



PERMIT/AGREEMENT TO INSTALL MURAL

This Permit/Agreement (the “Agreement”) is made on _____, 20__ between _____ with an address of _____ (hereinafter referred to as the “Artist”), _____ (hereinafter referred to as the “Property Owner”), with an address of _____, and the City of Hilliard, 3800 Municipal Way, Hilliard, Ohio 43026, acting by and through its Public Arts Commission (hereinafter referred to as the “City”) to permit Artist to install a Mural in the City at the Property Owner’s address (the “Mural” and/or “Project”).

1. Location & Depiction of the Mural.

The Artist, Property Owner, and the City agrees that the Artist shall install the Mural at _____. A color rendering of the Mural, as approved by Hilliard City Council, is attached hereto as Exhibit “A”.

2. Installation & Completion of the Mural.

The Artist, Property Owner, and the City agree that the Artist shall begin installation of the Mural within 180-days of signing this Agreement and shall be completed within six-months. The Artist may request one extension from the Public Arts Commission for a period not to exceed 45-days.

During installation, the Artist must use reasonable efforts at all time to safely guard the Project, the Property and adjacent property, including underground utilities, from damage, injury or loss in connection with the Project. Artist shall provide, erect, and maintain barricades, fences, lights, and other devices, as the City may require, to warn the public and guard the site and shall take such other precautionary measures as are reasonably necessary to protect persons, property, and the work done under this Agreement. Additionally, the Artist shall clean up the site at reasonable intervals and at other times when directed by the City. At all time, the site shall be kept clean, free of dust, construction debris, and trash. Upon completion of the Project, Artist shall remove all equipment and any waste materials, not previously disposed of, leaving the site thoroughly clean.

The Artist is responsible for applying for and receiving any and all permits as required by local, state and federal codes, laws, rules and regulations. The Artist shall confirm with the City’s building department as to what local permits are required for installation of the Mural prior to initiating any installation activities.

The Artist shall notify the City when the Mural is fully installed and complete.

3. Warranties.



The Artist agrees to furnish, at his/her/its own expense, all supplies and materials, and equipment deemed necessary for the installation of the Mural. The Artist will use materials that are of good quality, fit for the selected purpose, within manufacturer tolerances and warranties, and free from all faults and defects. If any materials are found to be defective or deficient, the Artist shall correct it promptly after receipt of written notice of the City, unless the City is the cause of the defect or deficiency.

The Artist represents and warrants to the City that the Project is artistically unique, and agrees not to create or be involved in the creation of an identical artwork. Additionally, the Artist represents and warrants that:

- The Project is solely the result of the artistic effort of the Artist;
- The Project is unique and original and does not infringe upon any copyright and any other property or personal rights;
- The Project is not a duplicate or has been accepted for sale elsewhere; and
- The Project is free and clear of any liens, or claims or encumbrances from any source whatsoever.

The Artist warrants to the City that all work performed will be performed in a workmanlike manner.

4. Insurance.

The Artist shall provide the City with proof of an insurance policy currently in effect covering the Artist for liability imposed by law for damages on account of bodily injury, death or property damage. The limit of this policy shall not be less than one million dollars (\$1,000,000) and issued from an insurance company duly licensed to transact such business in the State of Ohio. The insurance policy shall list the City as an additional insured and shall require that the City be notified of cancellation of such coverage pursuant to the terms of the policy. Failure to maintain insurance during the duration of this Agreement shall result in the City's termination of the Agreement immediately. In the alternative, the Property Owner shall provide proof of insurance as required hereunder naming the Artist and the City as additional insureds.

The Artist shall be solely responsible for the payment of all expenses incurred by the Artist, and his/her/its employees, in the performance of work under this Agreement, including but not limited to motor vehicle expenses and other expenses. Artist agrees that it shall indemnify and hold City harmless from any liability resulting from the negligent or intentional use of any motor vehicle by Artist, or his/her/its agents or employees.

5. Assignment.

The Artist shall not assign or otherwise transfer any rights or responsibilities under this Agreement without the prior written consent of the City, which may be withheld for any or no



reason. In the case of debilitating illness or disability on behalf of the Artist, the Artist shall provide immediate notice to the City of such incapacity.

6. Indemnification.

The Artist and Property Owner shall defend, indemnify, and hold harmless the City, its officers, elected officials, employees, agents and volunteers from and against liability for all claims, losses, obligations, penalties, fines, damages and expenses (including reasonable attorneys' fees) to the extent that they are caused by or arise out of the creation and installation of the Mural by the Artist, as contemplated herein.

The Artist shall defend and indemnify and hold harmless the City if a third party asserts a copyright infringement or any other claim involving the Project.

7. Copyright and Rights Related to the Mural.

The Artist shall place a copyright notice on the Mural that informs the public that a work is protected by copyright, identifies the copyright owner, and shows the year of first publication. If the copyright is registered with the U.S. Copyright Office, the Artist shall provide the City with the Copy of the application for registration, the registration number, and the effective date of the registration.

In view of the intention that the Project in its final dimensions shall be unique and consistent with paragraph 3 above, Artist shall not make any additional exact duplicate reproduction, nor shall Artist grant permission to others to do so. The Artist may use photographic reproductions of the Project in its portfolio, in critical and scholarly writings, or for non-commercial purposes, including reproductions used in advertising brochures, media publicity, and catalogues or other similar publications. In any photograph reproduction, the Artist shall include the following language: "an original work located in the City of Hilliard, Ohio."

8. Loss of Mural.

In the event of fire, accident, strike, delays, floods, acts of God, or other unforeseen causes beyond the reasonable control of the parties that necessitates the loss of the Mural, the Parties hereto release the other from any and all obligations herein contained and from any and all damages that result or may result from the loss of the Mural, other than as specified herein.

9. Maintenance, Repairs, & Restoration.

The continued maintenance and repair plan is attached hereto as Exhibit "B". Pursuant to Hilliard Codified Ordinance Section 1129.16(e), the Property Owner shall be responsible for maintaining the appearance of the Mural as approved by the City. The Parties agree that a Mural that is not maintained, or that is only partially installed, or is in a condition of disrepair, shall constitute a public nuisance. The City is authorized to take all measures in law and in equity to abate such nuisance.



10. Revocation of Agreement.

This Agreement is revocable by the City, with prior consultation with the Public Arts Commission, if it is determined at any time that the Mural being installed does not comply with the approved application. Upon revocation of a permit, all work on the Mural shall stop immediately.

If either party fails or refuses to perform according to the terms of this Agreement, a declaration of default by either party must be made in writing to the other party, describe how the allegedly defaulting party has failed to perform according to the terms of this Agreement, and provide a reasonable opportunity to cure the default that is consistent with the approved Project.

11. Amendment.

This Agreement may be amended if agreed to in an instrument in writing executed by all of the parties hereto, and subject to approval by Hilliard City Council if any amendment is not consistent with City Code or is not consistent with the Project as approved by City Council.

12. Interpretation.

This Agreement shall be interpreted according to the laws of the State of Ohio. Any legal action to enforce or interpret the terms of this Agreement shall be brought in a court of competent jurisdiction in Franklin County, Ohio.

13. Independent Contractor.

The City and Artist agree that that an employer-employee relationship does not exist between them, and that their relationship is strictly that of contract, Artist being an independent contractor free from interference or control by City in the performance of his/her/its work within the contracted area, subject only to the terms of this Agreement and adherence to all applicable federal, state and local laws. Artist acknowledges and agrees that, as an independent contractor, he/she/it is not covered by workers or unemployment compensation insurance provided by City and expressly waives any such coverage. Artist agrees to be solely responsible for the payment and withholding of any applicable federal, state, local, or other taxes (including, but not limited to, workers compensation and unemployment insurance) from his/her/its own earnings and any compensation paid agents and employees, if any.

14. Notices.

The addresses listed in the first paragraph of page 1 shall be used for all notice requirements, unless stipulated otherwise in writing.

15. Severability.

If and to the extent that any court of competent jurisdiction is unable to construe part or all of any provision of the Agreement, and holds part or all of that provision to be invalid, such



invalidity shall not affect the balance of that provision or the remaining provisions of the Agreement, which shall remain in full force and effect.

16. Captions.

The captions at the beginnings of the several sections of the Agreement are not a part of the context hereof but are merely labels to assist in locating and reading such sections, and shall be ignored in construing the Agreement.

(signature page follows)



IN WITNESS WHEREOF, the parties, each by a duly authorized representative, have executed this Agreement on the day and date first written above. This Agreement is effective on the date signed by the Public Arts Commission President as identified below.

Witness:

Print Name

City of Hilliard, Ohio

By: _____

Print Name: _____

Public Arts Commission President

Date

Authorizing legislation: _____

Effective Date: _____

Witness:

Print Name

Artist

Sign Name

Print Name

Date: _____

Witness:

Print Name

Property Owner

Sign Name

Print Name

Date: _____

Approved as to Form:

Law Director