

THINKING ABOUT CREATING A MURAL IN SAN DIEGO?

HERE'S WHAT YOU NEED TO KNOW ABOUT PROPOSING A MURAL FOR CITY PROPERTY AND THE PUBLIC RIGHT-OF-WAY

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01 | OVERVIEW

Murals help make San Diego a more dynamic and creative city, engage people, and stimulate dialogue and exchange of ideas. They improve the visual quality, design, and experience of spaces, and foster connection between artists and communities.

To ensure artistic merit and quality and to determine that a mural is appropriate to its site, architecture, and social context, the City of San Diego (City) requires that any artwork ¹ (including murals) proposed for property owned by the City, under the jurisdiction of the City, or both, be reviewed by the Commission for Arts and Culture and approved by the City.

Typically, mural projects are privately funded and are initiated by community-oriented organizations who are working with an artist(s) ². This toolkit does not apply to murals proposed on privately owned property.

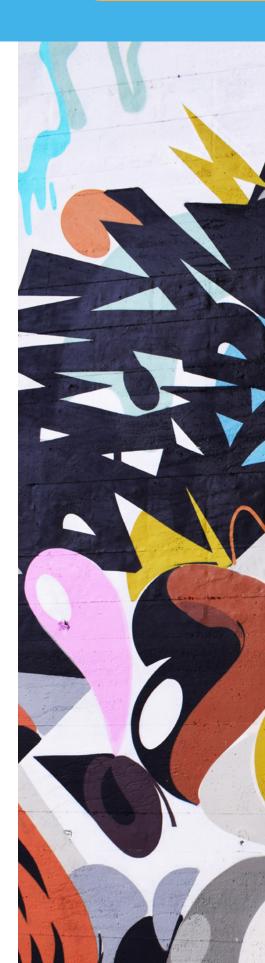
If you are interested in proposing a mural for City property or the public right-of-way, please review the mural application process and toolkit to get started.

If a mural is approved, the applicant will be expected to enter into an agreement to maintain the mural while on City property or the public right-of-way and remove it at the end of the exhibition period.

Please note that approval of a mural design does not constitute acceptance into the City's Civic Art Collection, unless specifically commissioned by or acquired by the City through the office of the Commission for Arts and Culture (Arts and Culture staff). The City does not take responsibility for maintenance or preservation of artworks which are not included in the City's Civic Art Collection.

Read the toolkit and don't hesitate to contact Arts and Culture staff with any questions at arts@sandiego.gov or (619) 236-6800.

² The City adheres to definition of "artist" which is contained in San Diego Municipal Code section 26.0701 et sea.



¹ The City adheres to definition of "artwork" which is contained in San Diego Municipal Code section 26.0701 et seq.

02 | IMPORTANT CONSIDERATIONS

MURALS ARE PUBLIC

Murals are typically installed in areas that are publicly accessible and visible. Accordingly, many of the standards listed in this toolkit are intended to ensure murals are designed with all viewers in mind.

PATIENCE IS APPRECIATED

City staff will need to review the proposed location during the site screening phase and will subsequently review the applicant's design during the application phase. The applicant's patience throughout this process is very much appreciated. To minimize the need for design revisions, applicants are strongly encouraged to follow the toolkit and submit everything required in the application.

ARTIST INVOLVEMENT

Applicants are required to work with an artist to create the mural. The community can be engaged in the development of the mural design and/ or participate in the installation under the artist's direction. The City encourages design innovation with murals, while ensuring that they meet basic standards and criteria. Mural designs may go through several rounds of review and revision to ensure that all requirements are met.

EXHIBITION PERIOD

Murals that have been approved by the City and are proposed to be sited in the public right-of-way can be exhibited for a period of up to five years. Murals that have been approved by the City and are proposed to be sited on City property are temporary exhibits and can be exhibited for a period of up to one year.

03 | APPLICANT RESPONSIBILITY



The applicant is responsible for conducting public outreach, working with an artist to design the mural, obtaining permission for mural installation, funding, and creating the mural. Applicants also assume liability for the mural and ensure the mural is well-maintained and kept in good condition. If an application is approved, the applicant will be expected to enter into an agreement with the City to maintain the mural while on exhibit and remove it prior to the end of the exhibition period. For more information on mural maintenance, see page 14.

INSURANCE

The applicant must maintain a policy of liability insurance, with the City and its respective elected officials, officers, employees, agents, and representatives named as additional insureds, in an amount specified by the City, that will protect the City from any potential claims which may arise with the mural. Certain projects may require that the applicant also obtain policies of automobile and worker's compensation insurance in an amount specified by the City.



There are many factors that play a role in developing a mural on City property and in the public right-of-way, from the goals for developing a mural to the participants, i.e. the surrounding community, artists and the mural site. One of the main purposes of the review process is to educate applicants about technical issues that need to be addressed for their projects to be successful. During the review process, Arts and Culture staff will often make recommendations to the applicant to strengthen their projects, including ideas like:

- Maintenance, to ensure projects are maintainable during the exhibition period
- Avoiding damage from maintenance equipment and vandalism
- · Addressing public safety and accessibility
- · Addressing artists' copyrights
- Developing projects at a manageable and appropriate scale

Outlined below is the process for mural development and approval on City property and in the public right-of-way.

MURAL PROPOSAL

STEP 1

IDENTIFY & SUBMIT MURAL SITE FOR PRELIMINARY SCREENING

Be sure that the site of the proposed mural location meets the site selection standards specified in this toolkit (see pages 16-19). After reviewing the toolkit and verifying that the location meets these standards, email a .pdf or .jpg map designating the proposed mural location, photos of the site from different vantage points, and the address or adjacent addresses to Arts and Culture staff at arts@sandiego.gov.

An interdepartmental City staff team from the office of the Commission for Arts and Culture and the department(s) with jurisdiction over the site will review the initial proposed mural location to ensure that the site is suitable for further consideration. Applicants can proceed to the next steps in the review process after staff confirms that a site is eligible* for the City's further assessment.

*Passing the preliminary site screening does not guarantee mural or site approval. Mural and site approval is ultimately subject to the discretion of the City of San Diego.

STEP 2

IDENTIFY THE ARTIST

Be sure that the artist meets the City's definition of artist. 3

³ The City adheres to definition of "artist" which is contained in San Diego Municipal Code section 26.0701 et seq.

STEP 3

PERFORM PUBLIC OUTREACH

Make sure that anyone who will be impacted by the mural – like neighboring residents and businesses – are aware of the proposal. Letters of support from these entities make for a stronger mural proposal application.

For murals in the public right-of-way, written permission from the owner(s) of the property(ies) underlying the public right-of-way is also required. The <u>County of San Diego Assessor's Office</u> can be a helpful resource for applicants who need assistance identifying the underlying property owner. See pages 20-21 for more information on public outreach requirements.

STEP 4

SUBMIT MURAL APPLICATION

Submit the mural application through the City's website. Arts and Culture staff will review the application to ensure that it is complete. As part of the application, the following documentation is required: site plans and photos, conceptual renderings, material data sheets, artist resumes, signed artist waivers and copyright licenses from each artist, outreach documentation, and art consent forms, if applicable.

PROPOSAL REVIEW & APPROVAL

STEP 5

INTAKE AND REVIEW OF MURAL PROPOSAL

Mural applications will be assigned to an Arts and Culture staff contact who will work with the applicant to ensure that the mural design meets specified standards. City department(s) with jurisdiction over the site will also review the application. Applicants may receive additional comments from this department(s) that require additional revisions or clarifications to the proposal.

STEP 6

COMMISSION FOR ARTS AND CULTURE REVIEW OF MURAL PROPOSAL

Following City staff review, the mural proposal application is placed on the calendar of the Public Art Committee (PAC), a Commission for Arts and Culture committee. The PAC will make a recommendation to the full Commission. The Commission for Arts and Culture will review PAC's recommendation and make a recommendation to the Executive Director of the Commission for Arts and Culture. These meetings are open to the public and mural applicants are welcome to attend; however, attendance is not required.

STEP 7

MURAL APPROVAL

The Arts and Culture staff contact will notify the applicant of the results of the review process. If the mural is to be placed on City-owned property, the applicant may be required to obtain a letter of approval or support from the appropriate City department prior to approval of the project by the Executive Director of the Commission for Arts and Culture.

AGREEMENT & PERMITTING

STEP 8

FINAL MURAL APPLICATION PACKAGE

Once the City has approved the proposal, the applicant will enter into an agreement with the City to maintain the mural while on exhibit and remove it at the end of the exhibition period. Arts and Culture staff will provide the applicant with a populated Temporary Artwork Maintenance and Removal Agreement for signature.

For murals proposed in the public right-of-way, Arts and Culture staff will provide the applicant with a populated Temporary Artwork Maintenance and Removal Agreement for submission to the City's Development Services Department along with the applicant's completed Public Right-of-Way permit forms and insurance documentation. Murals in the public right-of-way are considered placemaking projects and require a placemaking permit. See <u>Information Bulletin 568</u>, *How to Obtain a Permit for Placemaking*, for more information. The applicant will need to complete the forms specified in section III. B. 1. General Application, B. 2. Stormwater Requirements Applicability Checklist, and B. 4. Construction Plan. Note that the applicant will have already submitted the Encroachment Exhibit and Record Owner Permission as part of the mural application. After Development Services Department's review of the complete application package and payment of permit fees, Development Services Department will issue the agreement and permit.

For murals proposed on City property, Arts and Culture staff will prepare an agreement for the applicant to maintain the mural and remove it at the end of the exhibition period. The applicant will need to submit their insurance documentation to Arts and Culture staff and depending on the project, the applicant may need to obtain permits from Development Services Department or another City department before installation.

STEP 9

ADDITIONAL PERMITS & FEES

Applicants may also be responsible for additional permit applications and fees. These may include permits for traffic control if the mural project will encroach into the public right-of-way, including the sidewalk area, and permits for construction if the applicant plans to fabricate a structure to affix the mural to a wall. If the painting of the mural will involve a "paint out" with community members or a similar planned event, the applicant may be required to obtain a special event permit. The applicant will be responsible for any fees associated with these permits.

STEP 10

PERMIT / AGREEMENT ISSUANCE

Mural applicants must obtain required permit(s) and agreement. Installing murals or beginning work without a permit(s)/agreement can lead to fines. All permit(s) and agreements issued by the City are subject to inspection and murals must be installed per approved plans and to City specifications. Deviation from the approved design could result in citations and the mural's removal.

FABRICATION AND INSTALLATION

STEP 11

PRE-INSTALLATION SITE INSPECTION

The applicant is required to notify the Arts and Culture staff contact prior to beginning any site work to schedule a pre-installation site inspection. Arts and Culture staff will need to review the applicant's permit(s), agreement, and insurance before authorizing the commencement of installation, so it is recommended that the applicant bring a copy of all paperwork to the meeting. The purpose of this meeting is to review site conditions, review the approved mural design, discuss any logistics prior to installation, and establish a timeframe for follow-up meeting(s).

STEP 12

MATERIALS

The applicant or the artist must purchase and install the required materials for the mural. Traffic paint specified by the City is required for intersection murals and water-based exterior paint is required for other locations. Mural materials must be durable and weather resistant to prevent premature deterioration or other unintended changes in appearance. Mural materials must be appropriate for its outdoor location and climate, with special considerations for longevity. Mural materials other than paint may be considered for murals on City property and retaining walls in the public-right-of-way. All materials require pre-approval by the City.

STEP 13

SITE PREPARATION

The mural site should be properly prepared. This may involve cleaning to remove dirt and debris, and the repairing of any cracks or irregularities on the surface.

STEP 14

INSTALLATION

Once the applicant has received the required permit(s) and agreement, completed the preinstallation site inspection meeting, and assembled all the necessary materials, the mural installation may begin. The applicant should manage the site to ensure that the artist and any other participants are safe and secure – adhering to all health and public safety protocol and using materials in compliance with all State and Federal regulations and according to manufacturer's specifications. Materials should be applied in a quality manner and all clean-up and material disposal must adhere to State and Federal regulations. All materials and equipment must be removed from the site after installation is complete.

STEP 15

POST-INSTALLATION SITE INSPECTION

The applicant is required to notify the Arts and Culture staff contact upon completion of mural installation to schedule a post-installation site inspection. This inspection will verify that the mural installation is consistent with the features, dimensions, and materials specified in the approved design. Further inspection by the City engineer may be required.

POST-INSTALLATION

STEP 16

MAINTENANCE

The applicant is required to keep the mural well-maintained and in good condition under the provisions of approval of the permit(s) and agreement. Mural applicants are encouraged to develop a maintenance plan for keeping the mural free of debris, grime, graffiti, and litter. Murals may require restoration from time to time due to wear and tear from prolonged exposure to the elements. For murals in the public right-of-way, applicants are also required to post the name, phone number, and email address of the party responsible for the mural in a location visible from the public right-of-way. The City will continue to monitor the mural for compliance with the maintenance agreement. Failure to comply may result in removal of the mural before the exhibition period ends.

STEP 17

REMOVAL

End of Exhibition Period. Prior to the expiration of the term of the agreement, the mural will need to be removed and the site returned to its original condition to the satisfaction of the City. For the removal of murals in the public right-of-way, the applicant must adhere to section 314-2.1 of the *Standard Specifications for Public Works Construction* (Greenbook), and the City of San Diego "Whitebook" supplement to the Greenbook.

STEP 17 (cont.)

REMOVAL

Self-initiated removal. If the applicant decides they no longer want to exhibit and maintain the mural, the applicant is responsible for removing it. Removal may require additional permits from the City for traffic management or construction. The applicant must notify the Arts and Culture staff contact prior to removing the mural.

Site improvements. In some instances, such as streetscape repaving or building maintenance, the City may require the applicant to remove the mural. The City may remove the mural or parts of the mural with little or no notice. Circumstances permitting, the applicant may be able to reinstall the mural after the improvement has been completed. The applicant is responsible for the costs of re-installing the mural.

Public safety emergencies. Because murals may sit on top of buried utilities, there may be instances when the mural will need to be removed with little or no notice. In the unlikely event of a utility failure threatening public safety such as a water leak, the City may remove the mural or parts of the mural with little or no notice. The applicant is responsible for restoring any damage to the mural.



SITE SELECTION STANDARDS

INTERSECTIONS

Murals can be considered in intersections in the city of San Diego, provided that the sites are identified as eligible during the preliminary screening process and written permission from the adjacent property owner(s) is obtained. Murals must comply with the <u>City Engineer's Memo to Industry dated May 25, 2018</u>.

SIDEWALKS

In general, murals can be considered on sidewalks in the city of San Diego if the sites are identified as eligible during the preliminary screening process, the applicant owns the underlying property served by sidewalk or obtains written permission from the adjacent property owner(s). Only the sidewalk can be painted, not the curb, gutters, or any accessible ramps. Murals on sidewalks must comply with the <u>City Engineer's Memo to Industry dated May 25, 2018</u>.

RETAINING WALLS

Murals can be considered on retaining walls in the city of San Diego if the applicant obtains permission from the underlying property owner and the site is identified as eligible during the preliminary screening process. Certain contexts may prevent murals from being able to be applied directly on the wall.

If the applicant is interested in creating a mural for a retaining wall in the city of San Diego that is under the jurisdiction of Caltrans, it is necessary to contact <u>Caltrans Transportation Art</u> directly to learn more. Murals on Caltrans property require additional review and approval by the City, as well as the execution of an agreement with the City for the maintenance of the mural.



BUILDING WALLS

In general, murals can be proposed for temporary placement on an existing City-owned building provided that the site is identified as eligible for further consideration during the preliminary screening process. Murals should not obscure or detract from the significant architectural features of a structure or compromise the proper function of any building or use and are typically not allowed on historical buildings. Certain contexts may prevent murals from being able to be applied directly on the wall.

ZONING

Murals in the public right-of way are not allowed in Industrial Base Zones or Residential-Single Unit (RS) Zones. The City's Official Zoning Map can be helpful, and can give applicants an idea of where these zones are located. Murals on City property and in the public right-of-way within the Coastal Overlay Zone will require a coastal development permit.

PARKING DISTRICTS AND ASSESSMENT DISTRICTS

Murals within a <u>parking district</u> or an assessment district such as a <u>business improvement district</u>, <u>maintenance assessment district</u>, or property business improvement district may not interfere with existing or planned activities, construction or maintenance of the district.

UTILITY BOXES

The City doesn't administer a painted utility box program. Most boxes in the public realm are owned by utility companies. Applicants may contact appropriate utility companies directly to inquire about the possibility of painting utility boxes owned by utility companies in their area.



OTHER LOCATIONS

Other locations are considered by the City on a case-by-case basis.

CITY PROJECTS / FUTURE CITY-SPONSORED IMPROVEMENTS

As part of the preliminary site screening, the City reviews proposed mural locations for potential conflicts with future programmed building improvements, streetscape improvements, and repaving projects. The City may reject mural proposals that conflict with future improvements. Before submitting a proposed site to City, check here to make sure the location is not due for construction soon.

ACCESSIBILITY / VISIBILITY

Murals must be located in a manner that is visually and physically accessible to the public. They may not interfere with access to individuals with disabilities per the Americans with Disabilities Act Accessibility Guidelines (ADAAG).

DESIGN STANDARDS

HIGH QUALITY PUBLIC REALM

The City supports high quality artwork that is relevant to the site and has the support of the local community. Murals must exhibit excellence in design, material, and application that will enhance the overall development and appearance of the site. Murals must be designed and constructed under the supervision of an artist who has sufficient knowledge and experience in the design and execution of such projects, as well as with the application of the selected medium.



STREET DESIGN

Murals should not mimic or conflict with official traffic pavement markings and symbols, such as stripes or traffic signs, to ensure that drivers aren't confused. Murals must be consistent with the Street Design Manual and the Circulation Element of the relevant Community Plan and allow for safe and efficient vehicle and pedestrian visibility and circulation. Murals should not contain text on the pavement of street intersections or cul-de-sacs, or paint over existing utility frames and covers, or survey monuments and markers.

ADVERTISING AND SIGNAGE

Logos, advertising, signage, and other branding are prohibited.

COPYRIGHTED MATERIAL

Murals should not contain material that is protected under copyright law unless written permission is obtained and provided to the City. This includes permission to use photos of people, all copyrighted material and text, and images of artwork. Allow ample time to acquire these permissions.

In addition to the standards above, the office of the Commission for Arts and Culture may evaluate mural applications using the criteria in sections 8.2 and 12.1 of the Collection Management Policy for the Civic Art Collection.

Note: These are standards and may not be required in all cases. Similarly, there may be instances where City staff requires additional design modifications not covered in this toolkit. Mural approval is ultimately subject to the discretion of the City.

06 | NEIGHBORHOOD SUPPORT



It is important to demonstrate that the applicant has communicated with its neighbors regarding the mural proposal, and to include documented support for the mural from nearby businesses, residents, property owners, and others.

REQUIRED OUTREACH

Public Right-of-Way:

Applicants are required to provide a completed Art Consent Form or similar proof of written permission from the owner of the property underlying the public right-of-way as well as the adjacent property owner. See Appendix A for Art Consent Form.

City Property:

Applicants may be required to obtain a letter of approval or resolution from the appropriate City department after the Commission's review of mural application. The Arts and Culture staff contact will provide guidance as to whether this will be required following review of the application.

06 | NEIGHBORHOOD SUPPORT



ADDITIONAL OUTREACH

For murals in the public right-of-way, applicants are highly encouraged to acquire additional letters from neighboring stakeholders (i.e. neighborhood associations, business improvement districts, planning groups, etc.) expressing support for the project. Letters should highlight the benefits of the proposed mural for the local neighborhood, the temporary nature of the mural, and acknowledgment of any potential closing of the street or sidewalk for a day. It should also include contact information for the person signing the letter. Full consensus in support of the mural is not required for the proposal to be considered. If applicants are unable to obtain a letter of support from stakeholders, submit a copy of the correspondence which demonstrates that they were notified of the mural proposal.

For murals in the public right-of-way, some mural applicants have posted a petition which nearby property owners and/or residents may sign in support of the mural proposal. If an applicant chooses to do this, the petition should include check boxes where signers can indicate if they live on the city block where the mural will be installed, or in the nearby neighborhood. Petitions should also include an opportunity for residents to leave their contact information, including their address.

Some applicants proposing murals in the public right-of-way have hosted community meetings. If an applicant chooses to do this, it is necessary to provide public notice of the meeting and provide documentation of the meetings(s) with the application. The discussion at the meeting is advisory only and is not binding on the applicant.

MURAL TOOLKIT

APPENDIX A: ART CONSENT FORM

RECORD OWNER PERMISSION

THIS IS FOR ARTWORK IN THE PUBLIC RIGHT-OF-WAY ONLY (SIDEWALK OR STREET).

The following applicant has requested that the City of San Diego approve a temporary artwork project and be subsequently issued a City Public Right-of-Way Permit and Encroachment agreement for up to a five-year period. The applicant has requested that the artwork be installed on the street (or sidewalk) that is adjacent to your property.

Proposed Artwork:
Location:
Name of Organization :
Address:
Phone Number :
Email Address :
Contact Person:
By signing in the space provided below, the property owner agrees and consents to allow the applicant to install temporary artwork on the street (or sidewalk) adjacent to their property pending City approval.
Property Owner (print name) :
Property Address :
Signature : Date :

COPYRIGHT LICENSE & ARTIST WAIVER

COPYRIGHT LICENSE AND ARTIST WAIVER FOR ARTWORK ON **CITY PROPERTY OR IN THE PUBLIC RIGHT-OF-WAY** (Page 1 of 2)

l,	(Artist) have prepared designs for the artwork entitled	
Name of artist		Title of the artwork
and more particularly descri	bed as	
,		
and located at		
	Street address of artwork	

in the City of San Diego, County of San Diego, State of California (Artwork).

The above-described Artwork may be considered to be a "work of visual art" and subject to the provisions of the artist's rights of attribution and integrity as set out in the Visual Artists Rights Act, 17 U.S.C §§106A and 113(d) ("VARA"), and a "work of fine art" subject to the provisions of the California Art Preservation Act, Cal. Civil Code §§987 and 989 ("CAPA"). I am an author of the Artwork described herein, and am authorized to waive the rights conferred by VARA and CAPA, and any rights arising under United States federal or state law, or under laws of another country, that convey rights of the same nature as those conveyed under VARA and CAPA that are herein waived, as against the City of San Diego (City) and its agents, and grant the City a license to reproduce the Artwork as specified below.

- **1.0 Alterations, Modification or Removal of Artwork.** The City has the right to move, remove or otherwise alter or modify the Artwork. The Artist acknowledges and understands that the installation of the Artwork may subject the Artwork to destruction, distortion, mutilation, or other modification due to the acts of third parties.
- **1.0.1 Limited VARA Waiver.** In consideration of the covenants and conditions in this waiver, and except as otherwise provided for in this waiver, the Artist agrees to waive any right that the Artist may have under VARA to prevent the removal of the Artwork, or the destruction, distortion, mutilation, or other modification of the Artwork which arises from, is connected with, or is caused or claimed to be caused by the removal, repair, conservation, maintenance or storage of the Artwork by the City or its elected officials, officers, employees, agents, or representatives, or by the presence of the Artwork at the site. The Artist's VARA rights under this waiver shall cease with the Artist's death and do not extend to the Artist's heirs, successors or assigns.

COPYRIGHT LICENSE & ARTIST WAIVER

COPYRIGHT LICENSE AND ARTIST WAIVER FOR ARTWORK ON **CITY PROPERTY OR IN THE PUBLIC RIGHT-OF-WAY** (Page 2 of 2)

- **1.0.2 California Civil Code Section 987 Waiver.** In consideration of the covenants and conditions in this waiver, the Artist waives any rights which the Artist or the Artist's heirs, beneficiaries, devisees, or personal representatives may have under CAPA to prevent the removal, defacement, mutilation, alteration, or destruction of the Artwork.
- **1.1 Conflict.** This clause is intended to replace and substitute for the rights of the Artist under VARA and CAPA to the extent that any portion of this waiver is in direct conflict with those rights. The parties acknowledge that this waiver supersedes those laws to the extent that this waiver is in direct conflict therewith.
- **1.2 City's License to Reproduce.** In consideration of the placement of the Artwork on City property, the Artist does hereby grant a non-exclusive, irrevocable, royalty-free copyright license to the City, and to other parties duly authorized by the City, to reproduce the Artwork in two dimensions for all standard City educational, public relations, tourism and arts promotional purposes or digital reproductions of the Artwork, and displaying, images to the general public. Such reproductions and transmissions may be magazines, books, newspapers, journals, brochures and pamphlets, exhibition catalogues, films, television, video, websites, slides, negatives, prints and electronic media, DVD, CD, computerized retrieval systems, and by all means or methods now known or hereafter invented in connection with standard City activities.
- **1.3 Artist's Representations and Warranties.** The Artist warrants and represents to the City as follows: that the Artist has good and complete rights, title and interest in and to the copyright in the Artwork or is otherwise entitled to license the copyright or holds a copyright license which would allow for the grant of a sub-license for the copyright pursuant to the terms of this waiver and that the ownership of this copyright is not subject to any undisclosed liens, charges, licenses or other encumbrances; and that the Artwork and/or the granting of this waiver does not and will not infringe any third party's copyrights or other intellectual property rights.

