

0150-10672-0000

TRANSMITTAL

TO The City Council	DATE 11/17/21	COUNCIL FILE NO.
FROM The Mayor	COUNCIL DISTRICT 14	

First Amended and Restated Agreement to Contract C-128192 with Glenn Kaino dba Kainoco Inc., for Artwork at the Sixth Street Viaduct

Approved and transmitted for further processing.
See the City Administrative Officer report attached.



ERIC GARCETTI
Mayor

(Rich Llewellyn for)

MWS:AC:08220019c


Report From
OFFICE OF THE CITY ADMINISTRATIVE OFFICER
Analysis of Proposed Contract
(\$25,000 or Greater and Longer than Three Months)

To: Mayor	Date: 11-12-21	C.D. No. 14	CAO File No.: 0150-10672-0000				
Contracting Department/Bureau: Cultural Affairs		Contact: Becky Snodgrass					
Reference: Transmittal dated August 28, 2020							
Purpose of Contract: To amend Contract C-128192 and expand the scope of work, contract amount, and term in order to include the fabrication and installation of artwork for the Sixth Street Viaduct.							
Type of Contract: () New contract (X) Amend. & Rest. Agreement C-128192		Contract Term Dates: December 15, 2015 to December 14, 2025					
Contract/Amendment Amount: \$1,353,000							
Proposed amount \$ 1,000,000 + Prior award(s) \$ 353,000 = Total \$ 1,353,000							
Source of funds: Fund 298, Dept. 50, Accounts 50MCSS(\$353,000) and 50RART (\$1,000,000)							
Name of Contractor: Glenn Kaino dba Kainoco Inc.							
Address: 2039 North Hobart Boulevard, Los Angeles, CA 90027							
	Yes	No	N/A	Contractor has complied with:	Yes	No	N/A
1. Council has approved the purpose	X			8. Business Inclusion Program		X	
2. Appropriated funds are available	X			9. Equal Benefits & First Source Hiring Ordinances	X		
3. Charter Section 1022 findings completed	X			10. Contractor Responsibility Ordinance	X		
4. Proposals have been requested	X			11. Disclosure Ordinances	X		
5. Risk Management review completed	X			12. Bidder Certification CEC Form 50	X		
6. Standard Provisions for City Contracts included	X			13. Prohibited Contributors (Bidders) CEC Form 55	X		
7. Workforce that resides in the City: %				14. California Iran Contracting Act of 2010			X

RECOMMENDATION

That the Council, subject to approval of the Mayor:

- 1.) Instruct the General Manager of the Department of Cultural Affairs to have the Contractor obtain proof of general liability and workers compensation insurance as required by the Risk Management Division of the Office of the City Administrative Officer, and submit proof of insurance on KwikComply;
- 2.) Instruct the General Manager of the Department of Cultural Affairs to attach the Standard Provisions for City Contracts (Rev. 10/21)(v.4) to the Agreement prior to execution; and,
- 3.) Authorize the General Manager of the Department of Cultural Affairs, or designee, to execute the proposed First Amended and Restated Agreement to Contract C-128192 with Glenn Kaino dba Kainoco Inc., to expand the scope of work, extend the term of the original contract to December 14, 2025, and increase the maximum contract amount by \$1,000,000, from \$353,000 to \$1,353,000.

Andy Chen			
AC	Analyst	08220019c	for City Administrative Officer

SUMMARY

In accordance with Executive Directive No. 3, the Department of Cultural Affairs (Department) requests the authority to execute a proposed First Amended and Restated Agreement (Agreement) to Contract C-128192 with Glenn Kaino dba Kainoco Inc. (Contractor), to expand the scope of work for the Contractor, increase funding by \$1,000,000, from \$353,000 to \$1,353,000, and to extend the term of Contract C-128192 to December 14, 2025. A copy of the proposed Agreement (Attachment 1) and the Department's transmittal (Attachment 2) are included with this report.

In 2014, the Department utilized the selection process for public art projects administered by the Public Works Improvements Arts Program to select the Contractor, who would design an artwork element to be incorporated into the new Sixth Street Viaduct structure, located between Mateo Street and the US 101 Freeway in Council District 14. On September 14, 2016, the Department executed Contract C-128192 with the Contractor to design artwork for the Sixth Street Viaduct, with a maximum contract amount of \$353,000, and a term from December 15, 2015 through December 14, 2018. At that time, the Sixth Street Viaduct structure was the only City project planned for the site of the old Sixth Street Bridge.

In late 2016, the City initiated the Parks, Arts, River, and Connectivity Improvements Project (PARC Project), which would create a 12-acre City park underneath the Viaduct structure. During the PARC Project's development, a City team comprised of staff from the Department, the Department of Public Works – Bureau of Engineering (BOE), and Council District 14, agreed that the PARC Project would be a better location for public artwork than the Viaduct structure, because the design, fabrication, an installation of the artwork could be assigned to the artist directly, which was a more streamlined and efficient process. In 2018, this City team agreed to amend Contract C-128192 by increasing the contract amount by \$1,000,000, from \$353,000 to \$1,353,000, but could not determine an expiration date, because construction schedules remained undecided for an extended period of time. There were additional delays as a result of the COVID-19 emergency.

In 2020, BOE finalized a construction schedule, and construction was estimated to be completed by July 2025. Public artwork is typically installed at the end of a construction project to avoid potential damage to the artwork. Both BOE and the Department agreed to extend the expiration date of Contract C-128192 to December 14, 2025.

Upon further communication with the Department and the City Attorney's Office, the latter advised that the scope of work, term, and maximum contract amount of C-128192 could be appropriately expanded with the proposed Agreement. To the best of our knowledge, the Contractor has complied with most City contracting requirements, policies, and procedures. The Contractor has not submitted proof of current general liability, workers compensation, and automobile liability insurance to the City's KwikComply system. It is recommended that the Department ensure that the Contractor submit proof of current insurance policies on KwikComply prior to the execution of the Agreement.

It is also recommended that the Department attach the most recent Standard Provisions for City Contracts (Rev. 10/21)(v.4) to the Agreement, prior to execution.

FISCAL IMPACT STATEMENT

In an addendum to the 2020-21 Fourth Construction Projects Report (C.F. 20-1021-S3), the Council approved the reauthorization of \$11,702,548 in Municipal Improvement Corporation of Los Angeles (MICLA) funds that that was deferred in 2018-19 for the purchase of a Los Angeles Fire Department helicopter (C.F. 18-0600-S144). On October 6, 2021, funding of \$1,150,000 for this Agreement was appropriated in the MICLA Lease Revenue Commercial Paper Notes Fund 298, 50RART. Additional funding of \$353,000 for this Agreement is appropriated in Fund 298, Account 50MCSS.

FINANCIAL POLICIES STATEMENT

The recommendations included in this report comply with the Financial Policies of the City in that one-time funding will be used to support the one-time expenditure.

MWS:AC:08220019c

Attachment

**FIRST AMENDED AND RESTATED PERSONAL SERVICES AGREEMENT NO. C-128192
BETWEEN THE CITY OF LOS ANGELES AND
GLENN KAINO dba KAINOCO INC**

THIS FIRST AMENDED AND RESTATED PERSONAL SERVICES AGREEMENT (hereinafter “AGREEMENT”) is entered into by and between the CITY OF LOS ANGELES, a municipal corporation (hereinafter “CITY”), through its DEPARTMENT OF CULTURAL AFFAIRS (hereinafter “DEPARTMENT”), and GLENN KAINO dba KAINOCO INC (hereinafter “CONTRACTOR”).

WITNESSETH

WHEREAS, CITY, through its Percent-for-Art policy, mandates that all public works capital improvement project undertaken by CITY must allocate funding, in an amount equal to one-percent (1%) of total construction project costs, for the purposes of creating public art project(s) in compliance with CITY’s Public Works Improvements Arts Program (hereinafter “PROGRAM”), implemented and administered by DEPARTMENT, pursuant to CITY’s Administrative Code Section 19.85; and

WHEREAS, CITY authorizes payments to fund public arts projects administered by PROGRAM, including: acquisition or placement of publicly accessible works of art; acquisition or construction of arts or cultural facilities; provision of arts or cultural services; and/or restoration or preservation of existing works of art; and

WHEREAS, to accomplish this purpose, CITY desires to contract with people who possess the necessary knowledge, experience, and professional expertise to execute public arts projects; and

WHEREAS, the BUREAU OF ENGINEERING of CITY (hereinafter “AGENCY”) has allocated funds for the selection, purchase, and placement of a public arts project in compliance with PROGRAM; and

WHEREAS, a shortlist of artists was established, based on the qualifications of each artist’s skills, talent, experience, and expression, to be considered for a permanent public art commission (hereinafter “ARTWORK”) at the Sixth Street Viaduct Replacement & PARC Project (hereinafter “PROJECT”), wherein CONTRACTOR was among that established shortlist; and

WHEREAS, CONTRACTOR was selected by a panel of experts from the established shortlist and asked to develop a proposal for ARTWORK; and

WHEREAS, CONTRACTOR demonstrated the ability, skill, and experience to create and design ARTWORK at PROJECT to satisfy the needs as identified by DEPARTMENT; and

WHEREAS, CITY wishes to promote and maintain the integrity and clarity of CONTRACTOR’s ideas and statements as represented by ARTWORK; and

WHEREAS, per CITY Charter Section 371(e)(2), the General Manager of DEPARTMENT finds that the services to be performed are of an expert, technical, and special nature, as well as occasional and temporary, and for these reasons, competitive bidding is not practical or advantageous; and

WHEREAS, CITY and CONTRACTOR entered into PERSONAL SERVICES AGREEMENT No. C-128192 (hereinafter “ORIGINAL AGREEMENT”) on September 14, 2016, whereby CONTRACTOR agreed to provide services supported by milestones identified in that ORIGINAL AGREEMENT; and

WHEREAS, CITY’s original design and construction schedules established for PROJECT have been significantly delayed and extended, most recently by the COVID-19 emergency, wherein the CITY’s current estimate to complete construction of PROJECT is July 2025, extending beyond the term of ORIGINAL AGREEMENT that expired on December 14, 2018; and

WHEREAS, due to CITY’s extensive programmatic changes and additions to the scope of original PROJECT, as well as AGENCY’s additional analysis of construction parameters for PROJECT and related sequencing required among various contractors, and delays caused by COVID-19, DEPARTMENT and AGENCY mutually agree that services required for fabrication and installation of ARTWORK as part of PROJECT must be incorporated into SCOPE OF WORK that shall be provided by CONTRACTOR; and

WHEREAS, CITY’s funding allocation for the fabrication and installation of ARTWORK as part of PROJECT is required to fund said additions to SCOPE OF WORK; and

WHEREAS, this AGREEMENT is necessary and proper to complete certain activities authorized under ORIGINAL AGREEMENT; and

WHEREAS, CITY and CONTRACTOR now wish to (a) extend the term of the Original Agreement for an additional seven-year term, to expire on December 14, 2025; (b) increase the services to be provided by CONTRACTOR wherein the fabrication and installation of ARTWORK shall be added to SCOPE OF WORK; and (c) increase contract funding by \$1,000,000, for a new total contract amount not to exceed \$1,353,000; and

NOW, THEREFORE, the parties hereto agree as follows:

SECTION 1. PURPOSE OF THIS AGREEMENT

- A. The purpose of this AGREEMENT is to provide CONTRACTOR with a total amount of \$1,353,000 in funding for the design, fabrication, and installation of ARTWORK at PROJECT, wherein services rendered shall comprise SCOPE OF WORK pursuant to SECTION 4 (“CONTRACTOR’S RESPONSIBILITIES”).
- B. CITY and CONTRACTOR hereby agree that they each shall take all steps legally required of them and available to them to permit each of them to perform the timely performance of their respective obligations pursuant to this AGREEMENT.

SECTION 2. DEFINITIONS

AGENCY—the BUREAU OF ENGINEERING of CITY.

ART CONCEPT—written concept narrative, preliminary renderings, schematic presentation drawings including plans, elevations and renderings, photographs as necessary, preliminary specifications for location(s), size(s), color(s), finish(es), and material(s), a preliminary itemized budget for SCOPE OF WORK including all aspects of design, fabrication, and installation of ARTWORK, and a preliminary list of any prospective subcontractors identified for fabrication and/or installation of ARTWORK, prepared and submitted by CONTRACTOR and subject to review and written acceptance by DEPARTMENT and AGENCY.

ARTWORK—permanent public artwork to be integrated at PROJECT.

CITY—the CITY OF LOS ANGELES, a municipal corporation.

COMMISSION—the BOARD OF CULTURAL AFFAIRS COMMISSIONERS of DEPARTMENT of CITY.

CONTRACTOR—GLENN KAINO dba KAINOCO INC, 2039 North Hobart Boulevard, Los Angeles, CA 90027.

DEPARTMENT—the DEPARTMENT OF CULTURAL AFFAIRS of CITY.

MAINTENANCE MANUAL—comprehensive manual that details all recommended and/or required and maintenance related to ARTWORK, and provides all information for ARTWORK as may be needed or useful for reference upon professional conservation of ARTWORK, prepared and submitted by CONTRACTOR and subject to review and written acceptance by DEPARTMENT in consultation with AGENCY.

NOTICE OF FINAL ACCEPTANCE—written notice issued by DEPARTMENT, verifying CONTRACTOR’s completed installation of ARTWORK as specified in WORK PLAN as approved by COMMISSION, subject to CITY’s final inspection and approval of ARTWORK installation.

NOTICE TO PROCEED—written notice issued by DEPARTMENT, authorizing CONTRACTOR to initiate fabrication of ARTWORK as specified in WORK PLAN as approved by COMMISSION, wherein CONTRACTOR may not initiate fabrication prior to receipt of such notice.

PROJECT—Sixth Street Viaduct Replacement & PARC (Park, Arts, River and Connectivity) Project, East Sixth Street between Mateo Street and the US-101 Freeway, Los Angeles, CA 90013 & 90023.

RECEIPT OF VERIFICATION—written notice issued by DEPARTMENT, verifying CONTRACTOR has completed fabrication of ARTWORK as specified in WORK PLAN as approved by COMMISSION, wherein CONTRACTOR may not initiate transportation or installation of ARTWORK at PROJECT prior to receipt of such notice.

RELEASE OF ALL CLAIMS—a document prepared and provided by CITY, for CONTRACTOR to review, sign, and submit, thereby fully releasing, acquiring, and discharging CITY from all claims, actions, causes of action, demands, damages, costs, expenses, attorney fees, obligations, and/or liabilities related to work performed under this AGREEMENT, applying to all unknown and all unanticipated damages, as well as to injuries and damages now known, disclosed, or anticipated that may result from or arise out of this AGREEMENT, or to the effects or consequences thereof.

SCOPE OF WORK—“CONTRACTOR’s RESPONSIBILITIES”; “TERM, REQUESTS FOR PAYMENT & REMUNERATION”; “DELIVERY & ACCEPTANCE”; “MAINTENANCE, REPAIRS & RESTORATION OF THE WORK”; and “ENGINEERING CONFORMANCE & PROTECTION OF WORK”; pursuant to SECTIONS 4; 10; 11; 12; 18; and 25.

WORK PLAN—an established schedule with specific dates and milestones, including an itemized budget, work phases, and meetings for execution and delivery of ARTWORK, prepared by CONTRACTOR in consultation with DEPARTMENT and AGENCY.

WORK PRODUCTS—all materials, tangible or not, created in whatever medium under this AGREEMENT, including without limitation to artworks, audio-visual, reports, drawings and sketches, schematics, marks, logos, graphic designs, and all other intellectual property.

SECTION 3. REPRESENTATIVES OF THE PARTIES AND SERVICE OF NOTICES

A. Parties to this AGREEMENT:

1. CITY, a municipal corporation, chartered by the STATE OF CALIFORNIA, acting by and through DEPARTMENT.
2. GLENN KAINO dba KAINOCO INC.

B. Representatives of the Parties.

The representatives of the respective parties authorized to administer this AGREEMENT, and to whom formal notices, demands, and communications shall be given, are as follows:

1. The representative of CITY, unless otherwise stated in this AGREEMENT, shall be:

Becky Snodgrass, Public Art Division
City of Los Angeles Department of Cultural Affairs
201 North Figueroa Street, Suite 1400, Los Angeles, CA 90012
213 202-5544 <becky.snodgrass@lacity.org>

2. The representative of CONTRACTOR shall be:

Glenn Kaino
2039 North Hobart Boulevard
Los Angeles, CA 90027
310 963-5240 <glenn@kainoco.com>

- C. Formal notices, demands, and communications required hereunder by either party shall be made in writing and may be effected by personal delivery or by registered or certified mail, postage prepaid, return receipt requested, and shall be deemed communicated as of the date of mailing.
- D. CONTRACTOR shall give written notice to CITY detailing any change(s) in the name and/or address of the person designated as the representative of CONTRACTOR for receipt of notices, demands, or communications, within five (5) days of any such change(s).
- E. The relationship of the parties under this AGREEMENT is, and at all times shall remain, solely that of independent contractors to each other. Neither DEPARTMENT nor CONTRACTOR undertakes nor assumes any responsibility or duty except as expressly provided herein. Except as specified in writing, no party shall have any authority to act as an agent for any other or to bind any other to any obligation.

SECTION 4. CONTRACTOR'S RESPONSIBILITIES

SCOPE OF WORK contained in this AGREEMENT encompasses the full execution of ARTWORK, including construction documents, feasibility study, engineering, production, fabrication, transportation, inspection, installation, maintenance plan, and presentation to community and approving bodies.

- A. ARTWORK shall be coordinated, designed, and executed by CONTRACTOR throughout the entire scope of this project.
- B. Upon execution of this AGREEMENT, CONTRACTOR shall meet with DEPARTMENT and AGENCY representatives.
- C. CONTRACTOR shall be reasonably available to meet with community member(s) impacted by ARTWORK as requested by DEPARTMENT in consultation with AGENCY.
- D. Within sixty (60) days of meeting(s) with community member(s), pursuant to PARAGRAPH C of this SECTION, and upon DEPARTMENT's written request, CONTRACTOR shall prepare and submit design plan renderings and visual samples to DEPARTMENT for review by DEPARTMENT and AGENCY.
- E. Within sixty (60) days of meeting(s) with community, pursuant to PARAGRAPH C of this SECTION, CONTRACTOR shall submit ART CONCEPT for DEPARTMENT's review and written approval, which CONTRACTOR shall develop in consultation with DEPARTMENT, AGENCY, and other project stakeholders as instructed by DEPARTMENT.
- F. Additional or changed services to be provided by CONTRACTOR shall be subject to approval by DEPARTMENT and AGENCY, wherein any such services shall be described in the form of a written amendment to this AGREEMENT.
- G. CONTRACTOR shall present to COMMISSION the preliminary design concept for ARTWORK and preliminary WORK PLAN, and CONTRACTOR shall obtain COMMISSION's Conceptual Approval prior to proceeding with final design details for ARTWORK, wherein CONTRACTOR's presentation to COMMISSION shall include: renderings and/or models of ARTWORK, specifications regarding location(s), dimension(s), color(s), finish(es), and material(s) for ARTWORK, and a list of subcontractors identified to perform services related to the design, fabrication, and/or installation of ARTWORK, if and when appropriate. If it appears to DEPARTMENT and/or AGENCY that ARTWORK as designed may exceed the funding allocated under this AGREEMENT, then DEPARTMENT may require CONTRACTOR to modify ARTWORK's design in order to meet the funding allocated under this AGREEMENT. If the design is so modified, CONTRACTOR must submit ARTWORK's modified design for DEPARTMENT's review and written approval, and DEPARTMENT may require CONTRACTOR to submit ARTWORK's modified design to AGENCY and/or COMMISSION for additional approval(s).
- H. CONTRACTOR shall present to COMMISSION the final design concept for ARTWORK and final WORK PLAN, and CONTRACTOR shall obtain COMMISSION's Final Approval prior to proceeding with final design detail plans and construction drawings for ARTWORK, wherein CONTRACTOR's presentation to COMMISSION shall include: renderings and/or models of ARTWORK, specifications regarding location(s), dimension(s), color(s), finish(es), and material(s) for ARTWORK, and a list of subcontractors identified to perform services related to the design, fabrication, and/or installation of ARTWORK, if and when appropriate. If it appears to DEPARTMENT and/or AGENCY that ARTWORK as designed may exceed the funding allocated under this AGREEMENT, then DEPARTMENT may require CONTRACTOR to modify ARTWORK's design in order to meet the funding allocated under this AGREEMENT. If the design is so modified, CONTRACTOR must submit ARTWORK's modified design for DEPARTMENT's review and written approval, and DEPARTMENT may additionally require CONTRACTOR to submit ARTWORK's modified design to AGENCY and/or COMMISSION for additional approval(s).
- I. COMMISSION may require CONTRACTOR to modify the design of ARTWORK. If it appears to DEPARTMENT and/or AGENCY that the design requires such modification(s), CONTRACTOR shall so modify ARTWORK's design and submit to DEPARTMENT for review by DEPARTMENT, COMMISSION, and/or AGENCY within thirty (30) calendar days of DEPARTMENT's written request for such modification(s), the modified scale renderings and/or models of ARTWORK, exact location(s), dimension(s), color(s), finish(es), and material(s) for ARTWORK, a final itemized budget, and a list of subcontractors identified to perform services related to the design, fabrication, and/or installation of ARTWORK, including contact information for each subcontractor, if and when appropriate, or DEPARTMENT or CONTRACTOR may terminate this AGREEMENT, pursuant to SECTION 20 ("TERMINATION OF AGREEMENT").

- J. CONTRACTOR shall submit final design detailed plans and construction drawings for DEPARTMENT's review and written approval in consultation with AGENCY, including scale renderings and/or models of ARTWORK, exact location(s), dimension(s), color(s), finish(es), and material(s) for ARTWORK, a final itemized budget, and a list of subcontractors identified to perform services related to the design, fabrication, and/or installation of ARTWORK, including contact information for each subcontractor, if and when appropriate. If it appears to DEPARTMENT and/or AGENCY that ARTWORK as designed may exceed the funding allocated under this AGREEMENT, then DEPARTMENT may require CONTRACTOR to modify ARTWORK's design in order to meet the funding allocated under this AGREEMENT. If the design is so modified, CONTRACTOR must submit ARTWORK's modified design for DEPARTMENT's review and written approval, and DEPARTMENT may require CONTRACTOR to submit ARTWORK's modified design to AGENCY and/or COMMISSION for additional approval(s).
- K. CONTRACTOR shall plan and execute strategies for public engagement related to ARTWORK (i.e. person-to-person activities, social media campaigns) in consultation with DEPARTMENT and AGENCY, and if deemed appropriate by CONTRACTOR in consultation with CITY, CONTRACTOR shall prepare and present visual aids as required to convey design of ARTWORK to the public.
- L. Upon DEPARTMENT's written approval of the final design detailed plans and construction drawings, in consultation with AGENCY, CONTRACTOR shall submit WORK PLAN for DEPARTMENT's review and written approval.
- M. Upon DEPARTMENT's written approval of WORK PLAN, and upon DEPARTMENT's issuance of NOTICE TO PROCEED, CONTRACTOR shall begin fabrication of ARTWORK as specified in WORK PLAN.
- N. CONTRACTOR shall adhere to the funding allocated under this AGREEMENT for all costs associated with the execution of ARTWORK, including design, fabrication, and transportation of ARTWORK, installation of ARTWORK at PROJECT, and for any travel and other costs incurred by CONTRACTOR and any subcontractor(s) performing under this AGREEMENT, unless otherwise agreed upon under this AGREEMENT. If ARTWORK requires any special provisions in design and/or building materials, or any structural, electrical, and/or mechanical systems for which costs exceed those that would normally be paid by AGENCY for work performed at PROJECT, then such costs shall be borne by CONTRACTOR's budget.
- O. CONTRACTOR shall be responsible for submitting material specifications and a cost estimate for annual maintenance of ARTWORK, wherein CONTRACTOR shall devise the design of ARTWORK with the intention of minimizing potential effects of vandalism, weathering, or other hazards, as applicable. Upon completed fabrication and installation of ARTWORK, CONTRACTOR shall prepare and submit MAINTENANCE MANUAL to DEPARTMENT, subject to DEPARTMENT's review and written acceptance.
- P. CONTRACTOR shall make periodic written and/or verbal progress reports to DEPARTMENT throughout the term of this AGREEMENT, wherein such reports shall include information on any meetings, conflicts or resolutions, design, fabrication, installation, and/or progress related to services provided under this AGREEMENT.
- Q. Upon reasonable prior notice and during normal business hours, CONTRACTOR shall provide DEPARTMENT access to ARTWORK and/or any part thereof, in order for DEPARTMENT to make reasonable inspections and reviews of CONTRACTOR's progress with respect to ARTWORK.
- R. CONTRACTOR shall be responsible for providing the services described herein, including but not limited to the quality and timely completion of the services. CONTRACTOR shall promptly notify DEPARTMENT of any problems encountered that may impede the satisfactory and timely performance of the work, and/or the satisfactory completion of any other activities under supervision by CONTRACTOR hereunder.
- S. CONTRACTOR agrees that an essential element of this AGREEMENT is the personal skill and creativity of CONTRACTOR. Therefore CONTRACTOR shall not assign any creative and/or artistic portions of ARTWORK to a third party without prior written authorization by DEPARTMENT, wherein failure to obtain such prior written authorization shall constitute grounds for termination of this AGREEMENT, pursuant to SECTION 20 ("TERMINATION OF AGREEMENT").

SECTION 5. ADDITIONS & CHANGES IN SCOPE OF WORK

- A. CITY, from time to time, may desire to make changes in the services provided by CONTRACTOR under this AGREEMENT. Such changes may revise portions of SCOPE OF WORK previously completed, delete portions of SCOPE OF WORK not yet performed, require performance of additional work beyond original SCOPE OF WORK, and/or make other changes within SCOPE OF WORK to be performed by CONTRACTOR under this AGREEMENT.

An amendment shall not modify the overall purpose of this AGREEMENT. In the event of such a desire for CITY to change SCOPE OF WORK, CONTRACTOR has two options:

1. If CONTRACTOR agrees to CITY's requested change(s) in SCOPE OF WORK, then the parties shall agree in the form of a written amendment to this AGREEMENT that includes specifications for any such change(s), including but not limited to, description(s) of services, budget, payment(s), and/or schedule.
 2. If the parties are unable to agree to requested change(s) in SCOPE OF WORK, despite best efforts made in accordance with the process outlined in this AGREEMENT, pursuant to SECTION 26 ("DISPUTES & REMEDIES"), and no resolution is reached, then DEPARTMENT may terminate this AGREEMENT, pursuant to SECTION 20 ("TERMINATION OF AGREEMENT").
- B. CONTRACTOR shall prepare and submit in writing to CITY, for review and written approval(s), any significant change(s) in the cost, scope, design, color, size, material, and/or texture of ARTWORK not in substantial conformity with CONTRACTOR's original public art project proposal. A significant change is one that affects design, fabrication, installation, schedule, site preparation, and/or maintenance of ARTWORK, and/or CONTRACTOR's concept for ARTWORK. No services requiring additional compensation to CONTRACTOR shall be furnished without prior written authorization by DEPARTMENT and AGENCY in the form of a written amendment to this AGREEMENT.
- C. Upon DEPARTMENT's approval of any such change(s), CONTRACTOR shall submit to CITY any relevant, revised construction drawings for ARTWORK, as well as necessary revised maintenance information related to ARTWORK.

SECTION 6. SERVICES TO BE PROVIDED BY CITY

- A. DEPARTMENT shall provide CONTRACTOR with written notice regarding the appropriate point of contact for DEPARTMENT in regard to the execution of this AGREEMENT.
- B. DEPARTMENT and/or AGENCY may make available to CONTRACTOR copies of designs, drawings, reports, and/or other relevant project data that may be needed by CONTRACTOR for the design, fabrication, and/or installation of ARTWORK.
- C. DEPARTMENT shall act as liaison with AGENCY and COMMISSION as needed. AGENCY shall act as liaison with the project architect for PROJECT and with community member(s) impacted by ARTWORK.
- D. Upon CONTRACTOR's submission of payment request(s) for completion of milestone(s) under this AGREEMENT, DEPARTMENT shall review such payment request(s) in order to verify milestone completion in accordance with the terms herein, and submit such request(s) to AGENCY for payment by CITY, pursuant to PARAGRAPH B of SECTION 11 ("REQUESTS FOR PAYMENT & REMUNERATION").

SECTION 7. CONTRACT ADMINISTRATION

- A. CONTRACTOR shall not subcontract with any CITY's current or former regular employee(s) throughout the term of this AGREEMENT without prior written authorization by DEPARTMENT. If CONTRACTOR desires to subcontract with any third parties to provide services under this AGREEMENT, CONTRACTOR agrees that all such subcontracts shall be bound by the terms and conditions of this AGREEMENT. DEPARTMENT reserves the right to approve and/or reject any subcontract(s) identified by CONTRACTOR to provide services under this AGREEMENT, wherein CONTRACTOR, upon identifying any such subcontractor, shall promptly notify and request written authorization by DEPARTMENT to procure any such subcontractor(s), prior to entering any subcontract and/or procuring any services from a third party.
- B. DEPARTMENT shall coordinate the services to be provided by CONTRACTOR under this AGREEMENT. DEPARTMENT may delegate administration of the AGREEMENT. Wherever this AGREEMENT requires any notice(s) be given to or by CITY, or any determination(s) and/or actions(s) by made by CITY, DEPARTMENT shall so represent and/or act on behalf of CITY.
- C. CONTRACTOR shall determine the artistic expression, scope, design, color, size, material, and texture of ARTWORK, subject to review and written acceptance by DEPARTMENT, AGENCY, and COMMISSION.

SECTION 8. ADDITIONAL PROVISIONS REFERENCE DOCUMENTS

Herein incorporated by reference to this AGREEMENT are "Standard Provisions for City Contracts (Rev. 10/21 [v.4])", attached hereto and labeled APPENDIX A.

SECTION 9. WARRANTIES

- A. CONTRACTOR shall guarantee all work to be free from faults of material and/or workmanship for a period of no less than one (1) year after installation, free and clear of any liens from any source whatsoever, and not to require any maintenance substantially in excess of that specified by CONTRACTOR in MAINTENANCE MANUAL. This guarantee shall apply only to work performed entirely by CONTRACTOR as specified in MAINTENANCE MANUAL. This guarantee shall apply only to work performed entirely by CONTRACTOR as installed, and shall not apply to material and/or workmanship of ARTWORK that is integrated and/or combined with material acquired from and/or installed by any person or entity other than CONTRACTOR. CONTRACTOR warrants that ARTWORK shall be fabricated such that neither normal environmental exposure nor inherent vice shall cause ARTWORK to require significant conservation for a minimum term of twenty-five (25) years from the date of completed installation of ARTWORK.
- B. CONTRACTOR shall, within the period of guarantee and without additional compensation, correct and/or revise any errors, omissions, and/or other deficiencies in work performed under this AGREEMENT, and make any such correction(s) and/or revision(s) within sixty (60) days of the date of DEPARTMENT's written notice of such errors, omissions, and/or other deficiencies, or within another specified term mutually agreed upon by CONTRACTOR and DEPARTMENT, pursuant to SECTION 12 ("DELIVERY & ACCEPTANCE").
- C. CONTRACTOR warrants that, unless otherwise stipulated, ARTWORK is an original and an edition of one (1). CONTRACTOR shall not sell or reproduce ARTWORK and/or allow others to do so without advance receipt of a written license approval issued by CITY, wherein such license approval(s) shall not be unreasonably withheld.

SECTION 10. TERM

The term of this AGREEMENT shall commence December 15, 2015 and terminate December 14, 2025.

SECTION 11. REQUESTS FOR PAYMENT & REMUNERATION

- A. CONTRACTOR shall be paid for work and services associated with the design, public engagement activities, fabrication, and installation of ARTWORK under this AGREEMENT in accordance with the terms herein, and subsequent adjustments, changes, and/or additions as specifically provided for under this AGREEMENT. Such payment shall be full compensation for work performed and services rendered for all supervision, labor supplies, materials, equipment or use thereof, taxes, and for all other necessary incidentals.
 - 1. The amount and date of payments to CONTRACTOR shall be computed as stipulated below, subject only to adjustments, changes, or additions as specifically provided for under this AGREEMENT.
 - 2. In the event that CONTRACTOR incurs costs in excess of the total funding allocated under this AGREEMENT, and such excess is incurred without a written amendment to this AGREEMENT, CITY shall not be required to pay any part of such excess and CONTRACTOR shall have no claim against CITY on account thereof.
- B. Upon CONTRACTOR's submission of payment request(s) for completion of milestone(s) under this AGREEMENT, DEPARTMENT shall review such payment request(s) to verify milestone completion in accordance with the terms herein, and submit such request(s) to AGENCY, for CITY to pay CONTRACTOR a total sum not to exceed \$1,353,000 to provide services under this AGREEMENT, which shall be paid in the following manner:
 - 1. \$50,000 payable upon DEPARTMENT'S verification of CONTRACTOR'S initial consultation(s) with DEPARTMENT, AGENCY, and/or other CITY contractors related to PROJECT, regarding ARTWORK and to initiate work on ART CONCEPT.
 - 2. \$50,000 payable upon DEPARTMENT'S written verification of CONTRACTOR'S completion and submission of ART CONCEPT, pursuant to PARAGRAPH E of SECTION 4 ("CONTRACTOR'S RESPONSIBILITIES").
 - 3. \$243,000 payable upon COMMISSION'S Conceptual Approval of the preliminary ARTWORK design and preliminary WORK PLAN, pursuant to PARAGRAPH G of SECTION 4 ("CONTRACTOR'S RESPONSIBILITIES").
 - 4. \$50,000 payable in up to two (2) parts upon DEPARTMENT's written approval of CONTRACTOR's final strategy and plan and/or written verification of CONTRACTOR's execution of public engagement activities related to ARTWORK, pursuant to PARAGRAPH K of SECTION 4 ("CONTRACTOR'S RESPONSIBILITIES").

5. \$600,000 payable in up to two (2) parts upon COMMISSION's Final Approval of the final ARTWORK design and final WORK PLAN, pursuant to PARAGRAPH H of SECTION 4 ("CONTRACTOR'S RESPONSIBILITIES"); DEPARTMENT's issuance of NOTICE TO PROCEED to CONTRACTOR, pursuant to PARAGRAPH M of SECTION 4 ("CONTRACTOR'S RESPONSIBILITIES"); and DEPARTMENT's receipt and verification of CONTRACTOR's submitted documentation of amounts expended or invoiced for purchase of labor and/or materials for fabrication of ARTWORK, pursuant to PARAGRAPH D of this SECTION.
 6. \$10,000 payable upon DEPARTMENT'S receipt and verification of CONTRACTOR's submitted documentation for costs expended and/or amounts invoiced for procurement of California-certified engineering services and/or engineering drawings as requested by CITY and prepared, reviewed, and/or stamped by a California-certified engineer, in relation to constructability, material unavailability, final prototyping, specialized mechanical systems for ARTWORK
 7. \$200,000 payable upon DEPARTMENT's final inspection and approval of fabricated ARTWORK, and issuance of RECEIPT OF VERIFICATION to CONTRACTOR, pursuant to PARAGRAPHS A and B of SECTION 12 ("DELIVERY & ACCEPTANCE").
 8. \$150,000 payable upon DEPARTMENT's written acceptance of MAINTENANCE MANUAL submitted by CONTRACTOR, pursuant to PARAGRAPH O of SECTION 4 ("CONTRACTOR'S RESPONSIBILITIES"); DEPARTMENT's issuance of NOTICE OF FINAL ACCEPTANCE to CONTRACTOR, pursuant to PARAGRAPH C of SECTION 12 ("DELIVERY & ACCEPTANCE"); DEPARTMENT's receipt of no fewer than five (5) high-resolution digital image files of installed ARTWORK; and DEPARTMENT's receipt of RELEASE OF ALL CLAIMS, pursuant to PARAGRAPH D of SECTION 12 ("DELIVERY & ACCEPTANCE").
- C. DEPARTMENT shall provide written notice to CONTRACTOR that specifies any failure(s) to provide services for which CONTRACTOR is requesting payment, within thirty (30) days of DEPARTMENT's receipt of any request(s) for payment. CONTRACTOR shall thereafter meet CITY's standards for performance, subject to DEPARTMENT's written satisfaction, or shall advise DEPARTMENT that a dispute exists. In the event of dispute(s), the parties shall make best efforts to remedy such dispute(s), pursuant to SECTION 26 ("DISPUTES & REMEDIES").
- D. Invoicing:
1. Invoices shall be submitted to:

Becky Snodgrass, Public Art Division
City of Los Angeles Department of Cultural Affairs
201 North Figueroa Street, Suite 1400, Los Angeles, CA 90012
213 202-5519 <becky.snodgrass@lacity.org>
 2. To ensure that services provided under personal services agreements are measured against services detailed under this AGREEMENT, CITY's Controller has developed a policy requiring that specific supporting documentation be submitted with invoices.
 3. CONTRACTOR shall submit invoices that conform to CITY standards and that include, at a minimum, the following information:
 - a. Name and address of CONTRACTOR;
 - b. Name and address of CITY department being billed;
 - c. Date of invoice and date of activity;
 - d. AGREEMENT number;
 - e. Description of completed task/project and amount due for task/project;
 - f. Original invoice(s) for costs of procuring labor and/or materials under this AGREEMENT; and
 - g. Remittance address (if different from company address).
 4. All invoices shall be submitted on CONTRACTOR's letterhead, contain CONTRACTOR's official logo or other unique and identifying information such as the name and address of CONTRACTOR. Evidence that tasks have been completed, in the form of a report, brochure, or photograph, shall be attached to all invoices. Invoices are considered complete when appropriate documentation or services provided are verified as satisfactory by CITY manager.
 - a. Invoices and supporting documentation shall be prepared at the sole expense and responsibility of CONTRACTOR. CITY shall not compensate CONTRACTOR for any costs incurred to prepare invoices

under this AGREEMENT. CITY may request, in writing, that CONTRACTOR make changes to the content and format of invoice(s) and/or supporting documentation at any time. CITY reserves the right to require CONTRACTOR to provide additional supporting documentation to substantiate costs at any time.

- b. Subcontractors' requirements: tasks completed by any subcontractor shall be supported by such subcontractor's invoice, copies of pages from reports, brochures, photographs, or other unique documentation that substantiates their charges.
- c. Failure to adhere to these policies may result in nonpayment or non-approval of demand, pursuant to CITY's Charter Section 262(a) requiring CITY's Controller to inspect the quality, quantity, and condition of services, labor, materials, supplies, or equipment received by any CITY office or department, and to approve demands before they are drawn on from CITY's Treasury. Any incomplete requests for payment may be returned to CONTRACTOR with no action taken by CITY.

SECTION 12. DELIVERY & ACCEPTANCE

- A. CONTRACTOR shall notify DEPARTMENT in writing when fabrication of ARTWORK is complete and ready to be transported to PROJECT for installation.
- B. DEPARTMENT shall inspect ARTWORK, prior to its transportation to PROJECT, and upon verification of CONTRACTOR's satisfactory fabrication of ARTWORK, DEPARTMENT shall issue RECEIPT OF VERIFICATION to CONTRACTOR.
- C. AGENCY shall prepare PROJECT for safe reception of ARTWORK for installation, wherein all expenses to prepare PROJECT shall be borne by AGENCY unless otherwise specified under this AGREEMENT.
- D. Upon mutual agreement by DEPARTMENT and AGENCY that ARTWORK has been completed and installed satisfactorily, DEPARTMENT shall issue NOTICE OF FINAL ACCEPTANCE to CONTRACTOR and upon DEPARTMENT's acceptance of MAINTENANCE MANUAL submitted by CONTRACTOR, pursuant to PARAGRAPH N of SECTION 4 ("CONTRACTOR'S RESPONSIBILITIES"), and CONTRACTOR's submission of RELEASE OF ALL CLAIMS and no fewer than five (5) high-resolution digital image files of installed ARTWORK to DEPARTMENT, pursuant to PARAGRAPH F of this SECTION, CONTRACTOR may submit to DEPARTMENT invoice(s) for payment of any unpaid monies due under this AGREEMENT.
- E. If DEPARTMENT determines that any contractual requirement(s) have not been satisfied, DEPARTMENT shall notify CONTRACTOR in writing within thirty (30) working days of any such determination(s) and withhold issuance of NOTICE OF FINAL ACCEPTANCE until all requirement(s) have been satisfied.

SECTION 13. TITLES IN WORK PRODUCTS

- A. CONTRACTOR shall retain the copyright in and to ARTWORK, as provided by federal law. CITY shall have all and exclusive rights of ownership, possession, and enjoyment of ARTWORK, which shall be single-edition, and upon payment in full, CONTRACTOR shall execute any documents CITY may require to evidence transfer. CITY has sole and exclusive discretion in the use, non-use, and enjoyment of the physical element of ARTWORK, subject to any restrictions contained in this AGREEMENT.
- B. Any and all materials and documents, including but not limited to models, maquettes, drawings, specifications, computations, designs, plans, proposals, digital images, photographs, reports, correspondence, and estimates prepared by CONTRACTOR or subcontractors under this AGREEMENT, are instruments of service and thus shall be owned by CONTRACTOR. At the conclusion of the project, CONTRACTOR shall make available, at CONTRACTOR's discretion, a variety of above-referenced items from which CITY may select one or more to become the property of CITY.
- C. The final ARTWORK shall be unique. CONTRACTOR shall not make any exact duplicate two or three-dimensional reproductions of the final ARTWORK, nor shall CONTRACTOR grant permission to others to do so except with the prior written permission of CITY. However, nothing shall prevent CONTRACTOR from creating future artworks in CONTRACTOR's manner and style of artistic expression.
- D. CONTRACTOR grants CITY and its assigns a nonexclusive irrevocable and royalty-free license to make two-dimensional reproductions of ARTWORK and any ARTWORK-related documentary works for non-commercial purposes, including but not limited to reproductions or transmissions used in media publicity, exhibitions, loans and/or collections management, or photographs. Such reproductions and transmissions may include but not be limited to

magazines, books, newspapers, journals, brochures, exhibition catalogues, films, television, video, websites, slides, negatives, printed and electronic media, DVD, CD, computerized retrieval systems, and by all means or methods now known or hereafter invented in connection with standard CITY activities.

- E. CITY's rights under this license include the right to allow productions at PROJECT for commercial and non-commercial movie, television, video, still photography, or any other content or media which image(s) of ARTWORK may appear without further compensation or notification by CITY to CONTRACTOR.
- F. CITY agrees that, unless CONTRACTOR requests to the contrary in writing, all reproductions of ARTWORK shall credit CONTRACTOR and CITY. CONTRACTOR shall make best efforts in any public showing or résumé use of reproductions to acknowledge CITY with the following credit line: "Commissioned by the City of Los Angeles."
- G. CONTRACTOR shall, at CONTRACTOR's expense, cause to be registered with the United States Register of Copyrights, a copyright of ARTWORK in CONTRACTOR's name.
- H. CITY may desire to make reproductions of ARTWORK for commercial purposes including but not limited to t-shirts, postcards, and posters, pursuant to a separate agreement that shall address the terms of the license granted by CONTRACTOR and the royalty, if any, CONTRACTOR may receive.
- I. CONTRACTOR shall not, during the performance of this AGREEMENT, disseminate media publicity of any kind regarding ARTWORK, SCOPE OF WORK, or PROJECT without prior written approval of CITY.
- J. CONTRACTOR represents and warrants that ARTWORK's design and ARTWORK created under this AGREEMENT are either original, do not infringe upon the intellectual property rights of any third party, or are in the public domain. CITY shall not be liable for any third party claims, actions, judgments, costs, or damages of any type associated with ARTWORK design and ARTWORK provided hereunder that result from any infringement upon the intellectual property of any third party. If any third party infringement is claimed prior to CONTRACTOR receiving payment under this AGREEMENT, CITY shall have the right, upon written notice to CONTRACTOR, to withhold such payment until such claim(s) are resolved.
- K. CONTRACTOR hereby grants CITY all necessary legal standing "in CONTRACTOR's shoes" to enforce CONTRACTOR's copyrights and related rights associated with ARTWORK. However, instituting such enforcement action shall not be a duty of CITY but rather an option to CITY absent timely action by CONTRACTOR. CITY's not instituting the enforcement actions shall not be construed as a waiver of any of its rights at law and in equity. Where CITY undertakes CONTRACTOR's duty to enforce against an infringer for want of timely action by CONTRACTOR, CONTRACTOR shall promptly reimburse CITY for actual costs incurred and prevailing, reasonable attorneys' fees arising out of such enforcement efforts ("Enforcement Expenses"), whether the enforcement efforts result in damages or recovery awarded or a settlement. Where CITY is successful in recovering damages from the infringer(s) in such actions, and upon full reimbursement of the Enforcement Expenses to CITY, CITY shall retain two-thirds ($\frac{2}{3}$) of the gross recovery (without deductions of any kind) and distribute the remaining one-third ($\frac{1}{3}$) to CONTRACTOR.
- L. All reproductions by CITY shall contain a credit or attribution to CONTRACTOR and a copyright notice in substantially the following form: "Copyright 20XX Glenn Kaino", to the reasonably possible and appropriate extent, as determined by CITY.
- M. CITY's right of ownership includes the right to remove temporarily or permanently, and store ARTWORK in CITY's sole discretion. Further, nothing shall prevent CITY from altering or modifying ARTWORK by reason of business operations necessity, public safety, national security, federal regulations, or other such requirement. In the event that CITY desires to remove ARTWORK permanently, CITY shall give written notice to CONTRACTOR, pursuant to SECTION 14 ("CONTRACTOR'S RIGHTS"), and give CONTRACTOR the opportunity for a first right to reintegrate ARTWORK, regain ownership of ARTWORK, or disclaim authorship for reason of public safety, national security, or order(s) of the federal government or a court of competent jurisdiction. For avoidance of doubt, installation of ARTWORK at PROJECT does not create any encumbrances on the land or the real estate thereof.
- N. CITY, at its expense and in consultation with CONTRACTOR, may prepare and install plaque(s) at PROJECT, for the purposes of identifying CONTRACTOR, the title of ARTWORK, and the year of completed ARTWORK installation, and such plaque(s) shall be reasonably maintained, as more fully described in SECTION 17 of this AGREEMENT. CITY shall have discretion regarding the size, material, construction, and placement of such plaque(s), subject to public safety, maintenance, and operational considerations. The cost of such plaque(s) shall not be borne by CONTRACTOR's budget.

SECTION 14. CONTRACTOR'S RIGHTS

- A. CONTRACTOR and CITY acknowledge that CONTRACTOR may have certain rights under the Visual Artists Rights Act (hereinafter "VARA") and the California Civil Code Section 987 (hereinafter "CAPA"). CITY and CONTRACTOR recognize the importance of CONTRACTOR's moral rights of attribution and integrity, as identified in VARA and CAPA. CITY and CONTRACTOR herein address those statutory rights pursuant to this AGREEMENT.
- B. CONTRACTOR shall have the right to claim authorship of ARTWORK. Further, CONTRACTOR shall have the right to prevent the use of CONTRACTOR's name as the author of ARTWORK in the event of physical defacement, mutilation, alteration, or destruction of ARTWORK.
- C. CITY shall, in its sole discretion, have the right to remove, relocate, or otherwise alter or modify ARTWORK at any time. CITY shall provide ninety (90) days written notice to CONTRACTOR, at CONTRACTOR's last known address, of its intended action affecting ARTWORK. CONTRACTOR acknowledges and understands that the installation of ARTWORK may subject ARTWORK to destruction, mutilation, alteration, or other modification due to the acts of third parties, or to its removal, relocation, conservation, maintenance, storage, or transfer of ownership by CITY.
 - 1. Pursuant to CITY's Administrative Code Section 22.109, no work of art belonging to or in the possession of CITY shall be removed, relocated, or altered in any way without the written approval of COMMISSION.
 - 2. CITY may exercise the option of contracting with CONTRACTOR, under separate agreement, for the consultation and assistance with any relocation, reintegration, or performance of any other services for the benefit of CITY, CONTRACTOR, and ARTWORK.
- D. If CITY, in its sole discretion, determines that ARTWORK presents imminent harm or hazard to the public, CITY may authorize its removal without prior notification to CONTRACTOR.
- E. In consideration of the mutual covenants and conditions in this AGREEMENT, and except as otherwise provided for under this AGREEMENT, CONTRACTOR agrees to waive any right that CONTRACTOR may have under VARA to prevent the removal of ARTWORK, or the destruction, distortion, mutilation, or other modification of ARTWORK arising from, connected with, or caused or claimed to be caused by the removal, conservation, maintenance, storage, or transfer of ownership of ARTWORK by CITY or its agents, officers, employees, or representatives, or by the presence of ARTWORK at PROJECT. CONTRACTOR's VARA rights under this AGREEMENT shall cease with CONTRACTOR's death and shall not extend to CONTRACTOR's heirs, successors, or assigns.
- F. In consideration of the mutual covenants and conditions in this AGREEMENT, CONTRACTOR waives any rights which CONTRACTOR or CONTRACTOR's heirs, beneficiaries, devisees, or personal representatives may have under California Civil Code Section 987 to prevent the removal, defacement, mutilation, alteration, or destruction of ARTWORK.
- G. CITY shall, in its own discretion, have the right to donate, sell, transfer or exchange ARTWORK or ELEMENTS of ARTWORK at any time. CONTRACTOR shall have the right of first refusal. CITY shall provide written notice to CONTRACTOR at CONTRACTOR's last known address, providing CONTRACTOR the opportunity to purchase ARTWORK for an amount equal to either its fair market value as determined by a qualified appraiser or the amount of any offer that CITY has received for the purchase of ARTWORK, whichever amount is greater, in addition to reimbursement to CITY for all costs associated with the removal of ARTWORK from PROJECT, clean-up of PROJECT, and transportation and delivery of ARTWORK to CONTRACTOR. CONTRACTOR shall have ninety (90) days from the date of CITY's notice to exercise the option described herein.
- H. Notwithstanding MAINTENANCE MANUAL submitted by CONTRACTOR, pursuant to PARAGRAPH N of SECTION 4 ("CONTRACTOR'S RESPONSIBILITIES"), CITY, in its sole discretion, may determine when and if any maintenance or conservation to ARTWORK shall be made. In the event that such maintenance or conservation results in any substantial alteration, modification, or damage, CONTRACTOR shall have the right to disclaim ARTWORK as CONTRACTOR's creation, and to request that the identification plaque and any attributive references be removed from ARTWORK and reproductions thereof. All maintenance and conservation, whether performed by CONTRACTOR, CITY, or any third party responsible to CONTRACTOR or CITY, shall be made in accordance with professional conservation standards and in accordance with MAINTENANCE MANUAL.
- I. This SECTION is intended to replace and substitute for the rights of CONTRACTOR under VARA and CAPA to the extent that any portion of this AGREEMENT is in direct conflict with those rights. The parties acknowledge that this AGREEMENT supersedes those laws to the extent that this AGREEMENT is in direct conflict therewith.

SECTION 15. CONSTRUCTION DELAYS

- A. If CONTRACTOR is delayed from installing ARTWORK during the term of this AGREEMENT as a result of the construction at PROJECT not being sufficiently complete to permit safe installation of ARTWORK therein, AGENCY shall have two options:
1. Reimburse CONTRACTOR for reasonable storage and any other related costs incurred for the period between the time provided in the schedule for commencement of installation and the date upon which PROJECT is complete to permit safe installation of ARTWORK, and extend the AGREEMENT for the time necessary to permit full performance of the AGREEMENT.
 2. Request CONTRACTOR to transport ARTWORK at the time of completed fabrication to PROJECT or other designated location for storage. Cost(s) to transport ARTWORK to the storage location shall be borne by CONTRACTOR. Cost(s) to transport ARTWORK from storage location to PROJECT, as well as all related storage costs, shall be borne by AGENCY, wherein CONTRACTOR shall mitigate such transportation and storage costs. DEPARTMENT shall provide CONTRACTOR with proof of insurance for the value of ARTWORK as stipulated by CONTRACTOR, not to exceed the value of services to be provided under this AGREEMENT.

SECTION 16. EARLY COMPLETION OF CONTRACTOR SERVICES

CONTRACTOR shall bear any transportation and storage costs resulting from the completion of services hereunder prior to the time provided for in the approved WORK PLAN.

SECTION 17. IDENTIFICATION

DEPARTMENT, at its expense and in consultation with CONTRACTOR, may prepare and install plaque(s), at appropriate location(s), for the purpose of identifying CONTRACTOR, title of ARTWORK, and year of completion of ARTWORK. Such plaque(s) and location(s) shall be subject to the mutual agreement among CONTRACTOR, DEPARTMENT, and AGENCY. Unresolved disputes shall be resolved pursuant to SECTION 26 (“DISPUTES & REMEDIES”).

SECTION 18. MAINTENANCE, REPAIRS & RESTORATION OF THE WORK

- A. Maintenance: DEPARTMENT and AGENCY recognize that maintenance of ARTWORK on a regular basis is essential to the integrity of ARTWORK. DEPARTMENT and AGENCY shall reasonably assure that ARTWORK is properly maintained and protected, taking into account the instructions of CONTRACTOR as specified in MAINTENANCE MANUAL, and shall reasonably protect and maintain ARTWORK against the ravages of time, vandalism, and the elements, subject to provision of funds by CITY’s Mayor and Council for such purposes.
- B. Repairs and restoration: DEPARTMENT shall have the right to determine when and if repairs and restorations to ARTWORK shall be made.

SECTION 19. CONTRACTOR’S ADDRESS

CONTRACTOR shall give written notice to DEPARTMENT of any change(s) in CONTRACTOR’s mailing address within five (5) days of such change(s). Failure to do so, thereby causing DEPARTMENT to be unable to locate CONTRACTOR as a result shall be deemed a waiver by CONTRACTOR to any rights under this AGREEMENT.

SECTION 20. TERMINATION OF AGREEMENT

- A. DEPARTMENT, by giving fourteen (14) calendar days written notice to CONTRACTOR, may terminate this AGREEMENT, in whole or part at any time, either for DEPARTMENT’s convenience or due to CONTRACTOR’s failure to fulfill contractual obligations. Upon receipt of such notice, CONTRACTOR shall:
1. Immediately discontinue all services affected (unless the written notice directs otherwise).
 2. Deliver to DEPARTMENT all data, drawings, blueprints, specifications, reports, estimates, summaries, and other such information and materials as may have been given to CONTRACTOR by CITY, DEPARTMENT, and/or AGENCY for the performance of work under this AGREEMENT, whether completed or in process.
 3. CONTRACTOR shall transfer ARTWORK, whether completed or in process, and legal title of ownership thereto, to DEPARTMENT.

- B. If termination is for CITY's convenience, DEPARTMENT shall pay CONTRACTOR for reasonable costs accrued by CONTRACTOR, subject to DEPARTMENT's review and written verification.
- C. If termination is due to CONTRACTOR's failure to fulfill contractual obligations, DEPARTMENT may take over the work and administer the same to completion by contract or otherwise. In such case, CONTRACTOR shall be liable to DEPARTMENT for any reasonable costs or damages occasioned to DEPARTMENT thereby. If CITY has paid CONTRACTOR for purchases of labor and/or materials and CONTRACTOR has not purchased all labor and/or materials for ARTWORK prior to such termination, all materials purchase by CONTRACTOR shall become property of CITY, and any unexpended amounts paid to CONTRACTOR for labor and/or materials shall be repaid immediately to CITY.
- D. If after DEPARTMENT issues a notice of termination for CONTRACTOR's failure to fulfill contractual obligations, and DEPARTMENT subsequently determines that CONTRACTOR did not so fail, then such termination shall be deemed effected for DEPARTMENT's convenience, and payment adjustment(s) shall be made by DEPARTMENT, pursuant to PARAGRAPH B of this SECTION.
- E. The rights and remedies of the parties provided in this SECTION are in addition to any other rights and remedies provided by law or under this AGREEMENT.
- F. CONTRACTOR, in executing this AGREEMENT, shall be deemed to have waived any and all claims for damages in the event of DEPARTMENT's termination for convenience as provided in PARAGRAPH B of this SECTION, including in the event that such termination is for DEPARTMENT's convenience, pursuant to PARAGRAPH D of this SECTION.
- G. If CONTRACTOR, due to illness or any other occurrence, becomes unable to render services under this AGREEMENT, this AGREEMENT shall be deemed terminated, unless stipulations have been made in writing by CONTRACTOR for completion of ARTWORK by a third party approved in writing by DEPARTMENT prior to any such written stipulations. If CONTRACTOR has not stipulated any such a third party, DEPARTMENT reserves the right to negotiate with CONTRACTOR's heirs, personal representatives, successors, and/or any party that DEPARTMENT deems suitable to complete ARTWORK.
- H. In the event of CONTRACTOR's death, this AGREEMENT shall automatically terminate and CONTRACTOR's representative shall proceed pursuant to PARAGRAPH A of this SECTION.

SECTION 21. RATIFICATION

At CITY's request, CONTRACTOR has begun performance of the services specified herein prior to execution of this AGREEMENT. CITY acknowledges the services previously performed by CONTRACTOR prior to execution, and so ratifies CONTRACTOR's performance of said services since December 15, 2015 to the extent that such services were performed in accordance with the terms and conditions of this AGREEMENT.

SECTION 22. SUCCESSORS & ASSIGNS

This AGREEMENT shall be binding on the parties hereto and their heirs, executors, administrators, successors, and assigns; provided however, that neither this AGREEMENT nor any part hereof, except for monies previously earned and due to CONTRACTOR, may be assigned to anyone without prior written authorization by DEPARTMENT.

SECTION 23. PROHIBITED INTERESTS

- A. CONTRACTOR warrants that s/he has not employed or retained any company or person, other than a *bona fide* employee working solely for CONTRACTOR, to solicit or secure this AGREEMENT, and has not paid or agreed to pay any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of this AGREEMENT, to any company or person other than a *bona fide* employee working solely for CONTRACTOR. For breach or violation of this warranty, CITY shall have the right to terminate this AGREEMENT without liability.
- B. CONTRACTOR agrees that for the term of this AGREEMENT, pursuant to SECTION 10 ("TERM"), no member, officer, or regular employee of CITY, for the duration of such employment or for one (1) year thereafter, shall have any interest, direct or indirect, in this AGREEMENT or any benefit arising therefrom.

SECTION 24. AUDIT & ACCESS TO RECORDS

CONTRACTOR, including all subcontractors, shall maintain records and other evidence of all expenses incurred this AGREEMENT for a period of three (3) years after the termination date of this AGREEMENT, pursuant to SECTION 10 ("TERM"). CITY, or any of its duly authorized representatives, for the purpose of audit and examination, shall have access to and be permitted to inspect all such records and other evidence.

SECTION 25. ENGINEERING CONFORMANCE & PROTECTION OF WORK

- A. CONTRACTOR shall coordinate with PROJECT's architect(s) and/or engineer(s) on all related civil, architectural, structural, mechanical, electrical, and other issues as needed to ensure conformance of ARTWORK, and/or any part thereof, to all professional safety and material standards.
- B. CONTRACTOR shall bear all costs for any reasonable civil architectural, structural, mechanical, and/or electrical requirements, and safety and/or material tests as required by CITY for ARTWORK, and/or any part thereof.

SECTION 26. DISPUTES & REMEDIES

- A. All claims, disputes, and any other matters in question between CITY and CONTRACTOR arising out of or relating to this AGREEMENT or its breach, shall first be brought to DEPARTMENT'S attention.
- B. All disputes which have not been resolved by mutual agreement between DEPARTMENT and CONTRACTOR shall be reviewed by DEPARTMENT in consultation with AGENCY, wherein CONTRACTOR shall submit a written explanation of all unresolved issue(s) to DEPARTMENT's General Manager. Upon receipt of CONTRACTOR's written explanation and upon consultation with AGENCY's General Manager, within sixty (60) calendar days of receipt of said explanation, DEPARTMENT's General Manager shall render a final decision in writing to CONTRACTOR.
- C. CITY's rights and remedies under this AGREEMENT are in addition to any other rights and remedies provide by law.

SECTION 27. COMPLIANCE WITH LOS ANGELES CITY CHARTER SECTION 470(c)(12)

CONTRACTOR, subcontractors, and subcontractor principals performing work under any CITY contract valued at \$100,000 or more and that requires approval of elected CITY official(s), are obligated to comply fully with CITY's Charter Section 470(c)(12) and related ordinances regarding limitations on campaign contributions and fundraising for certain elected CITY officials or candidates for elected CITY office positions. Additionally, CONTRACTOR is required to provide and update certain information with CITY as specified by law. Any contractor subject to CITY Charter Section 470(c)(12) shall include the following notice in any subcontract in which the subcontractor is expected to receive at least \$100,000 to perform work under said subcontract:

"Notice Regarding Los Angeles Campaign Contribution and Fundraising Restrictions: As proved in City of Los Angeles Charter Section 470(c)(12) and related ordinances, you are a Subcontractor under a City of Los Angeles Contract and, pursuant to 470(c)(12), all Subcontractors and Subcontractor Principals under City Contracts are prohibited from making campaign contributions and fundraising for certain elected City officials for candidates seeking elected City office positions, for a term of twelve (12) months after the execution of the City Contract under which you are a subcontractor. Subcontractors are required to provide names and contact information for Subcontractor Principals must be proved to CITY contractor within five (5) business days of the execution of this Subcontract, and Subcontractors must update this information upon any such change during the stated twelve-month term. Failure to comply with 470(c)(12) or related ordinances may result in termination of this City Contract or any other available legal remedies, including fines. Detailed information about these restrictions may be accessed through the City Ethics Commission's website at <http://ethics.lacity.org/>, or by calling (213) 978-1960. Contractors, Subcontractors, and Subcontractor Principals must comply with these requirements and limitations. Violations of this provision shall entitle the City to terminate this City Contract and pursue any and all legal remedies that may available."

SECTION 28. ENTIRE AGREEMENT

- A. This AGREEMENT shall be executed in four (4) duplicate originals, each of which is deemed to be an original. The AGREEMENT includes sixteen (16) pages and two (2) appendices, which constitute the entire understanding and agreement of the parties.
- B. This AGREEMENT integrates all the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to the services to be provided.

- C. No verbal agreement or conversation with any officer or employee of either party shall affect or modify any of the terms and conditions of this AGREEMENT.
- D. This AGREEMENT may be executed in one or more counterpart(s), and by the parties in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement. The parties further agree that facsimile signatures, or signatures scanned into portable document format (PDF) or another electronic format designated by CITY and sent by e-mail, shall be deemed original signatures.
- E. In the event of any inconsistency between the provisions in the body of this AGREEMENT and the attachments, the provisions in the body of this AGREEMENT take precedence, followed by APPENDIX A, “Standard Provisions for City Contracts (Rev. 10/21 [v.4])” followed by APPENDIX B, “Model Release: Audio-Visual / Photograph Productions of the City of Los Angeles”.

SECTION 29. MODIFICATION

No alteration, change, or modification of the terms of this AGREEMENT shall be valid unless made in writing and signed by both parties hereto and approved by appropriate action of CITY.

—SIGNATURE PAGE TO FOLLOW—

IN WITNESS THEREOF, the parties hereto have caused this **FIRST AMENDED AND RESTATED PERSONAL SERVICES AGREEMENT** to be executed by their respective duly authorized representatives.

CITY OF LOS ANGELES

GLENN KAINO dba KAINOCO INC
2039 North Hobart Boulevard
Los Angeles, CA 90027
BTRC NO. 2099987

BY: _____
DANIELLE BRAZELL
GENERAL MANAGER
DEPARTMENT OF CULTURAL AFFAIRS

BY: _____
GLENN KAINO
ARTIST

DATE: _____

DATE: _____

APPROVED AS TO FORM AND LEGALITY:
MICHAEL N. FEUER, CITY ATTORNEY

ATTEST:
HOLLY L. WOLCOTT, CITY CLERK

BY: _____
KIMBERLY MIERA
DEPUTY CITY ATTORNEY

BY: _____
DEPUTY CITY CLERK

DATE: _____

DATE: _____

for your signature

TO: **Danielle Brazell, General Manager** URGENT?
 FROM: Becky Snodgrass  **ED3 package rev. 8/25/2020**

project: **Public Art for the new Sixth Street Viaduct & PARC**
 new *or* ongoing

program: **Public Percent for Art [PWIAP]** *or* Arts Development Fee (ADF)
 other: _____

description: **Permanent artwork to be sited in new 12-acre public park ("PARC") that will be underneath the new Viaduct.**

budget: **\$1,353,000-**

signature needed for: **transmittal memo to Mayor's Office to request ED3 review & authorization to execute proposed 1st Amendment to PSA #C-128192 with project artist Glenn Kaino (dba Kainoco Inc).**

project manager: **Becky Snodgrass**
Thank you!

CITY OF LOS ANGELES
INTERDEPARTMENTAL CORRESPONDENCE

Date: August 28, 2020

To: The Honorable Eric Garcetti
Office of the Mayor
200 North Main Street, Room 303, L.A., CA 90012
Attention: Heleen Ramirez, Legislative Coordinator

From: Danielle Brazell, General Manager *Danielle Brazell for*
Department of Cultural Affairs
201 N. Figueroa St., Suite 1400, L.A., CA 90012

Subject: **REQUEST AUTHORIZATION TO EXECUTE FIRST AMENDMENT TO PERSONAL SERVICES AGREEMENT NO. C-128192 WITH GLENN KAINO DBA KAINOCO INC. TO CREATE PUBLIC ART FOR THE SIXTH STREET VIADUCT REPLACEMENT AND PARC PROJECTS**

SUMMARY

In accordance with Mayor's Executive Directive No. 3, the Department of Cultural Affairs (DCA) respectfully requests the authority to execute a First Amendment to Contract No. C-128192 between Glenn Kaino dba Kainoco Inc. and the City of Los Angeles to create public art as part of the City's Sixth Street Viaduct Replacement and PARC Improvements projects in accordance with the City's Percent-for-Art policy for public works projects through DCA's Public Works Improvements Arts Program (PWIAP). The Sixth Street Viaduct Replacement and PARC projects are located between Mateo Street and the US-101 Freeway in Los Angeles, CA 90033, in Council District 14.

On September 14, 2016, the City executed Contract No. C-128192 with Glenn Kaino for artwork design services. The amount of the contract was \$353,000 and the term was December 15, 2015 through December 14, 2018. The proposed First Amendment to Contract No. C-128192 will expand the scope of work to include the fabrication and installation of artwork; and in order to complete the additional work the contract amount will increase to \$1,353,000 and the term will extend to December 12, 2025.

BACKGROUND

The original contract with Glenn Kaino was only for design services of an artwork element to be incorporated into the new Viaduct structure, whereby the final design would not exceed the City's established preliminary budget of \$1,000,000 for both fabrication and installation of that artwork, and the final deliverable was to be the full set of approved technical specifications as required for artwork production. Once finalized, these technical specifications were to be handed off to the City's general contractor to fabricate and install the artwork during Viaduct construction and according to the artist's design specifications. The total preliminary PWIAP art budget determined by the City was \$1,353,000, inclusive of design services and production (fabrication and installation) of the public artwork.

When Glenn Kaino was selected in 2014, the new Sixth Street Viaduct structure was the only City project planned for the site of the old Sixth Street Bridge. As with prior public art projects administered by DCA for new bridge structures, the initial plan was that the artist would provide design services for the public art element to be integrated into the new Viaduct structure itself. Typically, viaduct and bridge structures do not have extra physical space in which to locate discreet artwork, to be designed, fabricated, and installed by an artist as a separate City contractor.

However, by the end of 2016, the City had initiated a separate/complementary project at the same site as the future Sixth Street Viaduct, which was the PARC ("Park, Arts, River and Connectivity") Improvements Project, a 12-acre City park underneath the new Viaduct. During the PARC project's preliminary development, the City team comprised of staff from DCA, BOE, and Council District 14, agreed that the PARC would be a better location for public artwork than the Viaduct structure overhead. By moving the artwork component to the PARC, the City would eliminate any potential for the artwork to interfere with

the design and engineering complexity of the ambitious new Viaduct structure or vice versa, and the City would also be able to assign all artwork-related responsibilities to the artist directly, including design, fabrication, and installation, which is a more streamline and efficient process for all parties.

In mid-2018, the City team finalized its decision to amend the scope of work for Glenn Kaino's agreement to change it to DCA's standard PWIAP public art contract (to include fabrication and installation responsibilities in addition to design), and increase the contract funding by \$1,000,000 (the budget for fabrication and installation of the artwork as designed). Although a decision to modify the agreement was made in 2018, since the Viaduct and PARC construction schedules remained in flux for an extended period of time, an end date for the proposed amendment could not be determined.

By the spring of 2020, DCA was notified that BOE had finalized a schedule to complete construction of the Viaduct and consequently, a timeframe and construction schedule for the PARC was determined. The project is now estimated to be completed by July 2025. Typically, public artwork is installed at the end of a construction project to avoid potential damage to the artwork from other activities that are taking place at the construction site. DCA, in consultation with BOE, is proposing an expiration date of December 14, 2025, for the First Amendment considering installation of the artwork will not start until most of the construction activities have ended, in addition to, the timeline for artwork installation and potential delays and contingencies. For any questions about the Viaduct or PARC construction schedules, or other capital improvement project-related issues, please contact Gary Lam, Sr. Civil Engineer for the PARC project, Bureau of Engineering, Sixth Street Viaduct Division at gary.lam@lacity.org.

DCA submitted a Notice of Intent to Contract to the CAO Employee Relations Division on April 15, 2020 for this project. DCA also submitted the 1022 Determination Information Form to the Personnel Department on April 14, 2020. In response to DCA's 1022 determination request, the Personnel Department's Contract Review Report (dated April 29, 2020) indicated that there were no City classifications with the expertise to perform the work. Glenn Kaino's business address is 2039 N. Hobart Blvd., Los Angeles, CA 90027, telephone number is (310) 963-5240 and email address is glenn@kainoco.com.

CONTRACTOR SELECTION PROCESS

In compliance with the City's Percent-for-Art policy, Glenn Kaino was selected as the artist to develop the public art component for the new Sixth Street Viaduct by means of the standard pre-qualification and selection processes for public art projects administered by the Public Works Improvements Arts Program. Details regarding the selection process are summarized below.

- In August 2013, DCA convened a Public Art Advisory Committee (PAAC) comprised of five community stakeholders identified by Council District 14 staff; DCA facilitated three meetings of the PAAC (Aug. 14, Sept. 11, and Dec. 5, 2013) to develop an overall vision statement for the public art component of the new Sixth Street Viaduct.
- In February 2014, DCA identified five (5) individuals to comprise an Artist Selection Committee (ASC) for the public art component of the new Sixth Street Viaduct: three arts professionals, the principal architect of the new Viaduct, and one member of the 2013 PAAC in order to ensure continuity between DCA's two advisory bodies for the public art component.
- In April 2014, the ASC, through a limited competition process administered by DCA, identified a pre-qualified pool of fourteen artists to be considered for the project. Upon a detailed review of the qualifications for all fourteen artists, the ASC shortlisted five of the pre-qualified artists as the strongest candidates for the project. DCA contacted the five artists and asked them to prepare a written letter of interest and interview with the ASC.
- In June 2014, upon reviewing all letters and interviewing all shortlisted artists, and after final deliberations, the ASC unanimously selected Glenn Kaino dba Kainoco Inc. to develop the public art component for the new Sixth Street Viaduct, based upon the quality, artistic merit, and

appropriateness of past work, as well as the professionalism of the research and presentation of interest in the project.

STATUS OF FINANCING

The total amount for completion of the work is \$1,353,000. Funding for the original contract amount of \$353,000 is appropriated in Fund No. 298 (previously 26X), Dept. No. 50, Account No. 50MCSS. Funding for the proposed First Amendment in the amount of \$1,000,000 is appropriated in Fund No 298, Dept. No. 50, Account No. 50RART. For additional information or any questions regarding funding for this project, please contact Lisa Johnson Smith, Sr. Administrative Analyst II, Municipal Facilities, Office of the City Administrative Officer, at lisa.johnson.smith@lacity.org, and/or Laura Mojica, Sr. Management Analyst I, Sixth Street Viaduct Division, Bureau of Engineering, at laura.mojica@lacity.org.

RECOMMENDATION

Authorize the General Manager of the Department of Cultural Affairs to execute a First Amendment to Contract No. C-128192 with Glenn Kaino DBA Kainoco Inc. to design, fabricate, and install public artwork for the City's new Sixth Street Viaduct and PARC projects, subject to the review and approval of the City Attorney as to form and legality.

If you have any questions, please contact Becky Snodgrass, Arts Manager for the Public Works Improvements Arts Program (PWIAP), DCA Public Art Division, at becky.snodgrass@lacity.org, or you may contact Evelyn Kelley, Contracts Unit, DCA Administration Division, at evelyn.kelley@lacity.org.

Attachments


DB/bs

cc: Andy Chen, Sr. Administrative Analyst I, CAO
Daniel Tarica, Assistant General Manager, DCA
Alma Gibson, Director of Administration, DCA

NOTIFICATION OF INTENT TO CONTRACT

Date: April 14, 2020

To: **CAO Employee Relations Division**
City Hall East, Room 1200, Stop 139 **Fax (213)978-7613**

From: Felicia Filer
 Print Name and Title of Division Head

 Signature of Division Head

Cultural Affairs, Public Art Division
 Department/Bureau
 (213) 202-5544
 Phone

Listed below is proposed work to be performed by other than City employees (include contract amendments as well as new work):

Activity to be Performed	Type: (N) New (A) Amendment	Contract Number	Estimated Length of Activity	Estimated Start Date	Expertise within City Yes/No	Contact with other Dept(s). Yes/No/Pending
Dept. Contact Name: Becky Snodgrass Design, fabrication, and installation of artwork for the new Sixth Street Viaduct & PARC as part of the City's Public Works Improvements Arts Program administered by DCA, Public Art Division.	A	C-128192	10 years	12/15/2015	no	pending (1022 review/request to Personnel on 4/13/2020)
Dept. Contact Name: Contact Phone No: Contact E-mail:	Contact Phone No:			Contact E-mail:		
Dept. Contact Name: Contact Phone No: Contact E-mail:	Contact Phone No:			Contact E-mail:		

PERSONNEL DEPARTMENT 1022 INFORMATION FORM

1. Requesting Department: Cultural Affairs (DCA)

2. Contacts
Department: Becky Snodgrass Phone No. 213 202-5544 Fax No. becky.snodgrass@lacity.org
CAO: Andy Chen Phone No. 213 473-7552 Fax No. andy.chen@lacity.org

3. Describe work to be performed. Describe duties and tasks involved.
Design, fabrication, and installation of a site-specific public artwork for the Sixth Street Viaduct and PARC projects as part of the City's Public Works Improvements Arts Program (PWIAP) administered by DCA, Public Art Division.

4. Is this a new contract? Yes No

5. Is this an amendment? Yes No

6. Proposed length of contract: 10 years Proposed Start Date: 12/15/2018
Proposed cost of contract: \$ 1,353,000-

7. Unique or special qualifications required to perform the work:
Skills, talent, experience, and creativity to design, fabricate, and install a permanent public artwork for the Sixth Street Viaduct and PARC projects.

8. Is there sufficient staff in your department with the appropriate expertise to perform the work?
Yes List job classifications: _____
No Please explain. List any training that would provide staff with the expertise to perform the work. **Professional experience and ongoing work as a full-time professional artist with public art experience; and potentially apprentice training and/or higher education in studio art (BA, MFA) as well.**

9. Can the work to be performed be split between City employees and contractors with special expertise?
Yes List job classifications: _____
No

10. Can the department hire the required number of staff within the required time frame? Explain.
No; there is no existing City of LA employment classification(s) for a professional artist.

11. Are there City employees in your department currently performing this work?
Yes List job classifications: _____
No

12. Have City employees in your department performed this work in the
Yes List job classifications used: _____
No

13. If the project is of a limited duration:
The department could absorb the employees at the end of the project
The employees would have to be laid off at the end of the project

Please submit to: Personnel Department, Classification Division, Rm. 320, M.S. 391

PERSONNEL DEPARTMENT CONTRACT REVIEW REPORT

1. Requesting Department: Cultural Affairs

2. Contacts

Department: Becky Snodgrass Phone No 213-202-5544 Fax No
CAO: Andy Chen Phone No 213-473-7552 Fax No

3. Work to be performed:

The Department of Cultural Affairs is seeking to contract the services of Glenn Kaino dba Kainoco Inc. for the design, fabrication, and installation of site-specific public artwork for the Sixth Street Viaduct and PARC projects as part of the City's Public Works Improvement Arts Program (PWIAP). The contractor will be required to prepare and submit written concepts; coordinate with the department as needed for art concept and artwork; and plan and execute strategies for public engagement related to artwork. The contractor shall make periodic written and/or verbal progress reports to the department.

4. Is this a contract renewal? Yes No

5. Proposed length of contract: 10 years Proposed Start Date: 12/15/2018

6. Proposed cost of contract (if known): \$1,353,000.00

7. Name of proposed contractor: Glenn Kaino dba Kainoco Inc.

8. Unique or special qualifications required to perform the work:

The contractor must have skills, talent, and experience to design, fabricate, and install a permanent public artwork.

9. Are there City employees that can perform the work being proposed for contracting?

Yes No

If yes,

- a. Which class(es) and Department(s): NA
- b. Is there sufficient Department staff available to perform the work? Yes No
- c. Is there a current eligible list for the class(es)? Yes No Expiration Date
- d. Estimated time to fill position(s) through CSC process?
- e. Can the requesting department continue to employ staff hired for the project after project completion? Yes No
- f. Are there City employees currently performing the work? Yes No

10. Findings

- City employees DO NOT have the expertise to perform the work
- City employees DO have the expertise to perform the work

Check if applicable (explanation attached) and send to CAO for further analysis

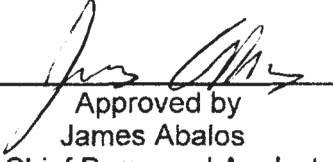
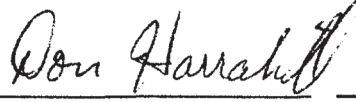
Project of limited duration would have to layoff staff at end of project

- Time constraints require immediate staffing of project
- Work assignment exceeds staffing availability

SUMMARY:

The Department of Cultural Affairs is seeking the services of a contractor to design, fabricate, and install site-specific artwork for the Sixth Street Viaduct and PARC Projects. Currently, there are no City classes that require technical knowledge and professional experience as an artist.

Monica May



4-29-20

Submitted by
Monica May

Reviewed by
Don Harrahill

Approved by
James Abalos

Date

Sr. Personnel Analyst

Sr. Personnel Analyst II

Chief Personnel Analyst

**1st AMENDMENT to PERSONAL SERVICES AGREEMENT NO. C-128192
BETWEEN THE CITY OF LOS ANGELES and GLENN KAINO dba KAINOCO INC**

This 1st AMENDMENT to PERSONAL SERVICES AGREEMENT No. C-128192 (hereinafter "AMENDMENT") is entered into by and between the CITY OF LOS ANGELES, a municipal corporation (hereinafter "CITY"), acting by and through its DEPARTMENT OF CULTURAL AFFAIRS (hereinafter "DEPARTMENT"), and GLENN KAINO dba KAINOCO INC (hereinafter "CONTRACTOR").

WITNESSETH

WHEREAS, on September 14, 2016, CITY and CONTRACTOR entered into PERSONAL SERVICES AGREEMENT No. C-128192 (hereinafter "AGREEMENT") whereby CONTRACTOR agreed to provide services supported by milestones identified in that AGREEMENT, attached hereto as Exhibit 1; and

WHEREAS, SECTION XII of AGREEMENT provides for amendments to its terms including changes to services to be performed by CONTRACTOR, extensions of the term, and/or increases or decreases in funding; and

WHEREAS, CITY's original design and construction schedules established for PROJECT have been significantly delayed and extended, wherein the CITY's current estimate to complete construction of PROJECT is July 2025 at the latest, extending beyond the original term of AGREEMENT that expired on December 14, 2018; and

WHEREAS, due to CITY's extensive programmatic changes and additions to the scope of original PROJECT, as well as AGENCY's additional analysis of construction parameters for PROJECT and related sequencing required among various contractors, DEPARTMENT and AGENCY mutually agree that services required for fabrication and installation of ARTWORK as part of PROJECT must be incorporated into SCOPE OF WORK that shall be provided by CONTRACTOR; and

WHEREAS, CITY's funding allocation for the fabrication and installation of ARTWORK as part of PROJECT is required to fund said additions to SCOPE OF WORK; and

WHEREAS, CITY and CONTRACTOR desire to amend AGREEMENT to: modify the term with an additional seven (7) years, wherein the new end date shall be December 14, 2025; modify services to be provided by CONTRACTOR wherein the fabrication and installation of ARTWORK shall be added to SCOPE OF WORK; modify the amount to add one-million USD (\$1,000,000) to cover said additions to SCOPE OF WORK, thereby revising the total amount to one-million three-hundred and fifty-three USD (\$1,353,000); and make any other changes as required in connection with the foregoing and as detailed elsewhere in this AMENDMENT; and

WHEREAS, this AMENDMENT is necessary and proper to continue and/or complete certain activities authorized under the AGREEMENT.

NOW, THEREFORE, in consideration of the promises and of the covenants, representations, and agreements set forth herein, the parties hereto agree as follows:

1. Amend **RECITALS** of AGREEMENT by adding the following recital:

WHEREAS, per CITY Charter Section 371(e)(2), the General Manager of DEPARTMENT finds that the services to be performed are of an expert, technical, and special nature, as well as occasional and temporary, and for these reasons, competitive bidding is not practical or advantageous.

2. Amend **PARAGRAPH A** of **SECTION I ("Purpose of this Agreement")** of AGREEMENT by deleting and replacing with the following:

A. The purpose of this AGREEMENT is to provide CONTRACTOR with a total amount of \$1,353,000 in funding for the design, fabrication, and installation of ARTWORK as part of PROJECT, wherein services rendered shall comprise SCOPE OF WORK pursuant to SECTION VI.

3. Amend **SECTION II ("Definitions")** of AGREEMENT by deleting and replacing with the following:

SECTION II. DEFINITIONS

AGENCY—the BUREAU OF ENGINEERING of CITY.

ART CONCEPT—written concept narrative, preliminary renderings, schematic presentation drawings including plans, elevations and renderings, photographs as necessary, preliminary specifications for location(s), size(s), color(s), finish(es), and material(s), a

preliminary itemized budget for SCOPE OF WORK including all aspects of design, fabrication, and installation of ARTWORK, and a preliminary list of subcontractors identified for fabrication and/or installation for all elements of ARTWORK as part of PROJECT, prepared and submitted by CONTRACTOR, and subject to review and written acceptance by DEPARTMENT and AGENCY and subsequent review and approvals by COMMISSION.

ARTWORK—permanent public artwork to be integrated at PROJECT.

CITY—the CITY OF LOS ANGELES, a municipal corporation.

COMMISSION—the BOARD OF CULTURAL AFFAIRS COMMISSIONERS of DEPARTMENT of CITY.

CONTRACTOR—GLENN KAINO dba KAINOCO INC, 2039 North Hobart Boulevard, Los Angeles, CA 90027.

DEPARTMENT—the DEPARTMENT OF CULTURAL AFFAIRS of CITY.

DETAILED PLANS—final set of design, fabrication, and installation details for ARTWORK based on approved ART CONCEPT that includes written concept narrative, final renderings, schematic presentation drawings including plans, elevations and renderings, photographs as necessary, final specifications for location(s), size(s), color(s), finish(es), and material(s), a final list of subcontractors identified for fabrication and/or installation for all elements of ARTWORK at PROJECT, and a final itemized budget for ARTWORK and SCOPE OF WORK, prepared and submitted by CONTRACTOR and subject to review and written acceptance by DEPARTMENT in consultation with AGENCY.

MAINTENANCE MANUAL—comprehensive manual that details all recommended and/or required and maintenance related to ARTWORK, and provides all information for ARTWORK as may be needed or useful for reference upon professional conservation of ARTWORK, prepared and submitted by CONTRACTOR and subject to review and written acceptance by DEPARTMENT in consultation with AGENCY.

NOTICE OF FINAL ACCEPTANCE—written notice issued by DEPARTMENT that verifies CONTRACTOR's completed installation of ARTWORK as specified in approved DETAILED PLANS and ART CONCEPT, subject to CITY's final inspection and approval of ARTWORK.

NOTICE TO PROCEED—written notice issued by DEPARTMENT that authorizes CONTRACTOR to initiate fabrication of ARTWORK as specified in approved DETAILED PLANS, wherein prior to receipt of said notice CONTRACTOR may not initiate fabrication or installation of ARTWORK or any portion thereof.

PROJECT—Sixth Street Viaduct Replacement Project and/or Sixth Street Park, Arts, River and Connectivity (PARC) Improvements Project, Sixth Street between Mateo Street and the US-101 Freeway, Los Angeles, CA 90033.

RECEIPT OF VERIFICATION—written receipt issued by DEPARTMENT that verifies completed fabrication of ARTWORK as specified in DETAILED PLANS, wherein prior to issuance of said receipt CONTRACTOR may not initiate transportation or installation of ARTWORK or any portion thereof.

RELEASE OF ALL CLAIMS—a document prepared and provided by CITY, for CONTRACTOR to review, sign, and submit, thereby fully releasing, acquiring, and discharging CITY from all claims, actions, causes of action, demands, damages, costs, expenses, attorney fees, obligations, and/or liabilities related to work performed under this AGREEMENT, applying to all unknown and all unanticipated damages, as well as to injuries and damages now known, disclosed, or anticipated that may result from or arise out of this AGREEMENT, or to the effects or consequences thereof.

SCOPE OF WORK—"Term", "Services to be Provided by Contractor", "Requests for Payment & Remuneration", "Engineering Conformance & Protection of Work", "Maintenance, Repairs & Restoration of the Work", and "Delivery & Acceptance", pursuant to SECTIONS IV, VI, VIII, XIV, XVI, and XXIX, respectively.

WORK PRODUCTS—all materials, tangible or not, created in whatever medium under this AGREEMENT, including without limitation to artworks, audio-visual, reports, drawings and sketches, schematics, marks, logos, graphic designs, and all other intellectual property.

4. Amend **SECTION IV (“TERM”)** of AGREEMENT by replacing it with the following:

SECTION IV. TERM

The term of this AGREEMENT shall commence December 15, 2015 and terminate December 14, 2025.

5. Amend **SECTION VI (“Services to be Provided by Contractor”)** of AGREEMENT by deleting and replacing it with the following:

SECTION VI. SERVICES TO BE PROVIDED BY CONTRACTOR

SCOPE OF WORK contained in this AGREEMENT encompasses the full execution of ARTWORK, including construction documents, feasibility study, engineering, production, fabrication, transportation, inspection, installation, maintenance plan, and presentation to community and approving bodies.

- A. ARTWORK shall be coordinated, designed, and executed by CONTRACTOR throughout entire scope of project.
- B. Upon execution of this AGREEMENT, CONTRACTOR shall meet with DEPARTMENT and AGENCY representatives.
- C. CONTRACTOR shall be reasonably available to meet with the public impacted by ARTWORK as requested by DEPARTMENT in consultation with AGENCY.
- D. Within sixty (60) days of meeting(s) with the public or by another date mutually agreed upon in writing by DEPARTMENT and CONTRACTOR, pursuant to PARAGRAPH C of this SECTION, and upon DEPARTMENT’s written request, CONTRACTOR shall prepare and submit design plan renderings and visual samples to DEPARTMENT for review by DEPARTMENT and AGENCY.
- E. Within sixty (60) days of meeting(s) with the public or by another date mutually agreed upon in writing by DEPARTMENT and CONTRACTOR, pursuant to PARAGRAPH C of this SECTION, CONTRACTOR shall submit ART CONCEPT for DEPARTMENT’s review and written approval, which CONTRACTOR shall develop in consultation with DEPARTMENT, AGENCY, and other project stakeholders as instructed by DEPARTMENT.
- F. Additional or changed services to be provided by CONTRACTOR shall be subject to approval by DEPARTMENT and AGENCY, wherein any such services shall be described in a written amendment to this AGREEMENT.
- G. CONTRACTOR shall present ART CONCEPT to COMMISSION for Conceptual Approval prior to proceeding with final design details for ARTWORK. If it appears to DEPARTMENT and/or AGENCY that ARTWORK as designed may exceed the funding allocated under this AGREEMENT, then DEPARTMENT may require CONTRACTOR to modify ART CONCEPT in order to meet the funding allocated under this AGREEMENT. If ART CONCEPT is so modified, CONTRACTOR must submit a modified ART CONCEPT for DEPARTMENT’s review and written approval, and DEPARTMENT may require CONTRACTOR to submit said modified ART CONCEPT to AGENCY and/or COMMISSION for additional approval(s).
- H. CONTRACTOR shall present ART CONCEPT to COMMISSION for Final Approval prior to proceeding with final design detail plans and construction drawings for ARTWORK. If it appears to DEPARTMENT and/or AGENCY that ARTWORK as designed may exceed the funding allocated under this AGREEMENT, then DEPARTMENT may require CONTRACTOR to modify ART CONCEPT in order to meet the funding allocated under this AGREEMENT. If ART CONCEPT is so modified, CONTRACTOR must submit a modified ART CONCEPT for DEPARTMENT’s review and written approval, and DEPARTMENT may require CONTRACTOR to submit said modified ART CONCEPT to AGENCY and/or COMMISSION for additional approval(s).

- I. COMMISSION may require CONTRACTOR to modify ART CONCEPT and/or DETAILED PLANS. If it appears to DEPARTMENT and/or AGENCY that such modification(s) are required, CONTRACTOR shall so modify ART CONCEPT and/or DETAILED PLANS and submit modified ART CONCEPT and/or DETAILED PLANS to DEPARTMENT for review within thirty (30) calendar days of DEPARTMENT's written request for such modification(s), or DEPARTMENT or CONTRACTOR may terminate this AGREEMENT, pursuant to SECTION XXVI ("Termination of Agreement").
- J. CONTRACTOR shall submit DETAILED PLANS for DEPARTMENT's review and written approval in consultation with AGENCY. If it appears to DEPARTMENT and/or AGENCY that ARTWORK as designed may exceed the funding allocated under this AGREEMENT, then DEPARTMENT may require CONTRACTOR to modify DETAILED PLANS in order to meet the funding allocated under this AGREEMENT. If DETAILED PLANS are so modified, CONTRACTOR must submit modified DETAILED PLANS for DEPARTMENT's review and written approval, and DEPARTMENT may require CONTRACTOR to submit modified DETAILED PLANS to AGENCY and/or COMMISSION for additional approval(s).
- K. CONTRACTOR shall plan and execute strategies for public engagement related to ARTWORK (i.e. person-to-person activities, social media campaigns) in consultation with DEPARTMENT and AGENCY, and if deemed appropriate by CONTRACTOR in consultation with CITY, CONTRACTOR shall prepare and present visual aids as required to convey adequately ART CONCEPT and/or DETAILED PLANS to the public.
- L. Upon DEPARTMENT's written approval of DETAILED PLANS in consultation with AGENCY, and upon DEPARTMENT's issuance of NOTICE TO PROCEED, CONTRACTOR shall begin fabrication of ARTWORK as specified in DETAILED PLANS.
- M. CONTRACTOR shall adhere to the funding allocated under this AGREEMENT for all costs associated with the execution of ARTWORK, including design, fabrication, and transportation of ARTWORK, installation of ARTWORK at PROJECT, and for any travel and other costs incurred by CONTRACTOR and any subcontractor(s) performing under this AGREEMENT, unless otherwise agreed upon under this AGREEMENT. If ARTWORK requires any special provisions in design and/or building materials, or any structural, electrical, and/or mechanical systems for which costs exceed those that would normally be paid by AGENCY for work performed at PROJECT, then such costs shall be borne by CONTRACTOR's budget.
- N. CONTRACTOR shall be responsible for submitting material specifications and a cost estimate for annual maintenance of ARTWORK, wherein CONTRACTOR shall devise the design of ARTWORK with the intention of minimizing potential effects of vandalism, weathering, or other hazards, as applicable. Upon completed fabrication and installation of ARTWORK, CONTRACTOR shall prepare and submit MAINTENANCE MANUAL to DEPARTMENT, subject to DEPARTMENT's review and written acceptance.
- O. CONTRACTOR shall make periodic written progress reports to DEPARTMENT throughout the term of this AGREEMENT, on an ongoing basis as mutually determined and agreed upon in writing by DEPARTMENT and CONTRACTOR, and/or upon request by DEPARTMENT or AGENCY, wherein such reports shall include information on any meetings, conflicts or resolutions, design, fabrication, installation, and/or progress related to services provided under this AGREEMENT.
- P. Upon reasonable prior notice and during normal business hours, CONTRACTOR shall provide DEPARTMENT access to ARTWORK and/or any part thereof, in order for DEPARTMENT to make reasonable inspections and reviews of CONTRACTOR's progress with respect to ARTWORK.
- Q. CONTRACTOR shall be responsible for providing the services described herein including but not limited to the quality and timely completion of the services. CONTRACTOR shall promptly notify DEPARTMENT of any problems encountered that may impede the satisfactory and timely performance of the work, and/or the satisfactory completion of any other activities under supervision by CONTRACTOR hereunder.
- R. CONTRACTOR agrees that an essential element of this AGREEMENT is the personal skill and creativity of CONTRACTOR. Therefore CONTRACTOR shall not assign any creative and/or artistic portions of ARTWORK to a third party without prior written authorization by

DEPARTMENT, wherein failure to obtain such prior written authorization shall constitute grounds for termination of this AGREEMENT, pursuant to SECTION XXVI ("Termination of Agreement").

6. Amend **SECTION VII ("Services to be Provided by City")** of AGREEMENT by deleting and replacing it with the following:

SECTION VII. SERVICES TO BE PROVIDED BY CITY

- A. DEPARTMENT shall provide CONTRACTOR with written notice regarding the appropriate point of contact for DEPARTMENT in regard to the execution of this AGREEMENT.
- B. DEPARTMENT and/or AGENCY may make available to CONTRACTOR copies of designs, drawings, reports, and/or other relevant project data that may be needed by CONTRACTOR for the design, fabrication, and/or installation of ARTWORK.
- C. DEPARTMENT shall act as liaison with AGENCY and COMMISSION as needed. AGENCY shall act as liaison with the project architect for PROJECT SITE and with community member(s) impacted by ARTWORK.
- D. Upon CONTRACTOR's submission of payment request(s) for completion of milestone(s) under this AGREEMENT, DEPARTMENT shall review such payment request(s) in order to verify milestone completion in accordance with the terms herein, and submit such request(s) to AGENCY for payment by CITY, pursuant to PARAGRAPH B of SECTION VIII ("Requests for Payment & Remuneration").

7. Amend **PARAGRAPH A of SECTION VIII ("Requests for Payment & Remuneration")** of AGREEMENT by deleting and replacing it with the following:

- A. CONTRACTOR shall be paid for work and services associated with the design, fabrication, and installation of ARTWORK under this AGREEMENT in accordance with the terms herein, and subsequent adjustments, changes, and/or additions as specifically provided for under this AGREEMENT. Such payment shall be full compensation for work performed and services rendered for all supervision, labor supplies, materials, equipment or use thereof, taxes, and for all other necessary incidentals.
 - 1. The amount and date of payments to CONTRACTOR shall be calculated as stipulated below, subject only to adjustments, changes, or additions as specifically provided for under this AGREEMENT.
 - 2. In the event that CONTRACTOR incurs costs in excess of the total funding allocated under this AGREEMENT, and such excess is incurred without a written amendment to this AGREEMENT, CITY shall not be required to pay any part of such excess and CONTRACTOR shall have no claim against CITY on account thereof.

8. Amend **PARAGRAPH B of SECTION VIII ("Requests for Payment & Remuneration")** of AGREEMENT by deleting and replacing it with the following:

- B. Upon CONTRACTOR's submission of payment request(s) for completion of milestone(s) under this AGREEMENT, DEPARTMENT shall review such payment request(s) to verify milestone completion in accordance with the terms herein, and submit such request(s) to AGENCY, for CITY to pay CONTRACTOR a total sum not to exceed \$1,353,000 to provide services under this AGREEMENT, which shall be paid in the following manner.
 - 1. \$50,000 upon DEPARTMENT's verification of CONTRACTOR's initial consultation(s) with DEPARTMENT, AGENCY, and/or other CITY contractors related to PROJECT, regarding ARTWORK and to initiate work on ART CONCEPT.
 - 2. \$50,000 upon DEPARTMENT's written approval of ART CONCEPT submitted by CONTRACTOR, pursuant to PARAGRAPH E of SECTION VI ("Services to be Provided by Contractor").
 - 3. \$50,000 upon COMMISSION's Conceptual Approval of ART CONCEPT, pursuant to PARAGRAPH G of SECTION VI ("Services to be Provided by Contractor").

4. \$50,000 upon DEPARTMENT's written approval of DETAILED PLANS submitted by CONTRACTOR, pursuant to PARAGRAPH J of SECTION VI ("Services to be Provided by Contractor").
 5. \$50,000 payable in up to two (2) parts upon DEPARTMENT's verification of CONTRACTOR's completed planning and/or execution of strategies for public engagement pertaining to ARTWORK, pursuant to PARAGRAPH K of SECTION VI ("Services to be Provided by Contractor").
 6. \$103,000 in up to eight (8) parts upon DEPARTMENT's written verification of documentation for costs expended and/or amounts invoiced for labor and/or materials related to public engagement activities approved in advance by DEPARTMENT, and/or procurement of California-certified engineering services and/or engineering drawings as requested by AGENCY and prepared, reviewed, and/or stamped by a California-certified engineer, related to constructability, material unavailability, final prototyping, specialized mechanical systems related to ARTWORK.
 7. \$625,000, payable in up to two (2) individual payments, upon COMMISSION's Final Approval of DETAILED PLANS and DEPARTMENT's issuance of NOTICE TO PROCEED to CONTRACTOR, pursuant to PARAGRAPHS H and L of SECTION VI ("Services to be Provided by Contractor"), and upon DEPARTMENT's receipt and verification of CONTRACTOR's submitted documentation of amounts expended or invoiced for purchase of labor and/or materials.
 8. \$300,000 upon DEPARTMENT's final inspection and approval of fabricated ARTWORK and issuance of RECEIPT OF VERIFICATION to CONTRACTOR, pursuant to PARAGRAPHS A and B of SECTION XXIX ("Delivery & Acceptance").
 9. \$75,000 upon DEPARTMENT's written acceptance of MAINTENANCE MANUAL submitted by CONTRACTOR, pursuant to PARAGRAPH N of SECTION VI ("Services to be Provided by Contractor"), and upon DEPARTMENT's issuance of NOTICE OF FINAL ACCEPTANCE, DEPARTMENT's receipt of no fewer than five (5) high-resolution, digital image files of installed ARTWORK, and DEPARTMENT's receipt of RELEASE OF ALL CLAIMS, pursuant to PARAGRAPH D of SECTION XXIX ("Delivery & Acceptance").
9. Amend **PARAGRAPH H** of **SECTION X ("Contractor's Rights")** of AGREEMENT by deleting and replacing it with the following:
- H. Notwithstanding MAINTENANCE MANUAL submitted by CONTRACTOR, pursuant to PARAGRAPH N of SECTION VI ("Services to be Provided by Contractor"), CITY may, in its sole discretion, determine when and if any maintenance or conservation to ARTWORK shall be made. In the event that such maintenance or conservation results in any substantial alteration, modification, or damage, CONTRACTOR shall have the right to disclaim ARTWORK as CONTRACTOR's creation, and to request that the identification plaque and any attributive references be removed from ARTWORK and reproductions thereof. All maintenance and conservation, whether performed by CONTRACTOR, CITY, or any third party responsible to CONTRACTOR or CITY, shall be made in accordance with professional conservation standards and in accordance with MAINTENANCE MANUAL.
10. Amend **SECTION XIII ("Warranties")** of AGREEMENT by deleting and replacing it with the following:

SECTION XIII. WARRANTIES

- A. CONTRACTOR shall guarantee all work to be free from faults of material and/or workmanship for a period of no less than one (1) year after installation, free and clear of any liens from any source whatsoever, and not to require any maintenance substantially in excess of that specified by CONTRACTOR in MAINTENANCE MANUAL. This guarantee shall apply only to work performed entirely by CONTRACTOR as specified in MAINTENANCE MANUAL. This guarantee shall apply only to work performed entirely by CONTRACTOR as installed, and shall not apply to material and/or workmanship of ARTWORK that is integrated and/or combined with material acquired from and/or installed by any person or entity other than CONTRACTOR. CONTRACTOR warrants that ARTWORK shall be fabricated such that neither normal environmental exposure nor inherent vice shall cause ARTWORK to require significant conservation for a minimum term of twenty-five (25) years from the date of completed installation of ARTWORK.

- B. CONTRACTOR shall, within the period of guarantee and without additional compensation, correct and/or revise any errors, omissions, and/or other deficiencies in work performed under this AGREEMENT, and make any such correction(s) and/or revision(s) within sixty (60) days of the date of DEPARTMENT's written notice of such errors, omissions, and/or other deficiencies, or within another specified term mutually agreed upon by CONTRACTOR and DEPARTMENT, pursuant to SECTION XXIX ("Delivery & Acceptance").
- C. CONTRACTOR warrants that, unless otherwise stipulated, ARTWORK is an original and an edition of one (1). CONTRACTOR shall not sell or reproduce ARTWORK and/or allow others to do so without advance receipt of a written license approval issued by CITY, wherein such license approval(s) shall not be unreasonably withheld.

11. Amend AGREEMENT by adding a new **SECTION XXIX ("Delivery & Acceptance")** as follows:

SECTION XXIX. DELIVERY & ACCEPTANCE

- A. CONTRACTOR shall notify DEPARTMENT in writing when fabrication of ARTWORK is complete and ready to be transported to PROJECT for installation.
- B. DEPARTMENT shall inspect ARTWORK, prior to its transportation to PROJECT, and upon verification of CONTRACTOR's satisfactory fabrication of ARTWORK, DEPARTMENT shall issue RECEIPT OF VERIFICATION to CONTRACTOR.
- C. AGENCY shall prepare PROJECT for safe reception of ARTWORK for installation, wherein all expenses to prepare PROJECT shall be borne by AGENCY unless otherwise specified under this AGREEMENT.
- D. Upon inspection and mutual agreement by DEPARTMENT and AGENCY that ARTWORK has been completed and installed satisfactorily, upon DEPARTMENT's acceptance of MAINTENANCE MANUAL, pursuant to PARAGRAPH N of SECTION VI ("Services to be Provided by Contractor"), upon DEPARTMENT's receipt of RELEASE OF ALL CLAIMS and no fewer than five (5) high-resolution digital image files of installed ARTWORK provided by CONTRACTOR, DEPARTMENT shall issue NOTICE OF FINAL ACCEPTANCE and CONTRACTOR may submit invoice(s) for any unpaid monies due under this AGREEMENT to DEPARTMENT.
- E. If DEPARTMENT determines that any contractual requirement(s) have not been satisfied, DEPARTMENT shall notify CONTRACTOR in writing within thirty (30) working days of any such determination(s) and withhold issuance of NOTICE OF FINAL ACCEPTANCE until all requirement(s) have been satisfied.

12. Amend AGREEMENT by adding a new **SECTION XXX ("Construction Delays")** as follows:

SECTION XXX. CONSTRUCTION DELAYS

- A. If CONTRACTOR is delayed from installing ARTWORK during the term of this AGREEMENT as a result of the construction at PROJECT not being sufficiently complete to permit safe installation of ARTWORK therein, AGENCY shall have two options:
 - 1. Reimburse CONTRACTOR for reasonable storage and any other related costs incurred for the period between the time provided in the schedule for commencement of installation and the date upon which PROJECT is complete to permit safe installation of ARTWORK, and extend the AGREEMENT for the time necessary to permit full performance of the AGREEMENT.
 - 2. Request CONTRACTOR to transport ARTWORK at the time of completed fabrication to PROJECT or other designated location for storage. Cost(s) to transport ARTWORK to the storage location shall be borne by CONTRACTOR. Cost(s) to transport ARTWORK from storage location to PROJECT, as well as all related storage costs, shall be borne by AGENCY, wherein CONTRACTOR shall mitigate such transportation and storage costs. DEPARTMENT shall provide CONTRACTOR with proof of insurance for the value of ARTWORK as stipulated by CONTRACTOR, not to exceed the value of services to be provided under this AGREEMENT.

13. Amend AGREEMENT by adding a new **SECTION XXXI (“Early Completion of Contractor Services”)** as follows:

SECTION XXXI. EARLY COMPLETION OF CONTRACTOR SERVICES

CONTRACTOR shall bear any transportation and storage costs resulting from the completion of services hereunder prior to the time provided for in WORK PLAN as approved by DEPARTMENT, pursuant to PARAGRAPH J of SECTION VI (“Services to be Provided by Contractor”).

14. Except as expressly changed or superseded by this AMENDMENT, all other terms and conditions of AGREEMENT shall remain in full force and effect.
15. This AMENDMENT may be executed in one or more counterpart(s), and by the parties in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement. The parties further agree that facsimile signatures, or signatures scanned into portable document format (PDF) or another electronic format designated by CITY and sent by e-mail, shall be deemed original signatures.
16. In the event of any inconsistency between the provisions of this AMENDMENT and the attachments hereto, the inconsistency shall be resolved by giving precedence to the documents in the following order:
- a. Paragraphs set forth in the body of this 1st AMENDMENT;
 - b. Paragraphs set forth in the body of PERSONAL SERVICES AGREEMENT No. C-128192, attached hereto as EXHIBIT 1;
 - c. "Standard Provisions for City Contracts (rev. 10/17 v.3)", attached hereto as APPENDIX A of EXHIBIT 1; and
 - d. "Model Release: Audio-Visual / Photograph Productions of the City of Los Angeles", attached hereto as APPENDIX B of EXHIBIT 1.

—SIGNATURE PAGE TO FOLLOW—

IN WITNESS THEREOF, the parties hereto have caused this **1st AMENDMENT** to **PERSONAL SERVICES AGREEMENT No. C-128192** to be executed by their respective duly authorized representatives.

CITY OF LOS ANGELES

GLENN KAINO dba KAINOCO INC
2039 NORTH HOBART BOULEVARD
LOS ANGELES, CALIFORNIA 90027
BTRC Acct No. 2099987

BY: _____
DANIELLE BRAZELL
GENERAL MANAGER
DEPARTMENT OF CULTURAL AFFAIRS

BY: _____
GLENN KAINO
PRINCIPAL

DATE: _____

DATE: _____

APPROVED AS TO FORM AND LEGALITY:
MICHAEL N. FEUER, CITY ATTORNEY

ATTEST:
HOLLY L. WOLCOTT, CITY CLERK

BY: _____
LAURIE RITTENBERG
ASSISTANT CITY ATTORNEY

BY: _____
DEPUTY CITY CLERK

DATE: _____

DATE: _____

APPENDIX A

STANDARD PROVISIONS FOR CITY CONTRACTS
(Rev. 10/17)
[v.3]

APPENDIX A

STANDARD PROVISIONS FOR CITY CONTRACTS

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STANDARD PROVISIONS FOR CITY CONTRACTS

PSC-1. Construction of Provisions and Titles Herein

All titles, subtitles, or headings in this Contract have been inserted for convenience, and shall not be deemed to affect the meaning or construction of any of the terms or provisions of this Contract. The language of this Contract shall be construed according to its fair meaning and not strictly for or against **CITY** or **CONTRACTOR**. The word "**CONTRACTOR**" includes the party or parties identified in this Contract. The singular shall include the plural and if there is more than one **CONTRACTOR**, unless expressly stated otherwise, their obligations and liabilities shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

PSC-2. Applicable Law, Interpretation and Enforcement

Each party's performance shall comply with all applicable laws of the United States of America, the State of California, and **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing. This Contract shall be enforced and interpreted under the laws of the State of California without regard to conflict of law principles. **CONTRACTOR** shall comply with new, amended, or revised laws, regulations, or procedures that apply to the performance of this Contract with no additional compensation paid to **CONTRACTOR**.

In any action arising out of this Contract, **CONTRACTOR** consents to personal jurisdiction, and agrees to bring all such actions, exclusively in state or federal courts located in Los Angeles County, California.

If any part, term or provision of this Contract is held void, illegal, unenforceable, or in conflict with any federal, state or local law or regulation, the validity of the remaining parts, terms or provisions of this Contract shall not be affected.

PSC-3. Time of Effectiveness

Unless otherwise provided, this Contract shall take effect when all of the following events have occurred:

- A. This Contract has been signed on behalf of **CONTRACTOR** by the person or persons authorized to bind **CONTRACTOR**;
- B. This Contract has been approved by the City Council or by the board, officer or employee authorized to give such approval;
- C. The Office of the City Attorney has indicated in writing its approval of this Contract as to form; and
- D. This Contract has been signed on behalf of **CITY** by the person designated by the City Council, or by the board, officer or employee authorized to enter into this Contract.

PSC-4. Integrated Contract

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter of this Contract, and replaces any and all previous Contracts or understandings, whether written or oral, relating thereto. This Contract may be amended only as provided for in the provisions of PSC-5 hereof.

PSC-5. Amendment

All amendments to this Contract shall be in writing and signed and approved pursuant to the provisions of PSC-3.

PSC-6. Excusable Delays

Neither party shall be liable for its delay or failure to perform any obligation under and in accordance with this Contract, if the delay or failure arises out of fires, floods, earthquakes, epidemics, quarantine restrictions, other natural occurrences, strikes, lockouts (other than a lockout by the party or any of the party's Subcontractors), freight embargoes, terrorist acts, insurrections or other civil disturbances, or other similar events to those described above, but in each case the delay or failure to perform must be beyond the control and without any fault or negligence of the party delayed or failing to perform (these events are referred to in this provision as "Force Majeure Events").

Notwithstanding the foregoing, a delay or failure to perform by a Subcontractor of **CONTRACTOR** shall not constitute a Force Majeure Event, unless the delay or failure arises out of causes beyond the control of both **CONTRACTOR** and Subcontractor, and without any fault or negligence of either of them. In such case, **CONTRACTOR** shall not be liable for the delay or failure to perform, unless the goods or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit **CONTRACTOR** to perform timely. As used in this Contract, the term "Subcontractor" means a subcontractor at any tier.

In the event **CONTRACTOR'S** delay or failure to perform arises out of a Force Majeure Event, **CONTRACTOR** agrees to use commercially reasonable best efforts to obtain the goods or services from other sources, and to otherwise mitigate the damages and reduce the delay caused by the Force Majeure Event.

PSC-7. Waiver

A waiver of a default of any part, term or provision of this Contract shall not be construed as a waiver of any succeeding default or as a waiver of the part, term or provision itself. A party's performance after the other party's default shall not be construed as a waiver of that default.

PSC-8. Suspension

At **CITY'S** sole discretion, **CITY** may suspend any or all services provided under this Contract by providing **CONTRACTOR** with written notice of suspension. Upon receipt of the notice of suspension, **CONTRACTOR** shall immediately cease the services suspended and shall not incur any additional obligations, costs or expenses to **CITY** until **CITY** gives written notice to recommence the services.

PSC-9. Termination

A. Termination for Convenience

CITY may terminate this Contract for **CITY'S** convenience at any time by providing **CONTRACTOR** thirty days written notice. Upon receipt of the notice of termination, **CONTRACTOR** shall immediately take action not to incur any additional obligations, costs or expenses, except as may be necessary to terminate its activities. **CITY** shall pay **CONTRACTOR** its reasonable and allowable costs through the effective date of termination and those reasonable and necessary costs incurred by **CONTRACTOR** to effect the termination. Thereafter, **CONTRACTOR** shall have no further claims against **CITY** under this Contract. All finished and unfinished documents and materials procured for or produced under this Contract, including all intellectual property rights **CITY** is entitled to, shall become **CITY** property upon the date of the termination. **CONTRACTOR** agrees to execute any documents necessary for **CITY** to perfect, memorialize, or record **CITY'S** ownership of rights provided herein.

B. Termination for Breach of Contract

1. Except as provided in PSC-6, if **CONTRACTOR** fails to perform any of the provisions of this Contract or so fails to make progress as to endanger timely performance of this Contract, **CITY** may give **CONTRACTOR** written notice of the default. **CITY'S** default notice will indicate whether the default may be cured and the time period to cure the default to the sole satisfaction of **CITY**. Additionally, **CITY'S** default notice may offer **CONTRACTOR** an opportunity to provide **CITY** with a plan to cure the default, which shall be submitted to **CITY** within the time period allowed by **CITY**. At **CITY'S** sole discretion, **CITY** may accept or reject **CONTRACTOR'S** plan. If the default cannot be cured or if **CONTRACTOR** fails to cure within the period allowed by **CITY**, then **CITY** may terminate this Contract due to **CONTRACTOR'S** breach of this Contract.
2. If the default under this Contract is due to **CONTRACTOR'S** failure to maintain the insurance required under this Contract, **CONTRACTOR** shall immediately: (1) suspend performance of any services under this Contract for which insurance was required; and (2) notify its employees and Subcontractors of the loss of insurance coverage and Contractor's obligation to suspend performance of

services. **CONTRACTOR** shall not recommence performance until **CONTRACTOR** is fully insured and in compliance with **CITY'S** requirements.

3. If a federal or state proceeding for relief of debtors is undertaken by or against **CONTRACTOR**, or if **CONTRACTOR** makes an assignment for the benefit of creditors, then **CITY** may immediately terminate this Contract.
4. If **CONTRACTOR** engages in any dishonest conduct related to the performance or administration of this Contract or violates **CITY'S** laws, regulations or policies relating to lobbying, then **CITY** may immediately terminate this Contract.
5. Acts of Moral Turpitude
 - a. **CONTRACTOR** shall immediately notify **CITY** if **CONTRACTOR** or any Key Person, as defined below, is charged with, indicted for, convicted of, pleads nolo contendere to, or forfeits bail or fails to appear in court for a hearing related to, any act which constitutes an offense involving moral turpitude under federal, state, or local laws ("Act of Moral Turpitude").
 - b. If **CONTRACTOR** or a Key Person is convicted of, pleads nolo contendere to, or forfeits bail or fails to appear in court for a hearing related to, an Act of Moral Turpitude, **CITY** may immediately terminate this Contract.
 - c. If **CONTRACTOR** or a Key Person is charged with or indicted for an Act of Moral Turpitude, **CITY** may terminate this Contract after providing **CONTRACTOR** an opportunity to present evidence of **CONTRACTOR'S** ability to perform under the terms of this Contract.
 - d. Acts of Moral Turpitude include, but are not limited to: violent felonies as defined by Penal Code Section 667.5, crimes involving weapons, crimes resulting in serious bodily injury or death, serious felonies as defined by Penal Code Section 1192.7, and those crimes referenced in the Penal Code and articulated in California Public Resources Code Section 5164(a)(2); in addition to and including acts of murder, rape, sexual assault, robbery, kidnapping, human trafficking, pimping, voluntary manslaughter, aggravated assault, assault on a peace officer, mayhem, fraud, domestic abuse, elderly abuse, and child abuse, regardless of whether such acts are punishable by felony or misdemeanor conviction.

- e. For the purposes of this provision, a Key Person is a principal, officer, or employee assigned to this Contract, or owner (directly or indirectly, through one or more intermediaries) of ten percent or more of the voting power or equity interests of **CONTRACTOR**.
 6. In the event **CITY** terminates this Contract as provided in this section, **CITY** may procure, upon such terms and in the manner as **CITY** may deem appropriate, services similar in scope and level of effort to those so terminated, and **CONTRACTOR** shall be liable to **CITY** for all of its costs and damages, including, but not limited to, any excess costs for such services.
 7. If, after notice of termination of this Contract under the provisions of this section, it is determined for any reason that **CONTRACTOR** was not in default under the provisions of this section, or that the default was excusable under the terms of this Contract, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to PSC-9(A) Termination for Convenience.
 8. The rights and remedies of **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.
- C. In the event that this Contract is terminated, **CONTRACTOR** shall immediately notify all employees and Subcontractors, and shall notify in writing all other parties contracted with under the terms of this Contract within five working days of the termination.

PSC-10. Independent Contractor

CONTRACTOR is an independent contractor and not an agent or employee of **CITY**. **CONTRACTOR** shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of **CITY**.

PSC-11. Contractor's Personnel

Unless otherwise approved by **CITY**, **CONTRACTOR** shall use its own employees to perform the services described in this Contract. **CITY** has the right to review and approve any personnel who are assigned to work under this Contract. **CONTRACTOR** shall remove personnel from performing work under this Contract if requested to do so by **CITY**.

CONTRACTOR shall not use Subcontractors to assist in performance of this Contract without the prior written approval of **CITY**. If **CITY** permits the use of Subcontractors, **CONTRACTOR** shall remain responsible for performing all aspects of this Contract and paying all Subcontractors. **CITY** has the right to approve **CONTRACTOR'S** Subcontractors, and **CITY** reserves the right to request replacement of any

Subcontractor. **CITY** does not have any obligation to pay **CONTRACTOR'S** Subcontractors, and nothing herein creates any privity of contract between **CITY** and any Subcontractor.

PSC-12. Assignment and Delegation

CONTRACTOR may not, unless it has first obtained the written permission of **CITY**:

- A. Assign or otherwise alienate any of its rights under this Contract, including the right to payment; or
- B. Delegate, subcontract, or otherwise transfer any of its duties under this Contract.

PSC-13. Permits

CONTRACTOR and its directors, officers, partners, agents, employees, and Subcontractors, shall obtain and maintain all licenses, permits, certifications and other documents necessary for **CONTRACTOR'S** performance of this Contract. **CONTRACTOR** shall immediately notify **CITY** of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents that relate to **CONTRACTOR'S** performance of this Contract.

PSC-14. Claims for Labor and Materials

CONTRACTOR shall promptly pay when due all amounts owed for labor and materials furnished in the performance of this Contract so as to prevent any lien or other claim under any provision of law from arising against any **CITY** property (including reports, documents, and other tangible or intangible matter produced by **CONTRACTOR** hereunder), and shall pay all amounts due under the Unemployment Insurance Act or any other applicable law with respect to labor used to perform under this Contract.

PSC-15. Current Los Angeles City Business Tax Registration Certificate Required

For the duration of this Contract, **CONTRACTOR** shall maintain valid Business Tax Registration Certificate(s) as required by **CITY'S** Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code ("LAMC"), and shall not allow the Certificate to lapse or be revoked or suspended.

PSC-16. Retention of Records, Audit and Reports

CONTRACTOR shall maintain all records, including records of financial transactions, pertaining to the performance of this Contract, in their original form or as otherwise approved by **CITY**. These records shall be retained for a period of no less than three years from the later of the following: (1) final payment made by **CITY**, (2) the expiration of this Contract or (3) termination of this Contract. The records will be subject to examination and audit by authorized **CITY** personnel or **CITY'S** representatives at any time. **CONTRACTOR** shall provide any reports requested by **CITY** regarding

performance of this Contract. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

In lieu of retaining the records for the term as prescribed in this provision, **CONTRACTOR** may, upon **CITY'S** written approval, submit the required information to **CITY** in an electronic format, e.g. USB flash drive, at the expiration or termination of this Contract.

PSC-17. Bonds

All bonds required by **CITY** shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Los Angeles Administrative Code ("LAAC") Sections 11.47 *et seq.*, as amended from time to time.

PSC-18. Indemnification

Except for the active negligence or willful misconduct of **CITY**, or any of its boards, officers, agents, employees, assigns and successors in interest, **CONTRACTOR** shall defend, indemnify and hold harmless **CITY** and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including **CONTRACTOR'S** employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of an act, error, or omission by **CONTRACTOR**, Subcontractors, or their boards, officers, agents, employees, assigns, and successors in interest. The rights and remedies of **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract. This provision will survive expiration or termination of this Contract.

PSC-19. Intellectual Property Indemnification

CONTRACTOR, at its own expense, shall defend, indemnify, and hold harmless the **CITY**, and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature arising out of the infringement, actual or alleged, direct or contributory, of any intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity, and proprietary information: (1) on or in any design, medium, matter, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by **CONTRACTOR**, or its Subcontractors, in performing the work under this Contract; or (2) as a result of **CITY'S** actual or intended use of any Work Product (as defined in PSC-21) furnished by **CONTRACTOR**, or its Subcontractors, under this Contract. The rights and remedies of **CITY** provided in this section shall not be exclusive

and are in addition to any other rights and remedies provided by law or under this Contract. This provision will survive expiration or termination of this Contract.

PSC-20. Intellectual Property Warranty

CONTRACTOR represents and warrants that its performance of all obligations under this Contract does not infringe in any way, directly or contributorily, upon any third party's intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity and proprietary information.

PSC-21. Ownership and License

Unless otherwise provided for herein, all finished and unfinished works, tangible or not, created under this Contract including, without limitation, documents, materials, data, reports, manuals, specifications, artwork, drawings, sketches, blueprints, studies, memoranda, computation sheets, computer programs and databases, schematics, photographs, video and audiovisual recordings, sound recordings, marks, logos, graphic designs, notes, websites, domain names, inventions, processes, formulas, matters and combinations thereof, and all forms of intellectual property originated and prepared by **CONTRACTOR** or its Subcontractors under this Contract (each a "Work Product"; collectively "Work Products") shall be and remain the exclusive property of **CITY** for its use in any manner **CITY** deems appropriate. **CONTRACTOR** hereby assigns to **CITY** all goodwill, copyright, trademark, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared under this Contract. **CONTRACTOR** further agrees to execute any documents necessary for **CITY** to perfect, memorialize, or record **CITY'S** ownership of rights provided herein.

CONTRACTOR agrees that a monetary remedy for breach of this Contract may be inadequate, impracticable, or difficult to prove and that a breach may cause **CITY** irreparable harm. **CITY** may therefore enforce this requirement by seeking injunctive relief and specific performance, without any necessity of showing actual damage or irreparable harm. Seeking injunctive relief or specific performance does not preclude **CITY** from seeking or obtaining any other relief to which **CITY** may be entitled.

For all Work Products delivered to **CITY** that are not originated or prepared by **CONTRACTOR** or its Subcontractors under this Contract, **CONTRACTOR** shall secure a grant, at no cost to **CITY**, for a non-exclusive perpetual license to use such Work Products for any **CITY** purposes.

CONTRACTOR shall not provide or disclose any Work Product to any third party without prior written consent of **CITY**.

Any subcontract entered into by **CONTRACTOR** relating to this Contract shall include this provision to contractually bind its Subcontractors performing work under this Contract such that **CITY'S** ownership and license rights of all Work Products are preserved and protected as intended herein.

PSC-22. Data Protection

- A. **CONTRACTOR** shall protect, using the most secure means and technology that is commercially available, **CITY**-provided data or consumer-provided data acquired in the course and scope of this Contract, including but not limited to customer lists and customer credit card or consumer data, (collectively, the “City Data”). **CONTRACTOR** shall notify **CITY** in writing as soon as reasonably feasible, and in any event within twenty-four hours, of **CONTRACTOR’S** discovery or reasonable belief of any unauthorized access of City Data (a “Data Breach”), or of any incident affecting, or potentially affecting City Data related to cyber security (a “Security Incident”), including, but not limited to, denial of service attack, and system outage, instability or degradation due to computer malware or virus. **CONTRACTOR** shall begin remediation immediately. **CONTRACTOR** shall provide daily updates, or more frequently if required by **CITY**, regarding findings and actions performed by **CONTRACTOR** until the Data Breach or Security Incident has been effectively resolved to **CITY’S** satisfaction. **CONTRACTOR** shall conduct an investigation of the Data Breach or Security Incident and shall share the report of the investigation with **CITY**. At **CITY’S** sole discretion, **CITY** and its authorized agents shall have the right to lead or participate in the investigation. **CONTRACTOR** shall cooperate fully with **CITY**, its agents and law enforcement.
- B. If **CITY** is subject to liability for any Data Breach or Security Incident, then **CONTRACTOR** shall fully indemnify and hold harmless **CITY** and defend against any resulting actions.

PSC-23. Insurance

During the term of this Contract and without limiting **CONTRACTOR’S** obligation to indemnify, hold harmless and defend **CITY**, **CONTRACTOR** shall provide and maintain at its own expense a program of insurance having the coverages and limits not less than the required amounts and types as determined by the Office of the City Administrative Officer of Los Angeles, Risk Management (template Form General 146 in Exhibit 1 hereto). The insurance must: (1) conform to **CITY’S** requirements; (2) comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 1 hereto); and (3) otherwise be in a form acceptable to the Office of the City Administrative Officer, Risk Management. **CONTRACTOR** shall comply with all Insurance Contractual Requirements shown on Exhibit 1 hereto. Exhibit 1 is hereby incorporated by reference and made a part of this Contract.

PSC-24. Best Terms

Throughout the term of this Contract, **CONTRACTOR**, shall offer **CITY** the best terms, prices, and discounts that are offered to any of **CONTRACTOR’S** customers for similar goods and services provided under this Contract.

PSC-25. Warranty and Responsibility of Contractor

CONTRACTOR warrants that the work performed hereunder shall be completed in a manner consistent with professional standards practiced among those firms within **CONTRACTOR'S** profession, doing the same or similar work under the same or similar circumstances.

PSC-26. Mandatory Provisions Pertaining to Non-Discrimination in Employment

Unless otherwise exempt, this Contract is subject to the applicable non-discrimination, equal benefits, equal employment practices, and affirmative action program provisions in LAAC Section 10.8 et seq., as amended from time to time.

- A. **CONTRACTOR** shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and **CITY**. In performing this Contract, **CONTRACTOR** shall not discriminate in any of its hiring or employment practices against any employee or applicant for employment because of such person's race, color, religion, national origin, ancestry, sex, sexual orientation, gender, gender identity, age, disability, domestic partner status, marital status or medical condition.
- B. The requirements of Section 10.8.2.1 of the LAAC, the Equal Benefits Ordinance, and the provisions of Section 10.8.2.1(f) are incorporated and made a part of this Contract by reference.
- C. The provisions of Section 10.8.3 of the LAAC are incorporated and made a part of this Contract by reference and will be known as the "Equal Employment Practices" provisions of this Contract.
- D. The provisions of Section 10.8.4 of the LAAC are incorporated and made a part of this Contract by reference and will be known as the "Affirmative Action Program" provisions of this Contract.

Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-27. Child Support Assignment Orders

CONTRACTOR shall comply with the Child Support Assignment Orders Ordinance, Section 10.10 of the LAAC, as amended from time to time. Pursuant to Section 10.10(b) of the LAAC, **CONTRACTOR** shall fully comply with all applicable State and Federal employment reporting requirements. Failure of **CONTRACTOR** to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment or Notices of Assignment, or the failure of any principal owner(s) of **CONTRACTOR** to comply with any Wage and Earnings Assignment or Notices of Assignment applicable to them personally, shall constitute a default by the **CONTRACTOR** under this Contract. Failure of **CONTRACTOR** or principal owner to cure

the default within 90 days of the notice of default will subject this Contract to termination for breach. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-28. Living Wage Ordinance

CONTRACTOR shall comply with the Living Wage Ordinance, LAAC Section 10.37 *et seq.*, as amended from time to time. **CONTRACTOR** further agrees that it shall comply with federal law proscribing retaliation for union organizing. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-29. Service Contractor Worker Retention Ordinance

CONTRACTOR shall comply with the Service Contractor Worker Retention Ordinance, LAAC Section 10.36 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-30. Access and Accommodations

CONTRACTOR represents and certifies that:

- A. **CONTRACTOR** shall comply with the Americans with Disabilities Act, as amended, 42 U.S.C. Section 12101 *et seq.*, the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 701 *et seq.*, the Fair Housing Act, and its implementing regulations and any subsequent amendments, and California Government Code Section 11135;
- B. **CONTRACTOR** shall not discriminate on the basis of disability or on the basis of a person's relationship to, or association with, a person who has a disability;
- C. **CONTRACTOR** shall provide reasonable accommodation upon request to ensure equal access to **CITY**-funded programs, services and activities;
- D. Construction will be performed in accordance with the Uniform Federal Accessibility Standards (UFAS), 24 C.F.R. Part 40; and
- E. The buildings and facilities used to provide services under this Contract are in compliance with the federal and state standards for accessibility as set forth in the 2010 ADA Standards, California Title 24, Chapter 11, or other applicable federal and state law.

CONTRACTOR understands that **CITY** is relying upon these certifications and representations as a condition to funding this Contract. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-31. Contractor Responsibility Ordinance

CONTRACTOR shall comply with the Contractor Responsibility Ordinance, LAAC Section 10.40 *et seq.*, as amended from time to time.

PSC-32. Business Inclusion Program

Unless otherwise exempted prior to bid submission, **CONTRACTOR** shall comply with all aspects of the Business Inclusion Program as described in the Request for Proposal/Qualification process, throughout the duration of this Contract. **CONTRACTOR** shall utilize the Business Assistance Virtual Network (“BAVN”) at <https://www.labavn.org/>, to perform and document outreach to Minority, Women, and Other Business Enterprises. **CONTRACTOR** shall perform subcontractor outreach activities through BAVN. **CONTRACTOR** shall not change any of its designated Subcontractors or pledged specific items of work to be performed by these Subcontractors, nor shall **CONTRACTOR** reduce their level of effort, without prior written approval of **CITY**.

PSC-33. Slavery Disclosure Ordinance

CONTRACTOR shall comply with the Slavery Disclosure Ordinance, LAAC Section 10.41 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-34. First Source Hiring Ordinance

CONTRACTOR shall comply with the First Source Hiring Ordinance, LAAC Section 10.44 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-35. Local Business Preference Ordinance

CONTRACTOR shall comply with the Local Business Preference Ordinance, LAAC Section 10.47 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-36. Iran Contracting Act

In accordance with California Public Contract Code Sections 2200-2208, all contractors entering into, or renewing contracts with **CITY** for goods and services estimated at \$1,000,000 or more are required to complete, sign, and submit the "Iran Contracting Act of 2010 Compliance Affidavit."

PSC-37. Restrictions on Campaign Contributions and Fundraising in City Elections

Unless otherwise exempt, if this Contract is valued at \$100,000 or more and requires approval by an elected **CITY** office, **CONTRACTOR**, **CONTRACTOR’S** principals, and **CONTRACTOR’S** Subcontractors expected to receive at least \$100,000 for performance under the Contract, and the principals of those Subcontractors (the “Restricted Persons”)

shall comply with Charter Section 470(c)(12) and LAMC Section 49.7.35. Failure to comply entitles **CITY** to terminate this Contract and to pursue all available legal remedies. Charter Section 470(c)(12) and LAMC Section 49.7.35 limit the ability of the Restricted Persons to make campaign contributions to and engage in fundraising for certain elected **CITY** officials or candidates for elected **CITY** office for twelve months after this Contract is signed. Additionally, a **CONTRACTOR** subject to Charter Section 470(c)(12) is required to comply with disclosure requirements by submitting a completed and signed Ethics Commission Form 55 and to amend the information in that form as specified by law. Any **CONTRACTOR** subject to Charter Section 470(c)(12) shall include the following notice in any contract with any Subcontractor expected to receive at least \$100,000 for performance under this Contract:

“Notice Regarding Restrictions on Campaign Contributions and Fundraising in City Elections

You are a subcontractor on City of Los Angeles Contract #_____. Pursuant to the City of Los Angeles Charter Section 470(c)(12) and related ordinances, you and your principals are prohibited from making campaign contributions to and fundraising for certain elected City of Los Angeles (“**CITY**”) officials and candidates for elected **CITY** office for twelve months after the **CITY** contract is signed. You are required to provide the names and contact information of your principals to the **CONTRACTOR** and to amend that information within ten business days if it changes during the twelve month time period. Failure to comply may result in termination of this Contract and any other available legal remedies. Information about the restrictions may be found online at ethics.lacity.org or by calling the Los Angeles City Ethics Commission at (213) 978-1960.”

PSC-38. Contractors’ Use of Criminal History for Consideration of Employment Applications

CONTRACTOR shall comply with the City Contractors’ Use of Criminal History for Consideration of Employment Applications Ordinance, LAAC Section 10.48 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-39. Limitation of City’s Obligation to Make Payment to Contractor

Notwithstanding any other provision of this Contract, including any exhibits or attachments incorporated therein, and in order for **CITY** to comply with its governing legal requirements, **CITY** shall have no obligation to make any payments to **CONTRACTOR** unless **CITY** shall have first made an appropriation of funds equal to or in excess of its obligation to make any payments as provided in this Contract. **CONTRACTOR** agrees that any services provided by **CONTRACTOR**, purchases made by **CONTRACTOR** or expenses incurred by **CONTRACTOR** in excess of the appropriation(s) shall be free and without charge to **CITY** and **CITY** shall have no obligation to pay for the services, purchases or expenses. **CONTRACTOR** shall have no obligation to provide any services,

provide any equipment or incur any expenses in excess of the appropriated amount(s) until **CITY** appropriates additional funds for this Contract.

PSC-40. Compliance with Identity Theft Laws and Payment Card Data Security Standards

CONTRACTOR shall comply with all identity theft laws including without limitation, laws related to: (1) payment devices; (2) credit and debit card fraud; and (3) the Fair and Accurate Credit Transactions Act (“FACTA”), including its requirement relating to the content of transaction receipts provided to Customers. **CONTRACTOR** also shall comply with all requirements related to maintaining compliance with Payment Card Industry Data Security Standards (“PCI DSS”). During the performance of any service to install, program or update payment devices equipped to conduct credit or debit card transactions, including PCI DSS services, **CONTRACTOR** shall verify proper truncation of receipts in compliance with FACTA.

PSC-41. Compliance with California Public Resources Code Section 5164

California Public Resources Code Section 5164 prohibits a public agency from hiring a person for employment or as a volunteer to perform services at any park, playground, or community center used for recreational purposes in a position that has supervisory or disciplinary authority over any minor, if the person has been convicted of certain crimes as referenced in the Penal Code, and articulated in California Public Resources Code Section 5164(a)(2).

If applicable, **CONTRACTOR** shall comply with California Public Resources Code Section 5164, and shall additionally adhere to all rules and regulations that have been adopted or that may be adopted by **CITY**. **CONTRACTOR** is required to have all employees, volunteers and Subcontractors (including all employees and volunteers of any Subcontractor) of **CONTRACTOR** working on premises to pass a fingerprint and background check through the California Department of Justice at **CONTRACTOR’S** sole expense, indicating that such individuals have never been convicted of certain crimes as referenced in the Penal Code and articulated in California Public Resources Code Section 5164(a)(2), if the individual will have supervisory or disciplinary authority over any minor.

PSC-42. Possessory Interests Tax

Rights granted to **CONTRACTOR** by **CITY** may create a possessory interest. **CONTRACTOR** agrees that any possessory interest created may be subject to California Revenue and Taxation Code Section 107.6 and a property tax may be levied on that possessory interest. If applicable, **CONTRACTOR** shall pay the property tax. **CONTRACTOR** acknowledges that the notice required under California Revenue and Taxation Code Section 107.6 has been provided.

PSC-43. Confidentiality

All documents, information and materials provided to **CONTRACTOR** by **CITY** or developed by **CONTRACTOR** pursuant to this Contract (collectively “Confidential Information”) are confidential. **CONTRACTOR** shall not provide or disclose any Confidential Information or their contents or any information therein, either orally or in writing, to any person or entity, except as authorized by **CITY** or as required by law. **CONTRACTOR** shall immediately notify **CITY** of any attempt by a third party to obtain access to any Confidential Information. This provision will survive expiration or termination of this Contract.

EXHIBIT 1

INSURANCE CONTRACTUAL REQUIREMENTS

CONTACT For additional information about compliance with City Insurance and Bond requirements, contact the Office of the City Administrative Officer, Risk Management at (213) 978-RISK (7475) or go online at www.lacity.org/cao/risk. The City approved Bond Assistance Program is available for those contractors who are unable to obtain the City-required performance bonds. A City approved insurance program may be available as a low cost alternative for contractors who are unable to obtain City-required insurance.

CONTRACTUAL REQUIREMENTS

CONTRACTOR AGREES THAT:

- 1. Additional Insured/Loss Payee.** The CITY must be included as an Additional Insured in applicable liability policies to cover the CITY'S liability arising out of the acts or omissions of the named insured. The CITY is to be named as an Additional Named Insured and a Loss Payee As Its Interests May Appear in property insurance in which the CITY has an interest, e.g., as a lien holder.
- 2. Notice of Cancellation.** All required insurance will be maintained in full force for the duration of its business with the CITY. By ordinance, all required insurance must provide at least thirty (30) days' prior written notice (ten (10) days for non-payment of premium) directly to the CITY if your insurance company elects to cancel or materially reduce coverage or limits prior to the policy expiration date, for any reason except impairment of an aggregate limit due to prior claims.
- 3. Primary Coverage.** CONTRACTOR will provide coverage that is primary with respect to any insurance or self-insurance of the CITY. The CITY'S program shall be excess of this insurance and non-contributing.
- 4. Modification of Coverage.** The CITY reserves the right at any time during the term of this Contract to change the amounts and types of insurance required hereunder by giving CONTRACTOR ninety (90) days' advance written notice of such change. If such change should result in substantial additional cost to CONTRACTOR, the CITY agrees to negotiate additional compensation proportional to the increased benefit to the CITY.
- 5. Failure to Procure Insurance.** All required insurance must be submitted and approved by the Office of the City Administrative Officer, Risk Management prior to the inception of any operations by CONTRACTOR.

CONTRACTOR'S failure to procure or maintain required insurance or a self-insurance program during the entire term of this Contract shall constitute a material breach of this Contract under which the CITY may immediately suspend or terminate this Contract or, at its discretion, procure or renew such insurance to protect the CITY'S interests and pay any and all premiums in connection therewith and recover all monies so paid from CONTRACTOR.

- 6. Workers' Compensation.** By signing this Contract, CONTRACTOR hereby certifies that it is aware of the provisions of Section 3700 *et seq.*, of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake

self-insurance in accordance with the provisions of that Code, and that it will comply with such provisions at all time during the performance of the work pursuant to this Contract.

7. California Licensee. All insurance must be provided by an insurer admitted to do business in California or written through a California-licensed surplus lines broker or through an insurer otherwise acceptable to the CITY. Non-admitted coverage must contain a **Service of Suit** clause in which the underwriters agree to submit as necessary to the jurisdiction of a California court in the event of a coverage dispute. Service of process for this purpose must be allowed upon an agent in California designated by the insurer or upon the California Insurance Commissioner.

8. Aggregate Limits/Impairment. If any of the required insurance coverages contain annual aggregate limits, CONTRACTOR must give the CITY written notice of any pending claim or lawsuit which will materially diminish the aggregate within thirty (30) days of knowledge of same. You must take appropriate steps to restore the impaired aggregates or provide replacement insurance protection within thirty (30) days of knowledge of same. The CITY has the option to specify the minimum acceptable aggregate limit for each line of coverage required. No substantial reductions in scope of coverage which may affect the CITY'S protection are allowed without the CITY'S prior written consent.

9. Commencement of Work. For purposes of insurance coverage only, this Contract will be deemed to have been executed immediately upon any party hereto taking any steps that can be considered to be in furtherance of or towards performance of this Contract. The requirements in this Section supersede all other sections and provisions of this Contract, including, but not limited to, PSC-3, to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

Required Insurance and Minimum Limits

Name: Glenn Kaino DBA Kainoco Inc.

Date: 5/7/2020

Agreement/Reference: Artwork Design, Fabrication, and Installation

Evidence of coverages checked below, with the specified minimum limits, must be submitted and approved prior to occupancy/start of operations. Amounts shown are Combined Single Limits ("CSLs"). For Automobile Liability, split limits may be substituted for a CSL if the total per occurrence equals or exceeds the CSL amount.

	Limits
<input checked="" type="checkbox"/> Workers' Compensation (WC) and Employer's Liability (EL)	WC <u>Statutory</u> EL <u>1,000,000</u>
<input type="checkbox"/> Waiver of Subrogation in favor of City <input type="checkbox"/> Longshore & Harbor Workers <input type="checkbox"/> Jones Act	

<input checked="" type="checkbox"/> General Liability _____	<u>1,000,000</u>
<input type="checkbox"/> Products/Completed Operations <input type="checkbox"/> Sexual Misconduct _____ <input type="checkbox"/> Fire Legal Liability _____ <input type="checkbox"/> _____	

<input checked="" type="checkbox"/> Automobile Liability (for any and all vehicles used for this contract, other than commuting to/from work)	<u>1,000,000</u>
------------------------------------------------------------------------------------------------------------------------------------------------------	------------------

<input type="checkbox"/> Professional Liability (Errors and Omissions) _____	
Discovery Period _____	

<input type="checkbox"/> Property Insurance (to cover replacement cost of building - as determined by insurance company) _____	
<input type="checkbox"/> All Risk Coverage <input type="checkbox"/> Boiler and Machinery <input type="checkbox"/> Flood _____ <input type="checkbox"/> Builder's Risk <input type="checkbox"/> Earthquake _____ <input type="checkbox"/> _____	

<input type="checkbox"/> _____	
--------------------------------	--

<input type="checkbox"/> Surety Bonds - Performance and Payment (Labor and Materials) Bonds _____	
----------------------------------------------------------------------------------------------------------	--

<input type="checkbox"/> Crime Insurance _____	
-------------------------------------------------------	--

Other: Provided to: Becky Snodgrass, DCA

If a contractor has no employees and decides to not cover herself/himself for workers' compensation, please complete the form entitled "Request for Waiver of Workers' Compensation Insurance Requirement" located at: <http://cao.lacity.org/risk/InsuranceForms.htm>

In the absence of imposed auto liability requirements, all contractors using vehicles during the course of their contract must adhere to the financial responsibility laws of the State of California.

APPENDIX B

MODEL RELEASE:
AUDIO-VISUAL / PHOTOGRAPH PRODUCTIONS of the CITY OF LOS ANGELES
[Rev. 3]

This form is to be used for City Production ONLY.

For non-City productions, please consult City Attorney's IP Counsel (213-978-8138) for Standard City release forms signed by City employees who are filmed in non-City productions.

MODEL RELEASE
AUDIO-VISUAL/PHOTOGRAPHIC PRODUCTIONS OF CITY OF LOS ANGELES

City's Production: currently referred to as _____ ("PRODUCTION").

In consideration of being a potential model in the PRODUCTION, I, _____, hereby grant the City of Los Angeles (including its departments, officials, commissions, successors, employees, independent contractors, legal representatives, and assigns collectively, "CITY"), a perpetual, royalty-free, irrevocable and unrestricted right and license to interview me and/or to use my name, likeness, image, and voice (in any and all media, whether now known or hereafter devised, throughout the universe), in any photographs, videotapes, audio/visual footages, or other materials, irrespective of medium, that the CITY has created, or may create, of me and derivatives thereof (the "Materials"). The CITY may use the Materials in any productions including the PRODUCTION, and exploit all rights therein.

The license includes, without limitation, the right to copy, reproduce, perform, publish, distribute, adapt, or otherwise exploit the Materials in whole or in part, in any manner and medium, whether now known or hereafter developed. My image and voice may be used regardless of whether they are obscured and/or recognizable.

Further, I hereby knowingly and voluntarily release the CITY from all claims, demands and actions, now known or not, arising out of or in connection with any use or exploitation of the Materials including, without limitation, all claims for invasion of privacy, infringement of my right of publicity, defamation and any other personal and/or property rights. I also hereby knowingly and voluntarily release the CITY from all liabilities (if any) from any blurring, distortion, alteration, optical illusion/digitization, or use in composite form of my likeness, image and voice, whether intentional or otherwise. This Release shall be irrevocable and is made in light of the California Civil Code Section 1542. Further, I shall have no right to enjoin, restrain or in any way interfere with the production, promotion, distribution, performance, and/or exploitation of the Materials and the PRODUCTION; and the exercise of any rights therein by the CITY. The parties agree that this Release shall be governed by and interpreted in accordance with the laws of the State of California, and only the courts located in the State of California, County of Los Angeles, shall have exclusive jurisdiction over all disputes hereunder.

In granting the rights herein, I fully understand that I am not entitled to any editorial/creative control over or right to preview the Materials or the PRODUCTION, nor monetary compensation of any kind from the CITY, which is under no obligations to use any of the Materials in the PRODUCTION or other projects.

Prior to signing, I have read and fully understood the above authorization, release, and agreement, which I voluntarily and knowingly executed. This Release shall be binding upon me and my heirs, legal representatives, and assigns.

Name (print): _____

Address: _____

Signature: _____ Date: _____

FOR MODEL WHO IS A MINOR: I, _____, hereby certify that I am the parent / legal guardian of the above-named minor-model and consent to this agreement without reservation.

Name of Parent / Legal Guardian (print): _____

Address: _____

Signature: _____ Date: _____

Para producciones no hechas por la Ciudad, por favor póngase en contacto con la oficina del Abogado de la Ciudad, Consejero Intelectual de Propiedades al (213) 978-8138. Empleados de la Ciudad no deben de usar esta forma en producciones no relacionadas con la Ciudad. Esta forma solo puede ser modificada por el Consejero Intelectual de Propiedades de Los Angeles.

PARTICIPACIÓN AUTORIZADA

Esta forma confirma el acuerdo y participación mutua entre el abajo suscrito y DEPARTMENT OF CULTURAL AFFAIRS (Departamento/Agencia/Comisión) de la Ciudad de Los Angeles en la producción fílmica/TV/video titulado: _____ (“PRODUCCIÓN”).

1. La Ciudad promete hacer sus mejores esfuerzos para que el abajo suscrito, aparezca en la PRODUCCIÓN, sin embargo, la Ciudad tiene completa discreción editorial.
2. Estoy de acuerdo en cooperar con la Ciudad para llevar a cabo esta PRODUCCIÓN. Por lo tanto, concedo a la Ciudad i) el derecho a grabar sin limitaciones mi presencia, imagen, voz y actitud por cualquier medio, ya sea fotografía fija, película, video, cinta sonora (los resultados deben de ser considerados como las grabaciones); ii) editar las grabaciones (a discreción de la Ciudad) y iii) usar las grabaciones junto con mi nombre, voz, fotografías, actitud y biografía si es requerida en conexión con la PRODUCCIÓN y todos los usos auxiliares para poder difundir y propagar dicha PRODUCCIÓN por todos los medios a nuestro alcance para su perseveración futura.
3. Represento y garantizo que tengo derecho a conceder los derechos abajo descritos. Absuelvo a la Ciudad de toda responsabilidad en relación con cualquier reclamo que me hagan por invasión de privacidad, difamación, malversación o cualquier otro motivo causado por la distribución, transmisión y explotación de la PRODUCCIÓN o Grabación. Reconozco y estoy de acuerdo que en ningún momento puedo obtener o pedir auxilio en contra de la Ciudad, la PRODUCCIÓN o la Grabación.
4. Si lo solicitan, y dependiendo del tiempo que tenga disponible, puedo hacer apariciones públicas en eventos y ruedas de prensa programadas por la Ciudad y a expensas de ésta.
5. En ningún momento hablaré o daré información (creativa o de cualquier otra) sobre la PRODUCCIÓN sin el previo consentimiento escrito de la Ciudad. No otorgaré ninguna entrevista o autorizaré ninguna publicidad sin el previo consentimiento escrito de la Ciudad.
6. Este acuerdo debe de ser interpretado y otorgado de acuerdo con la leyes y ejecutado completamente en el Estado de California. El lugar para todas las acciones que surjan de este Acuerdo estarán en el Condado de Los Angeles. No puedo terminar o revocar este contrato después de haber aparecido en las Grabaciones o en la PRODUCCIÓN.
7. Este acuerdo, asignado por la Ciudad, constituye un contrato obligatorio entre los participantes. Por lo tanto, anula, si es que lo hay, cualquier otro tipo de comunicación previa, ya sea oral o escrita. Este contrato no puede ser cambiado o modificado sin el consentimiento escrito de los participantes.

Consentimiento y aceptación

Imprima el nombre: _____

Dirección: _____

Firma: _____ Fecha: _____

PARA EL MODELO QUE ES MENOR DE EDAD: Yo, _____, por la presente certifico que soy el padre / madre / tutor legal del menor de edad arriba mencionado modelo y el consentimiento a este acuerdo sin reservation.

Parent o tutor para imprima el nombre: _____

Dirección: _____

Firma: _____ Fecha: _____



City Ethics Commission
 200 N Spring Street
 City Hall — 24th Floor
 Los Angeles, CA 90012
 Mail Stop 129
 (213) 978-1960

Bidder Certification CEC Form 50

This form must be submitted to the awarding authority with your bid or proposal for the contract noted below. Please write legibly.

Original filing Amended filing (original signed on 03/09/2016; last amendment signed on —)

Bid/Contract/BAVN Number: 80460	Awarding Authority (Department): Cultural Affairs
-------------------------------------------	-----------------------------------------------------------------

Name of Bidder: Glenn Kaino DBA Kainoco Inc	Phone: 323 791-1461
-------------------------------------------------------	-------------------------------

Address: 2039 N. Hobart Blvd.	Los Angeles	CA	90027
-----------------------------------------	-------------	----	-------

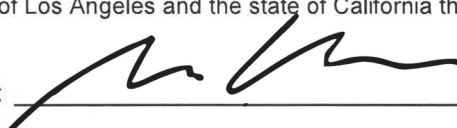
Email: <glenn@kainoco.com>

CERTIFICATION

I certify the following on my own behalf or on behalf of the entity named above, which I am authorized to represent:

- A. I am a person or entity that is applying for a contract with the City of Los Angeles.
- B. The contract for which I am applying is an agreement for one of the following:
 - 1. The performance of work or service to the City or the public;
 - 2. The provision of goods, equipment, materials, or supplies;
 - 3. Receipt of a grant of City financial assistance for economic development or job growth, as further described in Los Angeles Administrative Code § 10.40.1(h); or
 - 4. A public lease or license of City property where both of the following apply, as further described in Los Angeles Administrative Code § 10.37.1(l):
 - a. I provide services on the City property through employees, sublessees, sublicensees, contractors, or subcontractors, and those services:
 - i. Are provided on premises that are visited frequently by substantial numbers of the public; or
 - ii. Could be provided by City employees if the awarding authority had the resources; or
 - iii. Further the proprietary interests of the City, as determined in writing by the awarding authority.
 - b. I am not eligible for exemption from the City's living wage ordinance, as eligibility is described in Los Angeles Administrative Code § 10.37.1(l)(b).
- C. The value and duration of the contract for which I am applying is one of the following:
 - 1. For goods or services contracts—a value of more than \$25,000 and a term of at least three months;
 - 2. For financial assistance contracts—a value of at least \$100,000 and a term of any duration; or
 - 3. For construction contracts, public leases, or licenses—any value and duration.
- D. I acknowledge and agree to comply with the disclosure requirements and prohibitions established in the Los Angeles Municipal Lobbying Ordinance if I qualify as a lobbying entity under Los Angeles Municipal Code § 48.02.

I certify under penalty of perjury under the laws of the City of Los Angeles and the state of California that the information in this form is true and complete.

Date: 4/20/2020 Signature: 

Name: Glenn Kaino

Title: Principal



Ethics Commission
 200 N Spring Street
 City Hall — 24th Floor
 Los Angeles, CA 90012
 (213) 978-1960
 ethics.lacity.org

Prohibited Contributors (Bidders) Form 55

This form must be completed in its entirety and submitted with your bid or proposal to the City department that is awarding the contract. Failure to submit a completed form may affect your bid or proposal. If you have questions about this form, please contact the Ethics Commission.

Original filing Amended filing (original signed on 03/09/2016; last amendment signed on —)

Reference Number (bid or contract number, if applicable): 80460	Date Bid Submitted: 12/15/2015
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Description of Contract (title of RFP and services to be provided):
Sixth Street Viaduct Repl & PARC

City Department Awarding the Contract:
Cultural Affairs

BIDDER INFORMATION

Name: Glenn Kaino DBA Kainoco Inc

Address: 2039 N. Hobart Blvd. Los Angeles CA 90027

Email: <glenn@kainoco.com> Phone: 323 791-1461

SCHEDULE SUMMARY

Please complete all three of the following:

1. **SCHEDULE A — Bidder's Principals (check one)**

The bidder is the individual listed above and has no other principals (Schedule A is not required).

The bidder is the individual listed above or an entity and has other principals, who are listed on the attached Schedule A pages.

2. **SCHEDULE B — Subcontractors and Their Principals (check one)**

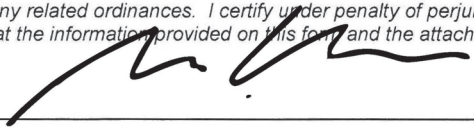
The bidder has no subcontractors on this bid or proposal whose subcontracts are worth \$100,000 or more (Schedule B is not required).

The bidder has one or more subcontractors on this bid or proposal with subcontracts worth \$100,000 or more, and those subcontractors and their principals are listed on the attached Schedule B pages.

3. **TOTAL NUMBER OF PAGES SUBMITTED (including this cover page):** 1

BIDDER'S CERTIFICATION

I certify that I understand, will comply with, and have notified my principals and subcontractors of the requirements and restrictions in Los Angeles City Charter section 470(c)(12) and any related ordinances. I certify under penalty of perjury under the laws of the City of Los Angeles and the state of California that the information provided on this form and the attached pages is true and complete to the best of my knowledge and belief.

Date: 4/20/2020 Signature: 

Name: Glenn Kaino

Title: Principal

CITY OF LOS ANGELES
PLEDGE OF COMPLIANCE WITH CONTRACTOR RESPONSIBILITY ORDINANCE

Los Angeles Administrative Code (LAAC) Section 10.40 et seq. (Contractor Responsibility Ordinance) provides that, unless specifically exempt, City contractors working under service contracts of at least \$25,000 and three months, contracts for services and for purchasing goods and products that involve a value in excess of twenty-five thousand dollars (\$25,000) and a term in excess of three months are covered by this Article; and construction contracts of any amount; public lessees; public licensees; and certain recipients of City financial assistance or City grant funds, shall comply with all applicable provisions of the Ordinance. Upon award of a City contract, public lease, public license, financial assistance or grant, the contractor, public lessee, public licensee, City financial assistance recipient, or grant recipient, and any its subcontractor(s), shall submit this Pledge of Compliance to the awarding authority.

The contractor agrees to comply with the Contractor Responsibility Ordinance and the following provisions:

- (a) To comply with all federal, state, and local laws in the performance of the contract, including but not limited to laws regarding health and safety, labor and employment, wage and hours, and licensing laws, which affect employees.
- (b) To notify the awarding authority within 30 calendar days after receiving notification that any governmental agency has initiated an investigation which may result in a finding that the contractor did not comply with any federal, state, or local law in the performance of the contract, including but not limited to laws regarding health and safety, labor and employment, wage and hours, and licensing laws, which affect employees.
- (c) To notify the awarding authority within 30 calendar days of all findings by a governmental agency or court of competent jurisdiction that the contractor has violated any federal, state, or local law in the performance of the contract, including but not limited to laws regarding health and safety, labor and employment, wage and hours, and licensing laws which affect employees.
- (d) If applicable, to provide the awarding authority, within 30 calendar days, updated responses to the Responsibility Questionnaire if any change occurs which would change any response contained within the Responsibility Questionnaire and such change would affect the contractor's fitness and ability to continue the contract.
- (e) To ensure that subcontractors working on the City agreement (including contractors or subcontractors of a public lessee, licensee, sublessee, or sublicensee that perform or assist in performing services on the leased or licensed premises) shall comply with all federal, state, and local laws in the performance of the contract, including but not limited to laws regarding health and safety, labor and employment, wage and hours, and licensing laws, which affect employees.
- (f) To ensure that subcontractors working on the City agreement (including contractors or subcontractors of a public lessee, licensee, sublessee, sublicensee that perform or assist in performing services on the leased or licensed premises) submit a Pledge of Compliance.
- (g) To ensure that subcontractors working on the City agreement (including contractors or subcontractors of a public lessee, licensee, sublessee, or sublicensee that perform or assist in performing services on the leased or licensed premises) shall comply with paragraphs (b) and (c).

Failure to complete and submit this form to the Awarding Authority may result in withholding of payments by the City Controller, or contract termination.

Glenn Kaino DBA Kainoco Inc 2039 N. Hobart Blvd. Los Angeles CA 90027
Company Name, Address and Phone Number

 4/20/2020
Signature of Officer or Authorized Representative Date

Glenn Kaino Principal
Print Name and Title of Officer or Authorized Representative

Cultural Affairs C-128192
Awarding City Department Contract Number



Paul Pescador <paul.pescador@lacity.org>

CRO Submission-Glenn Kaino dba Kainoco Inc

CRO Help <CRO_help@lacity.org>
To: Paul Pescador <paul.pescador@lacity.org>

Fri, May 8, 2020 at 3:13 PM

Hello Paul,

Thank you. We are in receipt of the CROQ from Glenn Kaino dba Kainoco Inc.

Best,
Edna

[Quoted text hidden]

LWO - DEPARTMENTAL GUIDANCE FORM

REQUIRED DOCUMENTATION FOR ALL CONTRACTS

This form must be completed by the AWARDING DEPARTMENT and submitted to the Office of Contract Compliance (OCC) AFTER THE CONTRACT HAS BEEN EXECUTED. INCOMPLETE SUBMISSIONS WILL BE RETURNED. Please refer to the endnotes for more details.

This form is intended only as an initial determination by the Awarding Department on the applicability of the Living Wage Ordinance (LWO) to a contract. If a final LWO determination is needed, please contact the OCC.

AWARDING DEPARTMENT INFO		
Dept: <u>Cultural Affairs</u>	Contract Administrator: <u>Paul Pescador</u>	Phone #: <u>213 202-5544</u>

CONTRACTOR INFO		
Contractor Name: <u>Glenn Kaino DBA Kainoco Inc</u>		
Contractor Address: <u>2039 N. Hobart Blvd.</u>		
City: <u>Los Angeles</u>	State: <u>CA</u>	Zip: <u>90027</u>

CONTRACT INFO		
Contract Name: <u>Sixth Street Viaduct Repl & PARC</u>	Contract #: <u>C-128192</u>	
Purpose: <u>Design, fabrication, and installation of an original, site-specific, permanent public artwork.</u>		
Contract Amount: <u>\$1,353,000.</u>	Start Date: <u>12/15/2015</u>	End Date: <u>12/14/2025</u>
Location of Service: <u>various locations / TBD / unspecified</u>		

SECTION I: DETERMINING APPLICABILITY TO THE LWO

<p>1. Check off ONE box that best describes the contract.</p> <p><input type="checkbox"/> New Contract</p> <p><input checked="" type="checkbox"/> Contract Amendment # <u>C-128192</u></p>	<p style="text-align: center;"><u>INSTRUCTIONS</u></p> <p>If you checked off the New Contract box, SKIP TO Question 3.</p> <p>If you checked off the Contract Amendment box, CONTINUE TO Question 2a.</p>
<p>2a. Was the original contract subject to the LWO? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>2b. Was the original contract approved for an exemption? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>If you checked off YES to 2a OR 2b, THIS FORM IS NOW COMPLETE - PLEASE SUBMIT PAGE 1 ONLY TO THE OCC.</p> <p>If you checked off NO to 2a AND 2b, CONTINUE TO Question 3.</p>
<p>3. Check off any box(es) from the list that describes the contract.</p> <p style="text-align: center;">TYPE A</p> <p><input type="checkbox"/> Service contract that is less than 3 months <u>OR</u> less than \$25,000.</p> <p><input type="checkbox"/> With another governmental entity.</p> <p><input type="checkbox"/> Purchase or rental of goods, equipment, property.</p> <p><input type="checkbox"/> With a utility company for work pursuant to an order of the Public Utilities Commission.</p> <p>Financial assistance is below <u>both</u> the LWO CFAR thresholds:</p> <p><input type="checkbox"/> (a) Financial assistance must be less than \$1 Million in a 12-month period <u>AND</u> (b) is less than \$100,000 if on a continuing basis.</p>	<p>If you checked off one of the boxes under TYPE A, your contract is NOT SUBJECT to the LWO. THIS FORM IS NOW COMPLETE - PLEASE SUBMIT PAGE 1 ONLY TO THE OCC.</p>
<p style="text-align: center;">TYPE B</p> <p><input type="checkbox"/> Service contract that is at least 3 months AND \$25,000 or more.</p>	<p>If you checked off the box under TYPE B, your contract MAY OR MAY NOT BE SUBJECT to the LWO. CONTINUE TO Question 4a.</p>

EBO/FSHO COMPLIANCE

City of Los Angeles
Department of Public Works
Bureau of Contract Administration
Office of Contract Compliance
1149 S. Broadway, Suite 300, Los Angeles, CA 90015
Phone: (213) 847-2625 E-mail: bca.eeoe@lacity.org

EQUAL BENEFITS ORDINANCE COMPLIANCE AFFIDAVIT

Prime contractors must certify compliance with Los Angeles Administrative Code (LACC) Section 10.8.2.1 et seq. prior to the execution of a City agreement subject to the Equal Benefits Ordinance (EBO).

SECTION 1. CONTACT INFORMATION

BAVN Company Id: 80460 EIN/TIN: 2099987
Company Name: Kainoco Inc
Company Address: 2039 N Hobart Blvd
City: Los Angeles State: CA Zip: 90027
Contact Person: Glenn Kaino Phone: 310-963-5240 E-mail: glenn@kainoco.com
Approximate Number of Employees in the United States: 12
Approximate Number of Employees in the City of Los Angeles: 12

SECTION 2. EBO REQUIREMENTS

The EBO requires City Contractors who provide benefits to employees with spouses to provide the same benefits to employees with domestic partners. Domestic Partner means any two adults, of the same or different sex, who have registered as domestic partners with a governmental entity pursuant to state or local law authorizing this registration, or with an internal registry maintained by the employer of at least one of the domestic partners.

Unless otherwise exempt, the contractor is subject to and shall comply with the EBO as follows:

- A. The Contractor's operations located within the City limits, regardless of whether there are employees at those locations performing work on the City Contract; and
- B. The Contractor's operations located outside of the City limits if the property is owned by the City or the City has a right to occupy the property, and if the contractor's presence at or on the property is connected to a Contract with the City and
- C. The Contractor's employees located elsewhere in the United States, but outside of the City Limits, if those employees are performing work on the City Contract.

A Contractor must post a copy of the following statement in conspicuous places at its place of business available to employees and applicants for employment:

"During the performance of a Contract with the City of Los Angeles, the Contractor will provide equal benefits to its employees with spouses and its employees with domestic partners."

SECTION 3. COMPLIANCE OPTIONS

I have read and understand the provisions of the Equal Benefits Ordinance and have determined that this company will comply as indicated below:

- I have no employees.
- I provide no benefits.
- I provide benefits to employees only. Employees are prohibited from enrolling their spouse or domestic partner.
- I provide equal benefits as required by the City of Los Angeles EBO.
- I provide employees with a "Cash Equivalent." Note: The "Cash Equivalent" is the amount of money equivalent to what your company pays for spousal benefits that are unavailable for domestic partners, or vice versa.
- All or some employees are covered by a collective bargaining agreement (CBA) or union trust fund. Consequently, I will provide Equal Benefits to all non-union represented employees, subject to the EBO, and will propose to the affected unions that they incorporate the requirements of the EBO into their CBA upon amendment, extension, or other modification of the CBA.
- Health benefits currently provided do not comply with the EBO. However, I will make the necessary changes to provide Equal Benefits upon my next Open Enrollment period which begins on (Date)

- Our current company policies, i.e., family leave, bereavement leave, etc., do not comply with the provisions of the EBO. However, I will make the necessary modifications within three (3) months from the date of this affidavit.

FIRST SOURCE HIRING ORDINANCE COMPLIANCE AFFIDAVIT

Contractors (including loan or grant recipients) participating on a City contract that is subject to the First Source Hiring Ordinance (FSHO) are required to certify their compliance prior to contract execution.

As part of their obligations under the FSHO, Contractors must provide the Awarding Department a list of anticipated employment opportunities that they and their subcontractors expect to fill in order to perform the services under the contract. The FSHO-1 form (available at <http://bca.lacity.org>) should be utilized to inform the Awarding Authority of any such opportunities. If no opportunities are anticipated, contractors do not need to submit the FSHO-1 form prior to contract award, but must report any subsequent employment opportunities on the FSHO-3 form (available at <http://bca.lacity.org>) as described below.

During the term of the contract, the contractor and their subcontractors shall:

1. At least seven business days prior to making an announcement of a specific employment opportunity, provide notification of that employment opportunity by submitting the FSHO-3 form to the Economic and Workforce Development Department;
2. Interview qualified individuals referred by the City's referral resources; and
3. Prior to filling any employment opportunity, inform the Office of Contract Compliance of the names of the referral resources used, the names of the individuals referred, and the names of the referred individuals who were interviewed. If the referred individuals were not hired, the contractor should also provide the reasons they were not hired.

DECLARATION UNDER PENALTY OF PERJURY

I understand that I am required to permit the City of Los Angeles access to and upon request, must provide certified copies of all company records pertaining to benefits, policies and practices for the purpose of investigation or to ascertain compliance. Furthermore, I understand that failure to comply may be deemed a material breach of any City contract by the Awarding Authority. The Awarding Authority may cancel, terminate or suspend in whole or in part, the contract; monies due or to become due under a contract may be retained by the City until compliance is achieved. The City may also pursue any and all other remedies at law or in equity for any breach. The City may use the failure to comply as evidence against the Contractor in actions taken pursuant to the provisions of the LAAC Section 10.40, et seq., Contractor Responsibility Ordinance.

TERMS OF ACCEPTANCE AND SIGNATURE:

I, Glenn Kaino, the requestor for this "EBO/FSHO Affidavit", warrant the truthfulness of the information provided in the document.

Electronic Signature*:

Glenn

First name

Kaino

Last name

I understand that checking this box constitutes a legal signature confirming that I acknowledge and agree to the above Terms of Acceptance.

Execution of document by E-signature. By clicking on the check box it indicates an electronic signature. This is considered the legal equivalent of a manual or "wet" signature. Once signed electronically, this document is considered original and legally binding.

LWO – SUBCONTRACTOR DECLARATION OF COMPLIANCE FORM

REQUIRED DOCUMENTATION FOR ALL SUBCONTRACTS SUBJECT TO LWO

This form must be signed within 90 DAYS of the execution of the subcontract and **RETAINED by the **PRIME CONTRACTOR**.**

TO BE FILLED OUT BY THE PRIME CONTRACTOR:

1. Company Name: Glenn Kaino DBA Kainoco Inc Phone #: 323 791-1461
 2. Company Address: 2039 N. Hobart Blvd., LA, CA 90027
 3. Awarding Department: Cultural Affairs
 4. Project Name: Sixth Street Viaduct Repl & PARC

IF A SUBCONTRACTOR FAILS TO COMPLETE AND SUBMIT THIS FORM TO PRIME CONTRACTOR ON THE CITY CONTRACT, THE PRIME CONTRACTOR MAY BE DEEMED TO BE IN VIOLATION OF THE LIVING WAGE ORDINANCE (LWO) FOR FAILING TO ENSURE ITS SUBCONTRACTOR'S COMPLIANCE WITH THE ORDINANCE. THIS MAY RESULT IN WITHHOLDING OF PAYMENTS DUE TO THE PRIME CONTRACTOR, OR TERMINATION OF THE PRIME CONTRACTOR'S AGREEMENT WITH THE CITY.

THE PRIME CONTRACTOR MUST INFORM THEIR SUBCONTRACTORS OF THE FOLLOWING:

THE LIVING WAGE ORDINANCE REQUIRES:

That a subcontractor (including a sublessee, a sublicensee, or a service contractor to a City financial assistance recipient) that works on or under the authority of an agreement subject to the LWO **must comply with all applicable provisions of the Ordinance unless specifically approved for an exemption.**

THE LIVING WAGE ORDINANCE REQUIRES THAT SUBJECT EMPLOYERS PROVIDE TO EMPLOYEES:

- As of July 1, 2020, a wage of at least **\$15.00 per hour with health benefits** of \$1.25 per hour, or **\$16.25 per hour without health benefits** (to be adjusted annually on July 1);
- At least **96 compensated hours off per year** for sick leave, vacation or personal necessity at the employee's request (pro-rated for part-time employees);
- At least **80 additional hours off per year of uncompensated time off** for personal or immediate family illness (pro-rated for part-time employees). Refer to the LWO Rules and Regulations, **available on the Bureau of Contract Administration website at <https://bca.lacity.org/equal-employment-opportunity-enforcement>**, for details regarding the wage and benefit requirements of the Ordinance; and
- Information of their possible **right to the federal Earned Income Tax Credit (EITC)** and make available the forms required to secure advance EITC payments from the employer.

THE LIVING WAGE ORDINANCE ALSO REQUIRES EMPLOYERS:

- To permit access to work sites for authorized City representatives to review the operation, payroll and related documents, and to provide certified copies of the relevant records upon request by the City.
- **Not to retaliate** against any employee claiming non-compliance with the provisions of these Ordinances and to **comply with federal law** prohibiting retaliation for union organizing.

TO BE FILLED OUT BY THE SUBCONTRACTOR:

1. Company Name: _____ Company Phone Number: _____
 2. Company Address: _____
 3. Type of Service Provided by Subcontractor to Prime: _____
 4. Amount of Subcontract: _____ Subcontract Start Date: ___/___/___ End Date: ___/___/___

By signing this Declaration of Compliance, the subcontractor certifies that it will comply with all applicable provisions of the LWO, and its implementing Rules and Regulations, including any amendments or revisions to the Ordinances and Regulations.

 Print Name of Person Completing this Form

 Signature of Person Completing this Form

 Title

 Phone #

 Date

LWO – EMPLOYEE INFORMATION FORM

REQUIRED DOCUMENTATION FOR ALL CONTRACTS SUBJECT TO LWO

This form must be submitted to the AWARDING DEPARTMENT within 30 DAYS of contract execution. INCOMPLETE SUBMISSIONS WILL BE RETURNED.

THE LIVING WAGE ORDINANCE (LWO) REQUIRES THAT SUBJECT EMPLOYERS PROVIDE TO EMPLOYEES:

- As of October 15, 2018, a wage of at least \$13.25 per hour with an additional \$1.25/hr for employees without health benefits, or \$13.25 per hour for employees with health benefits (to be adjusted annually on July 1);
- At least 96 compensated hours off per year for sick leave, vacation or personal necessity at the employee's request (pro-rated for part-time employees); and
- At least 80 additional hours off per year of uncompensated time off for personal or immediate family illness (pro-rated for part-time employees). Refer to the LWO Rules and Regulations, available on the Bureau of Contract Administration website at <http://bca.lacity.org/living-wages-ordinance-lwo>, for details regarding the wage and benefit requirements of the Ordinance; and
- Information of their possible right to the federal Earned Income Tax Credit (EITC) and make available the forms required to secure advance EITC payments from the employer.

THE LIVING WAGE ORDINANCE (LWO) ALSO REQUIRES EMPLOYERS:

- Not to retaliate against any employee claiming non-compliance with the provisions of this Ordinance and to comply with federal law prohibiting retaliation for union organizing.

TO BE FILLED OUT BY THE CONTRACTOR:


1. Company Name: Glenn Kaino DBA Kainoco Inc Email Address: <glenn@kainoco.com>
2. STATE the number of employees working ON THIS CITY CONTRACT: 0
3. **ATTACH** a copy of your company's 1st PAYROLL under THIS CITY CONTRACT. n/a
4. Do you provide health benefits (such as medical, dental, vision, mental health, and disability insurance) to your employees? Yes No
n/a
- If YES, provide the employer's monthly contribution amount(s) toward the health benefits premium(s) for each employee working on THIS CITY CONTRACT.

FAILURE TO COMPLY WITH THESE REQUIREMENTS WILL RESULT IN WITHHOLDING OF PAYMENTS BY THE CITY CONTROLLER, OR A RECOMMENDATION TO THE AWARDING AUTHORITY FOR CONTRACT TERMINATION. ALL INFORMATION SUBMITTED IS SUBJECT TO VERIFICATION, AND FALSE INFORMATION MAY RESULT IN CONTRACT TERMINATION.

I understand that the employee information provided herein will be used by the City of Los Angeles, Office of Contract Compliance for the purpose of monitoring the Living Wage Ordinance.

Glenn Kaino

Print Name of Person Completing this Form


Signature of Person Completing this Form

Principal

Title

323 791-1461

Phone #

4/20/2020

Date

AWARDING DEPARTMENT USE ONLY:

Dept: Cultural Affairs Contact: Paul Pescador Phone #: 213 202-5544 Contract #: C-128192

LWO – SUBCONTRACTOR INFORMATION FORM

REQUIRED DOCUMENTATION FOR ALL CONTRACTS SUBJECT TO LWO

This form must be submitted to the AWARDING DEPARTMENT within 30 DAYS of contract execution. INCOMPLETE SUBMISSIONS WILL BE RETURNED.

SECTION I: CONTRACTOR INFORMATION

- 1. Company Name: Glenn Kaino DBA Kainoco Inc Contact Person: Glenn Kaino Phone #: 323 791-1461
 - 2. Do you have subcontractors working on this City contract? Yes No
- If YES, a) **STATE** the number of your subcontractors ON THIS CITY CONTRACT: n/a
 b) Complete Section II for EACH subcontractor, continue to Section III & IV (if applicable), AND SIGN Section V.
 If NO, This form is now complete – SIGN THE BOTTOM OF PAGE 2 AND SUBMIT TO THE AWARDING DEPARTMENT.

SECTION II: SUBCONTRACTOR INFORMATION

- 1. Subcontractor Name: _____
- 2. Contact Person: _____ Phone #: _____
- 3. Address: _____
- 4. Purpose of Subcontract: _____
- 5. Amount of Subcontract: \$ _____ Term: Start Date ____/____/____ End Date ____/____/____
- 6. Is this subcontractor exempted from or not subject to the LWO? Yes No
 If Yes, state reason below. And see Section III for the required document(s):

- 1. Subcontractor Name: _____
- 2. Contact Person: _____ Phone #: _____
- 3. Address: _____
- 4. Purpose of Subcontract: _____
- 5. Amount of Subcontract: \$ _____ Term: Start Date ____/____/____ End Date ____/____/____
- 6. Is this subcontractor exempted from or not subject to the LWO? Yes No
 If Yes, state reason below. And see Section III for the required document(s):

- 1. Subcontractor Name: _____
- 2. Contact Person: _____ Phone #: _____
- 3. Address: _____
- 4. Purpose of Subcontract: _____
- 5. Amount of Subcontract: \$ _____ Term: Start Date ____/____/____ End Date ____/____/____
- 6. Is this subcontractor exempted from or not subject to the LWO? Yes No
 If Yes, state reason below. And see Section III for the required document(s):

SECTION II: SUBCONTRACTOR INFORMATION (continued)

1. Subcontractor Name: _____

2. Contact Person: _____ Phone #: _____

3. Address: _____

4. Purpose of Subcontract: _____

5. Amount of Subcontract: \$ _____ Term: Start Date ____/____/____ End Date ____/____/____

6. Is this subcontractor exempted from or not subject to the LWO? Yes No
If Yes, state reason below. And see Section III for the required document(s):

1. Subcontractor Name: _____

2. Contact Person: _____ Phone #: _____

3. Address: _____

4. Purpose of Subcontract: _____

5. Amount of Subcontract: \$ _____ Term: Start Date ____/____/____ End Date ____/____/____

6. Is this subcontractor exempted from or not subject to the LWO? Yes No
If Yes, state reason below. And see Section III for the required document(s):

SECTION III: EXEMPTIONS or SUBCONTRACTS NOT SUBJECT TO THE LWO

EXEMPTION Or NON-COVERAGES	SUPPORTING DOCUMENTATION REQUIRED
501(c)(3) non-profit organization ¹	LW-28 - 501(c)(3) Non-Profit Exemption Form http://bca.lacity.org/index.cfm?nxt=ee&nxt_body=div_occ_lwo_forms.cfm
Collective bargaining agreement w/supersession language ²	LW-10 - OCC Exemption Form http://bca.lacity.org/index.cfm?nxt=ee&nxt_body=div_occ_lwo_forms.cfm
Small Business ³	LW-26 - Small Business Exemption Form (English & Spanish) http://bca.lacity.org/index.cfm?nxt=ee&nxt_body=div_occ_lwo_forms.cfm
Governmental Entity ⁴ or Utilities Companies ⁵	NONE REQUIRED.
Construction contract ⁶	NONE REQUIRED.

SECTION IV: SUBCONTRACTS SUBJECT TO THE LWO (NOT ELIGIBLE FOR EXEMPTIONS)

Please have EACH of your Subcontractors that ARE SUBJECT to the LWO fill out the three forms below. Submit LW-6 and LW-18 ONLY to the Awarding Department (and supporting documentation, where applicable) and RETAIN LW-5 in your office.

1) Employee Information Form	LW-6 - http://bca.lacity.org/index.cfm?nxt=ee&nxt_body=div_occ_lwo_forms.cfm
2) Subcontractor Information Form	LW-18 - http://bca.lacity.org/index.cfm?nxt=ee&nxt_body=div_occ_lwo_forms.cfm
3) Subcontractor Declaration of Compliance Form (retain)	LW-5 - http://bca.lacity.org/index.cfm?nxt=ee&nxt_body=div_occ_lwo_forms.cfm

SECTION V: SIGNATURE

I understand that the Subcontractor Information provided herein is confidential and will be used by the City of Los Angeles' Office of Contract Compliance for the purpose of monitoring the Living Wage Ordinance.

Glenn Kaino
Print Name of Person Completing This Form

Principal
Title


Signature of Person Completing This Form

323 791-1461
Phone #

4/20/2020
Date

AWARDING DEPARTMENT USE ONLY

Dept: **Cultural Affairs** Dept Contact: **Paul Pescador** Contact Phone: **213 202-5544** Contract #: **C-128192**

- ¹ **Non-Profit 501(c)(3) Organizations:** A corporation claiming exemption under Section 10.37.15(b) of the LWO as a corporation organized under Section 501(c)(3) of the United States Internal Revenue Code must provide the following additional documents in support of the application for exemption:
- (1) A copy of the most recent IRS letter indicating that the Employer has been recognized as a non-profit corporation organized under section 501(c)(3) of the United States Internal Revenue Code.
 - (2) The LW-28 501(c)(3) Non-Profit Exemption Application referred to in the LWO Rules and Regulations Appendix A must include the salary certification information. The salary certification must list the salary of the corporation's chief executive officer (CEO), computed on an hourly basis, and the hourly wage rate of the lowest paid worker in the corporation. The salary of the CEO, when computed on an hourly basis, must be less than 8 times what the lowest paid worker is paid on an hourly basis. For purposes of this exemption, the "chief executive officer (CEO)" means the CEO of the 501(c)(3) corporation that entered into the agreement or the highest paid person employed by the corporation if the CEO is not the highest paid employee. The "lowest paid worker" refers to the lowest paid worker employed by the 501(c)(3) corporation that entered into the Agreement with the City, regardless of whether the person works on the City Agreement.
- ² **Exemption by Collective Bargaining Agreement – LAAC 10.37.12:** An Employer subject to provisions of the LWO may, by collective bargaining agreement (CBA), provide that the CBA, during its term, shall supersede the requirements of the LWO for those Employees covered by the CBA. The provisions of the LWO should not be interpreted to require an employer to reduce the wages and benefits required by the CBA. All parties to the CBA must specifically waive in full or in part the benefits required by the LWO. An Employer applying for this exemption shall submit a copy of the CBA. If the CBA does not specifically indicate that the LWO has been superseded, the Employer shall submit written confirmation from the union representing the Employees working on the Agreement that the union and the Employer have agreed to let the CBA supersede the LWO.
- (a) If the final CBA signed by the Employer and the union supersedes the LWO, in full or in part, the Employer shall be considered to be exempt from the LWO's specified provisions for the time period covered by the effective dates of the superseding CBA. The Employer remains subject to all applicable provisions of the LWO for the time period not covered by the superseding CBA. If the Employer has not complied with the LWO requirements during the time period not covered by the superseding CBA, the Employer shall be required to make retroactive corrections for any period of violation, which may include making retroactive payments to affected employees for the relevant periods of violation.
 - (b) If the final CBA signed by the Employer and the union does not supersede the LWO, the Employer shall be required to comply with all applicable LWO requirements, including the wage and benefits provisions. Compliance shall also be required retroactively to the date that the Employer first became subject to the LWO. If necessary, the Employer shall provide retroactive payments to affected Employees for any time period during which the Employer did not comply with the LWO.
- ³ **Small Business Exemptions for Public Lessees and Licensees – LAAC 10.37.15(a):** A public lessee or licensee claiming exemption from the LWO under section 10.37.15(a) shall submit the application for "Small Business Exemption" referred to in the LWO Rules and Regulations Appendix A, along with supporting documentation to verify that it meets the requirement that the lessee or licensee employs no more than seven (7) people on and off City property.
- (a) For purposes of this exemption, a lessee or licensee shall be deemed to employ a person if the person works for a company or entity that is owned or controlled by the lessee or licensee, regardless of where the company or entity is located; or if the person works for a company or entity that owns or controls the lessee or licensee, regardless of where the for a company or entity is located. Whether the lessee or licensee meets the seven (7) person limit shall be determined using the total number of people employed by all companies or businesses, which the lessee or licensee owns or controls, or which own or control the lessee or licensee. For purposes of this example, "control" means that one company owns a controlling interest in another company.
 - (b) If a business operated by the lessee or licensee is part of a chain of businesses, the total number of people includes all everyone employed by the entire chain of businesses unless the business operated by the lessee or licensee is an independently owned and operated franchise.
 - (c) A public lessee or licensee shall be deemed to employ no more than seven (7) people if its entire workforce (inclusive of the people falling within the guidelines stated in subsections (a) and (b) above) worked an average of no more than 1,214 hours per month for at least three-fourths of the of the previous calendar year.
- ⁴ **Governmental Entities – LAAC 10.37.14(b):** Agreements with governmental entities are not subject to the requirements of the LWO. If an Agreement is not subject to the LWO because the Employer is a governmental entity, Subcontractors performing work for the governmental entity on the Agreement are also not subject to the LWO.
- ⁵ **Utilities Companies – LAAC Section 10.37.14(c):** Contract for work done directly by a utility company pursuant to an order of the Public Utilities Commission.
- ⁶ **Construction contracts – LAAC Section 10.37.14(a):** Construction contracts are not subject to the LWO unless 1) there are employees not covered by prevailing wage or 2) if the prevailing wage is less than the required rate in 10.37.2.

LWO Non-Coverage Determination Application

OCC DETERMINATION REQUIRED

This application for non-coverage must be submitted by the Contractor. INCOMPLETE SUBMISSION WILL BE RETURNED.

Los Angeles Administrative Code 10.37, the Living Wage Ordinance (LWO), presumes all City Contractors are subject to the LWO unless this non-coverage determination application is approved.

SECTION I: CONTRACTOR INFORMATION

1. Company Name: Glenn Kaino DBA Kainoco Inc

2. Address: 2039 N. Hobart Blvd. Los Angeles CA 90027

3. Contact Person: Glenn Kaino Phone #: 323 791-1461

4. Are you a Subcontractor? Yes No
If YES, state the name of the Prime Contractor: N/A

SECTION II: CONTRACT INFORMATION

1. Contract Amount: \$1,353,000. Start Date: 12/15/2015 End Date: 12/14/2025

2. Purpose of the Contract: Sixth Street Viaduct Repl & PARC

3. Type of Service Provided: Design, fabrication, and installation of an original, site-specific, permanent public artwork.

4. Location of Service: TBD/offsite.

5. Awarding Dept: Cultural Affairs Contact Person: Paul Pescador Phone #: 213 202-5544

SECTION III: NON-COVERAGE DETERMINATION REQUEST INFORMATION

Per Section 10.37.13 of the LWO, contractors may request a determination of non-coverage on any basis by this article, including, but not limited to: non-coverage, for failure to satisfy definition of "City financial assistance recipient", "public lease/license", or "service contract".

1. Request for non-coverage determination due to failure to satisfy the following definition:
- City Financial Assistant Recipient Public Lease/License Service Contract Other
2. Provide a **detailed memorandum** explaining the basis of the request, which may include, but is not limited to: the terms of a city financial assistance agreement, purpose of the contract, location, and work performed. The OCC may request further information to issue a determination.

By signing, the contractor certifies under penalty of perjury under the laws of the State of California that the information submitted in support of this application is true and correct to the best of the contractor's knowledge.

Glenn Kaino
Print Name of Person Completing this Form

Principal
Title


Signature of Person Completing this Form

323 791-1461
Phone #

4/20/2020
Date

ANY DETERMINATION/APPROVAL IS APPLICABLE ONLY TO THE LISTED CONTRACTOR FROM THE LWO DURING THE PERFORMANCE OF THIS CONTRACT. A SUBCONTRACTOR PERFORMING WORK ON THIS CONTRACT IS NOT EXEMPT UNLESS THE OFFICE OF CONTRACT COMPLIANCE HAS APPROVED A SEPARATE APPLICATION FOR THE INDIVIDUAL SUBCONTRACTOR.

OCC USE ONLY

Approved/ Not Approved - Reason: _____

By OCC Analyst: _____

Date: _____

DATE: 4/20/2020

TO: City of Los Angeles, Office of Contract Compliance

FROM: Glenn Kaino DBA Kainoco Inc
2039 N. Hobart Blvd.
Los Angeles, CA 90027
323 791-1461
<glenn@kainoco.com>



signature

SUBJECT: Living Wage Ordinance, Request for Non-Coverage Determination

I, **Glenn Kaino** of **Glenn Kaino DBA Kainoco Inc**, a(n)
 S- or C-Corporation *or* **One-Person Contractor / Sole Proprietorship** *or* **Single-Member LLC**,
will be providing personal **services** under this contract and services will be rendered at **various locations**.

Name/Title of Project:
Sixth Street Viaduct Repl & PARC

Description of Project:
public artwork to be sited at new PARC.

Services to be Provided:
Design, fabrication, and installation of an original, site-specific, permanent public artwork.

Request for Taxpayer Identification Number and Certification

Give Form to the
 requester. Do not
 send to the IRS.

Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return) Glenn Kaino	
	Business name/disregarded entity name, if different from above Kainoco Inc	
	Check appropriate box for federal tax classification: <input type="checkbox"/> Individual/sole proprietor <input checked="" type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) <input type="checkbox"/> Exempt payee <input type="checkbox"/> Other (see instructions)	
	Address (number, street, and apt. or suite no.) 2039 N Hobart Blvd	Requester's name and address (optional)
	City, state, and ZIP code Los Angeles, CA 90027	
List account number(s) here (optional)		

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see [How to get a TIN on page 3.](#)

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number	
[][][] - [][] - [][][][][]	
Employer identification number	
5 5 - 0 8 0 7 1 8 3	

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here	Signature of U.S. person	Date 06/20/13
-----------	--------------------------	----------------------

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

CERTIFICATION OF COMPLIANCE WITH CHILD SUPPORT OBLIGATIONS

(This document must be returned with the Proposal/Bid Response)

The undersigned hereby agrees that Glenn Kaino DBA Kainoco Inc will:

- 1. Fully comply with all applicable State and Federal employment reporting requirements for its employees.
- 2. Fully comply with and implement all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment.
- 3. Certify that the principal owner(s) of the business are in compliance with any Wage and Earnings Assignment Orders and Notice of Assignment applicable to them personally.
- 4. Certify that the business will maintain such compliance throughout the term of the contract.

I declare under the penalty of perjury that the forgoing is true and was executed at:

City of LA / LA County / California
City/County/State

Date: 4/20/2020

Glenn Kaino DBA Kainoco Inc 2039 N. Hobart Blvd. Los Angeles CA 90027
Name of Business and Address


Signature of Authorized Officer or Representative Glenn Kaino
Print Name

Principal 323 791-1461
Title Telephone Number

CITY OF LOS ANGELES - DISCLOSURE ORDINANCES

This Affidavit must only be submitted once on LABAVN (www.labavn.org), but contractors are responsible for updating their Affidavit if changes occur to any information contained therein.

Questions regarding this Affidavit may be directed to the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance. Website: <http://bca.lacity.org/index.cfm>; Phone: (213) 847-2625; E-mail: bca.eeoe@lacity.org.

1. I, Glenn Kaino am authorized to bind contractually the Company identified below.

2. Information about the Company entering into a Contract with the City is as follows:

<u>80460</u> BAVN Company Id	<u>2099987</u> EIN/TIN		
<u>Kainoco Inc</u> Company Name			
<u>2039 N Hobart Blvd</u> Street Address	<u>Los Angeles</u> City	<u>CA</u> State	<u>90027</u> Zip
<u>310-963-5240</u> Phone	<u>glenn@kainoco.com</u> Email		

3. The company came into existence in 2002 (year).

4. The Company has searched its records and those of any Predecessor Companies for information relating to Participation or Investments in, or Profits derived from Slavery or Slaveholder Insurance Policies. Based on that research, the Company represents that: (mark only the option(s) that apply):

- The Company found no records that the Company or any of its Predecessor Companies had any Participation or Investments in, or derived Profits from, Slavery or Slaveholder Insurance Policies during the Slavery Era.
- The Company found records that the Company or its Predecessor Companies Participated or Invested in, or derived Profits from Slavery during the Slavery Era. A description of the nature of that Participation, Investment, or Profit is required and should be sent to bca.eeoe@lacity.org.
- The Company found records that the Company or its Predecessor Companies bought, sold, or derived Profits from Slaveholder Insurance Policies during the Slavery Era. A list of names of any Enslaved Persons or Slaveholders under the Policies is required and should be sent to bca.eeoe@lacity.org.

5. The Person/Company has searched its records for information relating and based on that research, the Person/Company represents that: (mark only the option(s) that apply):

- The Person/Company found no records that the Company has participated in contracts, bids, or proposals to provide goods or services for the design, construction, operation, or maintenance of a federally funded wall, fence or other barrier, including prototypes of a wall, fence or other barrier along the border between the United States and Mexico on or after March 17, 2017.
- The Person/Company found records that the Company has participated in contracts, bids, or proposals to provide goods or services for the design, construction, operation, or maintenance of a federally funded wall, fence or other barrier, including prototypes of a wall, fence or other barrier along the border between the United States and Mexico on or after March 17, 2017. A description of the nature of that participation is required and should be sent to bca.eeoe@lacity.org.

TERMS OF ACCEPTANCE AND SIGNATURE:

I, Glenn Kaino, the requestor for this "DO Affidavit", warrant the truthfulness of the information provided in the document.

Electronic Signature:*

Glenn Kaino

Signature

09 December, 2019

Date

I understand that checking this box constitutes a legal signature confirming that I acknowledge and agree to the above Terms of Acceptance.

Execution of document by E-signature. By clicking on the check box it indicates an electronic signature. This is considered the legal equivalent of a manual or "wet" signature. Once signed electronically, this document is considered original and legally binding.

DEFINITIONS

Affidavit means the form developed by the DAA and may be updated from time to time. The Affidavit need not be notarized but must be signed under penalty of perjury.

Company means any person, firm, corporation, partnership or combination of these.

Contract means any agreement, franchise, lease or concession including an agreement for any occasional professional or technical personal services, the performance of any work or service, the provision of any materials or supplies or rendering of any service to the City of Los Angeles or the public, which is let, awarded or entered into with or on behalf of the City of Los Angeles or any Awarding Authority of the City.

Enslaved Person means any person who was wholly subject to the will of another and whose person and services were wholly under the control of another and who was in a state of enforced compulsory service to another during the Slavery Era.

Investment means to make use of an Enslaved Person for future benefits or advantages.

Participation means having been a Slaveholder during the Slavery Era.

Predecessor Company means an entity whose ownership, title and interest, including all rights, benefits, duties and liabilities were acquired in an uninterrupted chain of succession by the Company.

Profits means any economic advantage or financial benefit derived from the use of Enslaved Persons.

Slavery means the practice of owning Enslaved Persons.

Slavery Era means that period of time in the United States of America prior to 1865.

Slaveholder means holders of Enslaved Persons, owners of business enterprises using Enslaved Persons, owners of vessels carrying Enslaved Persons or other means of transporting Enslaved Persons, merchants or financiers dealing in the purchase, sale or financing of the business of Enslaved Persons.

Slaveholder Insurance Policies means policies issued to or for the benefit of Slaveholders to insure them against the death of, or injury to, Enslaved Persons.



CITY OF LOS ANGELES

Office of Finance - LATAx Report

ACCOUNT NUMBER

0002099987

LEGAL NAME

GLENN KAINO

TAX STATUS

CLEAR

<u>LOCATION</u>	<u>DBA NAME</u>	<u>LOCATION ADDRESS</u>	<u>STARTED AT LOCATION</u>	<u>END DATE</u>	<u>IN CITY</u>	<u>COUNCIL</u>	<u>EMP ZONE</u>
0001	KAINOCO INC	2039 N HOBART BLVD LOS ANGELES CA 90027-1617	11/18/2002		Y	Council District 4	None
<u>FCC</u>		<u>DESCRIPTION</u>		<u>START OF ACTIVITY</u>			
LGR2		GrossReceiptFund/ Class2 Ord 183419		01/01/2015			



Company Compliance Documents

Company Compliance Documents

Your company compliance documents:

[Return to Profile](#)

The uploaded forms will be verified by the Bureau of Contract Administration (BCA) only if your company is the successful Proposer/Bidder selected for contract award.

Upon BCA verification, the Awarding Authority shall award the contract. If in the process of verifying the uploaded forms, BCA finds that the form(s) are incomplete, the awarding department shall be notified and your company will be required to re-upload the form(s).

Currently, all other forms pertaining to the Living Wage Ordinance and the Contractor Responsibility Ordinance shall be submitted with each bid/proposal.

[View Expired Compliance Documents](#)

Company Compliance Documents		Status	Upload/Submit By	Upload/Submit Date	Expires	Menu Options
	Disclosure Ordinance (Indefinite Application) ***New**	Submitted	Glenn Kaino	12/09/19	Indefinite	Disclaimer Edit Remove
	Equal Benefits / First Source Hiring Ordinance (3 Year Application) **New**	Submitted	Glenn Kaino	05/08/20	05/08/23	Disclaimer Remove



Paul Pescador <paul.pescador@lacity.org>

Insurance for the City of Los Angeles

Los Angeles City Administrative Office Risk Management
<LACAO.riskmgmt@kwikcomply.org>
To: "paul.pescador@lacity.org" <paul.pescador@lacity.org>

Fri, May 8, 2020 at 2:47
PM

Good Day,

Your insurance has been approved; it meets the **minimum** requirements of KwikComply™
(formerly Track4LA).

Certificate Approval No: 3000462

Please Click Here to View

Please note that the Insured must comply with the insurance provisions of the contract, permit, lease or other agreement they have with the City of Los Angeles, the requirements of which may be greater than the **minimum** requirements of KwikComply™. The City Contract Administrator or the Permit Office will further review your certificate to determine compliance with the **specific** insurance requirement.

Insured's compliance is subject to audit and/or production of the insurance policies providing the required coverages. Willful avoidance of financial responsibilities may subject the violator(s) to civil and criminal liabilities under the law, including but not limited to California False Claims Act, Government Code Section 12650 et seq.

Thank you.

Let Tarroja

(213) 978-2829

City of Los Angeles

Office of the City Administrative Officer (CAO)

Risk Management / Insurance and Bonds

200 N Main Street, Suite 1240, City Hall East, Los Angeles, CA 90012-4190

Main Line: (213) 978-7475; Web Page: CAO Risk Management

Web Address: KwikComply - Formerly Track4LA

City of Los Angeles Indemnification Agreement

Except for the active negligence or willful misconduct of CITY, or any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest, CONTRACTOR undertakes and agrees to defend, indemnify and hold harmless CITY and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees and cost of litigation, damage or liability of any nature whatsoever, for death or injury to any person, including CONTRACTOR'S employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Agreement by the CONTRACTOR or its SUBCONTRACTORS of any tier. The provisions of this paragraph shall survive termination of this Agreement.

CONTRACT NUMBER, DATE(S) AND LOCATION(S) OF SERVICE:

C-128192

term: 12/15/2015 through 12/14/2025

various locations / TBD / unspecified

Agreed this 20 day of April, year 2020

CONTRACTOR

CITY AGENCY: Cultural Affairs


Signature

By: 
Signature

Glenn Kaino DBA Kainoco Inc
Print Name

2039 N. Hobart Blvd.
Address
Los Angeles
CA 90027
City, State, ZIP

213 202-5544
Telephone

323 791-1461
Telephone

Agency retain original; copy to City Attorney, Insurance & Bonds Section

City of Los Angeles
Department of Public Works
Bureau of Contract Administration
Office of Contract Compliance
1149 S. Broadway, Suite 300, Los Angeles, CA 90015
Phone: (213) 847-2625 E-mail: bca.ecoc@lacity.org

AFFIRMATIVE ACTION PLAN

The following contracts are subject to the City of Los Angeles Affirmative Action Program as required by the Los Angeles Administrative Code (LAAC) Section 10.8.4 et seq.:

- Every non-construction contract of \$100,000 or more;
- Every construction contract of \$5,000 or more.

Purpose - An affirmative action program is a management tool designed to ensure equal employment opportunity. A central premise underlying affirmative action is that, absent discrimination, over time a contractor's workforce, generally, will reflect the gender, racial and ethnic profile of the available labor pools. Therefore, as part of its affirmative action program, a contractor monitors and examines its employment decisions and compensation systems to ensure equal employment practices, and takes steps to correct underutilization of women and minorities.

Contractors are subject to all provisions contained in LAAC Section 10.8.4 et seq. which can be found at <http://bca.lacity.org>. The excerpts below are provided to serve as a starting point for satisfying these requirements:

LAAC Section 10.8.4 (B) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

LAAC Section 10.8.4(K) The plan shall be subject to approval by the Office of Contract Compliance prior to award of the contract.

LAAC Section 10.8.4(M) The Affirmative Action Plan required to be submitted shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:

1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
2. Classroom preparation for the job when not apprenticeable;
3. Pre-apprenticeship education and preparation;
4. Upgrading training and opportunities;
5. Encouraging the use of contractors, subcontractors, and suppliers of all racial and ethnic groups, provided, however that any contract subject to this ordinance shall require the contractor, subcontractor or supplier to provide not less than the prevailing wage;
6. The entry of qualified women, minority and all other journeymen into the industry; and
7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.

LAAC Section 10.8.4(Q) All contractors subject to the provisions of the section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the City and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor.

CONTRACTOR DECLARATION

In pursuit of accomplishing the intent of the City's Affirmative Action Program, the contractor certifies and agrees to immediately implement good faith efforts, measures to recruit and employ minority, women, and other potential staff in a nondiscriminatory manner including, but not limited to, the following actions. The contractor shall:

- (a) Recruit and make efforts to obtain such employees.
- (b) Continually evaluate personnel practices to assure that hiring, upgrading, promotions, transfers, demotions and layoffs are made in a nondiscriminatory manner so as to achieve and maintain a diverse work force.
- (c) Utilize training programs and assist minority, women and other employees in locating, qualifying for and engaging in such training programs to enhance their skills and advancement.
- (d) Maintain such records as are necessary to determine compliance with equal employment and affirmative action obligations, and making such records available to City, State and Federal authorities upon request.
- (e) Said policies shall be provided to all employees, subcontractors, vendors, unions and all others with whom the contractor may become involved in fulfilling any of its contracts.

Requirements For Construction Contractors ONLY

Construction contractors are additionally subject to all provisions contained in LAAC Section 10.13 et. seq. which can be found at <http://bca.lacity.org>. As part of these provisions, construction contractors are required to:

1. Submit an **Anticipated Employment Utilization Report (AEUR)** with each new bid for purposes of effectuating this Affirmative Action Plan for the specific project. The AEUR can be found in the bid documents or at <http://bca.lacity.org>.
2. Establish a person at the management level of the contracting entity to be the Equal Employment Opportunity (EEO) Officer. Such individual must have the authority to disseminate and enforce the company's Equal Employment and Affirmative Action Policies.

NAME OF EEO OFFICER	TITLE
E-MAIL	PHONE NUMBER

By its execution hereof, the contractor accepts and submits the foregoing as its Affirmative Action Plan. I certify under penalty of perjury under the laws of the State of California that I have read and understood the foregoing requirements of LAAC Section 10.8 et seq. and agree to comply with them while under contract as set forth therein.

Executed this 20th day of April, in the year 2020, at Los Angeles, CA.
(CITY) (STATE)

Glenn Kaino DBA Kainoco Inc
COMPANY NAME

323 791-1461
<glenn@kainoco.com>
TELEPHONE/E-MAIL


AUTHORIZED SIGNATURE

2039 N. Hobart Blvd.
ADDRESS

Glenn Kaino Principal
NAME AND TITLE (TYPE OR PRINT)

Los Angeles
CA 90027
CITY, COUNTY, STATE, ZIP

CITY OF LOS ANGELES

NONDISCRIMINATION • EQUAL EMPLOYMENT PRACTICES CONSTRUCTION & NON-CONSTRUCTION CONTRACTOR

Los Angeles Administrative Code (LAAC), Division 10, Chapter 1, Article 1, Section 10.8 stipulates that the City of Los Angeles, in letting and awarding contracts for the provision to it or on its behalf of goods or services of any kind or nature, intends to deal only with those contractors that comply with the non-discrimination and Affirmative Action provisions of the laws of the United States of America, the State of California and the City of Los Angeles. The City and each of its awarding authorities shall therefore require that any person, firm, corporation, partnership or combination thereof, that contracts with the City for services, materials or supplies, shall not discriminate in any of its hiring or employment practices, shall comply with all provisions pertaining to nondiscrimination in hiring and employment, and shall require Affirmative Action Programs in contracts in accordance with the provisions of the LAAC. The awarding authority and/or Office of Contract Compliance of the Department of Public Works shall monitor and inspect the activities of each such contractor to determine that they are in compliance with the provisions of this chapter.

I. Los Angeles Administrative Code Section 10.8.2 All Contracts: Non-discrimination Clause

Notwithstanding any other provision of any ordinance of the City of Los Angeles to the contrary, every contract which is let, awarded or entered into with or on behalf of the City of Los Angeles, shall contain by insertion therein a provision obligating the contractor in the performance of such contract not to discriminate in his or her employment practices against any employee or applicant for employment because of the applicant's race, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status, or medical condition. All contractors who enter into such contracts with the City shall include a like provision in all subcontracts awarded for work to be performed under the contract with the City. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the City.

II. Los Angeles Administrative Code Section 10.8.3. Equal Employment Practices Provisions

Every non-construction contract with or on behalf of the City of Los Angeles for which the consideration is \$1,000 or more, and every construction contract for which the consideration is \$1,000 or more, shall contain the following provisions, which shall be designated as the **EQUAL EMPLOYMENT PRACTICES** provision of such contract:

A. During the performance of this contract, the contractor agrees and represents that it will provide equal employment practices and the contractor and each subcontractor hereunder will ensure that in his or her employment practices persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

1. This provision applies to work or service performed or materials manufactured or assembled in the United States.
2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
3. The contractor agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.

B. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

C. As part of the City's supplier registration process, and/or at the request of the awarding authority, or the Board of Public Works, Office of Contract Compliance, the contractor shall certify in the specified format that he or she has not discriminated in the performance of City contracts against any employee or applicant for employment on the basis or because of race, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

D. The contractor shall permit access to and may be required to provide certified copies of all of his or her records pertaining to employment and to employment practices by the awarding authority or the Office of Contract Compliance for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of City contracts. On their or either of their request the contractor shall provide evidence that he or she has or will comply therewith.

E. The failure of any contractor to comply with the Equal Employment Practices provisions of this contract may be deemed to be a material breach of City contracts. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to the contractor.

F. Upon a finding duly made that the contractor has failed to comply with the Equal Employment Practices provisions of a City contract, the contract may be forthwith canceled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the City of Los Angeles. In addition thereto, such failure to comply may be the basis for a determination by the awarding authority or the Board of Public Works that the said contractor is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Charter of the City of Los Angeles. In the event of such a determination, such contractor shall be disqualified from being awarded a contract with the City of Los Angeles for a period of two years, or until the contractor shall establish and carry out a program in conformance with the provisions hereof.

G. Notwithstanding any other provision of this contract, the City of Los Angeles shall have any and all other remedies at law or in equity for any breach hereof.

H. The Board of Public Works shall promulgate rules and regulations through the Office of Contract Compliance, and provide necessary forms and required language to the awarding authorities to be included in City Request for Bids or Request for Proposal packages or in supplier registration requirements for the implementation of the Equal Employment Practices provisions of this contract, and such rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive orders. No other rules, regulations or forms may be used by an awarding authority of the City to accomplish the contract compliance program.

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

J. At the time a supplier registers to do business with the City, or when an individual bid or proposal is submitted, the contractor shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of City Contracts.

K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:

1. Hiring practices;
2. Apprenticeships where such approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
3. Training and promotional opportunities; and
4. Reasonable accommodations for persons with disabilities.

L. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the City and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the City.

Equal Employment Practices Provisions Certification – The Contractor by its signature affixed hereto declares under penalty of perjury that:

1. The Contractor has read the Nondiscrimination Clause in Section I above and certifies that it will adhere to the practices in the performance of all contracts.
2. The Contractor has read the Equal Employment Practices Provisions as contained in Section II above and certifies that it will adhere to the practices in the performance of any construction contract or non-construction contract of \$1,000 or more.

Glenn Kaino DBA Kainoco Inc

COMPANY NAME

2039 N. Hobart Blvd.

ADDRESS

Los Angeles CA 90027

CITY, COUNTY, STATE, ZIP



AUTHORIZED SIGNATURE

Glenn Kaino Principal

NAME AND TITLE (TYPE OR PRINT)

323 791-1461

<glenn@kainoco.com>

TELEPHONE/E-MAIL

**REPORT OF
INDEPENDENT CONTRACTOR(S)**



05420101



See detailed instructions on reverse side. Please type or print.

SERVICE-RECIPIENT (BUSINESS OR GOVERNMENT ENTITY):

DATE 05/13/20	FEDERAL ID NUMBER 95-60000735	CA EMPLOYER ACCOUNT NUMBER 800-9802-3	SOCIAL SECURITY NUMBER
SERVICE-RECIPIENT NAME / BUSINESS NAME City of Los Angeles Department of Cultural Affairs		CONTACT PERSON Paul Pescador	
ADDRESS 201 N. Figueroa St., Suite 1400		PHONE NUMBER 213 202-5544	
CITY Los Angeles		STATE CA	ZIP CODE 90012

SERVICE-PROVIDER (INDEPENDENT CONTRACTOR):

FIRST NAME Glenn Kaino DBA Kainoco Inc	MI	LAST NAME	
SOCIAL SECURITY NUMBER	STREET NUMBER 2039	STREET NAME Hobart Blvd.	UNIT/APT
CITY Los Angeles	STATE CA	ZIP CODE 90027	
START DATE OF CONTRACT 12/15/15 <small>M M D D Y Y</small>	AMOUNT OF CONTRACT \$1,353,000-	CONTRACT EXPIRATION DATE 12/14/25 <small>M M D D Y Y</small>	CHECK HERE IF CONTRACT IS ONGOING

FIRST NAME	MI	LAST NAME	
SOCIAL SECURITY NUMBER	STREET NUMBER	STREET NAME	UNIT/APT
CITY	STATE	ZIP CODE	
START DATE OF CONTRACT	AMOUNT OF CONTRACT	CONTRACT EXPIRATION DATE	CHECK HERE IF CONTRACT IS ONGOING

FIRST NAME	MI	LAST NAME	
SOCIAL SECURITY NUMBER	STREET NUMBER	STREET NAME	UNIT/APT
CITY	STATE	ZIP CODE	
START DATE OF CONTRACT	AMOUNT OF CONTRACT	CONTRACT EXPIRATION DATE	CHECK HERE IF CONTRACT IS ONGOING

MAIL TO: Employment Development Department • PO Box 997350, MIC 96 • Sacramento, CA 95899-7350
or Fax to 916-319-4410

IRAN CONTRACTING ACT OF 2010 COMPLIANCE AFFIDAVIT

(California Public Contract Code Sections 2200-2208)

The California Legislature adopted the Iran Contracting Act of 2010 to respond to policies of Iran in a uniform fashion (PCC § 2201(q)). The Iran Contracting Act prohibits bidders engaged in investment activities in Iran from bidding on, submitting proposals for, or entering into or renewing contracts with public entities for goods and services of one million dollars (\$1,000,000) or more (PCC § 2203(a)). A bidder who "engages in investment activities in Iran" is defined as either:

1. A bidder providing goods or services of twenty million dollars (\$20,000,000) or more in the energy sector of Iran, including provision of oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran; or
2. A bidder that is a financial institution (as that term is defined in 50 U.S.C. § 1701) that extends twenty million dollars (\$20,000,000) or more in credit to another person, for 45 days or more, if that person will use the credit to provide goods or services in the energy sector in Iran and is identified on a list created by the California Department of General Services (DGS) pursuant to PCC § 2203(b) as a person engaging in the investment activities in Iran.

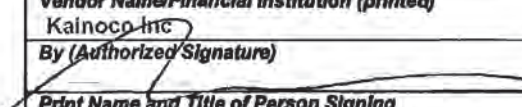
The bidder shall certify that at the time of submitting a bid for new contract or renewal of an existing contract, the bidder is **not** identified on the DGS list of ineligible businesses or persons and that the bidder is **not** engaged in investment activities in Iran in violation of the Iran Contracting Act of 2010.

California law establishes penalties for providing false certifications, including civil penalties equal to the greater of \$250,000 or twice the amount of the contract for which the false certification was made; contract termination; and three-year ineligibility to bid on contracts (PCC § 2205).

To comply with the Iran Contracting Act of 2010, the bidder shall provide its vendor or financial institution name, and City Business Tax Registration Certificate (BTRC) if available, in completing ONE of the options shown below.

OPTION #1: CERTIFICATION

I, the official named below, certify that I am duly authorized to execute this certification on behalf of the bidder or financial institution identified below, and that the bidder or financial institution identified below is **not** on the current DGS list of persons engaged in investment activities in Iran and is **not** a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person or vendor, for 45 days or more, if that other person or vendor will use the credit to provide goods or services in the energy sector in Iran and is identified on the current DGS list of persons engaged in investment activities in Iran.

Vendor Name/Financial Institution (printed) Kainoco Inc		BTRC (or n/a) 2099987
By (Authorized Signature) 		
Print Name and Title of Person Signing Glenn Kaino, Principal		
Date Executed 8/24/2020	City Approval (Signature)	(Print Name) Becky Snodgrass

OPTION #2: EXEMPTION

Pursuant to PCC § 2203(c) and (d), a public entity may permit a bidder or financial institution engaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit a proposal for, or enter into, or renew, a contract for goods and services. If the bidder or financial institution identified below has obtained an exemption from the certification requirement under the Iran Contracting Act of 2010, the bidder or financial institution shall complete and sign below and attach documentation demonstrating the exemption approval.

Vendor Name/Financial Institution (printed)		BTRC (or n/a)
By (Authorized Signature)		
Print Name and Title of Person Signing		
Date Executed	City Approval (Signature)	(Print Name)

PERSONAL SERVICES AGREEMENT

CONTRACTOR: **GLENN KAINO dba KAINOCO INC**
2039 North Hobart Boulevard
Los Angeles, CA 90027
323 791-1461
<glenn@kainoco.com>

REGARDING: **Public Art for the Sixth Street Viaduct Replacement Project,
City of Los Angeles Department of Cultural Affairs**

Said Agreement is Number: **C-128192**

PERSONAL SERVICES AGREEMENT

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APPENDICES

A—"Standard Provisions for City Contracts (rev. 03/09)"

B—"Model Release: Audio-Visual / Photograph Productions of the City of Los Angeles"

**PERSONAL SERVICES AGREEMENT BETWEEN THE CITY OF LOS ANGELES AND
GLENN KAINO dba KAINOCO INC (CONTRACTOR)**

The AGREEMENT is entered into by and between the CITY OF LOS ANGELES, a municipal corporation (hereinafter "CITY"), through its DEPARTMENT OF CULTURAL AFFAIRS (hereinafter "DEPARTMENT"), and GLENN KAINO dba KAINOCO INC (hereinafter "CONTRACTOR").

WITNESSETH

WHEREAS, CITY, through its Percent-for-Art policy, mandates that all public works capital improvement project undertaken by CITY must allocate funding, in an amount equal to one-percent (1%) of total construction project costs, for the purposes of creating public art project(s) in compliance with CITY's Public Works Improvements Arts Program (hereinafter "PROGRAM"), implemented and administered by DEPARTMENT, pursuant to CITY's Administrative Code Section 19.85;

WHEREAS, CITY authorizes payments to fund public arts projects administered by PROGRAM, including: acquisition or placement of publicly accessible works of art; acquisition or construction of arts or cultural facilities; provision of arts or cultural services; and/or restoration or preservation of existing works of art;

WHEREAS, to accomplish this purpose, CITY desires to contract with people who possess the necessary knowledge, experience, and professional expertise to execute public arts projects;

WHEREAS, the BUREAU OF ENGINEERING of CITY (hereinafter "AGENCY") has allocated funds for the selection, purchase, and placement of a public arts project in compliance with PROGRAM;

WHEREAS, a shortlist of artists was established based on qualifications of each artist's skills, talent, and expression, and CONTRACTOR was selected from said shortlist and asked to develop a conceptual approach for a public art project (hereinafter "ARTWORK") as part of the Sixth Street Viaduct Replacement Project (hereinafter "PROJECT");

WHEREAS, CONTRACTOR was selected by a panel of experts as having the strongest conceptual approach for ARTWORK from among the shortlisted artists, and CONTRACTOR was identified by said panel as possessing the requisite skill and creativity to perform the services described in this AGREEMENT;

WHEREAS, CONTRACTOR has demonstrated the ability to create and design ARTWORK to satisfy the needs identified by DEPARTMENT;

WHEREAS, CITY wishes to promote and maintain the integrity and clarity of CONTRACTOR's ideas and statements as represented by ARTWORK; and

WHEREAS, CITY has selected CONTRACTOR to perform professional, expert, and technical services that are of a temporary and occasional nature.

WHEREAS, CITY, through AGENCY, initially instructed HNTB Corporation CITY's prime contractor for PROJECT, under Agreement No. C-121862 pursuant to CITY Council File No. 11-1789-S2, to issue a subcontract to CONTRACTOR for ARTWORK, but subsequently and through mutual agreement between DEPARTMENT and AGENCY, CITY determined that it would be in the best interests of PROJECT and ARTWORK for CITY to obtain CONTRACTOR's services under this AGREEMENT, and thereby instructed HNTB Corporation to terminate said subcontract with CONTRACTOR;

NOW, THEREFORE, the parties hereto agree as follows:

SECTION I. PURPOSE OF THIS AGREEMENT

- A. The purpose of this AGREEMENT is to provide CONTRACTOR with a total amount of \$353,000 in funding for services needed by DEPARTMENT for CURRENT, and said services shall comprise SCOPE OF WORK pursuant to SECTION VI.
- B. CITY and CONTRACTOR hereby agree that they each shall take all steps legally required of them and available to them to permit each of them to perform the timely performance of their respective obligations pursuant to this AGREEMENT.

SECTION II. DEFINITIONS

CITY—the CITY OF LOS ANGELES, a municipal corporation.

DEPARTMENT—the DEPARTMENT OF CULTURAL AFFAIRS of CITY.

COMMISSION—the BOARD OF CULTURAL AFFAIRS COMMISSIONERS of DEPARTMENT of CITY.

AGENCY—the BUREAU OF ENGINEERING of CITY.

CONTRACTOR—GLENN KAINO dba KAINOCO INC, 2039 North Hobart Boulevard, Los Angeles, CA 90027.

PROJECT—Sixth Street Viaduct Replacement, Sixth Street between Mateo Street and the US-101 Freeway, Los Angeles, CA 90033.

ARTWORK—permanent public artwork to be integrated at PROJECT.

SCOPE OF WORK—“Term”, “Services to be Provided by Contractor”, “Requests for Payment & Remuneration”, “Engineering Conformance & Protection of Work”, and “Maintenance, Repairs & Restoration of the Work”, pursuant to SECTIONS IV, VI, VIII, XIV, and XVI.

MAINTENANCE MANUAL—a comprehensive manual prepared and submitted by CONTRACTOR, detailing all required and suggested maintenance related to ARTWORK, and subject to review and written acceptance by DEPARTMENT and AGENCY.

WORK PRODUCTS—all materials, tangible or not, created in whatever medium under this AGREEMENT, including without limitation to artworks, audio-visual, reports, drawings and sketches, schematics, marks, logos, graphic designs, and all other intellectual property.

SECTION III. REPRESENTATIVES OF THE PARTIES AND SERVICE OF NOTICES

A. Parties to this AGREEMENT:

1. CITY, a municipal corporation, chartered by the STATE OF CALIFORNIA, acting by and through DEPARTMENT.
2. GLENN KAINO dba KAINOCO INC.

B. Representatives of the Parties.

The representatives of the respective parties authorized to administer this AGREEMENT, and to whom formal notices, demands, and communications shall be given, are as follows:

1. The representative of CITY, unless otherwise stated in this AGREEMENT, shall be:

Becky Snodgrass, Public Art Division
City of Los Angeles Department of Cultural Affairs
201 North Figueroa Street, Suite 1400
Los Angeles, CA 90012
213 202-5544 <becky.snodgrass@lacity.org>

2. The representative of CONTRACTOR shall be:

GLENN KAINO dba KAINOCO INC
2039 North Hobart Boulevard
Los Angeles, CA 90027
310 963-5240 <glenn@kainoco.com>

- C. Formal notices, demands, and communications required hereunder by either party shall be made in writing and may be effected by personal delivery or by registered or certified mail, postage prepaid, return receipt requested, and shall be deemed communicated as of the date of mailing.
- D. CONTRACTOR shall give written notice to CITY detailing any change(s) in the name and/or address of the person designated as the representative of CONTRACTOR for receipt of notices, demands, or communications, within 5 days of any such change(s).
- E. The relationship of the parties under this AGREEMENT is, and at all times shall remain, solely that of independent contractors to each other. Neither DEPARTMENT nor CONTRACTOR undertakes nor assumes any responsibility or duty except as expressly provided herein. Except as specified in writing, no party shall have any authority to act as an agent for any other or to bind any other to any obligation.

SECTION IV. TERM

The term of this AGREEMENT shall commence December 15, 2015 and terminate December 14, 2018.

SECTION V. RATIFICATION

At CITY's request, CONTRACTOR has begun performance of the services specified herein prior to execution of this AGREEMENT. CITY acknowledges the services previously performed by CONTRACTOR prior to execution, and so ratifies CONTRACTOR's performance of said services since December 15, 2015 to the extent that such services were performed in accordance with the terms and conditions of this AGREEMENT.

SECTION VI. SERVICES TO BE PROVIDED BY CONTRACTOR

- A. SCOPE OF WORK contained in this AGREEMENT encompasses all services required for ARTWORK, including development of all visual and quantitative information required for presentations of proposed ARTWORK as needed for CONTRACTOR to obtain approval(s) from the public and any approving bodies required, and all coordinated production of construction documents as needed to integrate ARTWORK into PROJECT, wherein ARTWORK shall be designed not to exceed a maximum budget of one-million USD (\$1,000,000), inclusive of all materials, fabrication, and installation needed for ARTWORK (exclusive of design services provided by CONTRACTOR under this AGREEMENT), unless otherwise authorized in writing by DEPARTMENT.
- B. CONTRACTOR shall incorporate pertinent criteria and information provided by CITY during design of ARTWORK and the preparation of ARTWORK specifications, as well as all criteria and information required by CITY for the final specifications for ARTWORK, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability.
- C. CONTRACTOR shall prepare and submit written concepts, renderings, schematic presentation drawings including plans, elevations and renderings with basic dimensions (not for fabrication), photographs as necessary, and preliminary budget estimates for all elements of ARTWORK as part of PROJECT (hereinafter "ART CONCEPT").
- D. CONTRACTOR shall prepare and deliver ART CONCEPT to DEPARTMENT as appropriate for adequate presentation as needed to obtain all approvals required for ARTWORK;
- E. CONTRACTOR shall coordinate with DEPARTMENT and AGENCY as needed for ART CONCEPT and ARTWORK.
- F. CONTRACTOR shall determine the artistic expression, scope, design, color, material, texture, and location specifications for ART CONCEPT and ARTWORK, subject to review and approval by DEPARTMENT and AGENCY.
- G. CONTRACTOR shall research the history of the area(s) surround PROJECT during development of ART CONCEPT and ARTWORK, and conduct site visits and obtain documentation as necessary for the preparation of ART CONCEPT.
- H. Upon reasonable prior written request by DEPARTMENT and/or AGENCY, CONTRACTOR shall attend public briefing(s) coordinated by CITY during development of ART CONCEPT.
- I. Upon reasonable prior written notice by DEPARTMENT and/or AGENCY, CONTRACTOR shall attend the following meetings: kickoff meeting with CITY and other CITY contractors to discuss work plans, schedules, budgets, roles, and strategies for ART CONCEPT and/or ARTWORK; working meetings as needed during development of ART CONCEPT; and public briefing(s) and/or presentations of ARTWORK and/or PROJECT to COMMISSION and/or any of its subcommittees.
- J. If required by DEPARTMENT, CONTRACTOR shall obtain Conceptual Approval from COMMISSION for ARTWORK, wherein CONTRACTOR shall prepare and deliver a presentation of ART CONCEPT to COMMISSION, including but not limited to: conceptual renderings and/or models, preliminary location, size, color, finish, and material specifications, preliminary itemized budget, and a preliminary list of subcontractors identified to fabricate and/or install ARTWORK. If CITY determines that, upon review of ART CONCEPT, costs to fabricate and/or install ARTWORK may exceed the budget specified in PARAGRAPH A of this SECTION, CONTRACTOR shall modify the design specifications as needed to meet said budget, wherein such modification(s) shall be subject to additional reviews and written approvals by DEPARTMENT and AGENCY and, if applicable, CONTRACTOR may be required to obtain additional Conceptual Approval(s) from COMMISSION.

- K. Upon written approval of ART CONCEPT by DEPARTMENT in consultation with AGENCY, CONTRACTOR shall prepare and submit final concepts, sketches, and drawings including plans, elevations, and details regarding fabrication and installation specifications as needed (locations, dimensions, materials, colors, finishes, methods, and sequencing) for all elements of ARTWORK (hereinafter "DETAILED PLANS").
- L. CONTRACTOR shall coordinate with AGENCY and/or other CITY contractors as instructed for the preparation and integration of DETAILED PLANS into construction drawings for PROJECT as needed and to obtain all required approvals. If DETAILED PLANS require certified engineering services that exceed those otherwise procured by AGENCY for PROJECT, CONTRACTOR shall procure said services upon prior written request by AGENCY and subject to advance authorization by DEPARTMENT, pursuant PARAGRAPH Z of this SECTION.
- M. CONTRACTOR shall obtain cost estimates for materials, fabrication, and installation of all elements of ARTWORK as part of DETAILED PLANS and identify preferred construction subcontractors as part of the construction drawings for PROJECT, in coordination and consultation with AGENCY and/or other CITY contractors as instructed.
- N. CONTRACTOR shall coordinate with AGENCY and/or other CITY contractors as instructed as needed for DETAILED PLANS and/or ARTWORK.
- O. CONTRACTOR shall determine the artistic expression, scope, design, color, material, texture, and location specifications for DETAILED PLANS and ARTWORK, subject to review and approval by DEPARTMENT and AGENCY.
- P. CONTRACTOR shall consider suggestions from CITY and/or other CITY contractors associated with PROJECT for substitutions of and/or alternatives to specified materials, fabrication methods, and/or installation methods for ARTWORK based on relevant PROJECT conditions, wherein no such substitutions shall be made nor any alternatives finalized without prior written authorization by CONTRACTOR in consultation with DEPARTMENT.
- Q. In consultation with DEPARTMENT, CONTRACTOR shall obtain COMMISSION's Final Approval for ARTWORK, wherein CONTRACTOR shall prepare and deliver a presentation of ARTWORK based on DETAILED PLANS that may include but not be limited to: final renderings and/or models, final location, size, color, finish, and material specifications, final itemized budget, and final list of subcontractors identified to fabricate and/or install ARTWORK. Upon review of ARTWORK, COMMISSION may require modifications to ARTWORK and, if such modification(s) are required, CONTRACTOR shall so modify DETAILED PLANS and submit to DEPARTMENT within thirty (30) calendar days of COMMISSION's request for modification(s), a set of modified renderings and/or models, location, size, color, finish, and material specifications, itemized budget, list of subcontractors, and/or any other information needed for additional review and Final Approval by COMMISSION, unless otherwise instructed in writing by DEPARTMENT. If CITY determines that, upon review of DETAILED PLANS, costs to fabricate and/or install ARTWORK may exceed the budget specified in PARAGRAPH A of this SECTION, CONTRACTOR shall modify the design specifications as needed to meet said budget, wherein such modification(s) shall be subject to additional reviews and written approvals by DEPARTMENT and AGENCY and, if applicable, CONTRACTOR may be required to obtain additional Final Approval(s) from COMMISSION. If ARTWORK requires any special provisions in design and/or building materials, or any structural, electrical, and/or mechanical systems at PROJECT for which costs exceed those normally paid by AGENCY, such costs shall be borne by CONTRACTOR's budget.
- R. CONTRACTOR shall prepare and deliver to DEPARTMENT and AGENCY a final set of DETAILED PLANS with both preliminary and final quality assurance and quality control comments from CITY, and/or other CITY contractors associated with PROJECT, incorporated (hereinafter "ARTWORK CONSTRUCTION DOCUMENTS") as part of PROJECT, subject to written acceptance by AGENCY.
- S. CONTRACTOR shall coordinate with AGENCY and/or other CITY contractors as instructed to identify a final list of qualified subcontractors for materials, fabrication, and installation of all ARTWORK elements, wherein no subcontractor shall be included on said list without the written authorization of CONTRACTOR.
- T. CONTRACTOR shall be responsible for submitting material specifications and a cost estimate for annual maintenance of ARTWORK, wherein CONTRACTOR shall devise the design of ARTWORK with the intention of minimizing potential effects of vandalism, weathering, or other hazards, as applicable. Upon CITY's written acceptance of ARTWORK CONSTRUCTION DOCUMENTS, CONTRACTOR shall prepare and deliver to DEPARTMENT and AGENCY a comprehensive document detailing all required and suggested maintenance for ARTWORK as designed (hereinafter "MAINTENANCE MANUAL"), subject to DEPARTMENT's review and written acceptance.

SECTION VIII. REQUESTS FOR PAYMENT & REMUNERATION

- A. CONTRACTOR shall be paid for work and services associated with the design of ARTWORK under this AGREEMENT in accordance with the terms herein, and subsequent adjustments, changes, and/or additions as specifically provided for under this AGREEMENT. Such payment shall be full compensation for work performed and services rendered for all supervision, labor supplies, materials, equipment or use thereof, taxes, and for all other necessary incidentals.
1. The amount and date of payments to CONTRACTOR shall be calculated as stipulated below, subject only to adjustments, changes, or additions as specifically provided for under this AGREEMENT.
 2. In the event that CONTRACTOR incurs costs in excess of the total funding allocated under this AGREEMENT, and such excess is incurred without a written amendment to this AGREEMENT, CITY shall not be required to pay any part of such excess and CONTRACTOR shall have no claim against CITY on account thereof.
- B. Upon CONTRACTOR's submission of payment request(s) for completion of milestone(s) under this AGREEMENT, DEPARTMENT shall review such payment request(s) to verify milestone completion in accordance with the terms herein, and submit such request(s) to AGENCY, for CITY to pay CONTRACTOR a total sum not to exceed \$353,000 to provide services under this AGREEMENT, which shall be paid in the following manner:
1. \$50,000 upon DEPARTMENT's verification of CONTRACTOR's initial consultation(s) with DEPARTMENT, AGENCY, and/or other CITY contractors related to PROJECT, regarding ARTWORK and to initiate work on ART CONCEPT.
 2. \$50,000 upon DEPARTMENT's written verification of CONTRACTOR's completion and submission of ART CONCEPT, pursuant to SECTION VI, PARAGRAPH K.
 3. \$50,000 upon DEPARTMENT's verification of CONTRACTOR's completion and submission of DETAILED DESIGNS, pursuant to SECTION VI, PARAGRAPH L.
 4. \$50,000 upon DEPARTMENT's verification of CONTRACTOR's completion and submission of ARTWORK CONSTRUCTION DOCUMENTS, pursuant to SECTION VI, PARAGRAPH R.
 5. \$50,000 payable in up to two (2) parts upon DEPARTMENT's verification of CONTRACTOR's completed planning and/or execution of strategies for public engagement pertaining to ARTWORK, pursuant to SECTION VI, PARAGRAPH U.
 6. \$103,000 in up to eight (8) parts upon DEPARTMENT's written verification of documentation for costs expended and/or amounts invoiced for procurement of California-certified engineering services and/or engineering drawings as requested by AGENCY and prepared, reviewed, and/or stamped by a California-certified engineer, related to constructability, material unavailability, final prototyping, specialized mechanical systems related to ARTWORK.
- C. DEPARTMENT shall provide written notice to CONTRACTOR that specifies any failure(s) to provide services for which CONTRACTOR is requesting payment, within thirty (30) days of DEPARTMENT's receipt of any request(s) for payment. CONTRACTOR shall thereafter meet CITY's standards for performance, subject to DEPARTMENT's written satisfaction, or shall advise DEPARTMENT that a dispute exists. In the event of dispute(s), the parties shall make best efforts to remedy such dispute(s), pursuant to SECTION XXV.
- D. Invoicing:
1. Invoices shall be submitted to:

Becky Snodgrass, Public Art Division
City of Los Angeles Department of Cultural Affairs
201 North Figueroa Street, Suite 1400, Los Angeles, CA 90012
213 202-5544 <becky.snodgrass@lacity.org>
 2. To ensure that services provided under personal services agreements are measured against services detailed under this AGREEMENT, CITY's Controller has developed a policy requiring that specific supporting documentation be submitted with invoices.

3. CONTRACTOR shall submit invoices that conform to CITY standards and that include, at a minimum, the following information: name and address of CONTRACTOR; name and address of CITY department being billed; date of invoice and date of activity; AGREEMENT number; description of completed task/project and amount due for task/project; original invoice(s) for costs of procuring labor and/or materials under this AGREEMENT; and remittance address (if different from company address).
4. All invoices shall be submitted on CONTRACTOR's letterhead, contain CONTRACTOR's official logo or other unique and identifying information such as the name and address of CONTRACTOR. Evidence that tasks have been completed, in the form of a report, brochure or photograph, shall be attached to all invoices. Invoices are considered complete when appropriate documentation or services provided are verified as satisfactory by CITY manager.
 - a. Invoices and supporting documentation shall be prepared at the sole expense and responsibility of CONTRACTOR. CITY shall not compensate CONTRACTOR for any costs incurred to prepare invoices under this AGREEMENT. CITY may request, in writing, that CONTRACTOR make changes to the content and format of invoice(s) and/or supporting documentation at any time. CITY reserves the right to require CONTRACTOR to provide additional supporting documentation to substantiate costs at any time.
 - b. Subcontractors' requirements: tasks completed by any subcontractor shall be supported by such subcontractor's invoice, copies of pages from reports, brochures, photographs, or other unique documentation that substantiates their charges.
 - c. Failure to adhere to these policies may result in nonpayment or non-approval of demand, pursuant to CITY Charter Section 262(a) that requires CITY's Controller to inspect the quality, quantity, and condition of services, labor, materials, supplies, or equipment received by any CITY office or department, and to approve demands before they are drawn on from CITY's Treasury. Any incomplete requests for payment may be returned to CONTRACTOR with no action taken by CITY.

SECTION IX. TITLES IN WORK PRODUCTS

- A. CONTRACTOR shall retain the copyright in and to ARTWORK, as provided by federal law. CITY shall have all and exclusive rights of ownership, possession, and enjoyment of ARTWORK, which shall be single-edition, and upon payment in full, CONTRACTOR shall execute any documents CITY may require to evidence transfer. CITY has sole and exclusive discretion in the use, non-use, and enjoyment of the physical element of ARTWORK, subject to any restrictions contained in this AGREEMENT.
- B. Any and all materials and documents, including but not limited to models, maquettes, drawings, specifications, computations, designs, plans, proposals, digital images, photographs, reports, correspondence, and estimates prepared by CONTRACTOR or subcontractors under this AGREEMENT, are instruments of service and thus shall be owned by CONTRACTOR. At the conclusion of the project, CONTRACTOR shall make available, at CONTRACTOR's discretion, a variety of above-referenced items from which CITY may select one or more to become the property of CITY.
- C. The final ARTWORK shall be unique. CONTRACTOR shall not make any exact duplicate two or three-dimensional reproductions of the final ARTWORK, nor shall CONTRACTOR grant permission to others to do so except with the prior written permission of CITY. However, nothing shall prevent CONTRACTOR from creating future artworks in CONTRACTOR's manner and style of artistic expression.
- D. CONTRACTOR grants CITY and its assigns a nonexclusive irrevocable and royalty-free license to make two-dimensional reproductions of ARTWORK and any ARTWORK-related documentary works for non-commercial purposes, including but not limited to reproductions or transmissions used in media publicity, exhibitions, loans and/or collections management, or photographs. Such reproductions and transmissions may include but not be limited to magazines, books, newspapers, journals, brochures, exhibition catalogues, films, television, video, websites, slides, negatives, printed and electronic media, DVD, CD, computerized retrieval systems, and by all means or methods now known or hereafter invented in connection with standard CITY activities.
- E. CITY's rights under this license include the right to allow productions at PROJECT for commercial and non-commercial movie, television, video, still photography, or any other content or media in which image(s) of ARTWORK may appear without further compensation or notification by CITY to CONTRACTOR.
- F. CITY agrees that, unless CONTRACTOR requests to the contrary in writing, all reproductions of ARTWORK shall credit CONTRACTOR and CITY. CONTRACTOR shall make best efforts in any public showing or résumé use of reproductions to acknowledge CITY with the following credit line: "Commissioned by the City of Los Angeles."

- G. CONTRACTOR shall, at CONTRACTOR's expense, cause to be registered with the United States Register of Copyrights, a copyright of ARTWORK in CONTRACTOR's name.
- H. CITY may desire to make reproductions of ARTWORK for commercial purposes including but not limited to t-shirts, postcards, and posters, pursuant to a separate agreement addressing the terms of the license granted by CONTRACTOR and the royalty, if any, CONTRACTOR may receive.
- I. CONTRACTOR shall not, during the performance of this AGREEMENT, disseminate media publicity of any kind regarding ARTWORK, SCOPE OF WORK, or PROJECT without prior written approval of CITY.
- J. CONTRACTOR represents and warrants that ARTWORK's design and ARTWORK created under this AGREEMENT are either original, do not infringe upon the intellectual property rights of any third party, or are in the public domain. CITY shall not be liable for any third party claims, actions, judgments, costs, or damages of any type associated with ARTWORK design and ARTWORK provided hereunder that result from any infringement upon the intellectual property of any third party. If any third party infringement is claimed prior to CONTRACTOR receiving payment under this AGREEMENT, CITY shall have the right, upon written notice to CONTRACTOR, to withhold such payment until such claim(s) are resolved.
- K. CONTRACTOR hereby grants CITY all necessary legal standing "in the CONTRACTOR's shoes" to enforce CONTRACTOR's copyrights and related rights associated with ARTWORK. However, instituting such enforcement action shall not be a duty of CITY but rather an option to CITY absent timely action by CONTRACTOR. CITY shall provide written notice of intent to enforce any such copyrights or related rights associated with ARTWORK, and obtain written acceptance of any intent to enforce prior to taking any action of enforcement. CITY's not instituting the enforcement actions shall not be construed as a waiver of any of its rights at law and in equity. Where CITY undertakes CONTRACTOR's duty to enforce against an infringer for want of timely action by CONTRACTOR, CONTRACTOR shall promptly reimburse CITY for actual costs incurred and prevailing, reasonable attorneys' fees arising out of such enforcement efforts ("Enforcement Expenses"), whether the enforcement efforts result in damages or recovery awarded or a settlement. Where CITY is successful in recovering damages from the infringer(s) in such actions, and upon full reimbursement of the Enforcement Expenses to CITY, CITY shall retain two-thirds (⅔) of the gross recovery (without deductions of any kind) and distribute the remaining one-third (⅓) to CONTRACTOR.
- L. All reproductions by CITY shall contain a credit or attribution to CONTRACTOR and a copyright notice in substantially the following form: "Copyright [year of ARTWORK completion] Glenn Kaino", to the reasonably possible and appropriate extent, as determined by CITY.
- M. CITY's right of ownership includes the right to remove temporarily or permanently, and store ARTWORK in CITY's sole discretion. Further, nothing shall prevent CITY from altering or modifying ARTWORK by reason of business operations necessity, public safety, national security, federal regulations, or other such requirement. In the event that CITY desires to remove ARTWORK permanently, CITY shall give written notice to CONTRACTOR, pursuant to SECTION XX, and give CONTRACTOR the opportunity for a first right to reintegrate ARTWORK, regain ownership of ARTWORK, or disclaim authorship for reason of public safety, national security, or order(s) of the federal government or a court of competent jurisdiction. For avoidance of doubt, installation of ARTWORK at PROJECT does not create any encumbrances on the land or the real estate thereof.
- N. CITY, at its expense and in consultation with CONTRACTOR, may prepare and install plaque(s) at PROJECT, for the purposes of identifying CONTRACTOR, the title of ARTWORK, and the year of completed ARTWORK installation, and such plaque(s) shall be reasonably maintained, as more fully described in SECTION 17 of this AGREEMENT. CITY shall have discretion regarding the size, material, construction, and placement of such plaque(s), subject to public safety, maintenance, and operational considerations. The cost of such plaque(s) shall not be borne by CONTRACTOR's budget.

SECTION X. CONTRACTOR'S RIGHTS

- A. CONTRACTOR and CITY acknowledge that CONTRACTOR may have certain rights under the Visual Artists Rights Act (hereinafter "VARA") and the California Civil Code Section 987 (hereinafter "CAPA"). CITY and CONTRACTOR recognize the importance of CONTRACTOR's moral rights of attribution and integrity, as identified in VARA and CAPA. CITY and CONTRACTOR herein address those statutory rights pursuant to this AGREEMENT.
- B. CONTRACTOR shall have the right to claim authorship of ARTWORK. Further, CONTRACTOR shall have the right to prevent the use of his or her name as the author of ARTWORK in the event of physical defacement, mutilation, alteration, or destruction of ARTWORK.

- C. CITY shall, in its sole discretion, have the right to remove, relocate, or otherwise alter or modify ARTWORK at any time. CITY shall provide ninety (90) days written notice to CONTRACTOR, at CONTRACTOR's last known address, of its intended action affecting ARTWORK. CONTRACTOR acknowledges and understands that the installation of ARTWORK may subject ARTWORK to destruction, mutilation, alteration, or other modification due to the acts of third parties, or to its removal, relocation, conservation, maintenance, storage, or transfer of ownership by CITY.
 - 1. Pursuant to CITY's Administrative Code Section 22.109, no work of art belonging to or in the possession of CITY shall be removed, relocated, or altered in any way without the written approval of COMMISSION.
 - 2. CITY may exercise the option of contracting with CONTRACTOR, under separate agreement, for the consultation and assistance with any relocation, reintegration, or performance of any other services for the benefit of CITY, CONTRACTOR and ARTWORK.
- D. If CITY, in its sole discretion, determines that ARTWORK presents imminent harm or hazard to the public, CITY may authorize its removal without prior notification to CONTRACTOR.
- E. In consideration of the mutual covenants and conditions in this AGREEMENT, and except as otherwise provided for under this AGREEMENT, CONTRACTOR agrees to waive any right that CONTRACTOR may have under VARA to prevent the removal of ARTWORK, or the destruction, distortion, mutilation, or other modification of ARTWORK arising from, connected with, or caused or claimed to be caused by the removal, conservation, maintenance, storage, or transfer of ownership of ARTWORK by CITY or its agents, officers, employees, or representatives, or by the presence of ARTWORK at PROJECT. CONTRACTOR's VARA rights under this AGREEMENT shall cease with CONTRACTOR's death and shall not extend to CONTRACTOR's heirs, successors, or assigns.
- F. In consideration of the mutual covenants and conditions in this AGREEMENT, CONTRACTOR waives any rights which CONTRACTOR or CONTRACTOR's heirs, beneficiaries, devisees, or personal representatives may have under California Civil Code Section 987 to prevent the removal, defacement, mutilation, alteration, or destruction of ARTWORK.
- G. CITY shall, in its own discretion, have the right to donate, sell, transfer or exchange ARTWORK or ELEMENTS of ARTWORK at any time. CONTRACTOR shall have the right of first refusal. CITY shall provide written notice to CONTRACTOR at CONTRACTOR's last known address, providing CONTRACTOR the opportunity to purchase ARTWORK for an amount equal to either its fair market value as determined by a qualified appraiser or the amount of any offer that CITY has received for the purchase of ARTWORK, whichever amount is greater, in addition to reimbursement to CITY for all costs associated with the removal of ARTWORK from PROJECT, clean-up of PROJECT, and transportation and delivery of ARTWORK to CONTRACTOR. CONTRACTOR shall have ninety (90) days from the date of CITY's notice to exercise the option described herein.
- H. Notwithstanding MAINTENANCE MANUAL submitted by CONTRACTOR, pursuant to SECTION VI, PARAGRAPH T, CITY may, in its sole discretion, determine when and if any maintenance or conservation to ARTWORK shall be made. In the event that such maintenance or conservation results in any substantial alteration, modification, or damage, CONTRACTOR shall have the right to disclaim ARTWORK as CONTRACTOR's creation, and to request that the identification plaque and any attributive references be removed from ARTWORK and reproductions thereof. All maintenance and conservation, whether performed by CONTRACTOR, CITY, or any third party responsible to CONTRACTOR or CITY, shall be made in accordance with professional conservation standards and in accordance with MAINTENANCE MANUAL.
- I. This SECTION is intended to replace and substitute for the rights of CONTRACTOR under VARA and CAPA to the extent that any portion of this AGREEMENT is in direct conflict with those rights. The parties acknowledge that this AGREEMENT supersedes those laws to the extent that this AGREEMENT is in direct conflict therewith.

SECTION XI. ADDITIONS & CHANGES IN SCOPE OF WORK

- A. CITY, from time to time, may desire to make changes in the services provided by CONTRACTOR under this AGREEMENT. Such changes may revise portions of SCOPE OF WORK previously completed, delete portions of SCOPE OF WORK not yet performed, require performance of additional work beyond original SCOPE OF WORK, and/or make other changes within SCOPE OF WORK to be performed by CONTRACTOR under this AGREEMENT. An amendment shall not modify the overall purpose of this AGREEMENT. In the event of such a desire for CITY to change SCOPE OF WORK, CONTRACTOR has two options:
 - 1. If CONTRACTOR agrees to CITY's requested change(s) in SCOPE OF WORK, then the parties shall agree in the form of a written amendment to this AGREEMENT that includes specifications for any such change(s), including but not limited to, description(s) of services, budget, payment(s), and/or schedule.

2. If the parties are unable to agree to requested change(s) in SCOPE OF WORK, despite best efforts made in accordance with the process outlined in SECTION XXV, and no resolution is reached, DEPARTMENT may terminate this AGREEMENT pursuant to SECTION XXVI.
- B. CONTRACTOR shall prepare and submit in writing to CITY, for review and written approval(s), any significant change(s) in the cost, scope, design, color, size, material, and/or texture of ARTWORK not in substantial conformity with CONTRACTOR's original public art project proposal. A significant change is one that affects design, fabrication, installation, schedule, site preparation, and/or maintenance of ARTWORK, and/or CONTRACTOR's concept for ARTWORK. No services requiring additional compensation to CONTRACTOR shall be furnished without prior written authorization by DEPARTMENT and AGENCY in the form of a written amendment to this AGREEMENT.
 - C. Upon DEPARTMENT's approval of any such change(s), CONTRACTOR shall submit to CITY any relevant, revised construction drawings for ARTWORK, as well as necessary revised maintenance information related to ARTWORK.

SECTION XII. AMENDMENTS TO AGREEMENT

Any changes or amendments to the terms of this AGREEMENT, including changes in the services to be performed by CONTRACTOR, extension of the term, or any increase or decrease in funding, shall be incorporated into this AGREEMENT in the form of a written amendment properly executed by both parties.

SECTION XIII. WARRANTIES

- A. CONTRACTOR warrants that, unless otherwise stipulated, ARTWORK shall be an original and an edition of one (1). CONTRACTOR shall not sell or reproduce ARTWORK and/or allow others to do so without advance receipt of a written license approval issued by CITY, wherein such license approval(s) shall not be unreasonably withheld.

SECTION XIV. ENGINEERING CONFORMANCE & PROTECTION OF WORK

- A. CONTRACTOR shall coordinate with PROJECT's architect(s) and/or engineer(s) on all related civil, architectural, structural, mechanical, electrical, and other issues as needed to ensure conformance of ARTWORK, and/or any part thereof, to all professional safety and material standards.
- B. CONTRACTOR shall bear all costs for any reasonable civil architectural, structural, mechanical, and/or electrical requirements, and safety and/or material tests as required by CITY for ARTWORK, and/or any part thereof.

SECTION XV. IDENTIFICATION

DEPARTMENT, at its expense and in consultation with CONTRACTOR, may prepare and install plaque(s), at appropriate location(s), for the purpose of identifying CONTRACTOR, title of ARTWORK, and year of completion of ARTWORK. Such plaque(s) and location(s) shall be subject to the mutual agreement of DEPARTMENT and AGENCY in consultation with CONTRACTOR. Unresolved disputes shall be resolved pursuant to SECTION XXV.

SECTION XVI. MAINTENANCE, REPAIRS & RESTORATION OF THE WORK

- A. Maintenance: DEPARTMENT and AGENCY recognize that maintenance of ARTWORK on a regular basis is essential to the integrity of ARTWORK. DEPARTMENT and AGENCY shall reasonably assure that ARTWORK is properly maintained and protected, taking into account the instructions of CONTRACTOR as specified in MAINTENANCE MANUAL, and shall reasonably protect and maintain ARTWORK against the ravages of time, vandalism, and the elements, subject to provision of funds by CITY's Mayor and Council for such purposes.
- B. Repairs and restoration: DEPARTMENT shall have the right to determine when and if repairs and restorations to ARTWORK shall be made.

SECTION XVII. SUCCESSORS & ASSIGNS

This AGREEMENT shall be binding on the parties hereto and their heirs, executors, administrators, successors, and assigns; provided however, that neither this AGREEMENT nor any part hereof, except for monies previously earned and due to CONTRACTOR, may be assigned to anyone without prior written authorization by DEPARTMENT.

SECTION XVIII. AUDIT & ACCESS TO RECORDS

CONTRACTOR, including all subcontractors, shall maintain records and other evidence of all expenses incurred this AGREEMENT for a period of three (3) years after the termination date of this AGREEMENT, pursuant to SECTION IV. CITY, or any of its duly authorized representatives, for the purpose of audit and examination, shall have access to and be permitted to inspect all such records and other evidence.

SECTION XIX. CONTRACT ADMINISTRATION

- A. CONTRACTOR shall not subcontract with any CITY's current or former regular employee(s) throughout the term of this AGREEMENT without prior written authorization by DEPARTMENT. If CONTRACTOR desires to subcontract with any third parties to provide services under this AGREEMENT, CONTRACTOR agrees that all such subcontracts shall be bound by the terms and conditions of this AGREEMENT. DEPARTMENT reserves the right to approve and/or reject any subcontract(s) identified by CONTRACTOR to provide services under this AGREEMENT, wherein CONTRACTOR, upon identifying any such subcontractor, shall promptly notify and request written authorization by DEPARTMENT to procure any such subcontractor(s), prior to entering any subcontract and/or procuring any services from a third party.
- B. DEPARTMENT shall coordinate the services to be provided by CONTRACTOR under this AGREEMENT. DEPARTMENT may delegate administration of the AGREEMENT. Wherever this AGREEMENT requires any notice(s) be given to or by CITY, or any determination(s) and/or actions(s) by made by CITY, DEPARTMENT shall so represent and/or act on behalf of CITY.
- C. CONTRACTOR shall determine the artistic expression, scope, design, color, size, material, and texture of ARTWORK, subject to review and written acceptance by DEPARTMENT, AGENCY, and COMMISSION.

SECTION XX. CONTRACTOR'S ADDRESS

CONTRACTOR shall give written notice to DEPARTMENT of any change(s) in his/her address within five (5) days of such change(s). Failure to do so, thereby causing DEPARTMENT to be unable to locate CONTRACTOR as a result shall be deemed a waiver by CONTRACTOR to any rights under this AGREEMENT.

SECTION XXI. ADDITIONAL PROVISIONS REFERENCE DOCUMENTS

Herein incorporated by reference to this AGREEMENT are "Standard Provisions for City Contracts (Rev. 03/09)", and "Model Release: Audio-Visual / Photograph Productions of the City of Los Angeles", attached hereto and labeled APPENDIX A and APPENDIX B, respectively.

SECTION XXII. CONFIDENTIALITY

- A. All documents and information provided to CONTRACTOR by CITY are confidential. All materials are to be considered confidential. CONTRACTOR agrees not to provide any such documents or materials, nor disclose any content or information therein, neither orally nor in writing, to any other person or entity, except as authorized by CITY in writing, or as required by law. CONTRACTOR shall immediately notify CITY's representative of any attempt by a third party to obtain access to documents or materials. This SECTION shall not restrict CONTRACTOR from disclosing such confidential information to the extent required under any applicable law, regulation, or order imposed by any court, administrative or regulatory agency, or stock exchange having competent jurisdiction, provided that CITY reasonably cooperates upon CONTRACTOR's request in any such efforts by CONTRACTOR.
- B. The provisions of this SECTION survive termination of this AGREEMENT.

SECTION XXIII. PROHIBITED INTERESTS

- A. CONTRACTOR warrants that s/he has not employed or retained any company or person, other than a *bona fide* employee working solely for CONTRACTOR, to solicit or secure this AGREEMENT, and has not paid or agreed to pay any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of this AGREEMENT, to any company or person other than a *bona fide* employee working solely for CONTRACTOR. For breach or violation of this warranty, CITY shall have the right to terminate this AGREEMENT without liability.
- B. CONTRACTOR agrees that, for the term of this AGREEMENT, pursuant to SECTION IV, no member, officer, or regular employee of CITY, during his/her employment or for one (1) year thereafter, shall have any interest, direct or indirect, in this AGREEMENT or any benefit arising therefrom.

SECTION XXIV. COMPLIANCE WITH LOS ANGELES CITY CHARTER SECTION 470(c)(12)

CONTRACTOR, subcontractors, and subcontractor principals performing work under any CITY contract valued at \$100,000 or more and that requires approval of elected CITY official(s), are obligated to comply fully with CITY's Charter Section 470(c)(12) and related ordinances regarding limitations on campaign contributions and fundraising for certain elected CITY officials or candidates for elected CITY office positions. Additionally, CONTRACTOR is required to provide and update certain information with CITY as specified by law. Any contractor subject to CITY Charter Section 470(c)(12) shall include the following notice in any subcontract in which the subcontractor is expected to receive at least \$100,000 to perform work under said subcontract:

"Notice Regarding Los Angeles Campaign Contribution and Fundraising Restrictions: As proved in City of Los Angeles Charter Section 470(c)(12) and related ordinances, you are a Subcontractor under a City of Los Angeles Contract and, pursuant to 470(c)(12), all Subcontractors and Subcontractor Principals under City Contracts are prohibited from making campaign contributions and fundraising for certain elected City officials for candidates seeking elected City office positions, for a term of twelve (12) months after the execution of the City Contract under which you are a subcontractor. Subcontractors are required to provide names and contact information for Subcontractor Principals must be proved to CITY contractor within five (5) business days of the execution of this Subcontract, and Subcontractors must update this information upon any such change during the stated twelve-month term. Failure to comply with 470(c)(12) or related ordinances may result in termination of this City Contract or any other available legal remedies, including fines. Detailed information about these restrictions may be accessed through the City Ethics Commission's website at <http://ethics.lacity.org/>, or by calling (213) 978-1960. Contractors, Subcontractors, and Subcontractor Principals must comply with these requirements and limitations. Violations of this provision shall entitle the City to terminate this City Contract and pursue any and all legal remedies that may available."

SECTION XXV. DISPUTES & REMEDIES

- A. All claims, disputes, and any other matters in question between CITY and CONTRACTOR arising out of or relating to this AGREEMENT or its breach, shall first be brought to DEPARTMENT'S attention.
- B. All disputes which have not been resolved by mutual agreement between DEPARTMENT and CONTRACTOR shall be reviewed by DEPARTMENT in consultation with AGENCY, wherein CONTRACTOR shall submit a written explanation of all unresolved issue(s) to DEPARTMENT's General Manager. Upon receipt of CONTRACTOR's written explanation and upon consultation with AGENCY's General Manager, within sixty (60) calendar days of receipt of said explanation, DEPARTMENT's General Manager shall render a final decision in writing to CONTRACTOR.
- C. CITY's rights and remedies under this AGREEMENT are in addition to any other rights and remedies provide by law.

SECTION XXVI. TERMINATION OF AGREEMENT

- A. DEPARTMENT, by giving fourteen (14) calendar days written notice to CONTRACTOR, may terminate this AGREEMENT, in whole or part at any time, either for DEPARTMENT's convenience or due to CONTRACTOR's failure to fulfill contractual obligations. Upon receipt of such notice, CONTRACTOR shall:
 1. Immediately discontinue all services affected (unless the written notice directs otherwise).
 2. Deliver to DEPARTMENT all data, drawings, blueprints, specifications, reports, estimates, summaries, and other such information and materials as may have been given to CONTRACTOR by CITY, DEPARTMENT, and/or AGENCY for the performance of work under this AGREEMENT, whether completed or in process.
 3. CONTRACTOR shall transfer ARTWORK, whether completed or in process, and legal title of ownership thereto, to DEPARTMENT.
- B. If termination is for CITY's convenience, DEPARTMENT shall pay CONTRACTOR for reasonable costs accrued by CONTRACTOR, subject to DEPARTMENT's review and written verification.
- C. If termination is due to CONTRACTOR's failure to fulfill contractual obligations, DEPARTMENT may take over the work and administer the same to completion by contract or otherwise. In such case, CONTRACTOR shall be liable to DEPARTMENT for any reasonable costs or damages occasioned to DEPARTMENT thereby. If CITY has paid CONTRACTOR for purchases of labor and/or materials and CONTRACTOR has not purchased all labor and/or materials for ARTWORK prior to such termination, all materials purchase by CONTRACTOR shall become property of CITY, and any unexpended amounts paid to CONTRACTOR for labor and/or materials shall be repaid immediately to CITY.

- D. If after DEPARTMENT issues a notice of termination for CONTRACTOR's failure to fulfill contractual obligations, and DEPARTMENT subsequently determines that CONTRACTOR did not so fail, then such termination shall be deemed effected for DEPARTMENT's convenience, and payment adjustment(s) shall be made by DEPARTMENT, pursuant to PARAGRAPH B of this SECTION.
- E. The rights and remedies of the parties provided in this SECTION are in addition to any other rights and remedies provided by law or under this AGREEMENT.
- F. CONTRACTOR, in executing this AGREEMENT, shall be deemed to have waived any and all claims for damages in the event of DEPARTMENT's termination for convenience as provided in PARAGRAPH B of this SECTION, including in the event that such termination is for DEPARTMENT's convenience, pursuant to PARAGRAPH D of this SECTION.
- G. If CONTRACTOR, due to illness or any other occurrence, becomes unable to render services under this AGREEMENT, this AGREEMENT shall be deemed terminated, unless stipulations have been made in writing by CONTRACTOR for completion of ARTWORK by a third party approved in writing by DEPARTMENT prior to any such written stipulations. If CONTRACTOR has not stipulated any such a third party, DEPARTMENT reserves the right to negotiate with CONTRACTOR's heirs, personal representatives, successors, and/or any party that DEPARTMENT deems suitable to complete ARTWORK.
- H. In the event of CONTRACTOR's death, this AGREEMENT shall automatically terminate and CONTRACTOR's representative shall proceed pursuant to PARAGRAPH A of this SECTION.

SECTION XXVII. AMBIGUITY

Any ambiguity in this AGREEMENT shall not be interpreted against any one party by virtue of that party being drafter of this AGREEMENT.

SECTION XXVIII. ENTIRE AGREEMENT

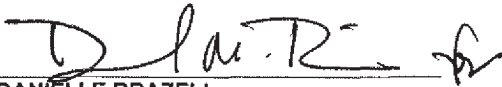
- A. This AGREEMENT shall be executed in four (4) identical copies, each of which shall be deemed an original. This AGREEMENT includes fourteen (14) pages and two (2) appendices, constituting the entire understanding and agreement of the parties.
- B. This AGREEMENT integrates all the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to the services to be provided.
- C. No verbal agreement or conversation with any officer or employee of either party shall affect or modify any of the terms and conditions of this AGREEMENT.
- D. In the event of any inconsistency between the provisions in the body of this AGREEMENT and the attachments, the provisions in the body of this AGREEMENT take precedence, followed by APPENDIX A, "Standard Provisions for City Contracts (Rev. 03/09)", followed by APPENDIX B, "Model Release: Audio-Visual / Photograph Productions of the City of Los Angeles".

—SIGNATURE PAGE TO FOLLOW—

IN WITNESS THEREOF, the parties hereto have caused this AGREEMENT to be executed by their respective duly authorized representatives.

CITY OF LOS ANGELES

GLENN KAINO dba KAINOCO INC
2039 NORTH HOBART BOULEVARD
LOS ANGELES, CA 90027
BTRC NO. 2099987

By 
DANIELLE BRAZELL
GENERAL MANAGER
DEPARTMENT OF CULTURAL AFFAIRS

By 
GLENN KAINO
PRINCIPAL

Date 9/7/16

Date 9/11/16

APPROVED AS TO FORM AND LEGALITY:
MICHAEL N. FEUER, CITY ATTORNEY

ATTEST:
HOLLY L. WOLCOTT, CITY CLERK

By 
KIMBERLY MIERA
DEPUTY CITY ATTORNEY

By 
DEPUTY CITY CLERK

Date 9-12-16

Date 9/14/16

C-128192

