



REQUEST FOR PROPOSALS

Dog Park Resurfacing

Brisbane Parks & Recreation

50 Park Place

Brisbane, CA 94005

p. 415.508.2140

Email. nleek@brisbaneca.org



The City of Brisbane, CA is seeking proposals from qualified individuals, firms, vendors, and contractors (hereinafter referred to as Contractor) with demonstrated experience in developing dog parks and/or installing artificial turf and surfacing for recreational facilities. Prospective bidders 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 price, experience, availability, and capacity to perform the specified work.

Please submit your proposal using the format specified in this Request For Proposals (RFP). **PROPOSALS MUST BE RECEIVED BY FRIDAY MARCH 26, 2021 by no later than 1:00PM.** Any proposal received after the specified time and date will not be considered. Proposals may be submitted one of the following ways:

1. Electronically to nleek@brisbaneca.org AND snahass@brisbaneca.org. *Note: An email will be sent to confirm receipt of the electronic proposal.*
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 1:00p.m. on March 26, 2021.

3. Dropped off in person at Brisbane City Hall, 50 Park Place, Brisbane, CA 94005 on Friday, March 26th between the hours of 9:00am-1:00pm. A staff person will be onsite to receive hard-copy proposals during that time frame only.

Questions regarding proposals should be directed to:

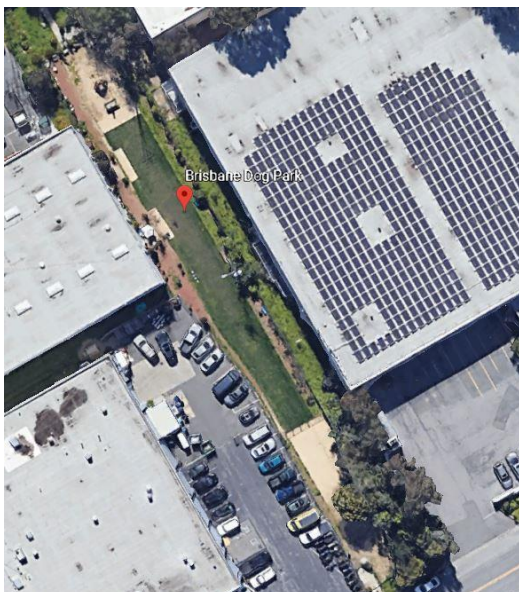
Noreen Leek
(415) 508-2140
nleek@brisbaneca.org

INTRODUCTION

The Brisbane Dog Park is in the heart of the Crocker Industrial Park and shares a parking lot with Brisbane City Hall at 50 Park Place, Brisbane CA 94005. The City-owned facility is the only official dog park in City limits and serves as a social venue for dogs and owners alike. The parcel on which the dog park is located is a long and narrow strip of land between neighboring warehouses, with entrances to the dog park on either end. At each entrance, decomposed granite exists before a transition to grass. The existing facility incorporates a fenced area with amenities including seating, mutt mitt dispensers, trash receptacles, water access, and a K9 ramp.

A site visit will be held at the Brisbane Dog Park, 50 Park Place, Brisbane, CA 94005 on Thursday, March 18, 2021 at 11:00am for the purpose of acquainting all prospective bidders with a review of the site and contract documents. It is strongly advised that all prospective bidders attend the site visit. (Note: mask-wearing and social distancing will be required.) Note: Proposed bidders shall be responsible for visiting the site prior to bidding and the Contractor to whom the bid is awarded shall be responsible for having ascertained pertinent site conditions such as location, accessibility, and character of the site and extent of existing improvements thereon. Attention is directed to the location of the site, existing access conditions, work area constraints, transportation and storage of materials, and all other matters which may affect the work or cost thereof.

After City staff selects a proposal to recommend to the City Council, City Council will review and award the contract. The chosen Contractor will be required to provide to the City construction documents (including plans, base specifications, and special provisions) for the project.



SCOPE OF WORK

Following a series of public meetings and after receiving community feedback, the City of Brisbane is pursuing alternative surfacing for the existing grass portion of the dog park. The overarching objective of this project is to enhance the dog park by providing a safer environment for pet socialization and exercise available for use year-round.

