits payable to employees of COUNTY. COUNTY is not required to make any deductions or withholdings from the compensation payable to ARTIST under the provisions of this agreement; and as an independent artist, ARTIST hereby indemnifies and holds COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by any third party that an employer-employee relationship exists by reason of this agreement.
- B. It is further understood and agreed by the parties hereto that ARTIST in the performance of its obligation hereunder is subject to the control or direction of COUNTY as to the designation of tasks to be performed, the results to be accomplished by the services hereunder agreed to be rendered and performed, and not the means, methods, or sequence used by ARTIST for accomplishing the results.
- C. If, in the performance of this agreement, any third persons are employed by ARTIST, such person shall be entirely and exclusively under the direction, supervision, and control of ARTIST. All terms of employment, including hours, wages, working conditions, discipline, hiring, and discharging, or any other terms of employment or requirements of law, shall be determined by ARTIST, and the COUNTY shall have no right or authority over such persons or the terms of such employment.
- D. It is further understood and agreed that as an independent artist and not an employee of COUNTY, neither the ARTIST nor ARTIST'S assigned personnel shall have any entitlement as a COUNTY employee, right to act on behalf of COUNTY in any capacity whatsoever as agent, nor to bind COUNTY to any obligation whatsoever. ARTIST shall not be covered by worker's

compensation; nor shall ARTIST be entitled to compensated sick leave, vacation leave, retirement entitlement, participation in group health, dental, life and other insurance programs, or entitled to other fringe benefits payable by the County to employees of the COUNTY.

- E. It is further understood and agreed that ARTIST must issue W-2 and 941 Forms for income and employment tax purposes for all of ARTIST'S assigned personnel under the terms and conditions of this agreement.

[USE (B) FOR ALL OTHER SERVICE PROVIDERS]

(B)

- A. It is understood and agreed that ARTIST (including CONTRACTOR'S employees) is an independent artist and that no relationship of employer-employee exists between the parties hereto. ARTIST'S assigned personnel shall not be entitled to any benefits payable to employees of COUNTY as an independent artist, ARTIST hereby indemnifies and holds COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by any third party that an employer-employee relationship exists by reason of this agreement.
- B. It is further understood and agreed by the parties hereto that ARTIST in the performance of its obligation hereunder is subject to the control or direction of COUNTY as to the designation of tasks to be performed, the results to be accomplished by the services hereunder agreed to be rendered and performed, and not the means, methods, or sequence used by ARTIST for accomplishing the results.
- C. If, in the performance of this agreement, any third persons are employed by ARTIST, such person shall be entirely and exclusively under the direction, supervision, and control of ARTIST. All terms of employment, including hours, wages, working conditions, discipline, hiring, and discharging, or any other terms of employment or requirements of law, shall be determined by ARTIST, and the COUNTY shall have no right or authority over such persons or the terms of such employment.
- D. It is further understood and agreed that as an independent artist and not an employee of COUNTY, neither the ARTIST nor

ARTIST'S assigned personnel shall have a) any entitlement as a COUNTY employee; or b) except as otherwise provided by this Agreement, the right to act on behalf of COUNTY in any capacity whatsoever as agent, nor to bind COUNTY to any obligation whatsoever. ARTIST shall not be covered by worker's compensation; nor shall ARTIST be entitled to compensated sick leave, vacation leave, retirement entitlement, participation in group health, dental, life and other insurance programs, or entitled to other fringe benefits payable by the COUNTY to employees of the COUNTY.

- E. Notwithstanding ARTIST'S status as an independent artist, COUNTY shall withhold from payments made to ARTIST such sums as are required to be withheld from employees by the Federal Internal Revenue Code; the Federal Insurance Compensation Act; the State Personal Income Tax Law and the State Unemployment Insurance Code; provided, however, that said withholding is for the purpose of avoiding COUNTY'S liability under said laws and does not abrogate ARTIST'S status as an independent artist as described in this contract. Further, ARTIST is not included in any group covered by COUNTY'S present agreement with the federal Social Security Administration.

[USE (C) IN ADDITION TO (A) FOR OUT-OF-STATE SERVICE PROVIDERS.]

(C)

Notwithstanding subparagraphs (A) and (E), it is further understood and agreed that COUNTY shall withhold seven percent (7%) of all income paid to ARTIST under this agreement for payment and reporting to the California Franchise Tax Board because ARTIST does not qualify as (1) a corporation with its principal place of business in California, (2) a partnership with a permanent place of business in California, (3) a corporation qualified to do business in California by the Secretary of State, or (4) an individual with a permanent residence in the State of California.

XI. ARTIST IDENTIFICATION

ARTIST shall provide the COUNTY with the following information for the purpose of compliance with California Unemployment Insurance Code section 1088.8 and Sacramento County Code Chapter 2.160: ARTIST'S name, address, telephone number, social security number,

and whether dependent health insurance coverage is available to ARTIST.

XII. COMPLIANCE WITH CHILD, FAMILY AND SPOUSAL SUPPORT REPORTING OBLIGATIONS

- A. ARTIST'S failure to comply with state and federal child, family and spousal support reporting requirements regarding a artist's employees or failure to implement lawfully served wage and earnings assignment orders or notices of assignment relating to child, family and spousal support obligations shall constitute a default under this Agreement.
- B. ARTIST'S failure to cure such default within ninety (90) days of notice by COUNTY shall be grounds for termination of this Agreement.

XIII. BENEFITS WAIVER

If ARTIST is unincorporated, ARTIST acknowledges and agrees that ARTIST is not entitled to receive the following benefits and/or compensation from COUNTY: medical, dental, vision and retirement benefits, life and disability insurance, sick leave, bereavement leave, jury duty leave, parental leave, or any other similar benefits or compensation otherwise provided to permanent civil service employees pursuant to the County Charter, the County Code, the Civil Service Rule, the Sacramento County Employees' Retirement System and/or any and all memoranda of understanding between COUNTY and its employee organizations. Should ARTIST or any employee or agent of ARTIST seek to obtain such benefits from COUNTY, ARTIST agrees to indemnify and hold harmless COUNTY from any and all claims that may be made against COUNTY for such benefits.

