



# CITY *of* BRISBANE

## Public Art Advisory Committee Agenda

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**Monday, July 21<sup>st</sup>, 2025 at 5:15PM • Hybrid Meeting**  
**Brisbane Annex City Hall, Annex Conference Room, 25 Park Place, Brisbane**

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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: Brisbane Annex City Hall: 25 Park Place, Brisbane, CA 94005 - [Annex 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))

Or open directly from the Zoom website: <https://zoom.us/join> Enter meeting ID: 8656 065 0564

Call In Number: 1 (669) 900-9128

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

The agenda materials may be viewed online at [www.brisbaneca.org](http://www.brisbaneca.org) at least 72 hours prior to a Meeting. Archived videos can be replayed on the City’s website, [brisbaneca.org/meetings](http://brisbaneca.org/meetings). Please be advised that if there are technological difficulties, the meeting will nevertheless continue.

## **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. Public comments received one hour prior to the meeting via email will be noted for the record. Written comments after that time will not be responded to or brought to the attention of the Committee during the meeting. 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:**

Chair Glazman, Councilmember Davis, Councilmember O’Connell, Park & Recreation Commissioner Seawell, Park & Recreation Commissioner Sims, Committee Member Kellstedt, Committee Member Salmon

**ROLL CALL**

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

**APPROVAL OF AGENDA**

**APPROVAL OF MINUTES**

- B. Approve Minutes of June 16<sup>th</sup>, 2025 Public Art Advisory Committee

**DISCUSSION ITEMS**

- C. Offsite tour of prospective locations for Public Art (Skatepark and BofA)  
*(Start at Brisbane Annex City Hall and walk to sites. Zoom will momentarily be paused until subcommittee returns to discuss possibilities)*
- D. Review Artist Request for Proposal (RFP) for Phase 2 of the Firth Park Art Project
- E. Consideration of an Artfully Designed Bench Program throughout the City

**PUBLIC COMMENT**

**NEXT MEETING**

Monday, September 15<sup>th</sup> at 5:15pm

**ADJOURNMENT**

**File Attachments for Item:**

B. Approve Minutes of June 16th, 2025 Public Art Advisory Committee



# CITY of BRISBANE

## Public Art Advisory Committee Minutes

Monday, June 16<sup>th</sup>, 2025 at 5:15PM • Hybrid Meeting

### CALL TO ORDER – 5:15 p.m.

#### ROLL CALL

Committee Members Present: Chair Diane Glazman, Councilmember Davis, Councilmember O’Connell, Park & Recreation Commissioner Seawell, Committee Member Danielle Kellstedt, Committee Member Salmon

Committee Members Absent: Park & Recreation Commissioner Sims

Staff Members Present: Park & Recreation Director Leek, Deputy Clerk Ibarra

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

None

#### APPROVAL OF AGENDA

Approved by Salmon, seconded by O’Connell. 6 Ayes, 0 No’s, 1 Absent (Sims)

#### APPROVAL OF MINUTES

#### B. Approve Minutes from May 19<sup>th</sup>, 2025 Public Art Advisory Committee

Approved by Salmon, seconded by Davis. 5 Ayes, 0 No’s, 1 Absent (Sims), 1 Abstain (Glazman)

#### DISCUSSION ITEMS

#### C. Discuss Introducing an Artfully Designed Bench Program throughout the City

The committee discussed introducing an artfully designed bench program throughout the City. Aside from bringing art to the community, it would provide opportunities for local artists, increase civic engagement, and contribute to a more vibrant and welcoming streetscape. They discussed how the program would work, what opportunities there are, whether local businesses could be involved in some way, and alignment with existing city policies and programs. The Committee decided to focus on refurbishing three existing benches and commissioning three new benches.

Next Steps #1: Staff will identify existing benches poised for refurbishing as well as prospective locations for new benches. Staff will reach out to NINEdotARTS to determine an appropriate budget for this project. Staff will also bring back the City’s memorial bench policy and donation policy for review.

**D. Review Artist Request for Proposal (RFP) for Phase 1 of the Firth Park Art Project**

The Committee discussed the art pieces at Firth Park – the Turtle and the Tree Form. Both pieces were recently repaired and restored in preparation for an artist to revitalize them. After learning about the history of the two pieces, the Committee decided that it would be a disservice to redo the pieces and expressed their collective desire to preserve them in their restored state.

Next Steps #2: Staff will bring back other potential art opportunities at Firth Park, such as revitalizing the Firth Park Mosaic, the staircase, and a barrier separating the park from the road.

**E. Committee Reorganization Discussion**

The Committee had a Reorganization discussion and agreed unanimously to reappoint Diane Glazman as Chair and Tom Seawell as Vice Chair.

**PUBLIC COMMENT**

No public or written comments.

**NEXT MEETING DATE**

Monday, July 21<sup>st</sup> at 5:15pm

**ADJOURNMENT**

6:17 PM

**File Attachments for Item:**

D. Review Artist Request for Proposal (RFP) for Phase 2 of the Firth Park Art Project

# BRISBANE

## Firth Park Public Art Project



**RELEASE DATE (TBD)**

**CALL FOR ARTISTS/REQUEST  
FOR PROPOSALS**



The City of Brisbane, CA is seeking proposals from qualified artists, individuals, or teams (hereinafter referred to as ARTIST) with demonstrated experience in developing public art for functional spaces. Artists 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, qualifications, availability, and capacity to perform the scope of services within the outlined schedule.

Please submit your proposal using the format specified in this Request For Proposals (RFP).

**PROPOSALS MUST BE RECEIVED BY DATE, NO LATER THAN 12:00PM.** 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 12:00 p.m. on DATE.*

3. Dropped off in person to the Parks & Recreation Department on the second floor of Brisbane City Hall, 50 Park Place, Brisbane, CA 94005 during business hours. The deadline to drop off in person is 12:00 p.m. on DATE.

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 will be shared with all prospective Artists. 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 Artists 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 experienced artists for a public art installation that will enhance an existing park. The selected Artist will work collaboratively with the City's Public Art Advisory Committee and City staff to finalize a vision for these public art pieces.

## 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.

In 2014, the City of Brisbane adopted a Public Arts Ordinance 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 environment and enrich public spaces. A city rich in art becomes an outdoor cultural museum accessible to everyone.

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.

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. In 2025, the City of Brisbane (with support from NINEdotARTS) adopted its first ever Public Art Master Plan, intended to integrate public art into the fabric of the city and thereby promote beauty, creativity, and community engagement. The master plan provides long-term guidance and direction to the City of Brisbane on the planning and processes necessary to administer and maintain a successful public art program.

[Link to Public Art Master Plan](#)



## PROJECT SCOPE & DESCRIPTION

The Public Art Advisory Committee, in collaboration with the Brisbane City Council, seeks to commission signature works of art to complement its existing collection at Firth Park located at 201 Glen Park Way, Brisbane, CA 94005. The Park already houses two art pieces designed by Jim Miller-Melberg which were recently restored but have been onsite since the 1970's. See images in Enclosure A. This site offers several opportunities to integrate artwork into the landscape. The Public Art Advisory Committee seeks applications from artists working in a variety of media and artistic approaches, who will be responsible for the design and implementation of the artwork. Examples of opportunities for artwork integration on the site include (but are not limited to) the following: artwork on the existing staircase, rejuvenation of the park's marquee sign, a decorative barrier between the park and the adjacent roadway, benches, etc.

At this time, the Public Art Advisory Committee invites proposals from artists working in a variety of media and artistic approaches, who will be responsible for the design and installation of the artwork.

**The artwork(s) should:**

- Provide excitement for visitors and residents of the community by elevating the space
- Establish a sense of place
- Reinforce the individuality of the community
- Be distinctive, dynamic, and unique
- Integrate into the existing natural environment

This artwork will become a permanent addition to the Brisbane public art collection. All applicants must consider the issues of long-term conservation and maintenance of public art, along with time and budget. The design of all art for this project shall be very durable, require minimal maintenance, and be resistant to theft, vandalism, and weathering. Art for this project should not cause any kind of safety hazard for traffic or pedestrians. The art should adhere to the highest standards of quality, timelessness, permanence, and general appeal. NOTE: Art must comply with City building codes and the City’s dark-sky ordinance. Artist proposals will be reviewed by the City of Brisbane’s Public Art Advisory Committee to ensure conformity with city standards of maintenance and durability, as well as Americans with Disabilities Act (ADA) standards. Artists are expected to stay on budget and to complete work in an approved timeframe.

## PROJECT TIMELINE

The anticipated schedule for this project is as follows:

City Council reviews and authorizes RFP	TBD
RFP Release Date	TBD
Question Submission Cutoff Deadline	TBD
Proposal Submission Deadline	TBD
Selection Committee review and recommendation	TBD
City Council award of Contract	TBD
Notice to proceed issued to Artist	TBD

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

## BUDGET

The budget range for this project is TBD, which will be allocated to the artist selected. **Please note:** the Public Art Advisory Committee may choose to recommend dividing the budget between multiple successful applicants or awarding project contracts to multiple artists. The budget should include all costs associated with the completion of the project, including but not limited to: artist fees, materials, labor costs for assistants, insurance, permits, taxes, business and legal expenses, operating costs, art dealer’s fees (if applicable), fabrication, and installation. Applicant shall provide a proposed budget itemized by task, as well as the total project cost proposed. Hourly rates for project staff shall also be provided if applicable.

**\*Cost proposal must be submitted separate from the rest of the RFP response.**

## SUBMISSION REQUIREMENTS

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.

1. **Letter of Interest** - not to exceed one page explaining interest in the project and including pertinent information about the artists approach and projects of a similar nature.
2. **Resume** - not to exceed two pages listing professional artistic accomplishments, contact information, education or other relevant information, and current contact information for at least two references.
3. **Proposal** - not to exceed five pages describing the artwork and the artist's approach. Include drawings, renderings, materials, and dimensions.
4. **Images of Original Representative Work** -not to exceed 10 images.
5. **Annotated Image List** – Each image must include the artist's name and a brief description of each image stating its title, medium, size, location, and purchase price or commissioned price.
6. **Sealed Fee Proposal** - The Fee Proposal shall be submitted in a separate sealed envelope or PDF document marked "Stairway Art Budget Proposal".

## SELECTION PROCESS

Pursuant to Sections 4525-4529 of the Government Code of the State of California, the Consultant selection will be based on qualifications. The City's Public Art Advisory Committee will review the proposals received by the deadline and make recommendations to Brisbane City Council. The City of Brisbane reserves the right to reject 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 AND 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:
  - a. Reject any or all proposals.
  - b. Reissue an RFP.
  - c. 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.
  - d. Request more information from any or all applicants.
  - e. Waive any immaterial defect or informality.
  - f. Decline to go forward with the RFP.

- g. Reject any Subcontractor or Contractor proposed by the Proposer.
  - h. The City expressly reserves the right not to award a contract under this RFP.
4. All services shall be provided in accordance with Enclosure "A," 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 artist 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. Artists 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

- Enclosure A      Site photos including images of existing art on location
- Enclosure B      Sample Professional Services Agreement

# ENCLOSURE A

Firth Park site photos

Existing art on location:



Additional site photos:









## 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 DATE, between the City of Brisbane (“City”), ARTIST NAME (“Artist”), with offices at LOCATION.

WHEREAS, City requires the services of an artist to design, fabricate and install a work of art, namely DESCRIPTION (“the Artwork”) on public property located ADDRESS (“the Project Site”); and

WHEREAS, the Artwork shall include DESCRIPTION; 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 DATE, 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 \$120,150.00, 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 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:

NAME  
ADDRESS

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.

ARTIST NAME

CITY OF BRISBANE  
A Municipal Corporation

\_\_\_\_\_

\_\_\_\_\_

Jeremy Dennis, City Manager

Approved as to form

Michael Roush, Legal Counsel

\_\_\_\_\_

**Exhibit A**  
**Description of Project**

DRAFT

## **Exhibit B**

### **Payment Schedule**

The City shall pay the Artist a fixed fee of AMOUNT, which shall constitute full and complete compensation for all the services performed and material furnished by the Artist under this Agreement.

Payment shall be made in accordance with the following scheduled installments, each installment representing full and final payment for all services and material provided prior to payment thereof:

- a. 5% upon the execution of this Agreement, recognizing that the Artist will invest time and expense in preparing the Design as set forth under Section 1.3;
- b. 15% upon the City's notification to the Artist of its approval of the Final Design Phase documents as set forth under Section 1.3, including the issuance of all planning and building permits;
- c. 30% upon commencement of fabrication
- d. 20% upon completion and approval of the fabrication and when the Artwork is ready for delivery and installation at the Project Site as set forth under Section 1.6(a);
- e. 30% upon final acceptance of the Artwork by the City as set forth under Section 1.7(b) and approval by the regulatory agency.

## 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."]

\_\_\_\_\_  
(Artist's signature)

\_\_\_\_\_  
(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.

DRAFT

**File Attachments for Item:**

E. Consideration of an Artfully Designed Bench Program throughout the City



**PUBLIC ART ADVISORY COMMITTEE MEMO**

**Meeting Date:** 7/21/2025

**To:** Public Art Advisory Committee

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

**Subject:** Consideration of an Artfully Designed Bench Program Pt. 2

**Recommendation**

Consider establishing an artfully designed bench program that combines public seating with site-specific artwork, enhancing both the functional and aesthetic value of public spaces throughout the community. Such a program would provide opportunities for local artists, increase civic engagement, and contribute to a more vibrant and welcoming streetscape.

**Background & Discussion**

At the June 16<sup>th</sup> meeting, the Public Art Advisory Committee considered this item (Attachment 1) and directed staff to return with additional information. In its consideration of policy and program development, the Committee requested that staff provide a copy of the City’s existing Donation Policy for Public Art (Attachment 2), and Memorial Bench & Plaque Policy (Attachment 3).

The Committee also directed staff to research price points for soliciting artists for both refurbishing of an existing bench, and to Commission new artfully designed benches. After examining comparable programs nationwide, the average artist stipend for beautifying existing benches ranges from \$500-\$2,000. An example of an existing program for bench beautification can be found here: <https://www.cathedralcitypublicarts.org/tours/public-bench-beautification-project-tour/?sow-51530fef997c=2>

The average budget for a new artfully commissioned bench can range from \$5,000-\$50,000 depending on size and scale. An example of a bench Commission program in the Region of Durham can be found here: <https://stepspublicart.org/project/durham-benches/>.

An interactive inventory of the existing benches in Brisbane can be found [here](#). Recently, Age-Friendly task force representatives walked through Central Brisbane to identify ideal locations for new benches. Their recommendations are provided in Attachment 4. The Committee should discuss this information and provide direction to staff regarding the next desired steps.

**Attachments**

1. 6/16/2025 Meeting memo regarding consideration of a bench program.
2. City of Brisbane’s Donation Policy for Public Art
3. City of Brisbane’s Memorial Bench and Plaque Policy
4. Bench recommendations from the Age-Friendly Task Force

Noreen Leek, Parks & Recreation Director



**PUBLIC ART ADVISORY COMMITTEE MEMO**

**Meeting Date:** 6/16/2025

**To:** Public Art Advisory Committee

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

**Subject:** Consideration of an Artfully Designed Bench Program

**Recommendation**

Consider establishing an artfully designed bench program that combines public seating with site-specific artwork, enhancing both the functional and aesthetic value of public spaces throughout the community. Such a program would provide opportunities for local artists, increase civic engagement, and contribute to a more vibrant and welcoming streetscape.

**Background & Discussion**

An artfully designed bench program would commission artists to design or collaborate on public benches that serve both utilitarian and artistic purposes. These benches could be installed in parks, on trails, adjacent to public facilities, and in other key public areas. Considerations should be made regarding the following:

- 1. Program administration, structure & oversight
- 2. Budget & funding
- 3. Artist criteria & selection process
- 4. Materials, durability, and compliance with City codes
- 5. Location planning, installation, and maintenance

Nationwide, similar programs exist and can be referenced. Attachment 1 includes links to other artful bench programs for reference. Attachment 2 includes a gallery of images to showcase various styles of artfully designed benches. At this time, the Committee should consider the feasibility of this type of program in Brisbane and provide direction to staff on next steps desired.

**Attachments**

- 1. Links to existing artful bench programs
- 2. Samples of artfully designed benches

Noreen Leek, Parks & Recreation Director

# Existing Artful Bench Programs

Mill Valley, CA

<https://www.millvalleylibrary.org/802/Art-Benches>

Palm Springs

<https://pspublicarts.com/wp-content/uploads/2021/10/Numbered-Art-Benches-for-PSPAC-2.pdf>

Chehalis, WA

<https://experiencechehalis.com/call-for-artists-apply-to-paint-a-downtown-chehalis-bench-2/>

Woodland, TX

<https://www.thewoodlandsartscouncil.org/businesses/woodlandspublicart>

Santa Clara Valley Water

<https://valleywaternews.org/2021/03/17/adopt-a-bench-public-art-project-with-the-youth-commission/>

Chico

<https://chico.ca.us/documents/Community/Arts--Culture/Public-Arts-Program/downtownartbenchbrochure.pdf>

Henderson, NV

<https://www.cityofhenderson.com/government/departments/parks-and-recreation/cultural-arts/army-street-bench-project>

Iowa City, IA

<https://downtowniowacity.com/arts-and-culture/uiccu-benchmarks-public-art-program/>

Claremont, CA

<https://www.cmc.edu/public-art/jeppe-hein>

# Samples of Artfully Designed Benches

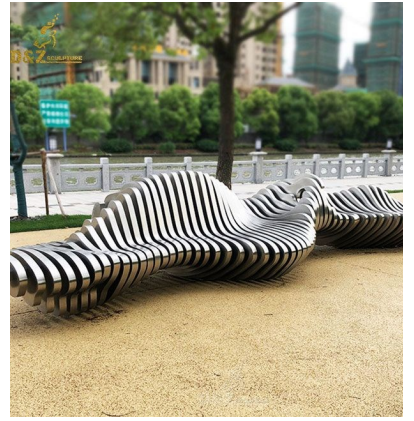


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# City of Brisbane Donation Policy - Public Art

## I. Purpose

Members and supporters of the Brisbane community from time to time wish to support the community by making donations to the City of Brisbane. The City Council appreciates this generosity and has adopted this policy regarding donations to the City of Brisbane, including City departments and City sponsored programs, activities, and events.

## II. Definitions

1. **Donation:** a contribution made directly to the City without expectation of goods, services, or significant benefit or recognition in return. Donations may be in the form of money, money alternatives, or in-kind contributions of products, services, investment securities, real property (land or other type of fixed asset), or any combination thereof. A donation may be unrestricted, where the donor has placed no limitation on its use, or restricted, where the donor has restricted its use to a specified purpose. Donations that, if accepted, would obligate the City to enter into a service, procurement, or other agreement shall not be considered a donation. Grants to the City from a local, state, or federal agency are not subject to this policy.
2. **Donor:** Any organization or individual who provides the City with a donation.
3. **Donation Agreement:** An agreement between the City and the donor that details any restrictions on a donation as well as the respective obligations of the donor and the City.
4. **Fundraising:** Any activity conducted with the intent of generating donations to the City. Fundraising activities may include, but are not limited to, promoting endowment programs, program adoption or pledge drives, and contacting individuals, companies, foundations, or other entities with a request for a donation to the City.

## III. General Provisions

1. The City welcomes unrestricted donations as well as restricted donations that enhance City services, reduce costs that the City would incur in the absence of the donation, or that otherwise provide a benefit to the City. The City may decline any donation without comment or cause.
2. Donors shall not expect, nor shall the City grant, any extra consideration to the donor in relation to City procurement, regulatory matters, or any other business, services, or operations of the City. To avoid the possible appearance of extra considerations, City Page 2 of 8 Council appointed Commissioners and Committee Members as well as city staff shall not solicit donations to the City except as stated in 3 below.
3. City Council must approve all fund raising activities by City Council Members, Commission and Committee members, employees, or volunteers of the City prior to the solicitation of donations for any City project, program, activity, or event ("supported activity"). A recommended form for a fundraising plan is attached as Exhibit A to be revised as

appropriate for the fundraising goal and type of supported activity in question.

4. Donations must be directly related to providing goods or services to the public or for another valid public purpose. Donations may not be used for personal financial gain of any City elected or appointed official or employee.
5. The net benefit of a donation should be considered when determining whether to accept a donation. Net benefit includes all lifecycle costs of ownership, including maintenance, repair, clean-up, administrative, and any potential liability or expenses that may be associated with the donation.
  - a. Donations may not be used to implement new on-going programs or services unless a permanent source of revenue is identified to support the program or service.
  - b. Potential costs and liabilities should be considered if a donation of personal property or of a service does not include the same indemnification, insurance, bonding, or warranties that the City would normally receive through procurement of personal property or services.
  - c. Real property may be accepted by the City as a donation provided that it will not expose the City to an unreasonable risk of litigation or liability, for reasons including, but not limited to, the physical condition of the property or existence of claims, liens, and encumbrances against the property.
6. Council members and other City officials are responsible for reporting fundraising activities and donations as required by applicable laws and regulations. See, for example, Section 7 under Article IV, Procedures, below.

#### **IV. Procedures**

1. Unrestricted donations of \$5,000 or less may be accepted by the City Manager. Unrestricted donations of more than \$5,000 and restricted donations of more than \$500 must be brought to the City Council for acceptance. The City Manager may accept or decline any donation in the City Manager's sole discretion and may choose to request City Council consideration of any donation.
2. The City Manager shall keep the City Council informed of any request to donate to the City. Two Council Members may request to place on a City Council agenda any proposed donation whether the City Manager recommends accepting the donation or not.
3. The City Council shall consider proposed donations beyond the authority of the City Manager set forth above, and proposed donations referred to it by the City Manager. The City Council may accept or decline any donation in its sole discretion.
4. All donations will receive appropriate recognition as determined by the City Manager or City Council at the time the donation is accepted, taking into consideration the nature and level of the donation. Upon request of the donor or if specified in a City initiated request for donors, limited forms of promotional activity (such as logo or name placement on signs, flyers, and other materials related to a program or activity supported by the donation) are permitted. The appearance of traditional commercial advertising should be avoided and the size of donor recognition should be in keeping with the size of non-recognition information used in the

materials. The agreed upon form of recognition should be identified in the donor receipt or a donation agreement.

5. Other than in-kind donations, when donations with a value in excess of \$100 are accepted or upon the request of the donor, the City will issue the donor a receipt indicating the amount of the donation or describing the goods or services donated within 30 days of accepting the donation. (In accordance with the Internal Revenue Code the City does not provide an estimated value of in-kind donations; donors may refer to IRS Publication 561 for more information on valuing donated property.) The donation receipt shall also include the date of the donation, the name of the donor, the purpose of the donation (if a restricted donation), a brief description of any public recognition that will be made by the City, and note that the donor received no goods or services in exchange. The original receipt shall be submitted to the donor and the City shall retain a copy. A sample donation receipt is attached as Exhibit B.
6. Before acceptance of a restricted donation valued at more than \$500 or an unrestricted donation valued at more than \$5,000, the respective obligations of the donor and the City shall be set forth in a donation agreement. A sample donation agreement is attached as Exhibit C; provided, however, the City Manager or City Council may require donation agreements for donations valued at any amount.
7. The City shall maintain records for the receipt of all donations and shall comply with all reporting requirements and regulations including, but not limited to, FPPC Regulation 18944.2 Gifts to an Agency. For donations that were made at the behest of a City Council member, a member of an appointed Commission or Committee, of City staff, that person shall determine whether a Fair Political Practices Commission Page 4 of 8 Form 803 (Behested Payments Report) is required pursuant to the Political Reform Act and implementing Regulations.



# Public Art Donation Receipt

This is to confirm that on [insert date]\_\_\_\_\_ the City of Brisbane received from [insert donor name]\_\_\_\_\_

- a monetary contribution of \$\_\_\_\_\_ (cash/check/electronic)
- a non-monetary contribution consisting of (describe goods, services, property, securities, public artwork, etc.):

For the purpose of:

No goods or services were provided by the City of Brisbane in return for the contribution.

The City of Brisbane does hereby agree to accept as a donation for public display from the undersigned Donor the work of art described below, hereinafter referred to as "Artwork," pursuant to the terms and conditions set forth herein.

1. The donor of the artwork, hereinafter referred to as "Donor," who has entered into this Agreement is:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

2. If different from the Donor, the name of the party to be recognized as having donated work for display (which may be listed on the art label or similar and all other publicity or promotional materials as follows):

\_\_\_\_\_

3. The work of art subject to this Agreement is described as:

Artist's Name: \_\_\_\_\_

Title of Artwork: \_\_\_\_\_

Year \_\_\_\_\_ Medium \_\_\_\_\_ Size \_\_\_\_\_

Donor's Estimated Value \$ \_\_\_\_\_

4. **Term of Agreement / Dates:**

If known, the referenced artwork will be delivered and installed on public property on:

Date: \_\_\_\_\_

5. Proposed location for display (note: this display location is subject to change):

Property name (if applicable): \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

6. **Delivery:** The Owner will be responsible for delivering the artwork to the City of Brisbane on the date as set forth above in item #4. Installation to be determined between city and Donor.
7. **Insurance:** The City of Brisbane shall take reasonable and appropriate steps to preserve and protect the Artwork. However, as with any public display, the City of Brisbane does not warrant or guarantee the safety or condition of the Artwork. The Artwork will be covered generally under the existing insurance program. The Donor is hereby informed that the City of Brisbane insurance program has a deductible of \$\_\_\_\_\_ per item or \$\_\_\_\_\_ per occurrence, and that the valuation of artwork can be a disputed issue with insurance companies.
8. **Labeling:** The Artwork, while on display, shall be labeled to contain the appropriate donor/artist information as captured in Sections 1 to 3 above; as will any publication referencing the Artwork.
9. **Publicity:** Unless otherwise noted, photographs or other reproductions of the Artwork will be used for education, cataloging, or publicity purposes.

The Donor has reviewed, read, and does hereby agree to the foregoing terms and conditions for the donation of the Donor's Artwork.

For: **City of Brisbane**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

For: **Donor:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date



# City of Brisbane

## MEMORIAL BENCH POLICY

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### I. PURPOSE

The purpose of this policy is to outline the terms and conditions of a commemoration on a memorial bench with a plaque. The City of Brisbane, through its Parks & Recreation Department, administers a municipal memorial bench program. This program allows for private commemorations on memorial benches positioned on City owned property. Benches should contribute to the Brisbane experience and preserve the character of the City.

### II. CRITERIA

An honoree for a memorial bench must be deceased prior to application. Only individuals may be honored with a memorial bench; organizations and groups will not be considered.

### III. APPLICATION

An application must be completed to submit a formal request for a commemorative bench with a plaque. The Parks & Recreation Department will review applications and maintains the authority to deny those that it deems inappropriate. Decisions to deny an application may be appealed to the Parks & Recreation Commission. Memorial bench applications will be reviewed throughout the year and processed in the order in which they are received as space allows. Lead time may vary.

The application is attached to this policy and available online at [www.brisbaneca.org](http://www.brisbaneca.org).

### IV. FEES

The fee for memorial benches is established each year by the Master Fee Schedule. The memorial bench commemoration fee is \$1,500. This is the price for a single commemorative plaque on a memorial bench. The amount covers the cost of the bench, plaque, and installation by the City. Complete payments must be received in order to initiate the purchasing process.

### V. BENCHES

The Parks & Recreation Department will select a bench style in keeping with the general aesthetics of the City and will complement potential placement areas. To the extent possible, and in order to maintain a consistent look and feel throughout the City, all commemorative benches will be identical.

### VI. PLAQUE & TEXT

The City will procure and install a small plaque on a memorial bench to honor the individual or individuals being memorialized. The plaque size, font, and design specifications as well as approval of the message, will be at the discretion of the Parks & Recreation Department. The purchaser will agree on the text content

and both parties will sign off on the final proof before the order is submitted. The plaque will be securely inset or surface-mounted onto the seat back of the bench. The City shall be responsible for the bench installation.

## VII. PLACEMENT

This policy permits commemorative benches on City owned property, and the City reserves the right to determine individual bench placement. Bench locations may include, but are not limited to, the following areas:

- a. Sierra Point shoreline and other walkways along Sierra Point Parkway or Marina Boulevard (contingent upon approval from the Bay Conservation & Development Commission)
- b. City of Brisbane owned Parks & Facilities (i.e. Community Park, Pool)
- c. Walkways or pathways in Central Brisbane (i.e. Firth Canyon, Bicentennial Walkway, Quarry Road)
- d. Fisherman's Park
- e. Crocker Park Trail

Placement preferences may be noted by the purchaser but are not guaranteed. Location determination will be made by the Parks & Recreation Department in conjunction with the Brisbane Public Works Department. Locations outside of those listed above may be allowed on a case by case basis, subject to review by City staff. Note: The City reserves the right to relocate a bench if unforeseen circumstances arise due to its location (i.e. recurrent vandalism, park renovation, etc.).

## VIII. MAINTENANCE & TERM

Benches in outdoor settings have a reasonable life span of approximately ten years. The City will provide for basic maintenance and repair of the bench during its useful life.

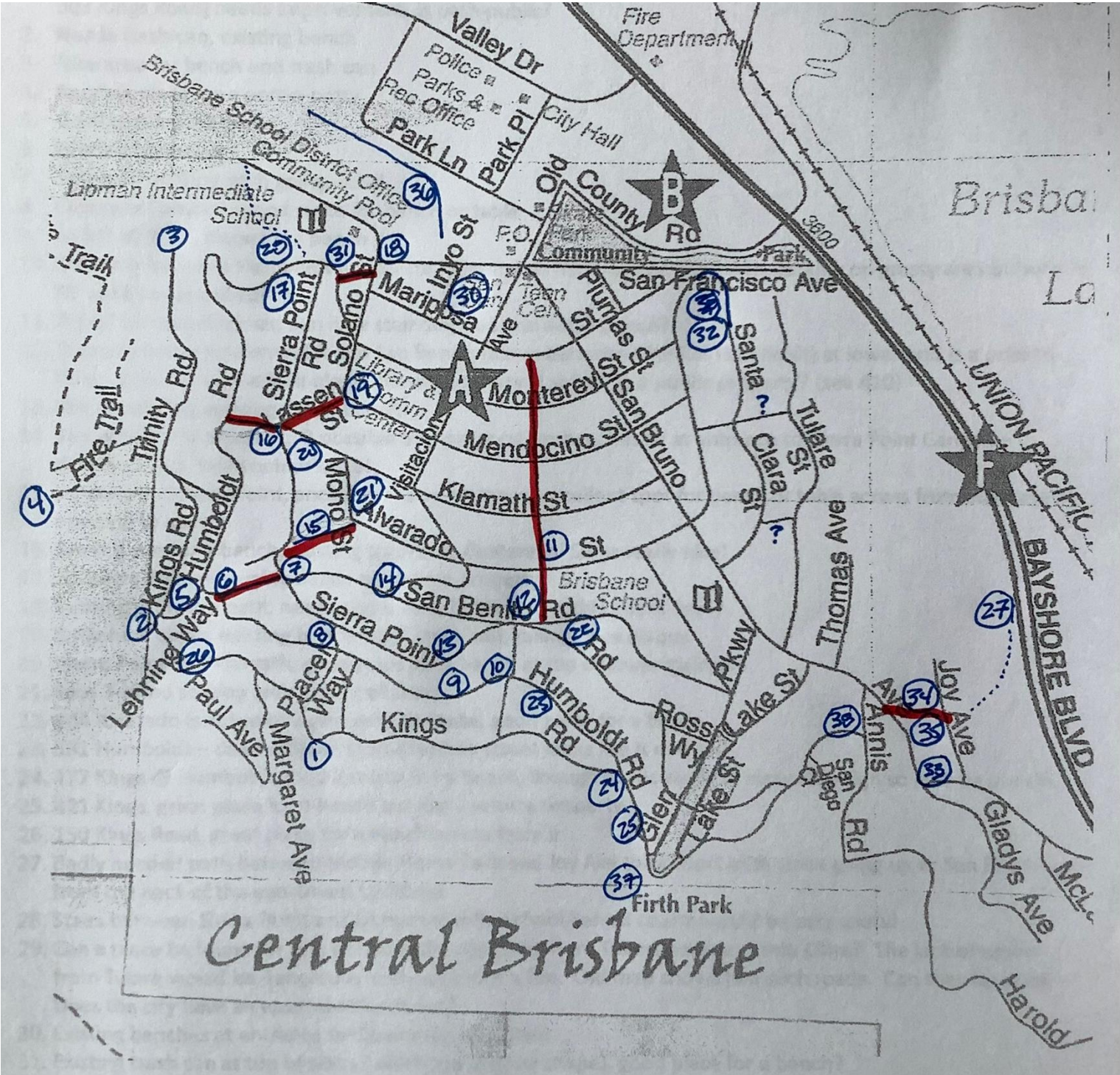
The bench and plaque remain the property of the City. The donation term for a bench is ten years or the useful life of the bench, whichever comes first. If the purchaser so chooses, an additional ten year term can be purchased at the conclusion of the first ten years. Otherwise, at the end of the donation term, the plaque will be removed to allow for other donations and/or bench replacement. The purchaser may request to have the plaque returned to them and must submit their formal request to the Parks & Recreation Department in writing. City staff will do their best to return the plaque to the purchaser upon expiration of the term.

This policy only applies to new benches and plaques installed after 6/1/2017. Existing commemorative plaques will be grandfathered and remain in place for the foreseeable future.

## IX. RESTRICTIONS

The placement of any mementoes (i.e. flowers, statues, personal belongings, etc.) in the vicinity of the memorial bench is not permitted.

BENCH INVENTORY AND RECOMMENDATIONS FROM THE AGE-FRIENDLY TASK FORCE



- 1. Trash can at entrance to canyon, flat area for bench, existing path (that begins on private home driveway at 303 Kings Road) needs improvement, is path public?
- 2. Needs trash can, existing bench
- 3. Nice area for bench and trash can
- 4. Possible place for a port-a-potty

5. Existing private bench
6. Existing trash can
7. Potential walking path going uphill
8. Costanos Canyon – good place for bench or table
9. To left of #757, place for a bench
10. Staircase between Humboldt and Sierra Point needs handrail and sign. Why parking on grassy area in front of it? Is this area public?
11. Top of Central Alleyway, can it be stair-stepped and add a bench?
12. Stairway between Humboldt and San Benito (top is between 516-524 Humboldt) at lower end is a private drive. Can stairs be added along the side to make it safer? Is it public property? (see #10)
13. 164 Humboldt, existing lovely bench.
14. San Benito and Sierra Pt. 2 possible corners good for benches or at entrance to Sierra Point Canyon – excellent spot for bench or table!
15. Leaning and Serra Point, another canyon entrance, excellent spot for bench or table across from staircase at opening to canyon
16. Great place for a bench, existing trash can, Centennial Steps really nice!
17. 30 Sierra Point – existing bench on private property
18. Existing primitive path, needs steps, rails, lights etc. Is this public land?
19. Bottom of stairs, existing bench, light, trash can, railing, nice plaque
20. Sierra Point and Klamath, good place for a bench at top of lower staircase
21. Nice 3-sided seating area at foot of stairs
22. 404 Alvarado is at top of downward staircase, good place for a bench
23. 851 Humboldt – dead sailboat stored next to street looks like it may fall
24. 477 Kings @ Humboldt good location for a bench, though traffic tends to blow stop sign so may be unsafe
25. 421 Kings, great place for a bench but likely private property
26. 150 Kings Road, great place for a bench across from it
27. Badly needed path between Mobile Home Park and Joy Ave to connect with stairs going up to San Bruno Ave. from the back of the apartment buildings
28. Stairs between Sierra Point and Lipman Middle School/tennis courts would be very useful
29. Can a place be found for one or two stairways going from Tulare down to Santa Clara? The lack of egress from Tulare would be dangerous in the event of a fire. Old map shows two such roads. Can they be used? Does the city have an easement for those?
30. Existing benches at entrance to Quarry Rd., excellent
31. Existing trash can at top of stairs (which are in good shape), good place for a bench?
32. Need a bench at top of stairs, existing area across from Annis
33. Existing bench behind house
34. Need bench on San Bruno at the top of the hill
35. Existing stairs from top of San Bruno to Joy Ave, in good shape, can we mark it, needs some railing repair
36. Quarry Road, existing logs are where everyone stops to sit, can we replace with benches, walkers asked for trash cans and a water fountain for people and dogs.
37. Firth Park, existing benches, tables, bbq's, fix drinking fountain, can restrooms be added – perhaps in the parking lot area?
38. Humboldt at Annis, good place for a bench