



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** November 21, 2024

**From:** Noreen Leek, Parks & Recreation Director

**Subject:** Award of Contract to Angelina Duckett and McGrath Arts for the Alvarado to San Benito Stairway Public Art Project

### **Community Goal/Result**

Community Building

### **Purpose**

To increase citizens' appreciation of art, improve quality of life, and to enhance Brisbane's identity as a unique community within the greater Bay Area.

### **Recommendation**

Award contracts to two artists for the Alvarado to San Benito stairway public art project. Award contract to Angelina Duckett in the amount of \$80,000. Award contract to McGrath Arts in the amount of \$120,150.

### **Background**

As outlined in the City's Art in Public Places Ordinance, 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 its unique character.

In September 2024, the City Council approved the Public Art Committee's recommendation to publish an RFP soliciting proposals for a public art project at the stairway between Alvarado and San Benito. Staff published the project RFP to the City website and posted the RFP to sites hosting calls for artists including publicartist.org, artcall.org, artshow.com, and codaworx.com. Staff also conducted direct outreach to over 600 artists nationwide. A total of nineteen (19) responsive proposals were received from a variety of artists.

### **Discussion**

On October 8, 2024, the Public Art Advisory Committee met to review the proposals. Given that this was a qualifications-based selection process (which requires a public agency to hire art professionals based on their qualifications and competence), cost estimates for services were not considered as part of the selection process. Committee members considered the issues of long-term conservation and maintenance of the art to ensure that the designs were durable, safe, and high-quality. Artists will work closely with City staff to ensure that the art complies with City building codes and the City's dark-sky ordinance.

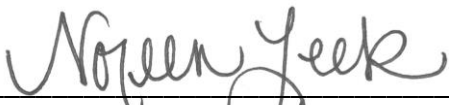
The Committee also considered the mission statement and selection criteria that were drafted as part of the master planning process when they reviewed proposals. They voted unanimously to recommend two artists for the project: Angelina Duckett and McGrath Arts. Angelina Duckett would be responsible for creating a mosaic on the risers of the stairway. McGrath Arts would be responsible for designing lighting, handrails, and stairway landing panels that are artistic in nature. Their conceptual proposals are incorporated as Attachment 1. The Public Art Advisory Committee will welcome public input during the design process and will bring final designs back to the City Council for approval. The draft artist agreement is incorporated as Attachment 2.

### **Fiscal Impact**

The cost of Angelina Duckett's proposed art is \$80,000. The cost for McGrath Arts is \$120,150. The Committee is also recommending a 20% contingency be applied to draw from as needed to support the project. Pending the engineers estimate, approximately \$20k-\$50k will be funded by C/CAG's Transportation Development Act grant fund for the construction portion of the stairway. Funds to support the remainder of the project are available within the Public Art Fund (Fund 275). There is no impact to the general fund.

### **Attachments**

1. Angelina Duckett & McGrath Arts Conceptual Proposal and Cost Estimate
2. Angelina Duckett & McGrath Arts DRAFT Artist Agreement



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Noreen Leek, Parks & Recreation Director



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Jeremy Dennis, City Manager

## City of Brisbane Alvarado to San Benito Stairway Public Art Project

I am captivated by the breathtaking mosaic stairways in San Francisco, often gazing at plain staircases and envisioning my own artistic designs. As a public art mosaicist, I understand that opportunities for mosaic projects are limited, especially those that involve stairways. Therefore, I am incredibly excited to submit my application for the Alvarado to San Benito Stairway project!

The dedication, skill, and patience needed to craft a mosaic can deter many artists from exploring this medium. However, mosaics are ideal for public spaces, as they can endure the elements and abuse while bringing vibrant color, interest, and energy to any location.

My journey into mosaic art began in my teenage years through a city-sponsored art program. I spent my summers as a mosaic apprentice and eventually rose to the role of Lead Mosaic Artist after graduating from Santa Clara University. Building on this experience, I established my own business dedicated to public art and have collaborated with various city and county agencies to create public art mosaics across the Bay Area.

I have had a diverse range of experiences in public art. In 2017, I launched a community project that allowed families to contribute to mosaics in memory of a loved one they lost. This ongoing initiative has involved hundreds of participants, all of whom have discovered the healing power of art. Located in Spring Lake Regional Park in Santa Rosa, California, the Children's Memorial Grove has transformed into a significant healing space for grieving families in our community.

In 2019, the Kincade Fire left a profound mark on our community, destroying popular Foothill Regional Park. This was just one of the many wildfires that impacted my family, having lost a home to the Tubbs Fire in 2017. I was asked to collaborate with the Latino Service Providers on a wildfire restoration initiative designed to create a mosaic that chronicled our community's experience. Drawing from my own encounter of wildfire loss, I facilitated mosaic workshops that encouraged sharing, learning, and healing through the transformative power of art. The outcome is "Resilience," a striking 100-foot circular mosaic at the park's entrance, illustrating our collective journey from devastation to recovery. It now serves as a testament to the resilience of nature and the human spirit in the face of adversity.

In 2020, I teamed up with Catholic Charities to create a mosaic for their new homeless housing campus, Caritas Village. They sought a design that was inclusive, uplifting, and engaging, aimed at welcoming individuals who have faced personal trauma. I created a mosaic featuring vibrant wildflowers reaching toward the sun, utilizing stained glass to capture and reflect light. This artwork invites deeper contemplation and peaceful reflection, becoming a favorite gathering place for residents, staff, and visitors alike.

My dedication to enhancing public spaces and involving the community in the creative process is central to my work. I would be honored to partner with the City of Brisbane to create a stunning mosaic stairway and appreciate this incredible opportunity.

# Angelina Duckett Mosaics

www.angelinaduckett.com mosaics@angelinaduckett.com (707) 494-9085 Bus. Lic. #06509201

## Professional Experience

**Angelina Duckett Mosaics** *Owner* Santa Rosa, CA 2015 - Present  
Design, produce and install site-specific, architectural mosaics, public art, community projects and private commissions

**Program Development & Lead Mosaic Artist** *Instructor* Santa Rosa, CA 2014 -2020  
Taught the process and techniques for the production and installation of public art mosaics

## Education

**Santa Clara University** Santa Clara, CA 2009-2013  
BA Communication, Minor Art

## Public Installations

2024	<b>Mega Flora:</b> Commissioned by Children’s Museum of Sonoma County 20 sqft curved bench	Santa Rosa, CA
2024	<b>Resilience:</b> Commissioned by Latino Service Providers Organization 100 sqft curved seat walls for Foothill Regional Park	Windsor, CA
2023	<b>Vibrant Vistas:</b> Commissioned by Kaiser Permanente Medical Center 40 sqft stained glass surround for atrium skylight	Santa Rosa, CA
2023	<b>Catch a Fish:</b> Commissioned by Children’s Museum of Sonoma County 70 sqft retaining walls	Santa Rosa, CA
2022	<b>Waterway Walkway:</b> Commissioned by Children’s Museum of Sonoma County 120 sqft mosaic path	Santa Rosa, CA
2022	<b>Bloom:</b> Commissioned by Catholic Charities 90 sqft stained glass mosaic mural for Caritas Village	Santa Rosa, CA
2021	<b>Orchards:</b> Commissioned by City of Mountain View 90 sqft curved seat walls and circular benches for Mora Park	Mountain View, CA
2021	<b>Wayfinding Wildflower Sidewalk Medallions:</b> Commissioned by City of Santa Rosa Series of 6 wayfinding sidewalk medallions for city center	Santa Rosa, CA
2020	<b>Mersea Restaurant:</b> Commissioned by Mersea Restaurant 48 sqft stained glass frame	Treasure Island, CA

2020	<b>Recology Sign:</b> Commissioned by Recology Waste Management 16 sqft heart entrance sign	Santa Rosa, CA
2019	<b>Rohnert Park Bench:</b> Commissioned by City of Rohnert Park 24 sqft curved bench	Rohnert Park, CA
2019	<b>Spring Lake Regional Park Mosaic Sign:</b> Commissioned by Sonoma County Regional Parks 24 sqft rectangular sign	Santa Rosa, CA
2018	<b>Hearts in San Francisco Sculpture:</b> Commissioned by San Francisco General Hospital Foundation 6 sqft heart sculpture, vitreous glass, mirror	San Francisco, CA
2017 ongoing	<b>Spring Lake Park Children's Memorial Grove Mosaics:</b> Commissioned by Sonoma County Parks Foundation 400 sqft circular seat walls for Spring Lake Regional Park	Santa Rosa, CA
2015	<b>Prince Memorial Greenway Park Breakout Quote:</b> Commissioned by City of Santa Rosa 57 sqft circular inset of mosaic wording for Prince Memorial Park	Santa Rosa, CA
2015	<b>Dahlia:</b> Commissioned by Children's Museum of Sonoma County 20 sqft exterior mural	Santa Rosa, CA
2015	<b>Swallowtail:</b> Commissioned by Children's Museum of Sonoma County 20 sqft exterior mural	Santa Rosa, CA
2014	<b>Prince Memorial Greenway Soundscape:</b> Commissioned by County of Sonoma 110 sqft curved seat wall mural	Santa Rosa, CA

## Professional References:

Melissa Kelley  
Executive Director  
Sonoma County Regional Parks Foundation      [melissa.kelley@sonoma-county.org](mailto:melissa.kelley@sonoma-county.org)

Rebecca Kendall  
Chief Philanthropy Officer  
Santa Rosa Memorial Hospital Foundation      [Rebecca.kendall@providence.org](mailto:Rebecca.kendall@providence.org)

# Stairway Art Budget Proposal

ARTIST: Angelina Duckett Mosaics  
655 32<sup>nd</sup> Avenue  
San Francisco, Ca 94121

DATE: October 4, 2024

RE: City of Brisbane Stairway Art Budget Proposal

## 1) PROJECT DESCRIPTION

Located in the City of Brisbane a new stairway will be constructed (Alvarado to San Benito) along a 12' wide property. The mosaic artwork will cover the concrete risers of the stairway which is expected to be 96 risers of 7" each in height with a variety of widths (12"/18"/24").

## 2) MATERIALS

Materials include:

Tile, adhesive, fiberglass mesh, tile tape, safety equipment supplies, thin set, grout.

All material used in the mural will be appropriate for exterior use. Professional grade cement based, polymer modified adhesive will be used to set the mosaic and all joints will be grouted with sanded, polymer modified grout intended for exterior applications.

A selection of vibrant colors is presented below, with a broader range to be integrated into the design elements, and subject to availability.





### 3) MOSAIC DESIGN

The design draws its inspiration from the vibrant hues of flowers, the undulating ocean waves, and the lush green hills characteristic of Brisbane. At the pinnacle, a starry sky represents the "City of Stars," honoring a holiday tradition that has its roots in the 1930s.



4) MOSAIC SPECIFICS

96 risers of 7" each in height with a variety of widths (12"/18"/24").

Mosaic will be produced offsite with double direct method and transported to site for installation. Surface must be suitable for mosaic installation.

5) PROJECT BUDGET

Ordering, pick up and processing of materials, design enlargements (life size) of murals, coloring and coding scale drawings, transferring designs for fabrication, cutting, fitting, and setting of mosaic mural on fiberglass mesh/face-mounting on tile tape, transportation of mural sections to site, installation of mural sections, and on-site setting, grouting, cleaning and polish.

**Budget includes Labor and Materials:**

**\$80,000**

Production	\$55,000
Install & Grout	<u>\$7,000</u>
	\$62,000

Tile	\$7,040
Install Materials	\$1,055
Tax	<u>\$810</u>
	\$8,905

Insurance, overhead	\$9,095
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\* Proposed budget is approximate, prices may change based on availability and/or inflation.



CITY OF BRISBANE  
Public Art Advisory Committee

Dear Committee Members,

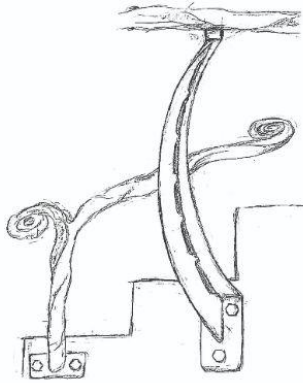
Thank you for selecting us as a finalist for the artist for the staircase project! We are pleased to submit an amended proposal including the two luminary signpost features, six floral pathway lights, 175' of type I handrails, and 150 square feet of type II handrails. We have included conceptual drawings with notes. These show materials and finishes and the plan for attaching to the concrete steps, but more detailed specs will follow when we are awarded this contract.

Please, enjoy our submission. As you look it over, you might be interested in our [YouTube channel](#) which has footage of our process. Let us know if you would like a closer look at specific areas that you would like clarification on.

At McGrath Arts, we bring art to your environment!

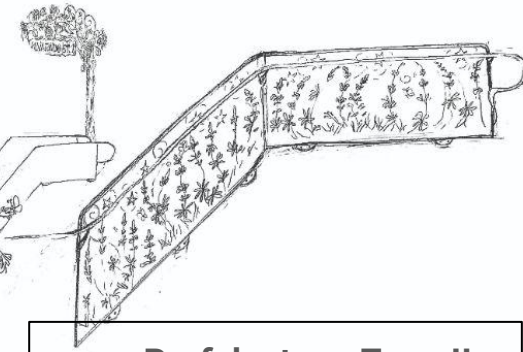
Sincerely,

A handwritten signature in brown ink, reading "Madeleine McGrath" followed by a stylized flourish.



- **Type I Railings** 36" height are 1.25" Hammer twist tube
- Curved posts constructed from .25" plate, welded t post style.
- Posts are spaced 48" apart
- Children's grab bars constructed from 1" hammer twist with rolled ends, placed intermittently
- All posts are fascia mounted with stainless steel hardware with epoxy/anchor bolts

- **All metal work** will be smoothed to dull sharp protrusions/hazards
- Hot dip galvanizing
- Color will be durable enamel
- Coated with clear epoxy



- **Prefab steps Type II rail**
- Made from cut out sheet metal and some forged elements
- continued hammer twist hand rail on East Side.
- Will need specs prior to designing how we would mount it to the stairs

- **Type II Railings** 42" tall have three zones and themes: Bay Laurel, Coast Live Oak, and Lupine
- Constructed of a combination of cut and textured 10 ga sheet metal with some forged elements attached
- Will have the names of the plants/ butterflies cut out

- **Luminary Sign Post** 9' tall made from 4" steel tubing and textured metal
- Mounted to 3/8 steel plate with gussets with artist signature and date
- South entrance is Morning Glory on the right, sign says "San Benito Rd." and arrow
- North entrance is Buckeye on the right says "Alvarado St." and arrow
- 24" footing with wet set anchor bolts - we will provide mounting template/ bracket
- DC transformer compartment
- 2700 K LED lights (facing down)
- Sign will be made from textured metal with mounted letters

- **Floral Pathway Lights** are 40" tall
- Proximity detector is a possibility
- Unique plants: CA Poppy, CA Fuschia, CA Wild Rose, Blue Nightshade, Douglas Iris, and Yarrow
- Mounted to 18-20" granite boulders
- 2700 LED downcast, or if facing up, there will be a butterfly on it to block the light.



## COST PROPOSAL

### **Type II Railings**

Laurel 7.5 x 3 = 22 square Feet = \$4500

Coast Live Oak 18 x 3 = 54 sq. ft x 2 = \$21,600

Lupine 24 x 3 = 72 sq ft. x 2 = \$28,800

### **Type 1 Railings**

Bottom 65 feet, Middle 65 feet, Upper 45 feet = \$26,250

### **Luminary Sign Posts**

x 2 = \$30,000

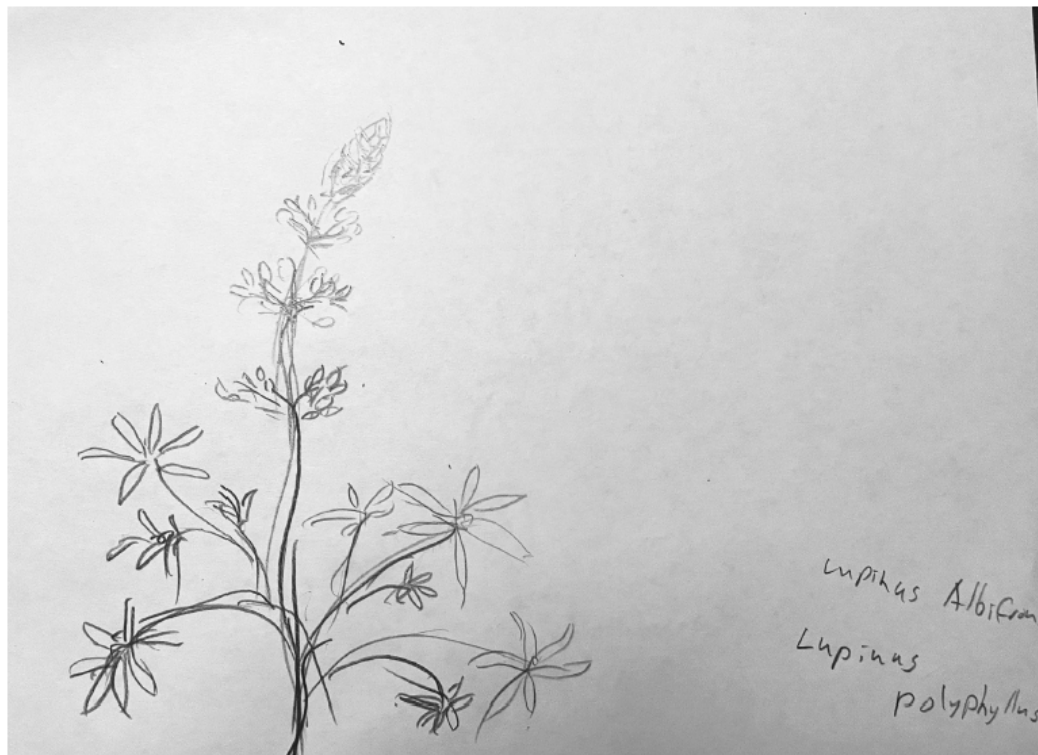
### **Floral Pathway Lights**

x 6 = \$9000

**Total:**

**\$120,150**





## **AGREEMENT FOR THE DESIGN, FABRICATION, AND INSTALLATION OF PUBLIC ART WORK**

THIS AGREEMENT for the design, fabrication, and installation of Public Art Work is entered into this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, between the City of Brisbane (“City”), McGrath Arts (“Artist”), with offices at \_\_\_\_\_ .

WHEREAS, City requires the services of an artist to design, fabricate and install a work of art, namely a stairway project (“the Artwork”) on public property located between Alvarado and San Benito \_\_\_\_ (“the Project Site”); and

WHEREAS, the Artwork shall include Type I handrails, Type 2 handrails, luminary signposts, and floral pathway lights; and

WHEREAS, Artist is a professional artist whose work and qualifications make the Artist well qualified to create the Artwork; and

WHEREAS, Artist has developed a proposal to design, fabricate, and install the Artwork at the Project Site, as more particularly described in the Art Work Proposal submitted by the Artist pursuant to that certain proposal described in Exhibit A; and

WHEREAS, the City’s Public Art Committee reviewed the Art Work Proposal and recommended to the City Council that it enter this Agreement; and

WHEREAS, City has allocated funds from money it has received under its Public Art Ordinance for the design, fabrication, and installation of the Artwork at the Project Site; and

WHEREAS, on \_\_\_\_\_ the Brisbane City Council approved the recommendation of the Public Art Committee to select Artist and authorized this Agreement with Artist; and

NOW, THEREFORE, in consideration of the above-stated premises and subject to the conditions of this Agreement, the parties agree as follows:

### **Article 1      Scope of Services**

#### **1.1      Artist’s Obligations**

- a.      The Artist shall perform all services and furnish all supplies, material and/or work equipment as necessary for the design, fabrication, and installation of the Artwork. Services shall be performed in a professional manner and in strict compliance with all terms and conditions in this Agreement.
- b.      The Artist shall determine the artistic expression, design, dimensions and materials of the Artwork, subject to review and acceptance by the City and any regulatory agencies with project oversight, as set forth in this Agreement.

- c. The Artist shall prepare the design concept described in Section 1.3 of this Agreement.
- d. The Artist shall complete the fabrication, and installation of the Artwork by the scheduled dates as provided in Section 1.5 of this Agreement.
- e. The Artist shall secure any and all required licenses, permits and similar legal authorizations at the Artist's expense as may be necessary for the installation of the Artwork at the Project Site.
- f. The Artist shall arrange for the installation of the Artwork in coordination with the City. If the Artist does not install the Artwork itself, Artist shall supervise and approve the installation. Prior to the installation of the Artwork, Artist shall inspect the Project Site to ensure that it is ready to accept the Artwork and compliant with the specifications provided by the Artist. Artist shall notify the City of any perceived conflict, defect or non-compliance with specifications and resolve, at no expense to the City, all such conflicts, defects or non-compliance with the specifications before installing the Artwork. All work shall be performed by qualified professionals and by licensed contractors as required by law.
- g. Artist shall provide required insurance in amounts and limits specified in Article 5 and Exhibit C.
- h. Artist shall provide a list of all subcontractors along with a copy of the agreement between the Artist and each subcontractor.
- i. Artist shall provide a set of "as built" drawings if there is significant deviation from approved and permitted construction documents.
- j. Artist shall provide a list of all final materials used including the manufacturer name and supplier and for each material, a Product Data Sheets (PDS), Technical Data Sheets (TDS), and Safety Data Sheets (SDS).
- k. Artist shall provide a maintenance manual with the expected lifetime of the Artwork, a description of all materials, processes and products to be used for maintaining the Artwork, the required care and upkeep involved, and the recommended procedures in the event of necessary conservation intervention. The maintenance plan is subject to review by a professional conservator.
- l. Artist shall provide photographic documentation of the Artwork in a format acceptable to Artist and the City.
- m. Artist shall be available with reasonable advance notice for a reasonable number of meetings required to coordinate design and project implementation, ceremonies and the like, as necessary.
- n. The Artist shall be responsible for researching whether there are any required permits, building and municipal code regulations, or any other policies, guidelines or approvals required by regulatory or oversight agencies that may impact the Artwork and/or the installation of the Artwork.
- o. Consistent with plaque guidelines provided by the City, the Artist shall design and install a plaque on or near the Artwork containing a credit to the Artist and a copyright notice substantially in the following form: Copyright © [Artist's name, date of publication]. The plaque design and installation plans must be approved by City staff prior to installation.



## **1.2 City's Obligations**

- a. The City shall perform all obligations in strict compliance with all terms and conditions in this Agreement.
- b. The City shall not knowingly permit any use of the Artist's name or misuse of the Artwork which would reflect discredit on the Artist's reputation as an artist or which would violate the spirit of the Artwork, should such use or misuse be within the City's control.

## **1.3 Final Design, Budget and Related Documents Phase**

Artist shall submit to the City for its review the Final Design Documents as described in subsections a. and c. of this Section 1.3, and any revisions as required by the City. Once the City has approved the Final Design Documents, the Final Budget and Schedule of Deliverables, and the Artist has all required licenses, permits and similar legal authorizations for the installation of the Artwork at the Project Site, the Artist is authorized to proceed with the Fabrication Phase as described in Section 1.5.

- a. Final Design

Artist shall proceed with the Final Design Documents of the Artwork which shall include the following: presentation quality materials, which shall include colored drawings or computer-generated color images (in plan and elevation) and/or 3-dimensional models that accurately reflect the Artwork and how it will be installed at the Project Site, mock-ups, final color and materials samples, proposed fabrication methods, feasibility studies and final cost estimates at design completion. When used in reference to the proposed Artwork, Final Design Documents shall fix and describe the size and character of the Artwork with respect to its relationship to the Project Site, including architectural, structural, mechanical and electrical systems, materials and other elements as may be appropriate.
- b. Construction Documents and Maintenance Plan
  - i. Artist shall, if Construction Drawings are required for construction and installation of the Artwork, submit Construction Documents to the City Permit Center for construction and/or installation of the proposed Artwork as approved, which must be signed and stamped by design professionals licensed in the State of California, as required by the California Building Code and any local government amendments to the Building Code.
  - ii. Artist shall deliver computer-generated (or otherwise as agreed to by both parties) color and material design samples.
  - iii. Artist shall review Architect's Design Development and/or Construction Documents for accuracy of the integration of Artist's Proposal within the Site and provide the City with written comments and/or corrections.
  - iv. Artist shall provide a list of all proposed materials including the manufacturer name and supplier and for each material, a Product Data Sheets (PDS), Technical Data Sheets (TDS), and Safety Data Sheets (SDS).
  - v. Artist shall provide a detailed description of future maintenance requirements for the Artwork, including the lifetime of the Artwork ("the Maintenance Plan").
  - vi. City may appoint a conservator to review the Final Design Documents and the Maintenance Plan. Based on comments provided by the conservator, Artist may need to revise the Design and/or the Maintenance Plan. In addition, City



may require the Artist to present the Design and/or the Maintenance Plan to a qualified conservator for that conservator to provide to the City recommendations as to the Design and Maintenance Plan. Based on those recommendations, City may require the Artist to revise the Design and/or the Maintenance Plan.

c. **Final Budget and Schedule of Deliverables**

- i. The Artist shall prepare a Budget, not to exceed \$\_\_\_\_\_, which shall include all goods, services and materials related to the Artwork, with such costs itemized.
- ii. Budget shall mean a specific and detailed document identifying the cost of completion of all work under this Agreement, including all modifications. The Budget shall include the costs for all design fees and costs; preliminary and final engineering requirements; materials and labor for fabrication, including Artist and subcontractors' costs; consultants, including engineers and specifications writers; transportation of Artwork; installation of Artwork, including any necessary permits; permits and licenses; required insurance; any sales tax; and 10% contingency allowance, which contingency allowance may be used only with written permission of the City. Calculation of the Budget will take into consideration the possible inflation of service and material costs between the date of execution of this Agreement and the anticipated completion date. If the Artist incurs costs in excess of the amount in the approved Budget, including the contingency, the Artist shall pay such excess from the Artist's own funds unless the Artist obtain approval in writing from the City for such additional costs or such costs were the result of actions or inaction of the City.
- iii. The Artist shall notify the City of the anticipated schedule for the fabrication and installation of the Artwork, including a schedule for the submission of progress reports and inspections if any required by the City ("the Schedule of Deliverables"). The Schedule of Deliverables must identify a specific date or timeframe for the completion of the Artwork. The Schedule of Deliverables may be amended by written agreement.

**1.4 Payment Schedule and Progress Reports**

- a. Artist's completion milestones and payment schedule is as set forth in Exhibit B, Payment Schedule, which is incorporated herein by reference.
- b. The Artist shall inform the City of the progress of each phase of work completed under the Agreement.

**1.5 Fabrication Phase**

Following City's approval of all Design Phase documents described in Section 1.3:

- a. The Artist shall fabricate the Artwork in substantial conformity with the Final Design. The Artist may not deviate from the approved design without written approval of the City.
- b. If the Artwork is being constructed on site, the Artist shall avoid creating nuisance conditions arising out of the Artist's operations.
- c. The City shall have the right to review the Artwork at reasonable times during the fabrication thereof upon reasonable notice.

- d. If the City, upon review of the Artwork, determines that the Artwork does not conform to the approved Final Design, the City reserves the right to notify the Artist in writing of the deficiencies and that the City intends to withhold the next budget installment within 5 business days of the determination as in paragraph (g) below.
- e. The Artist will have thirty days to cure the City's objections and will notify the City in writing of completion of the cure. The City shall promptly review the Artwork, and upon approval shall release the next budget installment. If the Artist disputes the City's determination that the Artwork does not conform, the Artist shall promptly submit reasons in writing to the City within 5 business days of the City's prior notification to the contrary. The City shall make reasonable efforts to resolve the dispute with the Artist in good faith. However, final determination as to whether the Artist has complied with the terms of this Agreement shall remain with the City.
- f. The Artist shall notify the City in writing when fabrication of the Artwork has been completed, and that the Artwork is ready for delivery and installation at the Project Site if the Artwork was fabricated off-site.
- g. Prior to the installation of the Artwork, the City shall inspect the Artwork within 10 business days after receiving notification pursuant to paragraph (f) to determine that the Artwork conforms with the Final Design: give final approval of the fabricated Artwork and; authorize the installation of the Artwork at the Project Site. The City shall not unreasonably withhold final approval of the fabricated Artwork. In the event that the City does withhold final approval, the City shall submit the reasons for such disapproval in writing within 5 business days of examining the fabricated Artwork. The Artist shall then have 30 days from the date of the City's notice of the disapproval to make the necessary adjustments to the fabricated Artwork in accordance with such writing. The Artist shall not be penalized for any delay in the delivery and installation of the Artwork to the Project Site unless the Artist has willfully and substantially deviated from the Final Design without the prior approval of the City. The Artist shall then be held responsible for any expenses incurred in correcting such deviation.
- h. The City shall promptly notify the Artist of any delays impacting installation of the Artwork. Any additional storage and insurance costs incurred by the Artist shall be borne by the City in the event that the delay is caused by the City.
- i. The Artist shall be required to inspect the Project Site prior to the installation of the Artwork and shall notify the City of any adverse Project Site conditions that will impact the installation of the Artwork and which are in need of correction. Failure to do so by the Artist shall be deemed as an acceptance of the Project Site conditions.
- j. The Artist shall take reasonable measures to protect or preserve the integrity of the Artwork with the application of a protective sealant, patina or anti-graffiti coating, if applicable, unless the City specifically disapproves of such.

## **1.6 Installation Phase**

- a. Upon the City's final approval of the fabricated Artwork as being in conformity with the Final Design, the Artist shall install the completed Artwork to the Project Site in accordance with the schedule provided for in Section 1.3.

- b. The Artist will coordinate closely with the City to ascertain that the Project Site is prepared to receive the Artwork. Artist must notify the City of any adverse conditions at the Project Site that would affect or impede the installation of the Artwork.
- c. The Artist is responsible for timely installation of the Artwork. Artist may not install the Artwork until authorized to do so by the the City.
- d. Artist shall install the artwork in compliance with all local, regional and national safety regulations such as OSHA. The installation site is to be protected for safety of the public and workers at all times.
- e. The Artist shall be present to supervise the installation of the Artwork.
- f. Upon installation, the Artwork shall be deemed to be in the custody of the City for purposes of Article 3 and Article 5 of this Agreement.
- g. Upon completion of the installation of the Artwork, the Artist shall provide the City with written instructions for the future maintenance and preservation of the Artwork.

## **1.7 Approval and Acceptance**

- a. The Artist shall notify the City in writing when all services as required by this Agreement prior to this paragraph have been completed in substantial conformity with the Final Design and contract documents.
- b. The City shall promptly notify the Artist in writing of its final acceptance of the Artwork within 7 business days after the Artist submitted written notice pursuant to paragraph (a) above. The effective date of final acceptance shall be the date the City submits written notice to the Artist of its final acceptance of the Artwork. The final acceptance shall be understood to mean that the City acknowledges completion of the Artwork in substantial conformity with the Final Design, and that the City confirms that all services as required by this Agreement prior to paragraph (c) of this section have been completed. Title to the Artwork to the City passes upon final acceptance of the Artwork and final payment by City to Artist. If a regulatory agency must approve the completed artwork, the City should move promptly to gain such approval as it will be a precondition to the City's ability to accept and approve the finished Artwork from the Artist.
- c. If the City disputes that all the services have been performed, the City shall notify the Artist in writing of those services the Artist has failed to perform within 7 business days after the Artist submitted written notice pursuant to paragraph (a) above. The Artist shall promptly perform those services indicated by the City.
- d. If the Artist disputes the City's determination that not all services have been performed, the Artist shall submit reasons in writing to the City within 7 business days of the City's prior notification to the contrary. The City shall make reasonable efforts to resolve the dispute with the Artist in good faith. However, final determination as to whether all services have been performed shall remain with the City.
- e. Upon the resolution of any disputes that arise under paragraphs (c) and (d) of this Section, the City shall notify the Artist of its final acceptance of the Artwork pursuant to paragraph (b).

## **Article 2. Terms of Agreement**

### **a. Duration**

- i. This Agreement shall be effective on the date that this contract has been signed by both parties, and, unless terminated earlier pursuant to such provisions in the Agreement, shall extend until final acceptance by the City under Section 1.7(b), or submission of final payment to the Artist by the City under Exhibit B, whichever is later. Extension of time of performance hereunder may be granted upon the request of one party and the consent of the other thereto, which consent shall not be unreasonably withheld. Such extension shall be in writing, signed by both parties, and attached to the schedule described in Section 1.3.

### **b. Force Majeure**

- i. The City shall grant to the Artist a reasonable extension of time in the event that conditions beyond the Artist's control render timely performance of the Artist's services impossible or unduly burdensome. All such performance obligations shall be suspended for the duration of the condition. Both parties shall take all reasonable steps during the existence of the condition to assure performance of their contractual obligations when the condition no longer exists. Failure to fulfill contractual obligations due to conditions beyond either Party's reasonable control will not be considered a breach of contract, provided that such obligations shall be suspended only for the duration of such conditions.

## **Article 3. Risk of Loss**

The Artist shall bear the risk of loss or damage to the Artwork until the installation of the Artwork. The Artist shall take such measures as are reasonably necessary to protect the Artwork from loss or damage. The City shall bear the risk of loss or damage to the Artwork prior to final acceptance only if, during such time, the partially or wholly completed Artwork is in the custody, control or supervision of the City or its agent(s) for the purposes of performing services to the Artwork.

## **Article 4 Artist's Representations and Warranties**

### **4.1 Warranties of Title**

The Artist represents and warrants that:

- a. the Artwork is solely the result of the artistic effort of the Artist;
- b. except as otherwise disclosed in writing to the City, the Artwork is unique and original and does not infringe upon any copyright or the rights of any person;
- c. the Artwork (or duplicate thereof) has not been accepted for sale elsewhere;
- d. the Artist has not sold, assigned, transferred, licensed, granted, encumbered or utilized the Artwork or any element thereof or any copyright related thereto which may affect or impair the rights granted pursuant to this Agreement;
- e. the Artwork is free and clear of any liens from any source whatsoever;

- f. all Artwork created by the Artist under this Agreement, whether created by the Artist alone or in collaboration with others shall be wholly original with the Artist and shall not infringe upon or violate the rights of any third party;
- g. the Artist has the full power to enter into and perform this Agreement and to make the grant of rights contained in this Agreement;
- h. all services performed hereunder shall be performed in accordance with all applicable laws, regulations, ordinances, etc. and with all necessary care, skill, and diligence;
- i. these representations and warranties shall survive the termination or other extinction of this Agreement.

#### **4.2 Warranties of Quality and Condition**

- a. The Artist represents and warrants that all work will be performed in accordance with professional “workmanlike” standards and free from defective or inferior materials and workmanship (including any defects consisting of “inherent vice,” or qualities that cause or accelerate deterioration of the Artwork) for 2 years after the date of final acceptance by the City under Section 1.7(b).
- b. The Artist represents and warrants that the Artwork and the materials used are not currently known to be harmful to public health and safety.
- c. The Artist represents and warrants that reasonable maintenance of the Artwork will not require procedures substantially in excess of those described in the maintenance and preservation recommendations submitted by the Artist pursuant to Section 1.6(g).
- d. If within one year the City observes any breach of warranty described in this Section 4.2, the Artist shall cure the breach promptly, satisfactorily and consistent with professional conservation standards, at no expense to the City. The City shall give notice to the Artist of such breach with reasonable promptness. However, if Artist did not disclose this risk of breach in the Proposal and Maintenance and Conservation manual, and if breach is not curable by Artist, the Artist is responsible for reimbursing the City for damages, expense and loss incurred by the City as a result of the breach of warranty. However, if the Artist disclosed the risk of this breach in the Proposal and maintenance and conservation manual and the City accepted that it may occur, as indicated by the written final acceptance of the artwork, it shall not be deemed a breach for purposes of this Section 4.2 of this Agreement.
- e. If after one year the City observes any breach of warranty described in this Section 4.2 that is curable by the Artist, the City shall contact the Artist to make or supervise repairs or restorations at a reasonable fee during the Artist’s lifetime. The Artist shall have the right of first refusal to make or supervise repairs or restorations. Should the Artist be unavailable or unwilling to accept reasonable compensation under the industry standard, the City may seek the services of a qualified restorative conservator and maintenance expert.
- f. The foregoing warranties are conditional, and shall be voided by the failure of the City to maintain the Artwork in accordance with the Artist’s specifications and the applicable conservation standards. If the City fails to maintain the Artwork in good condition, the Artist, in addition to other rights or remedies the Artist may

have in equity or at law, shall have the right to disown the Artwork as the Artist's creation and request that all credits be removed from the Artwork and reproductions thereof until the Artwork's condition is satisfactorily repaired.

## **Article 5 Insurance**

### **5.1 General**

- a. The Artist acknowledges that until installation of the Artwork under Section 1.6(e), any injury to property or persons caused by the Artist's Artwork or any damage to, theft of, vandalism to, or acts of God affecting the Artist's Artwork are the sole responsibility of the Artist, including, but not limited to, any loss occurring during the creation, storage, transportation or delivery of the Artist's Artwork, regardless of where such loss occurs.
- b. Terms for the procurement and duration of insurance are provided in Exhibit C.
- c. Required insurance policies are described in Exhibit C.

### **5.2 Indemnity**

- a. The Artist shall indemnify the City, its respective officers, agents, and employees, from any claims brought arising out of the breach of this Agreement or any negligent occurrence which occurs pursuant to the performance of this Agreement by the Artist, its subcontractors, agents or employees.
- b. The City shall indemnify the Artist, Artist's subcontractors, agents or employees from any claims brought arising out of the breach of this Agreement or any negligent occurrence which occurs pursuant to the performance of this Agreement by the City, its respective officers, agents, and employees.
- c. Each Party shall immediately notify the other of any written claim regarding any matter resulting from or relating to the Party's obligations under this Agreement. Each Party shall cooperate, assist, and consult with the other in the defense or investigation of any such claim arising out of or relating to the performance of this Agreement.
- d. The indemnification shall include reasonable attorneys' fees and costs.
- e. This indemnification shall survive the termination or expiration of this Agreement.
- f. Notwithstanding any provision of this Agreement to the contrary, no Party shall recover from a Party to this Agreement in an action, of whatever nature, in contract or tort, any consequential or incidental damages, lost profits, or any type of expectancy damages.

## **Article 6 Ownership and Intellectual Property Rights**

### **6.1 Title**

Title to the Artwork shall pass to the City upon the City's written final acceptance and payment for the Artwork pursuant to Section 1.7(b) and Exhibit B.

## **6.2 Ownership of Documents**

One set of presentation materials prepared by Artist and submitted to City under this Agreement shall be retained by the City.

## **6.3 Copyright Ownership**

The Artist retains all rights under the Copyright Act of 1976, 17 U.S.C. §101 et seq., as the sole author of the Artwork for the duration of the copyright.

## **6.4 Reproduction Rights**

- a. In view of the intention that the final Artwork shall be unique, the Artist shall not make any additional exact duplicate [three]-dimensional reproductions of the final Artwork, nor shall the Artist grant permission to others to do so except with the written permission of the City. However, nothing shall prevent the Artist from creating works in the Artist's manner and style of artistic expression.
- b. The Artist grants to the City and its assignees an irrevocable license to make two-dimensional reproduction of the Artwork for non-commercial purposes, including, but not limited to, reproductions used in brochures, media publicity, and exhibition catalogues or other similar publication provided that these rights are exercised in a tasteful and professional manner.
- c. All reproductions by the City shall contain a credit to the Artist and a copyright notice in substantially the following form: © [Artist's name, date of publication].
- d. The Artist shall not reproduce nor replicate the Artwork without the City's express written permission which the City in its sole discretion may give except for the use of photographs of the Artwork for purposes of the Artist's resume, in which case the Artist must provide acknowledgment to the City in substantially the following form: "An original artwork owned and commissioned by the City of Brisbane."
- e. If the City wishes to make reproductions of the Artwork for commercial purposes including, but not limited to, tee shirts, post cards and posters, the Parties shall execute a separate agreement to address the terms of the license granted by the Artist and the royalty the Artist shall receive.

## **Article 7 Artist's Rights**

### **7.1 General**

- a. The Artist retains all rights under state and federal laws including §106A of the Copyright Act of 1976.
- b. The City will not intentionally alter, modify, change, destroy or damage the Artwork without first obtaining permission from the Artist. The City shall take reasonable measures to avoid these from occurring from the gross negligence of the City, its representatives, or employees pursuant to the federal Visual Artists' Rights Act.
- c. If any alteration or damage to the Artwork occurs, the Artist shall have the right to disclaim authorship of the Artwork in addition to any remedies the Artist may



have in law or equity under this Agreement. Upon written request, the City shall remove the identification plaque and all attributive references to the Artist at its own expense within 60 days of receipt of the notice. No provision of this Agreement shall obligate the City to alter or remove any such attributive reference printed or published prior to the City's receipt of such notice. The Artist may take such other action as the Artist may choose in order to disavow the Artwork.

- d. Artist shall on an ongoing basis provide to the City the Artist's contact information, such as address, email address, phone number, etc., City shall have no obligation other than to make reasonable efforts to notify the Artist.
- e. If the Artist is deceased or becomes mentally incapacitated, City shall make reasonable efforts to notify the Artist's heirs, successors, assigns or conservator.

## **7.2 Alteration of Site or Removal of Artwork**

- a. Subject to paragraphs d and e of Section 7.1, the City shall notify the Artist in writing upon adoption of a plan of construction or alteration of the Project Site which would entail removal or relocation of the Artwork which might result in the Artwork being destroyed, distorted or modified. The Artist shall be granted the right of consultation regarding the removal or relocation of the Artwork. If the Artwork cannot be successfully removed or relocated as determined by the City, the Artist may disavow the Artwork.
- b. The Artwork may be removed or relocated or destroyed by the City should the Artist and the City not reach mutual agreement on the removal or relocation of the Artwork after a period not to exceed [90] days after written notice to the Artist. During the [90] day period, the parties shall engage in good faith negotiations concerning the Artwork's removal or relocation.
- c. In the event of changes in building codes or zoning laws or regulations that cause the Artwork to be in conflict with such codes, laws or regulations, the City may authorize the removal or relocation of the Artwork without the Artist's prior permission. In the alternative, the City may commission the Artist by a separate agreement to make any necessary changes to the Artwork to render it in conformity with such codes, laws or regulations.
- d. If the City reasonably determines that the Artwork presents an imminent hazard to the public, other than as a result of the City's failure to maintain the Artwork as required under this Agreement, the City may authorize the removal of the Artwork without the prior approval of the Artist.
- e. This clause is intended to replace and substitute for the rights of the Artist under the Visual Artists' Rights Act to the extent that any portion of this Agreement is in direct conflict with those rights. The Parties acknowledge that this Agreement supersedes that law to the extent that this Agreement is in direct conflict therewith.

## **Article 8 Artist as an Independent Contractor**

The Artist shall perform all work under this Agreement as an independent contractor and not as an employee of the City. The Artist acknowledges and agrees that the Artist shall not hold itself out as an authorized agent of the City with the power to bind in any manner.

The Artist shall provide the City with the Artist's Tax Identification number and any proof of such number as requested by the City. The Artist shall provide the City with a copy of the Artist's City business license.

#### **Article 9      Assignment of Artwork**

The work and services required of the Artist are personal and shall not be assigned, sublet or transferred. Any attempt by the Artist to assign this Agreement or any rights, duties or obligations arising hereunder shall be void and of no effect unless prior written consent is given by the City. The City shall have the right to assign or transfer any and all of the City's rights and obligations under this Agreement, subject to the Artist's consent, if ownership of the Project Site is transferred; if the Artist refuses to give consent, this Agreement shall terminate.

#### **Article 10     Termination**

- a. Either Party may terminate this Agreement without recourse by the other where performance is rendered impossible or impracticable for reasons beyond such Party's reasonable control such as, but not limited to, acts of nature; war or warlike operation; superior governmental regulation or control; public emergence; or strike or other labor disturbances. Notice of termination of this Agreement shall be given to the non-terminating party in writing not less than 30 days prior to the effective date of termination.
- b. The City may terminate this Agreement without cause upon [60] days written notice to the Artist. The City shall pay the Artist for services performed and commitments made prior to the date of the termination, consistent with the schedule of payments set forth in Exhibit B of this Agreement. The Artist shall have the right to an equitable adjustment in the fee for services performed and expenses incurred beyond those for which the Artist has been compensated to date under Exhibit B with allowance for documented lost opportunities, unless the parties come to a settlement otherwise. The Artist shall retain possession and title to the studies, drawing, designs, maquettes, and models already prepared and submitted or prepared for submission to the City by the Artist under this Agreement prior to the date of termination.
- c. If either party to this agreement shall willfully or negligently fail to fulfill in a timely and proper manner, or otherwise violate any of the covenants, agreements or stipulations material to this Agreement, the other party shall thereupon have the right to terminate this Agreement by giving written notice to the defaulting party of its intent to terminate specifying the grounds for termination. The defaulting party shall have 30 days after the effective date of the notice to cure the default. If it is not cured by that time, this Agreement shall terminate.
- d. If the Artist defaults for cause other than death or incapacitation, the Artist shall return to the City all funds provided by the City in excess of the expenses already incurred. The Artist shall provide an accounting of these expenses. All finished and unfinished drawings, sketches, photographs and other work products prepared

and submitted or prepared for submission by the Artist under this Agreement shall be retained by the Artist.

- e. Upon notice of termination, the Artist and the Artist's subcontractors shall cease all services affected.

#### **Article 11     Death or Incapacity**

- a. If the Artist becomes unable to complete this Agreement due to death or incapacity, such death or incapacity will not be deemed a breach of this Agreement or a default on the part of the Artist for purposes of Article 10.
- b. In the event of incapacity, the Artist's conservator shall assign the Artist's obligations and services under this contract to another artist provided that the City approves of the new artist and so agrees in writing. If the City does not agree, the City may elect to terminate this Agreement. The Artist shall retain all rights under Article 6 and Article 7. The Artwork and any reproductions thereof shall contain a credit to the Artist and a copyright notice in substantially the following form: © [Artist's name, date of publication].
- c. In the event of death, this Agreement shall terminate effective the date of death. The Artist's heirs shall retain rights under Article 6 and Article 7.

#### **Article 12     Notices and Documents**

Notices under this Agreement shall be delivered personally or through the [registered or certified mail, return receipt requested] mail, postage prepaid, to the addresses stated below, or to any other address as may be noticed by a Party:

For the City:

City Manager  
City of Brisbane  
50 Park Place  
Brisbane, CA 94005

For the Artist:

Notice shall be deemed effective on the date personally delivered or, if mailed, [three (3) days] after the postmarked date.

#### **Article 13     Waiver**

The Parties agree that a waiver of any breach or violation of any term or condition of this Agreement shall not be deemed to be a waiver of any other term or condition contained herein or a waiver of any subsequent breach or violation of the same or any other term or condition.

**Article 14      Conflict of Interest**

The Artist and Owner shall avoid all conflicts of interest or appearance of conflicts of interest in the performance of this Agreement

**Article 15      Amendments**

No alteration, change or modification of the terms of this Agreement shall be valid unless made in writing and signed by both Parties.

**Article 16      Conflict with the Law**

If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall be held by a court of competent jurisdiction or arbitration panel to be in conflict with the laws, rules and/or regulations of the United States or the State of California, invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of this Agreement, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby to the extent the remainder of the terms, covenants, conditions or provisions of this Agreement are capable of execution.

**Article 17      Choice of Law**

This contract shall be governed by the laws of the State of California both as to interpretation and performance and any legal action shall be filed in San Mateo County, California.

**Article 18      Entire Agreement**

This Agreement, including the exhibits, comprises all of the covenants, promises, agreements and conditions between the Parties. No verbal agreements or conversation between the Parties prior to the execution of this Agreement shall affect or modify any of the terms or obligation.

McGRATH ARTS

CITY OF BRISBANE  
A Municipal Corporation

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Jeremy Dennis, City Manager

Approved as to form

Michael Roush, Legal Counsel

**Exhibit A**

**Description of Project**

*(Will be incorporated when final contracts are administered.)*

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**Exhibit B**

**Payment Schedule**

*(Will be incorporated when final contracts are administered.)*

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## **Exhibit C**

### **Insurance**

#### **General**

- a. The Artist shall procure and maintain for the duration of this Agreement, at the Artist's expense, insurance in the kinds and amounts as provided in this Exhibit with insurance companies authorized to do business in California. Such insurance shall cover the Artist's agents, contractors, subcontractors or employees. The City, its officials, employees, agents and contractors shall be named as additional insureds. The coverage shall contain no special limitations on the scope of protection afforded to the City its officials, employees, agents and contractors.
- b. The Artist and the Artist's subcontractors' insurance coverage shall be the primary insurance as respects the City, its officials, employees, agents and contractors. Any insurance or self-insurance maintained by the City, its officials, employees, agents and contractors shall be in excess of the Artist's or the Artist's subcontractor's insurance and shall not contribute to the Artist's or the Artist's subcontractor's insurance. The coverage shall state that the Artist's or the Artist's subcontractors' insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- c. Prior to undertaking any work under this Agreement, the Artist, at no expense to the City, shall furnish to the City a certificate of insurance with original endorsements affecting coverage for each of the insurance policies provided in this Exhibit. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates must be current and the Artist must submit replacement or renewal certificates of insurance for all the policies expiring during the term of this Agreement. Each certificate shall clearly indicate that the Artist has obtained insurance in the type, amount and classification as specified in this Exhibit and that no material changes, cancellation, suspension or reduction in limits of insurance shall be effective except after [30] days prior written notice to the City. Each certificate shall indicate that the subcontractors are additionally insured or the Artist shall furnish separate certificates for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated in this Agreement, including, but not limited to, naming the parties as additional insureds.
- d. Any deductibles or self-insured retentions must be declared to, and approved by, the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officials, employees, agents and contractors.
- e. Despite any changes to or cancellation of insurance, the Artist remains responsible for maintaining the required insurance coverage for the duration of the Agreement.
- f. Failure of the Artist to comply with any of the terms of Article 6 of the Agreement shall be considered a material breach of this Agreement and cause for its immediate termination.



## Insurance Policies

- a. Commercial General Liability insurance policy, written on an occurrence form, including all the usual coverage known as:
  1. premises/operations liability
  2. products/completed operations
  3. personal/advertising injury
  4. contractual liability
  5. [broad-form property damage]
  6. [independent contractor's liability]

Said policy must provide the following minimum coverage:

1. \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage.
  2. \$2,000,000 annual aggregate
- b. Automobile liability insurance policy, including coverage for owner, non-owner, leased or hired vehicles, providing the following minimum coverage:
  1. \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage;
  2. \$2,000,000 annual aggregate

The Artist agrees to keep in good standing a valid driver's license at all times during the term of this Agreement.

- c. Transportation/Cartage insurance all risk. Coverage must include loading, transportation and unloading of the Artwork. If the Artwork is to be loaded, transported or unloaded by a person or entity other than the Artist, the insurance coverage must cover that person or entity. The minimum limit shall be the total amount of compensation paid to Artist through the date of loading under Exhibit B.
- d. All Risk Installation insurance which covers physical damage to or destruction of the Artwork. If the Artwork is to be installed by a person or entity other than the Artist, the insurance coverage must cover that person or entity. The minimum limit shall be the total amount of compensation paid to the Artist through the date of the beginning of the installation of the Artwork under Exhibit B.
- e. Worker's Compensation and Employers' Liability insurance in accordance with the statutory requirements of the State of California, providing coverage for any and all employees of Artist. The Artist shall require all subcontractors to carry this coverage also. The minimum coverage for the Worker's Compensation and Employers' Liability insurance shall be \$[100,000].
- f. If, however, the Artist does not have any employees as defined by state statutes and regulations and does not wish to cover him/her/itself for Worker's Compensation, the Artist shall sign the following statement:

[“I do not have, nor intend to have for the full term of this Agreement, any employees. Furthermore, I do not wish to obtain or be covered under any Worker's Compensation insurance coverage and, therefore, am signing this statement in lieu of providing the above require Worker's Compensation coverage.”]

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(Artist's signature)

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(Print Artist's name)]

The requirement for Worker's Compensation and Employers' Liability insurance shall be waived in writing upon submission of this signed statement by the Artist to the Owner.

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