XIV. RETIREMENT BENEFITS/STATUS

ARTIST acknowledges and agrees that COUNTY has not made any representations regarding entitlement, eligibility for and/or right to receive ongoing Sacramento County Employee Retirement System (SCERS) retirement benefits during the term of this Agreement. By entering into this Agreement, ARTIST assumes sole and exclusive responsibility for any consequences, impacts or action relating to such retirement benefits that is or will be occasioned as a result of the services provided by ARTIST under this Agreement. ARTIST waives any rights to proceed against COUNTY should SCERS modify or

terminate retirement benefits based on ARTIST'S provision of services under this Agreement.

XV. CONFLICT OF INTEREST

ARTIST and ARTIST'S officers and employees shall not have a financial interest, or acquire any financial interest, direct or indirect, in any business, property or source of income which could be financially affected by or otherwise conflict in any manner or degree with the performance of services required under this Agreement.

XVI. LOBBYING AND UNION ORGANIZATION ACTIVITIES

- A. ARTIST shall comply with all certification and disclosure requirements prescribed by Section 319, Public Law 101-121 (31 U.S.C. § 1352) and any implementing regulations.
- B. If services under this Agreement are funded with state funds granted to COUNTY, ARTIST shall not utilize any such funds to assist, promote or deter union organization by employees performing work under this Agreement and shall comply with the provisions of Government Code Sections 16645 through 16649.

XVII. NONDISCRIMINATION IN EMPLOYMENT, SERVICES, BENEFITS AND FACILITIES

- A. ARTIST agrees and assures COUNTY that ARTIST and any SUBCONTRACTORS shall comply with all applicable federal, state, and local Anti-discrimination laws, regulations, and ordinances and to not unlawfully discriminate, harass, or allow harassment against any employee, applicant for employment, employee or agent of COUNTY, or recipient of services contemplated to be provided or provided under this Agreement, because of race, ancestry, marital status, color, religious creed, political belief, national origin, ethnic group identification, sex, sexual orientation, age (over 40), medical condition (including HIV and AIDS), or physical or mental disability. ARTIST shall ensure that the evaluation and treatment of its employees and applicants for employment, the treatment of COUNTY employees and agents, and recipients of services are free from such discrimination and harassment.
- B. ARTIST represents that it is in compliance with and agrees that it will continue to comply with the Americans with Disabilities Act of

1990 (42 U.S.C. § 12101 et seq.), the Fair Employment and Housing Act (Government Code §§ 12900 et seq.), and regulations and guidelines issued pursuant thereto.

- C. ARTIST agrees to compile data, maintain records and submit reports to permit effective enforcement of all applicable antidiscrimination laws and this provision.
- D. ARTIST shall include this nondiscrimination provision in all subcontracts related to this Agreement.

XVIII. INDEMNIFICATION

To the fullest extent permitted by law, ARTIST shall indemnify, defend, and hold harmless COUNTY, its governing Board, officers, directors, officials, employees, and authorized volunteers and agents, (collectively "Indemnified Parties") from and against any and all claims, demands, actions, losses, liabilities, damages, and all expenses and costs incidental thereto (collectively "Claims") including cost of defense, settlement, arbitration, and reasonable attorneys' fees, resulting from injuries to or death of persons, including but not limited to employees of either Party hereto, and damage to or destruction of property or loss of use thereof, including but not limited to the property of either Party hereto, arising out of, pertaining to, or resulting from the acts or omissions of the ARTIST, its officers, employees, or agents, or the acts or omissions of anyone else directly or indirectly acting on behalf of the ARTIST, or for which the ARTIST is legally liable under law regardless of whether caused in part by an Indemnified Party. ARTIST shall not be liable for any Claims arising from the sole negligence or willful misconduct of an Indemnified Party.

This indemnity shall not be limited by the types and amounts of insurance or self-insurance maintained by the ARTIST or the ARTIST'S SUBCONTRACTORS.

Nothing in this Indemnity shall be construed to create any duty to, any standard of care with reference to, or any liability or obligation, contractual or otherwise, to any third party.

The provisions of this Indemnity shall survive the expiration or termination of the Agreement.

XIX. INSURANCE

Without limiting ARTIST'S indemnification, ARTIST shall maintain in force at all times during the term of this Agreement and any extensions or modifications thereto, insurance as specified in Exhibit B. It is the responsibility of ARTIST to notify its insurance advisor or insurance carrier(s) regarding coverage, limits, forms and other insurance requirements specified in Exhibit B. It is understood and agreed that COUNTY shall not pay any sum to ARTIST under this Agreement unless and until COUNTY is satisfied that all insurance required by this Agreement is in force at the time services hereunder are rendered. Failure to maintain insurance as required in this agreement may be grounds for material breach of contract.

XX. INFORMATION TECHNOLOGY ASSURANCES

ARTIST shall take all reasonable precautions to ensure that any hardware, software, and/or embedded chip devices used by ARTIST in the performance of services under this Agreement, other than those owned or provided by COUNTY, shall be free from viruses. Nothing in this provision shall be construed to limit any rights or remedies otherwise available to COUNTY under this Agreement.

XXI. COMPENSATION AND PAYMENT OF INVOICES LIMITATIONS

- A. Compensation under this Agreement shall be limited to the Maximum Total Payment Amount set forth in Exhibit C, or Exhibit C as modified by COUNTY in accordance with express provisions in this Agreement.
- B. ARTIST shall submit an invoice on the forms and in accordance with the procedures prescribed by COUNTY [insert - on a monthly basis, upon completion of services, etc. as appropriate]. Invoices shall be submitted to COUNTY no later than the fifteenth (15th) day of the month following the invoice period, and COUNTY shall pay ARTIST within thirty (30) days after receipt of an appropriate and correct invoice.
- C. COUNTY operates on a July through June fiscal year. Invoices for services provided in any fiscal year must be submitted no later than July 31, one (1) month after the end of the fiscal year. Invoices submitted after July 31 for the prior fiscal year shall not be honored by COUNTY unless ARTIST has obtained prior written COUNTY approval to the contrary.

- D. ARTIST shall maintain for four (4) years following termination of this agreement full and complete documentation of all services and expenditures associated with performing the services covered under this Agreement. Expense documentation shall include: time sheets or payroll records for each employee; receipts for supplies; applicable subcontract expenditures; applicable overhead and indirect expenditures.
- E. In the event ARTIST fails to comply with any provisions of this Agreement, COUNTY may withhold payment until such non-compliance has been corrected.

XXII. SUBCONTRACTS, ASSIGNMENT

- A. ARTIST shall obtain prior written approval from COUNTY before subcontracting any of the services delivered under this Agreement. ARTIST remains legally responsible for the performance of all contract terms including work performed by third parties under subcontracts. Any subcontracting will be subject to all applicable provisions of this Agreement. ARTIST shall be held responsible by COUNTY for the performance of any SUBCONTRACTOR whether approved by COUNTY or not.
- B. This Agreement is not assignable by ARTIST in whole or in part, without the prior written consent of COUNTY.

XXIII. AMENDMENT AND WAIVER

Except as provided herein, no alteration, amendment, variation, or waiver of the terms of this Agreement shall be valid unless made in writing and signed by both parties. Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent, or any other right hereunder. No interpretation of any provision of this Agreement shall be binding upon COUNTY unless agreed in writing by Director and counsel for COUNTY.

This Agreement may be amended to increase the maximum payment amount; provided, however, that such increase shall not exceed the lesser of ten percent (10%) of the annual payment amount under this Agreement or \$25,000.

XXIV. SUCCESSORS

This Agreement shall bind the successors of COUNTY and ARTIST in the same manner as if they were expressly named.

XXV. TIME

Time is of the essence of this Agreement.

XXVI. INTERPRETATION

This Agreement shall be deemed to have been prepared equally by both of the parties, and the Agreement and its individual provisions shall not be construed or interpreted more favorably for one party on the basis that the other party prepared it.

XXVII. DIRECTOR

As used in this Agreement, "Director" shall mean the Director of the Department of Airports, or their designee. Director shall administer this Agreement on behalf of the COUNTY, and has authority to make administrative amendments to this Agreement on behalf of the COUNTY relating to performance standards, milestones, schedules, and timelines; scope of services; management practices; and similar matters so long as such amendments do not affect the Total Maximum Payment Amount set forth in Exhibit C. Unless otherwise provided herein or required by applicable law, Director shall be vested with all the rights, powers, and duties of COUNTY herein. With respect to matters herein subject to the approval, satisfaction, or discretion of COUNTY or Director, the decision of the Director in such matters shall be final.

XXVIII. DISPUTES

In the event of any dispute arising out of or relating to this Agreement, the parties shall attempt, in good faith, to promptly resolve the dispute mutually between themselves. Pending resolution of any such dispute, ARTIST shall continue without delay to carry out all its responsibilities under this Agreement unless the Agreement is otherwise terminated in accordance with the Termination provisions herein. COUNTY shall not be required to make payments for any services that are the subject of this dispute resolution process until such dispute has been mutually resolved by the parties. If the dispute cannot be resolved within fifteen (15) calendar days of initiating such negotiations or such other time period as may be mutually agreed to by the parties in writing, either party may pursue its available legal

and equitable remedies, pursuant to the laws of the State of California. Nothing in this Agreement or provision shall constitute a waiver of any of the government claim filing requirements set forth in Title 1, Division 3.6, of the California Government Code or as otherwise set forth in local, State and federal law.

XXIX. TERMINATION

- A. COUNTY may terminate this Agreement without cause upon thirty (30) days written notice to the other party. Notice shall be deemed served on the date of mailing. If notice of termination for cause is given by COUNTY to ARTIST and it is later determined that ARTIST was not in default or the default was excusable, then the notice of termination shall be deemed to have been given without cause pursuant to this paragraph (A).
- B. COUNTY may terminate this Agreement for cause immediately upon giving written notice to ARTIST should ARTIST materially fail to perform any of the covenants contained in this Agreement in the time and/or manner specified. In the event of such termination, COUNTY may proceed with the work in any manner deemed proper by COUNTY. If notice of termination for cause is given by COUNTY to ARTIST and it is later determined that ARTIST was not in default or the default was excusable, then the notice of termination shall be deemed to have been given without cause pursuant to paragraph (A) above.
- C. COUNTY may terminate or amend this Agreement immediately upon giving written notice to ARTIST, 1) if advised that funds are not available from external sources for this Agreement or any portion thereof, including if distribution of such funds to the COUNTY is suspended or delayed; 2) if funds for the services and/or programs provided pursuant to this Agreement are not appropriated by the State; 3) if funds in COUNTY'S yearly proposed and/or final budget are not appropriated by COUNTY for this Agreement or any portion thereof; or 4) if funds that were previously appropriated for this Agreement are reduced, eliminated, and/or re-allocated by COUNTY as a result of mid-year budget reductions.
- D. If this Agreement is terminated under paragraph A or C above, ARTIST shall only be paid for any services completed and provided prior to notice of termination. In the event of termination under paragraph A or C above, ARTIST shall be paid an amount which

bears the same ratio to the total compensation authorized by the Agreement as the services actually performed bear to the total services of ARTIST covered by this Agreement, less payments of compensation previously made. In no event, however, shall COUNTY pay ARTIST an amount which exceeds a pro rata portion of the Agreement total based on the portion of the Agreement term that has elapsed on the effective date of the termination.

- E. ARTIST shall not incur any expenses under this Agreement after notice of termination and shall cancel any outstanding expenses obligations to a third party that ARTIST can legally cancel.

XXX. REPORTS

- A. ARTIST shall, without additional compensation therefor, make fiscal, program evaluation, progress, and such other reports as may be reasonably required by Director concerning ARTIST'S activities as they affect the contract duties and purposes herein. COUNTY shall explain procedures for reporting the required information.
- B. ARTIST agrees that, pursuant to Government Code section 7522.56, ARTIST shall make best efforts to determine if any of its employees or new hires providing direct services to the COUNTY are members of the Sacramento County Employees' Retirement System (SCERS). ARTIST further agrees that it shall make a report bi-annually (due no later than January 31st and July 31st) to the COUNTY with a list of its employees that are members of SCERS along with the total number of hours worked during the previous six (6) months. This report shall be forwarded to where Notice is sent pursuant to Roman numeral III of this Agreement.

XXXI. AUDITS AND RECORDS

Upon COUNTY'S request, COUNTY or its designee shall have the right at reasonable times and intervals to audit, at ARTIST'S premises, ARTIST'S financial and program records as COUNTY deems necessary to determine ARTIST'S compliance with legal and contractual requirements and the correctness of claims submitted by ARTIST. ARTIST shall maintain such records for a period of four (4) years following termination of the Agreement, and shall make them available for copying upon COUNTY'S request at COUNTY'S expense. COUNTY shall have the right to withhold any payment under this Agreement until ARTIST has provided access to ARTIST'S financial and program records related to this Agreement.

XXXII. PRIOR AGREEMENTS

This Agreement constitutes the entire contract between COUNTY and ARTIST regarding the subject matter of this Agreement. Any prior agreements, whether oral or written, between COUNTY and ARTIST regarding the subject matter of this Agreement are hereby terminated effective immediately upon full execution of this Agreement.

XXXIII. SEVERABILITY

If any term or condition of this Agreement or the application thereof to any person(s) or circumstance is held invalid or unenforceable, such invalidity or unenforceability shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application; to this end the terms and conditions of this Agreement are declared severable.

XXXIV. FORCE MAJEURE

Neither ARTIST nor COUNTY shall be liable or responsible for delays or failures in performance resulting from events beyond the reasonable control of such party and without fault or negligence of such party. Such events shall include but not be limited to acts of God, strikes, lockouts, riots, acts of war, epidemics, pandemics, acts of government, fire, power failures, nuclear accidents, earthquakes, unusually severe weather, acts of terrorism, or other disasters, whether or not similar to the foregoing, and acts or omissions or failure to cooperate of the other party or third parties (except as otherwise specifically provided herein).

XXXV. SURVIVAL OF TERMS

All services performed and deliverables provided pursuant to this Agreement are subject to all of the terms, conditions, price discounts and rates set forth herein, notwithstanding the expiration of the initial term of this Agreement or any extension thereof. Further, the terms, conditions and warranties contained in this Agreement that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Agreement shall so survive.

XXXVI. DUPLICATE COUNTERPARTS

This Agreement and any amendments hereto may be executed in duplicate counterparts. The Agreement and subsequent amendments shall be deemed executed when signed by both parties.

Signatures scanned and transmitted electronically shall be deemed original signatures for purposes of this Agreement and subsequent amendments, with such scanned signatures having the same legal effect as original signatures. This Agreement and any subsequent amendments to it may be executed through the use of an electronic signature and will be binding on each party as if it were physically executed.

XXXVII. AUTHORITY TO EXECUTE

Each person executing this Agreement represents and warrants that he or she is duly authorized and has legal authority to execute and deliver this Agreement for or on behalf of the parties to this Agreement. Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party's obligations hereunder have been duly authorized.

XXXVIII. FAA CONTRACT PROVISIONS

ARTIST shall, at all times, during the term of this Agreement, comply with the provisions of the FAA Contract Provisions (Contract Provisions) and any subsequent amendments, applicable to the activities, rights and duties contemplated under this Agreement. A copy of the Contract Provisions is attached as Exhibit D and incorporated by reference. ARTIST shall include compliance with the Contract Provisions in all other agreements it enters into with third parties, pertaining to, referencing or otherwise related to the activates regarding the subject matter of this Agreement.

XXXIX. LIQUIDATED DAMAGES

For performance failures, ARTIST shall provide credits, by reduction of invoice totals, or reimbursement to COUNTY in accordance with the liquidated damages schedule described in Exhibit H, attached hereto and incorporated herein.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first written below.

**COUNTY OF SACRAMENTO, a [name of ARTIST and type of business]
political subdivision of the
State of California**

By: _____
Cynthia A. Nichol
Director of Airports

By: _____
[Authorized Signer]
[Title]

Date: _____

Date: _____

CONTRACT AND ARTIST TAX STATUS
REVIEWED AND APPROVED BY COUNTY COUNSEL

By: _____
Date: _____
Katrina G. Nelson
Supervising Deputy County Counsel

- Attachments:
Exhibit A – Scope of Services
Exhibit B – Insurance Requirements
Exhibit C – Compensation/Budget Requirements
Exhibit D – FAA Contract Provisions

EXHIBIT A to Agreement
between the COUNTY OF SACRAMENTO (COUNTY)
and [ARTIST] (ARTIST)

SCOPE OF SERVICES

FINAL SCOPE OF SERVICES MAY DIFFER BASED ON PROPOSAL

I. SERVICE LOCATION

Facility Name(s): Sacramento International Airport (SMF)

Street Address: 6900 Airport Blvd.

City and Zip Code: Sacramento, CA 95837

II. DESCRIPTION OF SERVICES

Subject to the terms and conditions set forth in this Agreement, ARTIST ("Artist") shall:

- A. In accordance with the schedule set forth in Exhibit A, purchase all labor, supplies, materials and equipment required to design and furnish to the County an artwork ("Work") to be located at _____ and fabricate, deliver and install the Work to the satisfaction of the County and in substantial conformance with Artist's Final Design Proposal ("Final Proposal").
- B. Artist shall not commence the performance of any of the services identified in section 1.A until receiving a written "Notice to Proceed" from the County for each Phase and Milestone of this project.

The following schedule shall be adhered to in the design, fabrication, transportation, and installation of the Work:

Phase 1: Conceptual Proposal. To be completed _____ months after execution of this Agreement. Delivery of a Conceptual Design Proposal ("Conceptual Proposal") shall include:

- a. Presentation quality, to-scale renderings (drawings, animations, and/or study model) illustrating the intended physical appearance - - including scale and form of the Work will be provided to the County;
- b. A plan showing the location of the Work;

- c. A description of the intended materials, colors, and surface treatments;
- d. An anticipated method of fabrication and installation of the Work;
- e. A written description of the artwork describing the Artist's conceptual approach to the project;
- f. A schedule for final design development, fabrication, transportation, and installation if the design is approved;
- g. If requested by the County, Artist shall be available to present the Conceptual Proposal, at one or more project meetings, to County staff, or other individuals and organizations, as needed. Artist agrees to collaborate closely with the County through meetings or other necessary means of communication to thoroughly integrate feedback into the design.
- h. A preliminary estimate of the costs associated with the Work (see below for eligible expenses) that totals no more than _____ . This budget must cover all costs related to the design, fabrication, insuring, transportation, and installation of Work including, but not limited to the following:
 - The cost of all materials to be used in the fabrication of the Work, including applicable sales tax
 - Software development and engineering, materials analysis and research
 - Costs of labor for assistants
 - Itemized general artist and SUBCONTRACTOR costs
 - Permits or other fees
 - Insurance, including General Liability, Automobile Liability, and Workers Compensation, if applicable
 - Structural Engineering
 - Electrical Engineering
 - Lighting
 - Travel and per diem
 - Crating, transporting, and unloading the Work at the site and the costs of required labor and equipment used for these purposes
 - Fine Arts Insurance for the Work during fabrication and while in transit
 - Storage costs both before and during installation, if applicable
 - Itemized installation costs, including labor and equipment
 - Costs of a project manager to oversee the installation of the

Work (to be performed by a properly licensed contractor or SUBCONTRACTOR)

- Photo documentation in an amount not to exceed \$2,500
- Miscellaneous project costs

Phase 2: Development of Final Proposal. To be completed _____ months after receiving a Notice to Proceed from the County and delivery of the following:

- a. Engineering drawings;
- b. Estimates from suppliers and fabricators documenting project expenses;
- c. Receipt of required permits;
- d. A Final Proposal for the Artwork in substantial conformance with the Conceptual.

The Final Proposal shall include:

- a. Details and location of the Work, including an indication of form, scale, and proposed materials;
- b. A detailed written description of the fabrication and installation methods ("Installation Specification");
- c. A detailed fabrication and installation schedule ("Installation Schedule"), describing Artist's specific timelines for completing the Work;
- d. A project budget;
- e. Artist, at County's option, shall be available to present the Final Proposal, at one or more project meetings, to County staff, the Project Architect, or other individuals and organizations, as needed. Artist agrees to collaborate closely with County through in-person meetings and other necessary means of communication to thoroughly integrate the Final Proposal into the architectural design of the proposed work of art.
- f. The County may approve, with minor changes, or disapprove the Final Proposal. In the event that the County disapproves

the Final Proposal, or approves it with minor changes, the Artist, upon written notification by the County, shall respond to the changes in writing and submit up to two design modifications to the Final Proposal. Artist recognizes and agrees that the County will review the Final Proposal as revised and may make additional requests for changes regarding the revised Final Proposal.

Phase 3: Fabrication. To be completed _____ months after County approval of Phase 2 and receiving a Notice to Proceed from the County. The Fabrication of Work shall include:

- a. 50 percent completion of Work fabrication and approval by County.
- b. 100 percent completion of Work fabrication and approval by County before transportation to site.

Artist shall fabricate the Work in accordance with all Final Proposal drawings and Construction Drawings approved by the County. To the extent that any specification for the Work is not identified in the Final Proposal or in the Construction Drawings, Artist shall seek the County's prior approval of these specifications before commencing with fabrication of the Work.

Artist shall notify the County when the Work is at 50 percent and 100 percent completion, respectively. County shall review and approve the Work at each phase before Artist proceeds with the succeeding phase.

Phase 4: Installation. To be completed _____ months after County payment for completion of Phase 3b and is received by the Artist. Complete installation includes Artist and/or its contractors installing the Work at the location as described in the Final Proposal and in accordance with the installation methods and requirements, including licensing requirements, approved by the County.

Phase 5: Closeout [or other heading]. To be completed _____ months after Phase 4 is completed. Upon completion and installation of the Work and acceptance of the Work by County, Artist shall complete the Maintenance Report on a form prepared and approved by County and submit 20 high-resolution digital images of the fabrication and installation of the Work, and the completed Work to County. Artist will submit proof of all Final and Special Inspection documents. If requested by the County, Artist will deliver one public lecture within one year of

project completion on a date to be mutually determined by the Artist and County.

III. WARRANTY OF WORK

In addition to the tasks, duties, and obligations already provided in this Agreement, the Parties warrant the following:

- A. Restoration of Worksite. Artist agrees and warrants that, within 30 days after the Work is accepted by the County, Artist shall restore the Worksite (including any areas affected by the fabrication and installation of the Work) to a state or condition that is substantially similar to that which existed before the Work was begun. Artist further agrees and warrants that, within the period specified herein, Artist shall repair or replace, as is determined necessary by the County, and to the reasonable satisfaction of the County, all property (real, personal or otherwise), which has been damaged, injured or otherwise adversely affected by the acts or omissions of Artist, Artist's agents, contractors, or employees. Artist shall be solely responsible for all expenses and costs which may be necessary to comply with the requirements of this paragraph, and the County shall have no responsibility or liability therefor.
- B. Originality of Work. Artist warrants that the Work is original and is solely the product of Artist's own creative efforts and does not infringe the rights, including copyrights, of any person or entity. Artist also warrants that, unless otherwise stipulated in writing, the Work is original, that it is an edition of one (1), and that Artist shall not sell, license, perform or reproduce a substantially similar copy of the Work without the prior written consent of County. However, nothing contained herein shall prevent the Artist from creating future works in his style and manner of working.
- C. Copyright. Artist owns the copyright. Artist expressly reserves every right available to Artist at common law or under the Federal Copyright Act to control the making and dissemination of copies or reproductions of the Work. Artist authorizes the County and its assigns to make photographs, drawings, and other two-dimensional reproductions of the Work without prior consent of Artist if used solely for non-commercial purposes, advertising, descriptive brochures, and similar purposes.
- D. Work Free from Defects. Artist shall warrant and maintain the Work free from all faults or defects related to material or

workmanship for a period of one year after the Work is accepted by the County.

- E. Transfer of Title to Work. Title to the Work shall remain with the Artist until the County has accepted the Work as completed and it is installed to the satisfaction of the County. When the County has so certified, title shall transfer to the County. Artist shall bear all risk of loss of the Work until title has been transferred to the County, and the County agrees to inspect Work and accept Work within thirty (30) days of Artist's notification of completion, unless the provisions of identified in Acceptance of Work below apply. Artist shall not be liable for any damage not caused by the artist or SUBCONTRACTORS in between time of completed installation and acceptance of the Work by the County.
- F. Performance Made Impossible. In the event it shall become impossible for Artist to complete the Work because of illness or injury, this Agreement may be terminated at the sole discretion of the County pursuant to Section XXIX.B, and, in such event, all completed work, materials, and supplies related to the Work shall be delivered to the County and shall, along with the Proposal, become the County's sole property.
- G. Acceptance of Work. The County agrees to accept the completed Work, unless the Work was not completed in conformance with the Final Proposal or County-approved specifications, as determined in the County's sole and absolute discretion.
- H. Refusal of Work. Upon the County's refusal to accept the Work for the reasons stated above, the County shall have the right to: 1) request that Artist correct the deficiencies in the Work within a reasonable time, or 2) terminate this Agreement and recover all sums previously paid to Artist. Both remedies shall be independent and cumulative and in addition to any other remedy available to the County provided under this Agreement or at law or equity. Enforcement of one such remedy shall not be exclusive nor shall it be deemed an election of such remedy to the exclusion of any other or further remedy. However, nothing contained herein shall limit County's available remedies at law and equity. No payments to Artist shall be deemed as a waiver of the County's right to refuse to accept the Work.
- I. County Maintenance of Work. County agrees to reasonably ensure that the Work is properly maintained and protected after

County's acceptance of the Work. County agrees that it will not intentionally destroy, damage, alter, modify or change the Work in any way. If an alteration should occur, either intentionally or unintentionally, the Work will no longer be represented as the work of the Artist without his or her written permission. This does not preclude the County's right to move or remove the Work from display or deaccession the Work. In the event it becomes necessary to change the placement of the Work, County shall confer with Artist concerning placement, though the ultimate placement of the Work is solely within the County's discretion.

