



# CITY *of* BRISBANE

## Public Art Advisory Committee Agenda

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**Monday, April 17<sup>th</sup>, 2023 at 4:30PM • Hybrid Meeting**  
**Brisbane City Hall, Large Conference Room, 50 Park Place, Brisbane, CA**

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The public may observe/participate in Public Art Advisory Committee meetings by using remote public comment options or attending in person. Committee members shall attend in person unless remote participation is permitted by law. The Committee may take action on any item listed in the agenda.

### **JOIN IN PERSON**

Location: 50 Park Place, Brisbane, CA 94005 - [Large Conference Room](#)

Masks are no longer required but are highly recommended in accordance with California Department of Health Guidelines. To maintain public health and safety, please do not attend in person if you are experiencing symptoms associated with COVID-19 or respiratory illness.

### **JOIN VIRTUALLY**

Join Zoom Webinar: [brisbaneca.org/pa-zoom](https://brisbaneca.org/pa-zoom) (please use the latest version: [zoom.us/download](https://zoom.us/download))

Webinar ID: 865 6065 0564

Call In Number: 1 (669) 900-9128

Note: Callers dial \*9 to “raise hand” and dial \*6 to mute/unmute.

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## **TO ADDRESS THE COMMITTEE**

### **IN PERSON PARTICIPATION**

To address the Committee on any item on or not on the posted agenda, please wait until Public Comments are being accepted.

### **REMOTE PARTICIPATION**

Members of the public may observe/participate in the Committee meeting by logging into the Zoom Webinar. Aside from commenting while in the Zoom meeting, the following email line will be monitored during the meeting, and public comments received will be noted for the record during Public Comment or during an Item.

Email: [aibarra@brisbaneca.org](mailto:aibarra@brisbaneca.org)

### **SPECIAL ASSISTANCE**

If you need special assistance to participate in this meeting, please contact Angel Ibarra at (415) 508-2109. Notification in advance of the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

**COMMITTEE MEMBERS:**

Mayor Davis, Councilmember Cunningham, Vice-Chair Olivier-Salmon, Park & Recreation Commissioner Greenlee, Park & Recreation Commissioner Seawell, Diane Glazman, Danielle Kellstedt

**ROLL CALL**

- A. Consider any request of a City Councilmember to attend the meeting remotely under the “Emergency Circumstances” of AB 2449

**APPROVAL OF AGENDA****APPROVAL OF MINUTES**

- B. Approve Minutes from March 20<sup>th</sup>, 2023 Public Art Advisory Committee

**PRESENTATIONS AND DISCUSSION ITEMS**

- C. Acknowledge Danette Davis & Beth Grossman For Their Service to the Public Art Advisory Committee
- D. Appoint Chair and Vice-Chair
- E. Review Draft Request for Proposal for City of Brisbane’s Public Art Master Plan

**PUBLIC COMMENT****NEXT MEETING**

Monday, May 15<sup>th</sup>, 2023 at 4:30pm

**ADJOURNMENT**

**File Attachments for Item:**

B. Approve Minutes from March 20th, 2023 Public Art Advisory Committee



# CITY of BRISBANE

## Public Art Advisory Committee Minutes

Monday, March 20<sup>th</sup>, 2023 at 4:30PM • Virtual Meeting

### CALL TO ORDER - 4:32 p.m.

#### ROLL CALL

Committee Members Present: Chair D. Davis, Vice-chair Olivier-Salmon, Mayor M. Davis, Councilmember Cunningham, Park & Recreation Commissioner Greenlee (joined late due to technical difficulties), Park & Recreation Commissioner Seawell

Committee Members Absent: none

Staff Members Present: Park & Recreation Director Noreen Leek, Admin. Management Analyst Ibarra

- A. Consider any request of a City Councilmember to attend the meeting remotely under the "Emergency Circumstances" of AB 2449
  - a. Park & Recreation Commissioner Greenlee joined via Zoom due to work travel.

This is approved by M. Davis and seconded by Cunningham. 5 Ayes, 1 Absent (due to technical difficulties)

#### APPROVAL OF AGENDA

Agenda was approved by M. Davis and seconded by Cunningham. 5 Ayes, 1 Absent (due to technical difficulties)

#### APPROVAL OF MINUTES

- B. Approve Minutes from December 5<sup>th</sup>, 2022 Public Art Advisory Committee
- C. Approve Minutes from January 23<sup>rd</sup>, 2023 Public Art Advisory Committee
- D. Approve Minutes from February 27<sup>th</sup>, 2023 Public Art Advisory Committee

Approved by M. Davis, seconded by Salmon. 5 Ayes, 1 Absent (due to technical difficulties)

**PRESENTATION AND DISCUSSION ITEMS****E. Review RFP Samples and Begin Framing Key Components of a Public Arts Master Plan RFP for Brisbane**

The Committee reviewed RFPs from City of Alameda, City of Belmont, City of Redwood City (RWC) and City of South San Francisco (SSF). They highlighted their preferences from each city's RFP:

- Belmont - the conciseness of their RFP, their key elements section and consultant selection section (with modifications);
- SSF - their timeline, public participation plan and overarching goals (community involvement, diversity of art and a sense of place, but not "artist's participation" as this is not part of the Master Plan);
- RWC - the qualifications section and submittal requirements;
- Alameda's RFP was too long and "wordy", they didn't like their submittal requirements or selection process.

Aside from the elements listed above, the Committee wants the RFP to include these elements:

- Language about "art on loan" and temporary art;
- Large focus on a robust public outreach;
- Recommendations for language around collection, ownership & maintenance of art;
- Consultant to understand that Brisbane has large developments on the horizon that need to be considered (Baylands and Sierra Point Parkway).

**F. Discuss Approach for Identifying Project Fee Structures**

The Committee reviewed the costs from the other cities: Belmont - \$25K; RWC - \$60K; SSF - \$80K; and Alameda \$60.

After much discussion, the Committee would like to propose the RFP state their budget as "not to exceed \$75K".

Staff will draft an RFP and bring it back to the Committee at the next meeting.

**G. Consider Ideas for Small Interim Projects**

The Committee brainstormed various project ideas and "low-hanging fruit" projects. Some ideas are:

- Exhibit space to display temporary art (aside from city hall's large conference room);
- Decorative mailboxes for community involvement (mailboss.com);
- Sidewalk Chalk Art Event;
- Firth Park: refresh the Helix and Turtle sculptures;
- Film Festival (potentially a children's/young adult);
- Surprise Art pieces throughout town;
- And a Bench Art project – this may be a larger project. Link is to City of Chico's project:

<https://chico.ca.us/sites/main/files/file-attachments/downtownartbenchbrochure.pdf?1583798321>

**PUBLIC COMMENT**

3/20/23: Vice-Chair Salmon reminded the Committee that there is a Spoken Word event happening at Mission Blue Center on April 16<sup>th</sup> called Dark Days and a Black Dog. Obie award winning actor Andrea Snow will perform an intriguing, fully embodied “play/reading,” a new approach to bringing the written word to vivid life for an audience.

3/20/23: Michael Barnes submitted written comments that may be accessed here:

[www.brisbaneca.org/sites/default/files/fileattachments/public\\_art\\_advisory\\_committee/meeting/24719/2023-03-20\\_public\\_comment\\_barnes.pdf](http://www.brisbaneca.org/sites/default/files/fileattachments/public_art_advisory_committee/meeting/24719/2023-03-20_public_comment_barnes.pdf)

**NEXT MEETING DATES**

Monday, April 17<sup>th</sup>, 2023 at 4:30pm

**ADJOURNMENT**

5:51PM

**File Attachments for Item:**

C. Acknowledge Danette Davis & Beth Grossman For Their Service to the Public Art Advisory Committee

## PUBLIC ART ADVISORY COMMITTEE

*Acknowledgement*

The City of Brisbane formally recognizes Danette Davis for her service on the Public Art Advisory Committee.

Over the course of her term, she:

Acted in advisory capacity to City Council on matters pertaining to the City's Art in Public Places Program;

Increased citizens' appreciation of art, improved quality of life, and enhanced Brisbane's identity as a unique community within the greater Bay Area;

Supported the notion that public art has the power to energize our public spaces, arouse our thinking, and transform the places where we live, work, and play into more welcoming and beautiful environments that invite interaction;

Recommended to the City Council the amount of money from the Public Art Fund to be used on any publicly installed public art pieces and recommended locations for projects, types of artwork when appropriate, process for involving the community, and methods for soliciting artists;

Reviewed the balance of funds in the Public Art Fund to determine if the Committee should propose projects to be initiated and commissioned by the City;

And gathered community opinions and perceptions regarding public art in Brisbane.

After many years of service to the Brisbane community and advocacy in the field of public art, we thank you for your time and dedication.

SINCERELY,

*The City of Brisbane*



## PUBLIC ART ADVISORY COMMITTEE

*Acknowledgement*

The City of Brisbane formally recognizes Beth Grossman for her service on the Public Art Advisory Committee.

Over the course of her term, she:

Acted in advisory capacity to City Council on matters pertaining to the City's Art in Public Places Program;

Increased citizens' appreciation of art, improved quality of life, and enhanced Brisbane's identity as a unique community within the greater Bay Area;

Supported the notion that public art has the power to energize our public spaces, arouse our thinking, and transform the places where we live, work, and play into more welcoming and beautiful environments that invite interaction;

Recommended to the City Council the amount of money from the Public Art Fund to be used on any publicly installed public art pieces and recommended locations for projects, types of artwork when appropriate, process for involving the community, and methods for soliciting artists;

Reviewed the balance of funds in the Public Art Fund to determine if the Committee should propose projects to be initiated and commissioned by the City;

And gathered community opinions and perceptions regarding public art in Brisbane.

After many years of service to the Brisbane community and advocacy in the field of public art, we thank you for your time and dedication.

SINCERELY,

*The City of Brisbane*

**File Attachments for Item:**

E. Review Draft Request for Proposal for City of Brisbane's Public Art Master Plan



# Request for Proposals

# PUBLIC ART

# MASTER PLAN

Released **DATE**

Submittals due by **DATE, TIME**

*Late submittals will not be accepted.*



The City of Brisbane, CA is seeking proposals from qualified individuals, firms, teams (hereinafter referred to as Consultant) with demonstrated experience in developing a public art master plan through a process of active public engagement. Consultants are invited to submit a proposal outlining their experience and qualifications in performing work directly related to the services required.

Selection will be made from responsive proposals that will best serve the interests of the City based on a combination of experience, qualification, availability, and capacity to perform the scope of services.

Please submit your proposal using the format specified in this Request For Proposals (RFP). **PROPOSALS MUST BE RECEIVED BY DATE, no later than TIME.** Any proposal received after the specified time and date will not be considered. Proposals may be submitted one of the following ways:

**Preferred:**

1. Electronically via PDF to [nleek@brisbaneca.org](mailto:nleek@brisbaneca.org) AND [jbondoc@ci.brisbane.ca.us](mailto:jbondoc@ci.brisbane.ca.us).

*Note: An email will be sent to confirm receipt of the electronic proposal.*

**Accepted:**

2. Mailed to:  
ATTN: Noreen Leek  
Parks & Recreation Director  
City of Brisbane  
50 Park Place  
Brisbane, CA 94005

*If mailed, it must be received by the City by no later than TIME/DATE.*

3. Dropped off in person at Brisbane City Hall, 50 Park Place, Brisbane, CA 94005 on TIME/DATE.

*Note: A staff person will be onsite to receive hard-copy proposals during that time frame only.*

Questions regarding the information contained in the RFP document must be submitted in writing by e-mail to: [nleek@brisbaneca.org](mailto:nleek@brisbaneca.org). All questions must be received by DATE. Questions will be responded to in writing. Written summaries of all questions and answers will be recorded and may be shared with all prospective Consultants. Anonymity of the source of specific questions will be maintained in the responses and a clarification addendum will be issued, if necessary. Verbal inquiries are discouraged and the intent behind this requirement is to ensure that all prospective consultants have the same information available to them and no inconsistent, incomplete or misinformation is communicated to any party.

Noreen Leek  
Parks & Recreation Director  
(415) 508-2141  
[nleek@brisbaneca.org](mailto:nleek@brisbaneca.org)



## Introduction

The City of Brisbane is seeking proposals from Consultants, Consultant Teams and Qualified Firms with demonstrated experience in public art master planning to develop the first Public Art Master Plan for the City of Brisbane, California. The Master Plan will provide long-term direction to the Public Art Advisory Committee and the City Council on the planning and processes necessary to further develop, administer and maintain a dynamic public art program in the City of Brisbane. The selected consultant will be responsible for developing policies and procedures, prioritizing City needs related to public art, and identifying types and locations of art throughout the City in order to establish a clear future for public art in the City of Brisbane. The Consultant will work collaboratively with the City's Public Art Advisory Committee and City Staff to ensure broad public outreach and involvement to curate a vision for Brisbane's public art.

## Background

The City of Brisbane is a small City in San Mateo County, approximately 20.1 square miles, nestled into the lower slopes of San Bruno Mountain. The City is located immediately south of San Francisco and is bordered to the east by the San Francisco Bay. The City of Brisbane was incorporated on November 27, 1961. Brisbane is known as "The City of Stars" due to a holiday tradition dating back to 1939. Residents and businesses adorn their homes and buildings with illuminated stars in early Winter delighting passersby.



The City of Brisbane adopted a Public Arts Ordinance (ENCLOSURE A) in 2014 in order to increase citizens' appreciation of art, to improve quality of life, and to enhance Brisbane's identity as a unique community within the greater Bay Area. Additionally, public art should stimulate creativity, imagination, induce creative conflict, and add a unique human quality to the community environment and enrich public spaces. A city rich in art becomes an outdoor cultural museum accessible to everyone.

The Brisbane Public Art Advisory Committee is the City Committee responsible for ensuring all public art projects in the City of Brisbane meet the program criteria and guidelines for selection of an artist or artist team, artwork, and artwork location established in the Public Arts Implementation Guidelines (ENCLOSURE B).

The Brisbane Public Art Advisory Committee is a City committee composed of 2 Parks and Recreation Commissioners as designated by the Parks and Recreation Commission, 2 City Council Members (the Council's Parks and Recreation Commission Liaisons), and 3 Brisbane Community members, appointed by City Council for two-year terms. The Community members must include one individual professionally engaged in the art community, one individual that is an employee or owner of a Brisbane business and the other may be either a resident of Brisbane or an owner/employee of a Brisbane business.

The Master Plan for Public Art in Brisbane will include integration of art in both existing and to be built public spaces. The City anticipates significant future growth and additional opportunities for art will be prevalent in areas such as the Crocker Trail, Sierra Point, and the Baylands. (See ENCLOSURE C, *Aerial Map of Brisbane boundary*.) Art should serve as a foundational element of Brisbane's identity and should be a fundamental part of the design and the planning process for all development.

## Scope of Work

This is the first public art master plan for the City of Brisbane. The purpose of the Public Art Master Plan is to set a vision and develop a long-term plan that will provide clear direction for the future of public art in Brisbane. The plan should outline goals for public art in Brisbane, identify priorities for its art program, identify strategic partnerships and possible sources of alternative funding, and establish program processes. Additionally, the plan should address opportunities for ongoing public engagement, develop policies and procedures, and recommend processes necessary to achieve the vision for public art in our community.

It is expected that the consultant will take the lead on all community meetings, presentations, and outreach efforts. Staff will play a supporting role and facilitate those efforts and meetings. Staff will act as the liaison between the Consultant and the Public Art Advisory Committee.



**Key elements of a Public Art master plan should include:**

- Development of the mission, vision, goals, and guiding principles for the City’s Public Art Program;
- Clear goals and implementation strategies that include short and long-term priorities;
- Recommended public art guidelines, policies and processes;
- Summary of research, findings and community outreach results;
- Strategies for ongoing community engagement and outreach to a diverse group of stakeholders;
- Identification of sites for future temporary and permanent public art projects, including “iconic” and “gateway” art placement and spaces for participatory art;
- Opportunities for funding models for public art;
- Analysis and recommendations for a collection strategy, including recommendations for a collection maintenance, conservation, ownership, and deaccession plan.

**The submitted proposal shall address the following areas of service:**

***Assessments and Recommendations***

1. Identify standards for what is classified as public art. • Review current public art collection, inventory artworks and programs. • Recommend standards for future acquisitions/projects.
2. Identify criteria for selection of public art. • Highlight best practices. • Acknowledge government purchasing procedures.
3. Define processes and policies for public art, including but not limited to the following:
  - Art donations, temporary artworks, artist or community-initiated artwork, deaccession, ongoing maintenance, upkeep, relocation and removal policies and recommendations.

***Public Participation Plan***

1. Undertake a comprehensive community outreach program to fully engage residents, stakeholders and the community at large in shaping and defining what Public Art is in Brisbane.
2. Undertake specific outreach to minority communities as well as low- and moderate-income residents to help identify specific opportunities for public art engagement that will be beneficial for those communities.

***Development of Cohesive Plans***

1. Identify and clarify key themes and values on which the community should focus its public art resources.



2. Provide recommendations for program development (such as urban/street art, public art pocket map, murals, banners, community art gallery, artists registry, performing art, music, digital media).
3. Create measurable steps for achieving public art goals in 1-5 years; Forecast 15–20-year initiatives.
4. Outline plan to create an arts district, including but not limited to the following based on Consultant experience/expertise:
  - Recommended contiguous location(s).
  - Recommended space and operational characteristics for creative space needs (e.g. square footage, height requirements, ventilation, outdoor access, storage, live/work needs).
  - Recommended space and operational characteristics for community performance space.
  - Suggest financing options to initiate and support necessary creative space infrastructure.
5. List and map potential locations for future art; Explore options for re-zone of areas in City to encourage long-term artist residency and community space opportunities.
6. Suggest a long-term approach and priorities for disbursement of the Public Art Fund.
7. Identify additional funding resources and staffing recommendations.
8. Suggest goals for marketing and audience development.
9. Indicate actions for promotion of cultural diversity, community and neighborhood inclusivity.
10. Summarize Master Plan goals and content in an accessible, consumer-friendly format.
11. Suggest priorities for proposed projects, with a projected timeline and financial strategy for implementation.
12. Analyze current and best-in-practice metrics, comparisons, redundancies, and context with surrounding cities, and establish a plan for tracking performance of metrics as relevant to overall plan.
13. Produce an attractive and understandable final printed and digital report which includes the findings noted above.
14. Present at a minimum of one Public Art Advisory Committee meeting and one City Council meeting.





## RFP Timeline

The anticipated schedule for selection of a Consultant for this project is as follows:

RFP Release Date	DATE TBD
Question Submission Cutoff Deadline	DATE TBD
Proposal Submission Deadline	DATE TBD
Selection Committee review & interviews (if necessary)	DATE TBD
Tentative notification of bid awarded to Consultant	DATE TBD
City approval granted to proceed	DATE TBD
Notice to proceed issued to Contractor	DATE TBD

*\*Disclaimer: This timeline is subject to change and the City of Brisbane reserves the right to adjust as deemed necessary.*

## Budget

Consultant shall provide a proposed budget itemized by task as well as the total project cost proposed, and total project cost stated as a firm fixed fee not to exceed \$75,000. Labor and direct costs should be identified by task. Hourly rates for project staff shall also be provided. **Cost Proposal will be submitted separate from the rest of the RFP response.**

## Submission Requirements

1. Each RFP response shall be submitted in compliance with the requirements outlined on Page 2.
2. The submittal shall be typed and shall not exceed twenty-five (25) pages of written material including the cover letter. Submittals failing to comply with the page limitation will not be considered.
3. Submittal must include examples of previous work.
4. To be responsive, each RFP submission must include the following information in the format indicated. The submittals shall be organized to match the following categories. Submittals not organized according to the following format may be rejected.

**a. Cover Letter.** Consultant identification including name, year firm established, address, city, state, zip code, telephone number and e-mail address of the firm's applicant(s). *Length: One (1) page maximum.*

**b. Letter of Interest.** Statement of interest detailing the firm's interest in the project and highlighting unique features it would bring to the project. *Length: One (1) page maximum.*

**c. Statements of Qualifications.** *Length: One (1) page maximum.*

- i. Provide statement of qualifications for each of the specific disciplines;
- ii. Include the firm's structure, background, and interest, detailing the firm's interest in the project and highlighting unique features it would bring to the project;
- iii. List of recent projects similar in scale, cost, and complexity and also note the year completed; include the name, address and phone number for client, contractor, or person that may serve as a reference;
- iv. Firm's current work load and backlog;
- v. Identify any recent or pending litigation.

**d. Relevant Experience/Examples of Work.** Provide descriptions of up to three (3) previous projects within the past 10 years that most closely relates to this request for services. *Length: Three (3) page maximum.*

- i. Include projects' scale, cost, and complexity and also note the year constructed; name, address and phone number for client, contractor, or person that may serve as a reference.

**e. Professional Background.** Provide a summary of the applicant's professional background, with a predominant focus on special professional and/or project experience. *Length: Two (2) pages maximum.*

**f. List of Client References.** Provide a list of clients to be used as references for your work. *Length: One (1) page maximum.*

- i. Must include the contact name, address, telephone number, nature of job, length of engagement, and resulting project.

**g. Sealed Fee Proposal.** The Fee Proposal shall be submitted in a separate sealed envelope or PDF document marked "Public Art Master Plan Fee Proposal".

## Selection/Interview Process

Pursuant Sections 4525-4529 of the Government Code of the State of California, the Consultant's selection will be based on qualifications. The City's Public Art Advisory Committee will review the proposals received by the deadline and develop a short list of qualified firms. Depending upon the relative quality of the proposals, the City may invite short listed firms to formal interviews. The City of Brisbane reserves the right to refuse any or all proposal(s), to waive technicalities, and to accept whichever proposal(s) that may be in the best interest of the City, at its sole discretion.

## General Terms & Conditions

1. This RFP does not commit the City to enter into an agreement, to pay any cost incurred in the preparation of a submittal to this request or in subsequent negotiations, or to procure or contract for the project.
2. At any time prior to the specified time and date set for the submission, a person/firm, or their designated representative, may withdraw their proposal.
3. The issuance of this RFP and the acceptance of a proposal do not constitute an agreement by the City that any contract will actually be entered into by the City. The City expressly reserves the right to:
  - Reject any or all proposals.
  - Reissue an RFP.
  - Extend the time frame for submission of the proposals by notification to all parties who have registered an interest in this RFP with the City.
  - Request more information from any or all applicants.
  - Waive any immaterial defect or informality.
  - Decline to go forward with the RFP.
  - Reject any Subcontractor or Contractor proposed by the Proposer.
  - The City expressly reserves the right not to proceed to contract under this RFP.
4. All services shall be provided in accordance with Enclosure "D," the City's Professional Services Agreement. Final terms of any agreement will be established during negotiations. Negotiations may be terminated by the City for failure to reach mutually acceptable terms.
5. Each person/firm will be responsible for all costs incurred in preparing a response to this RFP.
6. All materials and documents submitted in response to this RFP will become the property of the City and will not be returned. Persons/firms selected for further negotiations will be responsible for all costs incurred by it during negotiations whether or not such negotiations lead to a contract with the City.
7. Proposers are responsible for reviewing all portions of this RFP. Proposers are to promptly notify the City, in writing, if the proposer discovers any ambiguity, discrepancy, omission or other error in the RFP. Any such notification should be directed to the City promptly after discovery, but in no event later than five working days prior to the date for receipt of proposals.

## Enclosures/Reference Documents

Enclosure A	Public Arts Ordinance – Brisbane Muni Code Chapter 15 – Art in Public Places Program
Enclosure B	Public Art Implementation Guidelines
Enclosure C	Aerial Map Denoting Brisbane boundary
Enclosure D	DRAFT Agreement for Professional Services

## ENCLOSURE A

### Chapter 15.85 ART IN PUBLIC PLACES PROGRAM

#### 15.85.010 Title.

This chapter shall be known as the city's "art in public places program" and may be so cited.  
(Ord. No. 588, § 1, 10-2-14)

#### 15.85.020 Purpose.

The purpose of the city's art in public places program is to promote the visual arts by requiring the inclusion of a public artwork component in certain new public and private development projects in Brisbane. The city council recognizes that public art has the power to energize our public spaces, arouse our thinking, and transform the places where we live, work, and play into more welcoming and beautiful environments that invite interaction. By its presence alone, public art can heighten our awareness, question our assumptions, transform a landscape, or express community values, and for these reasons it can have the power, over time, to transform a city's image. Public art helps define a community's identity and reveal the unique character of a specific neighborhood.

#### 15.85.030 Definitions.

For purposes of this chapter, the following definitions shall apply:

- A. "Brisbane public art fund" means the fund described in Section 15.85.040.
- B. "Building development costs" means construction costs, including grading and landscaping costs, for new private developments that do not include costs for hazardous materials abatement, land use planning consultants, feasibility studies, environmental review, land acquisition, legal fees, architecture/engineering, construction management, geotechnical surveys, historical surveys, and demolition. For public developments, "building development costs" means public construction costs that do not include costs for park and landscape renovation projects; pipelines, power transmission lines and towers, switchyards and substations, dwellings in watershed areas; mechanical, plumbing and electrical system upgrades; seismic or structural upgrades; modifications for disabled access, unless occurring in conjunction with a new building construction. "Building development costs" for public developments shall include costs for bridges and overpasses, but shall not include costs for other transportation improvement projects.
- C. "Implementation guidelines" means the guidelines for implementation of this chapter to be developed by the public art subcommittee.
- D. "In-lieu contribution" means a cash contribution equivalent to the percentage of building development costs required herein.
- E. "Public art subcommittee" means a broadly representative subcommittee appointed by the parks and recreation commission.

#### 15.85.040 Brisbane public art fund.

- A. The city manager shall establish a Brisbane public art fund to receive in-lieu contributions, donations, and other funds contributed in support of the art in public places program. Unspent monies in the Brisbane

public art fund shall be carried over to the next fiscal year, unless prohibited by the source of the funds, or applicable laws or regulations.

- B. The Brisbane public art fund may be used to acquire, place, and maintain public art on public or private property throughout the city, as described in the implementation guidelines.

#### **15.85.050 Contribution requirements.**

##### **A. Private Developments.**

##### **1. Commercial Projects.**

- a. Private nonresidential and non-live-work building developments with building development costs from one million dollars (\$1,000,000.00) through five million dollars (\$5,000,000.00) shall contribute in an amount equal to at least one percent of their building development costs into the Brisbane public art fund as an in-lieu contribution. This section shall apply to both new projects and building alterations/additions.
- b. Private nonresidential and non-live-work building developments with building development costs above five million dollars (\$5,000,000.00) shall contribute in an amount equal to at least one percent of their building development costs into the Brisbane public art fund as an in-lieu contribution. Alternatively, at the discretion of the owner or developer, such projects may devote in an amount equal to at least one percent of their building development costs for the acquisition and installation of publicly accessible art on the development site, subject to the provisions of Section 15.85.060. This section shall apply to both new projects and building alterations/additions.

##### **2. Residential Projects.**

- a. Single and multiple family residential and live-work developments with ten (10) through twenty (20) units shall contribute in an amount equal to at least one-half percent of their building development costs into the Brisbane public art fund as an in-lieu contribution.
- b. Single and multiple family residential and live-work developments with more than twenty (20) units shall contribute in an amount equal to at least one percent of their building development costs into the Brisbane public art fund as an in-lieu contribution.
- c. Single and multiple family residential and live-work developments with building development costs above ten million dollars (\$10,000,000.00), regardless of the number of units, shall contribute in an amount equal to at least one percent of their building development costs into the Brisbane public art fund as an in-lieu contribution. Alternatively, at the discretion of the owner or developer, such projects may devote in an amount equal to at least one percent of their building development costs for the acquisition and installation of publicly accessible art on the development site, subject to the provisions of Section 15.85.060.

d. Private residential and live-work building developments designated as low or moderate income housing shall be exempt from the requirements of this chapter.

3. Compliance with the provisions of Section 15.85.050(A) shall be demonstrated by the owner or developer prior to the issuance of a building permit as follows: (a) payment of the full amount of the in-lieu contribution; or (b) written proof to the building department of a contractual agreement to commission or purchase and to install the requested artwork on the development site. The owner or developer shall provide the city with proof of installation of the requested artwork on the development site before issuance of the certificate of occupancy, unless the city has approved some other method of assuring compliance with the provisions of this chapter.
  4. An in-lieu contribution shall not necessarily change the characterization of the project as a private development.
- B. Public Developments. Building developments by the city with building development costs above five hundred thousand dollars (\$500,000.00) shall devote in an amount equal to at least one-half percent of their building development costs for the acquisition and installation of publicly accessible art on the development site or for contribution into the Brisbane public art fund as an in-lieu contribution.

#### **15.85.060 Implementation guidelines.**

The public art subcommittee shall create implementation guidelines for the art in public places program, which shall be approved by the city council. These implementation guidelines shall include, among other things, provisions regarding:

- A. The selection and location of public art pieces;
- B. Contributions into, expenditures from, and maintenance of the Brisbane public art fund;
- C. The conditions for removing, re-siting, or replacing public art;
- D. The installation of project-specific publicly accessible art in lieu of contribution to the Brisbane public art fund;
- E. The process and specifications for waiving the provisions in this chapter; and
- F. Requirements for demonstrating compliance with provisions of this chapter.

#### **15.85.070 Violations of chapter.**

In addition to other fines or penalties provided by state or municipal law, the city may revoke or suspend any discretionary permit granted to any owner or developer who violates the provisions of this chapter.

## ENCLOSURE B

# Public Arts Implementation Guidelines

## City of Brisbane

*Approved by Council 06.17.21*

### **Purpose:**

The City of Brisbane adopted a Public Arts Ordinance in 2014 in order to increase citizens' appreciation of art, to improve quality of life, and to enhance Brisbane's identity as a unique community within the greater Bay Area. Additionally, public art should stimulate creativity, imagination, induce creative conflict, and add a unique human quality to the community environment and enrich public spaces. A city rich in art becomes an outdoor cultural museum accessible to everyone.

Public art can and should be an integral part of the design and the planning process of all development.

### **Goals:**

1. **Community Involvement** – A community develops a specific identity and character over time. Residents are uniquely qualified to provide insight into the types of public artwork that are best suited for the community depending on the size of the project. Those who reside in the community are encouraged to participate in the selection process of public art pieces by participating at public meetings.
2. **Diversity of Art** – The collection should be diverse in its representation of artists and artistic styles and be reflective of the ethnic and cultural diversity of the community.
3. **Creation of Sense of Place** – Art is important to our common experience because it brings focus, importance, and cohesion to public spaces. Public art develops images and provides experiences that reflect the historical and cultural essence of a community. Public art transforms public spaces by giving them a context and relevance and making them places of community interest and pride. Public art has the potential to improve the appearance of an entire business block; to heighten the ethnic, historical or cultural aspects of the community and to attract foot traffic to an area that formerly had little or none.
4. **Artist Participation** – By encouraging collaboration between artist, architects, and engineers we can provide an aesthetic dimension that expands possibilities for creating public spaces for the community.

### **Definitions:**

- **Artist:** An individual or team of individual artists whose body of work and professional activities

demonstrate serious ongoing commitment to the fine arts. Members of architectural, engineering, design or landscaping firms retained for the design and construction of a development project covered by these Guidelines shall not be considered artists for the purpose of meeting the requirement to provide public art.

- **Arts professional:** An individual who works in the fine arts field (such as arts consultant, fine arts curators, fine arts collectors, art critics, or art educators).
- **Artwork or work of art:** All forms of original creations of visual arts, including but not limited to: 1) sculpture in any material or combination of materials; 2) painting- all media including portable and permanently affixed works, such as murals and frescoes; 3) graphic arts- print making and drawing; 4) mosaics; 5) photography; 6) crafts in clay, fiber and textiles, wood, metal, plastics and other materials; 7) calligraphy; 8) stained glass; and 9) mixed media – any combination of forms or media, including collage.
- **Artwork cost:** Artwork cost is the total amount budgeted by the City for a public artwork project.
- **Building valuation:** The total dollar amount of all construction permits for the same development project using the latest building valuation data as set forth by the International Conference of Building Officials (ICBO) building valuation.
- **Conceptual design plan:** The initial phase of the approval of public artwork that includes review of the artist's or artist team's qualifications, conceptual artwork design, and artwork location.
- **Design:** Artwork detailing project design, including scale drawings within site context, sealed by an engineer, if required.
- **Fabrication:** A detailed description of the methods of fabrication as well as any uncommon or unusual details regarding the approach to creating an artwork piece.
- **Final design plan:** The final phase of the approval of public artwork that involves consideration of a highly defined proposal that conforms to the concept previously considered and approved by the Committee.
- **In-lieu contribution:** In place of an approved artwork on the site, a developer may elect to pay to the City an amount equal to the program allocation set forth in the Public Arts Ordinance. In-lieu fees shall be submitted to the City and deposited into the Public Art Fund before issuance of a building permit for the development project except when a different time period is approved by the Community Development Director and Parks and Recreation Director.
- **Installation:** A detailed description of the installation procedure if the artwork will not be fabricated directly on the selected site. Installation would include the construction of any required footings or foundation.
- **Public art:** Any permanent display of a work of visual art that was specifically designed to be located on a site where it would be easily accessible to the public, either on private or public property within the City of Brisbane.
- **Public art advisory committee (Public Art Committee):** A committee made of 2 Parks and Recreation Commissioners as designated by the Parks and Recreation Commission, 2 Council Members (the Council's Parks and Recreation Commission Liaisons), and 3 Brisbane Community members, appointed by City Council. The Community members shall serve two



year terms and one of whom will be professionally engaged in the art community, one of whom will be an employee or owner of a business located in Brisbane, and the other member may be either a resident of Brisbane or an owner or employee of a business located in Brisbane. Members of the Public Art Advisory Committee will be ineligible to propose public art projects while they serve on the Committee and for 1 year after they leave the Committee.

- **Public art fund:** An interest-bearing account that is managed by the City Manager, or designee, into which public art funds, including donated funds, in-lieu funds and/or public art grant funds are deposited.
- **Public place:** An interior or exterior area on public or private property that is easily accessible by and highly visible to the general public.

### **General Procedure:**

Public artwork is limited to permanent visual works of art, as opposed to performing, written, or temporary art. Visual art includes but is not limited to, murals, sculptures, artist-designed landscape features, streetscape features, earthworks, environmental installations, and water and digital displays.

Any money donated to or collected through the Building Permit process will be deposited in the Public Art Fund. The City Manager, or designee, shall administer the funds and establish accounting records according to Generally Accepted Accounting Principles (GAAP). The City Manager or designee will authorize all disbursements from the Public Art Fund. The account shall not be added to the City's General Fund.

The process for selecting the public piece to be installed will depend on whether or not the artwork is commissioned by the City of Brisbane or by a private person or entity.

All privately installed Public Art will be reviewed by a Public Art Advisory Committee. The Public Art Advisory Committee is responsible for reviewing and making decisions on conceptual design plans submitted by a developer of a project subject to the public art requirement.

Additionally, on an annual basis the Public Art Advisory Committee will meet to review the balance of funds in the Public Art Fund to determine if they should propose any projects be initiated and commissioned by the City.

The Public Art Advisory Committee shall ensure all public art projects meet the program criteria and guidelines for selection of an artist or artist team, artwork, and artwork location established in this procedure before submittal of the Final Design Plan to the City Council.

The following procedure will be used to review and approve public art projects:

### **Privately Installed Public Art**

1. The project contact will meet with the designated staff from the City prior to submitting

conceptdesign plans.

2. The developer must contract the services of an artist for any public art project. The developer will provide the work vitae of the art consultant or artist.
3. Proposals must include preliminary sketches, photographs, or other documentation of sufficient descriptive clarity to indicate the nature of the proposed work.
4. An appraisal or other evidence of the value of the proposed artwork, including acquisition and installation costs. If the value of a proposed artwork (by past records of comparable work sold, etc.) cannot be verified, City staff may choose to have the artist's proposal and or/other completed works appraised by a qualified art appraiser selected by the City. The developer will pay up front for any art appraisal service fees. This expense will be deducted from the total artwork allocation cost.
5. Preliminary plans must contain such detailed information as may be required by the Public Art Advisory Committee to adequately evaluate the location of the artwork in relation to the proposed development, including compatibility with the character of adjacent conforming developed parcels and existing neighborhood if necessary.
6. A preliminary budget must show the proposed public art project is consistent with the public art ordinance requirements.
7. Within 30 days of receiving a complete application the Advisory Committee will hold an open meeting to discuss the proposed project. The meeting will be noticed to all properties within 1,000 feet of the property and posted as required by law. With the agreement of the developer the meeting may take place more than 30 days from receiving the complete application.

The proposed artwork project will be reviewed using the following criteria as applied to the supporting documentation and past projects: Artistic quality (vision, originality, and craftsmanship); Context (architectural, historical, geographical, and socio-cultural context of the site); quality and permanency of materials; maintenance; safety; diversity of artists; representation in the existing collection of publically-accessible artworks; and diversity of artworks(media, scale, style, intention) in the existing collection of publicly accessible artworks.

8. The Public Art Advisory Committee will make a recommendation on the proposed artwork to the City Council.
9. The City Council will have the final approval for any public artwork project. If the Council does not approve the proposed project it can either refer the item back to the Advisory Committee for reconsideration.
10. All cost of maintaining a privately installed Public Art work will be the expense of the private entity unless the City accepts the Public Art piece as a donation.

### Public Installed Public Art

1. The Public Art Advisory Committee will recommend to the the City Council the amount of money fromthe Public Art Fund to be used on any publicly installed public art pieces and the breakout between Administrative and Maintenance costs of the project. The Public Art Advisory Committee will also recommend a location for the art project, type of artwork when appropriate, process for involving thecommunity in the process, and method calling for artists.
2. The Council will approve available funds for the artwork and solicit members to be part of an ArtSelection Committee, if needed.
3. The Public Art Committee shall select an artist, or group of artists, through a public process using oneof the following methods:
  - a. Request for qualifications (RFQ)
  - b. Request for proposals (RFP)
  - c. Invitational competition.
4. The City Council shall make a decision on the Public Art Committee's recommendations on the artist or artist group.
5. The Public Art Committee, any outside professional hired by the City for assisting with the selection of the art work, and the appropriate City staff, as needed for the particular project, shall meet regularly with the selected artist, or group of artists, in developing the Conceptual Design Plan that meets the artwork and location criteria.
6. Once the Conceptual Plan has been approved by the Public Art Committee, the artist or artist's teamshall refine the project objectives and the Conceptual Design Plan according to the direction of the Public Art Committee.
7. The Final Design will be approved by the City Council.

### Use of Funds

All funds appropriated for public art will be deposited in the Public Art Fund. The City Council shall authorize projects for funding as prescribed in the public art implementation guidelines. In circumstanceswhere it is not feasible to incorporate artistic features into a particular project, such money will be pooledand used for art in other projects. Disbursements shall be made in connection with projects approved byCity Council. Nothing herein prohibits the City from soliciting or receiving grants, donations, bequests orgifts from private or public sources.

For individual pieces of art the Art Advisory Committee will recommend, to the City Council, what percentage of the funds will be set aside for the Public Art, Maintenance, and Administration and Education based on the guidelines below.

#### 1. Public Art Funds

No less than sixty-five percent (65%) of the money fees collected shall be directed forPublic Art Acquisition and may be spent for the following purposes:

- a) Artists' services and fees.

- b) Acquisition of art.
- c) Artist selection processes, including jury selection costs and model or design fees.

No more than fifteen percent (15%) of the money collected may be directed for Maintenance and curatorial services

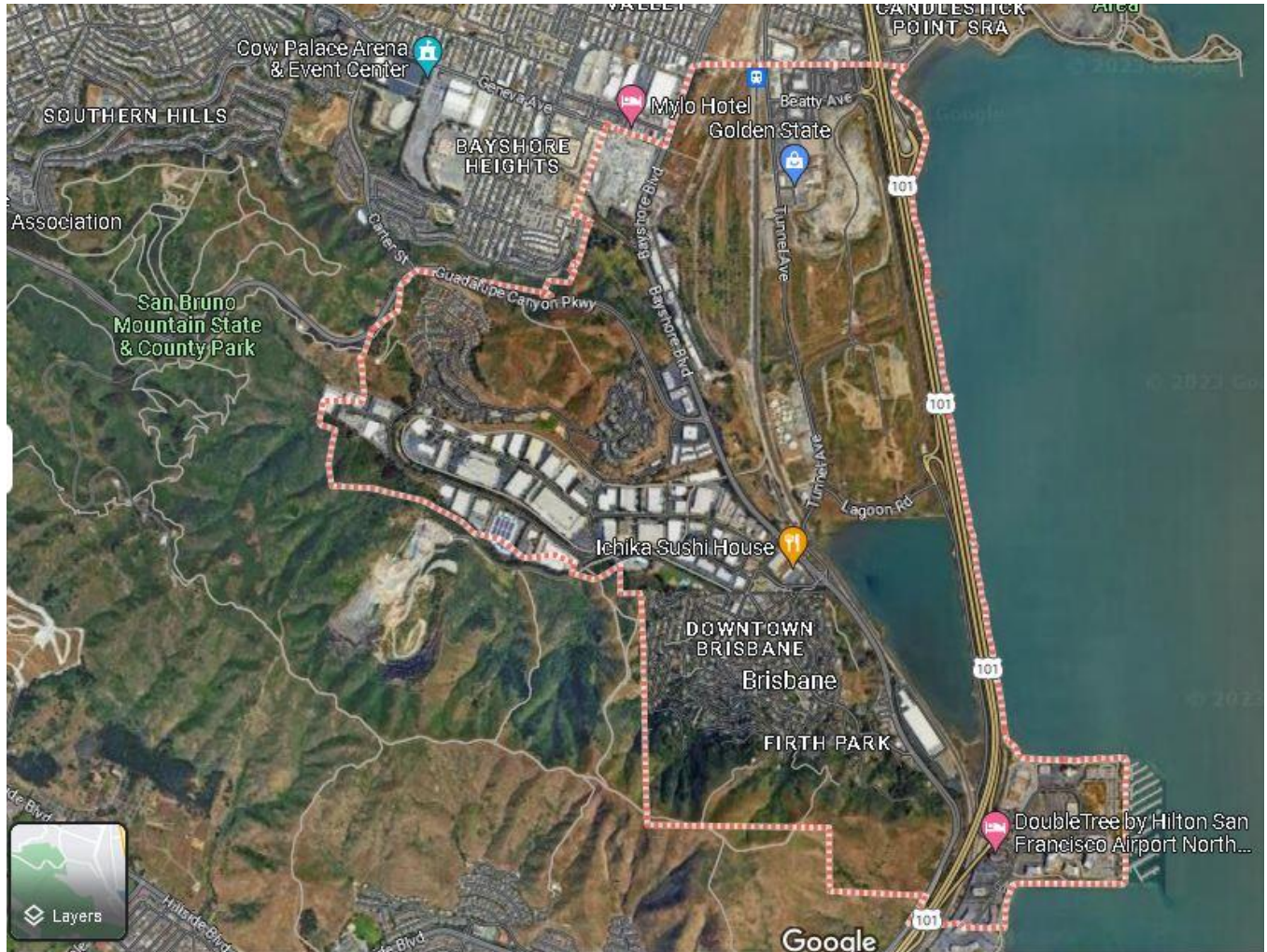
- a) Identifying plaques
- b) Repair, maintenance, surveys, curatorial services, and other conservation work necessary to keep all artworks in the City collection in standard condition

No more than twenty percent (20%) of the fee may be directed for Public Art Administration and maybe spent for the following purposes:

- a) Project administration.
- b) Community education programs, publicity, dedications, and other purposes as recommended by Public Art Committee and approved by the City Council.

## ENCLOSURE C

### AERIAL MAP DENOTING BRISBANE BOUNDARY





## ENCLOSURE D

### DRAFT AGREEMENT FOR PROFESSIONAL SERVICES

**THIS AGREEMENT** dated DATE is made by and between THE CITY OF BRISBANE, a municipal corporation ("City"), and CONSULTANT ("Consultant").

#### RECITALS

- A. City desires to retain Consultant to prepare a public art master plan.
- B. Consultant is specially trained, experienced, and qualified to provide such professional services and is willing to do so pursuant to the terms and conditions of this Agreement.

#### AGREEMENT

1. **Scope of Services.** Subject to the direction and approval of City through its staff that City may provide from time to time, Consultant shall perform the services described in the scope of work outlined in the Consultant's proposal (*Exhibit A*) referenced herein.
2. **Time of Performance.** The services of Consultant shall commence upon the execution of this Agreement and shall be satisfactorily completed within the agreed upon timeframe.
3. **Responsible Personnel.** The personnel acting on behalf of Consultant primarily responsible for performance of the services hereunder shall be as set forth within Exhibit A.
4. **Compensation.** As compensation for all services to be performed by Consultant under this Agreement, Consultant shall be paid the amounts set forth and incorporated herein as Exhibit A. In no event shall Consultant's total compensation exceed the agreed upon sum without additional authorization from City. Payment by City under this Agreement shall not be deemed a waiver of defects, even if such defects were known to City at the time of payment.
5. **Method of Payment.** Consultant shall submit billings to City describing in detail the work performed for which payment is requested, the date the services were performed, the number of hours spent and by whom, and a description of any reimbursable expenditures. Billings shall be submitted monthly, or at such other time as agreed upon between City and Consultant. City shall pay Consultant no later than 30 days after approval of the invoice by City. Such payment shall not be unreasonably withheld.
6. **Maintenance and Inspection of Records.** Consultant shall maintain all ledgers, books of account, invoices, vouchers, canceled checks, timecards, and other records or documents relating to charges for services or expenditures charged to City, for a minimum of three (3) years from the date of final payment to Consultant under this Agreement and shall make the same available to City or its authorized representatives for inspection and audit, at any time during regular business hours, upon written request by City. The right of inspection shall include the right to make extracts and copies.
7. **Assignment and Subcontracts.** Consultant acknowledges that Consultant's special skill and expertise is a material consideration for City entering into this Agreement. Consultant shall not assign, subcontract or delegate to any other party the performance of any services to be rendered by Consultant or Subconsultants without the prior written approval of City. If City consents to any sub-consulting of work, Consultant shall be fully responsible to City for all acts or omissions of the subconsultant.

8. **Ownership of Documents.** Upon payment of fees and expenses due, all plans, studies, documents, and other writings prepared by and for the Consultant in the course of performing its services under this Agreement, except working notes and internal documents, shall become the property of City, and City shall have the sole right to use such materials in its discretion without further compensation to Consultant or to any other party. Consultant shall, at Consultant's expense, provide such reports, plans, studies, documents, and other writings to City upon written request.

9. **Independent Contractor.** Consultant is, and at all times shall remain, an independent contractor, and not an agent, officer or employee of City. As an independent contractor, neither Consultant nor any of Consultant's agents or employees shall be entitled to any salary, fringe benefits, worker's compensation, retirement contributions, sick leave, insurance, or other benefit or right connected with employment by City, or any compensation other than as provided in this Agreement. Consultant shall have no power or authority to bind City to any contract or otherwise to incur any obligation or liability for, or on behalf, or in the name of City.

10. **Licenses.** Consultant represents and warrants to City that Consultant has all licenses, permits, qualifications, insurance, and approvals of whatsoever nature that are legally required of Consultant to practice its profession. Consultant shall, at its sole cost and expense, keep and maintain such licenses, permits, qualifications, insurance and approvals in full force and effect at all times during the term of this Agreement. Consultant shall procure and thereafter maintain a City of Brisbane business license during the term of this Agreement.

11. **Compliance with Laws.** Consultant shall use the standard of care in its profession to comply with all applicable federal, state and local laws, codes, ordinances and regulations in connection with the performance of its services under this Agreement.

12. **Employment Eligibility.** At the request of City, Consultant shall furnish to City copies of Employment Eligibility Verifications (INS Form I-9) or other evidence satisfactory to City showing that any or all persons providing services under this Agreement for on behalf of Consultant is eligible to be employed in the United States. In the event Consultant is unable or unwilling to provide the employment eligibility verification within ten (10) days after City's request, City may require the immediate removal from the project of such workers as specified by City, and upon any failure by Consultant to do so, City shall be entitled to terminate this Agreement.

13. **Indemnity.** Consultant shall indemnify, defend, and hold City, its officers, officials, agents, employees and volunteers, harmless from and against any and all claims, demands, causes of action, losses, damages, injuries, expenses and liabilities, direct or indirect, including reasonable attorney's fees, to the extent actually caused by negligence or willful misconduct in the performance by Consultant of its services under this Agreement or its failure to comply with any of the its obligations contained in this Agreement, and City shall not be liable for any negligent acts or omissions or willful misconduct of Consultant. Consultant shall not be liable for the negligent acts or omissions or willful misconduct of the City.

14. **Insurance.** Consultant, at its own expense, shall procure and maintain, for the duration of this Agreement, insurance policies, which satisfy the following requirements:

- (a) Type of policies and coverage:

- (1) *General Liability Coverage.* Consultant shall maintain commercial general liability insurance in an amount not less than \$1,000,000 per occurrence for bodily injury, personal injury, and property damage, providing coverage at least as broad as Insurance Services Office Commercial General Liability form CG 0001 (Ed. 11/88). If the form of insurance with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit.
  - (2) *Automobile Liability Coverage.* Consultant shall maintain automobile liability insurance in an amount not less than \$1,000,000 combined single limit for each occurrence, for bodily injury and property damage, providing coverage at least as broad as Insurance Services Office form CA 0001 (Ed. 12/90) Code 1 (any auto).
  - (3) *Workers' Compensation and Employer's Liability Coverage.* Consultant shall maintain workers' compensation insurance as required by the State of California and employer's liability insurance in an amount not less than \$1,000,000 per occurrence, for any and all persons employed by Consultant in connection with the performance of services under this Agreement. In the alternative, Consultants may rely on a self-insurance program to provide this coverage so long as the program of self-insurance complies fully with the provisions of the California Labor Code. The insurer, if insurance is provided, or Consultants, if a program of self-insurance is provided, shall waive all rights of subrogation against City for loss arising from work performed by Consultants for City.
  - (4) *Professional Liability Coverage.* Consultant shall maintain professional errors and omissions liability insurance in an amount not less than \$1,000,000 per occurrence, covering negligent acts, errors or omissions which may be committed by Consultant in the performance of its services under this Agreement.
- (b) Endorsements: Each general liability and automobile liability insurance policy shall contain, or be endorsed to contain, the following provisions:
- (1) The City, its officers, officials, employees, agents, and volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of Consultant; products and completed operations of Consultant; premises owned, occupied, or used by Consultant; or automobiles owned, leased, hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City, its officers, officials, employees, agents, or volunteers.
  - (2) For any claims related to the Project, Consultant's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by City, its officers, officials, employees, agents, or volunteers shall be excess of Consultants' insurance and shall not contribute with it.



- (3) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to City, its officers, officials, employees, agents, or volunteers.
  - (4) Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
  - (5) Consultant's insurance coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to City.
  - (c) Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by City. At City's option, Consultant shall demonstrate financial capability for payment of such deductibles or self-insured retentions.
  - (d) Acceptability of Insurers. Insurance is to be placed with insurers having a current A.M. Best rating of no less than A: VII, unless otherwise approved by City in writing.
  - (e) Verification of coverage. Consultant shall provide certificates of insurance with original endorsements to City as evidence of the insurance coverage required by this Agreement. Certificates of such insurance shall be filed with City before commencement of work by Consultant. At the request of City, Consultant shall provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by this Agreement.
15. **Notices.** Any notices required or permitted to be given under this Agreement shall be in writing and shall be either personally delivered or sent by certified mail, return receipt requested, addressed to the other party as follows:

To City

City of Brisbane  
50 Park Lane  
Brisbane, CA 94005  
Attn.: City Manager

To Consultant

NAME  
ADDRESS  
Attn.: PRIMARY CONTACT

16. **Litigation Expenses and Attorneys' Fees.** If any party to this Agreement commences any legal action against the other party to enforce or interpret this Agreement, the prevailing party shall be entitled to recover all costs and expenses that may be incurred in connection therewith, including court costs, expert witness fees, discovery expenses, and reasonable attorneys' fees.

17. **Termination of Agreement.** This Agreement may be terminated by any party, effective upon written notice, should the other party commit any material default in the performance of its obligations hereunder. This Agreement may also be terminated by either party, for any reason, upon fifteen (15) day's prior written notice to the other party. In the event this Agreement is terminated by City through no fault of Consultant, Consultant shall be compensated for all services performed to the date of termination.

18. **Equal Opportunity Employment.** Consultant warrants that it is an Equal Opportunity Employer and shall comply with applicable regulations governing equal opportunity employment.

19. **Miscellaneous Provisions.**

- (a) Severability. Should any portion of this Agreement be declared void or unenforceable in a final decision by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Agreement, which shall continue in full force and effect, provided that the remainder of this Agreement can be reasonably interpreted to implement the intention of the parties.
- (b) Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes and cancels all prior agreements or understandings, whether written or verbal.
- (c) Amendments. This Agreement may be modified or amended only by a written document duly executed by both City and Consultant.
- (d) Waiver. The waiver of any breach or default under this Agreement shall not constitute a continuing waiver of a subsequent breach of the same provision or any other provision of this Agreement.
- (e) Execution. Each party warrants that the individuals signing this Agreement on its behalf have the legal power and authority to do so and to bind the party to this Agreement.
- (f) Successors and Assigns. Subject to the restriction against assignment and subcontracting, this Agreement shall be inure to the benefit of and shall be binding upon the heirs, personal representatives, successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

THE CITY OF BRISBANE

By: \_\_\_\_\_

Clayton L. Holstine, City Manager

ATTEST:

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Ingrid Padilla, City Clerk

APPROVED AS TO FORM:

CONSULTANT

By: \_\_\_\_\_

NAME, COMPANY

Michael Roush

Legal Counsel