

CITY
OF

PASADENA



REQUEST FOR QUALIFICATIONS

Power Plant Public Art Project: Gateway to Pasadena

FOR THE

**Cultural Affairs Division of the
Planning & Community Development Department**

NOTICE REGARDING DISCLOSURE
OF
CONTENTS OF DOCUMENT

All responses to this Request for Qualifications (RFQ) accepted by the City of Pasadena (City) shall become the exclusive property of the City. At such time as the City Manager recommends a contractor to the City Council, and such recommendation, with any recommended contract appears on the Council agenda, all proposals accepted by the City shall become a matter of public record and shall be regarded as public, with the exception of those elements of each proposal which are defined by the contractor as business or trade secrets and plainly marked as "Trade Secret", "Confidential" or "Proprietary". Each element of a proposal which a contractor desires not to be considered a public record must be clearly marked as set forth above, and any blanket statement (i.e. regarding entire pages, documents or other non-specific designations) shall not be sufficient and shall not bind the City in any way whatsoever. If disclosure is required or permitted under the California Public Records Act or otherwise by law, the City shall not in any way be liable or responsible for the disclosure of any such records or part thereof.

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City of Pasadena
REQUEST FOR QUALIFICATIONS
FOR
POWER PLANT PUBLIC ART PROJECT

1. REQUEST FOR QUALIFICATIONS

The City of Pasadena is pleased to announce a major public art opportunity. The Cultural Affairs Division of the Planning & Community Development Department seeks qualifications from US-based artists and artist/design collectives to design, fabricate, and install a permanent, public art project using light, color, data and/or motion at the Glenarm Power Plant. The design must align with the City's Public Art Master Plan which envisions the Power Plant Public Art Project to be a significant gateway to the City of Pasadena.

2. DEADLINE FOR SUBMISSIONS

All submissions must be submitted electronically. Artists can submit materials online to: www.callforentry.org on or before 10:59 p.m. PST on **Monday, March 6, 2017**.

3. DEADLINE FOR RFQ QUESTIONS

The deadline to submit questions related to this RFQ is Tuesday, February 21, 2017 prior to 12:00 p.m. (noon). Any questions submitted after the date and time specified will not be considered.

Questions shall be in written format and be submitted ONLY via e-mail. A written response to all RFQ questions will be posted on www.callforentry.org by Friday, February 24, 2017 prior to 12:00 p.m. (noon).

Questions regarding this Request for Qualifications should be directed only to the person(s) designated below. Do not contact any other City employee or official regarding this RFQ.

- **General and/or technical questions:**

Rochelle Branch
Cultural Affairs Manager
Phone: (626) 744-7062
Email: cultural@cityofpasadena.net

- **Questions regarding the City of Pasadena Purchasing Procedures, and Pasadena Living Wage Ordinance:**

Antonio Watson
Project Manager
Department of Finance
Phone: (626) 744-8382
E-mail: awatson@cityofpasadena.net

Any questions submitted after the date and time specified will not be considered.

Pre-proposal Community Meeting

The City is hosting a community meeting to review the RFQ at Art Center College of Design, located at 1111 S. Arroyo Parkway, on Thursday, February 23, 2017 at 6:00 p.m. Visit www.cityofpasadena.net/arts for more information. Attendance is not required to be eligible to respond to this RFQ.

4. DEFINITIONS

The words (A) "City", (B) "Department", (C) "Director", or (D) "Contractor", as used in this RFQ, shall be understood to refer respectively to (A) the City of Pasadena, California; (B) the several departments therein; (C) the directors of the several City departments; or any of their properly authorized assistants; and (D) the person, firm or corporation with whom the contract is made by said City or the agent or legal representative who may be appointed to represent such person, firm or corporation in the signing and performance of said contract.

5. ADDENDA

If any person contemplating submitting a proposal of the items or services listed herein is in doubt as to the true meaning of any part of this Request for Qualifications, he/she may submit to the City representative(s) identified in Section 3, above, a written request for an interpretation or correction thereof.

Any interpretation or correction of City specifications will be made only by addendum, duly issued by the City representative(s) identified in Section 3, above. Addenda shall be made available to each Proposer. A proposer's failure to address the requirements of the addenda may result in the proposal not being considered. If the City determines that a time

extension is required for the proposal, the addenda will give the new submission date. The Proposer is responsible to register with “CaFE” at www.callforentry.org to ensure they receive all RFQ documents including addendums which are available as a download.

The City reserves the right to change any part of these Instructions to PROPOSERS and Specifications any time prior to Deadline for Submissions. Any changes shall be in the form of addenda and will become a part of the Proposal documents and of the contract.

6. BACKGROUND AND BUDGET

Project Context and Location

A 15-minute drive from Downtown Los Angeles, the City of Pasadena is located at the base of the San Gabriel Mountains and is the main cultural center for the San Gabriel Valley. The City is known for its popular shops and restaurants, tree-lined streets, distinctive neighborhoods, historic buildings, and a vibrant cultural scene. While Pasadena is the seventh largest city in Los Angeles County, it is home to more than 60 arts and cultural institutions.

In adopting its Public Art Master Plan, the City envisions itself as a center of public art and urban design. The Public Art Master Plan states “Like many other US cities, Pasadena is carved up and defined by its transportation corridors and infrastructure.” It recommends that, instead of viewing its prominent infrastructure as barriers, the City hire artists to transform these into gateways.

The Glenarm Power Plant is a dramatic series of industrial installations at the south edge of Pasadena. It includes a steam plant, gas generating units, and a historic art deco building with a tile fountain entrance. The plant is a visual landmark, a gateway to downtown Pasadena for motorists entering the City from Los Angeles via the Pasadena Freeway.

The plant site itself is bisected by Metro’s Gold Line light rail and bordered on the east by the freeway and the Blair International Baccalaureate School. Glenarm Street at the north side of the site is a major east-west arterial. The plant is immediately south of Pasadena’s Innovation Corridor and Art Center College of Design’s south campus which houses departments in fine art, illustration, graduate art media programs, and shared exhibition spaces. Art Center is also expanding its south campus to include new residence halls.

The total artwork budget for this project is \$765,000 including:

- Up to four selected proposers will be paid \$5,000 each to prepare conceptual design proposals for review.
- Project Construction and Installation. \$745,000 including a 10% contingency, further conceptual design, schematic and final design, working documents, oversight of fabrication and installation. Selected artist will be required to participate in up to three public meetings, and to collaborate with City staff from the Cultural Affairs Division and Department of Water and Power to ensure that the proposed artwork meets safety standards and can be easily maintained.

7. OBJECTIVE

Public art at the Glenarm Power Plant is envisioned to be an iconic and innovative gateway for Pasadena. The project should be experiential, dynamic and inspiring, making a strong visible statement about the City's role as a leader in art, science and technology. It will be seen day and night and may explore themes of energy, water and sustainability.

8. SCOPE OF WORK

The City of Pasadena and its Department of Water and Power are seeking an artist or artist team who can create an experiential artwork, improving the visual impact of the Glenarm Power Plant day and night, enhancing it with light, color and/or motion activated artwork. The project is intended to celebrate the entrance to Pasadena but it cannot create light pollution or a traffic distraction.

This project is subject to the City of Pasadena Capital Improvement (CIP) Public Art Program Guidelines which are incorporated herein by reference Exhibit F which detail the artist and artwork selection processes. Pasadena's Capital Public Art Program reflects and communicates the City's values and enhances life in the community by producing and presenting art that creates a more livable city, engages a wide spectrum of its citizens, stimulates the vitality and economy of the City and enhances the urban environment.

The Cultural Affairs Division oversees the development of Capital Public Art projects, per the Guidelines for City Construction Projects. As per the Guidelines, a group of community stakeholders and partners has been assembled to help participate in developing the scope of this project and engaging with the artist/artist team during project development.

9. PROJECTED TIMELINE

Deadline: All submissions are due by 10:59 p.m. PST on Monday, March 6, 2017

Please note that the following timeline is projected and is subject to change:

Week of March 20, 2017: Selection Panel Review: up to four Finalist Artists selected and informed

Week of April 3, 2017: Finalist Artists Site Visits

Week of May 1, 2017: Finalist Artists Presentations and Designs Submitted

Week of May 15, 2017: Selected Project Artist Award reviewed for recommendation to City Council for approval by the Arts and Culture Commission

July, 2017: City Council review for approval of Selected Project Artist Award

August, 2017: Approved Artist Project Contract issued, design development begins

Project Completion: August, 2018

10. EVALUATION PROCEDURES AND CRITERIA

Per the Capital Public Art Program Guidelines, a Selection Panel of local community members, arts professionals and City staff will be assembled to review submittals in response to the Request for Qualifications.

Selection of Finalists will be based on:

A.	Artistic achievement and quality of work as demonstrated in the artist résumé, public recognition, and images of previous projects;	25%
B.	Appropriateness of the artist/artist team’s skills to develop a Glenarm Power Plant project. This category includes review of artist’s ability to work in similar media, scale, budget, and/or site type and overall skills;	25%
C.	Artist/artist team approach to public engagement during project development:	15%
D.	Artist’s capacity to successfully conduct the project or provide the service promptly, or within the timeline specified, without delay or interference, according to the Standard Terms and Conditions of the City contract and ability to perform the project within the budget.	25%
E.	Local Pasadena Business: To receive a 5% preference as a local business, the PROPOSER shall have an official business address within the City of Pasadena from the date/time that this proposal is officially posted.	5%
F.	Small and Micro-Businesses: To receive a 5% preference, PROPOSER must be certified by the State of California as a small or micro-business - http://www.pd.dgs.ca.gov/smbus/sbcert.htm .	5 %
	TOTAL	100 %

Selection of Final Project Artist will be based on:

A.	Quality of Design Proposal in response to site analysis and initial community engagement;	25%
B.	Proposed approach to collaboration with the City of Pasadena and its stakeholders;	25%
C.	Creativity of community engagement approach;	15%
D.	Artist/artist team’s approach to project implementation,	25%

	materials and methods;	
E.	Local Pasadena Business: To receive a 5% preference as a local business, the PROPOSER shall have an official business address within the City of Pasadena from the date/time that this proposal is officially posted.	5%
F.	Small and Micro-Businesses: To receive a 5% preference, PROPOSER must be certified by the State of California as a small or micro-business - http://www.pd.dgs.ca.gov/smbus/sbcert.htm .	5 %
	TOTAL	100 %

11. CONTENTS OF PROPOSAL

Proposals for this project must be made through CaFE www.callforentry.org under the project name Glenarm Power Plant Public Art. The applications must include, but need not be limited to, the following information. If selected, artists will be required to complete additional exhibits listed at the end of this document.

1. Completed and signed Exhibit A (Vendor Questionnaire), Exhibit B (Non-Collusion Declaration), and Exhibit C (Taxpayer Disclosure Form)

If claiming preference as a Local Pasadena Business/Artist please provide active City of Pasadena Business License Number on Exhibit A or provide other proof of eligibility which may include but is not limited to a driver's license or utility bill.

If claiming preference as a small or micro-business, provide State of California Department of General Services reference number on Exhibit A or certification as such from: <http://www.pd.dgs.ca.gov/smbus/sbcert.htm>

2. A letter of up to two-pages that describes your interest in this project and your experience doing projects of this type or this scale. Consider the following questions in your letter:
 - Why do you want to work on this project?
 - What materials do you work with that would be appropriate for this kind of installation?
 - Have you worked on similar projects? If not, what relevant experience do you have?
 - How does the project relate to your current work?
 - How do you propose to approach project development and community engagement?
 - What is your experience with concept development and collaborative processes?
 - Are you able to successfully develop the project promptly and within the proposed timeframes and budget? If so, please elaborate.
 - How will you respond to the necessity of durable, safe and secure materials and construction methods?

3. Resume (up to 3 pages)

4. Project Examples

Applications must be made through CaFE www.callforentry.org under the project name Glenarm Power Plant Public Art. Applicants may provide examples of up to ten specific projects that relate to this commission in the form of slides or video clips in the format described in CaFE. For each project, applicants will be required to include title, date of work, commissioning agency, budget, and a brief description of work.

5. Three references. Include name, title, phone number and email address

6. Proof of Eligibility

- Artists must be eligible to work in the United States and have a valid U.S. Social Security or Tax Identification Number by the application deadline.
- Open to all United States-based (live or work) artists or arts/design collaborative. Proof of eligibility can include but is not limited to: driver's license, passport, or utility bill provided as a pdf with proposal submission.
- Artists must be available to meet with staff and stakeholders during the development of the project, will be asked to make presentations of their previous work at community meetings, and must present their proposals to the City of Pasadena Arts & Culture Commission.

12. GENERAL REQUIREMENTS

A. LOCAL PREFERENCE

The City of Pasadena is committed to promoting the economic health and well-being of its residents. To this end, Contractor agrees to recruit Pasadena residents initially and to give them preference, if all other factors are equal, for any new positions which result from the performance of this Contract and which are performed within the City.

The Contractor will be required to make good-faith effort to hire Pasadena residents for all new hires, including subcontractor new hires.

A good-faith effort will include requests to unions or community organizations designated by City to provide a list of qualified Pasadena residents. If qualified candidates are available, Contractor will conduct interviews with assistance of City and union/community organizations.

Residents are individuals who are, and have been one year prior to the effective date of the contract, residents of the City of Pasadena.

Submission to the City of documentation of requests and interviews will constitute proof of a good-faith effort.

Interviews of Pasadena residents, if conducted, shall be completed and documentation submitted to the City prior to commencement of Contract work.

B. CERTIFICATE OF INSURANCE

Proof of insurance is not required to be submitted with your proposal, but will be required prior to the City's award of the contract. City's insurance requirements will be specified within said contract. The City reserves the right to modify or amend the type of coverage and limits based upon the risk involved in the scope of services.

C. STANDARD TERMS AND CONDITIONS

Prior to the award of any work hereunder, City and Contractor shall enter into the written contract attached hereto as Exhibit C. Proposers responding to this RFQ are strongly advised to review all the terms and conditions of the contract.

D. EQUAL OPPORTUNITY CONTRACTING

Policy - The City of Pasadena is committed to a policy of Equal Opportunity Contracting. Qualified firms including small businesses and businesses owned by women, minorities, and disabled persons are encouraged to submit bids or proposals. Contractors expressly agree to comply with the City's ordinances and regulations regarding Equal Opportunity Employment as well as regulations that may be mandated by the source of the funds supporting this contract.

Compliance – To the extent permitted by law, Contractor expressly agrees to establish compliance with the Equal Employment Opportunity Practices Provisions of Chapter 4.08 of the Pasadena Municipal Code, and the Rules and Regulations adopted pursuant to said ordinance.

The successful bidder may be required to submit documentation during the term of the contract to evidence on-going compliance with the City's Contracting Ordinance. Such documentation may include, but not be limited to certified payroll records and Current Permanent Workforce Utilization reports.

Questions regarding the City of Pasadena's Contracting Ordinance and policy should be directed to the Department of Finance, Purchasing & Payables Division 626.744.6755.

E. PROOF OF AUTHORITY

If the proposer is a corporation, formal proof of the authority of the officer signing the bidder's proposal to bind the corporation must be submitted with said proposal. A copy of the corporate resolution or minutes can be adequate proof. A simple letter is not sufficient.

F. WITHDRAWAL OF SUBMISSION

Any proposer may withdraw its submission, either personally or by telegraphic or written request at any time prior to the time set for the submission.

G. FIRM COMMITMENT OF AVAILABILITY OF SERVICE

Once a submission is opened, a proposer is expected to maintain an availability of service as set forth in its submission for at least four months after date for opening submissions.

H. PASADENA'S MINIMUM WAGE ORDINANCE

This project is subject to the City of Pasadena's Minimum Wage Ordinance. The Pasadena City Council adopted a Minimum Wage Ordinance on March 14, 2016. The ordinance takes effect **on July 1, 2016**, for large employers and July 1, 2017, for smaller employers. The recently adopted state minimum wage law does not preempt Pasadena's minimum wage ordinance. Pasadena's minimum wage ordinance provides for a steeper increase in the minimum wage than does the State.

The employer wage rate implementation schedule is as follows:

Employers with 26 or more employees shall pay a wage of no less than the hourly rates set forth:

1. On July 1, 2016, the hourly wage shall be \$10.50
2. On July 1, 2017, the hourly wage shall be \$12.00
3. On July 1, 2018, the hourly wage shall be \$13.25

Employers with 25 or fewer employees shall pay a wage of no less than the hourly rates set forth:

1. On July 1, 2017, the hourly wage shall be \$10.50
2. On July 1, 2018, the hourly wage shall be \$12.00

I. PREVAILING WAGE RATE PROJECT

The prevailing wage rate provisions of Section 1770-1777 of the Labor Code and Section 7-2, entitled "Labor", of the Standard Specifications shall apply to this project. However, if there is a difference between the Pasadena Living Wage and Prevailing Wage rates for similar classifications of labor, the Contractor and his/her subcontractors shall pay no less than the highest wage rate.

Notice Requirements

No Contractor or subcontractor may be awarded a Contract for a Public Works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)]. Proof of registration with the Department of Industrial Relations shall be provided at the time the Contract is awarded.

This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

J. RESERVATIONS

The City reserves the right to reject any or all submissions and any item or items therein, and to waive any non-conformity of submissions with this RFQ, whether of a technical or substantive nature, as the interest of the City may require.

K. DECLARATION OF NON-COLLUSION

Each proposer shall submit a single copy of the Declaration of Non-Collusion Form

included herein (Exhibit B, hereto, entitled "Declaration of Non-Collusion by Contractor").

L. DOCUMENTS TO BE CONSTRUED TOGETHER

The Request for Qualifications, the Submission, the Declaration of Non-Collusion, and all documents referred to in the complete specifications and the Contract to be entered into between the Contractor and the City, and all modifications of said documents, shall be construed together as one document.

M. ERRORS AND OMISSIONS

Proposer and/or the Contractor shall not be allowed to take advantage of any errors in or omissions from the Request for Qualifications. Full instructions will be given if such error or omission is discovered and timely called to the attention of the City.

N. RFQ NOT CONTRACTUAL

Nothing contained in this Request for Qualifications shall create any contractual relationship between the proposer and the City. The City accepts no financial responsibility for costs incurred by any proposer regarding this RFQ.

O. PATENT FEES; PATENT, COPYRIGHT, TRADE SECRET AND TRADEMARK FEES

Each proposer shall include in the price bid any patent fees, royalties and charges on any patented article or process to be furnished or used in the prosecution of the Work.

P. TAXES

Price bid shall include all federal, state, local and other taxes.

Q. TAXPAYER PROTECTION AMENDMENT

Under the provisions of the City of Pasadena Taxpayer Protection Amendment of 2000 ("Taxpayer Protection Act"), the Contractor will be considered a "recipient of a public benefit." The full provisions of the Taxpayer Protection Act are set forth in Pasadena City Charter, Article XVII. Under the Taxpayer Protection Act, City public officials who approve this Contract are prohibited from receiving gifts, campaign contributions or employment from Contractor for a specified time. This prohibition extends to individuals and entities that are specified and identified in the Taxpayer Protection Act and includes Contractor and its trustees, directors, partners, corporate officers and those with more than a 10% equity, participation, or revenue interest in Contractor. Contractor understands and agrees that: (A) Contractor is aware of the Taxpayer Protection Act; (B) Contractor will complete and return the forms provided by the City in order to identify all of the recipients of a public benefit specified in the Taxpayer Protection Act; and (C) Contractor will not make any prohibited gift, campaign contribution or offer of employment to any public official who approved this Contract. See Exhibit C.

PROPOSER'S CHECKLIST

If your submission does not include all of the below items, it may be deemed non-responsive.

EXHIBIT A

Affidavit of Equal Opportunity Employment Contracting Forms – Form AA-1

EXHIBIT B

Declaration of Non-Collusion by Contractor

EXHIBIT C

Taxpayer Disclosure Form

ADDITIONAL RESOURCES

Standard Terms and Conditions of Artist Contract

Aerial View of Site

City of Pasadena Capital Public Art Program Guidelines can be found as a downloadable pdf at: http://www.cityofpasadena.net/arts/Public_Art_Program/

All submissions must be received electronically: www.callforentry.org on or before 10:59 p.m. PST on Monday, March 6, 2017. Responses submitted after this date and time will not be accepted.

13. ATTACHMENTS

See next page.



EXHIBIT A: Purchasing & Payables Division

100 N. Garfield Ave., Room 328

Pasadena, CA 91101

(626) 744-6755

(626) 744-6757 Fax

Internet: www.cityofpasadena.net/purchasing

Vendor Questionnaire (Form AA-1)

Affidavit of Equal Opportunity Employment & Non-segregation

By submitting this form you are declaring under penalty of perjury under the laws of the State of California and the laws of the United States that the information is true and correct. Furthermore, you are certifying that your firm will adhere to equal opportunity employment practices to assure that applicants and employees are not discriminated against because of their race, religion, color, national origin, ancestry, disability, sex or age. And, your firm does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained.

Name of Company _____ Telephone _____

Address _____ Fax Number _____
(optional)

City _____ State _____ Zip _____

Contact Person _____ E-mail Address _____

DBA (if applicable) _____

Active City of Pasadena Business License Number _____

Remit Address (if different) _____

Please state clearly and concisely the type(s) of goods and services your company would provide on this contract:

Required For All Public Works: Pursuant to Division 2, Part 7, Chapter 1 (commencing with section 1720) of the California Labor Code, you must provide your **Registration Number** under the **Department of Industrial Relations:**

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Small and Micro Business Preference Program: If certified by California Department of General Services as a small or micro business, please provide DGS Reference Number: (Visit the Purchasing Division website for additional information)

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The following section is **OPTIONAL** and is for statistical reporting purposes only. Ownership (please check all that apply):

African-American _____ Asian _____ Armenian _____ Hispanic _____ Native American _____ Disabled _____ Female _____

EXHIBIT B: NON-COLLUSION DECLARATION TO BE EXECUTED BY PROPOSER AND SUBMITTED WITH BID/PROPOSAL

The undersigned declares:

I am _____,

(Insert "Sole Owner", "Partner", "President, "Secretary", or other proper title)

of _____

(Insert name of Proposer)

The party making the forgoing bid/proposal submitted herewith to the City of Pasadena declares:

That all statements of fact in such bid/proposal are true;

That such bid/proposal was not made in the interest of or on behalf of any undisclosed person, partnership, company, association, organization or corporation;

That such bid/proposal is genuine and not collusive or sham;

That said Proposer has not, directly or indirectly by agreement, communication or conference with anyone attempted to induce action prejudicial to the interest of the City of Pasadena, or of any other Proposer or anyone else interested in the proposed contract; and further

That prior to the public opening and reading of bids/proposals, said Proposer:

- a. Did not directly or indirectly, induce or solicit anyone else to submit a false or sham bid/proposal;
- b. Did not directly or indirectly, collude, conspire, connive or agree with anyone else that said Proposer or anyone else would submit a false or sham bid/proposal, or that anyone should refrain from bidding or withdraw his or her bid/proposal;
- c. Did not, in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to raise or fix the bid/proposal price of said Proposer or of anyone else, or to raise or fix any overhead, profit, or cost element of the bid/proposal price, or of that of anyone else;
- d. Did not, directly or indirectly, submit his or her bid/proposal price or any breakdown thereof, or the contents thereof, or divulge information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent, or to any individual or group of individuals thereof to effectuate a collusive or sham bid, except the City of Pasadena, and has not paid, and will not pay, any person or entity for such purpose or to any person or persons who have a partnership or other financial interest with said Proposer in his or her business.

Any person executing this declaration on behalf of a Proposer that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the Proposer.

I certify under penalty of perjury of the laws of the State of California that the above information is correct.

By: _____

Title: _____

Date: _____

**EXHIBIT C: Disclosure Pursuant to the
City of Pasadena Taxpayer Protection Amendment**

Pasadena City Charter, Article XVII

Contractor/Organization hereby discloses its trustees, directors, partners, officers, and those with more than 10% equity, participation, or revenue interest in Contractor/Organization, as follows:
(If printing, please print legibly. Use additional sheets as necessary.)

1. Contractor/Organization Name:
2. Type of Entity: <input type="checkbox"/> non-government <input type="checkbox"/> nonprofit 501(c)(3), (4), or (6)

3. Name(s) of trustees, directors, partners, officers of Contractor/Organization:

**4. Names of those with more than a 10% equity, participation or revenue interest
in
Contractor/Organization:**

Prepared by: _____

Title: _____

Phone: _____

Date: _____

SAMPLE CONTRACT: FOR INFORMATION ONLY

SERVICES CONTRACT NO.

THIS CONTRACT is made between the CITY OF PASADENA (“City”), a municipal corporation, and _____, a _____ corporation [or partnership or business or sole proprietorship] with headquarters at _____ (“Contractor”).

The City and Contractor agree as follows:

1.0 EMPLOYMENT OF CONTRACTOR.

1.1 City agrees to engage Contractor to perform the services as hereinafter set forth as authorized by the City Council on _____.

1.2 The term of this Contract shall be ___ (__) years from the date of execution by the City, or until the amount of _____, is expended, whichever occurs first. This Contract may be extended for a period of up to ___ (__) additional ___-year extension periods not to exceed \$_____ each, subject to the approval of the City Manager, as provided in Exhibit “A” hereto.

2.0 SCOPE OF SERVICES.

2.1 Contractor shall perform all work necessary to complete **the services set forth in the Request for Qualifications for the Glenarm Power Plant Public Art Project for the Cultural Affairs Division of the Planning and Community Development Department dated _____ (Exhibit “__”), and Contractor’s Proposal to the City (“Proposal”) dated _____ (Exhibit “__”), both of which are attached to and incorporated into this Contract by reference] [or the following services:]**

2.2 All services shall be performed to the satisfaction of City.

2.3 All services shall be performed according to the standards then prevailing in the _____ profession.

3.0 PERSONNEL.

3.1 Contractor represents that it employs, or will employ, at its own expense, all personnel required to perform the services under this Contract. 3.2

Contractor shall not subcontract any services to be performed by it under this Contract without prior written approval of City.

3.3 All of the services required hereunder will be performed by Contractor or by City-approved subcontractors. Contractor, and all personnel engaged in the work, shall be fully qualified and authorized or permitted under State and local law to perform such services and shall be subject to approval by the City.

3.4 Contractor shall not knowingly pay less than the general prevailing rate for per diem wages, as determined by the State of California Department of Industrial Relations and referred to in the Notice Inviting Bids, to any worker employed for the work to be performed under this contract; and the Contractor shall forfeit as a penalty to the City the sum of Fifty Dollars (\$50.00) for each calendar day, or fraction thereof, for such worker paid by the Contractor or by any subcontractor under the Contractor in violation of this provision (Sections 1770-1782, Labor Code of California).

3.5 Contractor shall not engage in the performance of this public works project unless currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. It is not a violation of Labor Code Section 1771.1 for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the

contract is awarded.

3.6 This Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

3.7 Contractor must post job site notices prescribed by regulation (See e.g. 8 Cal. Code Reg. Section 16451(d)).

3.8 Contractors and Subcontractors must furnish electronic certified payroll records directly to the California Labor Commissioner (aka Division of Labor Standards Enforcement).

3.9 Contractor shall also not knowingly pay less than the Living Wage as that term is defined in the Pasadena Living Wage Ordinance, Pasadena Municipal Code, Chapter 4.11. If there is a difference between the State minimum wage rates and the Pasadena Living Wage, the Contractor and his subcontractors shall pay not less than the highest wage rate.

3.10 Contractor also agrees that for contracts in excess of \$30,000 apprentices will be employed without discrimination in an approved program in a ratio established in the apprenticeship standards of the craft involved (Sections 1777.5 and 1777.6, Labor Code of California) if applicable. Contractors who willfully fail to comply will be denied the right to bid on public projects for a period of six months in addition to other penalties provided by law.

3.11 The Prime Contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 7 days from the receipt of each payment the Prime Contractor receives from the City of Pasadena. Any delay or postponement of payment from the above referenced time frame may occur

only for good cause following written approval of the City of Pasadena. This clause applies to both DBE and non-DBE subcontractors.

3.12 The Prime Contractor agrees further to release retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City of Pasadena. This clause applies to both DBE and non-DBE subcontractors.

4.0 TIME OF PERFORMANCE.

4.1 Contractor shall commence its services **[immediately upon the [immediately upon receipt of a Notice to Proceed] [within ____ (__) calendar days after the]** execution of this Contract, and shall complete the services on or before _____.

4.2 The time for performing the services may only be extended in writing by City, and only upon a showing of good cause, in the City's sole discretion.

5.0 COMPENSATION AND FEES [first alternative provision].

5.1 For satisfactory and timely performance of the services provided for hereunder, the City will pay Contractor an amount not to exceed _____ Dollars (\$_____), **[plus amounts for adjustments as provided in Section __ herein]** in accordance with **[the payment schedule presented in the Proposal, incorporated herein by reference] [the payment schedule set forth in Exhibit “__”, attached]**.

5.2 Contractor's total compensation under this Contract, including change orders, shall not exceed \$_____ without the prior authorization of the City Council.

5.3 Contractor shall, at its sole cost and expense, furnish all necessary

and incidental labor, material, supplies, facilities, equipment and transportation which may be required for furnishing services pursuant to this Contract. Materials shall be of the highest quality. The above Contract fee shall include all professional time and all clerical, administrative, overhead, insurance, reproduction, telephone, air travel, auto rental, subsistence, and all related expenses.

5.0 COMPENSATION AND FEES [second alternative provision].

5.1 For satisfactory and timely performance of the services provided for hereunder, City will pay Contractor for direct labor costs in accordance with the rates set forth in Exhibit “___”, attached hereto and incorporated by reference.

5.2 In addition to the direct labor costs, other direct costs, necessary for completion of the work, shall be paid for at **[the rate specified in the proposal] [actual cost]**. Such costs shall include, but not be limited to, printing, postage, telephone, travel, computer usage and subcontractors. These direct costs shall not exceed the total amount of _____ without the prior authorization of the City Council.

5.3 Contractor’s total compensation under this Contract, including change orders, shall not exceed \$_____ without the prior authorization of the City Council.

6.0 PAYMENT.

6.1 **[first alternative provision]** Payment shall be made in accordance with the schedule provided in the Proposal attached hereto as Exhibit “___” and incorporated herein by reference.

6.2 **[second alternative provision] [As scheduled services are completed] [On the first day of each calendar month during the Contract term],**

Contractor shall submit to the City an invoice for the services completed, authorized expenses, and authorized extra work actually performed or incurred **[according to said schedule] [during the immediately preceding calendar month]**.

6.3 Each such invoice shall state the basis for the amount invoiced, including the services completed, the number of hours spent, reimbursable expenses incurred and any extra work performed.

6.4 Contractor shall also submit a progress report with each invoice that describes in reasonable detail the services and the extra work, if any, performed in the immediately preceding calendar month.

6.5 City will pay Contractor the amount invoiced within thirty (30) days after the City approves the invoice.

6.6 Payment of such invoices shall be payment in full for all services, authorized costs and authorized extra work covered by that invoice.

7.0 CHANGE ORDERS.

7.1 **[first alternative provisions]** No payment for extra services caused by a change in scope of work or complexity of work, or for any other reason, shall be made unless and until such extra services and a price therefor have been previously authorized in writing and approved by City as a written change order. The change order shall set forth the specific changes of work and extension of time for preparation and adjustment of the fee to be paid by City to Contractor.

7.2 The _____ **[Title of Department Head]** shall have the authority to approve all change orders not to exceed the aggregate sum of \$_____. Any change order in excess of this aggregate sum must be approved in advance by the City Council. No claim for said additional work shall be

made unless specifically authorized in writing by City.

7.3 **[second alternative provision]** There is no change order authority provided in this Contract.

8.0 CITY'S RESPONSIBILITY. City shall cooperate with Contractor as may be reasonably necessary for Contractor to perform its services; and will give any required decisions as promptly as practicable so as to avoid unreasonable delay in the progress of Contractor's services.

9.0 GENERAL TERMS AND CONDITIONS.

9.1 INDEPENDENT CONTRACTOR.

9.1.1 It is understood that in the performance of the services herein provided for, Contractor shall be, and is, an independent contractor, and is not an agent or employee of City and shall furnish such services in its own manner and method except as required by this Contract. Further, Contractor has and shall retain the right to exercise full control over the employment, direction, compensation and discharge of all persons employed by Contractor in the performance of the services hereunder.

Contractor shall be solely responsible for, and shall indemnify, defend and save City harmless from all matters relating to the payment of its employees, including compliance with social security, withholding and all other wages, salaries, benefits, taxes, exactions, and regulations of any nature whatsoever.

9.1.2 Contractor acknowledges that Contractor and any subcontractors, agents or employees employed by Contractor shall not, under any circumstances, be considered employees of the City, and that they shall not be entitled to any of the benefits or rights afforded employees of City, including, but not limited to, sick leave, vacation leave, holiday pay, Public Employees Retirement System benefits,

or health, life, dental, long-term disability or workers' compensation insurance benefits.

9.2 CONTRACTOR NOT AGENT. Except as the City may authorize in writing, Contractor and its subcontractors shall have no authority, express or implied, to act on behalf of or bind the City in any capacity whatsoever as agents or otherwise.

9.3 OWNERSHIP OF WORK. All reports, drawings, plans, specifications, printouts, studies, memoranda, computation sheets and other documents (whether on paper or stored in any electronic/digital form) prepared by Contractor in furtherance of the work shall be the sole property of City and shall be delivered to City whenever requested. Contractor shall keep such documents and materials on file and available for audit by the City for at least three (3) years after completion or earlier termination of this Contract. Contractor may make duplicate copies of such materials and documents for its own files or for such other purposes as may be authorized in writing by the City.