- J. Repair of Work. In the event repair of the Work is required, County may give Artist the opportunity to perform the repairs for a reasonable fee to be determined. In the event Artist refuses to make the repairs whether due to lack of agreement on the fee, or otherwise, County may arrange for repairs by another qualified person. When emergency repairs are necessary in order to prevent the loss of or further damage to the Work, such repairs shall be undertaken or arranged by County without advance notice to Artist, and such repairs shall not constitute an artistic alteration. County shall thereafter notify Artist as soon as is practicable.
- K. Work Authorship. County shall ensure that Artist's name is publicly displayed on, at, or near the Work. In the event the Work is substantially damaged or altered, County shall no longer represent the Work to be the Work of Artist if Artist gives written notice to County that Artist denies authorship of the Work on the grounds stated in this paragraph.
- L. Waiver of VARA and CAPA Rights. With the exception of Artist's rights as to third parties, Artist waives any and all rights Artist may have with respect to the Work under the federal Visual Artists Rights Act of 1990 (17 U.S.C. §§106A and 113(d)), the California Art Preservation Act (Cal. Civil Code §§987 et seq.), and any other local, state, federal or international laws that convey rights of the same nature as those conveyed under 17 U.S.C. §106A, Cal. Civil Code §§987 et seq., or any other type of moral right protecting the integrity of works of art.
- M. Location of Work. The final location of the Work shall be determined by the County's architect or engineer following consultation with Artist.

IV. AUTHORITY OF ARTIST PERFORMING SCOPE OF SERVICES

ARTIST is retained to provide and perform the scope of services covered by this Agreement. ARTIST, including ARTIST assigned personnel, shall have no authority to represent COUNTY or COUNTY staff at any meetings of public or private agencies unless an appropriate COUNTY official provides prior written authorization for such representation which outlines the purpose, scope and duration of such representation. ARTIST shall possess no authority or right to act on behalf of COUNTY in any capacity whatsoever as agent, nor to bind COUNTY to any obligations whatsoever. COUNTY is responsible for making all policy and governmental decisions related to the work covered by this Agreement.

V. PUBLICATION OF DOCUMENTS AND DATA

ARTIST shall not publish, or disclose to any third party, documents, data, or any confidential information relative to the work of the COUNTY without the prior written consent of COUNTY, however, submission or distribution to meet official regulatory requirements, or for other purposes authorized by this Agreement, shall not be construed as publication in derogation of the rights of either the COUNTY or ARTIST.

EXHIBIT B to Agreement
between the COUNTY OF SACRAMENTO (COUNTY) and [ARTIST]
(ARTIST)

**FINAL INSURANCE REQUIREMENTS MAY DIFFER DEPENDING ON
PROPOSAL**

INSURANCE REQUIREMENTS FOR ARTISTS

Without limiting ARTIST'S indemnification, ARTIST shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the ARTIST, its agents, representatives, or employees. COUNTY shall retain the right at any time to review the coverage, form, and amount of the insurance required hereby. If in the opinion of the County Risk Manager, insurance provisions in these requirements do not provide adequate protection for COUNTY and for members of the public, COUNTY may require ARTIST to obtain insurance sufficient in coverage, form and amount to provide adequate protection. COUNTY'S requirements shall be reasonable but shall be imposed to assure protection from and against the kind and extent of risks that exist at the time a change in insurance is required.

I. VERIFICATION OF COVERAGE

ARTIST shall furnish the COUNTY with certificates evidencing coverage required below. **Copies of required endorsements must be attached to provided certificates.** The County Risk Manager may approve self-insurance programs in lieu of required policies of insurance if, in the opinion of the Risk Manager, the interests of the COUNTY and the general public are adequately protected. All certificates, evidences of self-insurance, and additional insured endorsements are to be received and approved by the COUNTY before performance commences. The COUNTY reserves the right to require that ARTIST provide complete, certified copies of any policy of insurance offered in compliance with these specifications.

II. MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

- A. GENERAL LIABILITY: Insurance Services Office's Commercial General Liability occurrence coverage form CG 0001. Including, but not limited to Premises/Operations, Products/Completed Operations, Contractual, and Personal & Advertising Injury, without additional exclusions or limitations, unless approved by the County Risk Manager.
- B. AUTOMOBILE LIABILITY: Insurance Services Office's Commercial Automobile Liability coverage form CA 0001.
 - 1. Commercial Automobile Liability: auto coverage symbol "1" (any auto) for corporate/business owned vehicles. If there are no owned or leased vehicles, symbols 8 and 9 for non-owned and hired autos shall apply.
 - 2. Personal Lines automobile insurance shall apply if vehicles are individually owned.
- C. WORKERS' COMPENSATION: Statutory requirements of the State of California and Employer's Liability Insurance.
- D. PROFESSIONAL LIABILITY or Errors and Omissions Liability insurance appropriate to the ARTIST'S profession.
- E. UMBRELLA or Excess Liability policies are acceptable where the need for higher liability limits is noted in the Minimum Limits of Insurance and shall provide liability coverages that at least follow form over the underlying insurance requirements where necessary for Commercial General Liability, Commercial Automobile Liability, Employers' Liability, and any other liability coverage (other than Professional Liability) designated under the Minimum Scope of Insurance.
- F. BUILDERS' RISK INSURANCE/INSTALLATION FLOATER: In effect at all times during the project for construction or installation of equipment.

III. MINIMUM LIMITS OF INSURANCE

ARTIST shall maintain limits no less than:

A. General Liability shall be on an Occurrence basis (as opposed to Claims Made basis). Minimum limits and structure shall be:

General Aggregate:	\$5,000,000
Products Comp/Op Aggregate:	\$5,000,000
Personal & Adv. Injury:	\$1,000,000
Each Occurrence:	\$5,000,000
Fire Damage:	\$100,000

ARTISTS and ARTISTS engaged in other projects of construction shall have their general liability Aggregate Limit of Insurance endorsed to apply separately to each job site or project, as provided for by Insurance Services Office form CG-2503 Amendment-Aggregate Limits of Insurance (Per Project).

B. AUTOMOBILE LIABILITY:

1. Commercial Automobile Liability for Corporate/business owned vehicles including non-owned and hired, \$1,000,000 Combined Single Limit for landside driving; \$5,000,000 for airside driving.
2. Personal Lines Automobile Liability for Individually owned vehicles, \$250,000 per person, \$500,000 each accident, \$100,000 property damage.

C. WORKERS' COMPENSATION: Statutory.

D. EMPLOYER'S LIABILITY: \$1,000,000 per accident for bodily injury or disease.

Builders' Risk Insurance/Installation Floater is required for projects involving construction in an amount equal to one hundred percent (100%) of the value of the project, covering the entire work, including all materials and equipment stored at the site and offsite for incorporation into the work, and additionally including such property in transit. Such insurance shall insure against "all risk" or "special form" perils including risks from any and all testing of equipment and providing coverage for earthquakes and terrorism. Such insurance shall be extended to cover soft costs incurred during any delayed completion period covered by an insured peril for a period of not less than two (2) years. Such insurance shall include the County of Sacramento as a loss payee.

The ARTIST, and each of its ARTIST's, shall separately insure its own equipment for loss or damage equal to the total replacement cost value. The ARTIST and each of its SUB-ARTIST's Property and Inland Marine policies shall include or be endorsed to include a Waiver of Subrogation endorsement in favor of the County, its officers, directors, officials, employees, agents, and authorized volunteers.

IV. DEDUCTIBLES AND SELF-INSURED RETENTION

Any deductibles or self-insured retention that apply to any insurance required by this Agreement must be declared and approved by the COUNTY.

V. CLAIMS MADE POLICIES

If coverage is written on a Claims Made form:

- A. The "Retro Date" must be shown, and must be on or before the date of the Agreement or the beginning of Agreement performance by ARTIST.
- B. Insurance must be maintained and evidence of insurance must be provided for at least one (1) year after completion of the Agreement.
- C. If coverage is cancelled or non-renewed, and not replaced with another claims made policy form with a "Retro Date" prior to the contract effective date, the ARTIST must purchase "extended reporting" coverage for a minimum of one (1) year after completion of the Agreement.

VI. OTHER INSURANCE PROVISIONS

The insurance policies required in this Agreement are to contain, or be endorsed to contain, as applicable, the following provision:

- A. All Policies:
 1. ACCEPTABILITY OF INSURERS: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-VII. The County Risk Manager may waive or alter this requirement, or accept self-insurance in lieu of any required policy of insurance if, in the opinion of the Risk Manager, the

interests of the COUNTY and the general public are adequately protected.

2. MAINTENANCE OF INSURANCE COVERAGE: The ARTIST shall maintain all insurance coverages and limits in place at all times and provide the COUNTY with evidence of each policy's renewal ten (10) days in advance of its anniversary date.

ARTIST is required by this Agreement to immediately notify COUNTY if they receive a communication from their insurance carrier or agent that any required insurance is to be canceled, non-renewed, reduced in scope or limits or otherwise materially changed. ARTIST shall provide evidence that such cancelled or non-renewed or otherwise materially changed insurance has been replaced or its cancellation notice withdrawn without any interruption in coverage, scope or limits. Failure to maintain required insurance in force shall be considered a material breach of the Agreement.

IIV. COMMERCIAL GENERAL LIABILITY AND/OR COMMERCIAL AUTOMOBILE LIABILITY, BUILDERS' RISK INSURANCE

- A. ADDITIONAL INSURED STATUS: The COUNTY, its officers, directors, officials, employees, and volunteers are to be endorsed as additional insureds as respects: liability arising out of activities performed by or on behalf of the ARTIST; products and completed operations of the ARTIST; premises owned, occupied or used by the ARTIST; or automobiles owned, leased, hired or borrowed by the ARTIST. The coverage shall contain no endorsed limitations on the scope of protection afforded to the COUNTY, its officers, directors, officials, employees, or volunteers.
- B. CIVIL CODE PROVISION: Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.
- C. PRIMARY INSURANCE: For any claims related to this Agreement, the ARTIST'S insurance coverage shall be endorsed to be primary insurance as respects the COUNTY, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, directors, officials, employees, or

volunteers shall be excess of the ARTIST'S insurance and shall not contribute with it.

- D SEVERABILITY OF INTEREST: The ARTIST'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- E. SUBARTISTS: ARTIST shall be responsible for the acts and omissions of all its subARTISTS and additional insured endorsements as provided by ARTISTs subARTIST.

VII WORKERS' COMPENSATION

Workers' Compensation Waiver of Subrogation: The workers' compensation policy required hereunder shall be endorsed to state that the workers' compensation carrier waives its right of subrogation against the COUNTY, its officers, directors, officials, employees, agents or volunteers, which might arise by reason of payment under such policy in connection with performance under this Agreement by the ARTIST. Should ARTIST be self-insured for workers' compensation, ARTIST hereby agrees to waive its right of subrogation against COUNTY, its officers, directors, officials, employees, agents or volunteers.

IX. PROPERTY

Course of Construction (COC) Waiver of Subrogation: Any Course of Construction (COC) policies maintained by the ARTIST in performance of the Agreement shall contain the following provisions:

1. The COUNTY shall be named as loss payee.
2. The Insurer shall waive all rights of subrogation against the COUNTY.

Inland Marine Waiver of Subrogation: Any Inland Marine insurance policies maintained by the ARTIST in performance of the Agreement shall be endorsed to state that the insurer shall waive all rights of subrogation against the COUNTY.

X. NOTIFICATION OF CLAIM

If any claim for damages is filed with ARTIST or if any lawsuit is instituted against ARTIST, that arise out of or are in any way

connected with ARTIST'S performance under this Agreement and that in any way, directly or indirectly, contingently or otherwise, affect or might reasonably affect COUNTY, ARTIST shall give prompt and timely notice thereof to COUNTY. Notice shall be prompt and timely if given within thirty (30) days following the date of receipt of a claim or ten (10) days following the date of service of process of a lawsuit.

**EXHIBIT C to Agreement
between the COUNTY OF SACRAMENTO (COUNTY) and [ARTIST]
(ARTIST)**

**COMPENSATION/BUDGET REQUIREMENTS
FINAL EXHIBIT WILL DIFFER BASED ON PROPOSAL**

I. MAXIMUM PAYMENT TO ARTIST

The total maximum payment amount to ARTIST is \$_____ during the Term of this Agreement.

Payments to Artist shall be made within 30 days after receipt of Artist's invoices. Artist shall be responsible for the cost of supplying all documentation necessary to verify the billings to the satisfaction of County. Artist agrees that County has no obligations regarding commissions or any agreements with galleries or agents with whom Artist may have contracted.

Payments to Artist will be made upon completion of the following tasks as described in Exhibit A:

1. \$_____ upon submission of certificates of insurance acceptable to the County, execution of this Agreement, and dispatch of purchase order.
2. \$_____ upon completion of Phase 1.
3. \$_____ upon completion of Phase 2.
4. \$_____ upon completion of Phase 3.a.
5. \$_____ upon completion of Phase 3.b. milestone.
6. \$_____ upon completion of Phase 4.
7. \$_____ upon completion of Phase 5.

No payment shall be made if Artist is in default of this Agreement or if any milestone or Phase is not completed to the satisfaction of County. County shall have sole discretion to determine whether a milestone or Phase has been completed to its satisfaction.

II. INVOICES

Invoices shall be submitted via e-mail to Airport Accounting at air-invoice@saccounty.gov. Changes to the invoice address will be made to ARTIST in writing by COUNTY and will be effective upon receipt.

III. ITEMIZED TASKS AND SUBTASKS

If ARTIST'S Proposal contains a schedule of tasks or subtasks with identified levels of effort such as estimated hours and/or estimated costs, or identifiable work products, milestones, or other events, then compensation for these individual tasks or activities shall not exceed the identified estimate or other limiting factors without the written approval of COUNTY'S Project Manager. ARTIST shall promptly notify COUNTY'S Project Manager in writing of any tasks, subtasks, work products, or milestones that need to be reevaluated and indicate the reason and/or justification for such reevaluation. COUNTY'S Project Manager is authorized to negotiate adjustments of individual tasks so long as the work is within the general scope of the project and the total compensation does not exceed the Maximum Total Payment Amount under this Agreement listed above.

IV. WORK NOT IN SCOPE OF SERVICES

ARTIST shall immediately notify the COUNTY'S Project Manager in writing of any work that the COUNTY requests to be performed that ARTIST believes is outside of the original scope of services covered by this Agreement. If it is determined that said request is outside of the scope of services, such service shall not be performed unless and until the Director approves such request in writing and authorizes the use of any contingency funds for such service or an amendment providing for an adjustment in ARTIST'S compensation is approved and executed by both parties.

V. NOTIFICATION OF 75% EXPENDITURE OF COMPENSATION

ARTIST shall notify COUNTY'S Project Manager in writing upon expenditure of seventy-five percent (75%) of the authorized Agreement amount. Such notice shall identify the percentage of funds expended, the percentage of work completed, an explanation of any variation between these two (2) percentages, and an assessment of the cost of the remaining work to be performed.

**EXHIBIT D to Agreement
between the COUNTY OF SACRAMENTO (COUNTY) and [ARTIST]
(ARTIST)**

FAA CONTRACT PROVISIONS

I. GENERAL CIVIL RIGHTS PROVISIONS

The ARTIST agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision binds the ARTIST and sub-tier artists from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

II. TITLE VI SOLICITATION NOTICE

The County of Sacramento, in accordance with the provisions of Title VI of the A6. A6.3.1 Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

III. COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS:

During the performance of this contract, the ARTIST, for itself, its assignees, and successors in interest (hereinafter referred to as the "ARTIST") agrees as follows:

- A. Compliance with Regulations: The ARTIST (hereinafter includes Artists) will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

- B. Non-discrimination: The ARTIST, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of SUBCONTRACTORS, including procurements of materials and leases of equipment. The ARTIST will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
- C. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the ARTIST for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential SUBCONTRACTOR or supplier will be notified by the ARTIST of the ARTIST'S obligations under this contract and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.

Information and Reports: The ARTIST will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities and instructions. Where any information required of a ARTIST is in the exclusive possession of another who fails or refuses to furnish the information, the ARTIST will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

- D. Sanctions for Noncompliance: In the event of an ARTIST'S noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

1. Withholding payments to the ARTIST under the contract until the ARTIST complies; and/or
 2. Cancelling, terminating, or suspending a contract, in whole or in part.
- E. Incorporation of Provisions: The ARTIST will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The ARTIST will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the ARTIST becomes involved in, or is threatened with litigation by a SUBCONTRACTOR, or supplier because of such direction, the ARTIST may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the ARTIST may request the United States to enter into the litigation to protect the interests of the United States.

The ARTIST for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the ARTIST will use the premises in compliance with all other requirements imposed by or pursuant to the List of discrimination Acts And Authorities.

With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above nondiscrimination covenants, County of Sacramento will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same

as if said (license, permit, etc., as appropriate) had never been made or issued.

With respect to deeds, in the event of breach of any of the above nondiscrimination covenants, County of Sacramento will there upon revert to and vest in and become the absolute property of (Title of Sponsor) and its assigns.*

IV. TITLE VI LIST OF PERTINENT NONDISCRIMINATION ACTS AND AUTHORITIES

During the performance of this contract, the ARTIST, for itself, its assignees, and successors in interest (hereinafter referred to as the "ARTIST") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- B. 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- C. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- D. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- E. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- F. Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- G. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of

the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and ARTISTS, whether such programs or activities are Federally funded or not);

- H. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- I. The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations
- K. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- L. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

V. FEDERAL FAIR LABOR STANDARDS ACT

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR Part 201, the

Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part-time workers. The [ARTIST | Artist] has full responsibility to monitor compliance to the referenced statute or regulation. The [ARTIST | Artist] must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

VI. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. ARTIST must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The ARTIST retains full responsibility to monitor its compliance and their SUBCONTRACTOR'S compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). ARTIST must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration