



# CALL FOR ARTISTS REQUEST FOR PROPOSALS FOR CROSSWALK ART PROGRAM



**CITY OF COMMERCE, CALIFORNIA  
PUBLIC WORKS DEPARTMENT**

**SUBMITTAL DEADLINE:  
Thursday, September 26, 2024, at 5:00 PM**

**INTRODUCTION:**

The City of Commerce is issuing a **Call for Artists RFP** interested in transforming ordinary crosswalks into playful, vibrant, and energetic works of art that will beautify the City and encourage motorists to stop for pedestrians using the crosswalk. This project will be within the City’s Civic Center area, will serve as a point of community pride and encourage thinking about simple public spaces as places to enjoy artwork.

**BACKGROUND:**

This call for artists is part of ongoing projects that are meant to encourage walking and create a safe environment for pedestrians. Crosswalk art is an example of utilizing art as a means for traffic calming, pedestrian safety, and neighborhood improvement. It will also build on Commerce’s continuing effort to increase public art for economic and community development, as well as enhance tourism. We invite artists to ignite our imaginations, awaken us to the beauty of our surroundings, and inspire stories that will motivate people of all ages. The project is funded by the City of Commerce local funds and has adequate budget for the implementation of the Crosswalk Art Program. The scope of work is estimated to start on or around October 28, 2024, however the City reserves the right to revise any projections regarding the start date.

**PROJECT GUIDELINES AND REQUIREMENTS:**

**A. Eligibility**

1. All artists must have at least 7 years of experience with crosswalk artwork or similar experience with painting on pavement.
2. Entries must be the original design and artwork of the entrant and suitable for viewing by all ages.
3. Artist has designed and completed satisfactory crosswalk artwork installation on the public roads within the past 7 years.
4. Artists will be required to carry Liability and Workers Compensation Insurance with the amount indicated in the City’s Professional Services Agreement (PSA).
5. Awarded Artists will be required to execute the attached PSA in advance of award.
6. Work shall be completed within 60 days of the approved concept.
7. Work at each crosswalk shall be completed half at a time to allow traffic movement, unless approved otherwise by the City.

**B. Artist Requirements**

- Artist will be required to submit up to 8 concept plans for City’s review and approval.

## Call for Artists RFP for Crosswalk Art Program

- The Artist will be required to obtain a No Fee Encroachment Permit with the City before commencing the crosswalk artwork installation.
- The Artist will be required to obtain and pay for a City Business License.
- All Artwork installed shall be the property of the City of Commerce and Artist will be required to waive any rights under the Visual Artist Rights Act of 1990 and the California Art Preservation Act.
- Artist will be responsible for all art materials and supplies required for creation of the artwork and protection of the surrounding area (paint, brushes, buckets, tarps, etc.).
- The artist will be responsible for preparing the surface by cleaning and priming the asphalt before commencing their artwork
- The artist must use an exterior, acrylic latex-based paint, i.e. Traffic-Lok 100% Acrylic Flat Traffic Marking Paint or similar (see Attachment "C" for sample Technical Data Sheet), followed by a sealant with a non-skid/slip-resistant additive. No oil-based paints will be allowed. A final coat of grip paint and ant-graffiti sealant is required.

### **C. City Requirements:**

1. The City will provide Traffic Control during the installation of the artwork by the Artist.

### **D. Description & Location of Crosswalks**

1. The dimensions of the crosswalks vary at each location.
2. The specific sites and information about the crosswalks on each site can be found on the Location Map.
3. There are a total of eight (8) crosswalks located at the following three intersections: Commerce Way and Harbor Street (4 crosswalks), **Commerce** Way and Jardine Street (3 crosswalks), and Midblock on Harbor Street between Entrada Street and Commerce Way (1 crosswalk).
4. Artists are encouraged to review the project location before submitting a proposal.

### **D. Artwork Design**

1. Creativity and innovation of design are encouraged.
2. Be an original artwork created by the artist.
3. Be scaled to cover the length and width of the crosswalk.
4. All crosswalk designs must accommodate the two thick lines at the top and bottom of the crosswalk, which runs perpendicular to the roadway traffic and the interior vertical lines.
5. All elements of pattern for these treatments must be uniform, consistent, repetitive, and expected so as not to be a source of distraction to vehicle drivers and pedestrians. The aesthetic interior treatment must not:
  - a. Be random or unsystematic.

- b. Implement pictographs, symbols, multiple color arrangements, etc., or otherwise attempt to communicate with any roadway user.
6. Be monochromatic or color but should not contain more than six (6) colors. All elements of color for these treatments must not be a source of distraction to vehicle drivers and pedestrians and the aesthetic interior treatment must not:
- a. Degrade the contrast of white or yellow crosswalk lines or be mistaken by road users as a traffic control application.
  - b. Colors must be non-retroreflective.
  - c. Colors must not be associated with regulatory traffic colors such as bright red, yellow, green or orange.
  - d. Recommended colors include earth tone equivalents (per the Federal Highway Administration Manual on Uniform Traffic Control Devices – Interpretation Letter 3(09)24(I) – Application of Colored Pavement. Official Ruling found here: [https://mutcd.fhwa.dot.gov/resources/interpretations/3\\_09\\_24.htm](https://mutcd.fhwa.dot.gov/resources/interpretations/3_09_24.htm)).
  - e. City will consider additional color options. These will be reviewed and a decision on whether or not to approve them, will be made on a case-by-case basis.
  - f. Colors used must be reproducible, and the color name and number must be submitted with this application.
7. Artwork must **not** contain:
- a. written materials (words/sentences)
  - b. political statements or persons
  - c. religious references, symbols or numbers
  - d. copyrighted or trademarked material
  - e. corporate or organizational branding

**E. Required Format for Proposal Submittal**

Please submit your Proposal in the format specified below:

**Section 1: Cover Letter/Executive Summary**

Include a detailed description describing your design theme. Indicate if your theme has specific relevance to the City of Commerce’s history, culture, heritage or geography, or to a specific location. This must be attached to the application. Please limit description to one page. The Cover Letter should also include a description of the Artists’ experience with crosswalk art installations or similar experience, and any relevant degrees, certifications, or licenses.

**Section 2: Approach**

The Artist Proposal must include a step-by-step approach for the artwork installation at the crosswalks including but not limited to list of additional support staff.

Provide any special methods that you employ in executing similar projects and services, which in your opinion set you apart from other proposers for this project.

**Section 3: Samples of Completed Crosswalk Art**

Provide at least **2 samples** of previous crosswalk artwork for at least 2 separate contracted works, colored images required.

**Section 4: Professional References**

Provide at least **3 Professional References** including contact information, project descriptions, and date(s) of when the projects were completed.

**Section 5: City's Standard Professional Services Agreement**

The City's Standard Professional Services Agreement, which will be executed by the selected consultant, is provided as Attachment "C": City's Standard Professional Services Agreement.

Please review the document and provide comments you may have. Please note that the City does not guarantee that any revisions to the contract will be accepted.