The City of Brisbane is now accepting proposals from qualified Contractors for the preparation and installation of new surfacing. The City is soliciting bids for conceptual designs and installation of base and surfacing (including excavation and sub grading) with a combination of dog-friendly (suitable) artificial turf and hardscape (decomposed granite) to replace the existing grass area. Surfacing should be all-weather, dog-friendly play surfaces that is long-lasting and that will hold up against heavy use and dog play. Surfacing should be safe, comfortable, antimicrobial where possible, permeable/drainable, low maintenance, and inviting for dogs as well as their owners. For the surface installed, the Contractor will be required to supply complete maintenance guidelines or manual.

Contractor is responsible for ensuring that the site drains properly. Should removal of soil be required, the Contractor will be responsible for testing and proper disposal of the soil. Some reasonable redistribution of soil onsite is allowable. Note: A grading permit is required if more than six (6) cubic yards are removed from the site.

This resurfacing project serves to replace the existing grass area of the park which is approximately 4,200 square feet. The City would prefer to incorporate as much dog-friendly artificial turf in this area as possible, with the remaining surface to be covered in decomposed granite or a similar alternative appropriate for the given use of the space. Please refer to Enclosure B for an aerial image of the facility with corresponding measurements of the area in question.

OVERVIEW

- 1. Summary of Project:** To provide both design and construction services for the installation of new surfacing at the Brisbane Dog Park as described herein.
- 2. Design:** Although the design of the space is flexible, it should incorporate at least one large patch of dog-friendly artificial turf. The design proposal should consider minimizing haul-away costs by repurposing excavated materials for an above ground mound to create additional opportunities for dog play. Artificial turf patches should be surrounded by new decomposed granite that complements other portions of the dog park.
- 3. Plans and Specifications:** Once the contract is awarded, the Contractor is to prepare detailed design plans and specifications, as appropriate and necessary for this project. The City must review and approve such plans and specifications.
- 4. American's with Disabilities Act (ADA) Compliance:** The City has available a draft ADA Transition Plan for the Dog Park which proposed bidders should review. The Contractor will be responsible for full ADA compliance for this project. A Certified Access Specialist (CAsp) should be engaged to review the draft ADA Transition plan to ensure that the design is ADA compliant.
- 5. Applicable Standard Specifications and Details:** The Contractor must complete the project in accordance with applicable City, State, and Federal laws, statutes, codes, and any other applicable standard specifications.
- 6. Approvals and Permits:** The Contractor will be responsible to obtain all required building permits and business licenses. An interim sediment and erosion control plan will be required for work

during the rainy season, identified in the Brisbane Municipal Code as October 15 to April 15 per the California Stormwater Best Management Practices Handbook for Construction Activity prepared for the Stormwater Quality Task Force. In addition to the sediment and erosion control plan, normal construction operations shall also conform to the California stormwater best management practices during construction.

7. Progress Meetings: Regular progress meetings with the Contractor, City, and other interested parties will be held throughout the life of the project. The frequency and location of these meetings will be established, by mutual agreement. The purposes of these meetings are to establish and maintain lines of communication, report on design, progress, discuss and resolve problem areas, review schedule and progress, review project costs/budgets, review quality control and such other matters related to the project. The Contractor shall complete all work included in the contract within 150 calendar days. The Contractor's schedule shall anticipate any limitations and plan the work accordingly. The contract calendar days will begin immediately after the Notice to Proceed is issued.

8. Insurance Requirements: Set forth in the Design-Build Agreement. (Enclosure A, No. 14)

9. Payment and Faithful Performance Bond: A payment bond and a bond for the faithful performance of the contract will be required of the successful bidder who is awarded the contract. Set forth in the Payment Bond and Faithful Performance Bond. (Enclosure B)

10. Prevailing Wages: The successful bidder must comply with the latest general prevailing rate of per diem wages as determined by the Director of Industrial Relations, State of California, Department of Industrial Relations. Set forth in the Design-Build Agreement. (Enclosure A, No. 15)

NOTE: All services shall be performed by the awarded Contractor or under the awarded Contractor's direct supervision, and all personnel shall possess the qualifications, permits, and licenses required by state and local law to perform such services. If the Contractor intends to subcontract, the bidder shall herein set forth the name and location of the place of business of each subcontractor who will perform work or render services to the bidder and describe the specific role of each.

SUBMISSION REQUIREMENTS

In order to submit a responsive bid, the following information must be included in the proposal in the order listed:

1. A letter of interest, not to exceed two (2) pages.
2. Project Team: Organizational chart of resources including the Project Manager, subcontractors, and other key personnel, not to exceed two (2) pages.
3. Experience: Provide a listing of current and/or completed representative projects (at least three) including project name/location, brief description and results, completion date, project costs, and client name/contact. Contractors shall describe their experience with design and construction of artificial turf surfaces for recreation facilities and dog parks. Not to exceed ten (10) pages.
4. Scope: Set forth a detailed approach for completing the tasks described in this RFP and include deliverables. Affirm your proposed team's ability to start the project immediately after the notice to proceed and provide a project timeline. An initial concept design should be generated for City review. Not to exceed ten (10) pages.
5. Cost: A project budget outlined by task and deliverable-based fee schedule. Cost shall include all work to be performed and all costs for which the contractor (and

subcontractors) expect to be paid, divided according to the tasks and deliverables.
 Note: this is a City-funded project, estimated around \$80,000.

The proposal must be received before March 26, 2021 at 1:00p.m. Please see page two of this document for submission details.

SCHEDULE

Proposal submission deadline

City staff bid review

City Council award of contract

Notice to proceed issued to Contractor

March 26, 2021

March 29 - April 2, 2021

April 15, 2021

April 16, 2021

EVALUATION & SELECTION PROCESS

The City will use a quality-based selection process and the bid will be awarded to the Contractor whose proposal is determined as providing the best value in meeting the interest of the City, given the scope of the project. Proposals will be evaluated by City staff based upon professional qualifications necessary for satisfactory performance; understanding of the project; approach to the project; capacity to accomplish the work in the proposed timeframe; past performance on contracts with government agencies; and quality of the proposal. Proposals shall remain firm for a period of ninety (90) days after the proposal due date. The City of Brisbane reserves the right to reject all proposals, refuse any or all proposal(s), to waive technicalities, and to accept whichever proposal(s) that may be in the best interest of the City, at its sole discretion.

City staff will evaluate all proposals deemed responsive and make a recommendation to City Council based on the below criteria and the percentage of their importance.

1. Professional qualifications and relevant experience **(25 percent)**
 - a. Project Manager, subcontractors, and key team members are qualified to perform the work categories/tasks on the project.
 - b. Contractor's knowledge of dog park surfacing installation.
 - c. Contractor's experience with this type of project.
 - d. Samples of previous work and references.
2. Project Understanding **(20 percent)**
 - a. Contractor has demonstrated an understanding of the nature and scope of project.
 - b. Contractor has provided comparable projects with which the Contractor has been involved.
3. Approach to the project **(20 percent)**
 - a. Contractor has recognized and identified special circumstances of the project.
 - b. Contractor has provided logical approach to tasks and issues of the project.
4. Project Schedule **(15 percent)**
 - a. Contractor has adequate staff for this project.
 - b. Current workload of the Contractor.
5. Quality of proposal **(20 percent)**

- a. Information conveyed, overall proposal quality, readability, and the technical expertise presented.

** Clarification during evaluation and selection process: During the evaluation process, the City has the right to request additional information for clarification to understand the Contractor's view and approach to the project and scope of the work. The City further reserves the right to make an award without further clarification of proposals reviewed. Any changes to a submitted proposal made before executing the contract will become part of the final Contractor contract.*

GENERAL TERMS AND CONDITIONS

1. This RFP does not commit the City to award a contract, to pay any cost incurred in the preparation of a submittal to this request for proposals 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 a designated representative, may withdraw a proposal that has been submitted.
3. The issuance of this RFP and the acceptance of a submittal do not constitute an agreement by the City that the City will award any contract. The City expressly reserves the right to:
 - Reject any or all proposals.
 - Reissue an RFP.
 - Extend the time frame for submission of the proposals by notification to all parties who have registered an interest in this RFP with the City.
 - Request more information from any or all proposers.
 - Waive any immaterial defect or informality.
 - Decline to go forward with the project. The City expressly reserves the right not to proceed to award a contract for this project.
 - Reject any proposal.
4. All services shall be provided in accordance with Enclosure "A," the City's Design-Build 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 Contractor/firm will be responsible for all costs incurred in preparing a response to this RFP.
6. All materials and documents submitted in response to this RFP will become the property of the City and will not be returned. Contractors/firms selected for further negotiations will be responsible for all costs incurred by it during negotiations whether or not such negotiations lead to a contract with the City.
7. Bidders are responsible for reviewing all portions of this RFP. A Bidder is to promptly notify the City, in writing, if a bidder 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	DRAFT Design-Build Agreement
Enclosure B	DRAFT Payment Bond and Faithful Performance Bond
Enclosure C	Aerial Map of Brisbane Dog Park
Enclosure D	Existing Facility Conditions

ENCLOSURE A

DESIGN-BUILD AGREEMENT

THIS AGREEMENT, dated _____, 2021 is made by and between THE CITY OF BRISBANE, a municipal corporation ("City"), and _____ ("Contractor").

RECITALS

- A. City desires to retain Contractor to prepare conceptual designs for resurfacing of the existing grass area of the Brisbane Dog Park and to install the resurfacing of the existing area of the Brisbane Dog Park including sub grading, excavating, and installing base plus surface as described in the Contractor's responses to the City's Dog Park Resurfacing Request for Proposals ("RFP").
- B. Contractor is qualified to prepare the required conceptual design document and to install the resurfacing of the existing area of the Brisbane Dog Park..

AGREEMENT

1. **Scope of Services.** Subject to the direction and approval of City through its staff that City may provide from time to time, Contractor shall perform the services described in the scope of work outlined in the Contractor's responses to the RFP and incorporated herein by reference or as may be amended.

2. **Time of Performance.** The services of Contractor shall commence upon the execution of this Agreement and shall be satisfactorily completed within 150 calendar days. The Contractor's schedule shall anticipate any limitations and plan the work accordingly. The 150 calendar days will begin immediately after the Notice to Proceed is issued.

3. **Responsible Personnel.** The personnel acting on behalf of Contractor primarily responsible for performance of the services hereunder shall be as set forth within Contractor's proposal.

4. **Compensation.** As compensation for all services to be performed by Contractor under this Agreement, Contractor shall be paid the amounts set forth in _____ and incorporated herein by reference. In no event shall Contractor's total compensation exceed the agreed upon sum without additional authorization from City. Payment by City under this Agreement shall not be deemed a waiver of defects, even if such defects were known to City at the time of payment.

5. **Method of Payment.** Contractor shall submit billings to City describing in detail the services provided and work performed for which payment is requested, the date the services/work were provided/performed, and the number of hours spent if applicable. Billings shall be submitted monthly, or at such other time as agreed upon between City and Contractor. City shall pay Contractor no later than 30 days after approval of the invoice by City. Such payment shall not be unreasonably withheld.

6. **Maintenance and Inspection of Records.** Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, time cards, and other records or documents relating to charges for services or expenditures charged to City, for a minimum of three (3) years from the date of final payment to Contractor under this Agreement and shall make the same available to City

or its authorized representatives for inspection and audit, at any time during regular business hours, upon written request by City. The right of inspection shall include the right to make extracts and copies.

7. **Assignment and Subcontracts.** Contractor acknowledges that Contractor's special skill and expertise is a material consideration for City entering into this Agreement. Contractor may subcontract a portion of the project to a predetermined sub-contractor as outlined in the proposal and agreed upon. Contractor shall not assign, subcontract or delegate to any other party the performance of any services or work to be rendered by Contractor or predetermined subcontractors without the prior written approval of City. If City consents to any subcontracting of work, Contractor shall be fully responsible to City for all acts or omissions of the subcontractor.

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

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

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

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

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

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

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

(a) Type of policies and coverage:

- (1) *General Liability Coverage.* Contractor shall maintain commercial general liability insurance in an amount not less than \$1,000,000 per occurrence for bodily injury, personal injury and property damage, providing coverage at least as broad as Insurance Services Office Commercial General Liability form CG 0001 (Ed. 11/88). If the form of insurance with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit.
- (2) *Automobile Liability Coverage.* Contractor shall maintain automobile liability insurance in an amount not less than \$1,000,000 combined single limit for each occurrence, for bodily injury and property damage, providing coverage at least as broad as Insurance Services Office form CA 0001 (Ed. 12/90) Code 1 (any auto).
- (3) *Workers' Compensation and Employer's Liability Coverage.* Contractor shall maintain workers' compensation insurance as required by the State of California and employer's liability insurance in an amount not less than \$1,000,000 per occurrence, for any and all persons employed by Contractor in connection with the performance of services under this Agreement. In the alternative, Contractors may rely on a self-insurance program to provide this coverage so long as the program of self-insurance complies fully with the provisions of the California Labor Code. The insurer, if insurance is provided, or Contractors, if a program of self-insurance is provided, shall waive all rights of subrogation against City for loss arising from work performed by Contractors for City.
- (4) *Professional Liability Coverage.* Contractor shall maintain professional errors and omissions liability insurance in an amount not less than \$1,000,000 per occurrence, covering negligent acts, errors or omissions which may be committed by Contractor in the performance of its services under this Agreement.

(b) Endorsements: Each general liability and automobile liability insurance policy shall contain, or be endorsed to contain, the following provisions:

- (1) The City, its officers, officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, its officers, officials, employees, agents or volunteers.
- (2) For any claims related to the Project, Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by City, its officers, officials, employees, agents or volunteers shall be excess of Contractors' insurance and shall not contribute with it.

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

15. Industrial relations compliance and Prevailing wage requirements.

Effective January 1, 2015, no contractor or subcontractor may be listed on a bid proposal for a public works project (submitted after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5 (with the limited exceptions from this requirement for bid purposed only under Labor code Section 1771.1(a)). Register at <https://efiling.dir.ca.gov/PWCR>.

No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5.

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

The Contractor is required to post job site notices prescribed by regulations. See 8 Calif. Code Regulation §16451(d).

Effective April 1, 2015, All contractors and subcontractors must furnish electronic certified payroll records directly to the Labor Commissioner at: <https://apps.dir.ca.gov/ecpr/das/altlogin>.

16. Claims.

- (a) A CHANGE ORDER shall mean a document recommended by ENGINEER, which is signed by CONTRACTOR and OWNER and authorizes an addition, deletion or revision in the work, or an adjustment in the contract price or the contract times, issued on or after the effective date of the agreement.
- (b) As provided in Article 1.5 of Chapter 1 of Part 3 of Division 2 of the Public Contract

Code, claims by the CONTRACTOR shall be in writing and include the documents necessary to substantiate the claim. Claims must be filed with the OWNER promptly, and in no case later than 30 days after the close of the month during which extra cost is claimed to have been incurred. Any claim forwarded to OWNER shall be accompanied by a cover sheet prepared on CONTRACTOR's letterhead which includes the following personal certification of the claim:

I, _____, BEING THE _____, (TITLE) OF _____, (GENERAL CONTRACTOR), DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA, AND DO PERSONALLY CERTIFY AND ATTEST THAT: I HAVE THOROUGHLY REVIEWED THE ATTACHED CLAIM FOR ADDITIONAL COMPENSATION AND/OR EXTENSION OF TIME, AND KNOW ITS CONTENTS, AND SAID CLAIM IS MADE IN GOOD FAITH; THE SUPPORTING DATA IS TRUTHFUL AND ACCURATE; THAT THE AMOUNT REQUESTED ACCURATELY REFLECTS THE CONTRACT ADJUSTMENT FOR WHICH THE CONTRACTOR BELIEVES THE OWNER IS LIABLE; AND FURTHER, THAT I AM FAMILIAR WITH CALIFORNIA PENAL CODE SECTION 72 AND CALIFORNIA GOVERNMENT CODE SECTION 12650, ET SEQ, PERTAINING TO FALSE CLAIMS, AND FURTHER KNOW AND UNDERSTAND THAT SUBMISSION OR CERTIFICATION OF A FALSE CLAIM MAY LEAD TO FINES, IMPRISONMENT AND OR OTHER SEVERE LEGAL CONSEQUENCES.

- (c) This certification must be signed by an officer of the party of the second part of the agreement. Unless so presented, the claim shall be deemed to have been waived.

17. **Notices.** Any notices required or permitted to be given under this Agreement shall be in writing and shall be either personally delivered or sent by certified mail, return receipt requested, addressed to the other party as follows:

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

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

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

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

21. **Miscellaneous Provisions.**

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

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

THE CITY OF BRISBANE

CONTRACTOR

By: _____
Clayton L. Holstine, City Manager

By: _____
Printed Name

ATTEST:

Ingrid Padilla, City Clerk

APPROVED AS TO FORM:

Michael Roush, Legal Counsel

ENCLOSURE B

PAYMENT BOND AND FAITHFUL PERFORMANCE BOND

Bond Number: _____

CONTRACTOR'S PAYMENT BOND

LET THE FOLLOWING BE KNOWN:

THAT WHEREAS, THE CITY OF BRISBANE, a municipal corporation of the State of California (hereinafter designated as "City") on _____, 2021, entered into a certain contract with _____, a _____ (designate type of business entity), hereinafter designated as the "Principal," namely, a Design-Build Agreement for the **DOG PARK RESURFACING PROJECT** for the work hereinafter briefly described, to wit:

- At the Brisbane Dog Park, the project includes the conceptual design and installation of base & surfacing (including excavation and sub grading) with a combination of dog-friendly (suitable) artificial turf and hardscape (decomposed granite or similar alternative) to replace the existing 4,200 square foot grass area. Surfacing should be long-lasting and safe, comfortable, antimicrobial where possible, permeable/drainable, low maintenance, and inviting for dogs as well as their owners. Contractor is responsible for deficiency corrections and ADA compliance relative to the scope of this project and the area noted for renovation. Contractor will be required to supply complete maintenance guidelines or manual.

More fully described in and required by said Design-Build Agreement, incorporated herein by reference, the award of which said Agreement was made to said Principal by the City Council of the City of Brisbane on _____, 2021, as will more fully appear by reference to the minutes of said Council of said City of said date.

WHEREAS, said Principal is required by Section 9550 of the California Civil Code to furnish a bond in connection with said Agreement.

NOW, THEREFORE, we, the Principal and _____, incorporated under the laws of the State of _____, and authorized to execute bonds and undertakings as sole surety, as Surety, are held and firmly bound unto the City in the penal sum of _____ Dollars (\$ _____), lawful money of the United States of America for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, his, her or its subcontractors, heirs, executors, administrators, successors, or assigns, shall fail to pay any of the persons named in Section 9100 of the California Civil Code, or amounts due under the Unemployment Insurance Code with respect to any work or labor performed or materials supplied by any such claimant, which said work, labor or materials are covered by the said Construction Agreement and any amendments, changes, change orders, additions, alterations, or modifications thereof, or for any amounts required to be deducted, withheld, or paid over to the Employment Development Department from the wages of employees of the Contractor and his or her subcontractors, pursuant to Section 18806 of the Revenue and Taxation Code, with respect to such work and labor, the Surety will pay for the same, in an amount not exceeding the sum hereinabove specified, and also, in case suit is brought upon this bond, a reasonable attorney's fee to be fixed by the court.

This bond shall insure to the benefit of any of the persons named in Section 9100 of the California Civil Code, so as to give a right of action to such persons or their assigns in any suit brought upon this bond.

It is further stipulated and agreed that the Surety on this bond shall not be exonerated or released from the obligation of this bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement hereinabove described or pertaining or relating to the furnishing of labor, materials, or equipment therefore, nor by any change or modification of any terms of payment or extension of the time for any payment pertaining or relating to any scheme or work of improvement hereinabove described, nor by any rescission or attempted rescission of the contract, agreement or bond, nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to

recover under any such contract or agreement or under the bond, nor by any fraud practiced by any person other than the claimant seeking to recover on the bond and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given, and under no circumstances shall Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the City and original Contractor or on the part of any obligee named in such bond, but the sole conditions of recovery shall be that claimant is a person entitled to file claims under Title 1 (commencing with Section 8000) of Part 6 of Division 4 of the California Civil Code, and has not been paid the full amount of his or her claim and that Surety does hereby waive notice of any such change, extension of time, addition, alteration, modification, rescission or attempted rescission, herein mentioned.

It is further stipulated and agreed that no final settlement between the City and the Contractor with reference to the work, shall abridge the right of any beneficiary hereunder whose claims may be unsatisfied.

This bond is executed and delivered to comply with the requirements of the City of Brisbane, and to comply with the provisions of Title of Part 6 of Division 4 of the Civil Code of the State of California.

SIGNED AND SEALED this _____ day of _____, 2021

PRINCIPAL

SURETY

(Insert Company Name)

A _____ (designate type of entity)

By: _____

Title:

By: _____

Title:

By: _____

Title:

Address: _____

Telephone: _____

(Affix Corporate Seals; Attach Acknowledgments of both Principal and Surety signatures.)

Approved by Legal Counsel for the City of Brisbane on the _____ day of _____, 2021

Michael Roush

Legal Counsel for the City of Brisbane

Bond Number: _____

FAITHFUL PERFORMANCE BOND

WHEREAS, THE CITY OF BRISBANE, a municipal corporation of the State of California (hereinafter designated as "City") on entered into a Design-Build Agreement whereby principal agrees to install and complete certain designated public improvements, which said agreement, dated _____, 2021, and project identified as:

DOG PARK RESURFACING PROJECT

is hereby referred to and made a part hereof; and

Whereas, said Principal is required under the terms of said agreement to furnish a bond for the faithful performance of said agreement.

Now, therefore, the Principal and _____, incorporated under the laws of the State of _____ and authorized to execute bonds and undertakings as sole surety, are held and firmly bound unto the City of Brisbane, hereafter called "City," in the penal sum of _____ dollars (\$ _____) lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of obligation is such that if the above bounded Principal, his, her or its subcontractors, heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions, and provisions in the said agreement and any alteration thereof made as therein provided, on this or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless City, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.

As a condition precedent to satisfactory completion of said agreement, the above obligations to the amount of _____ dollars (\$ _____) lawful money of the United States, being not less than ten percent (10%) of the total bid of the Project, shall hold good for a period of one (1) year after the completion and acceptance of said work during which time if the above bounded Principal, his, her or its heirs, executors, administrators, successors, or assigns shall fail to make full, complete and satisfactory repair and replacement or totally protect the City from loss or damage made evident during said period of one year from the date of acceptance of said work, and resulting from or caused by defective materials or faulty workmanship in the prosecution of the work done, the above obligations in the same sum of _____ dollar (\$ _____) lawful money of the United States, shall remain in full force and virtue; otherwise the above obligation shall be void.

As part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in anywise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or the work or to the specifications.

In witness whereof, this instrument has been duly executed by the Principal and surety above named on

_____, 2021.

NOTE: to be signed by
Principal and Surety and
acknowledgment and notarial
seal attached

(SEAL)

Principal

Surety

The above bond is accepted and approved this _____ day of _____, 2021.

Michael Roush
Legal Counsel for the City of Brisbane

IMPORTANT: Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in California.

ENCLOSURE C
AERIAL MAP OF BRISBANE DOG PARK



ENCLOSURE D EXISTING FACILITY CONDITIONS