9.4 CORRECTION OF WORK. Contractor shall promptly correct any defective, inaccurate or incomplete tasks, deliverables, goods, services and other work, without additional cost to the City. The performance or acceptance of services furnished by Contractor shall not relieve the Contractor from the obligation to correct subsequently discovered defects, inaccuracies or incompleteness.

9.5 WAIVER. The City's waiver of any term, condition, breach or default of this Contract shall not be considered to be a waiver of any other term, condition, default or breach, nor of a subsequent breach of the one waived.

9.6 SUCCESSORS. This Contract shall inure to the benefit of, and shall be binding upon, the parties hereto and their respective heirs, successors and/or

assigns.

9.7 NO ASSIGNMENT. Contractor shall not assign or transfer this Contract or any rights hereunder without the prior written consent of the City and approval by the City Attorney, which may be withheld in the City's sole discretion. Any unauthorized assignment or transfer shall be null and void and shall constitute a material breach by the Contractor of its obligations under this Contract. No assignment shall release the original parties or otherwise constitute a novation.

9.8 COMPLIANCE WITH LAWS. Contractor shall comply with all Federal, State, County and City laws, ordinances, rules and regulations, which are, as amended from time to time, incorporated herein and applicable to the performance hereof, including but without limitation the Pasadena Living Wage Ordinance.

9.9 INTERPRETATION.

9.9.1 Applicable Law. This Contract, and the rights and duties of the parties hereunder (both procedural and substantive), shall be governed by and construed according to the laws of the State of California.

9.9.2 Entire Agreement. This Contract, including any Exhibits attached hereto, constitutes the entire agreement and understanding between the parties regarding its subject matter and supersedes all prior or contemporaneous negotiations, representations, understandings, correspondence, documentation and agreements (written or oral).

9.9.3 Written Amendment. This Contract may only be changed by written amendment signed by Contractor and the City Manager or other authorized representative of the City, subject to any requisite authorization by the City Council. Any oral representations or modifications concerning this Contract shall be of no force

or effect.

9.9.4 Severability. If any provision in this Contract is held by any court of competent jurisdiction to be invalid, illegal, void, or unenforceable, such portion shall be deemed severed from this Contract, and the remaining provisions shall nevertheless continue in full force and effect as fully as though such invalid, illegal, or unenforceable portion had never been part of this Contract.

9.9.5 Order of Precedence. In case of conflict between the terms of this Contract and the terms contained in any document attached as an Exhibit or otherwise incorporated by reference, the terms of this Contract shall strictly prevail.

[The terms of the City's Request for Qualifications shall control over the Contractor's Proposal.]

9.9.6 Choice of Forum. The parties hereby agree that this Contract is to be enforced in accordance with the laws of the State of California, is entered into **[and/or is to be performed]** in the City of Pasadena and that all claims or controversies arising out of or related to performance under this Contract shall be submitted to and resolved in a forum within the County of Los Angeles at a place to be determined by the rules of the forum.

9.9.7 Duplicate Originals. There shall be two (2) fully signed copies of this Contract, each of which shall be deemed an original.

9.10 TIME OF ESSENCE. Time is strictly of the essence with respect to provisions under this Contract and each and every covenant, term and provision hereof.

9.11 AUTHORITY OF CONTRACTOR. The Contractor hereby represents and warrants to the City that the Contractor has the right, power, legal capacity and authority to enter into and perform its obligations under this Contract, and

its execution of this Contract has been duly authorized.

9.12 ARBITRATION OF DISPUTES. Any dispute for under \$25,000 arising out of or relating to the negotiation, construction, performance, non-performance, breach or any other aspect of this Contract, shall be settled by binding arbitration in accordance with the Commercial Rules of the American Arbitration Association at Los Angeles, California and judgment upon the award rendered by the Arbitrators may be entered in any court having jurisdiction thereof. The City does not waive its right to object to the timeliness or sufficiency of any claim filed or required to be filed against the City and reserves the right to conduct full discovery.

9.13 INDEMNITY.

9.13.1 Contractor agrees to indemnify, hold harmless and defend (even if the allegations are false, fraudulent or groundless), to the maximum extent permitted by law, the City, its City Council and each member thereof, and its officers, employees, commission members and representatives, from any and all liability, loss, suits, claims, damages, costs, judgments and expenses (including attorney's fees and costs of litigation) which in whole or in part result from, or arise out of, or are claimed to result from or to arise out of:

A. any activity on or use of City's premises or facilities or any performance under this Contract; or

B. any acts, errors or omissions (including, without limitation, professional negligence) of Contractor, its employees, representatives, subcontractors, or agents in connection with the performance of this Contract.

9.13.2 This agreement to indemnify includes, but is not limited to, personal injury (including death at any time) and property or other damage (including,

but without limitation, contract or tort or patent, copyright, trade secret or trademark infringement) sustained by any person or persons (including, but not limited to, companies, or corporations, Contractor and its employees or agents, and members of the general public). The sole negligence or willful misconduct of City, its employees or agents other than Contractor or Contractor's subcontractors are excluded from this indemnity agreement.

9.14 RELEASE. Contractor agrees to release and covenants not to sue the City, its City Council and each member thereof, and its officers, employees, commission members and representatives for any damage or injury (including death) to itself, its officers, employees, agents and independent contractors damaged or claiming to be damaged from any performance under this Contract.

9.15 INSURANCE. Contractor shall, at its own expense, procure and maintain policies of insurance of the types and in the amounts set forth below, for the duration of the Contract, including any extensions thereto. The policies shall state that they afford primary coverage.

9.15.1 Automobile Liability with minimum limits of at least \$_____ if written on a personal automobile liability form, for using a personal vehicle; or an amount of \$ _____ including owned, hired, and nonowned liability coverage if written on a Commercial automobile liability form.

9.15.2 General Liability with minimum limits of at least \$_____ combined single limits written on an Insurance Services Office (ISO) Comprehensive General Liability "occurrence" form or its equivalent for coverage on an occurrence basis. Premises/Operations and Personal Injury Coverage is required. The City of Pasadena, its directors, commissioners, officers, employees, agents and volunteers

must be endorsed on the policy as additional insureds as respects liability arising out of the Contractor's performance of this Contract.

A. If Contractor employs other contractors as part of the services rendered, Contractor's Protective Coverage is required. Contractor may include all subcontractors as insureds under its own policy or shall furnish separate insurance for each subcontractor, meeting the requirements set forth herein.

B. Blanket Contractual Coverage **[if required]**.

C. Products/Completed Operations Coverage **[where such risk is applicable]**.

D. Explosion, Collapse and/or Underground (X, C, and/or U) coverage **[where such risk is applicable]**.

9.15.3 Professional Errors and Omissions coverage in a sum of at least \$_____. Applicable aggregates must be identified and claims history provided to determine amounts remaining under the aggregate.

9.15.4 Contractor shall comply with the applicable sections of the California Labor Code concerning workers' compensation for injuries on the job.

Compliance is accomplished in one of the following manners:

A. Provide copy of permissive self-insurance certificate approved by the State of California; or

B. Secure and maintain in force a policy of workers' compensation insurance with statutory limits and Employer's Liability Insurance with a minimal limit of \$_____ per accident. The policy shall be endorsed to waive all rights of subrogation against City, its directors, commissioners, officers, employees, and volunteers for losses arising from performance of this Contract; or

C. Provide a “waiver” form certifying that no employees subject to the Labor Code’s Workers’ Compensation provision will be used in performance of this Contract.

9.15.5 Each insurance policy included in this clause shall be endorsed to state that coverage shall not be cancelled except after thirty (30) days’ prior written notice to City.

9.15.6 Insurance shall be placed with insurers with a Best’s rating of no less than B:VIII.

9.15.7 Prior to commencement of performance, Contractor shall furnish City with a certificate of insurance for each policy. Each certificate is to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificate(s) must be in a form approved by City. City may require complete, certified copies of any or all policies at any time.

9.15.8 Failure to maintain required insurance at all times shall constitute a default and material breach. In such event, Contractor shall immediately notify City and cease all performance under this Contract until further directed by the City. In the absence of satisfactory insurance coverage, City may, at its option: (a) procure insurance with collection rights for premiums, attorney’s fees and costs against Contractor by way of set-off or recoupment from sums due Contractor, at City’s option; (b) immediately terminate this Contract; or (c) self insure the risk, with all damages and costs incurred, by judgment, settlement or otherwise, including attorney's fees and costs, being collectible from Contractor, by way of set-off or recoupment from any sums due Contractor.

9.16 NOTICES.

Any notice or demand to be given by one party to the other shall be given in writing and by personal delivery or prepaid first-class, registered or certified mail, addressed as follows. Notice simply to the City of Pasadena or any other City department is not adequate notice.

If to the City:

(Name and Title)
_____(Department)
City of Pasadena
100 North Garfield Avenue, Rm. _____
Pasadena, CA 91109

[With a Copy to:]

(Name and Title)

(Department)

(Street Address)

(City, State and zip code)

If to the Contractor:

(Name and Title)

(Company Name)

(Street Address)

(City, State and zip code)

Any such notice shall be deemed to have been given upon delivery, if personally delivered, or, if mailed, upon receipt or upon expiration of three (3) business days from the date of posting, whichever is earlier. Either party may change the address at which it desires to receive notice upon giving written notice of such request to the other party.

9.17 TERMINATION FOR CONVENIENCE (Without Cause). City may terminate this Contract in whole or in part at any time, for any cause or without cause, upon fifteen (15) calendar days' written notice to Contractor. If the Contract is thus

terminated by City for reasons other than Contractor's failure to perform its obligations, City shall pay Contractor a prorated amount based on the services satisfactorily completed and accepted prior to the effective date of termination. Such payment shall be Contractor's exclusive remedy for termination without cause.

9.18 DEFAULT. In the event either party materially defaults in its obligations hereunder, the other party may declare a default and terminate this Contract by written notice to the defaulting party. The notice shall specify the basis for the default. The Contract shall terminate unless such default is cured before the effective date of termination stated in such notice, which date shall be no sooner than ten (10) days after the date of the notice.

Termination for cause shall relieve the terminating party of further liability or responsibility under this Contract, including the payment of money, except for payment for services satisfactorily and timely performed prior to the service of the notice of termination, and except for reimbursement of (1) any payments made by the City for service not subsequently performed in a timely and satisfactory manner, and (2) costs incurred by the City in obtaining substitute performance.

9.19 ASSIGNMENT OF ANTITRUST CAUSES OF ACTION.

Contractor hereby agrees to assign to the City all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sections 15) or under the Cartwright Act Chapter 2 (Commencing with Section 16700) or part 2 of Division 7 of the Business and Professions Code, or any similar or successor provisions of Federal or State law, arising from purchases of goods, services or materials pursuant to this Contract or the subcontract. This assignment shall be made and become effective at the time the City tenders final payment to the Contractor, without further acknowledgment by the parties.

10.0 ADDITIONAL ASSURANCES.

10.1 EQUAL EMPLOYMENT OPPORTUNITY PRACTICES.

Contractor agrees to comply with Section 4.08.035 of the City's Competitive Bidding and Purchasing Ordinance of the Pasadena Municipal Code, the rules and regulations promulgated thereunder, the California Fair Employment and Housing Act (Government Code section 12900 et seq.) and to this end:

10.1.1 Contractor certifies and represents that, during the performance of this Contract, the Contractor and any other parties with whom it may subcontract shall adhere to equal opportunity employment practices to assure that applicants and employees are treated equally and are not discriminated against because of their race, religion, color, national origin, ancestry, disability, sex, age, medical condition, marital status. Contractor further certifies that it will not maintain any segregated facilities.

10.1.2 Contractor shall, in all solicitations or advertisements for applicants for employment placed by or on behalf of this Contract, state that it is an "Equal Opportunity Employer" or that all qualified applicants will receive consideration for employment without regard to their race, religious creed, color, national origin, ancestry, disability, sex, age, medical condition or marital status.

10.1.3 Contractor shall, if requested to so do by the City, certify that it has not, in the performance of this Contract, discriminated against applicants or employees because of their race, religious creed, color, national origin, ancestry, disability, sex, age, medical condition or marital status.

10.1.4 If requested to do so by the City, Contractor shall provide the City with access to copies of all of its records pertaining or relating to its employment practices, except to the extent such records or portions of such records are confidential or privileged

under state or federal law.

10.1.5 Contractor agrees to recruit Pasadena residents initially and to give them preference, if all other factors are equal, for any new positions which result from the performance of this Contract and which are performed within the City.

10.1.6 Nothing contained in this Contract shall be construed in any manner so as to require or permit any act which is prohibited by law.

10.1.7 The Contractor shall include the provisions set forth in paragraphs numbered 10.1.1 through 10.1.6 of subsection 10.1 of this Contract, inclusive, in each of its subcontracts.

10.2 PASADENA BUSINESS LICENSE. Contractor shall obtain, and pay any and all costs associated therewith, any Pasadena Business License which may be required by the Pasadena Municipal Code.

10.3 MAINTENANCE AND INSPECTION OF RECORDS. [long version]

The City and any other Federal, State or local governmental agency, or any of their authorized auditors or representatives, shall have access to and the right to audit, excerpt, reproduce, and transcribe any of the Contractor's records, to the extent the City deems necessary to insure it has received or is receiving all money to which it is entitled and/or is paying only the amounts to which Contractor is properly entitled under the Contract or for other purposes relating to the Contract.

Such records include, without limitation, journals, ledgers, records of accounts payable and receivable, profit and loss statements, financial statements, bank statements, invoices, receipts, subcontracts, agreements, notes, correspondence, memoranda, and any documents required by the City or by the laws or regulations of any Federal, state or local

governmental agency.

The Contractor shall maintain and preserve all such records for a period of at least three years after termination of the Contract, or until an audit has been completed and accepted by the highest governmental authority involved.

Upon written notice by the City, the Contractor shall promptly make all such records available to auditors or other representatives of the City or other governmental agencies. The Contractor shall also cooperate with such auditors and representatives in auditing, excerpting, reproducing and transcribing the records.

The Contractor shall maintain all such records in the City of Pasadena. If not, the Contractor shall, upon request, promptly deliver the records to the City of Pasadena or reimburse the City for all reasonable and extra costs incurred in conducting the audit at a location other than the City of Pasadena, including, but not limited to, such additional (out of the City) expenses for personnel, salaries, private auditors, travel, lodging, meals and overhead.

10.3 MAINTENANCE AND INSPECTION OF RECORDS.

[Condensed Version]

The City, or its authorized auditors or representatives, shall have access to and the right to audit and reproduce any of the Contractor's records to the extent the City deems necessary to insure it is receiving all money to which it is entitled under the Contract and/or is paying only the amounts to which Contractor is properly entitled under the Contract or for other purposes relating to the Contract.

The Contractor shall maintain and preserve all such records for a period of at least 3 years after termination of the Contract.

The Contractor shall maintain all such records in the City of Pasadena. If

not, the Contractor shall, upon request, promptly deliver the records to the City of Pasadena or reimburse the City for all reasonable and extra costs incurred in conducting the audit at a location other than the City of Pasadena, including, but not limited to, such additional (out of the City) expenses for personnel, salaries, private auditors, travel, lodging, meals and overhead.

10.4 CONFLICT. Contractor hereby represents, warrants and certifies that no member, officer or employee of the Contractor is a director, officer or employee of the City of Pasadena, or a member of any of its boards, commissions or committees, except to the extent permitted by law.

11.0 ARTWORK. (TO BE DETERMINED BASED ON PROJECT)

11.1 Contractor recognizes that the City, without charge to City, may make, or cause to be made, photographs and other two-dimensional reproductions of the Artwork which is defined as _____ for educational, public, relations, tourism, or arts promotional purposes without payment of a royalty to the Contractor. For the purposes of this Agreement, the following are among those deemed to be permissible reproductions for the above-cited purposes: brochures and pamphlets pertaining to City; reproduction in exhibition catalogues, books, slides, photographs, postcards, posters, and calendars; in art magazines, art books and art and news sections of newspapers; in general books and magazines not primarily devoted to art; slides and film strips; television; and images displayed over computers or the internet in connection with the City.

11.2 If the City should ever propose to remove the Artwork from the Display Location, the City shall give notice to the Contractor by certified mail or personal delivery. For a period of 30 days from the date of that notice the Contractor may inform the City

through certified mail or personal delivery that he/she/it intends to take title to the Artwork. If this notice is delivered by the Contractor to the City, the Contractor must remove the Artwork from the Display Location prior to the expiration of the 30 day period at his/her/its expense. The removal must occur without damage to the City's property and shall occur on a date and in a manner which is mutually approved by the City and Contractor. If the Artwork is not removed within the 30 day period the title shall remain with the City and the City may dispose of or relocate the Artwork as it determines. This entitlement is particular to the Contractor only, and may not be assigned, transferred, or devised.

11.3 The Contractor hereby acknowledges and agrees that Contractor is familiar with the "California Art Preservation Act" (California Civil Code section 987 *et seq.*) and the "Visual Artists' Rights Act of 1990" (17 U.S.C. Section 101 *et seq.*) and expressly waives Contractor's rights under those Acts to the extent permissible therein. Those Acts require that a waiver of their provisions be expressly made in writing, and being fully informed, the Contractor and his/her/its agents, heirs, successors, and assigns hereby waive any and all rights they may have under the provisions of these Acts; except to the extent otherwise called for under this Agreement. The Contractor and his/her/its agents, heirs, successors and assigns further agree not to attempt to defeat this waiver by cooperating, encouraging or assisting any organization or individual which seeks to bring an action under these Acts.

11.4. The Contractor expressly waives any and all rights and benefits conferred upon him/her/it by the provisions of section 1542 of the California Civil Code which reads as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by

him must have materially affected his settlement with the debtor.”

This waiver shall be effective as a bar to any and all actions, fees, damages, losses, claims, liabilities and demands of whatsoever character, nature and kind that are known or unknown, or suspected or unsuspected, including, without limitation, the “California Art Preservation Act” (California Civil Code Section 987 *et seq.*) and the “Visual Artist’s Rights Act of 1990” (17 U.S.C. Section 101 *et seq.*). Contractor further represents and warrants that it understands this waiver and that if it does not understand this waiver, it shall seek the advice of a qualified attorney before executing this Agreement.

Initials

11.5 The City shall have no obligation whatsoever to replace any of the Artwork in the event any part of the Artwork becomes stolen or removed without the City’s written consent.

12.0 TAXPAYER PROTECTION AMENDMENT.

Under the provisions of the City of Pasadena Taxpayer Protection Amendment of 2000 ("Taxpayer Protection Act"), the Contractor/Organization will be considered a "recipient of a public benefit." The full provisions of the Taxpayer Protection Act are set forth in Pasadena City Charter, Article XVII. Under the Taxpayer Protection Act, City public officials who approve this Contract/transaction are prohibited from receiving specified gifts, campaign contributions or employment from Contractor/Organization for a specified time. As well, if this Contract is to be approved by the City Council, Councilmembers or candidates for Council are prohibited from receiving campaign contributions during the time this Contract is being negotiated. This prohibition extends to individuals and entities that are specified and identified

in the Taxpayer Protection Act and includes Contractor/Organization and its trustees, directors, partners, corporate officers and those with more than a 10% equity, participation, or revenue interest in Contractor/Organization. Contractor/Organization understands and agrees that: (A) Contractor/Organization is aware of the Taxpayer Protection Act; (B) Contractor/Organization will complete and return the forms provided by the City in order to identify all of the recipients of a public benefit specified in the Taxpayer Protection Act; and (C) Contractor/Organization will not make any prohibited gift, campaign contribution or offer of employment to any public official who negotiated and/or approved this Contract/transaction.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their duly authorized representatives as of the date set forth below.

DATED:

CITY OF PASADENA

By: _____

Steve Mermell
City Manager

ATTEST:

Mark Jomsky, CMC
City Clerk

DATED:

[COMPANY NAME]

By: _____

(Typed name)

(Title)

APPROVED AS TO FORM:

Ann Sherwood Rider
Assistant City Attorney

REVIEWED:

Erika Estrada
Purchasing Administrator

AERIAL PHOTO OF SITE