**Section 6: Fee Proposal**

The Fee Proposal shall include a total not to exceed amount including detailed hourly Fee Schedule and include the following tasks:

1. Cost of art design and production **per crosswalk** including but not limited to the artwork supplies, materials, installation, insurance, transportation to and from the work site.
2. Warranty Work Product for 5 years and restoration within 7 days of the City's Notice.
3. If the award is over \$25,000, the not to exceed total amount shall include the cost of Labor and Material Bond consistent with the requirements of the attached PSA.
4. Cost of Insurance and Workers Compensation consistent with the requirements of the attached PSA.
5. The Fee schedule shall include an optional task for restoration of crosswalk artwork after expiration of the 5-year Warranty Period.

*\*Note: The City reserves the right to add or remove one or more crosswalks based on the approved fee for each crosswalk. In the event of any errors in arithmetic between the total not to exceed amount and the detailed hourly fee schedule, the hourly fees multiplied by the estimated hours will control over the not to exceed amount.*

**Proposals and other required documents must be emailed to Karen Vigil at Karen.Vigil@trancteh.org by 5:00 pm on Thursday, September 26, 2024. Proposals after the deadline will not be accepted.**

**F. Artist Selection Methodology:**

One or more Proposals may be selected based on the following criteria:

1. Response to requirements of the RFP
2. Completeness of the Proposal
3. Experience of the Artist with similar work in the public roadway
4. Fee Proposal
5. Interview if deemed necessary

**G. Questions**

1. Contact: Karen Vigil by email only at [karen.vigil@transtech.org](mailto:karen.vigil@transtech.org)
2. All questions must be received by **Thursday, September 19, 2024, by 5:00 p.m.**
3. Any changes to the requirements will be made by written addendum.

**H. Legal Requirements:**

1. The City reserves the right to reject any or all proposals and waive any non-material irregularities or discrepancies. The City also reserves the right to cancel this RFP and issue a new or revised RFP for the work.
2. Each proposal submitted shall become the sole property of the City and not be returned to the proposer.
3. City employees and staff may not participate in the selection process if they have any financial interest or business relationship with a proposer pursuant to Government Code §1090.
4. Any protest must be submitted within five (5) calendar days following the City's issuance of the Notice of Award. Protests must be submitting in writing to [karen.vigil@transtech.org](mailto:karen.vigil@transtech.org) and sufficiently state the basis for the protest. The protest will be reviewed by the City Attorney's Office, and their decision will be final. Only proposers who have submitted a proposal in response to this RFP are eligible to submit a protest.
5. City may in its discretion award the scope of work, or any portion thereof, to one or more qualified proposers.

**ATTACHMENTS:**

Attachment "A"	Location Map
Attachment "B"	Traffic-Lok 100% Acrylic Flat Traffic Marking Paint Technical Data Sheet
Attachment "C"	City's Standard Professional Services Agreement

**Attachment "A"**  
**Location Map**







**Attachment "B"**  
**Traffic-Lok 100% Acrylic Flat Traffic Marking Paint Technical Data**  
**Sheet**

# Traffic-Lok™

100% Acrylic Flat Traffic Marking Paint

## TECHNICAL DATA SHEET



High Performance Paint

### Description

Traffic-Lok™ is a 100% acrylic, premium grade waterborne traffic and line marking paint specially manufactured and formulated for optimal adhesion and durability. Designed with a special sheen to enhance durability, weather resistance and resistance to dirt pick up. Designed to meet TT-P 1952B.

### Recommended Uses

- Traffic Markings
- Legend Identification Work
- Instructional Markings on Roadways, Crosswalks, Sidewalks, Curbs, and Parking Lots
- Fully Cured Traffic-Bearing Surfaces
- Previously Painted Surfaces
- Galvanized metal and aluminum

### Features & Benefits

- Flexible and Durable - Will Not Crack
- Easy to Apply
- Environmentally Safe
- Requires No Thinning - Pre-Strained
- Interior or Exterior Uses

### Color & Finish

Color	Finish
White	Flat
Black	
Green	
Yellow	
Red	
Blue	

### Coverage Rate by Substrate (theoretical)

Up to 105 sq. ft. per gallon at 15 mils wet. 315 lineal feet per gallon per 4" stripe.

### Surface Preparation

Prior to application, all surfaces shall be clean and dry with no oils, dirt, debris, rust, metal oxides, or minerals such as efflorescence, lime and calcium. These stains, along with others, will prevent proper penetration of Traffic-Lok to sufficiently seal for the warranty period.

New asphalt or top sealed asphalt surfaces should ideally be allowed to thoroughly cure before striping. Place a small inconspicuous test strip to determine if surface of asphalt has cured sufficiently to paint. On-line is not recommended over water soluble top sealers.

The use of Rainguard's Restore-N-Prep™ Concrete and Masonry Cleaner system is recommended as a pre-treatment to clean masonry surfaces. Once clean, allow the surface to fully dry before sealing or applying a top-coat (See the Restore-N-Prep™ TDS for details).

#### Restore-N-Prep™ CSI Reference

03 01 40 Concrete Finishes
03 10 30 Concrete Finishes
03 10 50 Concrete Finishes
04 01 20 Unit Masonry
04 01 40 Unit Masonry

### Application Instructions

RainguardPro Traffic-Lok is supplied Ready-to-Use. DO NOT THIN. Mix thoroughly prior to use. Avoid application in windy weather. In hot weather, lightly dampen surfaces with clean fresh water to avoid premature or flash drying.

Brush, roll or spray. Ambient and surface temperatures must be above 50°F and relative humidity below 80%. Clean tools and equipment with soap and water. Reach out to your RainguardPro Representative with any application questions or instructions.

Safety Precautions: When using this product where high foot traffic areas exist and may become slippery when wet, aggregate such as clean sand or anti slip additives should be added if non-skid characteristics are desired.

Mil Thickness	
Wet	12 - 15
Dry	9 - 11

Dry Time	
Touch	30 Minutes
Recoat	2-4 Hours



## Safe Handling

Use product only with adequate ventilation and/or an appropriate cartridge type respirator. Avoid contact with skin and wear protective gloves. Read the Safety Data Sheet before using.

## Test Panel

Always apply Traffic-Lok onto a mock wall or test panel. Test the wall or an actual surface area to determine acceptable color, surface porosity, application rates and methods before starting general application.

## Field Test

Tack-free dry 5 minutes, dry time is 15-20 minutes and can dry to no-tracking in 30 minutes to one hour, maximum without beads, depending on wet film thickness and ambient conditions. No traffic pick up, at 15 mils wet, without beads, 75 minutes (ASTM D 711) maximum. Dry times will be extended at increased humidity above 80% and temperature below 50F.

## Technical

Material Type	Acrylic
Solids by Volume	55.9%
Solids by Weight	74.2%
Color of Material	TBA
Odor	Slight Latex Odor
Cured Appearance	White, Red, Yellow, Blue, Green, Black
V.O.C.	92 gm/L
Viscosity	88 - 92 KU
Weight	Approx. 13.9 lbs./Gal
Surface Dry Time	Approx. 30 Minutes @ 70°F
Recoat Dry Time	Approx. 2-4 Hours @ 70°F
Application Temp.	50°-90°F

## Conformance

SCAQMD	Meets Rule 1113, Architectural Coatings.
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## Warranties

Rainguard Brands, LLC guarantees that this product is free from manufacturing defects and complies with our published specifications. In the event that the buyer proves that the goods received do not conform to these specifications or were defectively manufactured, the buyer's remedies shall be limited to either the return of the goods and repayment of the purchase price or replacement of the defective material at the option of the seller. Rainguard Brands, LLC makes no other warranty, expressed or implied, and all warranties of merchantability and fitness for a particular purpose are hereby disclaimed. Manufacturer or seller shall not be liable for prospective profits or consequential damages resulting from the use of this product. Manufacturer shall not be liable for material used outside of its shelf life. For product dating, please refer to the batch number on the product or contact Rainguard Brands, LLC.

Surface conditions and application variables are out of the control of Rainguard Brands, LLC. As such, the applicator agrees to: Follow recommended application instructions, acknowledge limitations outlined in this technical data sheet, contact the manufacturer in the event there any uncertainties, perform a test panel to confirm fit and finish before any general application. The data on this sheet represent typical values. Since application variables are a major factor in product performance, this information should serve only as a general guide. Rainguard Brands assumes no obligation or liability for use of this information. Contact manufacturer at 888-765-7070 before bidding to confirm warranty provisions and procedures.

**SELLER'S LIABILITY UNDER THE SALE OF THIS PRODUCT IS LIMITED TO REPLACING DEFECTIVE PRODUCT. HOWEVER, IF SELLERS FAILS IN ITS ATTEMPT TO REPLACE THE DEFECTIVE PRODUCT, BUYER WILL BE ENTITLED TO A REFUND OF MONIES PAID TO SELLER UNDER THIS PRODUCT WARRANTY. SELLER IS NOT LIABLE FOR BUYER'S LOSS OF PROFITS, BUSINESS GOODWILL, OR OTHER CONSEQUENTIAL DAMAGES, DESPITE ANY FAILURE TO REPLACE THE PRODUCT. BUYER HAS ACCEPTED THIS RESTRICTION ON ITS RIGHT TO RECOVER CONSEQUENTIAL DAMAGES AS PART OF ITS BARGAIN WITH SELLER. BUYER REALIZES AND ACKNOWLEDGES THAT THE PRICE OF THE PRODUCT WOULD BE HIGHER IF SELLER WERE REQUIRED TO BE RESPONSIBLE FOR BUYER'S CONSEQUENTIAL DAMAGES."**

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[END]



# SAFETY DATA SHEET

**Product Name:** Traffic-Lok

**Product Codes:** TL-1001, TL-1005, TL-4001, TL-4005, TL-5001, TL-5005, TL-6001, TL-6005, TL-7001, TL-7005, TL-8001, TL-8005, TL-8055

## SECTION 1: Identification

**MANUFACTURER:** Rainguard Brands, LLC  
RainguardPro  
2736 West McDowell Road  
Phoenix, AZ 85009  
United States of America

**RAINGUARD PHONE:** (949) 515-8800

**POISON CENTER:** (800) 222-1222

**EMAIL:** support@rainguardpro.com

**WEBSITE:** rainguardpro.com

**REVISION DATE:** 05/30/23

## SECTION 2: Hazards Identification

**OSHA/HCS Status:** GHS Classification in accordance with 29 CFR 1910 (OSHA HCS)  
H317: May cause an allergic skin reaction.  
H315: May cause cancer by inhalation.

GHS label elements :



**Signal Words:** Danger

Hazard statements:

Causes eye and skin irritation

### **PRECAUTIONARY STATEMENTS**

P103:	Read label before use. Keep out of reach of children. If medical advice is needed, have a product container or label on hand.
P201:	Obtain special instructions before use.
P202:	Do not handle until all safety precautions have been read and understood.
P261:	Avoid breathing dust/fume/gas/mist/vapors/spray.
P264:	Wash hands thoroughly after handling.
P273:	Avoid release to the environment.
P280:	Wear protective gloves, eye protection, and face protection.
P285:	In case of inadequate ventilation, wear respiratory protection that meets the requirements in OSHA's Respiratory Protection Standard (29 CFR 1910.134) or regional standards.

### **Response:**

P301 + P310:	IF SWALLOWED, immediately call a POISON CENTER or doctor/physician.
P308 + P313:	If exposed or concerned : Get medical advice/attention
P320 + P352:	IF ON SKIN: Was with plenty of water
P332 + P313:	IF SKIN IRRITATION OCCURS: Get medical advice/attention
P362 + P364:	Take off contaminated clothing and was it before reuse.
P305+P351+P338:	IF IN EYES, rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing.
P337 + P313:	IF EYE IRRITATION OCCURS: Get medical advice/attention.

### **STORAGE:**

P405: Store locked up

**DISPOSAL:**

P501: Dispose of contents/container to an appropriate treatment and disposal facility in accordance with applicable laws and regulations, and product characteristics at time of disposal

Hazard(s) not otherwise classified (HNOC): None Known

Other Information: No information available

### SECTION 3: Composition

#### HAZARDOUS COMPONENTS

CHEMICAL NAME	CAS #	%	COMMENTS
Limestone	1317-65-3	54.91	
Titanium Dioxide	13463-67-7	6.55	
Ethyl Alcohol	64-17-5	1.66	
Quartz (SiO <sub>2</sub> )	14808-60-7	0.28	

### SECTION 4: First Aid Measures

#### 4.1 Description of First Aid Measures

**PRIMARY ROUTES OF EXPOSURE:** Ingestion, inhalation, dermal contact

**EYE EXPOSURE:** Remove contacts if present; Immediately flush the eyes with water for at least 10-15 minutes; Seek medical attention if irritation persists

**SKIN EXPOSURE:**

Wash the affected area with soap and water; Remove contaminated clothes if necessary.

**INHALATION:**

Move the victim to fresh air. If the victim has difficulty breathing, administer oxygen.

**INGESTION:**

DO NOT induce vomiting. Rinse mouth with water. Never give an unconscious person anything to drink. If conscious, treat for shock. Seek immediate medical assistance or the nearest poison control center. If unconscious and vomiting, turn the victim on their side to avoid choking.

**4.2 Most important symptoms and effects, both acute and delayed:**

None known.

**4.3 Indication of any immediate medical attention and special treatment needed:**

No data available.

**SECTION 5: Fire Fighting Measures**

**5.1 Extinguishing Media**

Dry chemical, carbon dioxide, alcohol-resistant foam. Use water spray to keep fire-exposed containers cool. Unsuitable Extinguishing Media: High volume water jet.

**5.2 Special Hazards Arising from the Substance or Mixture:**

Closed containers may rupture if exposed to fire or extreme heat.

**5.3 Advice for Firefighters:**

Firefighters should wear NFPA approved self-contained breathing apparatus and full protective clothing. Avoid contact with product. Decontaminate equipment and protective clothing prior to reuse. Toxic and irritating gasses/fumes, including heated diisocyanate that is considered extremely dangerous, may be given off during burning or thermal decomposition.

**5.4 Further Information:**

No data available

**SECTION 6: Accidental Release Measures**



**6.1 Personal Precautions, Protective Equipment, and Emergency Procedures:**

Isolate the area and contain the spilled material. Persons not wearing the appropriate PPE should be removed from the area until the spill is cleaned up. Stop the leak if you can do it without risk and avoid run off to waterways or storm drains.

**6.2 Environmental Precautions:**

Avoid dispersal of spilled material and runoff and contact with soil, waterways, drains, and sewers. Inform authorities if the product has caused environmental pollution (sewers, drains, waterways or soil).

**6.3 Reference to Other Sections:**

For disposal see section 13.

## SECTION 7: Handling and Storage

**7.1 Precautions for Safe Handling:**

Avoid contact with skin, eyes and clothing. Avoid breathing vapors, spray mists or sanding dust. In case of insufficient ventilation, wear suitable respiratory equipment.

**7.2 Conditions for Safe Storage, Including Any Incompatibilities:**

Keep container tightly closed. Keep out of the reach of children. Keep from freezing.

**7.3 Regulatory Requirements:**

No data found.

## SECTION 8: Exposure Controls and Personal Protection

**SPECIAL NOTE FOR EXPOSURE CONTROL:** Consult local authorities for further acceptable exposure limits.

Components	CAS-No	AGCIH		OSHA Exposure Limits				Vapor Pressure mm Hg @TEMP
		WT	LV/TWA	TWA	STEL	PPM	MG/M3	
		%	PPM	PPM	MG/M3	PPM	MG/M3	
Limestone	1317-65-3	54.91	-	-	15	-	-	-
Titanium Dioxide	13463-67-7	5.55	10	-	10	-	-	-

Ethyl Alcohol	64-17-5	1.66	-	1000	1900	-	-	-
Quartz (SiO <sub>2</sub> )	14808-60-7	0.28	-	-	0.05	-	-	-

**ENGINEERING CONTROLS:** Engineering Measures/Controls: General dilution and local exhaust as necessary to control airborne vapors, mists, dusts, and thermal decomposition products below appropriate airborne concentration standards and guidelines. Exhaust air may need to be cleaned by scrubbers or filters to reduce environmental contamination. Curing ovens must be ventilated to prevent the build-up of explosive atmospheres and to prevent off-gasses from entering the workplace.

**VENTILATION CONTROLS:** Provide adequate ventilation to control airborne concentration below the exposure guidelines/limits.

**ADMINISTRATIVE CONTROLS:** Educate and train employees in safe use of this product. Follow all label warnings and data sheet instructions.

**PERSONAL PROTECTION:** As prescribed in the OSHA Standard for Personal Protective Equipment (29 CFR 1910.132), employers must perform a hazard assessment of all workplaces to determine the need for proper protective equipment for each employee.

**EYE PROTECTION:** Use equipment for eye protection tested and approved under appropriate government standards such as NIOSH (US) or EN 166(EU).

**SKIN AND BODY PROTECTION:** Wear rubber or plastic apron and permeation resistant clothing, chemical-resistant gloves, and long-sleeved shirts, and pants. Remove and wash contaminated clothing before re-use.

**RESPIRATORY PROTECTION:** In case of inadequate ventilation, wear respiratory protection.

**HYGIENE MEASURES:** Avoid contact with skin, eyes and clothing. Remove and wash contaminated clothing before re-use. Wash thoroughly after handling.

## SECTION 9: Physical and Chemical Properties

### 9.1 Information on Basic Physical and Chemical Properties

<b>APPEARANCE FORM:</b>	Liquid
<b>ODOR:</b>	Minimal or no odor
<b>pH:</b>	No data available
<b>FREEZING POINT:</b>	0° C (32°F)
<b>INITIAL BOILING POINT:</b>	100°C (212°F)
<b>FLASH POINT:</b>	Not applicable
<b>EVAPORATION RATE (ETHER = 1):</b>	No data available
<b>FLAMMABILITY (SOLID, GAS):</b>	No data available
<b>UPPER / LOWER FLAMMABILITY OR EXPLOSIVE LIMITS:</b>	No data available
<b>VAPOR PRESSURE:</b>	No data available
<b>RELATIVE DENSITY:</b>	No data available
<b>WATER SOLUBILITY:</b>	No data available
<b>AUTO-IGNITION TEMPERATURE:</b>	No data available
<b>DECOMPOSITION TEMPERATURE:</b>	No data available
<b>VISCOSITY:</b>	No data available
<b>EXPLOSIVE PROPERTIES:</b>	No data available
<b>OXIDIZING PROPERTIES:</b>	No data available
<b>Wt.% Solids:</b>	74.25
<b>Vol.% Solids:</b>	56.03
<b>Wt.% Volatiles:</b>	25.75
<b>Vol.% Volatiles:</b>	43.97
<b>Coating VOC:</b>	91.97 g/L
<b>Material VOC:</b>	57.74 g/L

### SECTION 10: Stability and Reactivity

<b>10.1 REACTIVITY</b>	No data available
<b>10.2 CHEMICAL STABILITY</b>	Stable under recommended storage conditions.
<b>10.3 POSSIBILITY OF HAZARDOUS REACTIONS:</b>	None under normal conditions of use.
<b>10.4 CONDITIONS TO AVOID:</b>	Freezing.
<b>10.5 INCOMPATIBLE MATERIALS:</b>	No materials to be especially mentioned
<b>10.6 HAZARDOUS DECOMPOSITION PRODUCTS:</b>	None under norma
<b>10.7 OTHER DECOMPOSITION PRODUCTS:</b>	No data available
<b>10.8 OTHER INFORMATION:</b>	In the event of a fire see Section 5

## SECTION 11: Toxicological Information

Data on the product is not available. Data on a similar product is provided.

<b>Principal Routes of Exposure:</b>	Eye contact, skin contact, and inhalation.
<b>Acute Toxicity:</b>	No information available.
<b>Symptoms:</b>	No information available.
<b>Eye Contact:</b>	May cause slight irritation.
<b>Skin Contact:</b>	Substance may cause slight skin irritation. Prolonged or repeated contact may dry skin and cause irritation.
<b>Inhalation:</b>	No information available.
<b>Ingestion:</b>	Ingestion may cause gastrointestinal irritation, nausea, vomiting, and diarrhea.
<b>Sensitization:</b>	No information available.
<b>Neurological Effects:</b>	No information available.
<b>Reproductive Effects:</b>	No information available.
<b>Developmental Effects:</b>	No information available.
<b>Target Organ Effects:</b>	No information available.



**STOT - Single Exposure:** No information available.

**STOT - Repeated Exposure:** No information available.

**Other Adverse Effects:** No information available.

**Aspiration Hazard:** No information available.

**Carcinogenicity:**

*The information below indicates whether each agency has listed any ingredient as a carcinogen*

<b>Chemical Name</b>	<b>IARC</b>	<b>NTP</b>	<b>OSHA Carcinogen</b>
Titanium Dioxide	2B - Possible Human Carcinogen		
Crystalline Silica, respirable	1 - Carcinogenic to Humans	Known Carcinogen	Listed
Ethyl Alcohol	1 - Carcinogenic to Humans	Known Carcinogen	Listed

- **Although IARC has classified titanium dioxide as possibly carcinogenic to humans (2B), their summary concludes: “No significant exposure to titanium dioxide is thought to occur during the use of products in which titanium dioxide is bound to other materials, such as paint.”**

## **SECTION 12: Ecological Information**

### **Hexamethylene-1,6-diisocyanate Homopolymer (CAS 28182-81-2)**

**AQUATIC/TERRESTRIAL ORGANISM TOXICITY:**

Acute and Prolonged Toxicity to Fish: (Fathead Minnow, 96h) LC50 1000 mg/l

**ASPIRATION HAZARD:**

No information available.

**PERSISTENCE AND DEGRADABILITY:**

No information available.

**BIOACCUMULATIVE POTENTIAL:**

No information available.

**MOBILITY IN SOIL:**

No information available.

**OTHER ADVERSE EFFECTS:**

An accumulation in aquatic organisms is not expected.

## SECTION 13: Disposal Considerations

**DISPOSAL:** Dispose of according to local, state and federal regulations. (Refer to Section 8). The generation of waste should be avoided or minimized wherever possible. Empty containers should be taken to an approved waste handling site for recycling or disposal. Incineration or landfill should only be considered when recycling is not feasible. Avoid dispersal of spilled material and runoff and contact with soil, waterways, drains and sewers.

**CONTAMINATED PACKAGING:** Dispose of any unused product.

## SECTION 14: Transportation Information

**DOT (UN #):** Not regulated

**UN number:** Not regulated

**Proper shipping name:** Not regulated

**Transport Hazard Class:** Not regulated

**Packing Group:** Not regulated

**Environmental Hazards:** Not regulated

**IMO/IMDG:**

**UN number:** Not regulated

**Proper shipping name:** Not regulated

**Transport Hazard Class:** Not regulated

**Packing Group:** Not regulated

**Environmental Hazards:** Not regulated

**IATA:**

**UN number:** Not regulated

**Proper shipping name:** Not regulated

**Transport Hazard Class:** Not regulated

**Packing Group:** Not regulated

**Environmental Hazards:** Not regulated

**Special Precautions for User:** When in individual containers containing less than the Product RQ, this

product ships as non- regulated

Transport in Bulk According to Annex II of MARPOL 73/78 and the IBC Code

## SECTION 15: Regulatory Information

**DSL STATUS:** All components of this product are on the Canadian DSL list.

**SARA HAZARDOUS SUBSTANCES AND THEIR REPORTABLE QUANTITIES:** None.

**SARA 302 COMPONENTS:** No chemicals in this material are subject the reporting requirements of SARA Section 302.

**SARA 313 COMPONENTS:** No chemicals in this material are subject to the reporting requirements of SARA Section 313.

**SARA 311/312 HAZARD CATEGORIES:**

**EPA EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (EPCRA) SARA TITLE III SECTION 302 EXTREMELY HAZARDOUS SUBSTANCE (40 CFR 355, APPENDIX A) COMPONENTS:** None

**EPA EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (EPCRA) SARA TITLE III SECTION 302 EXTREMELY HAZARDOUS SUBSTANCE (40 CFR 372.65) SUPPLIER NOTIFICATION REQUIRED COMPONENTS:** None

**California Proposition 65:** This product contains chemicals known to the State of California to cause cancer and birth defects or other reproductive harm at levels less than required for reporting (<0.1%) unless listed in Section 3.

**RESOURCE CONSERVATION AND RECOVERY ACT (RCRA) COMPOSITE LIST OF HAZARDOUS WASTES AND APPENDIX VIII HAZARDOUS CONSTITUENTS (40 CFR 261):**

Under RCRA it is the responsibility of the person who generates a solid waste, as defined in 40 CFR 261.2, to determine if that waste is a hazardous waste.

Based on information provided by RainguardPro suppliers, this product is considered “DRC Conflict Free” as defined by the SEC Conflict Minerals Final Rule (Release No. 34-67716, File No. S7-40-10, Date 08-22-2012).

## **SECTION 16: Other Information**

**DISCLAIMER:** The information contained in the document relates to the specific material designated and may not be valid for such material used in combination with any other material or in any process. Such information is to the best of our knowledge and belief accurate and reliable as of the date compiled. However no representation, warranty or guarantee, is made as to its accuracy, reliability or completeness. It is the user’s responsibility to satisfy himself as to the suitability and completeness of such information for their own particular use. Rainguard Brands, LLC and RainguardPro do not accept liability for any loss or damage that may occur from the use or reliance upon this information.

**Attachment "C"**  
**City's Standard Professional Services Agreement**

## PROFESSIONAL SERVICES AGREEMENT

This agreement ("Agreement") is made as of [MONTH DAY, YEAR] by and between the **City of Commerce**, a municipal corporation ("City") and [ARTIST] a California limited liability company ("Artist"). City and Artist are sometimes hereinafter individually referred to as a "Party" and collectively referred to as the "Parties."

### RECITALS

WHEREAS, City desires to commission the services of Artist as an independent Artist to [WORK DESCRIPTION] pursuant the Scope of Services attached hereto as **Exhibit A**; and

WHEREAS, Artist represents that it is fully qualified to perform such consulting services by virtue of its experience and the training, education and expertise of its principals and employees.

NOW, THEREFORE, in consideration of performance by the parties of the covenants and conditions herein contained, the parties hereto agree as follows:

**1. Scope of Services.** The nature and scope of the specific services to be performed by Artist are as described in **Exhibit A**. In addition to the installation of the Artwork, Artist shall be responsible for any restoration or maintenance of the Artwork for a period of five (5) years after completion of the installation at the rates provided for in Exhibit A on an as-needed basis within the reasonable discretion of the City.

**2. Term of Agreement.** This Agreement shall commence on the date first set forth above (the "Commencement Date") and shall remain and continue in effect until tasks described in **Exhibit A** are completed, but in no event later than [MONTH DAY, YEAR], unless sooner terminated pursuant to the provisions of this Agreement.

**3. Compensation.**

A. City agrees to compensate Artist for services under this Agreement in compliance with the schedule set forth in **Exhibit A**. Artist shall submit proper invoices in the form and manner specified by City, from time to time, pursuant to the schedule set forth in **Exhibit A**. Each invoice shall include a breakdown of all services performed together with the hours spent on each service, or portion of the work completed, as applicable, conforming to the period of time or portion of work completed for which such invoice is issued. Artist shall maintain appropriate and necessary documentation supporting the invoices detailing the type of service provided. It shall be available for review by the City at all reasonable times upon request. Payment of invoices shall be made within forty-five (45) days following receipt thereof by City. Any undisputed amounts not timely paid shall bear interest thereon at the maximum legal rate until paid in full.

B. **Substitution of Securities.**  
Pursuant to Public Contracts Code Sec. 22300 Artist shall be allowed to substitute

securities for any moneys withheld by the City to ensure performance under a contract, unless, federal regulations or policies, or both, do not allow the substitution of securities. At the request and expense of the Artist, securities equivalent to the amount withheld shall be deposited with the CITY, or with a state or federally chartered bank in this state as the escrow agent, who shall then pay those moneys to the Artist. Upon satisfactory completion of the contract, the securities shall be returned to the Artist.

C. Total payment to Artist pursuant to this Agreement shall not exceed [CONTRACT AMOUNT IN WORDS] (\$) for the locations that Crosswalk Art shall be installed, pursuant to Exhibit A attached hereto.

D. If at the request of the City, Artist is required to incur out of pocket expenses (including but not limited to, out-of-town travel and lodging) which are above and beyond the ordinary expenses associated with performance of this Agreement, Artist shall be entitled to reimbursement of such expenses. Artist shall only be reimbursed for those expenses which: (I) appear on Artist's monthly invoices; (II) are accompanied by a copy of the City's written authorization for Artist to incur such expenses; and (III) receipts documenting such expenses.

**4. General Terms and Conditions.** The General Terms and Conditions set forth in **Exhibit B** are incorporated as part of this Agreement. In the event of any inconsistency between the General Terms and Conditions and any other exhibit to this Agreement, the General Terms and Conditions shall control unless it is clear from the context that both parties intend the provisions of the other exhibit(s) to control.

**5. Addresses.**

**City of Commerce**

City of Commerce  
2535 Commerce Way  
Commerce, CA 90040  
Attn: City Manager

**Company**

[ARTIST NAME]  
ADDRESS  
ADDRESS  
Attn: [NAME]

**6. Exhibits.** All exhibits referred to in this Agreement are listed here and are incorporated and made part of this Agreement by this reference.

**Exhibit A – Scope of Services and Compensation Schedule**

**Exhibit B** – General Terms and Conditions  
**Exhibit C** – Labor and Materials Bond

**SIGNATURES ON FOLLOWING PAGE**



IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates written below.

**CITY**

**CITY OF COMMERCE**

By: \_\_\_\_\_  
Hugo A. Argumedo, Mayor

\_\_\_\_\_  
Date

**ARTIST**

**[ARTIST'S NAME]**

By: \_\_\_\_\_  
[ARTIST'S NAME]

\_\_\_\_\_  
Date

**ATTEST:**

By: \_\_\_\_\_  
Lena Shumway, City Clerk

\_\_\_\_\_  
Date

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Noel Tapia, City Attorney

\_\_\_\_\_  
Date

## EXHIBIT A

**EXHIBIT B**  
**GENERAL TERMS AND CONDITIONS**

**1. Status as Independent Contractor.**

A. Artist is, and shall at all times remain as to City, a wholly independent contractor. Artist shall have no power to incur any debt, obligation, or liability on behalf of the City of Commerce or otherwise act on behalf of Commerce as an agent. Neither the City of Commerce nor any of its agents shall have control over the conduct of Artist or any of Artist's employees, except as set forth in this Agreement. Artist shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of the City of Commerce.

B. Artist agrees to pay all required taxes on amounts paid to Artist under this Agreement, and to indemnify and hold City harmless from any and all taxes, assessments, penalties, and interests asserted against City by reason of the independent Artist relationship created by this Agreement. In the event that City is audited by any Federal or State agency regarding the independent status of Artist and the audit in any way fails to sustain the validity of a wholly independent Artist relationship between City and Artist, then Artist agrees to reasonably cooperate with City, at Artist's own expense, to establish the independent Artist status created by this Agreement.

C. To the extent Artist has employees, Artist shall fully comply with the workers' compensation law regarding Artist and Artist's employees. Artist further agrees to indemnify and hold City harmless from any failure of Artist to comply with applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Artist under this Agreement any amount due to City from Artist as a result of Artist's failure to promptly pay to City any reimbursement or indemnification arising under this Section 1.

D. Artist represents to the City, and City relies on Artist's representations, that Artist shall serve solely in the capacity of an independent Artist to the City. Neither the City nor any of its agents will have control over the conduct of Artist or any of Artist's employees, except as otherwise set forth in the Agreement. Artist may not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of the City. The City has no duty, obligation, or responsibility to the Artist's agents or employees, including the Affordable Care Act coverage requirements. Artist is solely responsible for any tax penalties associated with the failure to offer affordable coverage to its agents and employees under the Affordable Care Act with respect to Artist's agents and employees. Artist warrants and represents that the City will not be responsible and will not be held liable for issues related to Artist's status as an independent Artist, including Artist's failure to comply with Artist's duties, obligations, and responsibilities under the Affordable Care Act. Artist further agrees to defend, indemnify, and hold the City harmless for any and all taxes, claims, and penalties against the City related to Artist's obligations under the Affordable Care Act.

## **2. Standard of Performance**

Artist shall perform all work to the highest professional standards and in a manner reasonably satisfactory to the City Manager or his/her designee. No additional or different tasks or services shall be performed by Artist other than those specified in **Exhibit A**, except to the extent such **Exhibit A** is modified by a written amendment executed by City and Artist.

## **3. Indemnification.**

A. Artist is skilled in the professional calling necessary to perform the services and duties agreed to be performed under this Agreement, and City is relying upon the skill and knowledge of Artist to perform said services and duties.

B. City and its respective elected and appointed boards, officials, officers, agents, employees and volunteers (individually and collectively, "Indemnities") shall have no liability to Artist or any other person for, and Artist shall indemnify, defend, protect and hold harmless Indemnities from and against, any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including reasonable attorneys' fees and disbursements (collectively "Claims"), which Indemnities may suffer or incur or to which Indemnities may become subject by reason of or arising out of any injury to or death of any person(s), damage to property, loss of use of property, economic loss or other loss occurring as a result of or allegedly caused by Artist's performance of or failure to perform any services under this Agreement or by the negligent or willful acts or omissions of Artist, its agents, officers, directors, subcontractors, or employees, committed in performing any of the services under this Agreement. Notwithstanding the foregoing, Artist's liabilities under this subsection shall be limited by the extent of the negligence or willful acts or omissions of City or any Indemnities.

C. Artist agrees to obtain executed indemnity agreements with provisions identical to those set forth in this Section from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Artist in the performance of this Agreement. In the event Artist fails to obtain such indemnity obligations from others as required in this Section, Artist agrees to be fully responsible according to the terms of this Section. Failure of the City to monitor compliance with these requirements imposes no additional obligations on City and will in no way serve as a waiver of any rights hereunder. This obligation to indemnify and defend Indemnities as set forth herein shall survive the termination of this Agreement and is in addition to any rights which City may have under the law. This indemnity is effective without reference to the existence or applicability of any insurance coverage which may have been required under this Agreement or any additional insured endorsements which may extend to City.

**4. Insurance.**

A. Without limiting Artist's indemnification of Indemnities pursuant to Section 3 of this Agreement, Artist shall obtain and provide and maintain at its own expense during the term of this Agreement the types and amounts of insurance as described below:

(I) Artist shall maintain Commercial General Liability Insurance with coverage at least as broad as Insurance Services Office Commercial General Liability Form CG 00 01 in an amount not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, for bodily injury, personal injury, and property damage. Defense costs must be paid in addition to limits. There shall be no cross liability exclusion for claims or suits by one insured against another. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

(II) Artist shall maintain Business Auto Coverage on ISO Business Auto Coverage Form CA 00 01 covering bodily injury and property damage for all activities of the Artist arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than \$1,000,000 combined single limit for each accident.

(III) Artist shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance with on a state approved policy form providing statutory benefits as required by law with employer's liability limits no less than \$1,000,000 per accident for all covered losses;

B. City, its officers, officials, employees and volunteers shall be named as additional insureds on the policy(ies) as to commercial general liability and automotive liability.

C. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance or is on the List of Approved Surplus Line Insurers in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VI (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.

D. All insurance policies shall provide that the insurance coverage shall not be non-renewed, canceled, reduced, or otherwise modified (except through the addition of additional insureds to the policy) by the insurance carrier without the insurance carrier giving City thirty (30) days' prior written notice thereof. Any such thirty (30) day notice shall be submitted to CITY via certified mail, return receipt requested, addressed to "Director of Human Resources & Risk Management," City of Commerce, 2535

Commerce Way, Commerce, California, 90040. Artist agrees that it will not cancel, reduce or otherwise modify said insurance coverage.

E. Artist shall submit to City (I) insurance certificates indicating compliance with the minimum insurance requirements above, and (II) insurance policy endorsements indicating compliance with all other minimum insurance requirements above, not less than one (1) day prior to beginning of performance under this Agreement. Endorsements shall be executed on City's appropriate standard forms entitled "Additional Insured Endorsement".

F. Artist's insurance shall be primary as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees and volunteers shall be excess of Artist's insurance and shall not contribute with it.

G. Artist agrees that if it does not keep the aforesaid insurance in full force and effect, and such insurance is available at a reasonable cost. City may take out the necessary insurance and pay the premium thereon, and the repayment thereof shall be deemed an obligation of Artist's and the cost of such insurance may be deducted, at the option of City, from payments due Artist.

## **5. Release of Information/Confidentiality.**

A. Artist in the course of its duties may have access to confidential data of City, private individuals, or employees of the City. Artist covenants that all data, documents, discussion, or other information developed or received by Artist or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Artist without written authorization by City. City shall grant such authorization if disclosure is required by law. All City data shall be returned to City upon the termination of this Agreement. Artist, its officers, employees, agents, or subcontractor, shall not without written authorization from the City Manager, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the work performed under this Agreement or relating to any project or property located within the City. Response to a subpoena or court order shall not be considered "voluntary" provided Artist gives City notice of such court order or subpoena. Artist's covenant under this section shall survive the termination of this Agreement.

B. Artist shall promptly notify City should Artist, its officers, employees, agents, or subcontractor be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions, or other discovery request, court order, or subpoena from any person or party regarding this Agreement and the work performed thereunder. City retains the right, but has no obligation, to represent Artist and/or be present at any deposition, hearing, or similar proceeding. Artist agrees to reasonably cooperate with City and to provide the opportunity to review any response to discovery requests provided by Artist. However, City's right to review any such response does not imply or mean the right by City to

control, direct, or rewrite said response.

## **6. Ownership of Work Product.**

A. Artist shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by the City that relate to the performance of services under this Agreement. Artist shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Artist shall provide free access to the representatives of the City or its designees at reasonable times, on reasonable prior notice, to such books and records; shall give the City the right to examine and audit said books and records; shall permit the City to make transcripts therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

B. Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the City and may be used, reused, or otherwise disposed of by the City without the permission of the Artist. With respect to computer files, Artist shall make available to the City, at the Artist's office and upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring, and printing computer files.

C. Artist represents and warrants to the City that the Artwork produced pursuant to this Agreement is an original design that, to the best of Artist's knowledge, does not infringe on any third-party intellectual property rights. By executing this Agreement, Artist acknowledges that it is not violating the terms of any other agreement to which it is a party.

D. Artist acknowledges and agrees that any Artwork produced pursuant to this Agreement and intellectual property rights associated therewith shall be owned by the City. The City shall be allowed to remove, distort, mutilate, modify, destroy, relocate, or preserve all or any portion of the Artwork, and the City owns the rights to use the Artwork in any photographs, websites, documents, and other promotional materials. By executing this Agreement, Artist agrees to waive of any notice or rights the Artist may have under the Visual Artist Rights Act of 1990 ("VARA") or the California Art Preservation Act, adopted under California Civil Code section 987 et seq. ("CARA").

## **7. Conflict of Interest.**

A. Artist covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which may be affected by the services to be performed by Artist

under this Agreement, or which would conflict in any manner with the performance of its services hereunder. Artist further covenants that, in performance of this Agreement, no person having any such interest shall be employed by it. Furthermore, Artist shall avoid the appearance of having any interest which would conflict in any manner with the performance of its services pursuant to this Agreement.

B. Artist covenants not to give or receive any compensation, monetary or otherwise, to or from the ultimate vendor(s) of services to City as a result of the performance of this Agreement, or the services that may be procured by the City as a result of the recommendations made by Artist. Artist's covenants under this section shall survive the termination of this Agreement.

**8. Termination.** Notwithstanding any other provision, this Agreement may be duly terminated at any time by the City at its sole discretion with or without cause by serving upon the Artist at least ten (10) days prior written notice ("Notice of Termination"). Upon receipt of said notice, the Artist shall immediately cease all work under this Agreement, unless the notice provides otherwise. Unless expressly agreed upon in writing by the City, the City shall not be obligated to pay for any services rendered nor any costs or expenses paid or incurred after the date of termination. The effective date of termination shall be upon the date specified in the written Notice of Termination. Artist agrees that in the event of such termination, Artist must refund the City its prorated share, except for services satisfactorily rendered prior to the effective date of termination. Immediately upon receiving written Notice of Termination, Artist shall discontinue performing services, preserve the product of the services and upon payment for services, turn over to City the product of the services in accordance with written instructions of City.

In the event this Agreement is terminated pursuant to this Section, the City shall pay to Artist the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the Artist will submit an invoice to the City.

**9. Personnel.** Artist represents that it has, or will secure at its own expense, all personnel required to perform the services under this Agreement. All of the services required under this Agreement will be performed by Artist or under its supervision, and all personnel engaged in the work shall be qualified to perform such services. Artist reserves the right to determine the assignment of its own employees to the performance of Artist's services under this Agreement, but City reserves the right, for good cause, to require Artist to exclude any employee from performing services on City's premises.

**10. Non-Discrimination and Equal Employment Opportunity.**

A. Artist shall not discriminate as to race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition, or sexual orientation, in the performance of its services and duties pursuant to this Agreement, and will comply with all rules and regulations of City relating thereto. Such nondiscrimination



shall include but not be limited to the following: employment, upgrading, demotion, transfers, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

B. Artist will, in all solicitations or advertisements for employees placed by or on behalf of Artist state either that it is an equal opportunity employer or that all qualified applicants will receive consideration for employment without regard to race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition, or sexual orientation.

C. Artist will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement except contracts or subcontracts for standard commercial supplies or raw materials.

**11. Assignment.** The parties hereto shall not assign or transfer any interest in this Agreement nor the performance of any of their respective obligations hereunder, without the prior written consent of the other party, and any attempt by a party to assign this Agreement or any rights, duties, or obligations arising hereunder shall be void and of no effect.

**12. Performance Evaluation.** For any Agreement in effect for twelve months or longer, the City Manager may require a written annual administrative performance evaluation within ninety (90) days of the first anniversary of the effective date of this Agreement, and each year thereafter throughout the term of this Agreement. The work product required by this Agreement shall be utilized as the basis for review, and any comments or complaints received by City during the review period, either orally or in writing, shall be considered. City shall meet with Artist prior to preparing the written report. If any noncompliance with the Agreement is found, City may direct Artist to correct the inadequacies, or, in the alternative, may terminate this Agreement as provided herein.

**13. Compliance with Laws.** Artist shall keep itself informed of State, Federal and Local laws, ordinances, codes and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. Artist shall at all times comply with such laws, ordinances, codes and regulations. The City, its officers and employees shall not be liable at law or in equity occasioned by failure of Artist to comply with this Section.

**14. Bonds.** For agreements over \$25,000, Artist, before commencing work on the Artwork, shall furnish and file with City, a Labor and Materials Payment Bond in the sum of 100% of the Agreement price, conditioned upon the payment of all labor and materials furnished in connection with this Agreement in the form attached hereto as Exhibit "D".

**15. Prevailing Wages.**

A. Where applicable, Artist shall pay prevailing Wage rates to laborers performing the work hereunder in accordance with the "General Wage Determination

Made by the Director of Industrial Relations Pursuant To California Labor Code, Part 7, Chapter 1, Article 2, Sections 1770, 1773 and 1773.1", for Los Angeles County. Wage rates shall conform with those available at the City of Commerce Public Works Department and posted at the project site.

B. The following Labor Code sections are hereby referenced and made a part of this Agreement:

1. Section 1775 - Penalty for Failure to Comply with Prevailing Wage Rates.
2. Section 1777.4 - Apprenticeship Requirements.
3. Section 1777.5 - Apprenticeship Requirements.
4. Section 1813 - Penalty for Failure to Pay Overtime.
5. Sections 1810 and 1811 - Working Hour Restrictions.
6. Section 1775 - Payroll Records.
7. Section 1773.8 - Travel and Subsistence Pay.

**16. Non-Waiver of Terms, Rights and Remedies.** Waiver by either party of any one or more of the conditions of performance under this Agreement shall be effective only if made in writing and not be a continuing waiver, nor a waiver of any other condition of performance under this Agreement. In no event shall the making by City of any payment to Artist constitute or be construed as a waiver by City of any breach of covenant, or any default which may then exist on the part of Artist, and the making of any such payment by City shall in no way impair or prejudice any right or remedy available to City with regard to such breach or default.

**17. Attorney's Fees.** In the event that either party to this Agreement shall commence any legal or equitable action or proceeding to enforce or interpret the provisions of this Agreement, the prevailing party in such action or proceeding shall be entitled to recover its costs of suit, including reasonable attorney's fees and costs, including costs of expert witnesses.

**18. Notices.** Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on (a) the day of delivery if delivered by hand during Artist regular business hours or by facsimile before or during Artist regular business hours; (b) on the third business day following deposit in the United States mail, postage prepaid; or (c) on the first business day following transmission by electronic mail, to the addresses heretofore set forth in the Agreement, or to such other addresses as the parties may, from time to time, designate in writing pursuant to the provisions of this section.

**19. Governing Law.** This Agreement shall be construed and interpreted both as to validity and to performance of the Parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Los Angeles, State of California. However, the Parties may agree to submit any dispute to non-binding arbitration.

**20. Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be the original, and all of which together shall constitute one and the same instrument. Electronic and electronically transmitted signatures shall have the same force and effect as physical signatures.

**21. Severability.** If any provision or any part of any provision of this Agreement is found to be invalid or unenforceable, the balance of this Agreement shall remain in full force and effect.

**22. Entire Agreement.** This Agreement, and any other documents incorporated herein by specific reference, represents the entire and integrated agreement between Artist and City. This Agreement supersedes all prior oral or written negotiations, representations or agreements. This Agreement may not be amended, nor any provision or breach hereof waived, except in a writing signed by the Parties which expressly refers to this Agreement. Amendments on behalf of the City will only be valid if signed by the Mayor and attested by the City Clerk.

**23. Authority.** The person or persons executing this Agreement on behalf of Artist warrants and represents that he/she has the authority to execute this Agreement on behalf of Artist and has the authority to bind Artist to the performance of its obligations hereunder.

**EXHIBIT C  
LABOR AND MATERIALS PAYMENT BOND**

(Use of City Bond Form is Required)

**LABOR AND MATERIAL PAYMENT BOND  
PUBLIC WORK (CALIFORNIA)**

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, \_\_\_\_\_, as Principal, has entered into a contract dated \_\_\_\_\_, \_\_\_\_\_, (the "Contract") with the City of \_\_\_\_\_ (Obligee) referred to and made a part hereof to perform the following work of public improvement, to wit:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ and all appurtenant work in accordance with the plans and specifications for Project No. \_\_\_\_\_, which requires Principal to file this bond to secure claims made under Civil Code Section 3082 et seq.

NOW THEREFORE, we, \_\_\_\_\_, as Principal, and \_\_\_\_\_, a corporation organized under the laws of \_\_\_\_\_ and duly authorized to transact business in the State of California, as Surety, are held firmly bound unto the City of \_\_\_\_\_, as Obligee, and all subcontractors, laborers, materialpersons and other persons employed in the performance of the referenced agreement, in the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), lawful money of the United States of America, which is 100% of the amount of the Contract, for the payment whereof well and truly to be made the Principal and Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

The address at which the Surety may be served with notices, papers and other documents is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The address at which the Principal may be served with notices, papers and other

documents is:

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If the above bounden Principal, his or its heirs, executors, administrators, successors, assigns, or any of his or its subcontractors, fails to pay for any materials, provisions, provender, or other supplies, or teams, implements or machinery, used in, upon, for or about the performance of the work contracted to be done, or for any work or labor to persons named in Section 9100 of the Civil Code, or for amounts due under the Unemployment Insurance Code with respect to such work or labor performed under the Contract, or for any amounts required to be deducted, withheld and paid over to the Employment Development Department from the wages of employees of the contractor and subcontractors pursuant to Section 13020 of the Unemployment Insurance Code, then the Surety on this bond will pay the same, in an amount not exceeding the sum specified in this bond, and also, in case suit is brought upon this bond, a reasonable attorney's fee, which shall be awarded by the court to the prevailing party in said suit, said attorney's fee to be taxed as costs in said suit and to be included in the judgment herein rendered.

As part of the obligation secured hereby, the Surety shall not be exonerated or released from the obligation of the bond by any change, alteration, or modification in or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement or pertaining or relating to the furnishing of labor, materials, or equipment therefor, 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 of work of improvement, 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, where the bond is given for the benefit of claimants, by any fraud practiced by any person other than the claimant seeking to recover on the bond.

This bond shall inure to the benefit of any and all persons, companies and corporations named in Civil Code Section 9100 so as to give them a right of action in a suit on this bond.

This bond is executed for the purpose of complying with the laws of the State of California designated as Title 3, Chapter 5, Payment Bond, commencing with Section 9550 of the Civil Code of the State of California and all amendments thereto, and shall inure to the benefit of any of the persons named in Section 9100 of the Civil Code of the State of California.

This document is signed by the respective parties on the dates next to their names.

Principal

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

Title: \_\_\_\_\_

Surety

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

Title: \_\_\_\_\_

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

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

I declare under penalty of perjury under the laws of the State of California that the contents of the above Labor and Materials Payment Bond are true and correct, and that I have been duly authorized to sign this Labor and Materials Payment Bond on behalf of Surety. This Declaration is signed on \_\_\_\_\_, in the City of \_\_\_\_\_, State of California.

--OR--

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document

State of California )  
 )  
County of \_\_\_\_\_ )

On \_\_\_\_\_ before me, \_\_\_\_\_ (here insert name and title of the officer), personally appeared \_\_\_\_\_,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

-- AND --

(Proof of signature authorization or power of attorney must be attached)

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney